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DE ANZA COVE HOMEOWNERS
6 ASSOCIATION, INC.

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO**

10 DE ANZA COVE HOMEOWNERS
ASSOCIATION, INC., a California non-profit
11 corporation,

Case No. GIC 821191

12 Plaintiff,

**DECLARATION OF FORMER
CITY COUNCILMAN AND STATE
ASSEMBLYMAN MIKE GOTCH**

13 v.

14 CITY OF SAN DIEGO, a California
municipality;
15 and DOES 1-100, inclusive,

16 Defendants.
17
18

19 I, MIKE GOTCH, declare under penalty of perjury:

20 1. I make this declaration based upon personal knowledge and could and would competently
21 testify hereto in court if so requested.

22 2. In 1979, I was elected as Councilman for District 6 of the City of San Diego, which
23 included the mobilehome park located at 2727 De Anza Road, San Diego, California ("De Anza
24 Cove mobilehome park"). I served two terms and my tenure as a City Councilman ended in 1987.

25 3. Three years later, I was elected as an Assemblyman to the California State Assembly,
26 78th District, where I served until 1994. Once again, my district included the De Anza Cove
27 mobilehome park.

28 4. After completing my term in the Assembly, I joined the Governor's office in 1999 and

1 served as the Governor's legislative secretary until 2003. As legislative secretary, I worked directly
2 with the Assembly and Senate representatives and their staff shaping, advancing, and negotiating
3 the language, scope, and propriety of the thousands of bills presented each year. During that time, I
4 continued to keep a close eye out for the interests of San Diego.

5 5. As the City Councilman representing District 6 during the key years of 1980, 1981, and
6 1982, I was familiar with the City's policy initiatives, planning decisions, and public testimony, as
7 well as State legislative efforts surrounding the De Anza Cove mobilehome park.

8 6. I have learned that the City of San Diego currently asserts that it has not made any
9 "planning decision, action, or inaction" regarding the De Anza Cove mobilehome park. That
10 assertion belies the facts while I was on the City Council. Throughout my tenure as a Councilman,
11 I was aware that the City was intricately involved in every planning decision regarding the City's
12 property at De Anza Cove and the City certainly took actions concerning the intended change of
13 use of this property.

14 7. After many months of consideration, in early June 1981, the City Council passed a
15 resolution to plan the redevelopment of the property. The plan called for notifying the De Anza
16 residents that redevelopment may occur in the future and that the redevelopment plans might affect
17 the length of their residency. In addition, the Council's plan directed the City Manager to negotiate
18 a lease amendment with its lessee, the predecessor to DHRG—an amendment that would see the
19 City's current rent revenues increase dramatically. Throughout the many months that the Council
20 considered this proposed resolution, it was my intent that the City Manager include in the lease
21 amendment the "orderly relocation of the mobile home units from the De Anza area." Further, it
22 was intended that all redevelopment and relocation plans "shall be prepared and implemented in
23 consultation with the affected residents, and consideration shall be given to the security, safety, and
24 quiet enjoyment of the affected residents." A true and correct copy of the minutes from the June 8,
25 1981, City Council hearing (Item 156) is attached hereto as Exhibit 1.

26 8. Before taking the action on June 8, 1981, the City considered what would happen at the end
27 of 2003 with regards to residents' relocation benefits if no redevelopment occurred before then. In
28 a memo dated April 16, 1981, the City Manager—in response to the Council's request—reported

1 that "if displacement were to occur at the end of the lease in 2003, the relocation costs could be on
2 the order of \$7 million." The costs were estimated, according to the Report, in 1981 dollars. The
3 anticipated amount of relocation costs owed to residents was less than the projected revenues
4 generated even if the property remained a mobilehome park through 2003—and even before the
5 City's decision to increase its rent revenue from the property." A true and correct copy of the City
6 Manager's Report dated April 16, 1981 (Report No. 81-160) is attached hereto as Exhibit 2. We
7 also considered the significant increase in revenues that the City would generate from the De Anza
8 Cove property if the property were to be developed with a resort hotel.

9 9. By early 1981, bill language for what became known as the Kapiloff Bill (A.B. 447) was
10 circulating and being analyzed by the City. In the April 16, 1981 report, the City Manager
11 presented alternatives to the City's proposed redevelopment plan, including an option not to
12 support the Kapiloff Bill. The City Manager informed the Council that the City could elect to "not
13 support AB 447, terminate the lease in 1988, pay relocation costs and the remaining value of
14 improvements, and solicit proposals for a new development." Exhibit 2, City Manager's Report
15 dated April 16, 1981 (Report No. 81-160).

16 10. Throughout 1981, the City of San Diego was actively involved in negotiating the language
17 of the proposed Kapiloff Bill. For example, City staff insisted upon the deletion of a provision in
18 the Kapiloff Bill that would have specifically required that the land be developed only as an "open
19 space park" after November 23, 2003. A true and correct copy of the City of San Diego
20 Memorandum dated July 8, 1981 from the City's Director of Intergovernmental Relations, is
21 attached hereto as Exhibit 3.

22 11. By Fall of 1981, the Kapiloff Bill was in its final form. The City Council had to ratify the
23 Bill on or before February 1, 1982, or the Bill would automatically become inoperative. The City
24 Manager confirmed this in his report regarding the City's earlier resolution. A true and correct
25 copy of the City Manager's Report dated October 9, 1981 (Report No. 81-394) is attached hereto as
26 Exhibit 4. I also informed the Mayor and Council, through the circulation of a draft resolution, that
27 the City must concur with the findings and determinations of the Kapiloff Bill, otherwise the Bill
28 would become inoperative. A true and correct copy of the City of San Diego Memorandum dated

1 October 21, 1981 from me to the Mayor and Council is attached hereto as Exhibit 5.

2 12. By late January 1982, the City Manager and City Attorney had provided the Council with
3 their analysis of the City's development options for De Anza Cove. The City Manager estimated
4 that not modifying the Master Lease with the lessee and allowing residents to stay would result in
5 projected revenue of approximately \$10 million. If the City insisted on modifying the Master
6 Lease, but didn't approve the hotel concept, projected income to the City was approximately
7 \$42 million. The City Manager recommended, however, that we approve the Tenth Amendment to
8 the Master Lease which would: (a) allow consideration of a hotel project after the Master Lease
9 expired, (b) achieve the highest rent the lessee would agree to, and (c) command projected revenues
10 of \$50 to \$60 million. A true and correct copy of the City Manager's Report dated January 22,
11 1982 (Report No. 81-476) is attached hereto as Exhibit 6.

12 13. In addition to considering the projected lease revenues, we considered what might happen if
13 the property were taken out of the City's control altogether. I was aware that if the City did not
14 ratify the Kapiloff Bill and the Bill instead became inoperative, the State of California—through
15 Assemblyman Kapiloff—had asserted that the State would actively pursue steps to take the land
16 back from the City, and place it under the direct jurisdiction of the State Lands Commission. Under
17 this scenario, the State would continue to operate the mobilehome park through 2003, the State
18 would receive all rental income, and the State would convert the mobilehome park to open space
19 after November 23, 2003.

20 14. It was clear to us at the City that the Kapiloff Bill was a permissive bill, not a mandate. If
21 we didn't ratify it, it would have become inoperative. The Mayor and some Members of the City
22 Council did not want to foreclose the option of developing the site with a hotel. Faced with the
23 prospect of losing land use authority, the City Council voted to ratify the Kapiloff Bill.

24 15. During 1980 through the end of January 1982, no member of City staff informed me that
25 passage of the Kapiloff Bill could or would exempt the City from compliance with the body of laws
26 known as the Mobilehome Residency Law (MRL) or other State laws. The City Council and I, as
27 far as I can recall, never discussed, considered, or were informed during this time that by ratifying
28 the Kapiloff Bill, the provisions of the MRL would not apply to the City of San Diego or the De

1 Anza Cove mobilehome park. Certainly, no one at the State level, including Assemblyman
2 Kapiloff, ever said such a thing to me. And, I have not read anything in the Kapiloff Bill that
3 would lead someone to reach the conclusion that passage of AB 447 exempts the City from the
4 MRL. Through the Tenth Amendment to the Master Lease that was approved, the attempt was
5 made to shift the City's relocation and reporting responsibilities to the lessee. But the lessee was
6 only contractually bound to fulfill those burdens if the City approved its hotel development.

7 16. I am disappointed that the City of San Diego has not—despite having over 20 years to
8 prepare for the expiration of the ground lease and the sunset of the Kapiloff Bill—better prepared
9 itself for this day by presenting a *fair and responsible* plan to assist in the orderly relocation of the
10 De Anza mobilehome owners.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 16, 2004 at San Diego, California.



Mike Gotch

Jun-8-1981

FILE: MINUTES

DESCRIPTION:

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF

MONDAY, JUNE 8, 1981

AT 2:00 P.M.

IN THE COUNCIL CHAMBERS - 12TH FLOOR

The meeting was called to order by Mayor Wilson at 2:18 p.m. The meeting was recessed by Mayor Wilson at 4:45 p.m. The meeting was reconvened by Mayor Wilson at 5:13 p.m. with all members present. Mayor Wilson adjourned the meeting at 6:49 p.m.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Wilson-present.
 - (1) Councilmember Mitchell-present.
 - (2) Councilmember Cleator-present.
 - (3) Councilmember Golding-present.
 - (4) Councilmember Williams-present.
 - (5) Councilmember Schnaubelt-present.
 - (6) Councilmember Gotch-present.
 - (7) Councilmember Murphy-present.
 - (8) Councilmember Killea-present.
- Clerk-Abdelnour (mp)

Jun-8-1981 ITEM-1:

FILE: MINUTES

DESCRIPTION:

Mayor Wilson called the roll:

- Mayor Wilson-present.
- Councilmember Mitchell-present.
- Councilmember Cleator-present.
- Councilmember Golding-present.
- Councilmember Williams-not present.
- Councilmember Schnaubelt-present.
- Councilmember Gotch-present.
- Councilmember Murphy-present.
- Councilmember Killea-present.

Jun-8-1981 ITEM-10:

FILE: MINUTES

Diego Municipal Code by ADDING DIVISION 37, SECTIONS 33.3700 through 33.3713, REGULATING BURGLARY, ROBBERY AND EMERGENCY ALARM SYSTEMS. (See PSS Committee

Consultant Analysis PSS-81-19.)

COMMITTEE ACTION:

Initiated by PSS on 5/13/81. Recommendation to INTRODUCE the Ordinance.

Districts 3, 6, 7 and 8 voted yea. District 1 not present.

FILE: MEET

COUNCIL ACTION:

(Tape location: 000-000).

Unfinished business, to be considered on Tuesday, June 9, 1981.

Jun-8-1981 ITEM-156:

DESCRIPTION:

(R-81-234) (Continued from the Meetings of September 8 and 22, and November 3, 1980, and March 9, April 27 and May 5, 1981; last continued at Paul Peterson's request.) Declaring that the Council approves in concept the TENTATIVE PLAN for REDEVELOPMENT of the DE ANZA TRAILER HARBOR: 1) The lessee shall prepare a PROGRAM for NOTIFYING all INCOMING RESIDENTS of the De Anza Trailer Harbor that REDEVELOPMENT will be occurring in the future and that the redevelopment may affect the length of residency; 2) The lessee shall prepare a PLAN for the IMMEDIATE IMPLEMENTATION of PUBLIC ACCESS around the De Anza Trailer Harbor; 3) The lessee shall prepare a LONG TERM PLAN for the REDEVELOPMENT of the De Anza Trailer Harbor lease premises for submission to the City Council for its consideration; 4) An appropriate PROPOSED LEASE AMENDMENT shall be negotiated by the CITY MANAGER to carry out the LONG TERM REDEVELOPMENT PLAN; 5) This resolution shall have the sole and exclusive effect of directing the CITY MANAGER to attempt to NEGOTIATE an EQUITABLE and APPROPRIATE LEASE AMENDMENT which can provide for the orderly relocation of the mobile home units from the De Anza area; 6) The City Council, by adopting this resolution, does NOT in any way BIND OR OBLIGATE itself to approve any PROPOSED LEASE AMENDMENTS and is merely by this action approving the CONCEPT of a POTENTIAL PROPOSED LEASE AMENDMENT; and 7) The above PLANS shall be PREPARED and IMPLEMENTED in CONSULTATION with the AFFECTED RESIDENTS, and consideration shall be given to the security, safety, and quiet enjoyment of the affected residents. (See City Manager Report CMR-80-413. Located at De Anza Point in Mission Bay Park. DISTRICT-6.)

COMMITTEE ACTION:

Reviewed by PFR on 7/24/80. Recommendation to ADOPT the Resolution. Districts 1, 6 and 7 voted yea. District 2 voted nay. District 8 not present.

FILE: LEAS De Anza Harbor, Inc.

COUNCIL ACTION:

(Tape location: A244- D201).

Adopted as amended as Resolution R-254384.

Motion by Cleator to amend the motion suggesting that City alter the proposal and eliminate B and C and insert the 20% as of January 1, 1982. Second by Schnaubelt. Failed by the following vote: Yeas-2, 5. Nays-1, 3, 4, 6, 7, 8, M. Not present-None.

Motion by Mayor Wilson to amend so that as tenants move out, only travel trailer use be permitted. No second.

Motion by Golding to amend the final motion to require lessee prepare a program for notifying all incoming residents of the De Anza Trailer Harbor that redevelopment will be occurring in the future and that the redevelopment may affect the length of residency. Second by Murphy. Agreed to by Gotch.

MOTION BY GOTCH TO APPROVE THE CONTINUATION OF RESIDENTIAL USE UNTIL YEAR 2003

WITH RENTAL PERCENTAGE OF THE GROSS INCREASING TO THE CITY AT 10% BY JANUARY

1, 1982, 15% BY JANUARY 1, 1985, AND 20% BY JANUARY 1, 1988. ALSO, THE LESSEE

SHALL PREPARE A PROGRAM FOR NOTIFYING ALL INCOMING RESIDENTS OF THE DE ANZA

TRAILER HARBOR THAT REDEVELOPMENT WILL BE OCCURRING IN THE FUTURE AND THAT THE

REDEVELOPMENT MAY AFFECT THE LENGTH OF RESIDENCY. Second by Mitchell.

Passed

by the following vote: Mitchell-yea. Cleator-nay. Golding-yea.

Williams-yea. Schnaubelt-nay. Gotch-yea. Murphy-yea. Killea-yea. Mayor

Wilson-nay.

Jun-8-1981 ITEM-200:

DESCRIPTION: (O-81-248) AMENDING Ordinance No. O-15298 (New Series), entitle "An Ordinance Adopting the Annual Budget for the Fiscal Year 1980-81 and appropriating the necessary money to operate the City of San Diego for said Fiscal Year" by AMENDING DOCUMENTS NO. 00-15298-1 and No. 00-15298-2, as amended and adopted therein, by TRANSFERRING the sum of \$22,000 from General Fund 100, Unallocated Reserve (605) to the Extradition Travel Fund (81110) for the purpose of AUGMENTING said fund. (See City Manager Report CMR-81-220.)

FILE: MEET

COUNCIL ACTION:

(Tape location: D215-244).

Introduced, to be adopted June 15, 1981.

MOTION BY GOTCH TO INTRODUCE THE ORDINANCE. Second by Murphy. Passed by the

following vote: Mitchell-yea. Cleator-yea. Golding-yea. Williams-yea.

Schnaubelt-yea. Gotch-yea. Murphy-yea. Killea-yea. Mayor Wilson-yea.

