

PLANNING COMMISSION OF THE CITY OF SAN DIEGO
MINUTES OF
FEBRUARY 22, 1996
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR
CITY ADMINISTRATION BUILDING

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Chairperson Neils at 9:11 a.m.
Chairperson Neils adjourned the meeting at 2:10 p.m.

ATTENDANCE DURING THE MEETING:

Chairperson Christopher Neils-present
Vice-Chairperson William Anderson-present
Commissioner Verna Quinn-present
Commissioner Andrea Skorepa-present
Commissioner David Watson-present
Commissioner Frisco White-present
One vacant seat on the Commission to be appointed
Ernest Freeman, Planning Director-present
Mike Stepner, Urban Design Coordinator-not present
Rick Duvernay, Deputy City Attorney-present
Tom Story, Deputy Director-present
Tina Christiansen, Department Director-not present
Gary Halbert, Deputy Director, Development Services
Department-not present
Jeff Washington, Deputy Director, Long Range and Facilities
Planning-not present
Mohammad Sammak, Development Coordinator, Engineering and
Development-not present
Linda Lugano, Recorder-present

ITEM-1: ANNOUNCEMENTS/PUBLIC COMMENT - ISSUES WITHIN THE JURISDICTION OF THE COMMISSION NOT PREVIOUSLY HEARD.

No one present to speak.

ITEM-1A: REQUESTS FOR CONTINUANCE.

None.

ITEM-1B: DIRECTOR'S REPORT.

No report given.

ITEM-2: APPROVAL OF THE MINUTES OF FEBRUARY 8, 1996.

COMMISSION ACTION:

MOTION BY QUINN TO APPROVE THE MINUTES OF FEBRUARY 8, 1996. Second by White. Passed by a 5-0 vote with Commissioner Skorepa abstaining as she was not in attendance at that meeting.

ITEM-3: MULTIPLE SPECIES CONSERVATION PROGRAM; POLICIES FOR THE FINAL MSCP PLAN, DRAFT SUBAREA PLAN AND FINANCING.

Tom Story presented Report to the Planning Commission No. P-96-055, and gave a review of the actions taken on January 18, 1996.

Testimony in favor by:

James Whalen, Alliance for Habitat Conservation. Noted they are in favor of MSCP, however there are five key policies which they believe are central to the success or failure of the MSCP and those are: unresolved policy matters which focus around the related issues of assurances; mitigation standards; program funding; definition of preserve boundaries and assignment of long-term management and monitoring responsibilities.

Rikki Alberson, Alliance for Habitat Conservation.

Addressed three of the aspects of the MSCP implementation package proposed by staff: mitigation requirements, ratio system proposed in Tier I; currently proposed ratios are an increase over what was recommended by the working group, and they oppose that.

Laurie McKinley, Alliance for Habitat Conservation.

Supports the NRCA adopted policy, but does not support two changes recommended by staff i.e., management and maintenance and brush management.

Craig Adams, Sierra Club. In general the direction that's been laid out is that they are in support of MSCP but the environmental community is interested in an entire package and not one that is changing day to day. Spoke to the issue of the Subarea Plan: the lines in the area of Carmel Mountain reflect the Manager's Compromise Plan - please consider not forwarding that as a recommendation, but direct that the lines in this area follow essentially the biology and reflect the high priority areas.

Jan Fuchs, Carmel Valley Planning Board. Discussed the issue of Neighborhood 8A in the Subarea Plan. The City will not be able to replace what is in this area, strongly requested that you take a look at 8A to make the City's 8A plan work.

Dr. Oliver Ryder, Resident of Solana Beach, works at the Center for Reproduction of Endangered Species. The point he spoke to is the integrity of the process for MSCP and its adherence to the goals and compliance with existing mandates.

Ann Harvey, Carmel Valley Community Planning Board, representing Neighborhoods 8A and 8B. Community Plans Citywide are being revised in order to accommodate the MSCP preserve. Unfortunately, in Carmel Valley they are doing it backwards - they are creating the MSCP preserve delineating it to accommodate a development proposal which has not been approved by Council and which the Planning Commission recommended denial.

John Dean, Past Chair of the Carmel Valley Planning Board. Spoke about the boundary, especially in 8A and Carmel Mountain. This Board does not support the Manager's Compromise Plan. This area is the core area of the highest use, a complete system and one of the last. Please move that boundary to reflect this.

Michael Beck, Endangered Habitats League. Spoke to four technical issues: Staff recommendation for the mitigation ratio in Tier III is supported by their group; Tier I the mitigation is in-kind and they would like to see identifying those properties for a mitigation acquisition because of their rarity. In Tier II and III they support out-of-kind, however they support out of kind up and not down.

Norma Sullivan, San Diego Audobon. Cannot believe that the City is asking for 100 protection against future listings of endangered species, she would hope that the City would cooperate in protecting endangered species, first by intelligent planning and then by caring for them when they are listed.

Mike Kelly, Friends of Los Penasquitos Canyon. In support of the Sierra Club's remarks on Carmel Mountain and the Native Plant Society's position on in-kind mitigation. Spoke to the brush management and mitigation issues.

J.R. Chantengco, representing San Diego Association of Realtors. Distributed a letter which spoke to three major issues: to preclude the need to list more species as endangered or threatened; enable and facilitate economic development on lands not designated for habitat preservation; and regional growth and economic prosperity.

James Peugh, San Diego Audobon. Spoke to the issue of the Wetlands definition and thanked the Commission for clarifying this issue at the last hearing. They think the wetlands protection standards must be included in the MSCP package to ensure that all of the wetlands dependent species will survive.

Allison Rolfe, representing herself. Strongly supports the concept of a regional conservation plan, but has concerns with the MSCP. Reiterated her general concerns.

Gail MacLeod, consultant, representing herself.

Requested the Commission to direct staff to create a simple permit process to enable property owners to firmly fix the developable versus preserved property on their land. This affects those who have the property straddling and it is the only way they can sell their property. Described why staff is using a Tier "business" that all is equal within the preserve.

Opal Trueblood, representing herself. Stated she is in favor of the MSCP and does feel for the small land owners but the problem is if they don't have a plan they are going to have even more trouble.

Ron Rempel, California Department of Fish & Game.

Discussed the tiering of the habitats in-kind, out-of-kind issue; brush management issue and that they are not in agreement with the staff recommendation on this. Dealing with biological monitoring they think that breaks down into two components: the biological monitoring that needs to be done to preserve management which is clearly responsible for the preserve managers; second portion deals with monitoring for the viability of species throughout the entire MSCP area and they believe the wildlife agencies have a far greater responsibility to fund that piece.

Gail Kobetich, U. S. Fish and Wildlife Service.

Advised he was in attendance to answer questions and that they work closely with the California Department of Fish & Game and they echo their statements.

Testimony in opposition by:

Dennis Moser, Board of Directors, BIA. The BIA has taken a position in the past to support the concept of multi-habitat planning. Distributed a letter from the BIA, dated August 31, 1995 summarizing BIA's general support for the program. Focused his comments on the mitigation guidelines which they find to be most troublesome.

Eric Anderson, representing the Farm Bureau. Requested that the City include the specific recommendations of the Multi-habitat Conservation Program of North County MHCP Agricultural Sub-Committee in the plan which has worked through the ag issues in an on-going process which have specific recommendation regarding agriculture.

Douglas Bernd, representing private property rights. Spoke to parcel taxes, Mello Roos special tax, general obligation bonds, sales taxes, etc. - this is a tremendous cost to the people of the City and County.

Ann DeBevoise, representing herself; and John DeBevoise, her father. They believe in preserving wild spaces, but they cannot support this MSCP as it stands. It ruins the viability for small property owners. For over two years they has been coming to public meetings, but they feel they have been ignored. All of this is being shifted onto the backs of the small property owners. Her father's retirement is being eaten away to support this program. They are asking to form a new committee - to have more private property owners involved to listen to concerns and hold public forums and find solutions.

Irene Brandt, representing herself. She feels we are self-destructing as a nation, because the God of our forefathers is being replaced by the Goddess Mother Earth. The MSCP takes away private property without just compensation but excessive zoning regulations and mitigation requirements because an endless list of species are endangered, with little scientific evidence.

Bernie Brandt, representing himself. Stated that if Government wants to acquire private property, it should pay for it and put the purchase price up for a public vote.

Scott Eliason, California Nature Plant Society, San Diego Chapter. They have been in support of conservation since its inception, but there are several points that have led to their current position of not supporting the current plan, and they are: Mitigation and Brush Management Zone plan.

John Elliott, San Diego Off-Road Coalition. In San Diego County, there are over 300,000 off-road enthusiasts. While supporting the basic guidelines for MSCP they have problems with specific recommendations for example within the San Diego subarea of the Otay Mesa and Otay Mesa River Valley recommendations.

Arthur Schmitz, representing himself. Asked the question of "Where is the money coming from to fund this program?" Billions are going to be needed to compensate property owners for this preserve. Necessary services, like police, etc. can't be funded now, so how will this program be funded.

Jack Gibson, Citizens for Private Property Rights. We are facing a cross roads of this country's future. Some of the backers of this program seek absolute economic ruin following socialist agendas to destroy this country itself.

Udo Wald, Spirit of the Sage Council. Distributed a letter from this organization. This particular plan is developer driven and it is nothing but smoke and mirrors with no enforcement and was initiated by Governor Pete Wilson. The MSCP plans have failed in San Bruno, Austin, Texas and San Diego is headed for non-compliance of every federal and state environmental regulation.

Janet Raschke, representing herself. Part of her property has been deemed critical to the MSCP. Current planning is deficient as the small property owners were not included in the planing process and their attempts to be heard have been met with frustration. Related what has happened to her since MSCP was put into place and her dilemma as to what recourse she has.

Theresa Vasques, property owner. Her retirement is evaporating, but would like to part of the solution; along the same lines she would like to be part of a one-on-one meeting to help determine how she can extract profits from her work over the years. Would like to see a solution for all of the property owners, not just developers, to be able to market her property.

Robin Brey, representing herself. Discussed three issues: first, the right of private property ownership; second, where man and nature come together; and third, the current economic situation.

Judith Kenis, representing herself. Doesn't think the City needs more regulations, but needs different regulations. Tried to create a process to build a facility where they could breed endangered animals. The City wants over 90% of their land in open space easement and maybe they could have two pair of breeding animals. These regulations are designed to take peoples property without paying for anything.

Rick Rubin, San Luis Rey Properties. This property is in the southern subarea in Otay Mesa and through the RPO worked out a property owners agreement with the City dealing with alternative compliance and was stalled because of the Brown Field Issues. They are not opposed to habitat planning, but this plan has some particular problems with the Hidden Trails property, identifying 90% of this property in the MSCP.

Renata Mulry, representing Bexen Press. Anytime big developers, environmentalists, City government, etc. get together it is a group that is going to be working for the mutual benefit of each other. It is quite apparent to them that the small land owners are completely shafted in this proposal.

Joseph Garcia, Barbara Navara, representing themselves. Both own several acres affected by the MSCP. They requested this Commission not support the violation of their rights by helping the environmental groups deprive them the use of their private property. If the City has to take it, please pay what they paid for it.

Frank Konyn, representing himself. He agrees with most of the speakers opposing this plan and if he's responsible for the protection of endangered animals, then he thinks he should be compensated. Instead of being compensated, he is being penalized.

Ed Malone, representing himself. The goal of the MSCP is admirable, but the implementation has become a costly political football. Why isn't there a Regional plan in place; why is the City developing their plan, why is the City of Poway developing their plan - it's really a County of San Diego plan that should be developed. A great deal of time and money is being wasted.

Henry Palmer, representing himself. Where do you get small property owners input - one of the places you can do that is from the statistics from the U. S. Department of Agriculture. He then provided the information of a profile of the San Diego County farmer.

Ben Hillebrecht, representing himself. Lives on the farm he grew up on in the County and he can't vote for anyone who will help him as he lives in the County. He addressed the question of how much of his farm is developed and how some of it is hillside and how he would like to develop now and he's not sure MSCP will let him do that.

Charles Sears, U. S. Border Patrol. Was in attendance to answer any questions and clarified that he is not voting yea or nay for the Border Patrol on this issue.

Public testimony was closed.

COMMISSION ACTION:

MOTION BY WATSON TO RECOMMEND TO THE CITY COUNCIL UNDER FUTURE LISTINGS OF SPECIES POLICIES NO. 1a. AND 1b. THAT THIS LANGUAGE BE CHANGED SO THAT THE "SHOULD" IN 1a. AND IN THE LAST SENTENCE OF THE FIRST PARAGRAPH OF 1b. BECOMES "WILL". ALSO THE CITY NEEDS TO BE ASSURED THAT THIS PROCEDURE WILL BE AGREED TO BY THE WILDLIFE AGENCIES AND PUT INTO THE IMPLEMENTING AGREEMENT. Second by Anderson. Passed by a 6-0 vote.

MOTION BY ANDERSON TO RECOMMEND TO THE CITY COUNCIL UNDER MANAGEMENT, MAINTENANCE AND MONITORING, ATTACHMENT 2, PAGE 11, NOS. 15, 16b. AND 17a. THAT THE CITY, AS POLICY, NEGOTIATE WITH THE FEDERAL AND STATE AGENCIES TO HAVE ONE ORGANIZATION TO BE RESPONSIBLE FOR BIOLOGICAL MONITORING AND MAINTENANCE WITHIN THE CITY AND PREFERABLY THROUGHOUT THE WHOLE SYSTEM IN THE COUNTY TO TAKE ADVANTAGE OF THE ECONOMY AS A SCALE, AND THAT THE STATE AND FEDERAL AGENCIES BEAR THE GREATEST BURDEN OF THAT COST, BUT THAT COST BE SHARED AND OPERATING COSTS BE CAPITALIZED BY AN ENDOWMENT. Second by White. Passed by a 6-0 vote.

MOTION BY ANDERSON TO RECOMMEND TO THE CITY COUNCIL ON PROPOSED POLICY POSITION, NO 9. TO STATE, "IF STATE AND LOCAL FUNDING, DELETE "OR LOCAL FUNDS", KEEP "ARE NOT PROVIDED AS COMMITTED TO, THE PRESERVE SIZE SHOULD BE

REDUCED PROPORTIONATELY"; DELETE "WITHOUT EFFECT ON THE COVERED SPECIES LIST OR OTHER ASSURANCES." IN THE THIRD SENTENCE, DELETE "AND LOCAL". THE SECOND AND THIRD SENTENCES SHOULD READ AS FOLLOWS: "IF STATE AND FEDERAL FUNDING ARE NOT PROVIDED AS COMMITTED TO, THE PRESERVE SIZE SHOULD BE REDUCED PROPORTIONATELY. ADDITIONALLY, THE LACK OF STATE AND FEDERAL FUNDING SHALL NOT BE A BASIS FOR REVOCATION OF A JURISDICTION'S PERMIT." Second by Skorepa. Failed by a 2-4 vote with Chairperson Neils and Commissioners Watson, Quinn and White voting nay.

MOTION BY QUINN TO RECOMMEND TO THE CITY COUNCIL TO CHANGE THE ORIGINAL RECOMMENDATION (AS APPROVED ON JANUARY 18, 1996) AND DELETE "ALL OF THE SECOND SENTENCE IN 9b., DELETING "ADDITIONALLY" AT THE BEGINNING OF THE THIRD SENTENCE, AND "LOCAL" IN THE MIDDLE OF THE THIRD SENTENCE. No second.

MOTION BY WATSON TO DELETE THE WORDS "OR LOCAL" FROM THE SECOND AND THIRD LINE OF THE SECOND SENTENCE. Second by Anderson. No vote taken.

MOTION BY WATSON TO RECOMMEND TO THE CITY COUNCIL THE ORIGINALLY APPROVED MOTION AS STATED ON JANUARY 18, 1996, REGARDING THE FUNDING SOURCE WITH THE DIRECTIVE TO STAFF. Second by Anderson. Failed by a 3-3 vote with Commissioners Skorepa, Quinn and White voting nay.

MOTION BY WHITE TO RECOMMEND TO THE CITY COUNCIL, THE FOLLOWING REVISION TO POLICY 9. ON FEDERAL AND STATE FUNDING, SECOND SENTENCE: "IF STATE AND FEDERAL FUNDING ARE NOT PROVIDED AS COMMITTED TO, THE PRESERVE SIZE SHOULD BE REDUCED IN PROPORTION WITH POSSIBLE EFFECT ON THE COVERED SPECIES LIST OR OTHER ASSURANCES." THE THIRD SENTENCE TO REMAIN AS INDICATED IN STAFF REPORT. Second by Anderson. Passed by a 4-2 vote with Commissioners Watson and Quinn voting nay.

MOTION BY WHITE TO RECOMMEND APPROVAL TO THE CITY COUNCIL THE ORIGINAL MOTION MADE BY THE PLANNING COMMISSION ON JANUARY 18, 1996, OF THE WETLANDS DEFINITION AND ADDING THAT THE DELINEATION SHOULD BE MADE PER THE ARMY CORP OF ENGINEERS MANUAL WITH THE UNDERSTANDING THAT VERNAL POOLS AND INTERMITTENT STREAMS ONLY REQUIRE ONE OF THOSE THREE CONDITIONS, AS INDICATED IN THE STAFF REPORT. Second by Skorepa. Passed by a 6-0 vote.

MOTION BY QUINN TO RESTATE THE MOTION ON THE POTENTIAL DISPLACEMENT OF DEVELOPMENT, PAGE 13 OF THE STAFF REPORT AS ORIGINALLY MADE ON JANUARY 18, 1996 AND THAT IS TO PROVIDE TO THE CITY COUNCIL AN ANALYSIS OF THE TYPE AND LOCATION OF HOUSING UNITS LOST AND GAINED THROUGH THE PROPOSED CHANGES TO THE GENERAL PLAN AND THEN LOOK AT THE IMPACT ON FACILITIES. FROM THIS REPORT REASON IF THERE ARE NEGATIVE IMPACTS ON THE STRUCTURE OF THE CITYWIDE GENERAL PLAN WITH RESPECT TO HOUSING THAT SUGGEST THAT THEY MIGHT NEED TO BE REDRESSED. Second by Anderson. Passed by a 6-0 vote.

MOTION BY ANDERSON TO RECOMMEND TO THE CITY COUNCIL THAT POLICY REGARDING ZONING, DESCRIBED IN ATTACHMENT 2, PAGE 7, POLICY NO. 11a.b.c. BE APPROVED AS WRITTEN EXCEPT TO DELETE THE WORD "PREFERABLY"; AND ADDING LANGUAGE TO CLARIFY THAT AREAS TO REMAIN IN AGRICULTURE SHALL RETAIN AS AGRICULTURAL ZONE. DIRECT STAFF TO ENHANCE THE GUIDELINES SO THAT THEY ARE ALLOWED FLEXIBILITY TO MAKE SOME INTERPRETATIONS AND JUDGMENTS IF THAT 25% IS IN FACT GOING TO HINDER THE OVERALL DEVELOPMENT OF PROPERTY. Second by Anderson. Passed by a 4-2 vote with Chairperson Neils and Commission Watson voting nay.

MOTION BY QUINN TO RECOMMEND TO THE CITY COUNCIL THAT THE BRUSH MANAGEMENT ZONE 3 BE CONSIDERED NEUTRAL, NO IMPACT, NO MITIGATION. Second by White. Passed by a 6-0 vote.

MOTION BY WHITE TO SUPPORT STAFF'S RECOMMENDATION AS OUTLINED IN TABLE 2, ATTACHMENT 7 OF THE STAFF REPORT RELATIVE TO MITIGATION RATIOS. Second by Quinn. Passed by a 5-1 vote with Commissioner Skorepa voting nay.

MOTION BY ANDERSON TO RECOMMEND TO THE CITY COUNCIL REGARDING NEIGHBORHOOD 8A, THAT THE MSCP AND BIOLOGICAL RESOURCES SHOULD DRIVE THE MSCP BOUNDARY, NOT THE DEVELOPMENT PROPOSAL. Second by Quinn. Passed by a 5-1 vote with Commissioner Watson voting nay.

STAFF WAS DIRECTED TO PREPARE AN ANALYSIS FOR THE CITY COUNCIL HOW MSCP APPLIES TO SMALL PROPERTY OWNERS AND HOW IT AFFECTS THEM, DOES NOT AFFECT THEM, TO WHAT EXTENT IT IS A CHANGE, AND WHAT ARE THE MEASURES IN THE PLAN THAT WOULD HELP ADDRESS SOME OF THEIR CONCERNS. PROVIDE A CLEAR WORKING DEFINITION OF WHAT CONSTITUTES A "SMALL PROPERTY OWNER"; OTHER MOTIVATING IDEAS OR

INCENTIVES THAT THE CITY CAN GIVE TO THE SMALL PROPERTY OWNER THAT WON'T BE ONEROUS ON THE PART OF THE CITY IN TERMS OF FEES, PERMITTING TIMES, ETC. THAT WOULD ADD TO THEIR PARTICULAR PROPERTY THAT THE OTHERS WON'T HAVE THE BENEFIT OF. THE SMALL PROPERTY OWNERS ARE IN THE MOST DIFFICULT POSITION AS THOSE THAT HAVE LAND IN THE PRESERVE THAT CURRENTLY DON'T HAVE SENSE OF HABITATS THAT THEY WOULD HAVE TO ADDRESS UNDER RPO, BUT BECAUSE THEY ARE IN A CORRIDOR, OR IN THE PRESERVE FOR SOME OTHER REASON, ARE NOW SUBJECT TO REGULATIONS THAT THEY WERE NOT SUBJECT TO PREVIOUSLY.

STAFF WAS ALSO DIRECTED TO BRING BACK TO THE COMMISSION WITH THE MINUTES OF THIS MEETING, A DRAFT OF THE LANGUAGE OF THE RESOLUTION WHICH WILL EMBODY THE ACTIONS AT THIS MEETING.

The Planning Commission was adjourned by Chairperson Neils at 2:10 p.m.