



**BENICIA PLANNING COMMISSION
SPECIAL MEETING AND REGULAR MEETING MINUTES**

**City Hall Council Chambers
Thursday September 11, 2014
6:00 P.M. Special Meeting
And
7:00 P.M. Regular Meeting**

I. OPENING OF MEETING

A. Pledge of Allegiance

B. Roll Call of Commissioners

Present: Commissioners Oakes, Sherry, Sprague, Young and Chair
Dean

Absent: Commissioners Cohen-Grossman and Smith (excused)

Staff Present: Dan Marks, Interim Community Development Director
Amy Million, Principal Planner
Kat Wellman, Contract Attorney
Frank Hartig, Police Lieutenant
Teresa Olson, Recording Secretary

C. Reference to Fundamental Rights of Public

II. ADOPTION OF AGENDA

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

Ayes: Commissioners Oakes, Sherry, Sprague, Young, and Chair Dean

Noes: None

Absent: Commissioners Cohen-Grossman and Smith

Abstain: None

III. OPPORTUNITY FOR PUBLIC COMMENT

- A. **WRITTEN**- None.
- B. **PUBLIC COMMENT**- None.

IV. **REGULAR AGENDA ITEMS**

- A. **REQUEST FOR TWO USE PERMITS 1) TO ESTABLISH A PRESCHOOL FOR A MAXIMUM OF 15 CHILDREN AGES 2.9-6 YEARS OLD; AND 2) TO REDUCE THE PARKING REQUIREMENT FOR THE SUBJECT PROPERTY, AFTER MAKING A DETERMINATION ON THE APPLICABILITY OF USE PERMIT FOR A REDUCTION IN PARKING IN THE DOWNTOWN MIXED USE MASTER PLAN DISTRICT AND THAT THE PROJECT IS EXEMPT FROM CEQA.**

Application No. 14PLN-00045 Use Permit

Project Address: 835 East Second Street; APN: 0089-052-100

Commissioner Sprague recused herself from the item due to conflict stating her firm represents the architect

Ms. Million provided a presentation on the project.

Commissioners asked staff various questions including alternative parking conditions of the use permit, potential conflicts with future retail uses and prior uses of the property.

Applicant, Parisa LoBianco, answered questions about the operating hours of the preschool and spoke in support of her school.

Roman LoBianco, spoke in support of the applicant, school curriculum, and positive business record.

Joseph Herron, Special Education Coordinator, spoke in support of the project.

Marilyn Bardet, Benicia resident, spoke in support of the project.

Commissioner Oakes asked about restrictions on other uses within proximity of school in the proposed location.

Ms. Million answered questions about the Downtown Mixed Used Master Plan and development in the area.

On motion of Commissioner Young, seconded by Commissioner Sherry, the use permits were granted by the following vote:

Ayes: Commissioners Oakes, Sherry, Young, and Chair Dean
Noes: None

Absent: Commissioners Cohen-Grossman and Smith
Abstain: Commissioner Sprague

Chair Dean adjourned the Special Meeting at 6:39 p.m.

**BENICIA PLANNING COMMISSION
REGULAR MEETING AGENDA**

**City Hall Council Chambers
Thursday September 11, 2014
7:00 P.M.**

VI. OPENING OF BENICIA PLANNING COMMISSION REGULAR MEETING (7:00 P.M.)

A. Pledge of Allegiance

B. Roll Call of Commissioners

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

Absent: Sherry

Staff Present: Dan Marks, Interim Community Development Director
Amy Million, Principal Planner
Tim Morgan, ESA
Kat Wellman, Contract Attorney
Bradley Hogin, Special Counsel
Jim Lydon, Fire Chief
Frank Hartig, Police Lieutenant
Teresa Olson, Recording Secretary

C. Reference to Fundamental Rights of Public

VII. ADOPTION OF AGENDA

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

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

Noes: None

Absent: Commissioner Sherry

Abstain: None

VIII. OPPORTUNITY FOR PUBLIC COMMENT

A. **WRITTEN COMMENT**-None.

B. **PUBLIC COMMENT**-None.

IX. CONSENT CALENDAR

On motion of Commissioner Cohen-Grossman, seconded by Commissioner Oakes, the consent calendar was approved by the following vote:

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

A. APPROVAL OF MINUTES OF AUGUST 14, 2014 REGULAR MEETING

X. REGULAR AGENDA ITEMS

A. CONTINUED PUBLIC HEARING TO RECEIVE PUBLIC COMMENT ON THE DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR THE VALERO CRUDE BY RAIL PROJECT

Application No. 12PLN-00063 Use Permit

Project Address: 3400 East Second Street; APN: 0080-110-480.

Chair Dean suggested the Commissioners provide their comments first and then allow public comment for those people currently waiting to make public comment from the two previous Planning Commission meetings.

Ms. Wellman explained that there is no obligation to allow new public comment since the Commission is not taking action on this item; it is only public comment, and the Commission is meeting CEQA requirements. There are no due process violations in not allowing new speakers to make public comment.

Commissioners and staff discussed the process pertaining to receiving comment on the DEIR. Staff stated that all public comments will be replied to in writing in the Final EIR.

Staff provided additional clarification on the process and informed the commissioners on how to obtain materials on the Use Permit application for the project.

The Commission agreed to change the format, allowing the Commissioners to provide comment first, then allow public comment starting from the list of (44) speaker names pending from the two prior meetings. The Commission agreed to continue the public hearing until 11 p.m. then reassess how many new speakers were still waiting in the audience.

Ms. Million provided a brief introduction to the item, outlined the purpose

for the public comment on the DEIR, and stated the public comment period on the DEIR ends at 5 p.m. on Monday September 15th.

Commissioner Young provided his comments to the DEIR in writing and spoke briefly on a few of his comments.

Commissioner Smith commented she would like to see additional information detailing the site description rather than what is currently listed in the DEIR. She commented she had difficulties interpreting the noise study. She raised questions about potential run off, hydrology of the land, the frequency of rail traffic, capacity of the rail lines, the cumulative impacts of the deliveries, turn-around periods and the type of tank cars to be used. She also asked about the other industrial uses adjacent to the refinery; regarding vibrations and noise, which could impact employees in nearby areas, biological resources and bird populations that may vacate the area due to noise, the use of the word "vicinity" throughout the DEIR and wanted a clear definition of the boundaries of the various vicinities mentioned in the DEIR. She commented on the containment of run-off from train tracks and off-loading during heavy rains, emergency training between Valero and Union Pacific Railroad and the cumulative impact section. She will submit further comments in writing.

Commissioner Sprague stated many of her questioned were previously raised by either public comment or other Commissioners comments. She questioned the legal standard in consideration of the impacts to outlying jurisdictions.

Commissioner Cohen-Grossman stated she will submit detailed comments in writing. She raised a question on the impacts related to the new bus hub project planned for the Industrial Park, impacts related to traffic, the transportation of hazardous materials and potential affects to uprail communities. She also mentioned a meeting being held on September 29th at Solano County discussing rail traffic.

Commissioner Oakes asked questions about financial liability, he questioned the ownership of the hazardous materials or oil being transported, and the insurance levels of the parties involved. He will submit additional comments in writing.

Chair Dean raised questions related to content listed on page 5-17 of the DEIR, relating to hazardous materials, the cumulative effects and calculations listed in the DEIR. He stated the potential hazard to transporting the materials through Benicia and other communities has not been adequately answered in the DEIR. He will provide additional comments in

writing.

Commissioner Young asked about the statistics listed in the DEIR about the probability of derailment or spill and the calculations listed were too complex for an average person to understand. He requested a simplification of the statistics. He asked that calculations be used from 2009 forward.

Public comment was opened at 8:15 p.m.

Bob Livesay, Benicia resident, spoke in support of the DEIR, the public comment thus far and believes that a successful Final EIR will result from the public process. He looks forward to hearing the final project proposal. He thanked the Commission for their work.

Adela Fernandez, stated she spoke during the first public comment period.

Cara Bateman, spoke in support of the project. She presented data from the Federal Railroad Administration Office of Safety Analysis.

Chris Howe, Health Safety Environment & Government Affairs Director for Valero in Benicia, provided a list of 275 names supporting the project and DEIR.

Charles Davidson, Hercules resident, member of the Sunflower Alliance, voiced concerns about the health of the planet. He stated he is in opposition of the project. He stated the DEIR does not list the risk of fire or explosion.

Greg Karras, representing Communities for a Better Environment (CBE), stated the DEIR needs to be revised and recirculated. He stated the project is too close to other potential hazardous materials, and the Green House Gas emission calculations are not accurate. He will also be submitting written comments.

Chris Howe spoke for Greg Partch and Jim Ponder, stated they will submit comments in writing

John Hill, Vice President and General Manager of Valero Refinery, thanked the Commission for their time. He stated that the refinery is working with the City for emergency preparedness planning and that the refinery currently receives a variety of crude including Bakkan crude. He spoke in support of the project and asked the Commission to certify the final EIR.

Jim Stevenson, Benicia resident, raised questions about the catastrophic risks of the project, risks surrounding the products proposed in the project.

Liisa Stark, Director of Public Affairs for Union Pacific Railroad, stated that the railroads are federally regulated. She stated Union Pacific complies with all federal regulations and federal preemptions. She stated Union Pacific is liable for any product they transport.

Lori Bateman, Benicia resident, spoke in support of the DEIR and believes it is comprehensive. She provided additional public comment in writing.

Suzanne Kleiman, Benicia resident, spoke in support of the project.

William Darnell, Benicia resident, spoke in support of the project and stated he provided additional written comment.

Chris Howe spoke for Robert Yarbrough, Russ Rice and Tom Rybarczyk, stated they will submit comments in writing

Sheila Clyatt, Benicia resident, spoke in opposition of the project. She questioned the claim that rail transportation is more beneficial environmentally than the ship transportation. She thanked the Commission for their time and investment in reviewing the DEIR.

Chris Howe spoke for Jerry Stumbo, stated he will provide comments in writing.

Chair Dean recessed the meeting at 9:10 p.m.

Chair Dean resumed the meeting at 9:21 p.m.

The Commission discussed allowing the remaining speakers who submitted cards before the meeting to provide public comment. The Commission agreed to continue the public comment for the remaining speakers and allow them 5 minutes to speak.

Gary Moss, Benicia resident, spoke about the dangers of transporting oil by ships. He stated he is in supported of the project.

David Jenkins, occupant of the Benicia Industrial Park, stated the DEIR is flawed and believes it is unclear. He asked questions about traffic congestion, regulating the number of trains allowed per day. Stated there is not enough information to make a valid argument relating to derailments or accidents. He raised questions about possible terrorist threats to rail

transportation and hazardous materials.

Paul Reeve, spoke in opposition of the DEIR and will submit additional comments in writing.

Shoshana Wechsler, West Contra Costa County resident, spoke in opposition of the project.

Jon Hosler, will submit his comments in writing.

Eric Hoglund, Benicia resident, spoke in support of the DEIR, the project, and Valero.

Aaron Bytheway, Fairfield resident, believes the DEIR is a complete and quality document and will submit his additional comment in writing.

Donna Wapner, Benicia resident, spoke in opposition of the project. She asked questions about the potential impacts of future earthquakes, safety issues and health impacts.

Tom Lam, stated his support for the project. He stated the DEIR is adequate and substantial. He also submitted additional comments in writing.

Brian Harkins, Benicia resident, spoke in favor of the project. He will submit additional comments in writing. He mentioned the benefits to global greenhouse gas emissions. He stated that the DEIR bolster the conversation on this topic and benefits to California economics.

Maria Hovei, Benicia resident, spoke in favor of the DEIR stating it is comprehensive and submitted additional written comments.

Ron White, Contract Employee of Valero, spoke in favor of the project.

Shawn Fraser, Benicia High School student, spoke in favor of Valero and the project citing job creation, and economic benefits of train versus ship transportation.

Claudia Fraser, Benicia resident, spoke in favor of the project.

Marisol Pacheco-Mendez, Benicia Resident, spoke in support of the DEIR, stating it is complete and accurate.

Dr. Richard Lundin, Benicia resident, spoke in favor of the project.

Linda Lewis, Benicia resident, questioned the safety of the project.

Chris Howe announced that Duayne Wieler and Jim Rollins will submit comments in writing.

Public Hearing was closed at 10:12 p.m.

Chair Dean announced that the Public Comment period on the DEIR ends at 5pm on September 15, 2014.

XI. COMMUNICATIONS FROM STAFF

None.

X. COMMUNICATIONS FROM COMMISSIONERS

Commissioner Cohen Grossman reported on the Waterfront Master Plan Community Advisory Committee. The Parks Recreation and Cemetery Commission made a recommendation for approval of a temporary art installation at the First Street Green. The Arts and Culture Commission reviewed and approved this and will now go to City Council within the next few weeks.

XII. ADJOURNMENT

Chair Dean adjourned the meeting at 10:16 p.m.