

MINUTES
JOINT CITY COUNCIL / IMPROVEMENT AGENCY MEETING
MONDAY, APRIL 3, 2006

CALL TO ORDER Mayor Versaw called the meeting to order at 7:00 p.m. in the City Hall Council Chambers, 154 South Eighth Street, Grover Beach, California.

ROLL CALL

Council/Agency: Council/Board Members Ashton, Ekbohm, Shoals, Mayor Pro Tem/Vice Chair Lieberman, and Mayor/Chair Versaw were present.

City/Agency Staff: Interim City Manager/Executive Director Dunn, City Attorney/General Counsel Koczanowicz, City Clerk/Agency Secretary McMahon, Administrative Services Director/Finance Officer Chapman, Interim Community Development Director/Deputy Director Hansen, and Police Chief Copsey were also present.

Also present were Special Legal Counsel Dave McEwen of the firm Stradling, Yoca, Carlson & Rauth; and Redevelopment Consultant Richard Tillberg, Vice President of Urban Futures, Inc.

PUBLIC COMMUNICATIONS

The Mayor/Chair opened the floor to any member of the public for comment on items of interest which were within the jurisdiction of the City Council/Improvement Agency but were not listed on the agenda. No comments were received and the Mayor/Chair closed the Public Communications segment for this portion of the meeting.

IMPROVEMENT AGENCY - CONSENT AGENDA

Upon unanimous consensus, Consent Agenda Item No. IA-1 was approved as submitted.

IA-1. Minutes of the Special Joint City Council/Improvement Agency Meeting of March 2, 2006.

Action: Approved as submitted.

CITY COUNCIL / IMPROVEMENT AGENCY - PUBLIC HEARING

CC/IA-1. Proposed Disposition and Development Agreement (DDA) between the Grover Beach Improvement Agency (the "Agency") and "The Grand Paseo, LLC" (a California Limited Liability Company).

Mayor/Chair Versaw read the title to the foregoing item, declared the Public Hearing open, and deferred to staff for a report. Interim Community Development Director/Deputy Director Hansen summarized the purpose and process of the DDA. He then introduced Special Legal Counsel McEwen to address the specifics, contingencies, and deal points of the DDA.

Special Legal Counsel McEwen gave an overview of the proposed Disposition and Development Agreement (DDA), stating it was *not (emphasis added)* a decision to acquire any property by eminent domain, but that it was a proposed agreement that would obligate the Agency, only upon satisfaction of certain contingencies, to initiate the acquisition of property. If the developer and the property owner were unable to come to an agreement after a reasonable period of time, the Agency would order an appraisal and make an offer to purchase the property. If that effort was unsuccessful, a hearing would be held to consider a Resolution of Necessity, but the Council/Agency would not be obligated to adopt that Resolution of Necessity.

He then summarized the requirements to be met by the developer regarding a good faith effort on his own to purchase the property, construction time frames, and for the developer to adhere to the specific scope of the project. If the developer was successful in negotiating and acquiring the property from the owner, the Agency's obligation would end at that point, and the project would go forward without Agency assistance. The only financial obligation of the Agency would be for the property appraisal, and all other expenses would belong to the developer. Special Legal Counsel McEwen then responded to questions from the Council/Agency.

Council/Agency discussion ensued regarding transient occupancy tax, average daily room rate, and the process of eminent domain.

Upon question, Special Legal Counsel McEwen gave a brief overview of meetings held with individuals involved in the properties, stating the property owners have not responded to the developer's correspondence. He then referenced a letter from the Polins' legal counsel that was included in the staff report, stating the Polins have no interest in participating in the proposed development project and were requesting a nine-month extension to submit their own proposal.

Upon question, Redevelopment Consultant Tillberg stated Urban Futures had been requested to investigate and assure the Agency that there was a reasonable expectation that contingencies in the DDA could be complied with by the developer. Redevelopment Consultant Tillberg stated that Urban Futures had not yet received any additional financial information, other than a letter from Bank of America stating an interest in a development, and that at this point, Urban Futures could not make a recommendation regarding a reasonable expectation for the developer to comply with the contingencies. He also noted that the DDA was self-enforcing, in that if the equity and financing were not available, the DDA would expire on its own terms.

Mayor/Chair Versaw then invited public comment first from John Belsher, legal counsel representing the developer Ron Perkins of Cobalt Construction and the Grand Paseo, LLC; and then from Mark Manion, legal counsel representing the property owners Martin and Susan Polin.

Mr. Belsher introduced Bill Levitt, Jr., of Thousand Oaks, California, and gave a brief overview of Mr. Levitt's residential development background. He stated that Mr. Levitt had committed to either personally providing funds for the Grand Paseo development project or to securing the bank financing. Mr. Belsher then summarized other development projects in the planning stages or currently underway in Grover Beach to illustrate Mr. Perkins' commitment in the community. He summarized unsuccessful attempts to negotiate with the Polin family and their representatives, and then referenced photographs of under-utilized properties throughout San Luis Obispo County that were owned by the Polins.

Bill Levitt described himself as an investor, stated he had other development projects in San Luis Obispo County, spoke in support of the proposed Grand Paseo project and Ron Perkins, and stated his accounting firm would conduct an audit and provide the necessary financial information to Urban Futures.

Ron Perkins, Grover Beach resident, Applicant, spoke in support of the proposed Grand Paseo project, urged the Council/Agency to approve the DDA, and summarized the unsuccessful attempts to contact Martin and Susan Polin and the unsuccessful attempts to negotiate with their legal representative.

Mark Manion, legal counsel representing Martin and Susan Polin, objected to the twenty-day time period in which to respond to the Council/Agency's Request for Proposals as being an unreasonable period in which to prepare a response. He stated his clients understood that the property was located in a redevelopment area and reaffirmed their intention to submit their own development proposal; however, they needed a nine-month extension in which to do so. He stated other developers have also shown an interest in the property, and that the Polin's development history in other areas of the County was not relevant to this issue.

Council/Agency discussion was held acknowledging missteps in the process, efforts made to correct those missteps, unsuccessful attempts by staff as well as the developer over the past two years to communicate with the Polins, and the difficulty in accepting a request from the Polins at this point in the process to extend the deadline for submission of proposals for nine months.

Mayor Versaw invited comments from those in the audience who wished to be heard on this matter.

The following persons *objected* to the Grand Paseo project and/or expressed concerns over the use of eminent domain:

- Gary Edmonds, Grover Beach;
- Connie Rogers, Grover Beach;
- Don Fielding, Grover Beach;
- Scott Smith (did not state city of residence);
- Brent Freely, architect and Cal Poly professor, who also spoke about the redevelopment process;
- Tom Richards, Grover Beach;
- Stephen Seals, Grover Beach;
- Ann Malechevsky, Grover Beach;
- Elizabeth Doukas, Grover Beach;
- David Sanchez, former employee of the Polins, Grover Beach;

- Don Smith, Grover Beach property owner, Arroyo Grande;
- Linda Hollingsworth, business owner, Automotive Services Center, Grover Beach;
- Gina Villero, Grover Beach;
- John Hackelman, Atascadero, financially affiliated with Five Cities Auto, Grover Beach; and
- Mike Tiebault, Grover Beach.

The following persons spoke *in support* of the Grand Paseo project:

- Dorothy Avila, Grover Beach;
- Gary Geralme (did not state city of residence);
- Randy Grimes, Paso Robles;
- Tom Cook, business owner, Grover Beach;
- Catherine Hitchen, Arroyo Grande;
- Mike McCosta, Grover Beach;
- Tom Reeder, local subcontractor;
- Peter Keith, Grover Beach, Planning Commissioner, speaking as a private citizen;
- Tom Rehder, business owner, Mongo's Restaurant, Grover Beach; and
- Pat Cusack, Arroyo Grande, owner of two commercial properties on West Grand Avenue.

The following persons spoke *in support* of the Polin's request for a nine-month extension:

- Mike Wilson, Grover Beach;
- Ann McDowall, Grover Beach.
- Kevin McMullen, Grover Beach, who stated his property on Rockaway Avenue was taken by eminent domain for the fire station; and
- Amanda Cranford, Grover Beach.

There were no further public comments received.

Mayor/Chair Versaw invited follow-up comments from John Belsher, legal representative for the applicant, and Mark Manion, legal representative for the Polins.

Mr. Manion urged the Council/Agency to extend the deadline for Requests for Proposals from twenty days to nine months to allow the Polins an opportunity to prepare and submit their own proposal. He also acknowledged his clients' focus had not been on negotiating with Mr. Perkins and his development team.

Mr. Belsher stated all efforts by the Applicant's development team to negotiate with the Polins or their representatives have been rebuffed, including a purchase offer that was refused. He again requested the Council/Agency's support of the proposed project and the DDA.

There being no further public comments, Mayor/Chair Versaw closed the Public Hearing.

Council/Agency discussion was held regarding the amount of public participation involved in several successful visioning process workshops, the Council/Agency's desire to ensure due process regarding the proposed project location, whether granting the nine-month extension to the Polins would result in a proposal for the

Council/Agency's consideration, and that the primary source of public outcry regarding the proposed project apparently stemming from the possibility of the Improvement Agency using the redevelopment tool of eminent domain.

Upon request from the Council/Agency, Redevelopment Consultant Tillberg gave a brief overview of the definition of "blight" in a redevelopment project area and the economic and physical conditions required to make that determination.

Council/Board Member Ekbohm spoke in support of encouraging the assemblage of smaller parcels of land in the redevelopment area to allow larger project developments that would result in increased revenue to the City and then increased funding for infrastructure improvements. He observed that the subject property was not residential property, but rather investment property, and expressed skepticism that the requested nine-month extension would result in a proposal from the Polins. He also observed that the Polins could also present the Council/Agency with a four-story commercial project that was very similar to the one submitted by Ron Perkins, and that this type of mixed-use project was consistent with the types of development identified in the visioning process for West Grand Avenue.

Upon question from the Council/Agency, Mr. Perkins responded that if there were any further delays in the process, the project proposal would be withdrawn. He also stated that the current plan of four stories with condominium units on the top level would ensure the project's success, but that a three-story project would not be financially viable.

Upon question, Special Legal Counsel McEwen gave a brief overview of various steps regarding notification of property owners and the City/Agency's compliance with those requirements.

On behalf of the Council/Agency, Mayor/Chair Versaw thanked Special Legal Counsel McEwen and Redevelopment Consultant Tillberg for their presentations. He then gave a brief summary of the City's fiscally constrained condition, and the importance of ensuring a good revenue stream to first meet the City's fiscal obligations and then to focus on improving quality of life issues. He spoke in support of development projects like the Grand Paseo project as being the type of development identified through the visioning process workshops that could attract other investors to Grover Beach, and acknowledged that although the Council/Agency objected to the use of eminent domain, it was a tool available to encourage redevelopment. He also acknowledged the Applicant's good faith attempts to contact and negotiate with the property owners and their representatives.

Special Legal Counsel McEwen responded to questions regarding the City/Agency's exposure to legal challenges regarding the proposed DDA, eminent domain, and the Council/Agency's right to terminate the DDA if certain steps were not taken.

Upon request, Redevelopment Consultant Tillberg reiterated that, at this time, Urban Futures could not make a recommendation either for or against the proposed DDA because the requested information had not yet been provided. Further, the DDA required that certain information and assurances had to be provided before any action could be taken in relation to the subject property.

Further Council/Agency discussion was held regarding what would be considered a "reasonable period of time" to continue negotiations with the property owners and to allow them time to prepare their own concept plan, as well as the number of conditions that still needed to be met by the Applicant's development team during this process.

Council/Board Member Ashton expressed concerns regarding the financial information that had not yet been provided by the Applicant's development team.

Mayor Pro Tem/Vice Chair Lieberman and Council/Board Member Shoals spoke in support of allowing the property owners an opportunity to present their own development concept.

Action: It was moved by Council/Board Member Ekbom and seconded by Mayor/Chair Versaw to: 1) approve the proposed Disposition and Development Agreement (DDA) between the Grover Beach Improvement Agency and "The Grand Paseo, LLC" (a California Limited Liability Company); 2) adopt the Resolution by the Improvement Agency approving the DDA; and 3) adopt the Resolution by the City Council approving the DDA. The motion failed on the following roll call vote:

AYES: Council/Board Member Ekbom and Mayor/Chair Versaw.

NOES: Council/Board Members Ashton, Shoals, and Mayor Pro Tem/Vice Chair Lieberman.

ABSENT: Council Members - None.

ABSTAIN: Council Members - None.

ADJOURNMENT

There being no further business to come before the City Council/Improvement Agency, Mayor/Chair Versaw adjourned the meeting at 10:38 p.m., to reconvene the regular City Council meeting.

City Council:

/s/ LARRY VERSAW, MAYOR

Attest: /s/ DONNA L. McMAHON, CITY CLERK

(Approved at CC Mtg 6/05/06)

Improvement Agency:

/s/ LARRY VERSAW, CHAIR

Attest: /s/ DONNA L. McMAHON, AGENCY SECRETARY

(Approved at IA Mtg 7/17/06)