



City of San Antonio

Agenda Memorandum

File Number: 14-1557

Agenda Item Number: 17.

Agenda Date: 8/14/2014

In Control: City Council A Session

DEPARTMENT: Development Services

DEPARTMENT HEAD: Roderick Sanchez, AICP, CBO

COUNCIL DISTRICTS IMPACTED: All

SUBJECT:

Fair Notice as related to Rights Recognition

SUMMARY:

The Courts recently ruled that certain City Code amendments adopted by San Antonio in 2006 are invalid, and voided the ordinance adopting them. To rectify, Chapter 34 (Water and Sewers) and Chapter 35 (Unified Development Code) changes are proposed for City Council consideration that would replace the 2006 code amendments with requirements consistent with court interpretation of state statute.

BACKGROUND INFORMATION:

In 2005, state law was modified requiring that for recognition of statutory rights “fair notice” of a project is to be provided to the municipality. At the time, the Development Services Department was working with a “Vested Rights Stakeholder Taskforce” on the *rights determination* process. After adoption of the state law, San Antonio created a “*Fair Notice Form*” that was required to be submitted as part of the rights determination process, and amended the City Code accordingly.

Later in 2006, a lawsuit was filed against San Antonio regarding the requirement for the submission of the *Fair Notice Form*. After an initial, partial judgment in 2012, San Antonio changed the process and made submission of the *Fair Notice Form* optional. The trial court found in the plaintiff’s favor; San Antonio appealed, however the courts ultimately ruled that the 2006 code amendments were invalid.

The Development Services Department has prepared amendments to the City Code that will remove the *Fair*

Notice Form and, thereby, ensure consistency with the courts' rulings.

ISSUE:

The 2006 ordinance that adopted the code amendments included more than just the specific addition of the *Fair Notice Form*. By voiding the 2006 ordinance, the courts removed this other code language, which included not only language in the Unified Development Code (Chapter 35), but also in the Water and Sewers chapter (Chapter 34) of the city code. The ordinance for City Council consideration takes this into account, readopting the 2006 ordinance minus the *Fair Notice Form* and its related procedures.

ALTERNATIVES:

Not adopting these code amendments leaves the rights determination process inconsistent with state statute.

FISCAL IMPACT:

There is no anticipated fiscal impact to the City's general fund or the Development Services Department's enterprise fund with this proposed ordinance.

RECOMMENDATION:

The Development Services Department and the Planning Commission recommend approval of the proposed code amendments as presented.