

**MINUTES OF THE REGULAR MEETING OF THE
MISSION VALLEY PLANNING GROUP**

June 6, 2018

Members Present:

Steve Abbo, Michele Addington, Cameron Bucher, Perry Dealy, Kaye Durant, Bob Cummings, Johnathan Frankel, Alan Grant, Derek Hulse, Andrew Michajlenko, John Nugent, Keith Pittsford, Marco Sessa, Josh Weiselberg. Larry Wenell; *Patrick Pierce joined after being elected to the Board.*

Members Absent: John La Raia, Elizabeth Leventhal, Kathy McSherry, Jim Penner, Dottie Surdi, Rick Tarbell

City/Government Staff:

Nancy Graham, Zach Bunshaft, Karen Reilly

Guests:

See list at end of minutes

A. CALL TO ORDER

John Nugent called the regular meeting of the Mission Valley Planning Group (MVPG) to order at 12:02p.m. at the Mission Valley Library Community Room located at 2123 Fenton Parkway, San Diego, CA.

Verify Quorum: 15 members were present, constituting a quorum. *16 members following Patrick Pierce's election to the Board.*

B. PLEDGE OF ALLEGIANCE –

Larry Wenell led the Pledge of Allegiance.

C. Election of MVPG Board Member(s)– Keith Pittsford

Keith Pittsford presented the candidate nominated for election to the Board, Patrick Pierce. Mr. Pierce introduced himself and the Group voted unanimously 13-0 to elect Patrick Pierce to the Board. Mr. Pierce was then seated on the Board.

D. INTRODUCTIONS / OPENING REMARKS/REPORT OF THE CHAIR

John Nugent welcomed everyone to the meeting and reminded those present to sign the sign in sheets.

1. The July 4, 2018 regular meeting of the MVPG will be cancelled.
2. Suspension of MV Stadium Redevelopment Ad Hoc Committee (See attached explanation concerning suspension)
3. Vice Chair nominations – election at August Meeting of Vice Chair. John Nugent is accepting nominations for the position.
4. Chair of Riverwalk Ad Hoc Subcommittee – appointment of position at August meeting.

John Nugent is seeking interested persons willing to serve in the position.

5. Guests introduced themselves.

E. APPROVAL OF MINUTES

Keith Pittsford moved to approve the minutes of the May 3, 2017 regular meeting; Derek Hulse seconded the motion. Minutes were approved 8-0-7 with and Steve Abbo, Michele Addington, Perry Dealey, Derek Hulse, Andrew Michajlenko, John Nugent, Keith Pittsford, and Josh Weiselberg voting yes, and

Cameron Bucher, Kaye Durant, Bob Cummings, Jonathan Frankel, Alan Grant, Marco Sessa, and Larry Wenell, abstaining.

F. PUBLIC INPUT – NON-AGENDA ITEMS BUT WITHIN THE SCOPE OF AUTHORITY OF THE PLANNING GROUP.

“The Mission Valley Planning Group has been formed and recognized by the City Council to make recommendations to the City Council, Planning Commission, City staff, and other governmental agencies on land use matters, specifically concerning the preparation of, adoption of, implementation of, or amendment to, the General Plan or a land use plan when a plan relates to the Mission Valley community boundaries. The planning group also advises on other land use matters as requested by the City or other governmental agency.”
Mission Valley Planning Group Bylaws as Amended and approved July 2015

The following topics were addressed:

- Pending appeal of Marijuana-related business proposed @ Mission Center Court
- Planning Group Agendas are managed by the City, not the MVPG nor does the MVPG maintain a separate distribution email list or website. Members and members of the public not receiving notice of the agenda are encouraged to contact City staff to get on City distribution email list and/or check City Website regularly where agendas and other information is posted.

G. MEMBERSHIP COMMITTEE – Keith Pittsford

1. Open positions on MVPG Board

Keith Pittsford reviewed the current Board positions open are for terms ending in 2020. There are two openings under each of the Owner and Property Taxpayer categories. Any member of the public interested in serving is invited to apply. *Currently we have 22 members out of a possible 24.*

H. TREASURER’S REPORT – Elizabeth Leventhal

The balance remain] at \$1,344.16. MVPG continuing efforts to get current Member’s names on the account.

I. ACTION ITEMS

1. Hydrogen Refueling Station at 5494 Mission Center Road-Neighbor Use Permit-Jackie Muhich

FirstElement Fuel, Inc. is currently in the entitlement approval stages with the City of San Diego's Planning Department for their proposed hydrogen refueling station project located at the existing gas station on 5494 Mission Center Road. The project needs to obtain a recommendation from MVPG for a neighbor use permit. Attached is an overview of FirstElement Fuel, Inc. and the following bullet points provide a brief summary of the proposed project:

- A gas station and convenience store currently exist at 5494 Mission Center Road. The proposed hydrogen refueling station project would add one-double sided hydrogen dispenser along with supporting hydrogen equipment to the existing gas station so that zero emission fuel cell electric vehicles may refuel.
- The existing gas station is a conforming use in MVPG-MV-CO zone and currently has an existing conditional use permit for a Type 21 alcoholic beverage license.
- The applicant is a tenant leasing approximately 500 SF of land from the property owner.
- The applicant's project is solely to add a single alternative fueling dispenser to the existing station along with the ancillary above ground storage tank and compressor equipment.
- The applicant's project is not a CUP or CUP amendment but rather a Neighborhood Use Permit (NUP). The NUP allows for the additional fueling dispenser to be added to the existing conforming fueling station.
- The applicant is not modifying or impacting any of the existing approved and constructed driveways, curb ramps, site triangles or landscaping.
- No modifications to areas outside of the approximate 500 SF of leased area are proposed or allowed by the property owner.
- The applicant's project will result in the elimination of 2 existing parking stalls along the property line leaving 17 remaining stalls. Code requires the existing gas station to have 9 parking spaces. The property is over-parked by 8 stalls in the proposed plan.

The H2 trip generation is very low. See attached trip analysis as well as recent statistics from 2 of the existing applicant's H2 stations currently operating in the Los Angeles market.

Michele Addington moved to recommend approval of the Hydrogen Refueling Station at 5494 Mission Center Road-Neighbor Use Permit as submitted. Marco Sessa seconded the motion. The matter was approved 16-0-0 with Steve Abbo, Michele Addington, Cameron Bucher, Bob Cummings, Perry Dealy, Kaye Durant, Jonathan Frankel, Alan Grant, Derek Hulse, Andrew Michajlenko, John Nugent, Marco Sessa, Patrick Pierce, Keith Pittsford, Josh Weiselberg, and Larry Wenell voting yes. There were zero no votes, abstentions or recusals.

J. INFORMATION ITEMS

1. Dinerstein Witt Mission Valley-Josh Vasbinder

- 277 apartment homes, including ten live/work units
- Two commercial and retail buildings at north end of project, intended for office and retail/restaurant uses.
- Project is similar to adjoining Millennium project.

- Based on design comments from City, parking garage moved closer to I8 with living units moved inward to shield residents from noise, etc. associated with I8.
- Project anticipates seeking approval Fall 2018 and depending upon arrangements/agreement with current tenant on the property, could begin construction thereafter approvals obtained.
- MVPG expressed interest in seeing side-by-side comparison with depictions of adjoining Millennium project to ensure the project avoids creating continuous, monolithic appearance. DAB would like to review project again with material samples and depictions provided to make comparisons and comments.
- Project intends to produce 55% of its own energy from renewable sources and will pay in-lieu fees toward affordable housing obligations.

K. Committee/Community Reports:

1. Subcommittee Reports:

A. Standing Committees:

1) Design Advisory Board – Andrew Michaeljenko

The DAB did not meet.

The DAB normally meets the Monday prior to MVPG meeting at 3:30pm at the Mission Valley Library.

2) Mission Valley Community Plan Update- Elizabeth Leventhal/Andrew Michajlenko

There will be no CPUS meeting in June, but will meet again in July. Traffic modeling was interrupted previously, but has resumed. The CPUS committee normally meets the second Friday of each month from 3:00-4:30 at the Mission Valley Library. The meetings are open to the public.

For more information please visit the CPUS website at:

<http://www.sandiego.gov/planning/community/cpu/missionvalley/>

B. Ad Hoc Committees

1) Public Health, Safety and Welfare – Elizabeth Leventhal

Waiting on We All Count report; concerns about whether persons living in RV's or other non-conventional housing were included in count.

2) Riverwalk-John Nugent

Appointment/election of new Chair expected in August. John Nugent seeking nominations for the position.

Next meeting will be held June 14, 2018 at 5:30PM at Riverwalk.

For more information please visit the Riverwalk website at:

<http://riverwalksd.com/>

3. MV Stadium Redevelopment-Kaye Durant

Suspended by MVPG chair.

2. Community Reports

1. San Diego River Coalition

The Coalition normally meets the third Friday of each month from 3:00-4:30 at the Mission Valley Library.

The next meeting will be June 15, 2018 at 3:00PM at Famosa Slough.

More info at: www.sdrivercoalition.org

2. Community Planning Chairs Meeting –

A meeting was held on May [22] 2018. John Nugent attended.

John Nugent reported that the agenda included:

- Granny Flat Ordinance modifications
- Review of modifications to the City's Live/Work Quarters regulations
- Review of special flood hazard area ordinances
- Results of HN1M "Housing the Next 1 Million" project from San Diego Chapter of American Institute of Architects

Agendas and Minutes of meetings are located at:

<https://www.sandiego.gov/planning/community/cpc>

3. Miscellaneous Mail/Items/For the Good of the Order

- Perry Dealy noted difficulty in preparation of MVCPU given uncertainty about Stadium Redevelopment. Nancy Graham indicated the CPU contemplates redevelopment of the Stadium property pursuant to specific plan or other separate, standalone land use plan, but for purposes of the CPU and modeling traffic impacts, the City utilized the ballot proposal with the highest intensity (FS Investors) and indicated that any later plan subject to the planning process, to be able to benefit from the modeling and environmental documents prepared for the CPU, would need to respect those figures (i.e. stay within or under).
- Josh Weiselberg indicated he was notified the City and Caltrans will undertake a study concerning the red light sequence and congestion at the intersection of Qualcomm Way and Camino De La Reina.

L. ADJOURNMENT – There being no further business to be brought before the Committee, the meeting was adjourned at 12:58P.M.

The next regular meeting will be on Wednesday August 1, 2018 at 12:00 p.m. at the Mission Valley Library, Community Room.

Cameron Bucher, Secretary

Design Advisory Board (DAB) Standing Committee

**DESIGN ADVISORY BOARD
Mission Valley Planning Group**

[NO MINUTES – DID NOT MEET]

PHOTO OF GUEST SIGN IN SHEET FOR JUNE 6, 2018 MEETING

Meeting Date June 06, 2018

GUEST SIGN-IN
We have open board positions—please let us know if you wish to volunteer.

	Print Name	Print Affiliation
1	Patrick Pierce	Resident
2	Robert M. Ouellet	SMVPG
3	Dewise STEIN	IGNOUP DESIGN
4	George Halbrook	Mio del Ora HOA
5	ERICH FLESSNER	MICHAEL BAKER
6	Jackie Gross	SDSU
7	Ken GOTTHEB	PROP WIND
8	Mohann HAKIM	Mohamm
9	Nol. Zos	LUPG Chair
10	Robert Weidell	IVANCO PLANNERS
11	Jackie Munich	FirstElement Fuel Inc.
12	Ruth Ann Lippitt	SDFSN
13	Tim Bran	PE Fuel
14	Jim Haughey	Michael Baker INTL.
15	Danella Hunter	sk. of Major Hazard
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Suspension of the Mission Valley Stadium Re-Development Ad Hoc Subcommittee

As Chair of the Mission Valley Planning Group, based on the duties detailed and implied in the MVPG By-laws ARTICLE VII Section 2, I have suspended the Mission Valley Stadium Re-Development Ad Hoc Subcommittee for the following four reasons.

1. No stated purpose, mission or product of the subcommittee mission

The MVPG By-laws ARTICLE VI Section 2 (b) and 2 (b) (ii) states-"Ad Hoc Subcommittees may be established for a finite period of time to review more focused issue areas and shall be disbanded following the review." It has never been clear to me, or to some MVPG members and Ad Hoc subcommittee members, what the purpose and focus of the subcommittee was or what the result or product would be.

2. City Staff recommendation on community forum

After the last Ad Hoc Sub Committee meeting the subcommittee asked that I inquire of City Staff the ability of the MVPG to hold a forum on the two Citizens Ballot Initiatives for the MV Stadium redevelopment.

At their request I sent the following:

"Nancy see the notes below regarding the Stadium ad hoc subcommittee meeting

Questions from the meeting:

1. While the MVPG can take a position on a ballot measure can it sponsor a forum on that ballot measure?

2. Is the sponsoring a forum on the ballot measure an authorized use of MVPG money?
Thanks"

After review, City Staff provided this response:

"Hi John –

I apologize for the delayed response. I needed to do some research.

There is no provision in Council Policy 600-24 or the Administrative Guidelines that give the planning group the authority to hold such a forum. As such, our recommendation is to not hold the forum.

The City will not be able to reimburse expenses for such a forum since the activity is not identified in the Council Policy or Administrative Guidelines as within your purview.

Hope that helps!

Nancy Graham, AICP

Senior Planner

City of San Diego

Planning Department"

Without proper authorization from the City Council Policies or Administrative Guidelines, if MVPG held a forum and a lawsuit was filed based on the forum or something that was said or happened during the forum, the City Attorney may not be able to defend the MVPG, or its members, and the City insurance fund may not cover the MVPG.

The “forum” regarding the two citizens initiatives was the latest recommendation/direction from the subcommittee, without proper authorization to hold the forum the subcommittee seemed to be without a focused direction or purpose.

3. Appearance of conflict of interest

The City of San Diego provides Administrative guidelines for evaluating an economic conflict of interest of Community Planning Group Members to evaluate Recusals and Abstentions on discussions and votes as it pertains to matters that may appear on the Community Planning Group agenda.

See Administrative Guidelines, which are at:https://www.sandiego.gov/sites/default/files/legacy//planning/community/pdf/admin_guidelinesfinal10sept2015.pdf ; ARTICLE VI Community Planning Group and Planning Group Member Duties, Section 2. Compliant Meetings, Actions, and Records Planning Group and Planning Group Member Duties, Section 2. Compliant Meetings, Actions, and Records, Part c (which begins on page 34) covers Recusals and Abstentions. See MVPG By-laws ARTICLE VI Section 2 (c) Abstentions and Recusals.

Some Mission Valley Planning Group members represent themselves as a Business Person, Resident, Property Owner or Property Taxpayer.

Some Mission Valley Community Planning Group members represent the interests of another through their being the designated individual serving on the Planning Group as the representative for a Business, Property Owner or Property Taxpayer. A reasonable person would naturally assume that an individual representing the interests of another should/would also evaluate their economic conflict of interest(s) based on the interests of the individual/business that he/she represents.

Ultimately, a determination of an economic conflict of interest remains with the individual Community Planning Group Member.

Some current Mission Valley Community Planning Group members have evaluated their situation, whom they represent through serving on the Community Planning Group, and, in some cases after consulting with their attorneys, have concluded that they do or do not have an economic conflict of interest as it relates to some items of interest to the Mission Valley Community Planning Group and have taken what they deem to be the appropriate action.

Some Mission Valley Community Planning Group Members have removed or recused themselves from discussions or votes on a matter out of an abundance of caution that there be no real and/or apparent conflicts of interest or dualities of interest due to their serving on the Mission Valley Planning Group. In some situations, they perceive that a reasonable person may see a conflict of interest and the appearance of same potentially being troublesome - - even if there is in fact no conflict whatsoever.

Some Mission Valley Community Planning Group members have determined that they do not have an economic conflict of interest even though there may be the appearance of an economic conflict of interest to the reasonable person.

Some Community Planning Group Members acknowledge that they may have a real or apparent conflict of interest but believe that the conflict is secondary to the public good or benefit that may occur due to their actions or work on an issue.

Just the appearance of a conflict of interest may erode the trust, credibility, impartiality, confidence and effectiveness that a reasonable person places in the discussion and outcome of a subject matter, agenda item, or Community Planning Group and in some cases leads to public skepticism, claims of self-deception, self-serving, irrationally and ridicule.

Public skepticism may undermine and erode the confidence, credibility of any action, recommendation or position that may be developed by the Mission Valley Planning Group, now or in the future.

4. Legal Actions Affecting the MV Stadium redevelopment

a. Supporters of the FS Investors/Soccer City proposal to redevelop the MV Stadium site filed a lawsuit, in San Diego Superior Court, on April 18, 2018 with the intent of invalidating the SDSU West Ballot initiative, which it claims violates state law because the SDSU West proposal and the group backing it, Friends of SDSU, misused the San Diego State University name and earned a place on the ballot by “cynically tricking voters into signing the petition.”

b. The San Diego City Council voted, on April 24, 2018, to authorize the City Attorney to file a lawsuit, in San Diego Superior Court, regarding the Soccer City and SDSU West ballot initiatives to determine their legality and whether they should be on the November 2018 ballot. The lawsuit seeks clarification as to whether the two citizens initiatives interfere with the ability of the mayor and council to manage the finances, land use, planning, water use and public contracts associated with city-owned land and whether the initiatives impermissibly exceed the power to act through an initiative and whether they impermissibly conflict with state law or the city charter. The City hired the outside law firm Olson, Hagel & Fishburn to help with the case, which was filed on May 11, 2018.

Summary

Due to the lack of focus of the Ad Hoc Subcommittee, the numerous public questions and criticisms regarding the appearance of conflicts of interest that some MVPG members may have, the lack of proper authorization for MVPG to conduct a forum on the citizens initiatives and the lawsuits that have been filed regarding the validity of the citizens initiatives, I have suspended the Ad Hoc Mission Valley Stadium Redevelopment Subcommittee at this time.

John Nugent/May 2018