



BENICIA PLANNING COMMISSION REGULAR MEETING MINUTES

**City Hall Council Chambers
Thursday, July 11, 2013
7:00 P.M.**

I. OPENING OF MEETING

A. Pledge of Allegiance

B. Roll Call of Commissioners

Present: Commissioners Cohen-Grossman, Dean, Oakes, Smith,
Sprague, Young and Chair Sherry

Absent: None

Staff Present: Brad Kilger, City Manager
Amy Million, Principal Planner / Recording Secretary
Kat Wellman, Contract City Attorney
Tim Morgan, Environmental Consultant with ESA
Mario Giuliani, Economic Development Manager
Andrew Bidou, Police Chief
Jim Lydon, Fire Chief

C. Reference to Fundamental Rights of Public

II. ADOPTION OF AGENDA

On a motion of Commissioner Smith, seconded by Commissioner Oakes, the agenda was adopted by the following vote:

Ayes: Commissioners Cohen-Grossman, Dean, Oakes, Sprague, Smith,
Young, and Chair Sherry

Noes: None

Absent: None

Abstain: None

III. OPPORTUNITY FOR PUBLIC COMMENT

A. WRITTEN

Written comments in regard to item V. A were provided by the following: Dave Shipley, Sandra Summerfield Kozak, Iron Workers 378, Natural Resource Defense Council - Diane Bailey/Elizabeth Forsyth, Nancy Steele, Bea Reynolds, Bob Puts, Richard Freeman, Rick Slizeski, Kim White, Sabina Yates, Larnie Fox, Mary Frances Kelly Poh, Nikki Basch-Davis, and Marilyn Bardet.

B. PUBLIC COMMENT

Norma Woodward requested the Planning Commission consider granting a variance to the front yard setback requirement so that she could install a taller fence in her front yard. Mrs. Woodward was directed to work with staff on her request.

IV. CONSENT CALENDAR

Commissioner Smith pulled Items IV-A and IV-C.

A. APPROVAL OF MINUTES OF APRIL 11, 2013 SPECIAL MEETING WITH THE HISTORIC PRESERVATION REVIEW COMMISSION

Commissioner Smith requested a correction, noting her absence at this meeting.

On motion of Commissioner Smith, seconded by Commissioner Oakes, Item IV-A on the consent calendar was approved, as corrected, by the following vote:

Ayes: Commissioners Cohen-Grossman, Dean, Oakes, Sprague, Smith,
Young and Chair Sherry
Noes: None
Absent: None
Abstain: None

B. USE PERMIT REQUEST TO MODIFY AN EXISTING SPRINT PCS WIRELESS TELECOMMUNICAITON FACILTY AT 1100 SOUTHAMPTON ROAD

13PLN-00005 (Use Permit)
1100 Southampton Road, APN: 0086-151-190

Commissioner Smith requested clarification on access to the school grounds. Mario Giuliani confirmed that Sprint coordinates their site visits through the Parks and Community Services Department, who in turn advises the school of Sprint's need to access the site.

RESOLUTION NO. 13- 6 (PC) - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA APPROVING A USE PERMIT FOR SPRINT PCS TO MODIFY AN EXISTING WIRELESS TELECOMMUNICATION FACILITY AT 1100 SOUTHAMPTON ROAD, APN: 0086-151-190 (USE PERMIT 13PLN-00005)

On motion of Commissioner Smith, seconded by Commissioner Cohen-Grossman, Item IV- C on the consent calendar was approved by the following vote:

Ayes: Commissioners Cohen-Grossman, Dean, Oakes, Sprague, Smith, Young and Chair Sherry
Noes: None
Absent: None
Abstain: None

C. APPROVAL OF MINUTES OF MAY 9, 2013 REGULAR MEETING

On a motion of Commissioner Smith, seconded by Commissioner Dean, Item IV B the consent calendar was approved by the following vote:

Ayes: Commissioners Dean, Oakes, Sprague, Smith and Young
Noes: None
Absent: None
Abstain: Commissioner Cohen-Grossman and Chair Sherry

V. REGULAR AGENDA ITEMS

Chair Sherry recused himself noting his professional conflict of his company working with Valero.

A. USE PERMIT REQUEST - VALERO CRUDE BY RAIL PROJECT

12PLN-00063 (Use Permit)
3400 East Second Street, APN: 0080-110-480

Staff provided an overview of the process, the proposed project and the following clarification on the public comments received. The 29 written comments received during the 30-day public review period of the Initial Study/Mitigated Negative Declaration were included in the Planning Commission packet. The additional 3 written comments submitted after July 1 were also included in the Planning Commission packet. Since the publication of the packet an additional 14 comments were received. Those comments along with the supplemental materials submitted by the NRDC were provided to the Planning Commission and public in hard copy at the meeting.

Tim Morgan, ESA environmental consultants, provided an overview of CEQA and a summary of the Initial Study/Mitigated Negative Declaration (ISMND).

Commissioner Young stated that he did not think it was fair that no answers would be provided at this meeting.

Commissioner Smith stated her ex-parte communications. She attended a presentation by Valero at Solano County which was identical to the presentation made to the Economic Development Board.

Commissioner Young provided clarification on the process, reading from the Initial Study Mitigated Negative Declaration stating that the Planning Commission's job is to determine if the project has a less than significant impact when considering the standards of CEQA. Mr. Morgan concurred.

Commissioner Smith requested clarification on a direct versus indirect impact.

Don Cuffel, on behalf of Valero provided a brief overview of the project. He requested that the item be continued to August 1 and stated that Valero would give their formal presentation at that time. Valero would like to consider all the questions so that they can work to address them in August.

The Commission and staff discussed the process for continuance. The Commission discussed their availability and determined that there would not be quorum on August 1 and the meeting would most likely be continued to August 8.

The Commission discussed the process for response to comments on the ISMND, how to address the number of speakers for the evening and whether or not to set an end time for the meeting.

Public Comment was opened.

Diane Bailey on behalf of Natural Resource Defense Council (NRDC) requested 15 minutes as a group spokesperson. Vice-Chair Dean requested that the members of the group that Ms. Bailey was representing to please raise their hand. Several audience members raised their hand.

Ms. Bailey expressed concerns in regard to the environmental impacts and recommended that an EIR be prepared stating that an approval of this project would be precedent setting in regard to tar sands. She spoke in regard to the type of crude slate, impacts of air quality on refining dirtier crude, increased odor and petcoke dust.

Brandt Olson, on behalf of NRDC discussed the type of crude stating that the blending of crude to create ANS or Alaskan North Slope crude 'look-a-likes' has significant impacts associated with refining that type of crude. He stated that the project requires an EIR.

Commissioner Young asked Mr. Olson what the Commission is supposed to do with the fact that Valero is not stating what type of crude they are bringing in. Mr. Olson stated this should be vetted through the EIR process.

Commissioner Oakes requested clarification on what tools were available to the City for mitigating emissions of tar sands crude.

Robert Yarbrovich, resident and employee of Valero commented on the benefits of having Valero in the City. He considers himself a watchdog of Valero and supports the project as it will create new jobs, increase commerce and allow Valero to remain competitive in the industry.

Kathy Kerridge, resident and member of the Good Neighbor Steering Committee submitted questions from the July 9, 2013 community meeting. She stated she was concerned about the impact, had questions in regard to the safety of the trains, tar sands, general plan requirements, and AB32 among others. She stated that the project requires an EIR.

Linda Morgan agrees with the previous speaker and that the ISMND limits the impacts to the industrial park which is not appropriate. The ISMND needs to evaluate all impacts.

Jack Ruszel, business owner in the industrial park is concerned with the traffic analysis and specifically only field testing for 1-week. The trains that block traffic now are significant and additional impacts to that needs to be evaluated.

Rick Slizeski, resident stated that he agrees with Mr. Ruszel and the NRDC. He stated that Valero should clarify the source of the crude, an EIR is necessary; the ISMND does not address the impacts of the rail and the marsh.

Jeff McEuen, representative of Iron Works Union 378 stated that he is in favor of the project. He stated that Valero is making this a safe construction project. He encouraged the commission to approve the project as it would create new jobs.

Chris Greaney stated that he is in favor of the project. He commutes to Valero daily and does not see an issue with traffic. He commented that it is a benefit to the City to allow companies to upgrade; it is good business support.

Frank Saitz commented on safety and Valero commitments to safety. He feels that Valero has done their due diligence and if people are concerned about the rail then they should use alternative routes to the industrial park. He stated that Valero is a good employer.

Greg Armstrong, a member of the contractors associations stated that he trusts that this project can benefit the community.

Joel Fallon, resident comments that information is not available on the air quality and other standards in the City and that the City should provide a baseline so that impacts can be evaluated. He stated that he agrees there is an environmental impact and that he supports Valero providing a 'security deposit' for impacts or incidents.

David Jenkins, business owner, stated that he was impacted by traffic and that Union Pacific is constructing new rail lines near his building and that this project would impede on his personal rights such as environmental quality.

Michael Petrellese provided an overview of his life growing up in Benicia and experience working for Valero. He stated that 1/5 of the employees of Valero live in Benicia. He requests that the Commission support the project.

Jessica Hendricks, provided information about a refinery in Delaware that brought in crude by rail. She commented on the train traffic impacts, noise and that the refinery went from bringing in 25% of its crude by rail to 100% in 12 months. She stated that the project requires an EIR.

Commissioner Young requested clarification on whether or not the City has authority in regard to the Union Pacific train crossings. Staff confirmed that the City does not have authority to that with the Union Pacific right-of-way.

Lori Bateman thanked the Planning Commission and staff for their work and encourages approval of the project. She stated that the project is simply a new way to bring in crude, the project is regulated by Bay Area Air Quality Management District, she is excited about new jobs and supports the reduction in foreign jobs on foreign ships.

Keith Washington, a safety manager at Valero commented on the safe operations of the refinery and that the project will support the community.

Marilyn Bardet, a member of the Good Neighbor Steering Committee and Community Advisory Committee provided a brief history of her relationship with Valero. She commented that the project needs an EIR, questions submitted in this process are more of scoping session for the EIR, the investors report provided in the Goodman Report states that the crude is coming from tar sands, the role of other agencies, Union Pacific's role, safety requirements for rail cars, impacts of sea level rise in the marsh and the lifespan of the project.

Dan Broadwater, IBE Local 180, stated that the members of this union have worked on a lot of Valero projects because Valero has agreed to use local

contractors. This results in money staying in Benicia. He commented on Valero's safety practices, the tar sands speculation and impacts of Valero succeeding. He supports the project.

Shannon Walsh-Hill, resident, commented that Valero is a good neighbor and this project would help with unemployment.

Evelina Nava, on behalf of Communities for a Better Environment stated that the project needs an EIR and the mitigation measures do not reduce the impacts to less than significant.

Julia Hill, resident, expressed her support for the project.

Subin Varghese, comments on crude slate, the Chevron refinery incident and recommended that the Commission not adopt the ISMND.

Bob Berman commented on the fair argument standard in CEQA and that the project requires an EIR.

Ron Myska, business owner, stated he is also a Planning Commissioner in Fairfield and Chair of the Economic Development Board in Benicia. He recognizes Valero as a good steward and NRDC's global efforts. He supports the project as a revenue source and stated that tar sands are already being refined in the Bay Area, the XL Pipeline will reduce the need for crude by rail and supported energy independence.

Robert Shelby, resident stated that Valero is well run and have previously worked for other Bay Area refineries. He commented on light versus heavy crude, size of barrel, he is against expansion of carbon based fuel and supports alternative energy such as wind.

Ed Rusel commented on the impacts of the amount of crude, revenue, air quality, number of train engines, train switching outside the refinery, the lack of a tidal gate at Sulphur Springs Creek, flooding, traffic and the Union Pacific upgrade.

Damien Luzzo, provided information on the definition of indirect impact from CEQA, recommended that people watch Garth Lenz's "The Truth of Oil" video, and commented on the tar sands and rail incident in Quebec, Canada.

Constance Beutel, stated that she has two primarily issues 1) The projects implementation of AB32 for fuel standards and 2) the risk assessment needs more evaluation.

Dan Smith stated that the project requires an EIR, the ISMND does not satisfy state law in regard to greenhouse gas emissions and that he agreed with previous speakers Kathy Kerridge and Bob Berman.

Jon Van Landschoot stated that the fair argument is key and an EIR is required to address the effect of implementation of AB32. He expressed concern in regard to the source of the oil, dirty crudes as a safety hazard, the increase in trains and cumulative effects.

The public comment was closed for this meeting only and will reopen at the August meeting.

Commissioner Sprague requested clarification on the type of crude, Union Pacific's role and emission analysis.

Commissioner Oakes stated that the themes include why the scope of the project is limited to the refinery, mitigation measures for tar sands. He commented on the traffic analysis, concept of a security deposit, new jobs, sulfur and questioned the issue of larger locomotives.

Commissioner Cohen-Grossman stated that the phrase in the ISMND "is expected to be" is concerning. Questioned the existence of the action plan with the City Fire Department, mitigation monitoring reporting program, definition of a floating roof and sealed cars, the project's proximity to the creek, conflicting information on the number of new jobs created and Opticom transmitters.

Commissioner Smith, requested clarification on which were the noticed parties and if BCDC was included, stated that the project description seems too narrow and questioned the limitation. She requested additional information on the standards for train cars, if Valero could add additional rail cars later, interstate commerce law, storage of rail cars off site, Sulphur Springs Creek maintenance and maintenance of the railway.

Commissioner Young stated that it would be helpful if Valero could provide information on the crude, along with the additional consultants on the ISMND such as the traffic and air quality experts, Benicia Fire, Union Pacific representative. He also requested clarification on the City's authority over the rail traffic.

Commissioner Dean requested clarification on the rose of the water board and whether a permit is required, where does the cut material from construction go, do the pipe have an auto shut off value during seismic activity, the statement made on page II-37 of the ISMND in regard to the relative risks of crude by rail and crude by marine vessel off set each other needed to be substantiated, the

statement on page 11-65 of the ISMND and how Union Pacific's operations effect the project if they are unable to adhere to the specified rail transport times and existing rail movement in the area.

Commission took a 5 minute recess.

VI. COMMUNICATIONS FROM STAFF

Brad Kilger provided information on the City's budget and the elimination of the Community Development Director position. He also gave an outline of the new structure of the Community Development Department.

Commissioner Young requested input from staff on how to evaluate the balance of jobs and environmental impacts.

VII. COMMUNICATIONS FROM COMMISSIONERS

Commissioner Young stated that he attended a CEQA planning conference with Commissioner Cohen-Grossman.

Commissioner Dean updated the Commission on the City Council discussion in regard to potentially combining some Commissions. He attended the meeting and spoke as a resident. He reported that the City Council stated they will do nothing in regard to this through the end of the year. He suggested that the Commission discuss the possibility of moving to a bi-monthly meeting schedule on a future agenda for Commission discussion.

VIII. ADJOURNMENT

Vice-Chair Don Dean adjourned the meeting at 10:36 p.m.