

Planning Commission Minutes
Regular Meeting
June 29, 2010
Martinez, CA

CALL TO ORDER

Acting Chair Donna Allen called the meeting to order at 7:05 p.m. with all members present except Chair Lynette Busby and Planning Commissioners Avila, Ford and Keller.

Staff present: Assistant City Attorney Veronica Nebb, Planning Manager Terry Blount, Senior Planner Corey Simon

ROLL CALL

PRESENT: Vice Chair Donna Allen, Commissioners Harriet Burt and Michael Marchiano, and Paul Kelly, Alternate.

EXCUSED: Chair Lynette Busby and Commissioners Avila, Ford and Keller.

ABSENT: None.

AGENDA CHANGES

None.

PUBLIC COMMENT

LUKE MC CANN expressed concern about the size of the house to be built next door to his home, and the City Council's approval in spite of his objection. He commented on the lack of professionalism exhibited by the Planning Commission to him and his wife. He was also concerned about the lack of dialogue between the Commission/Council and the audience and the precedent and the City's inability to cite the requirements required to support the variance. He commented as well on difficulties he has experienced with getting access to public information from staff.

Chair Allen thanked him for the comments. She indicated she had visited the site; but Mr. McCann stated there is a big difference between the front and back yards. Chair Allen also commented on time she spent deliberating on the issue. Assistant City Attorney reminded the Commission that the item was not agenzized.

Commissioner Burt apologized to Mr. McCann for making him or his wife feel belittled because of comments she made; it was not her intention.

Philip Ciaramitaro discussed projects he has worked on in the City - Martinez Opera, Ferry Point Park Improvement District, Fall Festival, and Sustainable Martinez. He echoed Mr. McCann's comments that City leadership is not considering neighborhoods in making decisions, adding that there needs to be more dialogue with the community. He was concerned about impropriety and favoritism by the Council.

Mike Alford agreed with Mr. McCann also. He noted that everyone on McCann's block was opposed to Mr. Stahlberg's remodel. He observed a lack of professionalism and expressed

concern that the Planning Commission are only "yes-men" to the Mayor. He also noted that a lawsuit may be filed on behalf of the McCann's. He noted some concern about the precedent also.

CONSENT ITEMS

1. *Minutes of May 11, 2010, and May 25, 2010, meeting.*

The minutes of May 11th were continued until a later meeting due to lack of a quorum.

On motion by Commissioner Marchiano, seconded by Commissioner Kelly, the Commission present voted to approve the Minutes of May 25, 2010, meeting.

Motion unanimously passed 4 - 0. (Chair Busby, Commissioner Avila, Commissioner Ford, and Commissioner Keller excused.)

REGULAR ITEMS

2. *Alhambra Valley Annexation Project Location: The proposed Alhambra Valley annexation and related planning actions will impact an area located directly outside the current southwest jurisdictional boundary of the City of Martinez, but within the City's Sphere of Influence and the County Urban Limit Line. The proposed annexation area is comprised of 155 parcels covering approximately 400 acres. It is generally bounded by the City's current jurisdictional boundary to the north; detached single-family homes and undeveloped hills to the east; Alhambra Valley Road and Briones Regional Park to the south; and undeveloped hills and rangeland to the west.*

The project consists of:

- a. *Adoption of a Negative Declaration pursuant to CEQA,*
- b. *Adoption of an amendment to the Martinez General Plan Land Use Element and Land Use Map to Residential-Very Low, Agricultural Lands, and Open Space,*
- c. *Adoption of amendments to the Martinez General Plan Land Use Element, Scenic Roadways Element to incorporate policies related to the annexation area,*
- d. *Adoption of an amendment to the Martinez Zoning Ordinance to include a new chapter (Chapter 2) districts (AV/R-20 Single Family District; AV/R-40 Single Family District; AV/A-5 Agriculture District),*
- e. *Adoption of an amendment to the Martinez Zoning Map to include the annexation area within the City of Martinez, and the LAFCO approve the annexation,*
- f. *Adoption of the Pre-Zonings and General Plan Land Use designations for the properties in the proposed annexation area, and*
- g. *Adoption of the Alhambra Valley Design Guidelines for the proposed annexation area. (CONTINUED)*

Planning Manager Terry Blount presented the staff report, reviewing the background and issues/information requested by the Commission at the last meeting: Alhambra Valley Specific Plan (AVSP) Goals and Policies included, public service provision levels comparison of County and City services, maintenance responsibility for streets and roads, summary of public comments at May 25th meeting. He also reviewed changes made to the Draft Land Use Regulations to accommodate request made by the Stonehurst Homeowners Association.

Assistant City Attorney Veronica Nebb explained the Association's request to ensure that the language in the Alhambra Valley Specific Plan allows all already-approved uses. Commissioner Kelly asked if that is to accommodate homes that have been approved, but not built yet. Ms. Nebb said no, only the planned district regulations are affected. Commissioner Kelly asked, and Ms. Nebb confirmed that all the homes already built are grandfathered. Chair Allen asked whether the Planned Development regulations will take precedent over the zoning standards. Ms. Nebb said yes, and this language is intended to make it clearer.

Mr. Simon explained the meaning of the term "grandfathering", and noted that all applicable provisions have been incorporated into the new regulations. He reviewed uses that the Alhambra Valley Improvement Association asked to have removed from the list of allowable uses: grower stand or farm stand, retail firewood sales, animal hospitals, wineries and greenhouses; and additional uses that require use permit approval: dog kennels and horse-riding academies.

Mr. Simon also discussed provisions to allow one additional single-family dwelling on single-family lots, with use permit approval and a lot large enough to conform to maximum permitted density limits.

Commissioner Kelly asked about size limits for second units. Mr. Simon said anything over 1000 s.f. requires a use permit, but any size dwelling can be built provided there is enough land available, and a use permit is approved. He noted that smaller units can be approved under the granny unit provision.

Ms. Nebb said County provisions would have allowed a granny unit and a second dwelling unit if the density is there.

Mr. Blount reviewed the action before the Commission tonight: adoption of a negative declaration pursuant to CEQA, adoption of an amendment to the Martinez General Plan Land Use Element and the Land Use Map to incorporate four new land use designations, adoption of amendments to the Martinez General Plan Land Use Element, Scenic Roadways Element, Parks & Recreation Element, and Transportation Element, adoption of an amendment to the Martinez Zoning Ordinance, adoption of an amendment to the Martinez Zoning Map, adoption of the Pre-Zonings and General Plan Land Use designations for the properties in the proposed annexation area, and adoption of the Alhambra Valley Design Guidelines for the proposed annexation area.

Commissioner Burt asked for clarification on the annexation requirements for a common boundary and a shared roadway. She questioned whether a transportation nexus existed.

Commissioner Kelly asked whether the regulations include provision for curbs, gutters and sidewalks. Mr. Blount said the City's standard requirements for those will not be applicable in this regard.

Commissioner Kelly asked whether the City could ask the County to continue to maintain the roads. Mr. Blount said it might be possible for Alhambra Valley Road, but probably not for the side streets.

Chair Allen asked when the decision regarding road maintenance would be made. Mr. Blount said it would be later in the process during negotiations with the County regarding tax-sharing and other issues that would require joint cooperation.

Chair Allen asked about the economics of the annexation. She noted staff has said it's a "wash" but there are indications that it will initially be a loss to the City. Mr. Blount said the information presented by staff was based on economic feasibility studies.

Commissioner Burt cited Assistant City Manager Karen Majors' statements at the previous meeting regarding the financial feasibility. She also noted that rumor has it that two studies were done, in order to achieve fiscal improvement. Mr. Blount said the only second study he was aware of was part of the environmental review process, not cost-benefit analysis.

Chair Allen confirmed again that initially it will be a loss to the City but eventually will be profitable. Mr. Blount said yes, but he reminded the Commission this was not their purview.

Assistant City Attorney Veronica Nebb responded to the earlier question by Commissioner Burt regarding the roadway requirement, saying state law does not include that requirement, although local LAFCO policies might. She also reminded the Commission that the decision for or against annexation does not lie with the Planning Commission or even the City Council, but LAFCO will make final determination.

Chair Allen commented on the almost "island" that will result, given the odd configuration of the area to be annexed. Ms. Nebb said LAFCO will generally not approve annexation areas that create islands.

Commissioner Kelly asked about access to utility services. Ms. Nebb said it is based more on whether there is a common boundary.

Commissioner Marchiano asked who determined the configuration of the annexation area. Ms. Nebb said part of the reason for the strange configuration was because of the urban limit line (ULL) and Measure J requirements. She noted that the isolated area is outside the ULL, and including it in the annexation would result in a potential loss of Measure J funds. She acknowledged the configuration is odd, but noted the City has no power to adjust the ULL. She also noted that a mandatory review in 2015 could result in a change to the ULL at that time.

Commissioner Marchiano asked whether other areas proposed for annexation are outside the ULL. Ms. Nebb said no, all that are proposed for annexation are within the City's ULL.

Chair Allen asked whether the City had input in setting the ULL. Ms. Nebb said yes, there was an opportunity for review, but she was not sure how detailed the analysis was.

Chair Allen noted there have been instances where properties were split within and outside the ULL, with the developed area inside and the undeveloped area outside. She also indicated she would like the City to have discussions with the County and with LAFCO to request adjustments to the ULL. Mr. Blount said there have been some discussions with LAFCO already.

Ms. Nebb acknowledged some truth to Commissioner Allen's first statement about split lots, but LAFCO's preference is for properties to be within or without the ULL, not split between. She also noted that the ULL was approved by the voters, and this proposed annexation area conforms with the ULL.

Chair Allen said she has had some conversation with LAFCO, and there could be adjustments made, if it makes logical sense. Ms. Nebb said it is possible, but she thinks it is unlikely.

Commissioner Kelly asked about a section of the map and access to the Almand property. Staff was unable to confirm the location, but a member of the audience showed where it was.

Chair Allen asked if a draft resolution was included with the packet. Mr. Blount said yes, it was included at the end of the staff report.

Chair Allen opened the public hearing.

MARIE HOFFMANN expressed frustration with the repeated meetings and repeated statements that LAFCO makes the decisions. She thought that since the City won't gain much it is unwise to expend the cost for the annexation during these difficult financial times. She suggested conversations with LAFCO to make the needed adjustments. She was opposed to the annexation.

MARIE OLSON thanked the Planning Commission for their unbiased approach and willingness to listen to the public. She also thanked Planning staff for their efforts to make the City's regulations conform to the County's. She said the City will only have a financial loss if area A is annexed as well. She noted that she had discussions with Louann Texeira (director of LAFCO), who said once the application is submitted, the City can reduce the area proposed for annexation, but they cannot enlarge it.

Ms. Olson also commented on the minutes, wherein the Mayor was mentioned as wanting annexation of all areas with deferred annexation agreements. She noted that there are other properties with deferred annexation agreements, but they were not included in this proposal because of opposition by the residents.

HAL OLSON, president of the Alhambra Valley Improvement Association (AVIA) and vice-president of the Specific Plan Committee, commented on the better maintenance of the roads under County care. He also commented on the odd configuration of the annexation area. He noted that at the last meeting, Chair Allen had expressed concern regarding one house on a street being annexed and others not, yet that seems to be the case here.

Mr. Olson continued with a discussion on the construction of new structures on or near the top of the ridgeline and urged the Planning Commission to change the wording to say it shall be prohibited to build a structure within 50 feet of the ridgeline.

ERNEST LOMPA expressed appreciation to the Planning Commission for the support shown at the last meeting. He noted there is a serious need for the City leadership to use common sense, and this annexation is not logical, but rather, seems to be motivated by greed. He also expressed concern that he and wife signed a deferred annexation agreement under protest because it was required to be able to get water from the City.

Mr. Lompa noted that the County has approved additional units on his property, but he is not sure it will be allowed under the City's regulations. He expressed appreciation to Commissioner Kelly for the recommendation to share road maintenance with the County.

BRIAN MULRY, Gagen McCoy, commended staff for working with the Alhambra Valley Improvement Association and for their willingness to include additional language to address the neighbors' concerns. He agreed that the County roads are better maintained than City roads. He asked whether the commitment from the City Engineer to invest money on these roads is a firm one. He also asked if it is possible to review the mutual aid agreement between the City and the County. He indicated he would like to see an agreement made with the County for shared maintenance of the streets.

Mr. Mulry noted that areas A and B will be virtual islands if they are not annexed by the City - all three areas should be annexed at the same time.

KEN FIVELLA expressed concern about police response times, saying it will be impossible for the Martinez Police Department to have a timely response in an emergency. He also discussed the training of police personnel, noting that County sheriffs have better training and some specialties because they have better financial resources. He questioned why the Valley residents would want to join the City and pay more taxes for worse services.

MIKE ALFORD commented on the uniqueness of the Alhambra Valley, noting that none of the residents want annexation by the City. He noted that the City can barely afford to maintain its streets now - adding additional areas will only make it more difficult. He also asked who owns the parcels proposed for annexation, and he speculated that there are developers who want to build on the hills and control the City. He urged the Planning Commission to listen to the people.

Mr. Blount responded to Mr. Mulry's comment about the City Engineer's statement regarding road maintenance, noting it was a general comment - not a specific commitment to any particular area.

PHIL CIARAMINTARO recommended a shift in policy - to improve what the City already has, not adding more. He thought the neighborhoods should make the decision on annexation - if the City has something to offer, neighboring areas would come ask to be annexed.

Seeing no further speakers, Chair Allen closed the public hearing.

Commissioner Marchiano commented on the large area covered by one officer in the Sheriff Department, including Pacheco, Clyde, Bay Point, and Alhambra Valley. The City's

emergency response time will be as good, if not better. He also noted the area has a very low crime rate overall.

Chair Allen commented on the timing of the proposed annexation. Since the City is about to start a revision of the entire General Plan, it doesn't make sense to annex this area now. Mr. Blount agreed no changes can be made to the General Plan designation for two years after annexation. He noted that this area is virtually built out, and there should not be significant changes as a result of annexation.

Chair Allen acknowledged staff has worked hard with the residents to incorporate all of the County regulations. She reiterated that this is a poorly-timed, gerrymandered, oddly constructed annexation area, with no financial benefit to the City, and she was unsure about the police services and/or road maintenance requirements. She acknowledged that the LAFCO process is "fairly arduous" (as expressed by one of the staff at the last meeting) and is designed to give residents a say in the matter. She was concerned that picking and choosing annexation areas based on support or opposition violates the spirit of LAFCO.

In response to a question from Chair Allen, Mr. Blount reviewed the action before the Commission. Commissioner Allen said her conclusion is that she is not supportive of annexation at this time and in this manner.

Ms. Nebb explained the findings and recommendations requested: environmental impacts, general plan amendments, zoning ordinance amendments, and design guidelines.

Commissioner Burt commended staff and the AVIA and those who developed the Alhambra Valley Specific Plan, noting staff has done a good job responding to the concerns of the public and the Commission. She stated, however, that she has a fundamental problem with annexing only a small portion of the Alhambra Valley - if the entire area were proposed she could support annexation.

Commissioner Burt acknowledged the Commission's role is limited. She also noted the proposed area was chosen because a majority of property owners signed deferred annexation agreements and thus could not file a protest opposing the annexation. She thought this was a contrived and illogical configuration; it may be a legal process, but that doesn't make it the right thing to do. She indicated she could not morally make the recommendation being asked of the Commission.

Commissioner Marchiano echoed Commissioner Burt and stated that the gerrymandering of the proposed area makes no sense. He also expressed that requiring a deferred annexation agreement in order to get City water is not right. He could not support the requested action either.

Chair Allen asked what happens if the Planning Commission refuses to make a recommendation on the matter. Ms. Nebb said it will go forward to the Council, but with a negative recommendation from the Planning Commission.

Commissioner Marchiano expressed difficulty with the decision - he supports staff's work and efforts to include the best language and standards in the General Plan and Zoning Ordinance, but he did not want to endorse the annexation itself.

Ms. Nebb pointed out that the Planning Commission could make a recommendation supporting the proposed regulations, while still expressing a lack of support for the annexation itself.

Commissioner Burt commented on the limited effect if the Planning Commission had a lack of support for the annexation itself. She was also concerned whether the same regulations would apply well to the additional areas if and when they are annexed. She asked if the negative recommendation could include language as to why the Planning Commission is opposed to the annexation.

Ms Nebb clarified the Commission's role in reviewing an annexation proposal and making recommendations to the City Council, who will determine the boundaries of the LAFCO application as well act on the General Plan and zoning amendments. Chair Allen and Commissioner Burt summarized their consideration for making a negative recommendation on the regulations was mostly due to the limited geographical portion of the Valley they would be applied to, and not objections to the regulations themselves.

Chair Allen agreed if the annexation included the whole Valley, it would make more sense than doing it in pieces. She was also concerned about the General Plan update process that hasn't even started yet. She asked if this request could be put off for a year.

Ms. Nebb responded that the item will go forward on the Council's schedule, with or without a recommendation from the Commission. She discussed with the Commission actions the Planning Commission could make, including acting on the draft resolution provided by staff or making negative recommendations on some or all of the findings.

Chair Allen asked for a motion to approve the draft resolution. No motion was made, and Chair Allen then further discussed the Planning Commission's options with Ms. Nebb.

On motion by Commissioner Burt, seconded by Commissioner Marchiano, the Commission present voted to express that the Planning Commission does not support or agree with the 11 findings for the proposed annexation area because it does not encompass the full valley and may not be applicable to the entire valley, and it specifies General Plan provisions that will be locked in and might inhibit or restrict the future General Plan revision.

Motion unanimously passed 4 - 0. (Chair Busby, Commissioner Avila, Commissioner Ford, and Commissioner Keller excused.)

The Commission commended staff for their excellent work.

COMMISSION ITEMS

Commissioner Burt asked the status of Alhambra Highlands. Mr. Blount said it is headed to the Commission, and staff is still working on the environmental documents and internal review.

Commissioner Burt asked about the Davidon/Elderwood Glen/Highland subdivision. Mr. Simon said he was waiting for a discussion with the City Engineer, but the project may have lapsed. Commissioner Burt asked for confirmation once a determination has been made.

STAFF ITEMS

Mr. Blount said there will be no meetings in July, but likely two meetings in August.

Commissioner Burt commented on last year's death of Barry Whitaker, former planner for the City. She asked about the document on the dais regarding Planning Commission guidelines/by-laws. Commissioner Burt asked if the Planning Commission should look at the document and update it. Ms. Nebb said it was probably not necessary for the Planning Commission to do, but staff is reviewing them to ensure consistency in meetings.

Chair Allen pointed out a restriction on Commissioners voting on items if they have not been present at all meetings on the issue. Ms. Nebb said it can be alternatively accomplished if the Commissioner listens to the tape and/or reviews the minutes.

COMMUNICATIONS

None.

On motion by Commissioner Marchiano, seconded by Commissioner Kelly, the Commission present voted to adjourn at 9:25 p.m. to the next regular meeting.

Motion unanimously passed 4 - 0. (Chair Busby, Commissioner Avila, Commissioner Ford, and Commissioner Keller excused.)