

# Community Planners Committee

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## CPC MINUTES OF THE MEETING OF FEBRUARY 27, 2007

### **MEMBERS PRESENT:**

Paul Robinson, Centre City  
Stefanie Harris, City Heights  
Doug Case, College Area  
Laura Riebau, Eastern Area  
Vicki Granowitz, Greater North Park  
Buzz Gibbs, Kearny Mesa  
Tom Hebrank, Kensington/Talmadge  
Tim Golba, La Jolla  
Ed Cramer, Linda Vista  
William Kenton, Midway  
Jeff Stevens, Mira Mesa  
Tracy Reed, Miramar Ranch North  
Susan Thorning, Mission Beach  
Jim Baross, Normal Heights

Tom Gawronski, Ocean Beach  
Mel Ingalls, Otay Mesa  
Jan Johnston, Otay Mesa/Nestor  
Kathy Mateer, Pacific Beach  
Cynthia Conger, Peninsula  
James Denton, Rancho Bernardo  
Mike Freedman, San Ysidro  
Tamar Silverstein, Scripps Ranch  
Doug Wescott, Serra Mesa  
Guy Preuss, Skyline/Paradise Hills  
Reynaldo Pisano, Southeastern San Diego  
Lee Campbell, Tierrasanta  
Dash Meeks, Torrey Hills  
Leo Wilson, Uptown

**VOTING ELIGIBILITY/RECUSALS:** None.

**NON ELIGIBLE REPRESENTATIVE PRESENT:** None.

**OTHERS PRESENT:** None.

**City Staff:** Betsy McCullough, Jackie Dominguez, Nancy Bragado, Tait Galloway, Cathy Winterrowd, Jeff Harkness, Andrea Dixon, Dave Potter, Alex Sachs and Marcela Escobar-Eck

**Guests:** Mike Aguirre, Jim Varnadore, Lee Campbell and Mary McLellan

**NOTE:** *The sign-in sheets that are provided at the entrance to the meeting are used to list CPC Representatives, guest speakers and staff present at the meeting.*

1. **CALL TO ORDER:** Acting Chair Leo Wilson called the meeting to order at 7:00 p.m. and proceeded with roll call.
2. **NON-AGENDA PUBLIC COMMENT:** Amy Benjamin of the San Diego Housing Commission announced that the City of San Diego's Annual Action Plan will be on public review from March 18, 2007 to April 18, 2007. The Action Plan is the City's annual funding application for four federal entitlement grants: Community Development Block Grant (CDBG), Emergency Shelter Grant (ESG), Housing Opportunities for Person's with Aids (HOPWA) and Home Investment Partnership Program (HOME). The Action Plan is also a strategic plan that follows suite with the City's 5-year consolidated plan. A special public hearing on the Action Plan will be held on March 22, 2007. Please pass this information on to your respective community planning group.



This information will be made available in alternative formats upon request. To request an agenda in alternative format, or to request a sign language or oral interpreter for the meeting, call 533-3650 at least five working days prior to the meeting to insure availability. Assistive Listening Devices (ALD'S) are available for the meeting upon request.

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Scott Andrews commented on the Affordable Housing Density Bonus item heard at City Council today and deferred for 30-days. He requested the CPC track the issue for daily changes prior to it being acted upon at the March 27, 2007 City Council hearing.

Ron Beauchamp expressed concern about a glitch in the Affordable Density Bonus item that will allow things to happen ministerially, with no accountability or checks and balances.

Pat Flannery asked the committee to take the leadership on the Affordable Density Bonus issue.

Tom Mullaney stated that the Affordable Density Bonus provides no incentive for low income housing by making the provisions for moderate income housing extra generous.

Ed Cramer requested a written list of City-owned properties showing which property exists in each of the communities. Mr. Cramer asked that this item be placed on the next agenda. Leo Wilson said staff will look into the feasibility of obtaining a report.

3. **MODIFICATIONS TO AGENDA:** None. The Chair noted that due to the significance of the agenda items, the meeting time runs later than normal and later than the CPC Bylaws indicate the meeting shall be. It was moved, seconded and unanimously approved to accept the agenda as written.
4. **APPROVAL OF THE MINUTES OF JANUARY 23, 2007:** It was moved, seconded and unanimously approved to accept the Minutes of January 23, 2007 as presented.
5. **CPC ELECTION ITEM: (Action Item)** Tracy Reed, filling in for Nominating Committee Chair Eric Germain, made a final call for any self-nominations from any qualifying group. None were stated and nominations were closed. Tracy Reed moved that the committee vote by a show of hands, to verify a 2/3 majority vote, since there is only one nominee. The motion was seconded by Mike Freedman and approved 26-0-1.

Tracy Reed nominated Leo Wilson to be Chair of the Community Planners Committee. The motion was seconded by Guy Preuss and approved 26-0-1.

CPC Secretary Jeff Stevens was elevated to the position of Vice Chair of the CPC, per the CPC Bylaws

The Chair appointed Vicki Granowitz to the position of CPC Secretary.

6. **PLANNING GROUP INDEMNIFICATION AND REPRESENTATION: (Action Item)** Mike Freedman's motion was as follows: Recommend to the City Council that they direct the City Attorney to draft an ordinance providing for legal representation to, and indemnification of, recognized community planning groups for actions against them and claims for damages. Susan Thorning moved to amend the motion to add that members be given a presentation on their responsibilities and on how to obtain legal

representation once the new ordinance is approved. The amendment to the motion was seconded and approved by unanimous consent.

City Attorney Mike Aguirre stated that he would be glad to work with the CPC on whatever they wanted to do on indemnification. He assured the CPC of his personal commitment that the City Attorney's office will represent any of the CPGs should they be sued by a developer or in conjunction with any of their work. Although he believes the existing ordinance is clear that the groups have indemnification, he said he would be happy to help the CPC if they want to strengthen the ordinance.

Leo Wilson said the interpretation the CPC had after the presentation by Abbe Stutz was that indemnification would not be given until after a damage award was granted against a CPG. Mr. Aguirre responded that the indemnification is broken down into two subcomponents: 1) Defense, meaning if you are sued, you have the right to indemnification; and, 2) If damages are awarded, the City will step forward and pay, as long as the good faith and proper legal protocol has been followed .

Mr. Aguirre said the work the CPC does is important and vital to protecting the interests of the community. He said the City Attorney is elected to give legal advice and is answerable to the public, not to an appointing authority. Mr. Aguirre said he personally favors the CPGs getting more authority. He believes that, in the future, the functions that the CPC performs will become more institutionalized and authoritative in the communities, and the CPGs will have to balance that against the Brown Act. He stated that the City Attorney's office does not view the Brown Act as something they want to aggressively enforce all the technical aspects of, but fundamental fairness issues, such as noticing, are very important. Mr. Aguirre suggested that as the CPC discusses the issues of indemnification and more authority in their decision-making, it is imperative to consider how the processes and procedures are fair to everyone involved.

Mike Freedman pointed out that this issue stemmed from an opinion that came from the City Attorney's office last year, that in effect stated, once you are sued the City Attorney's office will take on the responsibility *if* there are claims for damages. The CPC wants indemnification for any and all lawsuits filed against them.

Tracy Reed and other members expressed confusion that their interpretation of what Abbe Stutz said was in complete conflict with what Mr. Aguirre is now saying.

Mr. Aguirre asked the CPC to appoint a subcommittee of the group. He suggested the CPC create a draft community planning group indemnification and defense ordinance. He said he would then assign an attorney and get the ordinance done to the satisfaction of the CPC. Mr. Aguirre said the CPC can begin with indemnification, but should also look at what should be the essential charter of the community planning groups themselves, if there's something we need to do to strengthen them. Mr. Aguirre said if done correctly, this could be placed on the ballot for 2008 for charter changes.

Vicki Granowitz moved to form an Indemnification Ordinance Subcommittee, chaired by Leo Wilson, consisting of herself, Laura Riebeau, Cynthia Conger, Jeff Stevens, Paul Robinson, Lee Campbell and Jim Varnadore, who will attend as a non-voting member. Leo Wilson asked Paul Robinson to serve as co-Chair on the subcommittee. The motion was seconded by Guy Preuss and approved 26-1-1

Laura Riebeau expressed concern over the wording of Mr. Freedman's motion, which states that the CPC recommend that the City Council direct the City Attorney to draft an ordinance. She said isn't necessary for the City Council to direct the City Attorney, since the City Attorney works for us. Ms. Riebeau moved that the Indemnification Subcommittee draft an ordinance and work directly with the City Attorney's office on the ordinance. Leo Wilson clarified that Ms. Riebeau's substitute motion was to work with the City Attorney through a subcommittee and come up with a motion to present to the City Council. The motion was seconded by Cynthia Conger. The motion failed 8-19-1.

The committee voted on the original indemnification motion made by Mike Freedman, as amended by Susan Thorning's motion. The original motion was seconded and approved 24-3-1.

- 7. GENERAL PLAN UPDATE – HISTORIC PRESERVATION, NOISE, AND CONSERVATION ELEMENTS:** (Action Item) Nancy Bragado said the CPC and/or CPC Subcommittee has met more than 20 times since the issuance of the July 2005 Draft General Plan. Ms. Bragado said staff has taken that full CPC comments and motions and placed them on a table for each element and then referenced where the edit was made in the October draft.

**Conservation Element:**

Jeff Harkness from Park and Recreation was present to answer questions on the Conversation Element. Ms. Bragado said the Conservation Element contains policies that support sustainable development. It brings together economic and environmental policies for a mutual benefit.

Guy Preuss moved to edit the policy in Subsection H, "Sustainable Development and Urban Forestry," Policy CE-H.7 (d), to explain the significance of using deciduous trees, so that the sentence reads, "Increase the use of deciduous trees, which provides shade and absorption of global warming of CO<sub>2</sub> during the hot Summer months and loose their leaves in the Winter allowing capture of radiant heat from the low-lying sun mitigating the winter cold, resulting in less energy usage to warm houses in the community. Nancy Bragado said if the committee decides to keep the deciduous language, then Guy Preuss' proposed language is good. The motion failed for a lack of a second.

Mike Freedman moved to remove the language "increase use of deciduous trees." The motion was seconded and approved 20-4-2.

Leo Wilson reported that a recommendation was approved in the subcommittee meeting to add a general policy statement to CE-3, under "Purpose" to recommend the City make promoting and providing incentives for sustainable energy and green policies one of the main priorities of the General Plan and that policies and goals be strengthened to reflect this priority. It was moved and seconded to keep the existing language in the "purpose" section. The motion failed 8-15-1. Susan Thorning stated that in promoting the subcommittee's motion, the CPC oppose any deviations or exceptions that would damage existing community character. Laura Riebau moved to accept the recommendation passed in the subcommittee meeting to add a general policy statement. The motion was seconded by and approved 20-5-1.

Leo Wilson said a motion was approved in the subcommittee meeting to add language to Section CE-B .1, g., to read: "Support and encourage community efforts to achieve a dedication of open space lands that currently are only designated as open space, reduce the administrative impediments and excessive cost of current process to convert designated open space into dedicated open space." The motion was seconded and approved 23-1-1.

The subcommittee moved to add language to Section CE-I.5, as follows: "...including industrial buildings and commercial buildings." Mike Freedman moved to accept the subcommittee's recommendation. The motion was second and approved 23-0-1.

It was moved and seconded to terminate further discussion on the Noise and Conservation Elements. The motion was seconded and failed 6-16-1.

Mike Freedman moved to approved the Noise Element as discussed and amended. The motion was seconded and approved 21-1-1.

The Chair read a motion from Eric Germain, regarding Page CE-24, Section CE-E.2, c., to delete language calling for "narrowing of street widths where possible." The motion was seconded and approved 15-6-1.

The Chair read a motion from Eric Germain, regarding Page CE-34, Section CE-J.1, to delete item d., which reads: "Develop a program and funding source to main desired trees". The motion was seconded by Mike Freedman and failed 9-12-1.

Lee Campbell read a motion from Eric Germain, regarding Page CE-34, Section CE-J.1, a., to delete the words "seek resources and take actions needed to plant, care for, and protect" and a replace with the words "encourage the planning and maintenance of trees..." The motion was seconded by Mike Freedman and failed 6-13-0.

Lee Campbell read a motion from Eric Germain, regarding Page CE-35, Section CE-J.3, to delete the entire sentence which reads: "Develop a citywide urban forest master plan comprised of the community plan street tree master plans." The motion failed for lack of a second.

Laura Riebeau moved to change the first sentence on Page CE-29, under Discussion, to read “San Diego County is an important region of biodiversity in the United States.” Also, the fourth sentence down, same area, delete some of the words so that the sentence will read: “Human activity is destroying ecosystems faster than nature can adapt or create new one.” The motion was seconded by Mike Freedman and approved 17-1-1.

Tom Gawronski moved to accept the Conservation Element with added amendments. The motion was seconded by Susan Thorning and Ed Cramer. The motion was approved 19-2-1.

**Historic Preservation Element:**

Cathy Winterrowd summarized policies on the Historic Preservation Element, including strengthening and fully integrating the consideration of historical resources in the planning process, fostering government to government relationships with the Kumeyaay Tribes of San Diego, actively pursuing identification and evaluation of historical resources and promoting a variety of economic incentives. Ms. Winterrowd said some of the policies are new since the July 2005 draft.

Lee Campbell read a motion from Eric Germain to delete the word “public” from HP-B.3, a., from the last sentence which reads: “The fund may be supported through grants, private or public donations, or other sources.” The Chair reminded the CPC that, in the interest of time, the committee agreed that two individual members must second a motion for that motion to be discussed. The motion was seconded by Mike Freedman. The motion failed for lack of another second.

It was moved, seconded and approved 25-2-2 to accept the subcommittee’s recommendations on the receiver sites.

Mike Freedman moved to approve the staff recommendations as presented on the Historic Preservation Element CPC Summary Sheet, dated February 21, 2007, as submitted. The motion was seconded by Tamara Silverstein and Jeff Stevens. The motion was approved 26-1-1.

**Noise Element:**

Tait Galloway said the Noise Element provides the goals and policies to protect San Diegans from excessive noise uses. It also identifies compatible uses, as well as conditionally compatible and incompatible land uses, by identifying existing and foreseeable noise issues.

Under Policies, NE-D.3, the subcommittee recommended to reduce the 70-dBA CNEL to 65-dBA. Cynthia Conger moved to amend the subcommittee’s recommendations to apply only to take-off pattern from runway 27. Paul Robinson and Laura Riebeau seconded the amendment to the original motion. The amendment was approved 23-2-1.

Discussion ensued on the definition of the location of where the take-off area applies to. Tait Galloway's recommendation was to identify the runway ends.

The subcommittee recommended to add text to NE-D.5, to address exposure to multiple single even noises to the draft policy addressing not subjecting occupants to prolonged exposure to high noise levels in outdoor areas. Cynthia Conger moved to accept the recommendation. The motion was seconded by Mike Freedman and Laura Riebeau. The motion was tied 12-12-2. The tie vote was broken by Chair Leo Wilson who voted the motion down. The motion failed 12-13-1.

Cynthia Conger moved to delete the last sentence from page NE-13, second paragraph, which reads: "However, noise will affect more areas as operations at SDIA increase in the future." The motion failed for lack of a seconded.

Mike Freedman moved to delete the last three words (in noise-sensitive locations) from the sentence on page NE-10, NE-B.2, so that the sentence reads: "Consider traffic calming design, traffic control measures, and low-noise pavement surface that minimize motor vehicle traffic noise." Guy Preuss and Susan Thorning seconded the motion. The motion was approved 25-1-1.

Buzz Gibbs asked that "Heavy Manufacturing" be removed from the table, on page NE-8, Table NE-3 Land Use – Noise Compatibility Guidelines, *Industrial*. Mr. Gibbs said that 75 dBA CNEL is incompatible for industrial land. Tait Galloway agreed and said it was probably a carry-over from the last draft. The motion was approved by unanimous consent.

The three elements for presentation at the next meeting will be Land Use, Mobility and Urban Design. Mr. Wilson asked the CPC members to come prepared have the motion they wish to make printed in advance.

**8. REPORT FROM STAFF ON THE STATUS OF AMENDMENTS TO COUNCIL**

**POLICY 600-24:** Betsy McCullough reported that the Planning department and City Attorney staff have been working together on the Council Policy changes and the model Bylaws shell. We hope to bring the Council Policy changes to CPC next month.

**9. REPORTS TO CPC:**

- **Staff Report:** Marcella Escobar-Eck said there is much misinformation about what is being proposed in the Density Bonus Ordinance. She emphasized that there is nothing in the proposed ordinance that would allow any deviations or breaking of the 30-foot Coastal Commission, Proposition D height limit. Ms. Escobar-Eck also stated that there is nothing in the proposed ordinance that is changing anything to a ministerial action. In response to Ed Cramer's earlier request, Ms. Escobar-Eck informed the committee that the Grub and Ellis report for real estate assets is available online on the City's website.

- **Subcommittee Report:** None.
- **Chairperson's Report:** None.
- **CPC Member Comments:** None.

The next Regular Meeting of the CPC will be held on March 27, 2007, 7:00 p.m., at the Metropolitan Operations Center II, Auditorium, 9192 Topaz Way, Kearny Mesa, California.

The meeting was adjourned at 9:40 p.m. by Leo Wilson.

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