

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, NOVEMBER 5, 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
MAYOR COMMENT.....	4
CLOSED SESSION ITEMS.....	5
ITEM-200: Alcohol-Free Beach Proposals.....	7
ITEM-250: Notice of Pending Final Map Approval – Golden Heights.....	9
ITEM-251: SUBMISSION OF BALLOT PROPOSALS.....	10
ITEM-252: SUBMISSION OF BALLOT PROPOSALS.....	11
REPORT OUT OF CLOSED SESSION.....	12
NON-DOCKET ITEMS.....	12
ADJOURNMENT.....	12

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:05 p.m. with Council Member Maienschein not present. Council President Peters recessed the meeting at 3:18 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:30 p.m. with Council Member Maienschein not present. Council President Peters recessed the meeting at 4:36 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:44 p.m. with Council Member Maienschein not present. Council President Peters adjourned the meeting at 5:54 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-not present-Excused by R-303305-due to Witch Creek
Fires
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Hueso-present
- Clerk-Maland (mz)

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-not 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 Steve Cashman of Horizon Christian Fellowship.

FILE LOCATION:

MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Frye.

FILE LOCATION:

MINUTES

MAYOR COMMENT:

On behalf of Mayor Sanders, Chief Financial Officer, Jay Goldstone presented an update on the Mt. Soledad landslides and on the 2007 Wildfire Recovery efforts.

The first phase of construction has begun on stabilizing Soledad Mountain Road by installing thirty-seven shear pins. Geotechnical investigations as to the cause of the slides continue during construction. City staff and City-hired consultants continue to share their geotechnical data with private geotechnical consultants to develop methods for repairing damaged roadways and stabilizing the slide area. Staff is onsite ready to assist homeowners. Within the next couple of weeks, discussions will begin in Closed Session regarding phase two and phase three.

With respect to the wildfire recovery, staff continues to meet with the County, Federal Emergency Management Agency, and State officials to plan a recovery effort and to analyze the response to the wildfires. Local assistance center hours will be reduced based on the current demands. A comprehensive clean up program has been implemented for the City and a debris removal program will expedite the debris removal from private properties and get the sites ready for reconstruction. The City is working on erosion control. Damaged and destroyed trees will be removed within the next two weeks. Over a hundred miles of streets and storm drains have been inspected for fire and wind damage.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:09 p.m. – 2:14 p.m.)

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. Willkie Farr and Gallagher, LLP*
San Diego Superior Court Case No. 37-2007-00072584-CU-BT-CTL**

REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 6, 2007

EACA Assigned: D. McGrath

This is a lawsuit filed by the City of San Diego against Willkie Farr and Gallagher, LLP. In Closed Session, the Executive Assistant City Attorney and Bryan Vess will brief the Mayor and City Council on the litigation's status.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:08 p.m.)

Council President Peters closed the hearing.

**CS-2 *George Isbell, et al. v. City of San Diego*
U.S.D.C. Southern District of California Case No. 98cv0688**

REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 6, 2007

DCA Assigned: R. Walters

This matter is an action filed by George Isbell, Jr., and G&B Emporia Inc., challenging the City's zoning ordinance for the location of Plaintiffs' adult entertainment business. In Closed Session, the City Attorney will brief the City Council on the status of the matter and request appropriate action including settlement of the litigation, which is now before the Ninth Circuit.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:08 p.m.)

Council President Peters closed the hearing.

CS-3 *American Tower Corporation v. City of San Diego, et. al*
United States District Court Case No. 07cv0399 LAB (NLS)

REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 6, 2007

DCA Assigned: C. Fitzgerald

This case arises from Plaintiff American Tower Corporation's [ATC] request for approval of 8 Conditional Use Permits [CUPs] to continue operation of existing wireless facilities in the City of San Diego. ATC challenges City's decisions regarding these CUPs and also claims that City's wireless facilities regulations are preempted under the Telecommunications Act of 1996. The City Attorney will update the Mayor and City Council on the status of the litigation in Closed Session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:08 p.m.)

Council President Peters closed the hearing.



ITEM-200: Alcohol-Free Beach Proposals.

(See City Attorney's 10/5/2007 memorandum with Draft Ordinances Versions A, B, C, and D; Jessica Luedtke's 10/5/2007 e-mails; Citizens' e-mails; SafeBeaches' 10/10/2007 PowerPoint; FreePB's 10/10/2007 PowerPoint; John Greenhalgh's 7/14/2007 and 4/14/2007 letters; Windansea letter with map; Mayor Sanders' 10/10/2007 PowerPoint; and packets of signatures favoring ban.)

TODAY'S ACTION IS:

Alternate Ordinances - Introduce only one of the following ordinances:

Subitem-A: (O-2008-65A) NOTED AND FILED

Introduction of an Ordinance amending Chapter 5, Article 6, Division 0, of the San Diego Municipal Code by amending Section 56.54, titled "Alcohol Beverage Consumption Prohibited in Certain Areas," to add all public beaches, bays, coastal parks, and coastal rights-of-way to the list of public property covered by the existing 24-hour ban; and repealing Sections 56.70, 56.71, and 56.72, all relating to the previously existing 16-hour beach alcohol ban and the Fourth of July keg ban.

or

Subitem-B: (O-2008-65B) NOTED AND FILED

Introduction of an Ordinance amending Chapter 5, Article 6, Division 0, of the San Diego Municipal Code by amending Section 56.54, titled "Alcohol Beverage Consumption Prohibited in Certain Areas," to add a ban on alcohol consumption at all public beaches, bays, coastal parks, and coastal rights-of-way on the Memorial Day, Fourth of July, and Labor Day Holiday periods; and repealing Sections 56.70, 56.71, and 56.72, all relating to the Fourth of July keg ban.

or

Subitem-C: (O-2008-65C) NOTED AND FILED

Introduction of an Ordinance amending Chapter 5, Article 6, Division 0, of the San Diego Municipal Code by amending Section 56.54, titled "Alcohol Beverage Consumption Prohibited in Certain Areas," to add all La Jolla (Council District 1)

public beaches, coastal parks, and coastal rights-of-way to the list of public property covered by the existing 24-hour ban.

or

Subitem-D: (O-2008-65D) INTRODUCED AS AMENDED; TO BE ADOPTED ON TUESDAY, NOVEMBER 20, 2007

Introduction of an Ordinance amending Chapter 5, Article 6, Division 0, of the San Diego Municipal Code by amending Section 56.54, titled "Alcohol Beverage Consumption Prohibited in Certain Areas," to add all public beaches, bays, and coastal rights-of-way in Council Districts One and Two, and all coastal parks in Council District Two (all coastal parks south of Tourmaline Surfing Park) to the list of public property covered by the existing 24-hour ban; and amending Section 56.71, relating to the Fourth of July keg ban.

PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE'S RECOMMENDATION:

On 10/10/2007, PS&NS voted 3 to 0 to forward all of the versions in this item to the full City Council for consideration. (Councilmembers Faulconer, Young, and Maienschein voted yea. Councilmember Hueso not present.)

FILE LOCATION: SUBITEMS A, B, C: MEET
SUBITEM D: NONE

COUNCIL ACTION: (Time duration: 2:15 p.m. – 3:18 p.m.;
3:31 p.m. – 4:36 p.m.;
4:44 p.m. – 5:54 p.m.)

Motion by Faulconer to introduce the ordinance in Subitem D. Second by Frye. Failed. Yea-1, 2, 3, 6. Nay-4, 7, 8. Not Present-5.

MOTION BY FAULCONER TO INTRODUCE THE ORDINANCE IN SUBITEM D AS AMENDED TO INCLUDE A ONE-YEAR SUNSET TO BECOME EFFECTIVE 30 DAYS AFTER ITS FINAL PASSAGE AND TO NOTE AND FILE ORDINANCES IN SUBITEMS A, B, AND C. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-not present, Frye-yea, Madaffer-nay, Hueso-yea.

ITEM-250: **Notice of Pending Final Map Approval – Golden Heights.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “Golden Heights” (T.M. No. 207926/PTS No. 99268), located on the south side of “A” Street between 29th Street and 30th Street in the Greater Golden Hill Community Plan Area in Council District 8, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

ITEM-251: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the February 5, 2008 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	9/14/2007	144	LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee
Wednesday	9/19/2007	139	Rules Committee review
Monday	9/24/2007	134	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee (<i>NB: E-127 is 10/1/2007, a legislative recess</i>)
Monday	10/8/2007	120	Council adopts propositions for ballot; directs City Attorney to prepare ordinances
Monday	10/29/2007	99	Council adopts ordinances prepared by City Attorney
Friday	11/9/2007	88	Last day for City Clerk to file with Registrar of Voters all elections material
Monday	11/26/2007	71	Last day to file ballot arguments with City Clerk

If you have questions, please contact the Office of the City Clerk at (619) 533-4025.

ITEM-252: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the June 3, 2008 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	1/18/08	137	LAST DATE (10:00 a.m.) for public, departments and agencies to submit ballot proposals to City Clerk for review by Rules Committee
Wednesday	1/23/08	132	Rules Committee review
Monday	1/28/08	127	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee
Monday	2/4/08	120	Council adopts propositions for ballot; directs City Attorney to prepare ordinances
Monday	2/25/08	99	Council adopts ordinances prepared by City Attorney
Friday	3/7/08	88	Last day for City Clerk to file with Registrar of Voters all elections material
Thursday	3/20/08	75	Last day to file ballot arguments with City Clerk

If you have questions, please contact the Office of the City Clerk at (619) 533-4025.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 5:54 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:54 p.m. – 5:54 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego