

CITY OF HIDDEN HILLS  
REGULAR CITY COUNCIL MEETING

City Hall

Monday, June 13, 2011

***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, June 13, 2011 at the hour of 7:32 p.m. Mayor Jim Cohen called the meeting to order and presided thereover after leading the Council and audience in the Pledge of Allegiance.

**ROLL CALL**

Council:

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

Staff:

City Treasurer Eddie Bauch  
Special Counsel Larry Wiener  
City Engineer Dirk Lovett  
City Manager Cherie L. Paglia  
Bookkeeper Randee Weinberger

### **APPROVAL OF AGENDA**

Upon MOTION of Council Member Landon, seconded by Mayor Pro Tem Siegel and unanimously carried, it was resolved that the agenda for the June 13, 2011 regular meeting be approved as submitted.

### **ANNOUNCEMENTS**

Mayor Cohen made the following announcements:

The Association/Parks & Recreation Kids Welcome Party will be held on Saturday (6/18); the first day of summer camp is Monday, 6/20; call the Community Center for details.

Don't forget Fathers' Day on Sunday, June 19<sup>th</sup>.

The Calabasas beach bus will begin running on Monday, 6/20, with a stop at Round Meadow School; call City Hall for more information.

Happy Birthday to Dirk on 6/21, and more importantly, to my wife Joanne on 6/23.

The City is sponsoring a bulky item pick-up day on Saturday, 6/25; call Waste Management to schedule a pick-up, or call City Hall for more details.

### **AUDIENCE**

Resident Curt Miles addressed the Council, expressing his concern that the City's business license tax was not being fairly applied. Mayor Cohen said the matter would be looked into, and a response provided to Mr. Miles.

### **PUBLIC HEARING**

#### **Review and Discussion of Preliminary Draft City Budget for Fiscal Year 2011-2012**

City Treasurer Eddie Bauch informed the Council that after the budgeting process, the City is generally on target, projecting a deficit with expenditures over revenues of \$275,000, which includes a \$200,000 grant to the Community Association. Mayor Cohen pointed out that in

addition to that \$200,000 grant, the Fiesta budget was increased by \$25,000, so \$225,000 in expenditures is accounted for with just these two items.

Mayor Pro Tem Siegel suggested that instead of lowering the expected property tax income from the current budget, that at the very least, the expected income be left the same (at \$660,000). He felt this was more appropriate based on the fact that the Association was expecting the overall evaluation of property taxes in the City to increase, and also since the City had now exceeded the budgeted amount for property taxes through eleven months (the proposed budget was established based on only ten month figures that were available at the time). Based on those two examples, Council Member Freedland thought the expected property tax income could be raised to \$700,000. Since Mayor Pro Tem Siegel felt no further income from property taxes would be received this year, he suggested a compromise of \$680,000, to which Council Member Freedland and the other Council Members agreed. Council Member Weber agreed with an earlier statement by Mr. Bauch that it was better to underestimate income, especially since no one knows what will happen with the State's budget that could affect cities.

Mayor Pro Tem Siegel wished to remind everyone of the following:

The City has no utility tax or other taxes placed directly on the community, and therefore cannot control or adjust income; the City can only control its expenses, and that is why the Council Members look at expenses so carefully and tightly; since the proposed budget is showing a deficit, he asked how restricted the City was as to where its money could be placed; right now the City's money is in LAIF (Local Agency Investment Fund), and he wondered if the money could be put in treasury bills or bonds.

Special Counsel Larry Wiener replied as follows:

The City has an adopted investment policy, which provides for where the City's money can be invested; the parameters of the investment policy are limited by State law; there are a limited number of other things allowed besides LAIF, but the return on those are not going to be much better than LAIF; State law is specifically conservative about what a local agency can invest its money in, and those parameters became even more conservative after the Orange County debacle.

Mayor Pro Tem Siegel was not questioning the concept, as he thought it was the right thing to do, but expressed his frustration with low interest rates and the fact that the City has reserves which one would think could be used to offset some of the other expenses, especially in these tighter budget situations, caused in part by the loss of interest income. Special Counsel Wiener stated that the limited types of investments that the City can use are most likely not going to give any better returns. City Treasurer Bauch said that is exactly what the City found when looking into this matter some time ago, and even though it is definitely distressing, there's not much that can be done about it.

Mayor Pro Tem Siegel asked about possibly eliminating the \$25,000 community grant item from the proposed budget. He pointed out that originally this item was established as a means of giving back to the community when the City had surpluses, but he is not totally comfortable with it when the budget is showing a deficit. Council Member Freedland said he would hate to eliminate the item, but could see it being reduced.

Council Member Weber added his comments:

The \$275,000 deficit is unrealistic based on one time hits; in reality the deficit is closer to \$50,000 based on the revenue projections; he was originally concerned, but felt better after seeing the May financial statement, showing higher revenue, which could make the proposed deficit more like \$20,000 - \$25,000; as much as he hates to cut from Public Safety, \$7000 could be taken from that budget, as the base station radio will not need to be replaced until the next fiscal year to meet the 2013 deadline imposed for broadband changes by the FCC; removing the \$7000, plus perhaps a portion of the community grants would leave a very small deficit; in addition, the City staff is very good at cutting costs during the year.

Mayor Pro Tem Siegel pointed out that if the \$7000 was taken out for the radio (that was not necessary during this fiscal year), and the community grants item was dropped to \$15,000, the budget would almost be balanced, except for the \$225,000 for the one time expenses.

In response to Council Member Freedland, Bookkeeper Randee Weinberger explained that the City received twice as much as expected from motor-in-lieu fees, and she was told that would happen again this coming year – so she feels the number in the proposed budget is realistic. Council Member Freedland suggested that the following changes be made to the proposed budget: change the property tax income from \$650,000 to \$680,000; eliminate the \$7000 for the base station radio, and delay that for one year; and reduce the community grants from \$25,000 to \$15,000.

Mayor Cohen asked if there were any comments from the audience. Resident Mathy Wasserman asked that the community grant item not be cut, as even though the actual technology grant program is over (since one of the cities pulled out), the other three cities in the District are now stepping up, and she would hate to see Hidden Hills, who has always been the leader in contributing, take a step backwards. She added that the other three cities had all committed a certain amount per student, with Westlake Village committing \$50,000 for each of the next five years.

Treasurer Bauch felt the community grants could be left at \$25,000, with Council Member Weber agreeing, pointing out that even if the \$25,000 was in the budget, the City didn't have to spend it all or any of it, depending on the circumstances. Council Member Freedland also made it clear that the \$200,000 being given to the Association is not in the community grant budget, and if there is a need for the schools, that does not preclude the City from giving money later. He can't speak for everyone on the Council, but he believes no one is saying they don't want to support the schools, especially if it helps for the other cities to see that there is money in our City budget for the schools.

In response to Council Member Weber, Bookkeeper Weinberger said it looks like the City will end up with a surplus this year, even though the budget projected a deficit. Treasurer Bauch suggested the community grant item be left at \$25,000, with the other Council Members

agreeing; however, Mayor Pro Tem Siegel stated he wanted everyone to remember this conversation so when grant requests are made in the future, the Council will consider denying requests if there are no excess funds.

Mayor Cohen stated that although he looked at the budget as a guideline, by approving it, the Council is in essence authorizing staff to cut checks within those approved amounts. The City Manager explained that even though the amounts are approved, the City still has purchasing procedures and staff still brings almost everything to the Council for approval. Mayor Cohen then directed staff to bring the revised budget back to the next meeting for adoption, with the changes as directed above: change the expected property tax income from \$650,000 to \$680,000; eliminate \$7000 from the Public Safety budget; leave the community grant item at \$25,000.

#### **CONSENT CALENDAR**

- A. City Council Minutes – May 23, 2011**
- B. Demand List**
- C. Disbursement List – May**
- D. Financial/Treasurer’s Report – May**

Upon MOTION of Council Member Freedland, seconded by Council Member Landon and unanimously carried on roll call vote, it was resolved to approve items A, B, C, and D of the consent calendar as submitted.

#### **MATTERS FROM STAFF**

- A. Status Report and Direction from City Council Regarding Proposed ACI Development (Bridle Trail Road Area)**
  - 1. A Final Environmental Impact Report for Proposed Vesting Tentative Map 63567, Including a General Plan Amendment, Pre-Zoning, and City Annexation of Approximately 7.8 Acres of Property from the County of Los Angeles; and**

- 2. A General Plan Amendment and Pre-Zoning of Approximately 7.8 Acres of Property Proposed to be Annexed, and**
- 3. An Application for Vesting Tentative Map 63567, Including 7.8 Acres Proposed to be Annexed to the City**

City Engineer Dirk Lovett gave the following staff report:

On 12/13/10, the City Council held a public hearing, and staff was directed to prepare a resolution for the 1/10/11 Council meeting to deny the application for Vesting Tentative Map (VTM) 63567, the General Plan Amendment, and the Pre-zoning application; on 12/23/10, the applicant (ACI) submitted an application to revise VTM 63567, so no denial resolution was prepared, and the Council closed the public hearing on 1/10/11; staff reviewed the application which was deemed incomplete; a 1/20/11 letter stating that fact was sent to ACI; it has been almost six months since the revised application was submitted on 12/23/10, and staff wanted to provide a status report and get direction from the Council since the revised application is still incomplete; staff has met with the applicant, ACI has submitted some items based on those conversations, and ACI has worked with the Association to clarify some of the conditions stated in the 1/20/11 letter; staff contacted the City's EIR consultant, who thought it would take 3-6 months to complete all the outstanding items stated in the 1/20/11 letter; staff has provided three options for the Council (as stated in the 6/8/11 staff report); staff would recommend, based on the time period suggested by the EIR consultant, that ACI be given a certain date (such as 11/28/11) by which the revised application has to be deemed complete; if it is not deemed complete by the date selected, a denial resolution can be placed on the Council agenda two weeks later for consideration.

Mayor Cohen asked if anyone in the audience wished to speak, asking them if possible to limit comments to three minutes and to not repeat the comments of others. Mike Ashley was the first to address the Council, stating the following:

Dirk's report as presented is pretty accurate, but he believes there are additional items not part of the report that it would be important to place in the record; he has made colored notes on Dirk's 1/20/11 letter (he handed out copies); the yellow items (2, 7, 14) had to do with deficiencies in the street design; ACI went to the engineer right away and asked him to redesign and make sure the design was in compliance; this was done, and on 3/18/11, Wes Myers met with Dirk to resubmit the new plans on this matter; Dirk looked at the plans at the counter, told Wes it was okay, and to go ahead and proceed.

Mr. Lovett replied that he told Wes he did not want the plans in until there was a complete application, because the grading plans, street plans, drainage plans, etc. are all contingent upon each other. Mr. Lovett added that he did look at the plans across the counter, said the plans looked good, but he could not consider approval until he saw the complete package. Mr. Ashley continued speaking:

He was informed by their engineer that one of his big concerns was with drainage, hydrology, street runoff, etc.; they suggested the engineer address this from "a green standpoint" (for example, filtration before going into the street); he contacted Dirk on 2/28/11 and asked about looking at the hydrology and proceeding from this standpoint; Dirk's responding email said that sounded great and to proceed as long as it met all codes and any other requirements; the engineer redid a complete new hydrology package for the project, which included the new green design for runoff; the package was completed and delivered to the City on 4/21/11, so Dirk now has it; on Dirk's correction list, there are numbers marked in pink (5, 15, 22, 27, 28), which are all Association questions; since they don't have an approved plan by the Association, and at this time the Association does not wish to review anything further until an updated EIR is completed, he is not sure what to do now with these matters; you can see that there is a requirement for approval by the Association, and he wondered if that is indeed a requirement; per Dirk, it is, even though this is after the fact of the City; this was a surprise, because around 1985 there was a resident doing an addition to a house (not related to ACI) who did not want to go through the Architectural Committee; he was led to believe that the City couldn't condition approval on the approval of a private entity; he does not know if that is true or not; regardless, they continued working with the engineers, who are possibly very close to having a complete redraft of the plans along with all corrections; they are experiencing another problem in relation to having a complete submittal per the California Map Act section 65943 (he handed out copies and read the section); the last note on Dirk's 1/20/11 letter says additional items may be required; this puts them in a difficult position, as they are not sure what is required for a complete submittal; so they are working with the engineer and have everything; they are prepared to answer but need a complete package to finish, which they should be able to do very soon.

Resident Britt Aaronson then addressed the Council:

This is a pertinent issue not only to those on Bridle Trail but to the entire community; she appreciates the time and energy the City staff has spent in relation to this project; she is here on behalf of herself and her husband, and they are asking the Council to deny this incompletely submitted plan; ACI is not making a good faith effort to complete its submission in a reasonable time period; in addition, the grading, developments, and installation of utilities on the LA County property since January of 2011 may have



significantly changed the conditions of the property; the information provided in the January 2011 submission may no longer be accurate or relevant to the proposed plan; ACI's intended development plan is confusing, because even as the incomplete plan is submitted to the City, ACI is working on the LA County property which they are asking to annex into the City, and at the same time ACI is in litigation with the Association regarding access to the same County property; their request does not reflect any opinion they have on the merits of the proposed development as it is incomplete; they are requesting that if the not-to-exceed plan is not completed or withdrawn by ACI within 30 days, that it be denied by the Council; they are also requesting denial of the annexation of the County property until the Association and City agree on a development plan and mitigation measures to protect the rights of Hidden Hills and its residents; she would also like to address a couple of the points Mr. Ashley just made; the City hasn't received a completed application within a reasonable amount of time; it has been over three years, and you see the same group of people coming to the meetings and being very patient; but the plans keep changing; the LA County property is the only area that has an approved plan, and ACI is currently working on that part, so by their own hand, they have changed the condition of that property; their Hidden Hills plan included all of that County property; regarding approval by the Association, again by their own hand, ACI has chosen to sue our own Association and enter into a lengthy arbitration; they have complicated their ability to access that land, which is probably why they continue to bulldoze and tear down the perimeter fence, which compromises our security and that of our children and animals within the whole community; they appreciate the Association and how they are responding by putting up the fence and clearly stating that ACI does not have access through Hidden Hills streets, but Mike continues to do it; ACI is mixing all these County, City and Association issues, so there is not one big picture of the intended proposal because ACI has not clearly expressed it; a horse corral has been approved and ACI is working on it on the County property, while there is the incomplete submission to the City, and also the entitlements to build five homes within Hidden Hills; the Hidden Hills property was graded thirty years ago, and due to time, things have changed, except for the land and topography; it was a hill then, and it is still a hill today; the County property was purchased later, not at the same time, so it was not assumed that it was all going to be one property; she and her husband believe that ACI has acted in really bad faith; ACI is going through processes with the different entities and expressing different projects with each one, leaving everyone confused; it is clear that they have all been very patient; they want the Council to deny the plan; if a new plan is submitted encompassing all the properties, the Council and the community can examine the plan to see if it is right for the community.

Mayor Cohen announced that an email had been received from resident Marta Kurland (on behalf of herself and her husband), which in summary asked for the Council to deny the ACI

plan as it had not been pursued in a reasonable manner. The letter will be added to the file and available for anyone to review.

Resident Laura Goldwasser said that the 1/10/11 minutes directed staff to send a letter to the applicant deeming the application incomplete and requesting whatever additional information was required, referring to a 30 day time period. She wondered if the applicant had completed everything listed in the letter, and why this was still being discussed five months later instead of 30 days later. Mayor Cohen explained that the 30 days was the time period for staff to determine if the application was complete or not, and to respond to the applicant. Council Member Freedland further explained the following:

The revised application is not complete, and the applicant was given a list of corrections; usually, a developer is anxious to move forward with a project, as it is expensive to hold onto property and not develop it; the onus of speed is put on the City staff to force them to return information and corrections to the developer so as not to hold a project up.

In response to Ms. Goldwasser, Mayor Cohen said the applicant has not met many of the corrections, and that is why the Council is addressing this matter tonight – to try to determine what actions to take and when. Ms. Goldwasser then stated that she and her husband agree with the Aaronsons and the Kurlands, and would like the Council to deny this project, as it has been years and years.

Council Member Landon asked if Mr. Ashley was correct in stating that he could not answer some of the listed corrections without further direction, and that there were some corrections that the Association could not approve until the City approved them (catching ACI in between the Association and City). City Engineer Lovett explained that when these issues were raised by Mr. Ashley, City staff worked with and got a written statement from the Association saying they wished to defer comments until the draft EIR was complete. Mr. Lovett added that he then informed the applicant that the City would defer those specific requirements until that time, so that issue was already resolved.

Council Member Freedland then asked if the current requirements were any different than requirements ACI would have had to do in the past with other developments. Mr. Lovett said there was nothing significantly different that he could think of. Council Member Freedland then asked Mr. Ashley the same question, as well as asking if he correctly heard Mr. Ashley state that he was substantially finished with all the corrections. Mr. Ashley replied as follows:

Yes, we are substantially finished with all the corrections per the sheet from Dirk that the engineer can do at this time; there are some corrections that are not appropriate to do at this time and it states that, such as the EIR, LAFCO, and the Association; there are numerous items on the list.

Council Member Freedland said these items had already been addressed by staff (which Mr. Lovett confirmed), so he wondered what the problem was. Mr. Ashley answered with the following comments:

He has a 3/10/11 letter from the Association which is part of the ongoing discussions with Dirk and the Association; but he'd like to address the question of how this is different now; it is very different; in his forty years in dealing with numerous subdivisions in Hidden Hills, he has always had two distinct entities to work with, which he has talked about before; the City, until 1993, had a Planning Commission (PC) from 1970; the PC sat down, discussed, and made recommendations so there was a plan that had everything ironed out when it came to the City Council; we had an idea of what the City wanted, and the City had an idea of what we wanted; now there is no PC; every time he has asked for a committee or group to go over this, it has been denied; every single development he's done has gone through the Association concurrently and sometimes before the City, and they gave him a list and we all worked together so the plan the City got was consistent with them; part of that was done this time, as they spent a lot of time with the Equestrian Services Committee (ESC), who gave ACI a list, resulting in modifications to the plan; work has constantly been going on with this project; no one is stalling or sitting back; we are constantly modifying the plan so it is good for everybody; the Trails Committee was very cooperative, and they are now happy with the modifications; we came back to the Association who said they didn't think there was a problem, but they won't comment any more until the City does; he has a two-page letter from the Association [parts of which he read] that was given to him as a courtesy; on this list there are numerous items that this developer, or any developer, should know going in, but they don't have that privilege; the letter said the CC&Rs must be agreed to, but since there are 17 sets of CC&Rs, which one are they talking about; they said an annexation fee must be paid within five days of recordation of the CC&Rs, but we have no idea how much; the City has asked us, after we've spent close to \$350,000 over the last three years

on this project, to finish Dirk's corrections/requirements, sign a letter that everything is on us, and pay another \$40,000 to process the EIR; we know this is a requirement, but there is no commitment from either the City or Association side; we could have \$400,000 in this project by the time we get done, and it's possible that the Association could override the City's decision; we just don't know; up until now, no single subdivision has been processed this way, and this just doesn't make sense; the trail specifications require no more than a 3:1 slope, and no parkway trail if other alternatives are possible; the Bridle Trail bog on the trail at the end of Bridle Trail Road must be addressed to the satisfaction of the Association; I built that trail and it was perfect; the Association stopped work on it for years, and now it's a bog; my money has been going to them to take care of it, and the way they take care of it is by fencing it off because it's dangerous; I called the Association regarding the 3-4' of stagnant water, and the way they fixed it was to call the County who came out and put mosquito killer in it; that's what goes on; and you have people here who believe that this project can be done in a positive manner without grading, separate from the rest of Hidden Hills; then the Association says you have to have all these trails with no more than a 3:1 slope; if you have hills and gullies, unless you grade, you can't get the number and connecting trails that the Association wants; so to answer your question, yes it is a lot different, and it doesn't make any sense; we are trying to give the City what they need, and that's the best we can do.

Council Member Freedland then asked Mr. Ashley if what he was saying was that all the corrections listed in Dirk's 1/20/11 letter are substantially complete. Mr. Ashley replied as follows:

He didn't say that – he said the ones that have to do with the City that the engineer can complete, like the roads, the design, and those types of things; part of those, like I said, are things that have to be done; there has to be an updated, per Dirk who is correct, EIR subjects that have been changed because of this – they need to be brought current and we haven't done those yet; that will take the EIR consultant, and I don't know what those numbers are; but the things that the engineer can correct that Dirk asked for, plus those that were marked on the plans – those items he is working on and they can be done in probably a week; the numbers corresponding with that list, I can give you tomorrow which ones will be addressed by the engineer; there are some that won't be, as they can't be yet; we have to get the information somewhat resolved by Dirk to be able to go to the EIR people; it is the same thing as the roads; think about it; here's a road that doesn't meet the standards; it was our fault and we went back and said get it in line right now; if we would have done everything at once, including the EIR, the EIR would be done on a road section that we all knew would have to be changed; that is ludicrous; when a map is believed to be in conformance with codes by staff, then the EIR can be addressed because there is a strong belief it won't be changed; to go ahead and do the EIR and some other

things before you've done the technical correction of those items like hydrology, doesn't make sense; it is not done anyplace I know of in that manner; you get the plan fixed, then you address it from the rest of these things; that's what we're trying to do, even though we don't know whether or not it's complete.

In response to Mayor Cohen, Mr. Lovett said he was not sure if he had a copy of the letter from the Association that Mr. Ashley referred to, but staff does have one letter saying the Association would like to defer comments on certain items until after the draft EIR is prepared. In response to Council Member Weber, Mr. Lovett said he has not prepared a schedule for completion of the draft EIR, but all of the corrections listed in his 1/20/11 letter need to be submitted before work can begin on the EIR, and that estimate of time for those corrections was 3-6 months.

Council Member Weber asked Mr. Ashley if he was saying that all of the corrections that Mr. Lovett's staff report said could be done in 3-6 months, were substantially done, except for those related to Association issues. Mr. Ashley said no, that out of the estimated 30 corrections, 20 can and should be done by his engineer to bring the plans into conformance with City codes – these items are completed. Mr. Ashley stated that the other 10 are EIR matters. Council Member Freedland pointed out that no one is asking Mr. Ashley to do the EIR now, and that there is no item on the correction list stating that the EIR has to be done, just that money has to be submitted for the EIR. Mr. Ashley asked if there wasn't something on the list about bringing the EIR matters current, such as a traffic study. Mr. Lovett explained to Mr. Ashley that a traffic study is required by the EIR consultant so he can do his work. Mr. Ashley stated those items were out of his hands, as all he does is get the bill. He added that staff works with the EIR consultant, and the consultant brings those current. Council Member Freedland asked Special Counsel Wiener to comment, which he did as follows:

There are two things we are talking about here; there are technical studies that a developer would typically prepare that are provided to the EIR consultant which form the technical basis for the environmental analysis; the developer in this case is being asked to provide those technical studies including a traffic report and other technical studies, and is also being asked to provide an additional deposit to fund the EIR consultant's analysis of the environmental impacts of this project; he does not believe that either of these are

out of Mr. Ashley's hands; preparing the technical studies does take some time; the deposit presumably does not take long once the developer is ready to go.

Mr. Ashley added the following comments:

I agree with Mr. Wiener; we have to submit, hopefully, a technical correct plan to the people doing the study to be submitted back to the EIR consultant, such as traffic; once we know that the streets are the way they are supposed to be, we can submit all of that; that is our job and our job to pay for these and to get those people to do it; once they compile these reports, they go to the EIR consultant, and then the EIR schedule is out of our hands.

Special Counsel Wiener said that was correct, but once those reports are prepared, along with the other requirements set forth in Dirk's 1/20/11 letter, the application becomes complete and there is no longer a deadline on the developer. Mr. Ashley then asked about the last sentence in Mr. Lovett's letter. Mr. Wiener said that could be taken off the table, stating that of the 33 corrections (now probably 32 since Dirk was clear that the Association approval is not required at this time, given the Association's desire to wait until the EIR is prepared), if these are all met, the City will deem the application complete. Mr. Ashley said that was fine if official.

Mayor Cohen said he thought he understood what Mr. Ashley was saying, but was a little disturbed that a lot of what Mr. Ashley said could have been addressed on his own volition in the last 3-4 months; if he felt the letter was misleading or he had questions, he could have asked instead of waiting until the Council took the initiative to place it on the agenda. Mr. Ashley said Mayor Cohen was totally right, and if you look at what he said earlier, starting with the streets, hydrology, Association questions, and the fact that each of those corrections are made or will be done by the end of the week, he is not sitting back and the items are being taken care of.

Council Member Freedland then asked Mr. Ashley to confirm that he was saying the City would have the 32 outstanding corrections by the end of the week. Mr. Ashley said he was saying that the City will have the corrections that the engineer can do. When Council Member Freedland asked when all 32 of the corrections would be done, Mr. Ashley said he had no idea. Mayor

Cohen said the letter was addressed to Mr. Ashley with the understanding that work on the draft EIR will not commence until the staff deems this application complete – none of these items are going to the EIR consultant if some other items are not done, so he does not understand what the holdup is. Mr. Ashley replied as follows:

He's not sure anything is holding it up from being completed until he goes through item by item; it is being addressed and has been addressed on the items he knew about; they were not sure if this was a complete list; the State requires a complete list, and requires a list of how the ones not done are to be done; we're making progress and will continue to make progress.

Council Member Weber asked if his assumption was correct that if the note was eliminated, and Mr. Ashley came in with a complete package, Mr. Lovett would have 30 days to review the material to see if it was complete – if it was not complete, another list could be made of the outstanding items, and this list would be presented to Mr. Ashley to complete. Mr. Lovett said that was correct. Council Member Weber then asked when Mr. Ashley could come in with a complete package. Wes Myers of ACI stated that he was the one who submitted the original revision packet, and in answer to Council Member Freedland's earlier question, he would like to provide his perspective on how this was submitted. Mayor Cohen said no thank you, that the question had already been answered.

Mr. Myers then asked if everyone agreed that there have been changes to the 1/20/11 letter, so some things need to be crossed out that are no longer required. Special Counsel Wiener provided the following reply:

That is not true as nothing has changed; Dirk previously indicated that he informed ACI that the Association approval requirement was no longer required; he believes there was no intent to require anything in addition to this; but to make the record clear, he indicated that the 33 requirements, less the Association requirement leaves 32, which is probably 31 since #26 is just an informational note that LAFCO approval will be required prior to the approval of the final map, not prior to completion of the application; so nothing has really changed; the requirement to submit the 32 items remains and has remained for a period of time.

Council Member Weber then asked about the five items highlighted by Mr. Ashley that were indicated as being Association issues. Special Counsel Wiener stated the following:

#5 has been taken off the table; #22 doesn't necessarily require Association approval, because if there's some other means of access, ACI can propose an alternative; #22 states "Legal access or intent to provide access to the VTM shall be obtained from the Hidden Hills Community Association"; if the map is going to show access through Hidden Hills, then it is a reasonable requirement to show that that access is available; if access is to be provided a different way, then you would not need to show approval from the Association.

Mr. Myers, stating that there was still discussion and confusion about what this actually means, proposed that a fresh correction letter be drafted, after which ACI can give to the City its timeline, once the Council has decided which corrections are the ones ACI needs to follow.

Special Counsel Wiener explained the following:

Again, he does not believe there has been any change from what Mr. Lovett previously represented with regard to the identified corrections; Dirk already indicated that #5 did not need to be complied with; he believes the others are appropriate and does not see a need to change the requirements that have been set forth; if ACI wishes to discuss that, they can discuss it with Dirk but in a timely manner.

Mayor Cohen said Mr. Myers had still not addressed Council Member Weber's earlier question of when the 32 requirements could be completed, to which Mr. Myers responded that he was still trying to figure out which ones they had to complete. Mayor Cohen asked how long it would take, assuming that ACI needed to complete all the requirements except for #5. Mr. Myers stated the following:

We are in the process, as everyone is aware, of completing #22; we are in a disagreement there, so it has gone to a different forum, and your guess is as good as ours as to when that will be resolved; we are moving forward as quickly and efficiently as possible.

Council Member Weber felt that there might not be approval from the Association until after the fact (although he was not suggesting that #22 be removed), but he was looking for an answer as to how long it would take for all the rest, since Mr. Ashley said those were almost done. After conferring with Mr. Ashley, Mr. Myers stated that by the end of next week, everything except for #5 and #22 and the end note could be completed. A MOTION was then made by Council



Member Freedland and seconded by Mayor Pro Tem Siegel to direct staff to prepare a resolution for the next Council meeting (two weeks from tonight) to deny the original application, which would be after the time Mr. Myers just stated. Special Counsel Wiener commented as follows:

He has no problem with the motion, but if the material is submitted within the next 7-14 days, that is not enough time for staff to review the material to determine whether the application is complete (since staff has 30 days to complete that review) before that next Council meeting; just to remind everyone, there is an application pending; the resolution would be to deny that application which is 3+ years old; there is also an application that has been submitted to revise that original application; that revision is what has been mostly discussed this evening; the completeness of that application for the revision is what the City has been awaiting; if it is submitted sometime between 6/20-27/11, staff will then need 30 days to review the submittal for completeness; he would then suggest that staff be given until the meeting following that 30<sup>th</sup> day so an agenda report and denial resolution can be prepared – that date would be 8/8/11.

Resident Patrick Finn wondered if nothing was submitted by ACI by the date stated, if the original application could be denied sooner, rather than waiting so long.

Along those lines, an amended MOTION was then made by Council Member Freedland and seconded by Mayor Pro Tem Siegel to direct staff to prepare a resolution to deny ACI's original application for the 7/11/11 Council meeting if ACI does not submit any material by 6/24/11, or for the 8/8/11 Council meeting if material is submitted for the revised application by 6/24/11 but is deemed incomplete by staff.

Mayor Pro Tem Siegel asked if section 65943 submitted by Mr. Ashley regarding an application determined not to be complete applies to what the Council has been talking about. Special Counsel Wiener responded as follows:

That section is from the Permit Streamlining Act, not the Subdivision Map Act; however, the provision does apply to any development application, including Subdivision Map Act applications; so the answer is yes; he believes the 1/20/11 letter complies with that; he understands the point about the asterisk at the end, which would not have been a problem of non-compliance unless we added to that list of 32 requirements, which was never the intent; he hopes it was made clear tonight that this is not the intent; the 1/20/11 letter fulfills the requirements of section 65943.

Council Member Freedland wished to make it very clear that if something is submitted by 6/24/11 that is deemed incomplete by staff, and that does not allow the City enough time to get something completed, August 8<sup>th</sup> is the drop-dead date. He and Mayor Cohen both asked Mr. Ashley if he understood that and understood the motion, to which he said yes.

Ms. Aaronson asked how many points from the letter needed to be answered, as she was concerned that items could be submitted not in good faith which could delay the process. Mayor Cohen explained that the Council was expecting a packet of information that staff would review and determine whether it was complete or incomplete, with Council Member Freedland adding that the motion covered her concerns. As there was no further discussion, the amended MOTION was passed unanimously.

**B. Consideration of Approval of Notice of Completion – Round Meadow/Long Valley Road Utility Undergrounding Project**

City Engineer Dirk Lovett presented the following staff report:

This pretty much wraps up the recent undergrounding project; over the past several years the City accumulated and set aside over \$800,000 for the general undergrounding of utilities in the City; on 11/23/09, a contract was awarded to Tidwell in the amount of \$256,178.43 to underground the overhead utilities near the intersection of Round Meadow and Long Valley Roads, including a portion of Wingfield Road; the project was completed in May, so it is now appropriate to accept the project as complete, direct the City Clerk to file a Notice of Completion, and authorize the release of the 10% retention after the standard lien period; there were some extras authorized due to the extension of the undergrounding beyond the original scope (at the request and expense of a resident), design errors by the utility companies, and an increase in the amount of slurry seal; that brought the total cost due to Tidwell to \$329,290.70; the staff report includes a table showing all the costs for the entire project at \$743,123.07; combined with the funding contributed by residents, there is a balance in the future undergrounding set-aside account of \$161,983.86.

Upon MOTION of Council Member Freedland, seconded by Council Member Weber and unanimously carried on roll call vote, it was resolved to accept the Tidwell work as complete,

authorize the City Clerk to file a Notice of Completion, and authorize the release of the 10% retention (\$32,929.07) upon satisfactory clearance of the thirty-five day lien period.

**C. Charles Abbott Monthly Report - April**

The report was received and filed.

**CLOSED SESSION**

**CONFERENCE WITH LEGAL COUNSEL:**

**Existing Litigation Pursuant to Government Code Section 54956.9(a): Number of Potential Cases – 1**

**Paul Ottosi v. City of Hidden Hills, et. al., Los Angeles Superior Court Case No. LC 089678**

There was no need for a closed session at this time.

**ADJOURNMENT**

There being no further business to come before the Council, upon MOTION of Council Member Freedland, seconded by Mayor Pro Tem Siegel and unanimously carried, it was resolved to adjourn the regular meeting of June 13, 2011 at 9:20 p.m.

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Jim Cohen, Mayor

ATTEST:

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Cherie L. Paglia, City Manager/City Clerk