

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, MAY 7, 2007
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Table of Contents

CHRONOLOGY OF THE MEETING.....	2
ATTENDANCE DURING THE MEETING	2
ITEM-1: ROLL CALL.....	3
ITEM-10: INVOCATION	3
ITEM-20: PLEDGE OF ALLEGIANCE.....	3
CLOSED SESSION ITEMS.....	4
ITEM-200: Step VI Grievance from the International Association of Fire Fighters, Local 145 regarding Fire Fighter Steve Choi.....	6
ITEM-201: Pursuant to the San Diego Municipal Code Section 22.0710, the City Auditor and Comptroller’s Office is Requesting a Hearing on the City’s Comprehensive Annual Financial Report (CAFR) for the Fiscal Year Ending June 30, 2003	8
ITEM-202: Del Mar Heights Road Maintenance Assessment District Formation	9
ITEM-203: North Park Maintenance Assessment District – Reballot.....	12
ITEM-204: Mission Boulevard, Tentative Map.....	16
REPORT OUT OF CLOSED SESSION	20
NON-DOCKET ITEMS	20
ADJOURNMENT.....	20

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:03 p.m. Council President Peters recessed the meeting at 3:05 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:10 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 4:36 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
 - (2) Council Member Faulconer-present
 - (3) Council Member Atkins-present
 - (4) Council Member Young-present
 - (5) Council Member Maienschein-present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Hueso-present
- Clerk-Maland (dlc)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Wayne Riggs of Plymouth Congregational Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Madaffer.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):

**CS-1 *City of San Diego v. Gabriel, Roeder, Smith & Company and Rick A. Roeder*
San Diego Superior Court Case No. GIC 852419 [Severed]**

REFERRED TO CLOSED SESSION OF TUESDAY, MAY 8, 2007

EACA Assigned: D. McGrath

In Closed Session, the Executive Assistant City Attorney will brief the Mayor and City Council on the litigation's status and request retention of outside counsel in the matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:33 p.m.)

Council President Peters closed the hearing.

**CS-2 *La Jolla Alta Master Council v. City of San Diego*
San Diego Superior Court Case No. GIC 822281**

REFERRED TO CLOSED SESSION OF TUESDAY, MAY 8, 2007

DCA Assigned: J. Boardman

This matter is a lawsuit filed by the La Jolla Alta Master Council for inverse condemnation and declaratory and injunctive relief. In Closed Session, the City Attorney will brief the Council on the status of the litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:33 p.m.)

Council President Peters closed the hearing.

**CS-3 *Grace Church of North County v. City of San Diego, Rancho Bernardo Planning Board and San Diego Planning Commission*
United States District Court Case No. 07cv0419 H (RBB)**

REFERRED TO CLOSED SESSION OF TUESDAY, MAY 8, 2007

DCA Assigned: C. Fitzgerald

Grace Church of North County Plaintiff in this matter filed an action in the Southern District Court alleging constitutional violations arising from the approval by the Planning Commission for a Conditional Use Permit for a time shorter than was requested. Grace Church alleges that the City violated its constitutional rights to free exercise of religion when it approved a 5-year Conditional Use Permit instead of the 10 years requested by the Church. The Complaint sets forth 15 causes of action: Violation of Religious Land Use and Institutionalized Persons Act, Violations of the First Amendment, Violations of the Fourteenth Amendment, Violations of California Constitution, Invalidation of Agency and City Actions, Declaratory Relief and Petition for Writ of Mandate

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:33 p.m.)

Council President Peters closed the hearing.

**CS-4 *City of San Diego v. Tracy Means, et al.*
San Diego Superior Court Case No. GIC 858344**

REFERRED TO CLOSED SESSION OF TUESDAY, MAY 8, 2007

DCA Assigned: S. Ferguson

This matter involves a proposed settlement between the City and Defendants Michael Hodges, Roberta Thompson, Airport Business, Inc., ABS Airport Consultancy, Inc., dba Airport Business Solutions, and Thompson Aviation Consulting, Inc., in ongoing litigation relating to the circumstances surrounding the awarding of consulting contracts to these Defendants. In Closed Session, the City Attorney will present the final settlement offer of these Defendants to Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:33 p.m.)

Council President Peters closed the hearing.

CS-5 *Philip K. Paulson v. City of San Diego, et al.*
United States District Court Case No. 89cv820 GT (POR)
Steve Trunk and Philip K. Paulson v. City of San Diego, et al.
United States District Court Case No. 06cv1597

REFERRED TO CLOSED SESSION OF TUESDAY, MAY 8, 2007

DCA Assigned: D. Karlin

In 1989, Philip K. Paulson initiated the above-entitled action against the City of San Diego relating to the presence of a Latin memorial cross within the Mt. Soledad Veterans Memorial. In Closed Session, the City Attorney will update the City Council on the litigation's status and discuss a recently filed motion for attorney's fees and costs.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:33 p.m.)

Council President Peters closed the hearing.

ITEM-200: Step VI Grievance from the International Association of Fire Fighters, Local 145 regarding Fire Fighter Steve Choi.

(See Report to the City Council No. 07-064.)

(Continued from the meeting of April 23, 2007, Item 201, at the request of Mayor Sanders, for further review.)

STAFF'S RECOMMENDATION:

Hear the grievance and determine the outcome.

GRIEVANCE HEARD AND DENIED

STAFF SUPPORTING INFORMATION:

The International Association of Fire Fighters, Local 145 (Local 145), on behalf of Fire Fighter Steve Choi, has appealed the Step V grievance response prepared by the Labor Relations Office on behalf of the Mayor to the full City Council. Step VI of the Grievance Procedure, Article 25 of the Memorandum of Understanding (MOU) between the City of San Diego and Local 145 provides for this option.

The grievance cites a violation of Article 43 of the MOU and denial of Mr. Choi's due process rights. Following a determination by the City's Emergency Medical Services Medical Director of unsatisfactory skills and judgement during critical clinical circumstances Mr. Choi was reassigned from his fire fighter/paramedic position. Effective December 4, 2004, Mr. Choi stopped receiving paramedic premium pay. The performance issues giving rise to this action are documented in the September 19, 2004 memorandum from Battallion Chief Criss Brainard, Steve Choi Documentation.

As resolution to this grievance, Local 145 is requesting that Mr. Choi be reinstated to the fire fighter/paramedic position he previously occupied and be fully compensated for the loss of paramedic premium pay retroactively to December 4, 2004.

As Mr. Choi was not assigned to a fire fighter/paramedic position, it is staff's view, pursuant to Article 43, that Mr. Choi would be ineligible for retroactive payment of the paramedic premium. Staff is not aware of any employee property right related to position assignments or premium pay. The Fire-Rescue Department is not comfortable with reinstating Mr. Choi to a paramedic position and the City Attorney's office has opined that doing so would expose the City to substantial risk of liability.

FISCAL CONSIDERATIONS:

\$25,368 to retroactively compensate Mr. Choi for the Paramedic Premium for the period from December 4, 2004 through January 26, 2007.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

International Association of Fire Fighters, Local 145 City of San Diego.

Chadwick/Reynolds

Staff: Scott Chadwick - (619) 236-5587

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:11 p.m. – 4:34 p.m.)

MOTION BY HUESO TO DENY THE GRIEVANCE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-201: Pursuant to the San Diego Municipal Code Section 22.0710, the City Auditor and Comptroller's Office is Requesting a Hearing on the City's Comprehensive Annual Financial Report (CAFR) for the Fiscal Year Ending June 30, 2003.

(See Report to the City Council 07-065 and City of San Diego's Fiscal Year 2003 Comprehensive Annual Financial Report.)

(Continued from the meeting of April 23, 2007, at the request of Councilmembers Faulconer and Frye, for further review.)

CITY AUDITOR AND COMPTROLLER'S RECOMMENDATION:

Take the following actions:

CONTINUED TO MONDAY, MAY 14, 2007

Receiving and filing the Fiscal Year 2003 City's Comprehensive Annual Financial Report (CAFR);

Directing the City Attorney to prepare the appropriate resolution in accordance with Charter Section 40.

SUPPORTING INFORMATION:

Consistent with the remedial recommendation contained in the Report of the Audit Committee of the City of San Diego (Kroll Report) dated August 8, 2006, staff has provided numerous drafts of the CAFR to the City Council for their review and comment prior to the April 16, 2007 City Council meeting where this document will be discussed. At this meeting staff is recommending that it be received by the City Council as final. This document has been approved by the City's Disclosure Practices Working Group (DPWG) and the certificate of approval has been attached to this agenda item.

The public may obtain a copy of the City's 2003 CAFR on the City website at no charge.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
October 16, 2006 Council Meeting.

Levin/Goldstone

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:21 p.m.)

MOTION BY FAULCONER TO CONTINUE THIS ITEM TO MONDAY, MAY 14, 2007, WITH DIRECTION TO REFER TO THE AUDIT COMMITTEE AND INCLUDE A COPY OF ANY RESOLUTION THAT THE COUNCIL WOULD BE REQUESTED TO ACT UPON BY WEDNESDAY, MAY 9, 2007. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-202: Del Mar Heights Road Maintenance Assessment District Formation

(See Report to the City Council No. 07-068. Torrey Pines Community Plan Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-997) CONTINUED TO MONDAY, MAY 14, 2007

Resolution of Intention to form the Del Mar Heights Road Maintenance Assessment District and to levy and collect Fiscal Year 2008 Annual Assessments on Del Mar Heights Road Maintenance Assessment District.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

This City Council action is to start the process to form a new maintenance assessment district to maintain landscaping improvements along certain sections of Del Mar Heights Road. Under the guidelines of Proposition 218, all property owners receiving benefit from the improvements within the district have an opportunity to vote in favor or in opposition to the formation of this maintenance assessment district: community driven or developer driven. This request is community driven.

STAFF RECOMMENDATION:

Authorize the commencement of the 45-day balloting period as required by law and schedule a public hearing for July 10, 2007.

SUMMARY:

This action authorizes the ballot protest proceedings to form the Del Mar Heights Road Maintenance Assessment District. If approved by the property owner vote, this action also authorizes the Fiscal Year 2008 assessment and budget. The District is located in the Torrey Pines Community Planning Area along the Del Mar Heights Road corridor bounded by Crest Canyon Open Space park to the north, Torrey Pines State Reserve to the south, the City of Del Mar to the west, and Interstate 5 to the east.

The purpose of the District is to fund the enhanced maintenance of landscaped and hardscaped improvements including identified medians, curbs, and gutters.

FISCAL CONSIDERATIONS:

Approximately \$ 51,034 will be assessed to the property owners within the District in Fiscal Year 2008. The City owns one assessable parcel in the District. The General Fund impact is \$22.90 for FY 2008. The District will be entitled to a contribution from the Gas Tax Fund 30219 in the amount of \$4,188. These funds are included in the proposed Fiscal Year 2008 Budget Process. The proposed Fiscal Year 2008 budget for the District is as follows:

	<u>FY 2008</u>	<u>Maximum Authorized</u>
EXPENSES		
Personnel	\$1,500	\$4,505
Landscape Contract	\$7,178	\$34,183
Incidentals	\$801	\$1,841
Administration	\$3,000	\$3,686
Utilities (energy, water utilities & storm drain fee)	\$0	\$719
Repayment to MAD Formation Fund (one-time expense)	<u>\$30,000</u>	<u>\$0</u>
TOTAL EXPENSES	\$42,479	\$44,934
REVENUES		
Assessments	\$51,034	\$52,590
City Contributions - Gas Tax	<u>\$4,188</u>	<u>\$5,824</u>
TOTAL REVENUES	\$55,222	\$58,414
FUND BALANCE (Carryover & Reserve)		
Allocated Reserve/Carryover (20% of operating budget)	\$8,495	\$8,987
Required Minimum Reserve (10% of operating budget)	<u>\$4,248</u>	<u>\$4,493</u>
TOTAL FUND BALANCE	\$12,743	\$13,480

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The majority of the assessments will be borne by residences within the community. The community submitted a petition and was granted use of City formation funding in September 2005. The Torrey Pines Planning Group endorsed the formation at its October 12th 2006 meeting. The Del Mar Heights Rd. Advisory Group has supported the effort and, in conjunction with the Planning Group, held a community outreach and information meeting on March 8, 2007. Some community opposition to this formation has been expressed.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders in the area are the local residences, the Del Mar Union High School District, Safeway Stores Inc., Longs Drug Inc., and several smaller businesses. Information and outreach efforts are being made to all stakeholders.

Reynolds/LoMedico/ CB

Staff: Clay Bingham – (619) 533-6724
Pedro De Lara, Jr. – Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:14 p.m.)

MOTION BY ATKINS TO CONTINUE TO MONDAY, MAY 14, 2007, TO MEET NOTICING REQUIREMENTS, AS REQUESTED BY THE CITY ATTORNEY.

Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-203: North Park Maintenance Assessment District – Reballot.

(See Report to the City Council No. 07-069. North Park Community Area. District 3).

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-1000) CONTINUED TO MONDAY, MAY 14, 2007

Resolution of Intention to levy and collect Fiscal Year 2008 Annual Assessments on North Park Maintenance Assessment District.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

This City Council action will increase the Fiscal Year 2008 assessments for the North Park Maintenance Assessment District. The District is generally located north of Upas and Juniper Streets, south of Monroe Avenue, west of Interstate 805, and east of Georgia Street.

Projects authorized by the current District have largely been completed. In response to the limited services the current District can provide, and in reaction to community outreach which identified a need for enhanced future community improvements and services within the District, community representatives have requested that the City initiate proceedings to allow for an increase in assessments beyond the amount currently authorized.

STAFF RECOMMENDATION:

Authorize the commencement of the 45-day balloting period as required by law and schedule a public hearing for July 10, 2007.

EXECUTIVE SUMMARY:

Authorize the commencement of the 45-day balloting period as required by law and schedule a public hearing for July 10, 2007.

FISCAL CONSIDERATIONS:

Approximately \$533,937 will be assessed to property owners within the District in Fiscal Year 2008. The City owns 78 assessable parcels in the District, and it is estimated that the General Fund impact will increase from \$3,136.50 to \$4,426.46. The District will be entitled to a contribution from Gas Tax Fund 30219 in the amount of \$20,221. These funds have already been requested as part of the Fiscal Year 2008 budget process. The proposed Fiscal Year 2008 Budget for the District is as follows:

	FY 2008	Maximum
	<u>(1)(2)</u>	<u>Authorized</u>
		<u>(2)(3)</u>
OPENING FUND BALANCE		
Carryover Fund Balance	\$480,449	--
EXPENSES		
Personnel	\$ 38,952	\$ 38,952
Contractual Services	\$205,205	\$205,205
Neighborhood Services	\$442,507	\$442,507
Miscellaneous Services	\$ 17,084	\$ 17,084
Incidentals	\$ 31,352	\$ 31,352
Utilities	<u>\$ 50,751</u>	<u>\$ 50,751</u>
TOTAL EXPENSES	<u>\$785,851</u>	<u>\$785,851</u>
REVENUES		
Assessments	\$534,175	\$534,175
Interest	\$ 15,500	\$ 15,500
City Contributions – Gas Tax	<u>\$ 18,134</u>	<u>\$ 18,134</u>
TOTAL REVENUES	<u>\$567,809</u>	<u>\$567,809</u>
CLOSING FUND BALANCE	<u>\$262,407</u>	--

(1) FY 2008 is the City's Fiscal Year 2008, which begins July 1, 2007 and ends June 30, 2008.

(2) Individual line item expenses may be higher or lower than shown on an annual basis.

(3) Maximum authorized annual assessment subject to cost-indexing provisions contained in Assessment Engineers Report.

Annual assessments were calculated by an assessment engineer for parcels within the District and are based on each parcel's equivalent benefit unit (EBU), which is equivalent to one single family dwelling unit. This rate is impacted by parcel land use, benefit, acreage of non-residential properties, and location of properties. The proposed rate for Fiscal Year 2008 would be \$30.28 per EBU.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The District was originally established in April 1996, balloted for compliance with Proposition 218 in 1998, with provisions for additional improvements to be maintained by the District. The additional improvements were determined through a process of community participation and input, and property owners approved the re-engineering of the District with 61.5% of the weighted vote.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The membership of the North Park Maintenance Assessment District Citizen's Advisory Committee (NP CAC), consists of representatives from the following community organizations: Greater North Park Planning Committee, North Park Community Association, Altadena Neighborhood Association, El Cajon Boulevard Business Improvement District, North Park Law

Enforcement Committee, San Diego County Apartment Association, North Park Redevelopment Project Area Committee, Burlingame Neighborhood Association and North Park Main Street. The committee also provides for one (1) Homeowner/Resident position. The committee member organizations passed resolutions in support of re-engineering the District on the following dates

1. North Park Project Area Committee: December 13, 2005
2. North Park Main Street: December 14, 2005
3. Greater North Park Planning Committee: January 17, 2006
4. North Park Community Association: January 25, 2006
5. Burlingame Neighborhood Association: February 3, 2006
6. El Cajon Business Improvement Association: February 13, 2006
7. Altadena Neighborhood Association: February 24, 2006
8. San Diego County Apartment Association: April 3, 2007

Additionally, the North Park Maintenance Assessment District CAC passed the following motions:

1. February 12, 2007 - Approved Fiscal Year 2008 Reballot Budget
2. March 12, 2007 - Approved North Park Assessment Engineer's Report

The North Park Maintenance Assessment District CAC has been gathering input and reviewing improvement areas and service levels for the past 17 months. In a survey of property owners located within the District in early 2006, nearly 80% of respondents were in favor of the re-engineering of a new district with a broader range of permissible improvements and services. Additionally, a "North Park Town Hall" meeting was conducted on April 8, 2006 in part to discuss the proposed re-engineering of the District and gather additional community input.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

In addition to the major stakeholder organizations mentioned above, residential property owners are approximately assessed 74% and commercial property owners 24% of the total revenue collected in the District. Under the proposed action, resident property owners will see an annual increase of \$11.59, while commercial property owner's increases will vary depending upon the relative acreage of their parcels.

LoMedico/Reynolds/CB

Staff: Clay Bingham – (619) 533-6724
Pedro DeLara, Jr. - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:14 p.m.)

MOTION BY ATKINS TO CONTINUE TO MONDAY, MAY 14, 2007, TO MEET NOTICING REQUIREMENTS AS REQUESTED BY THE CITY ATTORNEY.

Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-204: Mission Boulevard, Tentative Map.

Matter of the appeal by Jeffrey T. Ralston and David N. Catton of the Planning Commission's decision in denying an application for a Tentative Map to convert twelve (12) existing residential units to condominium ownership and to waive the requirement to underground existing overhead utilities. The project site is located at 3414 Mission Boulevard adjacent to Strand Way on the west, Lido Court on the north and an alley on the south, within the Mission Beach Planned District, NC-S zone of the Mission Beach Community Plan.

Should the condominium conversion project be approved, tenants may be required to vacate the premises. No units may be sold in this building unless the conversion is approved by the city and until after a public report is issued by the Department of Real Estate. Each tenant has the exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that

such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

(Tentative Map No. 128189/Project No. 43665. Mission Beach Community Plan Area. District 2.)

STAFF'S RECOMMENDATION:

Take the following action:

(R-2007-) GRANTED APPEAL AND GRANTED MAP;
ADOPTED AS RESOLUTION R-302585

Granting or denying the appeal and granting or denying Tentative Map No. 128189, and the request to waive the requirement to underground existing overhead utilities, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on January 25, 2007, voted 5-0-2 to deny staff's recommendation; no opposition.

Ayes: Schultz, Naslund, Garcia, Griswold, Otsuji
Not present: Ontai
(One vacancy)

The Mission Beach Precise Planning Board has recommended denial of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Appeal of the Planning Commission's decision to deny the Mission Boulevard Tentative Map - Project No. 43665 which includes the conversion of twelve (12) existing residential units to condominiums and a waiver of undergrounding utilities.

STAFF RECOMMENDATION:

1. APPROVE the appeal and APPROVE Tentative Map No. 128189; and
2. APPROVE waiver to the requirement to underground existing overhead utilities.

EXECUTIVE SUMMARY:

On January 25, 2007, the Planning Commission denied this condominium conversion project due to concerns regarding the condition of the buildings and inadequate off-street parking. The project proposes a Tentative Map for the subdivision of a 0.123-acre site to convert twelve-existing residential units (located within four two-story apartment buildings and four one-car garages, constructed in 1953) into condominiums on one lot. The applicant also requested that the requirement for the undergrounding of existing overhead utilities be waived.

The project site is located at 3414 Mission Boulevard, adjacent to Strand Way on the west, Lido Court on the north and an alley on the south, within the Mission Beach Planned District, NC-S

(Neighborhood Commercial – South (effective January 2, 1979) zone of the Mission Beach Community Plan. The previous zones for the site were CS (effective December 5, 1972) and the C zone (effective June 5, 1933).

The property was zoned C (commercial/retail and residential) at the time the twelve units were constructed, which did not include regulations for residential density limitation or minimum off-street parking. However, the current Mission Beach Planned District, NC-S zone would allow only five (5) units to be built on the property today.

The site provides four (4) existing off-street parking spaces where 24 would be required per the 2002 Land Development Code (LDC). The existing project was built prior to the issuance of Ordinance No. O-8379 NS (implemented in 1960) requiring dwelling units to provide off-street parking spaces. The site does deviate from current parking requirements; but, the project has previously conforming rights to be maintained as outlined in Chapter 12, Article 7, Division 1 of the LDC.

The project site is also located within the Coastal Overlay Zone and is not subject to new condominium conversion regulations adopted by the City Council on June 13, 2006, until certified by the California Coastal Commission. The proposed project does lie within the State Coastal Permit jurisdiction and is required to get a Coastal Development Permit from the California Coastal Commission (and not the City of San Diego).

On January 25, 2007, the Planning Commission voted to deny the proposed condominium conversion because they were unable to accept Tentative Map Finding No. 2 (Attachment D) which reads: *The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (Land Development Code*

Section 125.0440.h and State Map Act Section 66412.3). The Planning Commission's primary concerns were the lack of adequate parking and the physical conditions of the four separate buildings.

Staff has determined that there is no basis for requiring additional off street parking or rehabilitation of the buildings due to previously conforming rights under Municipal Code Section 127.0101. The new City requirements for condominium conversions do not apply to this project. Therefore, City staff recommends that the City Council grant the appeal (Attachment A) and approve this project.

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are paid by the applicant through a deposit account with the City of San Diego.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

None. See Planning Commission action above.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On September 22, 2004, the Mission Beach Precise Planning Board voted 13-0-0 to deny the project as proposed due to lack of parking for the twelve units.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Jeffrey T. Ralston and David N. Catton (owners)

Waring/Escobar-Eck/VL

Staff: Vena Lewis – (619) 446-5197

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:32 p.m. – 3:05 p.m.)

MOTION BY FAULCONER TO ADOPT THE RESOLUTUION GRANTING THE APPEAL AND GRANTING THE MAP. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-nay, Frye-nay, Madaffer-nay, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 4:36 p.m. in honor of the memory of.

Rod T. Westerling as requested by Council Member Atkins.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 4:35 p.m. – 4:36 p.m.)