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from memo
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Benicia City Council Meeting Partial Transcript - October 7, 2008

This is a transcript of the end of the meeting, including clarifications about the vote on Benicia Business Park, taken from the city's DVD of the proceedings. Note: the vote is highlighted in [REDACTED]. Clarifications concerning the vote are highlighted in **yellow**. Instructions that followed the vote are highlighted in **gray**.

Title 1, Chapter 4

19:00 McLaughlin: So do you want some suggested wording on the CAP?

19:10 Patterson: I'm moving toward wanting to have a motion for denial for the reasons I listed, the fatal flaws in process, environment, and economic... It is late, so I don't know if it'd be worth having that discussion

19:37: Campbell: Well, I think it's time to take a vote. You know, we've got a resolution here that is to, yours is to deny, this one says to accept the Business Park, and so I'm gonna make a motion, to vote on this, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ADOPTING THE ADDENDUM TO THE BENICIA BUSINESS PARK FINAL ENVIRONMENTAL IMPACT REPORT (EIR), ADOPTING FINDINGS RELATED TO THE PROJECT, AND A STATEMENT OF OVERRIDING CONSIDERATIONS, AND APPROVING THE MITIGATION MONITORING AND REPORTING PROGRAM FOR THE PROJECT." And that's the one that has the, ah, we're accepting the unavoidable impacts, and, the one to accept the, ah ...

20:27: Patterson: That's at page 45?

20:28: Campbell: Yes.

20:30: Hughes: Heather has the [inaudible] ...

20:38: Patterson: City Attorney?

20:39: McLaughlin: As I mentioned earlier, this evening, we can beef up the findings for the Statement of Overriding Considerations if this is the resolution you all want to adopt. There's been plenty of testimony, and certainly plenty of stuff in the record to support the findings, contrary to what some people have said tonight. But if you'd like me to connect the dots, I can do that. Like, for finding A, regarding jobs, the Addendum estimates that there's 5000 new jobs, and

these jobs are going to reduce the commute, and as has been mentioned, they're going to provide higher quality jobs with green tech, clean tech (slant). The General Plan, if you'll look on Table 4, of the draft Addendum, on page 17, it goes on for several pages on how the project is consistent with the General Plan, which is the Governing Body, the Governing document for the City. As for item number C, the tax bases and services - the previous EIR and economic study estimated that there would be \$40 million surplus funds after funding everything. Over a 25 year period, that number's going to be less, since the project is smaller, but it's still going to be substantial. And maybe more importantly, we're going to get the police, fire, corp. yard things that have been mentioned earlier. So that economic aspect's pretty important. Hillside, creeks - the project's been redesigned to provide better hillside and creek preservation. I think, truly, even though they may not be as much as we want them to be, the conditions in this project really lead it to be on the cutting edge of what a green commercial and industrial project can be. As we noted earlier, we can't find a built project that would be as fabulous as this one, in terms of greenness and AB32 compliance. So I think it will be an example for other cities on how to do something right. It provides plenty of trails and open space, recreational opportunities for the public that aren't currently available, [oh, for peetsake]. Um, the project provides, um, 60% of the land will be kept for open space, including the buffering of development from Lake Herman views. The retail leakage noted in the EIR of \$28 million, um, that's the Final EIR, will be captured, and will result in sales tax revenue, jobs, reduced vehicle miles. The alternative modes of transportation included in Condition

98, and some of the other ones, including funding public transit, bikeways, and other things, are a good thing that we would not get otherwise. And, I think that's just a quick summary of some of the benefits the project will give us if you choose to approve it. And those items should be included in the Overriding Considerations.

23:27: Patterson: Ok, when we have a second, we can discuss that if necessary. Is there a second to the motion?

23:33: Hughes: Can I get a - I just want to get a clarification.

23:37: Patterson: On the motion?

23:38: Hughes: On the motion. [To Campbell] So you're, you're taking the staff's recommendation to approve the project. But I want to make sure that it includes the additional conditions that the Applicant committed to tonight.

23:51: Campbell: Actually ... ok, we'll do that.

23:55: Hughes: Ok, I'll second then.

23:59: McLaughlin: Or should those conditions really be, in the next resolution, because that's the resolution with Conditions of Approval. I think the conditions that they've talked about...

24:05: Hughes: Yeah, that's fine. I second the motion.

24:10: Patterson: Ok, again, then can we restate the motion, please? City Clerk?

24:19: Wolfe: [inaudible] ...

24:28: Patterson: Well, the RESOLUTION OF THE CITY COUNCIL, THE CITY OF BENICIA ADOPTING THE ADDENDUM TO THE BENICIA BUSINESS PARK FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING FINDINGS RELATED TO THE PROJECT, AND A STATEMENT OF OVERRIDING CONSIDERATIONS, AND APPROVING THE MITIGATION MONITORING AND REPORTING PROGRAM." So we actually would discuss the, um, what you [McLaughlin] just presented orally.

24:53: McLaughlin: Yes, please.

24:55: Patterson: And then, the conditions would go – what's the page number in the packet for the next ...

25:00: Campbell: [inaudible] ... page 45 ...

25:04: Patterson: Yeah, I've got page 45, but ...

25:06: McLaughlin: Page 45 is the actual resolution, itself. Page 47 is the, where the findings begin. But the Overriding Considerations is on ...

25:18: Patterson: Well, I will vote against this because, as I've said, I don't consider the Addendum is the appropriate approach to this project, because it is a new project. And I certainly don't agree that ...

25:35: Hughes: Excuse me, but a point of order - we have a motion and a second? Are we not going to take roll?

25:40: Patterson: Yes we do, and I'm discussing how I would vote.

25:43: Schwartzman: Well, we're open for discussion.

25:45: Patterson: And, well, I have tried to have why I voted on the record, and I have not succeeded in doing that, thank you.

Therefore, I'm making it clear at the beginning, why I'm going to vote the way I am, so it's in the record. And, that, I don't agree with all the statements on the Overriding Findings. Many of the benefits are the results of the project, and they would be subject to mitigation. And, I do agree with the idea that we want to have jobs, but I have no certainty that these jobs are going to benefit Benicia. And we're operating off of an economic study that was done in the early, 2005, if I remember correctly. And you all might've noticed that our economy is not the same as it was in 2005. At the very least, we should take a look at what that means. So there's just a host of things which could be remedied, by the way, and, "hope springs eternal," that perhaps, by denying this, we can actually get to the project that we want.

26:57: Patterson: Councilmember loakimedes, and Councilmember Schwartzman

27:01: loakimedes: I have a question for the City Attorney, ah, the motion that's on the floor right now, is the resolution that is on B45. There will be another motion for B47?

27:21: McLaughlin: No. There'll be another motion if you approve B45, to approve the resolution that's on page 183.

27:57: loakimedes: But if ...

25:58: McLaughlin: The part that's on 47, and the part that's exhibit B, which is on page 110, will be included as part of the resolutions, so you don't need a separate action on those.

26:12: loakimedes: But if there's a vote to deny, then there isn't any subsequent vote, is there?

26:14: McLaughlin: Right.

26:15: loakimedes: Ok. That's ... Thank you.

26:17: Patterson: Councilmemeber Schwartzman.

26:18: Schwartzman: Thanks, Mayor. Ok, so we just heard from the Developer that the Developer would agree to a whole bunch of conditions, that improve the project, I think, dramatically. And, are we going to have an opportunity – if by chance the first one passes, an opportunity to ask the Developer for some more conditions? Or are we done?

28:18: McLaughlin: No, you can ask the Developer for conditions, or for clarification before you go on to the next resolution.

28:26: Schwartzman: Ok, so if the one we've got on the table now passes, we can go back to the table, and think about other conditions. If the one that we have on the table now, fails, we don't go any further, we're done. Is that the way I understand it?

28:40: McLaughlin: Well, then I would suggest that we do a Resolution of Denial. You all could direct me to go back, using the model from June 3rd, with the findings or whatever you came up with.

28:53: Schwartzman: Ok, well, I just think we're getting pretty close to being able to get a bunch of stuff done. I just heard the Developer agree to a lot of things, and I think there's maybe a few other conditions we can get in there, which are pretty much, ah ... The whole idea of a CAP, we haven't had a chance to discuss the CAP, what that would be, if there's teeth, or anything else. When could we do that?

29:18: Patterson: Well, you, the discussion on

the conditions would come after the vote.

29:24: Schwartzman: But ONLY, if it passes.

29:26: Patterson: Right. But if it's a fatally flawed, Environmental process ...

29:32: Schwartzman: It's ok, I understand. That's a difference, well, I don't feel that it's fatally flawed, as far as that's concerned. I would like to support this one so we can get at the conditions, ok, and really beef this up, and get pretty much everything we've been asking for. So, that's the direction I'm going.

29:48: Patterson: Ok, any further discussion? Call for the vote, please? Miss Wolfe.

29:53: Wolfe: Councilmember Campbell?

29:54: Campbell: NO

29:55: Wolfe: Hughes?

29:57: Hughes: NO

30:01: Wolfe: loakimedes?

30:02: loakimedes: NO

30:04: Wolfe: Schwartzman?

30:04: Schwartzman: YES

30:07: Wolfe: And Mayor Patterson

30:07: Patterson: NO

30:10: McLaughlin: Alright, so since you didn't approve ...

30:12: Patterson: So we give direction to staff to prepare a Resolution of Denial for the, "APPROVING A VESTING TENTATIVE MAP, MASTER PLAN OVERLAY, AND REZONING FOR THE BENICIA BUSINESS PARK PROJECT, WITH CONDITIONS"

30:27: McLaughlin: Yes, that works.

30:30: Patterson: Thank you. Anything else on our agenda?

30:33: Schwartzman: I don't think so.

30:34: Patterson: Without objection, we are adjourned.

*Transcription by Roger Straw
October 21, 2008*