

**MINUTES
REGULAR MEETING OF THE
AGOURA HILLS CITY COUNCIL
Civic Center – Council Chambers
30001 Ladyface Court, Agoura Hills, California 91301
July 11, 2007 at 7:00 p.m.**

The meeting was called to order at 7:05 p.m.

The flag salute was led by Councilmember Koehler.

Present were: Mayor Dan Kuperberg, Mayor Pro Tem John Edelston, Councilmember William Koehler, Councilmember Harry Schwarz, and Councilmember Denis Weber.

Also Present were: City Manager Greg Ramirez, City Attorney Craig Steele, Assistant City Manager Nathan Hamburger, Assistant to the City Manager Louis Celaya, City Engineer Ramiro Adeva III, Director of Planning and Community Development Mike Kamino, Senior Planner Allison Cook, Oak Tree/Landscape Consultant Kay Greeley, Rincon Consultants Joseph Power and Sean Wazlaw, Director of Community Services Amy Brink, Recreation Manager Donna Conlin, Recreation Supervisor Meredith Petit, Community Services Coordinator Nick Newkirk, Community Services Coordinator Julianne Cox, and City Clerk Kimberly Rodrigues.

REPORT OF CLOSED SESSION

No Closed Session was held.

APPROVAL OF AGENDA

On a motion by Councilmember Schwarz, second by Councilmember Weber, the Agenda was approved without objection.

ORAL COMMUNICATIONS

There were no public speakers.

PRESENTATIONS

Mayor Kuperberg presented a Proclamation to Director of Community Services Amy Brink and the Community Services Department in recognition of Parks and Recreation Month.

Community Services Coordinator Nick Newkirk provided an update on the Department of Community Services Summer activities and services including Concerts in the Park, Movies in the Park, the Beach Bus and Shuttle Express, Summer Camps, and the 25th Anniversary events.

INTERGOVERNMENTAL, SPECIAL PURPOSE COMMITTEE & DEPARTMENTAL REPORTS

Councilmember Koehler provided an update on the last Santa Monica Mountains Conservancy meeting and recommended a tour of the property (SOKA University).

CONSENT CALENDAR

On a motion by Councilmember Weber, second by Mayor Pro Tem Edelston, the Consent Calendar was approved 5-0.

1. Approve Minutes of the Regular City Council, Financing Authority, and Redevelopment Agency Meeting of June 27, 2007

ACTION: Approved 5-0

2. Approve Demand Warrant Register No. 567

ACTION: Approved 5-0

3. Approve Professional Services Agreement with Dapeer, Rosenblit & Litvak, LLP, for City Prosecuting Services

ACTION: Approved 5-0

4. Approve Selection of EIP Associates/PBS&J to Prepare the City's General Plan Update and Environmental Impact Report and a Consulting Services Agreement to Conduct the 2007-08 Work Program of Phase II of the City's General Plan Update

ACTION: Approved 5-0

5. Approve Arterial Street System Development Fee Agreement with Center Court Partners, LLC; APN 2053-001-006

ACTION: Approved 5-0

6. Approve Notice of Completion for the Morrison Park Improvements Project; NIB 04-11

ACTION: Approved 5-0

PUBLIC HEARING

7. Conduct a Public Hearing to Consider an Appeal of the Planning Commission's Denial of Site Plan/Architectural Review Case No. 05-SPR-015, Oak Tree Permit Case No. 05-OTP-023 and Sign Permit Case No. 05-SP-024, which Allows for the Construction of a Car Wash Facility with Lube and Auto Detailing Services on Property Located at the Southeast Corner of Chesebro Road and Palo Comado Canyon Road; and Adoption of the Project Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Aitan Hillel, Applicant)

Prior to the meeting, the City Council received the following written correspondence:

Correspondence in Favor of the Project:

Charles W. Cohen, representing the Applicant (Hillel Brothers)

Correspondence in Opposition to the Project:

Agoura Country Townhomes Association (letter) signed by:

Kathleen Hickok, President

Judy Bergdorf, Vice President

Teresa Robbins, Treasurer

June La Polla, Secretary

Pete Lown, Member at Large

Anonymous, Agoura Hills (speaker card submitted in opposition)

Juliana Chrostowski, Agoura Hills (email)

Carol and Bill Foster, Agoura Hills (email)

Gary F. and Dr. Debbie J. Gallinot, Agoura Hills (email)

Kathy Hutchinson, Agoura Hills (email)

Lindsey Hutchinson, Agoura Hills (email)

Dr. Elizabeth Kolve and Family (email)

Fred and Norma Stone (email)

Michael and Carolyn Trocino, Agoura Hills (email)

Following the staff presentation, City Attorney Steele provided a framework for the Council's consideration in terms of the actual decisions before the City Council and the issues that are not before the Council and, thus, should not be part of the deliberations. This is a matter on appeal from the Planning Commission. While a decision was made at the Planning Commission level, under the City's appeal system, the Council conducts a De Novo (everything is new) hearing. The Council is not bound by the decision the Planning Commission made or here to determine whether the Commission was right or wrong; everybody looks at evidence in different ways. The Council is seeing the evidence, for the first time, that was presented before the Planning Commission with the

exception of the written materials that are in the packet. The evidence and testimony before the Planning Commission is not on the City Council's record and not something that the Council is bound by. The City Council is making a new decision as the appellant body. In that regard, a rebuttal of what the Planning Commission decided, by either the appellant or staff or anybody else, is not really appropriate either. The Planning Commission looked at the evidence the way that they did and that decision was appealed; the City Council is looking at it fresh. There are four permits that are applied for: the site plan review, the architectural review, the Oak tree permit for the removal of an Oak tree and an encroachment within the protected zone of another Oak tree; and a sign permit. Each one of those decisions has a very specific set of findings that must be made before an approval could be issued. If the Council is unable to make each one of the findings in a positive way, the application cannot be approved. That was the case below, there were certain findings the Planning Commission decided it could not make based on the evidence and that was the reason for their denial. It is important, in the context of those four decisions, to focus solely on the physical improvements to the site that the applicant is proposing, the layout and design of the site, the architectural features of those improvements, and the impacts that those improvements in that physical layout on the site will cause. That is the extent of the matter that is before the Council this evening. The findings the City Council is required to make if the Council were to approve these applications would require the Council to determine that the layout, the design, of this proposed use are essentially consistent with neighborhood standards and compatible with the design and the features of the existing neighborhood. And, those findings are specifically laid out in the staff report that has been given to the Council this evening. In addition, before the Council can make any decision to approve a project, if that's ultimately the decision of the Council, the Council would be required to adopt the Mitigated Negative Declaration (MND) that has been prepared by Rincon under contract to the City, the Council needs to determine whether that MND adequately discloses all of the environmental impacts of the project and whether the mitigation measures that are suggested to be imposed would mitigate each of the significant environmental impacts identified to a level of insignificance. If there is, after testimony and evidence is presented, if there is a fair argument in the Council's mind that the significant environmental impacts that are identified have not been fully disclosed or have not been mitigated to that level of insignificance, then the City and the applicant would be required to actually take the additional step of preparing an environmental impact report, rather than adopting the MND. If the Council believes the document does disclose the impacts, does provide for the mitigation of the impacts, then it's appropriate to adopt that MND. All of the mitigation measures within it would then be imposed as conditions of approval of the project. It could not be built unless those conditions were complied with. The City Attorney emphasized for the public and the speakers, as well as the Council, this is not a decision on whether this proposed use is appropriate in the zone. It's not a question of whether a carwash is a good idea. The policy decision, the legislative decision has been made in the zoning code already and the use is allowed, subject to the type of permits the Council is considering this evening, within that zone. The question about the wisdom of

the use, or appropriateness of the use, is for another time and we would ask that the speakers and also the Council focus comments, evidence, and deliberations on the four permits that are actually applied for because that will actually contribute to the efficiency of the hearing and how long the hearing goes on. The City Council has to focus on what they are being asked to consider, not that legislative issue. Finally, he noted that the Council has received a number of emails, received the written documentation that was presented to the Planning Commission in the form of a staff report, as well as some other documents (those were in the Council packet), and received a lengthy document from the Hillel brothers' attorney Mr. Cohen. All of those have been presented to the Council, considered prior to this evening's hearing and we'd ask that those be made a part of the record.

Mayor Kuperberg opened the Public Hearing.

The following persons spoke:

Speaking on Behalf of the Applicant

Chuck Cohen, Westlake Village, representing the Applicant (Hillel Brothers)
Aitan Hillel, Agoura Hills, Applicant and Co-owner
Shlomy Hillel, Agoura Hills, Applicant and Co-owner
Ray Nugent, Accentech Corporation, Noise Consultant
Alan O'Connor, Westlake Village, Architect

Speaking on Behalf of the Old Agoura Homeowners Association and in Opposition to the Project:

Robert Evren, Agoura Hills

The City Council recessed at 8:56 p.m. and reconvened at 9:09 p.m.

Speaking on Behalf of the Old Agoura Homeowners Association and in Opposition to the Project:

Jess Thomas, Agoura Hills

The Following Persons Spoke in Opposition to the Project

Pat McGregor, Agoura Hills
Sheldon Fried, Agoura Hills, representing Partners In Learning
Victoria Anglin, Agoura Hills
James P. Richey, Agoura Hills
Kathy Hutchinson, Agoura Hills, representing the Hutchinsons and neighbors

Chelsey Hutchinson, Old Agoura
Mary C. Keenan, Old Agoura
Andrea Palella, Agoura Hills, representing the 5245 Chesebro Apartments
Dieter Bruehl, Ph.d., Agoura Hills, representing the 5245 Chesebro Apartments
Gerald Peters, Agoura Hills, representing family
Cyrena Nouzille, Agoura Hills
George Colman, Agoura (submitted a petition of 30 signatures)
Robyn Britton, Agoura Hills
Mark Dixon, Old Agoura, representing Old Agoura HOA
Sharon Robinson, Agoura Hills
Nino DeFranco, Agoura Hills
Roger Tanna, Thousand Oaks
Connie Thornbury, Agoura Hills
Meril S. Platzer, Agoura Hills, submitted a letter
Kirk Allegro, Agoura Hills, submitted zoning information
Mark Cantor, Agoura Hills
Brian Davis, Agoura Hills

The Following Person Spoke (Neither in Favor or Opposed):

Ron Troncatty, representing the Old Agoura Rangers

The Following Person Submitted Written Comments (Opposition) at the Meeting

Veronica Meitlos, Agoura Hills

There being no further speakers, Mayor Kuperberg closed the Public Hearing.

ACTION: Following discussion and a question and answer period, the motion by Councilmember Weber, to uphold the decision of the Planning Commission to deny the project, and direct staff to bring back a resolution for denial at the meeting of August 8, 2007, was seconded by Councilmember Schwarz, and approved on a roll call vote of 5-0.

COUNCIL, STAFF COMMENTS

City Clerk Rodrigues announced the upcoming election and opening of the nomination filing period beginning on Monday, July 16, 2007 and closing on August 10, 2007.

Mayor Pro Tem Edelston commended staff on the Concerts in the Park series.

Councilmember Koehler commended the public, the applicant and their legal counsel, Mr. Cohen, for their professionalism and conduct during the public hearing.

Mayor Kuperberg commended Planning and Community Development staff for their presentation, noted that the July 25, 2007 meeting had been canceled, and encouraged residents to attend the concerts and movies in the park events.

ADJOURNMENT

At 10:37 p.m., on a motion by Mayor Pro Tem Edelston, second by Councilmember Schwarz, the Council unanimously consented to adjourn the meeting to 7:00 p.m., Wednesday, August 8, 2007, for a Regular Meeting of the City Council in the Council Chambers of the Civic Center with a Closed Session at 6:00 p.m. The Civic Center is located at 30001 Ladyface Court, Agoura Hills, California.

Kimberly M. Rodrigues, CMC
City Clerk

**The Regular Meeting of the City Council for July 25, 2007 has been canceled,
the next Regular Meeting is scheduled for August 8, 2007**