

CITY OF HIDDEN HILLS
REGULAR CITY COUNCIL MEETING

City Hall

Monday, April 26, 2010

MINUTES

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

A regular meeting of the City Council of the City of Hidden Hills was duly held in the Council Chambers at the City Hall, 6165 Spring Valley Road, Hidden Hills, California 91302 on Monday, April 26, 2010 at the hour of 7:30 p.m. Mayor Larry Weber called the meeting to order and presided thereover after leading the Council and audience in the Pledge of Allegiance.

ROLL CALL

Council:

Mayor Larry G. Weber
Mayor Pro Tem Jim Cohen
Council Member Steve Freedland
Council Member Larry Goldberg
Council Member Stuart E. Siegel

Staff:

City Attorney Roxanne Diaz (7:41 p.m.)
City Engineer Dirk Lovett
City Manager Cherie L. Paglia
Deputy City Clerk Deana Graybill

APPROVAL OF AGENDA

Upon MOTION of Council Member Siegel, seconded by Council Member Goldberg and unanimously carried, it was resolved that the agenda for the April 26, 2010 regular meeting be approved as submitted.

ANNOUNCEMENTS

Mayor Weber reminded everyone of Mothers' Day, which is Sunday, May 9th. Mayor Pro Tem Cohen then wished Mayor Weber and his wife Nanette a happy 25th anniversary, which they will celebrate on Monday, May 3rd.

AUDIENCE

There were no questions or comments at this time.

PUBLIC SAFETY

A. Los Angeles County Sheriff's Department Report - March

The following report was presented by Lt. John Benedict:

During the month of March there was one incident, that being a theft in the 5400 block of Jed Smith; the resident noticed numerous pieces of jewelry missing over a long period of time; there is a possible suspect; there were two false alarms during the month, one collision, and 26 traffic citations issued, with 19 of those being hazardous, 2 non-hazardous, and 5 parking; two drivers were reported to the STTOP program; one was a repeat offender (running stop signs); a warning letter was sent, and stop signs are being monitored; the other was a Hidden Hills resident stopped for speeding in Calabasas; Deputies spoke to the father of the speeder, and will handle the problem internally.

B. Los Angeles County Fire Department Report - March

Battalion Chief Bob Haskell provided the following report:

There were 8 responses during the month, with 6 of those being emergency medical responses, 1 being a snake removal, and the other a fire at 5151 Round Meadow Road (Round Meadow School) due to an overloaded incinerator with no damage; there were no

false alarms during the month, 0 plan checks, and 3 Fire Prevention Bureau inspections; all the fire hydrants in the City have been inspected.

As there was some question regarding the incinerator, staff was asked to look into that fire.

2010 FIESTA

- A. Consideration of Approval of 2010 Fiesta Budget**
- B. Consideration of Approval of Proposal from Harvey's Bar-B-Que Catering Company to Provide Saturday Night Dinner and Payment of Deposit**
- C. Consideration of Approval of Proposal from A Rental Connection for Rentals of Tables/Chairs, Electricity/Lights, and Other Miscellaneous Equipment**
- D. Consideration of Approval of Proposals from Sports N' More to Provide Sports, Games, Activities and Lifeguards at the Community Center**
- E. Consideration of Approval of Proposal from Helm & Sons Amusements to Provide the Games and Rides, and Payment of Deposit to Reserve Date of October 2, 2010**
- F. Consideration of Approval of Proposal from Katy's Cool Company to Provide Ice Cream Treats**

Deputy City Clerk Deana Graybill informed the Council of the following:

She and Fiesta Co-chairmen Bonnie Frank and Bret Katz are recommending approval of this year's draft budget and the above listed proposals, except for item E which has not been received yet and will be addressed at a future meeting; the budget is slightly less than last year's; everyone seemed very pleased last year with Harvey's Bar-B-Que, who did very well in spite of the rain; this year's price is a bit more than last year's, but still well under what was budgeted last year for the dinner; the City has used A Rental Connection for quite some time, as they are very reliable, know what is needed, where it all goes, how it all connects with the other vendors, and has kept the same price; Sports N' More's proposal is the same as last year's, at the same cost, to provide lifeguards and sports activities for the kids at the Community Center after the parade; Katy's Cool Company would again like to sell ice cream treats at both the Community Center and later in the evening at the dinner; there is no cost to the City, as the company provides 20% of their sales to the City; a deposit is required for both A Rental Connection and Harvey's.

Council Member Siegel asked why there was nothing in the budget for beer and wine sales. Ms. Frank explained that she believes the same residents who provided the beer and wine last year would be willing to do so again, and if not, Mr. Katz had a possible other source. She added that there is no charge to the City, as the vendor sells the beer and wine directly to residents, and may even this year take pre-orders for bottles.

As there was no further discussion, upon MOTION of Council Member Siegel, seconded by Mayor Pro Tem Cohen and unanimously carried on roll call vote, it was resolved to approve items A, B (with the payment of a \$9,634.22 deposit), C (with the payment of a \$1500 deposit), D, and F listed above, with item E to be placed on a future agenda once the proposal is received by the City.

CONSENT CALENDAR

- A. City Council Minutes – April 12, 2010**
- B. Demand List**
- C. Disbursement List – March**
- D. Financial/Treasurer’s Report – March**

Upon MOTION of Council Member Siegel, seconded by Council Member Freedland and unanimously carried on roll call vote, it was resolved to approve items A (with Council Member Goldberg abstaining on that portion of the minutes for which he recused himself), B, C, and D of the consent calendar as submitted.

MATTERS FROM CITY COUNCIL MEMBERS

- A. Report from 4/20/10 Las Virgenes Malibu Council of Governments Meeting**

Council Member Siegel provided the following information:

The one major agenda item was a presentation by Bill Allen, the CEO of the Los Angeles County Economic Development Corporation; he provided a lot of facts and information regarding the very well thought out Los Angeles County Strategic Plan for Economic Development; as the plan is more related to commerce, it really does not apply to Hidden

Hills; it appears there is a faint understanding at the State and County level that the area is toxic for business, and they are trying to change that.

B. Report from 4/20/10 Hidden Hills Community Association Board of Directors Meeting

Board President Ron Wolfe reported that the Welcome Party (a casino night) budget was approved, minor revisions to the arena rules were approved, and discussions are continuing on the plans for the Saddle Creek arena.

City Attorney Roxanne Diaz joined the meeting at this time (7:41 p.m.).

MATTERS FROM STAFF

A. Discussion of Status of Vesting Tentative Map 63567

Mayor Weber reminded everyone that this was not a discussion about the merits of this project, and then asked City Engineer Dirk Lovett for a staff report, which Mr. Lovett provided as follows:

It has been about four years since this application was received by the City, and about two years since public hearings were held on the project; this is an opportunity for the Council to provide direction to staff as to how to deal with the project since it has been in limbo for so long after being tabled at the request of the applicant; the applicant had asked for the project to be tabled so they could look at other options and possibly resubmit to the Council; since the project was tabled, staff has received no formal information from the applicant, and nothing regarding the applicant's intentions or whether or not any alternatives have been explored; staff is asking for direction from the City Council, with some recommendations being provided in the staff report (included in the packet); again, this is not being presented for discussion on the merits of the project, but so staff can receive direction on the project since it has been in limbo for such a long time.

In response to Mayor Weber, City Attorney Roxanne Diaz said that the recommendations were actually various steps towards one option, as opposed to four different recommendations.

Mayor Pro Tem Cohen stated the following:

He has one problem with the recommendations; he does not know how one would define "reach out to the community"; Mr. Ashley lives in the community, and by reaching out to himself could possibly satisfy that direction; he would strongly suggest that Mr. Ashley reach out to the community, but that is not really the City's concern; our concern is whether or not he comes back with an indication of where he plans to go and shows some progress in relation to the project.

Council Member Freedland added his comments:

He feels that it is not in the best interest of the City to let this project sit in limbo indefinitely; ordinances change and rules evolve, and it is not in the best interests of the community to allow this project to be locked into the existing ordinances and rules that were in place at that moment in time when the project was submitted; he would like to see some progress, or resubmission, or withdrawal, and maybe the City does need to do some motivation along those lines.

Mayor Pro Tem Cohen said he was in complete agreement with Council Member Freedland, except for the reaching out to the community aspect. Mayor Weber asked if Mayor Pro Tem Cohen wanted to define that term, to which he replied as follows:

No, he would not like to define the term; he would like to have Mr. Ashley return in 90 days with a report; he does think Mr. Ashley should reach out to the community, but the City should not impose that direction on him; but he totally agrees that something has to be done as the project has been dormant for too long.

Mayor Weber asked if anyone in the audience wished to comment. Resident Paul Strong addressed the Council:

Mr. Ashley, not personally but through his associate, has made several motions to the local community; we have had some meetings at various neighbors' homes that resulted after the last fiasco we had; the applicant came forward with several different options including senior citizen housing; we all said we don't care what he does as long as he leaves the ridgeline alone; he said he would get back to us with a plan or something, but we never heard a word after that; he has reached out to the community, and the community has said don't touch the ridgeline; we understand a possible ordinance regarding ridgelines is coming through, and some of us are here tonight trying to protect that situation to make sure nothing is grandfathered in; we think protecting the ridgeline should be the number one priority.

City Attorney Diaz explained the following:

This applicant has filed for a vesting tentative map (VTM); when someone files for a VTM, it grants a developer a vested right to proceed with development in accordance with whatever rules were in place when the application was deemed complete, if the VTM is approved; for example, if the VTM was approved tomorrow, the developer has a right to proceed with development in accordance with any ordinance that was in place when the application was deemed complete in 2006; so the interim ordinance (IO) that the City has in place today would not apply to this project nor would any ordinance that would be applicable that was adopted after October 6, 2006.

Wes Myers, of Ashley Construction, Inc. (ACI), then addressed the Council:

If anyone else in the audience wishes to speak, they should do so, as he could better address the questions afterwards [no one stepped forward, so Mr. Myers continued]; I'll make this quick; thank you Mr. Strong – hopefully my presentation will answer some of your questions; after getting notice of this agenda item on Friday, I'm curious as to what grounds City staff has to issue these recommendations, because the issue here is the amount of time that has passed since ACI has made efforts toward exploring alternatives or moving forward with VTM 63567; allow me to refresh the City with an applicable timeline; I'm certain you will find that we have been more than diligent in resolving this development on Bridle Trail; now I'm going to go through some dates I feel are pertinent to this.

Mr. Myers then quoted from minutes and referred to different dates in relation to this subject, as listed below, adding his comments and interpretations:

January 14, 2008 – EIR public comment period closed and City said additional studies “will take another month”, meaning that although the VTM has been turned in, the EIR has not been turned in as of 1/14/08 or has been approved.

January 28, 2008 – Staff said the consultant is “still working” on the EIR; this is the consultant for the City and has nothing to do with ACI.

February 11, 2008 – Staff recommended a three-year extension for VTM 54063, the Gonen project, known as Hidden Ridge, from an already two-year time period since approved because staff found the “developer has worked diligently on the project”; during that same meeting with reference to our project, staff said the City's own consultant is “still working on the EIR”.

February 25, 2008 – Staff received the consultant’s first draft of the EIR; staff is “now reviewing” the material, meaning we have not received any set in stone material from the City at this point yet.

March 10, 2008 – Staff is still “in the process of reviewing the final draft EIR; hopefully the review will be done by the end of this week”.

March 24, 2008 – Staff submitted comments to the EIR consultant for corrections.

April 14, 2008 – Staff is reviewing another round of comments from the EIR consultant.

April 28, 2008 – Staff stated the draft EIR is “almost complete” and will take the City at least “several weeks” to finish preparing the documents.

June 9, 2008 – Staff was “continuing to prepare the reports” for the EIR.

June 23, 2008 – Staff is “still working diligently to get this matter before Council as soon as possible”.

July 14, 2008 – Staff “was diligently working on the final EIR in order to bring it to the Council as soon as possible”; I’m sorry if I sound like I’m repeating myself, but all these quotations are in the Council minutes.

July 28, 2008, August 25, 2008, September 8, 2008, and September 22, 2008 – Public hearing meetings were held where Council Member Freedland stated that he has “major concerns with the proposed removal of the ridgeline, he understands the applicant’s comparison to the Hidden Ridge project, but there is one important difference, the ridgeline being diminished by as much as 55’ is in the County of Los Angeles, not in the City, so it is currently covered by the County North Area Plan (NAP). The County made it clear that it would like Hidden Hills to treat the land if annexed as if it were in the County with the same restrictions. The Hidden Ridge project removed some ridgelines but they were not subject to the NAP. Also it was stated by Council Member Siegel that “the Council may decide that the ridgeline should not come down, but at the same time, he does not feel that the NAP should be adopted by the City for many reasons. The Council should probably instead be looking for something in that general spirit”. The project was then tabled for further exploration by ACI until we could get a better understanding of what it meant by following the “general spirit” of the County.

December 8, 2008 – City awarded consultant a contract for updating the expired housing element of the City’s general plan. After listening to the Council and neighbors of the project during the public hearing meetings, we waited to make sure as many of the City’s

needs as well as desires are met before we modify our proposed project, so we waited for an updated element from the City.

May 5, 2009 – After doing some research as to the alternate developments for the tentative tract, we notified City staff that certain properties in the project could be important to be addressed in the housing element update, but we never received a response.

August 19, 2009 – We sent a second correspondence to the City staff for clarification regarding the City housing element and update, but we never received a response.

September 16, 2009 – We sent a third correspondence to the City staff with regard to the housing element update.

September 28, 2009 – Staff responded to some of our questions and said that the housing element update is “currently in process”, however, our other questions were never answered so it was impossible for us to submit any correct modifications to our development at that time. None the less, we had already made several alternative studies on the property to get a head start.

October 23, 2009 – After coming up with several alternate plans and meeting with some of the residents, ACI asked that the annexation of the 7 ½ acre County parcel be on the agenda for the 11/9/09 meeting as a separate item in hopes of expediting the process until development plans could be finalized due to the fact that this LAFCO exchange could take several months.

November 5, 2009 – Staff decided the annexation of the 7 ½ acre County parcel should be removed from the agenda because “we have a project application that includes that parcel which was tabled on 9/28/08. Staff then removed the discussion from the agenda.

November 9, 2009 – I made an announcement at the City Council meeting stating that we believed it would be in the best interests of the community for the City to have jurisdiction of our landlocked county property on Bridle Trail and that we would be offering the 7 ½ acre parcel for annexation in the future.

November 23, 2009 – We sent staff a request to sit down and talk about the tentative tract proposed as well as alternatives. Staff responded that they could not meet until the end of January 2010. Later that evening I made an announcement at the Council meeting that we would be having some informal meetings about the annexation offer open to anyone interested in the project.

January 27, 2010 – Mr. Ashley and I met with City staff to discuss the project and the logistical concerns that we have as a developer regarding these particular pieces of property in relation to the ridgeline.

February 22, 2010 – The City Council enacted Interim Urgency Ordinance 331-U imposing ridgeline grading restrictions for a single lot parcel on Jim Bridger Road on the opposite side of town from the development at issue. It was the City's position that our Jim Bridger project "application only is what prompted this" ordinance.

March 22, 2010 – Despite our recommendations otherwise due to the vague and over reaching language of the Interim Ordinance, the City Council extended the Interim Ordinance for six months further restricting our ability to even design a modified plan. Until such an ordinance is either rescinded or the permanent language is drafted and such ordinance is enacted, it is impossible for us to move forward with designing any alternative plans for development on Bridle Trail because we do not know the guidelines that we are expected to follow because such guidelines have never been a topic of issue for the City prior to our project.

March 29, 2010 – Even though the City has made any modifications of the currently tabled plan impossible for us with the Interim Ordinance in effect, in an effort to maintain diligent focus on the project and in congruence with the City's desire to enforce its general plan, we requested that the housing element status be updated and placed on the 4/12/10 City Council meeting agenda so that we could continue to design a development around the City's needs.

April 5, 2010 – Over 1 ½ years since the contract has been let to update the expired housing element of the general plan, City responded by saying there is no need to discuss this item at a public meeting because "the work is currently in process" and "the work will continue until complete". That being said, our position on VTM 63567 1 ½ years later being tabled is that the work is currently in progress and the work will continue until complete. At this time the project should remain tabled for an indefinite amount of time until we have a current housing element to develop around and until we know the rules that will be applicable to the project such as ridgeline grading. Once these items have been resolved we will have the ability to start reviewing the consistency of our numerous alternate designs for whatever rules the City finally elects to adopt. Furthermore, in reviewing this matter, we have found inconsistencies with the positions of the City with regard to the spirit and rules of the community and development.

Mr. Myers then handed out copies of page nine of the January 11, 1993 City Council minutes, and stated the following:

Please review this copy where you will find that there has always been a desire and requirements of the City to create an unbiased forum for which development can be discussed as opposed to having us design in a vacuum. I trust that this Council will act in a manner consistent with its duty to protect our rights as citizens of this municipality.

Mayor Weber asked Mr. Myers to repeat his last paragraph, as what he got out of it was that ACI wanted to wait on this project. Mr. Myers responded as follows:

We want two things. For us to design this project, we need to know exactly what the City needs and what the City wants. By needs, we need to know what we need as far as a housing element to develop around. We feel it is a very important part of this community to make sure we are doing it in congruence with where the City is heading. What the City wants, we need to figure out what they mean by a ridgeline ordinance. The ridgeline ordinance right now is an interim ordinance, and we can't design off of that. It's very difficult for us to bring a plan, especially within 90 days, when the Interim Ordinance has been extended for six months. That ordinance could be totally opposite of what our plan is designed for. We have no problem moving forward with starting some real productive designs, although I believe that as my timeline has shown you, we have been having serious discussions and have been getting the cold shoulder on a lot of this. We have no problem starting to submit some hard plans once we can get this ordinance resolved and also the housing element of the City's general plan resolved so we know what we're building around.

Mayor Weber commented as follows:

As I understand it right now, if you move forward with your project, VTM 63567, you are not under the Interim Ordinance; this has nothing to do with the Interim Ordinance regarding ridgelines; if you do not move forward, you are jeopardizing all the work that has gone into your project.

Mr. Myers asked if the opinion of the audience or Council had changed since prior to ACI's tentative map as far as what the desires were in the community. City Attorney Diaz reminded Mr. Myers that this is not a public hearing and that the merits of the project cannot be discussed. She added that the Council needed to focus on and determine how it wished to move forward on this application. Mr. Myers yet again said that they would like to have a better idea of what the City and residents wanted and needed before bringing another map or modification.

Council Member Freedland addressed the following comments to Mr. Myers:

How can you stand there and say you don't have any idea what the City and residents want; I can't understand that; Council Member Siegel and I met with you at your request; the City staff has met once or twice with you at your request; it is disingenuous at best to say you are waiting for some sort of guidance from a housing element when during the public portion of the Council meetings and when public hearings were held, we were all really clear as to what problems and issues we felt there were with this project; from what I've heard, although I was not at any of the meetings (however many there were), your neighbors were very clear as well; to say you are looking for guidance, I'm not sure what guidance you need; you have been told during at least five different forums in several different locations what the issues are.

Mr. Myers said he could address that, and stated the following:

I think in my timeline I explained how there were certain inconsistencies with what you and Stuart came up with, meaning that what you said was you believe we should have an ordinance along side with the County; Stuart said we don't need to have something; we have to have something individually or separate from the County; when we met, do you remember what you asked us to do.

Council Member Freedland said he did remember, and asked Mr. Myers if he remembered, and if so, to state the direction given. Mr. Myers claimed that Council Member Freedland asked ACI to come up with a ridgeline ordinance. Council Member Freedland said he suggested ACI develop a plan which stayed away from, as best as they could, the ridgeline. Mr. Myers claimed that they have done that, and in fact, have come up with several alternatives. Council Member Freedland then suggested they submit one. Mr. Myers then stated, yet again, the following:

We don't know if it will apply in these circumstances; furthermore, we're spinning circles here; we're asking for direction, and if the Council or staff has an idea as to where we should head from this matter, we have no problem moving forward along these things; until then, it's very difficult for us to move forward; is 90 days an appropriate amount of time to do when we don't know what we are doing.

Mayor Weber said staff's recommendation was to show progress, and the Council has not seen any progress since the project was tabled in the fall of 2008; he added that this is a good thing for ACI, as the Council is saying let the project move along. Mayor Weber further stated that the

Council and ACI know from two years ago what the concerns are, and ACI should show progress in that direction.

Mr. Myers suggested that everyone consider this meeting the first step toward progress, and said he would like to open up a dialogue. He then yet again stated that they need a housing element to work with and a more concrete ridgeline ordinance so they can know exactly where the City is.

In response to Mayor Weber, Attorney Diaz stated the following:

ACI is working under the previous housing element; the project was submitted in 2006 and the Interim Ordinance is not applicable to this project if it is lifted off of the table and moves forward; it sounds like ACI is proposing a new project because of the two things they would like to know; they want to know the rules that would apply to the alternatives, so it sounds like they are moving forward with a new project rather than the existing project on the table.

Mr. Myers responded as follows:

Let me clarify; we're not looking – I understand where you're coming from; regardless, it seems to us that there's been a change of opinion as to what needs to be protected on these projects; we were under the impression that we were moving along consistent with how Hidden Hills has been developed over the years; now we're under a discussion with the ridgeline; we could move forward and we could present the project as is, but with the opinions that are out there we really want to work with the City here to get what the City needs and wants.

Council Member Siegel said that as he understands it, what Mr. Myers is saying would work best for ACI is to have the City pass its ridgeline ordinance and then ACI would willingly adopt that as the guidelines for their project. Mr. Myers said if the ordinance was passed, they would at that point make a decision, with Council Member Siegel interrupting to say that wasn't what Mr. Myers was saying. Council Member Siegel suggested Mr. Myers make it very simple – right now the project is not covered by the ridgeline ordinance, and he asked Mr. Myers if they would like it to be.

Mr. Myers stated he would like to clarify and said, we would like the Council to enact a ridgeline ordinance so we know the direction that the City is heading as far as what their intentions are for the future development of Hidden Hills.

Council Member Goldberg questioned Mr. Myers as follows:

He is new to this, but what relevance does that have to the project that's been applied for; you would not be subject to the new ordinance, so how does the new ordinance affect what you have pending.

Mr. Myers responded as follows:

We were on a sinking ship toward one of those past public hearings; we understand we could present this project to Council for review; that leaves us out in the open to get one more cannonball into our ship if we needed to; that may sink it completely or the Council may let it go; we don't know yet until we understand exactly what the City needs and what the City wants; it wouldn't be a prudent business decision for us to go ahead and bring a project forward until we understand exactly what people want; we're not doing this smoke and mirrors; we want to make sure this is in the best interest of the community and in our best interest, obviously.

Council Member Freedland explained the following:

We cannot design your project; we can't answer questions before you ask them, which is why we suggested that maybe you get together with the community to try to cooperatively develop some sort of plan that everyone can live with; then bring that forward to the Council; like Council Member Goldberg, I can't understand why you're waiting for rules to be passed that don't apply to the project that we're talking about now; that does seem like smoke and mirrors to me.

Mr. Myers stated the following:

If that's the case, we should think about exactly what the position was with the community or with the Council at the time that we did present this project back in 2006; we will present it along those lines if we decide that's what we need to do; we've been here forty years, and we intend to be here another forty years and want to make sure it's in line with what the City wants now and in the future.

Council Member Freedland strongly suggested that ACI then listen to what the Council has said.

Mayor Weber added his comments:

Without going back and reviewing the minutes of those meetings, as I remember, there were several options that came out of the EIR; resident after resident said they could live with option 3, but taking down the ridgeline was what they were all opposed to; so if you take that as your guideline and go back to the community and say you're going to take that and redesign it a little differently, I think you might be on your way to success; this staff recommendation should help move you forward.

In response to Mayor Weber, Mr. Myers commented as follows:

I appreciate this discussion and appreciate residents coming and talking about it because this is the dialogue we want to start; we haven't had that, we feel, since this project was submitted and actually since the end of 2008 when this was actually on the table, fully with the EIR.

Mayor Weber did not believe that the residents or any of the Council Members were against development, and maybe this could be approached in a different way. Mr. Myers thanked the Council Members, stating that they would definitely take that into consideration and would look forward to placing more items on the agenda for discussion, whether anyone liked it or not. The City Manager reminded Mr. Myers that it was the Council Members who determined what items were placed on an agenda, which he said he was well aware of.

Resident Laura Goldwasser then addressed the Council:

She was not planning on speaking this evening, but she does have a concern that the City Attorney answered that she would like to reiterate; there were meetings after meetings to give neighbors the opportunity to express their concerns about this project and ridgelines in general; at the end of the meeting, based on the EIR information, it was said the lead agency, that being the City Council, may a) disapprove the project because of its significant environmental effects, b) require changes to reduce or avoid environmental effects, or c) approve the project despite the significant environmental effects; we expected after that that the project would not be approved or there would be a recommendation to consider option three; it was pretty shocking that the project was tabled at the end of the meeting.

Council Member Freedland pointed out that it was not the Council's idea to table the project, but it was tabled at the request of the applicant. Ms. Goldwasser continued with her comments:

That was okay, because for those concerned, the effect was the same – the project was not moving forward in its current form; but what the City Attorney said, and what is still

concerning, is that since the project was tabled and is still on the table, it sounds like an end around that the project would not have to adhere to the new ridgeline ordinance; she wondered if the Council could deal with and make a decision on the project before passing the ridgeline ordinance; if the project was disapproved then it would not be an issue; if the project was disapproved, then anything passed in the future would apply, so she would like to see the Council deal with this project now.

City Attorney Diaz explained the following:

The Council is following the law; the Council cannot take any action on the project until it is taken off the table; until the applicant or the Council asks for the project to be set for a public hearing, it will remain on the table; any ordinance passed after 2006 would not apply to the VTM; the Interim Ordinance is a red herring and is irrelevant.

The City Manager also pointed out to Ms. Goldwasser, that even though the interim ridgeline ordinance would not apply to this project, the Council still has the ability to address the ridgeline on the project property.

Mr. Myers had additional comments:

Maybe I can clear up Ms. Goldwasser's confusion; we have here procedural issues and substantive issues; we are not discussing the project but procedures in which it goes forward; looking back at the handout, the rule in 1993 was that a subdivision committee was required to be formed; I don't know if it applies now, but if it does, we'd like to formally request that we do this; I think this is going to be a great channel so the Council, staff and residents can monitor the progress of this; I feel this way we wouldn't have these issues we're having right now concerning the fact that are we actually moving forward in coming up with development alternatives – because we clearly believe we are; I think if we have a subdivision committee focused on this project, we would have a much better forum for moving forward; if that is not the rule today, I would like to request that it be considered along with one of the options for the Council to choose on.

Mayor Weber thought that was a problem, as this Council feels that Council Members should not sit on this type of committee since they have to rule on the project. Back then there was a Planning Commission, but it does not exist today. Mr. Myers felt there were plenty of qualified people in the community who could sit on this committee, which could then give presentations to the Council as far as the status of the project, and that the committee would be a lot more in tune with where the project is going.

Mayor Weber was not opposed to Mr. Myers forming an informal committee, but said the Council would not give any direction on whom to put on such a committee, or appoint anyone to such a committee. Mr. Myers asked how many members of a committee would be required for this to move forward if they were to come to the Council with a list. Council Member Freedland stated that he was not interested in forming any committee, and if Mr. Myers wanted to form a committee to help ACI out, he could do so. Mr. Myers said he understood that, but if he came with a committee of people that would like to be the subdivision committee, as was the rule in 1993 and could well be the rule now (he didn't know), he would like to recommend and formally request that be done.

City Attorney Diaz explained the following:

This application has already been filed and public hearings have been held; in looking quickly at the 1993 minutes regarding a subdivision committee, she does not know if a current ordinance provides for that, but a subdivision committee is irrelevant; she is not sure what a subdivision committee would look at because the application has been in process and public hearings were already held; the only issue for discussion tonight is what the Council wants to do on a moving forward basis to remedy an application that is essentially in limbo.

Mayor Pro Tem Cohen added his comments:

We have suggested and encouraged the developer/applicant to meet with members of the community; if you want to form a committee, you don't have to call it a subdivision committee, or even a committee if you don't want; the number of people on the committee could be one – that's up to you; it is not the Council's decision if you form a committee, what you call it, whose on it, etc.; we are not going to impose anything regarding a committee, and the Council does not need a committee report.

Mr. Myers said they were going to do that, but he thought if there was an official committee that would report to staff and the Council, they would close out some of those missing chains of communication that they've had – it was just an idea he had. Mayor Weber said anything would still need to come out during public hearings, and that any of his committee members could speak at those public hearings to express their views so the project can hopefully move forward.

Resident Britt Aaronson then addressed the Council:

She was not expecting to speak tonight either, but wanted to show their continued support for progressing with this project; she thinks everything has been submitted and thinks that the applicant has ninety days for a project to either be approved or disapproved by the Council; there have already been community meetings; there is so much talk and so many different projects that people are speaking about that it is confusing; the VTM is really not what Mr. Ashley wants to continue building, but he is holding onto it as a pawn in development; the City Council does a good job in following City procedures, and she is just asking that that be done; the applicant did a good job of trying to reach out and the community did a good job of telling them what we wanted; however, nothing has changed; what is the expiration of a tabled item – is it indefinite.

Mayor Pro Tem Cohen informed Ms. Aaronson that the developer tabled the project and has the right to modify or revise it if he wishes, with Council Member Siegel adding that the Council at this time is discussing a possible time line for the tabled project so it does not go on indefinitely. Mayor Weber stated that it was in everyone's best interest to try to move the project forward and in no one's interest for it to remain tabled indefinitely.

As there was no further discussion, upon MOTION of Mayor Pro Tem Cohen, seconded by Council Member Siegel and unanimously carried, it was resolved: 1) to provide the developer 90 days to demonstrate that he has made reasonable progress developing options or alternatives that he indicated he needed time for back in September 2008; 2) to schedule an update item for an August or September City Council agenda for the developer to provide a report; 3) if it is demonstrated that the developer has made reasonable progress developing options or alternatives, then at that meeting the developer be provided a limited period of time (such as an additional 90 days) to either move forward with the project as proposed, withdraw the application, or submit a revised or new application, whatever option the developer believes is appropriate; and 4) if at that meeting it is determined that the developer has not made a good faith effort in developing options or alternatives, then the project be noticed for a public hearing so that a decision can be made on the application.

B. Round Meadow/Long Valley Road Utility Undergrounding Project - Update

City Engineer Dirk Lovett informed the Council that all the necessary easements have been prepared and provided to those owners who need to sign them; hopefully they will all be signed and returned in the near future, and then the project should be able to move forward.

C. Charles Abbott Monthly Report - March

The report was received and filed.

ADJOURNMENT

There being no further business to come before the Council, upon MOTION of Council Member Freedland, seconded by Council Member Siegel and unanimously carried, it was resolved to adjourn the regular meeting of April 26, 2010 at 8:36 p.m.

Larry G. Weber, Mayor

ATTEST:

Cherie L. Paglia, City Manager/City Clerk