



**BENICIA PLANNING COMMISSION
CITY COUNCIL CHAMBERS**

REGULAR MEETING MINUTES

Thursday, July 10 2008

7:00 P.M.

I. OPENING OF MEETING

- A. Pledge of Allegiance**
- B. Roll Call of Commissioners**

Present: Commissioners Richard Bortolazzo, Rick Ernst, Lee Syracuse, Brad Thomas and Chair Fred Railsback

Absent: Commissioners Dan Healy (arrived late) and Rod Sherry (excused)

Staff Present: Charlie Knox, Community Development Director
Dan Schiada, Public Works Director
Gina Eleccion, Management Analyst
Kitty Hammer, Consultant
Kat Wellman, Contract Attorney

- C. Reference to Fundamental Rights of Public - A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to this meeting room per Section 4.04.030 of the City of Benicia's Open Government Ordinance.**

II. AGENDA CHANGES AND DISCUSSION

None.

III. OPPORTUNITY FOR PUBLIC COMMENT

- A. WRITTEN**

None.

- B. PUBLIC COMMENT**

None.

IV. CONSENT CALENDAR

On motion of Commissioner Ernst, seconded by Commissioner Syracuse, the Consent Calendar was approved by the following vote:

Ayes: Commissioners Bortolazzo, Ernst, Syracuse, Thomas and Chair Railsback
Noes: None
Absent: Commissioner Healy (arrived late) and Commissioner Sherry (excused)
Abstain: None

A. Approval of Agenda

V. REGULAR AGENDA ITEMS

**A. USE PERMIT FOR VALERO IMPROVEMENT PROJECT (VIP)
AMENDMENTS**

07PLN-32
3400 East Second Street

BRIEF DESCRIPTION OF PROJECT:

Valero Refining Company requests approval of a Use Permit amending the Valero Improvement Project (VIP) Use Permit approved in 2003. The VIP, as approved in 2003, is comprised of a number of project elements that Valero hoped to undertake at the refinery over the ensuing seven years. Only a few of the project elements have been constructed. Valero now wishes to modify portions of the VIP to improve air pollution control, energy efficiency, and flare minimization, and to make other technical modifications to VIP project elements based upon detailed engineering analysis of the project as originally proposed. Valero requests that the December 31, 2009 use permit expiration date be extended to December 31, 2014 to allow for construction of the project as amended.

Recommendation: Approve the Use Permit for the Valero Improvement Project Amendments, based on the findings, and subject to the conditions listed in the proposed resolution.

Charlie Knox noted that an agreement has been reached between Valero and the Good Neighbor Steering Committee for additional conditions to commit to Provision 5 of the June 5, 2003 Settlement Agreement regarding conservation efforts. Charlie Knox thanked Dana Dean, Marilyn Bardet, Chris Howe and Valero staff for their efforts in negotiating this agreement.

Kitty Hammer, Consultant, gave an overview of the project. She gave a history of the refinery and the Valero Improvement Project (VIP). She noted that Valero is currently working on crude tanks and low-sulphur diesel projects. The Federal EPA requires a better scrubber be constructed by the end of 2010. The scrubber and a new hydrogen unit are the main components of the VIP. An environmental assessment determined that an addendum was the appropriate CEQA document. The addendum was circulated and one comment was received from the Good Neighbor Steering Committee. The VIP amendments would further reduce emissions from those identified in the original VIP Environmental Impact Report. The City has determined it can meet the water demands,

including those related to the VIP. The refinery has reduced its water need. One condition of approval is to incorporate the 2003 Settlement Agreement as a formal condition of approval. Staff is recommending the permit be conditioned to enforce a cap regarding emissions. In addition, the color of the scrubber is being conditioned. The scrubber will be stainless steel, with painted lattice work. Valero requested changes in six of the conditions of approval. Valero also requested to extend the Use Permit expiration date to December 31, 2014. Staff recommends granting this extension. The requested Use Permit would allow improvements to decrease emissions. Staff recommends approval with conditions.

Kitty Hammer introduced Tim Morgan and his staff from ESA, who assisted on the environmental assessment. In addition, she introduced Anna Shimko, an attorney working with ESA. Charlie Knox noted that Condition #13 should incorporate the new agreement between Valero and the Good Neighbor Steering Committee distributed at the meeting.

Commissioners discussed the changes to condition #13 related to Valero and the Good Neighbor Steering Committee.

The peer analysis was discussed. Kitty Hammer noted that the peer review was conducted by environmental experts. ESA employs such experts, who carefully reviewed the CEQA analysis provided by Valero in relation to the impacts of the project.

The addendum was discussed. The City oversaw the analysis performed by ESA.

The increase in property tax revenue was discussed. Charlie Knox noted that an additional \$500,000 per year in revenue is anticipated at buildout.

Mitigations related to water use were discussed. Kitty Hammer noted that these mitigations are related only to the VIP project. Any water shortage would require a reduction in use.

The need for a Use Permit, based on the legal, nonconforming use, was discussed. Charlie Knox noted that there wasn't a requirement for a Use Permit in 1968 when the refinery came to Benicia.

The Mitigation Monitoring and Reporting Program (MMRP) was discussed. Kitty Hammer noted that there were no new significant impacts, so the MMRP remains the same and should be incorporated as an exhibit to the approved Resolution.

This project was discussed in relation to the Benicia Business Park project. All of the effects of the refinery were considered in the environmental analysis of the Benicia Business Park project. Kat Wellman noted that Valero already has approval for the project. This amendment simply allows additional facilities that result in reduction in emissions.

AB32 was discussed in relation to the project. Anna Shimko noted that the standard for environmental review beyond an addendum to be new significant impacts, which has

been determined is not the case. Therefore no further environmental analysis beyond the addendum is required. The addendum includes a quantification of the greenhouse gas emission, which shows a decrease in emissions if the amendments are approved.

Kitty Hammer noted that the City has obtained more water, so there is an additional water supply available. Regarding this condition, there is less impact with the additional water supply. Dan Schiada, Public Works Director, noted that the additional water added an additional 10,500 acre feet. There is still enough water to provide for this project, as well as other projects called out in the General Plan, including the Benicia Business Park project.

Condition #14b was discussed. It is intended to ensure that the scrubber gets built.

Regarding AB32 Charlie Knox noted that the City is completing a greenhouse gas emissions inventory.

Don Cuffel, Principal Environmental Engineer, Valero , gave a brief presentation on the amendments. The amendments refine the previously approved project, and do not increase emissions. An overview of the scrubber operation was given. The existing hydrogen plant will be decommissioned. The new hydrogen plant will consume internal refinery fuel gas, thereby reducing flaring.

Commissioners questioned where Valero purchases its crude oil. A Valero representative noted that it varies. Don Cuffel noted that the amendments also reduce water use.

Commissioners questioned Valero's approach to AB32 requirements. Chris Howe, Valero, noted that the agreement with the Good Neighbor Steering Committee specifies Valero's commitment to environmental issues. Valero would like to be recognized as an environmental partner with the City.

Don Cuffel commented on flare issues. He noted that flare is a safety critical device. It safely combusts material that cannot be contained in the plant. Steam is injected with material going to the flare.

It was noted that up to 50 jobs may be created as a result of the VIP.

The possibility of participation with other refineries in a hydrogen grid was discussed. There are no plans at this time related to this project.

The public hearing was opened.

Dana Dean, Good Neighbor Steering Committee (GNSC) – She noted that there have been a lot of changes in the last 5 years that have been positive. The GNSC disagreed with an addendum as the appropriate CEQA document. Climate change, water supply, and reduction of greenhouse gas emissions are major concerns. She noted that the GNSC will not appeal if all items from Exhibit A are incorporated as conditions of approval. Air quality and monitoring have always been a major focus of the GNSC. An

overview of the agreement between Valero and the GNSC was given. The agreement secures a reduction in water need. She noted that this will reduce energy consumption as well. She noted there is \$1,000,00 for buffer land and \$1,000,000 for watershed land acquisition.

Marilyn Bardet, founding member of Good Neighbor Steering Committee – She noted that safety and environmental protection have always been big issues and she appreciates the current refinery staff. She commented on the spirit of AB32. The required reductions are going to be difficult to achieve. She credited Valero with the reductions and acknowledged Don Cuffel for his work with the Citizen Action Panel (CAP). She commented on impacts from global warming. She is supportive of the additional conditions noted in Exhibit A.

Kevin Coleman, Business Agent for Local IBEW 180 – He commented on the work between Valero and the Good Neighbor Steering Committee. He believes this is a win-win for Valero and the City, based on the amended conditions of approval.

The public hearing was closed.

Commissioners commented on the collaboration between Valero and the GNSC. Air quality, water consumption and AB32 were all noted as concerns to the community.

There were questions regarding soil analysis, particularly in relation to the original EIR. Charlie Knox noted that there has been some soil analysis for the Arsenal. Kitty Hammer noted the Regional Water Quality Control Board has been monitoring water quality and soils in the ground at the refinery. They are working to mitigate any contamination.

Don Cuffel noted that there is a limit of 6 tons per year for fugitive VOC emissions so that Valero is responsible for monitoring the inventory. He noted that BAAQMD requires immediate repairs of any leaks.

Commissioners thanked Dana Dean and Marilyn Bardet for their work. In addition, Valero was recognized for their work. The importance of AB32 was reiterated. The Benicia Business Park project was referenced, specifically a bike/pedestrian trail. The potential for a hybrid transportation system was suggested.

RESOLUTION NO. 08 -5 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA APPROVING A USE PERMIT FOR AMENDMENTS TO THE VALERO IMPROVEMENT PROJECT (07PLN-32)

Kat Wellman suggested the following:

1. Eliminate #13
2. Leave #23, add “as amended by the July 10, 2008 Settlement Agreement which specifically sets forth in Exhibit A conditions of approval, which are incorporated by reference and included as additional conditions of approval of this amended use permit.”

Don Cuffel agreed with the changes proposed. He requested that conditions not be renumbered. Dana Dean noted there is an easement on the property that can be used for a bike path. Chris Howe noted that Valero would work with the City on the use of buffer zones for bike/pedestrian traffic.

On motion of Commissioner Ernst, seconded by Commissioner Syracuse, the above Resolution was approved, as amended, by the following vote:

Ayes:	Commissioners Bortolazzo, Ernst, Healy, Syracuse, Thomas and Chair Railsback
Noes:	None
Absent:	Commissioner Sherry
Abstain:	None

VI. COMMUNICATIONS FROM STAFF

Charlie Knox noted that the Arsenal Specific Plan will be on the August agenda.

VII. COMMUNICATIONS FROM COMMISSIONERS

Chair Railsback questioned if Tesla was looking for space in Northern California and wondered if Benicia had been contacted. Charlie Knox noted that he believes they are looking at 2 specific South Bay locations.

VIII. ADJOURNMENT

Chair Railsback adjourned the meeting at 9:17 p.m.