

CITY OF SAN DIEGO HISTORICAL RESOURCES BOARD

MINUTES OF REGULAR SCHEDULED MEETING OF

AUGUST 25, 2005

COUNCIL COMMITTEE ROOM - 12TH FLOOR
CITY ADMINISTRATION BUILDING

CHRONOLOGY OF THE MEETING

The meeting was called to order by Chairperson Schwartz at 1:05 PM. Chairperson Schwartz adjourned the meeting at 2:05 PM.

ATTENDANCE DURING THE MEETING

Chairperson	Lloyd Schwartz	Present
Vice-Chairperson	Laura Burnett	Present
Boardmember	Alexander Chuang	Present
Boardmember	Maria Curry	Absent
Boardmember	Homer Delawie	Present
Boardmember	Otto Emme	Present
Boardmember	Don Harrison	Present
Boardmember	Donna Jones	Present
Boardmember	David Marshall	Present
Boardmember	Delores McNeely	Present
Boardmember	Timothy Murphy	Absent
Boardmember	Jerry Schaefer	Present
Boardmember	Marsha Sewell	Present
Boardmember	Abel Silvas	Present (Arrived @ 1:23 PM)

Staff to the Board in attendance: Mike Tudury, Senior Planner/Architect
Diane Kane, Senior Planner/Historian
Barbara Hubbard, Board Secretary
Noah Stewart, Staff
Karen Heumann, Assistant City Attorney

ITEM 1 - APPROVAL OF MINUTES OF JULY 28, 2005

BOARD ACTION:

None. Due to the minutes not being complete.

ITEM 2 - PUBLIC COMMENT

ISSUES WITHIN THE JURISDICTION OF THE HISTORICAL RESOURCES BOARD NOT PREVIOUSLY HEARD AND NOT ON THE AGENDA.

- Boardmember Harrison spoke about the Louis Rose Society for the preservation of Jewish History is holding a celebration on September 25, 2005, at the new Louis Rose Point an area in NTC now Liberty Station. There will be a picnic from 4:00 PM to 7:00 PM to introduce the public to Louis Rose Point.
- Bruce Coons of SOHO, asked if this was the appropriate forum to bring to staff's attention a correction needed for the past Design Assistance Subcommittee Meeting Record.

ITEM 3 - ADMINISTRATIVE ITEMS

A. Board Administrative Matters and General Information

Notification of Absences

- Boardmembers Maria Curry and Tim Murphy notified staff that they would be absent today.

General Information

- None

B. Subcommittee Reports

- The Design Assistance Subcommittee met on August 3, 2005, and considered the following eight items: Balboa Theatre Rehab Overview; A-1 Globe Flour Mill (the Parron Hall Furniture Warehouse); the William Heath Davis House; 1425-33 Market Street/the Tourist Hotel Project; the F. M. Sheppard Duplex and House Rentals Project; the Snowflake Bakery; NTC Building 177 Library; and the Cosmopolitan Square Project. Please refer to the Meeting Record of this meeting for details. Staff is pleased to report that all but one of the projects considered were resolved to everyone's satisfaction, with the exception of the F. M. Sheppard Duplex and House Rentals Project, which staff hopes is close to resolution. This item will return to the DAS at its September meeting. The next meeting will be on Wednesday, September 7, 2005 at 3 PM.

- The Policy Subcommittee did not meet in August. The next meeting will be on Monday, September 12, 2005 at 3 PM. At this meeting, the proposed Warehouse District will be addressed, as will several Board policy issues.
- The Archaeology Subcommittee did not meet in August. The next meeting is scheduled for Monday, September 12, 2005 at 4 PM. However, at this time, there are no items for consideration.

C. Conflict of Interest Declarations

Conflicts of interest

- Item 5 – Boardmember Marshall
- Item 6 - Boardmember Schaefer
- Item 7 – Boardmembers Emme and Marshall

Ex parte communications

- None

Failure to visit sites for designation

- None

D. Staff Report

- Boardmembers will note that staff has not scheduled any voluntary designation requests from the public on today's agenda due to an illness in the family of the staff that normally does this. Staff has received five new designation requests from members of the public since the last HRB meeting, bringing the total number of designation requests that have not yet been agendized and are waiting to be reviewed by staff for processing to 41.

E. Requests for Continuances

- None

ITEM 4 - REQUESTS FOR ITEMS TO BE PLACED ON THE CONSENT AGENDA.

- **ITEM 5 – AMENDMENTS TO THE GASLAMP QUARTER PLANNED DISTRICT ORDINANCE AND GASLAMP QUARTER DESIGN GUIDELINES**

BOARD ACTION:

MOTION BY BOARDMEMBER SEWELL TO PLACE THE ABOVE ITEM ON THE CONSENT AGENDA AND APPROVE PER STAFF RECOMMENDATION.

Seconded by Boardmember McNeely. Vote: 11-0-1(Marshall). Motion passes.

- **ITEM 8 – SAN DIEGO POLICE PISTOL RANGE**

BOARD ACTION:

MOTION BY BOARDMEMBER MCNEELY TO PLACE THE ABOVE ITEM ON THE CONSENT AGENDA AND APPROVE PER STAFF RECOMMENDATION.

Seconded by Boardmember Schaefer. Vote: 12-0-0. Motion passes.

ACTION ITEMS**ITEM 5 – AMENDMENTS TO THE GASLAMP QUARTER PLANNED DISTRICT ORDINANCE AND GASLAMP QUARTER DESIGN GUIDELINES**

Applicant: Beverly Schroeder, Centre City Development Corporation (CCDC)

Location: Various addresses, Centre City Community, Council District 2

Description: Consider the Amendments to the Gaslamp Quarter Planned District Ordinance and Gaslamp Quarter Design Guidelines and the Final Addendum to the Final Master Environmental Impact Report for the Project and Make a Recommendation to the Planning Commission and City Council.

Today's Action: Consider adoption of the Amendments to the Gaslamp Quarter Planned District Ordinance and Gaslamp Quarter Design Guidelines and the Final Addendum to the Final Master Environmental Impact Report for the Project to the Planning Commission and City Council.

Staff Recommendation: Recommend adoption of the Amendments to the Gaslamp Quarter Planned District Ordinance and Gaslamp Quarter Design Guidelines and the Final Addendum to the Final Master Environmental Impact Report for the Project to the Planning Commission and City Council.

Report Number: HRB-05-035

Testimony Received:

In Support by:

Beverly Schroeder, CCDC

In Opposition by:

None.

Public Testimony was closed.

BOARD ACTION:

MOTION BY BOARDMEMBER SEWELL TO PLACE THE ABOVE ITEM ON THE CONSENT AGENDA AND APPROVE PER STAFF RECOMMENDATION TO RECOMMEND ADOPTION OF THE AMENDMENTS TO THE GASLAMP QUARTER PLANNED DISTRICT ORDINANCE AND GASLAMP QUARTER DESIGN GUIDELINES AND THE FINAL ADDENDUM TO THE FINAL MASTER ENVIRONMENTAL IMPACT REPORT FOR THE PROJECT TO THE PLANNING COMMISSION AND CITY COUNCIL.

Seconded by Boardmember McNeely. Vote: 11-0-1(Marshall). Motion passes.

ITEM 6 – HAMILTON APARTMENTS

Applicant: Beverly Schroeder, Centre City Development Corporation (CCDC)

Location: 941 Eleventh Avenue, East Village, Centre City Community, Council District 2

Description: Consider the designation of the Hamilton Apartments as a Historical Resource Site.

Today's Action: Designate under any established HRB Criteria (A through F) or "Note and File."

Staff Recommendation: Designate under HRB CRITERIA A and C.

Report Number: HRB-05-036

Testimony was not received.

NOTE: Assistant City Attorney Karen Heumann spoke in reference to Items 6 and 7.

Assistant City Attorney Karen Heumann stated that concerns have been raised to her about the ability of board members to recuse themselves on Items 6 and 7. She explained to the board members that she had sought council from the former attorney for the HRB who had represented the board for ten years and also discussed the issues with an attorney who is an expert on the Political Reform Act. Mr. Marshall authored a document advocating against designation of the 706 Manhattan Court property, Item 7 and Dr. Schaefer co-authored a report for Hamilton Apartments, Item 6. There are potential violations of the City of San Diego Ethics Ordinance and Political Reform Act because Mr. Marshall and Dr. Schaefer have an economic interest as paid consultants. They submitted documents with their names on those documents. Which could be considered direct testimony or a direct communication. The documents were submitted for the purpose of influencing board members in their decision as to whether or not to designate the property. The problem becomes that even now if they recuse themselves, that they cannot effectively recuse because there may be a violation of the board members by those packet materials. The law requires recusal from the vote and recusal from the discussion. Sometimes boards will require members to sit away from the table or to even leave the room, because the feeling is that even the presence of a member unduly influences board members in making their decision and also if a board member recuses themselves and remains at the table they might nod there head or otherwise indicate how they feel during the discussion, even if they do not mean to do so. This board has allowed members to decide how they wish to handle that aspect of the

recusal and there is not a problem with that. This is just an explanation of how other boards handle it. Written communications to board members are influential in the same way as if a board member recused themselves then held up a sign saying vote no. Although, they have stated that they recused, the written communication is still a part of the discussion and the opinion is expressed not orally, but on paper.

Assistant City Attorney Heumann explained that there are two approaches that the board might take. The board may hear these items or pull the items to address these potential violations. If the board hears the items, the individuals may be subjecting themselves to liability. Because at this point they may not be able to effectively recuse themselves. Also any action of the HRB board may be voidable. In order for it to be voidable someone would have to challenge the outcome of the hearing and that person would have to prove that the board member has an economic interest and that they attempted to influence the proceedings and in fact that the proceedings were influenced by that participation. Such as there was procedural due process violation. The board can hear the item and allow the board members to state that they are not influenced by the submission of the materials submitted from the board member and they are not giving any greater weight to the board members documents than they would give to any other materials that are in the packet or any other oral testimony.

The alternative approach and the one advised by council, in order to protect the board members and the integrity of the process is to pull the items, don't continue the items, rather pull the items and ask for re-submittal of the materials corrected or submitted by alternative consultants. Ask board members to discard the materials and advised that the materials be turned over at this meeting. Ask the board to disregard all of the materials, all materials related to the this item or both items. Then the item will be re-docketed and submitted with new materials that the board would re-evaluate wholly and independently from this hearing at the appropriate time.

NOTE: Chair Schwartz spoke in reference to Item 6 and Item 7 and said the following:

The Chair is going to rule on the procedural issues related to Agenda Items No. 6 and 7 as follows:

As to Item No. 6, the Hamilton Apartments located at 941 11th Avenue, (1) based upon the August 17, 2005 correspondence as received from counsel for the property owner, the matter of potential designation of the property is considered non-consensual, (2) based upon counsel to the Board comments concerning the conflict of interest of Dr. Schaefer resulting from the submittal of the ASM Affiliates, Inc. evaluation recommending designation, the item is removed from today's action agenda and is not to be re-calendared for consideration by the Board until staff has afforded all interested parties the opportunity to supplement the existing record as they deem necessary or appropriate, sans the ASM Report, (3) all Board members are asked to return their copies of the ASM report to staff by the end of this meeting and are directed not to consider the contents of the report in any future deliberations by the Board concerning this matter, (4) Dr. Schaefer is advised to contact counsel to the Board or the City Ethics Commission to obtain direction concerning his future participation, if any, in this matter, and (5) the Chair notes the expressed interest of the property owner to have the property and the project reviewed by the Design Assistance Subcommittee. The parties are encouraged to appear before DAS and obtain and

consider any subcommittee recommendations prior to further action on this matter by the Board.

As to Item No. 7, the 706 Manhattan Court involuntary designation request, (1) based upon counsel to the Board comments concerning the conflict of interest of Mr. Marshall resulting from submission of an advocacy report prepared post receipt of the applicant's historical designation evaluation and recommending non-designation by the Board, the item is removed from today's action agenda and is not to be re-calendared for consideration by the Board until staff has afforded all interested parties an opportunity to supplement the existing record as they deem necessary or appropriate, sans the July 28, 2005 Heritage Architecture & Planning report, (2) all Board members are asked to return their copies of the Heritage report to staff by no later than the conclusion of this meeting and are directed not to consider the contents of the Heritage report in any future deliberations concerning this matter, and (3) Mr. Marshall is advised to contact counsel to the Board or the City Ethics Commission to obtain direction concerning his future participation, if any, in this matter.

ITEM 7 – 706 MANHATTAN COURT

Applicant: Ronald V. May, on behalf of Gary Aronson, a concerned member of the public.

Location: 706 Manhattan Court, Mission Beach Community, Council District 2

Description: Consider the designation of the 706 Manhattan Court as a Historical Resource Site.

Today's Action: Designate under any established HRB Criteria (A through F) or "Note and File."

Staff Recommendation: "Note and File."

Report Number: HRB-05-037

Testimony was not received.

ITEM 8 – SAN DIEGO POLICE PISTOL RANGE

Applicant: Vonn Marie May, on behalf of City of San Diego, owners

Location: 4002-08 Federal Boulevard, Gateway Community, Council District 4

Description: Consider the designation of the San Diego Police Pistol Range, Associated Buildings and Landscape Setting as a Historical Resource Site.

Today's Action: Designate under any established HRB Criteria (A through F) or "Note and File."

Staff Recommendation: Designate under HRB CRITERIA B and C.

Report Number: HRB-05-042

Testimony Received:

In Support by:

Steve Willard and Gary Metrovich, San Diego Police Department.

In Opposition by:

None.

Public Testimony was closed.

BOARD ACTION:

MOTION BY BOARDMEMBER MCNEELY TO PLACE THE ABOVE ITEM ON THE CONSENT AGENDA AND APPROVE PER STAFF RECOMMENDATION TO DESIGNATE UNDER HRB CRITERIA B (HISTORICAL PERSON) AND C (ARCHITECTURE).

Seconded by Boardmember Schaefer. Vote: 12-0-0. Motion passes. **HRB Site #726**

NOTE: All Historical Resources Board meetings are tape recorded and kept on file with the City of San Diego Planning Department. Upon request, copies of the tapes can be obtained by contacting Board Secretary Barbara Hubbard at (619) 533-6307.

ADJOURNMENT

Chairperson Schwartz adjourned the meeting at 2:05 P.M.

NEXT MEETING DATE: September 22, 2005

LOCATION: City Administration Building, Council Committee Room - 12th Floor.