

CITY OF HIDDEN HILLS
REGULAR CITY COUNCIL MEETING

City Hall

Monday, September 13, 2010

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, September 13, 2010 at the hour of 7:30 p.m. Mayor Larry Weber called the meeting to order and presided thereover after leading the Council and audience in the Pledge of Allegiance.

ROLL CALL

Council:	Mayor Larry G. Weber Mayor Pro Tem Jim Cohen Council Member Steve Freedland Council Member Larry Goldberg
Staff:	Special Counsel Larry Wiener City Attorney Roxanne Diaz City Engineer Dirk Lovett
Absent:	Council Member Stuart E. Siegel City Manager Cherie L. Paglia

Upon MOTION of Mayor Pro Tem Cohen, seconded by Council Member Freedland and unanimously carried, it was resolved to excuse the absence of Council Member Siegel.

APPROVAL OF AGENDA

Upon MOTION of Mayor Pro Tem Cohen, seconded by Council Member Freedland and unanimously carried, it was resolved that the agenda for the September 13, 2010 regular meeting be approved as submitted.

ANNOUNCEMENTS

Mayor Weber made the following announcements:

Happy Birthday to his son Connor who will be twenty-two tomorrow.

Tomorrow night there will be a Water Conservation Fair at the Community Center; he would encourage everyone to attend.

Happy Birthday to Mayor Pro Tem Cohen's daughter Dana (9/16).

Yom Kippur begins at sundown on 9/17.

Fiesta meal tickets are now on sale at City Hall through 9/29; everyone can rest assured that the roads will be properly repaired in time for the Fiesta parade.

Happy Anniversary to Council Member Freedland and his wife Susan on 9/24.

The Spring Valley arena will be closed to everyone beginning 9/24 to get ready for the Fiesta.

The County of Los Angeles is looking for Civil Grand Jury members; if anyone is interested and available from July 1, 2011 through June 30, 2012, contact City Hall where applications are available.

AUDIENCE

Dr. Donald Zimring, Las Virgenes Unified School District (LVUSD) Superintendent, addressed the Council:

On behalf of the Board of Education and all the students, he would like to thank and recognize Mayor Weber for being the first of four Mayors who joined with the LVUSD in a unique proposal to the Las Virgenes Municipal Water District (LVMWD); it was thinking out of the box, and the proposal is scheduled to be discussed at the next

LVMWD Board meeting; he would also like to thank the City for its continued support of the LVUSD; they did have a pretty smooth opening to the new school year.

PRESENTATIONS

City Certificates/2010 Student Achievement Recipients

Mayor Weber offered his congratulations, on behalf of the Council, and presented City certificates to the following Hidden Hills residents:

A.E. Wright Middle School	-	Rebecca Vangelos
Calabasas High School	-	Samuel Vangelos
Viewpoint School	-	Kobi Joffe

CONSENT CALENDAR

- A. City Council Minutes – July 26, 2010**
- B. City Council Minutes – August 9, 2010**
- C. City Council Minutes – August 23, 2010**
- D. Demand List**
- E. Disbursement List – July**
- F. Financial/Treasurer’s Report**

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

MATTERS FROM CITY COUNCIL MEMBERS

Report from 8/17/10 Hidden Hills Community Association Board of Directors Meeting

The following report was presented by Board President Ron Wolfe:

The meeting was relatively short other than Ashley Construction providing project concepts; they have had some traffic/parking problems at the Saddle Creek arena which they will be monitoring.

MATTERS FROM STAFF

A. Discussion of Status of Vesting Tentative Map 63567, Commonly Known as the Ashley Subdivision, and of Developer's Progress of Alternatives or Options to Such Project

Mayor Weber pointed out that the Council at this meeting would not be making a decision on this application, but instead would be looking at any progress that has been made.

City Engineer Dirk Lovett provided the following staff report:

This project was tabled in September of 2008; in April of this year, the following actions were directed by the City Council: 1) within 90 days, the developer is to demonstrate to the City reasonable progress developing options or alternatives, for which he indicated he needed additional time when the project was tabled in September 2008; 2) the City will schedule this matter for an August or September City Council meeting at which the developer is to provide a report on his progress; 3) at this scheduled meeting, if it is demonstrated that the developer has made reasonable progress developing options or alternatives, the City Council is to discuss providing him with a limited period of time (such as an additional 90 days or whatever is deemed appropriate) to either move forward with the project as proposed, withdraw the application, or submit a revised or new application, whatever option the developer believes is appropriate; and 4) if at this meeting it is determined that the developer has not made a good faith effort in developing options or alternatives, then the project is to be noticed for a public hearing so that a decision can be made on the application; the developer has subsequently reported that he has held meetings with residents and the Hidden Hills Community Association; in addition, a letter was sent to the City Attorney indicating he has explored a number of alternatives and presented these options to the Association; he has, however, not indicated to the City which of these alternatives he desires to pursue and whether he desires to move forward with the project as proposed, withdraw the application, or submit a revised or new application; at this time he would recommend: 1) if it is determined that the developer has made reasonable progress in studying or developing options or alternatives, or if the developer desires to move forward with the current application, then provide the applicant with a specific period of time (i.e. 30, 60, or 90 days, etc.), to either a) withdraw the application, b) submit a revised or new application, or c) move forward with the project as currently proposed, whatever option the developer believes is appropriate; 2) if it is determined that the developer will not be moving forward with a revised or new application for an alternative or option he believes is appropriate and/or has presented to the community, then direct staff to schedule a public hearing, so that a decision can be made on the project application as currently proposed.

Mayor Weber opened the discussion, at which time Wes Myers of Ashley Construction, Inc. (ACI) was asked to make his report to the Council, which he did as follows (after submitting a written letter to the City Attorney):

Thank you for calling us in today to discuss our status on coming up with options and alternatives to VTM 63567; as you know, we requested that this project be tabled so that we could research and explore various alternatives or options in light of some of the grading sensitivities that were brought up by the Council; to quote the Council Member Freedland, "from the very first time he read the EIR, he had major concerns with the proposed removal of the ridgeline" (September 9, 2008); that same meeting, Council Member Siegel also explained how it was "his general sense that if the ridgeline is protected, the City Council would have very little objections"; then on September 22, 2008 the Council agreed to have this project "tabled indefinitely" so that we can explore other options and "could return with different plans whenever that happens"; in light of this feedback during the public hearing section of this process, we went back to the drawing board and looked at similar projects for guidance as to what aspects those developments have been acceptable to the City in the past; in doing so, we looked to our most recently approved subdivision project in this City which was the property next door to our property and commonly known as the Hidden Ridge Project; in January of 2006, the Council determined that the ridgeline grading concerns of Hidden Ridge were secondary to the housing requirements of this City because the Council found that "the Project will create significant unavoidable impacts to aesthetics due to extensive grading of the hillsides" (Resolution No. 778); however it was ultimately determined to be a non-issue because "the Project will help fulfill the housing production goals set forth in the Housing Element of the General Plan" (Resolution No. 779); this logic made sense to us due to the fact that these subdivisions are by definition, housing issues; furthermore, Council was correct in their reasoning that Hidden Ridge was necessary from a housing standpoint because according to the 2005 Housing Element of the City's General Plan, Hidden Hills is in desperate need of certain types of housing; this fact was highlighted in a letter written by the State Department of Housing and Urban Development to the City on July 27, 2005, where HCD also found that "the element continues to require revision to comply with State housing element law...including the provision of adequate sites to meet the regional housing need, especially for low-and-moderate income households"; we took all this information and we went to the drawing boards and we came up with myriad of different plans; we have five of them here and have a couple more back at the office, but these are all plans we discussed with residents and neighbors; because there is clearly a need for projects like Hidden Ridge which address the housing concerns of this City, and some of our properties inclusive in VTM 63567 have unique zoning abilities that could help meet some of these requirements, we engineered several modifications and alternatives as you can see here; we have also had discussions with the community about other available options; we would also like to specifically thank residents like Jerry

Kramer that have used their expertise to even go as far as totally designing different and unique alternatives from the ones that you see here; however, inasmuch as we would like to be able to submit any or all of these plans to the Council for consideration, we only have the expired and incorrect 2005 Housing Element to design around; furthermore, it is our understanding that without an adequate Housing Element acting as a blueprint, we as a City do not have the authority to decide on these housing issues; staff has told us that the updated Housing Element is currently under contract for revision and should be ready for public comment shortly; that being the case, there is no point in forcing any of these alternatives or options prematurely until we are able to know if they will satisfy the needs of the City; we have been discussing these options and alternatives with the community and we will continue to do so but we cannot submit any alternatives to the City without current and accurate housing guidelines to design around; it is in the best interest of the City to move these projects forward in a timely manner, but as shown in the timing and Resolution of Hidden Ridge, it is important to have these projects move forward accurately; with that being said, and with the Council's permission, we, ACI, would like to help expedite this process by chairing or participating in a Citizen's Advisory Committee consisting of staff and several members of the community that would help the City hold workshops and play an advisory role determining some of the goals, policies, programs, and land designation that is necessary for the Housing Element update that is currently in progress; almost all other cities do this because it is the most efficient and accurate way to help expedite the update process; please consider our request as we feel this would be in the best interest of the City to use all the tools at its disposal to ensure a quick and accurate Housing Element update; once this is done we will be able to start moving forward with alternatives to VTM 63567; thank you all very much for your time.

Mayor Weber asked if Mr. Myers was suggesting that he did not want to move forward with this until he has a new Housing Element which does not pertain to his project, which is already vested under the current Housing Element. Mr. Myers responded as follows:

That is correct; but if we were to move forward with any other project that would be determined as a new project or would require a new EIR or new study into that, we would no longer be vested and it would be in the best interest of the community to have the current and updated Housing Element and we would not be able to design a project around it without it.

Mayor Weber asked if it was not in ACI's best interest to move forward using the current EIR so as not to have to go back and pay a lot more money to design a change. Mr. Myers stated the following:

We are looking for whatever will be the best project in addressing all the needs of the community; it has been voiced by the Council and some members of the audience and some members of the community, that even though this project is vested, there are still certain non-vested rules that they want applied to this, such as the ridgeline ordinance which was not an applicable rule when this project was submitted.

Mayor Weber stated that it is not applicable to his project because it came after his project; his project, that has been taken off the table by ACI, is under the previous code and not under the Interim Ridgeline Ordinance – nor would it be under a permanent ridgeline ordinance if the Council passed one later this year.

Council Member Freedland asked Mr. Myers if he was requesting to comply with the new ridgeline ordinance, to which Mr. Myers replied as follows:

We were requested earlier, back in September of 2008, to table this project indefinitely so we could come up with different options and alternatives, some of which may comply with the new codes that stand and would not be considered part or a modification of the vesting map; some would be modifications of the vesting map; in order for us to be able to explore all options and alternatives, both vested ones and non-vested ones, we're requesting that we have an updated Housing Element to design around because we feel this is a housing issue, and it's of importance to know what we're building around.

Mayor Weber wondered how much time ACI would need if the Council even agreed to this. Mr. Myers stated the following:

We would do it after the Housing Element, in whatever time the Council determined was appropriate under those circumstances; the City has determined now, even before the Housing Element is out there, that 90 days is appropriate for us to come up with options and alternatives; he is just asking for a little bit of guidance with the community and City as to what they would like; this is to show you that we have gone above and beyond and thought outside the box both projects that would be modifications to our existing vesting map and projects that would be alternatives; we have almost half a dozen here and we have plenty more; there's a myriad of different options we can go with; we want to do what is best for the community, best with the neighbors, best that addresses the sensitivity at issue.

Mayor Weber asked Mr. Myers if the first issue shouldn't be for ACI to do what is best for ACI, to which Mr. Myers replied the following:

That's the beauty about what we do; what's best for us is also what's best for the community; he thinks everyone here would agree that Ashley Ridge has been a benefit to the community, and that was an ACI project.

Mayor Weber then stated the following:

He is not trying to say that ACI doesn't do good projects, but he is trying to get across to Mr. Myers that what he presented were options and alternatives, but not options and alternatives that ACI is really interested in doing; what needs to be said and presented to the community, especially to those that have been adamantly opposed and voiced their opinions two years ago, is what ACI really wants to do and how ACI can make it better for them; if that does not work, the Council meeting will end up like the one two years ago, and the Council will make a decision; he has heard from people who say they understand there are options, but they don't believe that's what ACI really wants to do, and that's also not what they want; many think that ACI is showing options that are undesirable for the community in hopes that the community will then accept the original project that ACI really wants to do.

Mr. Myers commented as follows:

Maybe undesirable, but times are changing and some of these may be necessary projects for the community; and although they may be undesirable, they may be in the best interests of the community; that's not for us to decide at this point; what we would like to know is which projects we can design around; if we name the streets a different name from the original project (the first one we had tabled) – if we name street Court A instead of Court B, would that be considered a modification or a new project; obviously we all know the answer to that; but what I would like to know, is there a way we can communicate with the Council or on an official level to submit some of these and see what the Council's position is; if turning the street from Court A to labeling it Court B – if that's a new project, we would have completely separate rules to design around because it's no longer within the vested realm; if we can open that dialogue, it would make it a lot easier for us to do that; if we can submit different projects and see this is a modification, this is an alternative, this is an entirely new project; if we could get some sort of official staff determination, it's going to make our job easier as far as how to design these; right now we are designing in a vacuum and you are correct, although we're coming up with a – we have vested rights and the original project was designed along its original submittal time, which was back in 2006; there has been opinion and comment from the Council and audience as to these are no longer the rules that they want to be seen in Hidden Hills; we are being told two different things and we would definitely like to move this forward as fast and as efficient as possible; so we were just looking to modify or at least help with the Housing Element update in such a way to ensure its

accuracy so that we would have some of these new projects that are up to date and designed around the rules that we do need.

Resident Jerry Kurland addressed the Council at this time:

He lives on Bridle Trail with his wife Marta, and is making this statement on behalf of himself, his wife, and other Bridle Trail residents who signed letters each dated 8/9/10 to both ACI and the City Council regarding the tabled application for VTM 63567, including a general plan amendment, rezoning, and City annexation of approximately 7.8 acres of property from the County of Los Angeles; the other Bridle Trail residents who signed these letters and support this statement are Vasi and Deborah Vangelos, Carol and Paul Frimmer, Britt and Craig Aaronson, Stephanie and Paul Strong, Laura and Charlie Goldwasser, Deb and Marc Spellman, Gordon Gregory, Lonna and Steve Weber, Ginny and Al Ovadia, and Lisa and Jim Miles; there are also many others in the community who support this statement that he is making; as stated in those letters, they all believe that ACI has failed to show progress with the tabled application for VTM 63567; ACI's new proposal does not address the specific concerns previously raised by the City Council, Bridle Trail residents, and numerous other residents of Hidden Hills with respect to the tabled application, particularly preservation of the significant ridgeline, and concerns regarding density of the project, access, traffic and noise; ACI's new proposal, and now it's even unclear what that proposal is, is not a mere modification of the tabled development plan, but is an entirely different plan, whichever one it is, that affects the entire City of Hidden Hills; therefore, if ACI wishes to proceed with this new proposal, ACI should formally present it to the City as a new application, and it should only be allowed to do so after the tabled application is either unconditionally withdrawn by ACI, or disapproved by the City Council, as it is still on the table; we respectfully request that in no less than 30 days and no more than 90 days, the City Council vote to disapprove the tabled application for VTM 63567.

Mr. Myers responded to Mr. Kurland with the following statements:

He appreciates the comments, remarks, and positions; this is one of the things he was talking about earlier; regardless of what proposal is submitted, it is a new project according to Mr. Kurland; now we obviously don't have any other project submitted, but these are some of the concerns that we as the builders and owner of this property have; again, hinting to the fact we are designing in a vacuum, and if what Mr. Kurland is saying is correct, then my request for some sort of advisory committee or some way to help expedite the new General Plan Housing Element would be in the best interest of the community; because if this is a new proposal, whichever one we submit, we would no longer be vested and therefore would be applicable to all the existing current rules that are out there; and we want to make sure we have an accurate element to design around; this is a housing issue, and if he's correct, then so am I.

Council Member Freedland then responded to Mr. Myers:

You are not designing in a vacuum, and he does not understand where that is coming from; and no matter how often you repeat it, that does not make it any more valid – in fact, he believes it is invalid; you have gotten feedback from your neighbors and the City Council; there were months of public hearings where you got a lot of guidance and a lot of input as far as what people thought were the pros or good things about the project you submitted, which is now tabled, and what people had problems with; you certainly have the right to resubmit the first project (the tabled application) and to run with that to see where it goes; and you have the right to submit any alternative that you want; but as far as forming some sort of committee to design your project, that is not the job of the Council or staff, and he is not at all interested in doing that.

Mr. Myers apologized, stating the following:

Maybe I wasn't clear; what we're requesting is merely a citizen's advisory committee to help with the Housing Element update for the City's General Plan; it has nothing to do with our project; but because this project is a housing issue, the quicker that the element is updated the quicker we will have the ability and the guidelines and the blueprints to design around; so by us helping the City update their Housing Element in an accurate and efficient manner, in turn we are making us able to be able to submit projects that are more appropriate.

Council Member Freedland asked Mr. Myers if he was aware that since ACI has vesting, updating the Housing Element is irrelevant to the tabled project. Mr. Myers said he understood that, and commented as follows:

We seem to be spinning on this; yes, it doesn't have anything to do with the project that's tabled; but as Mr. Kurland brought out and several residents have signed, it is their belief any new project that comes in should be a new project; if that is the case, that would be an alternative that we have requested we be able to explore and the City has asked us to explore; and we cannot develop these alternatives without the proper guidelines to develop around.

Mayor Pro Tem Cohen had several questions for Mr. Myers:

One of the elements that you seem to stress is compliance with the Housing Element; you are aware, I believe, that the Housing Element is being performed right now by a consultant; I'm not sure how an advisory committee would help this consultant finalize his report on the current housing; we have certified our Housing Element in the past and it is not a significant problem; the other issue I'm having – the application you submitted for this project did not relate to the existing Housing Element in any way; there was a

Housing Element is effect, and you were either insensitive to it, unaware of it, or ignored it.

Mr. Myers replied as follows:

This is not a forum to discuss the ins and outs of this; we were hoping we could maybe start some sort of discussion on that in the future; the Housing Element at the time did require 69 new units total City-wide to a certain extent; the original project would have been a several unit step towards that; the different types of units have changed over time and we feel the Housing Element at the time was inaccurate as to how some of the project property was laid out in its potential, so we wanted to help update that.

When asked again by Mayor Pro Tem Cohen if he thought the existing Housing Element was inaccurate, Mr. Myers said yes, which Mayor Pro Tem Cohen did not agree with. Mr. Myers then asked when the new Housing Element would be available for public comment.

Special Counsel Larry Wiener responded as follows:

This is heading down a path not germane to the question on the table this evening; the applicant is addressing the Council as if it cannot answer the very limited question before the Council this evening, and he is not sure that is the case; the question before the Council is, does the applicant wish to proceed with the application that has been pending for close to two years, or does the applicant wish to submit a revised project; that revised project may or may not include a General Plan amendment if the applicant so wishes; the applicant could submit a new project, but that is the question on the table; if the applicant feels it cannot move forward for any reason, including that it wishes to wait until the City adopts a new Housing Element, that is certainly the applicant's option; and staff's recommendation would be, if that is the case and given that it has been two years, the Council should reschedule the public hearing that was tabled, and make a decision on the application that is pending; once that decision is made, if granted, the applicant can move forward; if it is denied, the applicant has the option to move forward with any alternative it wants; that is staff's recommendation; we do not believe the update to the Housing Element is relevant to the question tonight, which is – does the applicant wish to move forward with the current application or a revised application.

Mr. Myers stated that he wished to correct Special Counsel Wiener, stating the following:

It was my understanding that staff's recommendation was that if the applicant, ACI, had shown progress toward developing options and/or alternatives, that the City basically would let us decide if we were going to submit any of those at that point; if we did not develop any options or alternatives, then the Council would decide what to do at that

point; I think it was specifically clear that we were not deciding on any applications or submitting applications at this point.

Mayor Weber commented as follows:

He believes what Mr. Wiener meant was that the Council needs to hear from ACI whether it intends to move forward on the pending application; he looks at the five things, and what he sees is one alternative and that's the one in the middle (pointing at the display); the other things would be new in his opinion; option C, keep the ridge, is one way of not touching the ridge; keeping the ridge by utilizing a myriad of walls, is probably less palatable than cutting down the ridge; if ACI is trying to make progress there, maybe it should try to find some place in between the two that everybody can enjoy, if possible.

Council Member Freedland suggested that the Council not get involved in the minutia of the design, as the question remains – is ACI going to apply with the original plan or going to make an application with a modification.

Mr. Myers stated: My answer remains we will not submit any other applications until we have an updated Housing Element so we can design around all the aspects that are available.

Council Member Freedland pointed out that in that case, the Council's option was to rule on the application that is on the table, to which Mayor Pro Tem Cohen and Council Member Goldberg agreed. Mayor Weber was not sure Mr. Myers answered the question, unless he was saying that his intent was to come in with a new project, in which case he would not be modifying the current project.

Mr. Myers stated the following:

Our first request, was that we would have some more information for the Housing Element so we could give you a better answer at that point; our second request would be if we do submit some plans, we would be told ahead of time whether those would be part of the vesting application or new applications; if new applications, and we submit plans that residents all agree are good plans, we would need that Housing Element to design around regardless.

Special Counsel Wiener explained the following:

Again, we are veering off the question on the table, but for the Council's benefit, the applicant does not need a new Housing Element to submit any application; if the applicant wishes to submit an application that does not conform to the current Housing Element, the applicant can request, in conjunction with that application, an amendment to the General Plan; that would be the typical, and he believes, the quickest way of moving forward on any alternative application; however, again, the question on the table tonight is – does the Council wish to remove this item from the table and place it back on the Council's agenda; if the Council believes there is a revised application forthcoming, the Council may defer that decision in order to review the revised application; staff's recommendation, if the Council does not believe there is a revised application forthcoming, is to schedule the public hearing on the original application so the Council has the opportunity to take action on that application.

Council Member Freedland, to assure that he understood Mr. Myers correctly, asked him to confirm that there was no alternative plan that ACI was going to be submitting other than what is currently on the table.

Mr. Myers responded with the following comments:

I guess I can answer Mr. Wiener's question; you've got me in a corner here; how about this – we will submit an application 90 days after the revised Housing Element is certified.

Council Member Freedland then replied as follows:

How about this – he would like to make a MOTION that the Council schedule, within 90 days, and he'll listen to Council discussion if anyone wants 60 days instead, a public hearing to hear the original application which is currently on the table (and has been for two years); he would make this motion as he does not believe anything else is forthcoming.

Council Goldberg added his comments to Mr. Myers:

It was always his understanding that this time was given to ACI to take your current application and make revisions consistent with the certain desires of other members of the community, and to try to come to some compromise or resolution that would work; what you've done, you've gone way outside of that; you have not addressed the concerns; none of these concerns that they expressed with you have been addressed in some proposed revision; and so, you're just looking for more time, trying to buy time, as

opposed to having taken advantage of the time that was given to you to actually make some progress with people.

Mr. Myers said he could answer that:

The time that was given to us was actually time we asked for; we asked for an indefinite amount of time, which was granted to us to do that; some of the major concerns were the grading of the ridgeline; we have many projects here which do not touch the ridgeline; you're right, we did go above and beyond the requirements of just this, of just single family homes without touching the ridgeline; we looked deeper into the General Plan and into some of the reasoning that the Council has decided and approved on other projects in the past because these are Housing Element issues, as to what we needed in this community, not only to meet the requirements of the aesthetics and the ridgeline, but to go above and beyond to meet the requirements of the community as far as housing is concerned; now some of these, we do not know if they are correct accurate representations of what is needed with the community until we have an updated book, or General Plan, or Housing Element, or blueprint to show us what is needed; yes, we did address not only the ridgeline concerns but also other concerns that have plagued this community in the past; all I'm saying, is if we can, once we get an updated Housing Element, submit something to you within 90 days; that can be determined at that point if that application is going to be an acceptable one, if that's not an acceptable one, if it's going to be part of the vested map, or going to be a whole new project; but there's no harm in doing so, and it's not going to hurt anybody else by extending it to 90 days past when the Housing Element update comes in.

At this point, Council Member Freedland asked Special Counsel Wiener to explain one more time that waiting for a Housing Element update is not a necessity for ACI to submit any of the plans that are shown here. Mr. Myers began to respond, and was asked to let Mr. Wiener speak.

Special Counsel Wiener explained the following:

Again, if the applicant wishes to pursue a project that does not comply with the current General Plan, including the current Housing Element, the applicant is entitled to submit an application that requests a map as well as an amendment to the General Plan, including the Housing Element; if the applicant wishes to move forward with any of these options, the applicant can do so relatively quickly by submitting that application; we do not need to wait for the City to amend the Housing Element and then the applicant to react to that; he believes Council Member Goldberg was correct in the Council's direction, now again almost two years ago; he does not think the Council at that time contemplated putting this on the table for the length of time it has been there; he believes

the direction was for the applicant to try and address the concerns that were articulated at the public hearing and to give the applicant an opportunity to do that; staff has recommended again that if the applicant has a proposed revision that would address those concerns, that the applicant be given an additional short period of time to address them by submitting that revision; if the applicant chooses to move forward with a substantially different project than what was proposed, then the environmental documentation will need to be updated to reflect that difference; how much updating would be needed is hard to answer in the abstract because we do not know how different the project would be that would be submitted; certainly some of these proposals would require substantial revisions and updating.

City Engineer Dirk Lovett pointed out that if any one of these other options was submitted, it would require some revisions to the EIR; and if any one was submitted, and the old one withdrawn, the updated Housing Element would still not apply to them if a vesting tentative map was submitted.

Mayor Pro Tem Cohen wanted confirmation that Mr. Myers was saying he was not going to proceed with this one and/or submit any kind of modification to the original plan; he thought he heard Mr. Myers say he would submit a new application within 90 days of the new Housing Element.

Mr. Myers replied with the following statements:

No, I did not say a new application; we will submit a plan whether it is this one, a modification to this one, or a new application; we will not be able to determine which one it is until it is actually submitted; if we want to go forward even faster, how about the Council give us some time and we will submit several plans for, I guess, clarification as to which plans would be considered a modification and which ones would be considered a revision to the existing map; is that too much to ask for.

Council Member Freedland asked Mr. Myers for a yes or no answer – is his current plan to do nothing until the Housing Element is finished.

Mr. Myers responded as follows:

Actually, no; if some of those plans were determined to be just a modification that would not be part of a new Housing Element, we could submit those; I guess we're getting spun around; all I'm asking for is that we have a Housing Element updated so we can design any new plans around; if that is too much to ask, that is the Council's discretion to decide that; if that's not a way to go, how about give us a certain amount of time to submit several different plans; we'll work with the residents and we'll determine which one of these plans – now there doesn't have to be a decision made as to those plans as to which one if you're approving or not – we're just asking for clarification between the staff and Council as to which ones of these plans would be considered a significant or substantial deviation from an original submitted and vested map, enough to require a whole new submittal, and which ones would have a modification required.

Mayor Pro Tem Cohen did not feel that was the Council's job, or that ACI should be submitting more than one plan, which is the one the Council would look at and decide upon. He further stated that the Council and staff were not going to look at five or ten, or how ever many plans ACI has at their office. Council Member Freedland added that that was what ACI was supposed to do with the residents.

In response to Mayor Weber, Mr. Myers stated the following:

He is asking for staff to determine which ones would be a modification, a substantive deviation from it, and which ones would not; if we have that information in hand, we'll know if we need the Housing Element or not as far as how we're going to design around; maybe we're not talking on the same wave length; does that make sense at all.

Special Counsel Wiener said he did not believe it made sense. Council Member Goldberg commented to Mr. Myers as follows:

Either withdraw or have the Council act on what you have out there; put that aside and then apply for whatever you want when you want, and you won't have the old history; you will have new history, and the new and best information available at the time; you can submit what you feel you want to do and what you think the community needs.

Council Member Freedland added his comments to Mr. Myers:

The Council is not willing to let this thing sit any longer; that is the issue, and it has always been the issue; it's been over two years; if you are going to submit something else, which we hear you are not, my motion stands, giving you 90 days; the Council should schedule a public hearing on the only plan that we currently have active, the only

submission we have active, and that is the one on the table; the Council should schedule a public hearing to either approve or deny that plan, giving the developer 90 days.

In response to Mayor Weber, Special Counsel Wiener explained the following:

The public hearing would be on the application that was submitted; as would be the case with any applicant, if the developer wants to respond within the next 90 days to comments he has heard, and submit some modifications that address those comments during those 90 days, just as any applicant would have that opportunity for any application, I suppose he could; nothing I heard in the motion would prohibit that, but absent that actually happening, as I understand the motion, the public hearing would take place on the application as originally submitted.

In response to questions from Mayor Pro Tem Cohen and Council Member Goldberg, Special Counsel Wiener stated the following:

The application will likely stand as it was originally submitted; prior to the public hearing the developer may suggest a revision to the application that the Council would have an option of adopting as part of its decision to approve or deny that project; as would be the case with any application, if the applicant chooses to try and modify the application during the consideration process, I'm sure the City would consider that request; we would look at it as to whether it would require any additional environmental review; that would depend on what the request was, and we would bring forward the application as originally submitted, with whatever request and modification the applicant was making, for the Council to discuss to approve, deny, conditionally approve, or approve as modified; the Council would have a range of options.

Council Member Freedland suggested staff be directed to make themselves available to answer any questions.

Mr. Myers asked if ACI submitted an application that is tweaked to an extent that it requires some environmental review modifications, what sort of timing is the Council guaranteed before it will actually be able to decide on the project. Special Counsel Wiener replied that that question could not be answered in the abstract. Mr. Myers continued:

So this could theoretically take several months; the EIR was submitted two years before this application was discussed under community discussion; so any modification to the EIR could theoretically take some time after the fact; in such a case, we still have the

option of having that Housing Element available before such application is actually heard on the Council.

Special Counsel Wiener commented as follows:

He would guess that before staff embarked on a substantial revision to the environmental document, the staff would bring the proposed revision forward to the Council to determine whether or not it made sense to do that and spend the applicant's money and time, or whether the Council simply wished to take action on the original application.

Mr. Myers said either way, he wished to make sure everyone was in agreement that this is nothing that is going to happen overnight, and he wanted everyone to know that. He added that they want to definitely work and move this forward as fast as possible.

Special Counsel Wiener stated he believed the motion on the table, for which there was no Council vote as yet, was that this would happen in the next 90 days. Mayor Pro Tem Cohen wanted to make sure the wording of the motion was very precise, and then asked if there was a way to give a specific period of time so the developer was not submitting something on the very last day. Council Member Freedland thought the Council's concern was scheduling a public hearing, and that whatever happened between day 0 and day 90 was up to the developer.

Additional comments were made by Special Counsel Wiener:

He would suggest rather than try and anticipate what the developer might submit and when, that the Council schedule the public hearing; if there is a revision submitted or requested by the applicant, the Council, at the time that the public hearing is scheduled, can look at that proposed revision and determine whether it merits any further consideration and further delay in the process, or whether the Council wishes to move forward on the application as submitted.

It was pointed out by Council Member Freedland that the public hearing could take place in one evening, or might take a couple of meetings, depending on what happens.

When asked by Mayor Pro Tem Cohen, City Attorney Roxanne Diaz provided the following wording for the MOTION – that within 90 days, staff schedule a public hearing of VTM 63567.

Mayor Pro Tem Cohen said he would second that MOTION, once the actual date for the public hearing was included, that being December 13, 2010.

Bridle Trail resident Marta Kurland wished to address the Council at this time:

What concerns her is that at the 4/26/10 meeting, the Council moved to provide the developer 90 days to demonstrate that he has made progress, and if it's demonstrated he has made reasonable progress at that meeting, which is basically this meeting, then the developer may be provided a limited period of time to either move forward, withdraw the application, or submit a revised project; she thinks what many of them have stated, at this point in time, is there has been no progress shown; what ACI has done and proposed to several residents are new proposals, but they are not progress on the existing tabled application; they show no progress in terms of concerns that were made; she feels the motion being considered now is taking us back to the 4/26/10 meeting several months ago, which is more than 90 days from that date; we just keep starting back at the same point; as she understands the motion that was made on 4/26/10, the developer was going to be given additional time at this meeting if progress was shown; that's what those of us on Bridle Trail and many others are saying has not been demonstrated; it sounds like we're going back to that motion.

Mayor Weber said that had the Council felt a lot of progress was being made, then ACI would have been given additional time to come back again and discuss what was discussed this evening, after which time a public hearing would have been scheduled.

Council Member Freedland disagreed, stating the following:

The Council is going to discuss the tabled application at the 12/13/10 meeting, as that application is the only thing in front of the Council; the Council will either approve or deny it as it sits; the developer, as any applicant, has the option to tweak and ask for some amendment in that period of time that we can look at as well; but we are going to rule on what is before us.

In response to Ms. Kurland, Council Member Freedland continued:

The Council will make a decision at that meeting or however long the public hearing goes; he does not want the application languishing on the table indefinitely; two years is long enough; he actually does see some progress, and will give Mr. Myers some credit for doing some work.

Ms. Kurland again stated that it is not really progress on the tabled application, but merely new proposals.

As there was no further discussion, upon MOTION of Council Member Freedland, seconded by Mayor Pro Tem Cohen and unanimously carried on roll call vote (4-0), it was resolved to direct City staff to schedule a public hearing of VTM 63567 for December 13, 2010.

B. Discussion Regarding Possible Projects for Use of the City's 2002 Resources Bond Act Proposition 40-Per Capita Grant from the State of California Department of Parks and Recreation

City Engineer Dirk Lovett provided the following staff report:

This is a grant that has been awarded to cities; the requirements are very strict, including that improvements have to be made on public property and of a regional nature; our City has very limited opportunities to use this grant; we have recently talked about doing something on the corner of Round Meadow/Mureau (across from the gazebo corner), where we believe we could possibly use this money; the \$220,000 will lapse in June if not used; the State has said we definitely cannot use the money for the Saddle Creek arena, as it is not open to the public in general.

Mayor Weber pointed out that any project that uses these funds actually has to be completed by March 31, 2011. Mayor Pro Tem Cohen wondered if the funds could be used in conjunction with the Las Virgenes Unified School District (LVUSD) on the Round Meadow School grounds which are outside of the gates.

Several other suggestions were made by the Council and audience regarding possible use of the funds, all of which had been investigated by staff and found to be not feasible or not allowed (due to lack of easements and ownership of property, time involved, not open to the public, not for recreational uses, etc.), such as using them on Ahmanson, for parking areas, selling the funds, or building a bicycle trail outside the front gate.

City Attorney Roxanne Diaz suggested that staff explore with the School District the possible use of the funds on school grounds, for some purpose that would benefit everyone and fulfill the requirement of being open to the public, possibly through the formation of a Joint Powers Agreement (JPA). Special Counsel Larry Wiener added that it is a typical JPA use of school facilities that allows the school grounds to be used on weekends by both children attending the school and those who don't but are involved in other activities like AYSO, so the funds could possibly be used for field improvements. Staff will meet with School District personnel to investigate possible uses for these funds, and report back to the Council at a future meeting.

C. Coyote Trapping Program Report

Mayor Weber reported that eight coyotes had been trapped during the recent City sponsored trapping program, and also reminded residents that they individually or as a group can hire a trapper at any time. The report was received and filed.

D. Round Meadow/Long Valley Road Utility Undergrounding Project - Update

The following report was provided by City Engineer Dirk Lovett:

The construction for grading, trenching, and conduit work should be finished by the end of this month; if for some reason that work is not done by then, the roads and trails will be cleaned up and ready for the Fiesta parade; after that work is done, each utility will come in to remove their wires from the poles and pull them through the conduit; then the poles themselves will be removed and the road slurry sealed; he cannot give a definite time for when the poles will be removed, but hopefully that will be before March of 2011.

E. Charles Abbott Monthly Report - August

The report was received and filed.

Mayor Weber announced with great sadness that former Council Member Ron Berg's wife Barbara passed away Friday after a long battle with cancer, and extended condolences, on behalf of the Council, to Ron and his family.

CLOSED SESSION

Conference with Real Property Negotiator Pursuant to Government Code Section 54956.8

Property: 5208 Saddle Creek Road
APN 2049-16-900, APN 2049-16-901
City Negotiators: Special Counsel, City Attorney
Negotiating Party: Hidden Hills Community Association
Under Negotiation: Price and Terms of Payment

Upon MOTION of Council Member Freedland, seconded by Mayor Pro Tem Cohen and unanimously carried, it was resolved to adjourn to closed session at 8:44 p.m., at which time City Attorney Roxanne Diaz announced that the Council in closed session would be discussing the item listed above.

Upon MOTION of Council Member Goldberg, seconded by Mayor Pro Tem Cohen and unanimously carried, it was resolved to return to open session at 9:50 p.m., at which time City Attorney Diaz announced that the Council in closed session discussed the item listed above, and that no reportable action was taken.

ADJOURNMENT

There being no further business to come before the Council, upon MOTION of Council Member Freedland, seconded by Council Member Goldberg and unanimously carried, it was resolved to adjourn the regular meeting of September 13, 2010 at 9:51 p.m.

Larry G. Weber, Mayor

ATTEST:

Cherie L. Paglia, City Manager/City Clerk