



MINUTES
SPECIAL MEETING OF
CITY COUNCIL/SAN DIMAS
REDEVELOPMENT AGENCY
TUESDAY, JULY 10, 2007, 6:00 P. M.
CITY COUNCIL CONFERENCE ROOM
245 E. BONITA AVE.

PRESENT:

Mayor Curtis W. Morris
Mayor Pro Tem Jeff Templeman
Councilmember Emmett Badar
Councilmember Denis Bertone
Councilmember John Ebiner

City Manager Michaelis
City Clerk Rios
Assistant City Manager Development Services Stevens
Director of Development Services Coleman
Public Works Director Patel
Parks and Recreation Director Bruns
Planning Manager Hensley
Senior Engineer Garwick

1. CALL TO ORDER

Mayor Morris called the meeting to order at 6:00 p.m.

2. ORAL COMMUNICATIONS

(For anyone wishing to address the City Council on an item on this agenda. Under the provisions of the Brown Act, the legislative body is prohibited from taking or engaging in discussion on any item not appearing on the posted agenda. Speakers are limited to three minutes or as may be determined by the Chair.)

- a. Members of the Audience

No one came forward to speak.

3. STUDY SESSION

- a. Study Session regarding William Holt Report - SP 4 issues.

Assistant City Manager Stevens reported that at the June 26, 2007 study session, Council heard a presentation from Bill Holt and public comments from Mike Celeste. He mentioned that Bill Holt was hired in February 2007 to prepare an impartial third-party review of certain complaints from Richard Rauseo and Claire Ostrand regarding staff's administration of SP-4. Staff reviewed Mr. Holt's report and generally agrees with the recommendations.

Cindy Hodges said she observed Mr. Celeste feeding raccoons and she called the Humane Society for suggestions because skunks and raccoon have become a real problem in the area. The Humane Society agreed to talk to Mr. Celeste. She stated she was fearful of retaliation from her neighbor because she is alone with her daughter and disabled mother. She mentioned that as a safety precaution, she checks the area with a flashlight before entering her backyard and never allows her daughter or dog out alone.

Mayor Morris stated that this meeting is not about neighborhood disputes, and requested that speakers keep to the issue of Specific Plan No. 4.

Claire Ostrand stated he would like to address what Mr. Celeste said at the last meeting.

Mayor Morris reiterated that those issues are not on the agenda and requested Mr. Ostrand to discuss the issues of Specific Plan No. 4.

Claire Ostrand rebutted all statements made by Mr. Celeste at the previous meeting and denied poisoning, shooting, or trapping wild animals. He said he emailed Mr. Michaelis regarding two items on Mr. Holt's report - identifying the scenic easement and trash in uncovered containers.

In response to Mr. Ostrand, Mayor Morris replied that Mr. Shono is employed by the City and all complaints are kept confidential. He mentioned that it does no good for the resolution of issues to identify the complainant and it is not part of the decision to be made on SP-4.

Mr. Ostrand stated that filing a complaint of a violation of the CC&Rs is not harassment.

Mayor Morris replied that Mr. Holt made it clear that the CC&Rs have requirements not mandated by code and are not enforced by staff.

In response to Mr. Ostrand, Assistant City Manager Stevens replied that only zoning regulations are enforced and that in the case of the gazebo in the easement area, it was enforced because it was in violation of the zoning regulations, not because it was related to the CC&Rs.

Richard Rauseo stated that the CC&Rs are in effect until 2019 and cannot be changed unless 100% of residents agree to the change. He said Article 2 of the CC&Rs specifically requires any development within SP-4 to be submitted to the City and reviewed by the Development Plan Review Board; however, when he reported to the City that a pool was being constructed, he was informed that the project had been approved by staff, without DRPB review, and bypassing the appeal process. He stated that as a result of excavation and grading on the hillside, the natural vegetation has been stripped off. He recommended that Mr. Holt's suggestions be implemented and he would like to know the status of the retaining wall, which he felt was a code violation and should require plans and information from the manufacturer to show the block could be used.

In response to Councilmember Bertone, Mr. Stevens agreed that a retaining wall of that height with a surcharge should have required a building permit.

In response to Mayor Morris, Mr. Rauseo said he called Superintendent Eric Beilstein regarding the retaining wall issue and was referred to Planning.

In response to Councilmember Ebner, Mr. Stevens said that in terms of incompatibility with the scenic easement, the conclusion was reached that it had more to do with the design of the type of pool; and the retaining wall is part of it. He said it is staff's view that the pool does not encroach into the scenic easement. He mentioned that Mr. Holt and Mr. Hensley had conversations about that and a conclusion has not been reached.

In response to Mr. Rauseo, Mr. Stevens said as discussed, the scenic easement is a concept that represents that a difficult area could be used for development or may be preserved. He stated that the City Council has amended the zoning several times over the course of fifteen years as it relates to the scenic easement. He said staff tried using a map as the basis for keeping track of the adjustments, but judgment is called using this information and other information from other parties as to exactly where the line is. As it relates to the swimming pool, he would have preferred that the approved plan depicted the scenic

easement line. He further replied that the case was not required to go to DPRB and reiterated that staff is not obligated to enforce the CC&Rs.

Mr. Stevens stated that the City conducted a review pursuant to the zoning regulations set forth in SP-4 and regulations for processing Chapter 18.12. He said the ordinance provides that city staff may issue permits for swimming pools which meet the zoning requirements. He believes the planner looked at the scenic easement and concluded the swimming pool was not within the line. He clarified that the CC&Rs state that any kind of proposed building has to go to the DPRB, however, staff does not have a duty to enforce the CC&RS.

In response to Councilmember Ebner, City Attorney Brown stated that even though the City is party to the CC&Rs, the City is not obligated to enforce the CC&Rs. What the City has in place are zoning requirements. He said the property owner has an option of receiving notices that deal with SP-4 by submitting funds to cover the cost of postage, or providing to the city self-addressed, stamped envelopes.

In response to Council, Mr. Stevens stated that the applicant was issued a building permit; the pool was inspected and meets all requirements; due to unauthorized removal of native plants from the scenic easement, he suggested as part of the effort, replanting of an appropriate landscaping buffer to obscure the impact of the swimming pool.

In response to Mayor Pro Tem Templeman, Mr. Stevens stated that the path wall is considered a violation of the code; contact has been initiated with the homeowner; and activity has been suspended. He said staff is seeking resolution as part of the review process and taking the next step to compliance.

Mr. Stevens stated he would like City Council feedback to Mr. Holt's report and comments before a recommended course of action is prepared.

It was the consensus of the City Council to recess and reconvene after the regular City Council meeting and before the closed session.

RECESS

Mayor Morris recessed the study session at 7:07 p.m. to convene the regular City Council meeting. The study session was reconvened at 8:06 p.m. with all members present.

Mr. Rauseo said the CC&Rs grant the City the right to review any development; however, if the City is not going to participate, what could homeowners do? He said when the CC&Rs were drafted, the City was involved, not the residents, and no Homeowner's Association was established and no architectural review committee was established. He stated that as Mr. Stevens admitted, for the first 20 years, the City actively reviewed plans and enforced the CC&Rs; Mailers were stopped; planners review plans in relation to CC&Rs, but fall back on zoning requirements, and protection provided to the area is lost.

Mayor Morris stated that he understands the recorded document that created the scenic easement is different than the drawings and when reduced in size, the scenic easement line is difficult to interpret.

In response to Mayor Morris, Mr. Rauseo said he agrees with Mr. Holt's suggestion that every issue related to SP-4 should go to the DPRB, as it is the only provision that protects the rights of other residents. He suggested training new employees to apply an extra step in reviewing CC&Rs before the approval is issued. He mentioned that when excavation of the pool began, the previous owner told him the city originally rejected his proposal to encroach into the scenic easement; however, when the property was marketed, it was listed as pool ready, and within 30 days of close of escrow, the pool was constructed. He added that the original SP-4 applied to 19 acres and no fencing was allowed in the scenic

easement area; to date, there are two set of rules for two different areas, and there have been numerous fences added.

In response to Council and Messrs. Ostrand and Rauseo, Mr. Stevens stated that going through issues with the last custom homes ultimately led to several amendments through the course of the mid-90's that lent credence to a more flexible view on how to interpret the CC&Rs. He said it is important to understand that the scenic easement line has been adjusted and interpreted over the course of time and he recalled that one code amendment completely eliminated the scenic easement line in a block of houses. He said staff tried to apply the CC&Rs but differed about exactly where the boundaries were, and how limits should be established.

Further discussion ensued regarding the methodology of clearly delineating the scenic easement at SP-4 would be a monumental undertaking; following the letter of the law or eliminating it; and providing a planner guide.

Mr. Holt stated a less expensive fix is to have all proposals on SP-4 go to the DPRB and that would eliminate staff errors.

Mr. Stevens requested defining the scope of notices to neighbors.

Mr. Holt suggested limiting noticing to proposals related to dwellings, fences, signs, lights, and other improvements on the lot.

In response to Mr. Stevens, Mr. Rauseo replied that upon expiration, the CC&Rs would automatically renew for a period of ten years. He added that if the City does not enforce the CC&Rs, the only process available is a lawsuit. He stated that the DPRB approval affords the opportunity to speak or appeal within the system.

The majority of the Council supported Mr. Holt's recommendation and staff was directed to bring back a report for consideration, including alternative options and a conclusion.

Mayor Morris stated the next item is to provide direction on the walk way, grading, and removal of vegetation in violation of the specific plan.

Mr. Stevens replied that staff will start the enforcement process on the retaining wall, and once the application is filed, staff will process through the DPRB and determine, as part of the application submittal, whether or not the block supports the surcharge. He indicated that he does not intend to do anything further relative to the swimming pool, except consider landscape screening as part of the path.

4. ADJOURNMENT

Mayor Morris adjourned the meeting at 9:13 p.m.

Curtis W. Morris, Mayor of the City of San Dimas

ATTEST:

Ina Rios, CMC, City Clerk