

**MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
FEBRUARY 24, 2011
(Approved April 28, 2011)**

The meeting was held at the hour of 1:30 p.m. in the City of Pleasanton Council Chambers, 200 Old Bernal Avenue, Pleasanton.

FIELD TRIP: The Board visited the properties individually.

1. **GORALKA/AT&T/ENGFER, CONDITIONAL USE PERMIT, PLN2010-00202** ~ Application to allow continued operation of an existing telecommunication facility, in an 'A' (Agricultural) District, located at 6655 Dagnino Road, approximately three miles north of HWY I-580, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 902-0006-004-00. **Staff Planner: Jeff Bonekemper**
2. **CRESTA BLANCA GOLF LLC/VELOCITEL/MUSSER, CONDITIONAL USE PERMIT, PLN2010-00204** ~ Application to installation of a temporary telecommunication facility on wheels containing a 60 feet high antenna, equipment container and trailer, in an 'A-CA' (Agricultural, Cultivated Agriculture) District, located at 4280 Arroyo Road, approximately 0.5 mile north of Arroyo Road terminus, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 99-0625-001-04. **Staff Planner: Jeff Bonekemper**
3. **CLARK FAMILY TRUST/AT&T/ENGFER, CONDITIONAL USE PERMIT, PLN2011-00005** ~ Application to allow continued operation of an existing telecommunication facility, in an 'A' (Agricultural) District, located at 9464 Pleasanton-Sunol Road, approximately five miles south of HWY I-580, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0320-002-14. **Staff Planner: Jeff Bonekemper**
4. **MARIE GOMES TRUST, INC./AT&T/ENGFER, CONDITIONAL USE PERMIT, PLN2011-00006** ~ Application to allow continued operation of a telecommunication facility, in an 'A' (Agricultural) District, located at 11830 HWY I-580 East, approximately two miles east of North Flynn Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 99B-6425-002-03. **Staff Planner: Jeff Bonekemper**

REGULAR MEETING: 1:30 P.M.

MEMBERS PRESENT: Members Jon Harvey; Larry Gosselin, Chair and Jim Goff.

OTHERS PRESENT: Sandi Rivera, Assistant Planning Director; Jana Beatty, Senior Planner; Andrea Weddle, County Counsel's Office; and Nilma Singh, Recording Secretary

There were approximately thirteen people in the audience.

CALL TO ORDER: *The meeting was called to order by the Chair at 1:30 p.m.*

OPEN FORUM: Open forum is provided for any members of the public wishing to speak on an item not listed on the agenda. Each speaker is limited to three (3) minutes. *No one requested to be heard under open forum.*

ANNOUNCEMENTS BY THE CHAIR: *None*

NEIGHBORHOOD PRESERVATION AND ZONING ORDINANCE ABATEMENT: *None*

CONSENT CALENDAR:

1. **BANK OF THE WEST/McNICHOLS/CINGULAR WIRELESS, LLC, CONDITIONAL USE PERMIT, PLN2010-00182** ~ Application to allow continued operation of a 25 feet cell tower, four ground-mounted antennas and equipment area, in an 'A' (Agricultural) District, located at 38000 Palomares Road, near the intersection with Niles Canyon Road, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 085A-5500-001-17. (Continued from January 13, 2011). **Staff Planner: Jeff Bonekemper**
2. **GORALKA/AT&T/ENGFER, CONDITIONAL USE PERMIT, PLN2010-00202** ~ Application to allow continued operation of an existing telecommunication facility, in an 'A' (Agricultural) District, located at 6655 Dagnino Road, approximately three miles north of HWY I-580, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 902-0006-004-00. **Staff Planner: Jeff Bonekemper**
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All the above Consent Calendar items were moved from the Regular Calendar, to be acted on without discussion per staff recommendation. Member Harvey recused himself. Member Goff made the motion to approve the Consent Calendar and the Chair seconded. Motion carried 2/0.

REGULAR CALENDAR:

5. **BANK OF THE WEST/McNICHOLS/CINGULAR WIRELESS, LLC, CONDITIONAL USE PERMIT, PLN2010-00182** ~ Application to allow continued operation of a 25 foot cell tower, four ground-mounted antennas and equipment area, in an 'A' (Agricultural) District, located at 38000 Palomares Road, near the intersection with Niles Canyon Road, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 085A-5500-001-17. (Continued from January 13, 2011). **Staff Planner: Jeff Bonekemper**
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All the above applications, items 5 (PLN2010-00182) to #9 (PLN2011-00006), were moved to the Consent Calendar, to be acted on, without discussion, subject to the recommended conditions.

10. **ADAPTIVE MANAGEMENT PLAN FOR THE CONDITIONAL USE PERMITS FOR ALTAMONT INFRASTRUCTURE COMPANY, INC., ESI BAY AREA GP, INC., ESI ALTAMONT ACQUISITIONS, INC., ON BEHALF OF GREEN RIDGE POWER, LLC AND ESI TEHACHAPI ACQUISITIONS ON BEHALF OF ALTAMONT POWER, LLC ('ESI'0, ENXCO, INC., AND SEAWEST POWER RESOURCES, LLC. Staff Planner: Sandra Rivera**

Ms. Rivera presented the staff report adding that comment letters have been received, copies of which have been made available to the Board. In response to the Board, she further explained that Scientific Review Committee (SRC) is an advisory body which evaluates the percentage of avian mortality reduction to baseline and there have been no formal discussions with the Settlement Parties regarding a

modification to baseline/scaling factor.

Public testimony was called for. Joan Stewart, NextEra Energy Resources, stated that NextEra is not opposing the AMP but would like credit for removing 446 turbines in Phase I, 74 HRT turbines (66 remaining) along with another 372 turbines. The cost for the monitoring has been very high—\$1.2m combined for all companies; \$3-5,000 a year monitoring cost for the repowering which adds little to information/data; monitoring must be reduced in scope by 16.7% or \$250,000. The Chair noted that the Board did not have an expense list and asked if NextEra will provide a comprehensive repowering plan. Ms. Stewart replied yes, in the 2nd - 3rd phase, and that NextEra would like to start the discussions regarding the expense list.

Rich Cimino, member of the APWRA NCCP/HCP Stackholders Committee and Audubon (Ohlone Chapter), expressed concern that no response has been received from State and Federal Fish and Game regarding the NCCP/HCP as meetings after the settlement have been cancelled. Staff explained that contacts were made with these agencies regarding their participation in the evaluation; the next Stakeholders' meeting is scheduled for April 3rd. On behalf of the Audubon, he expressed concerns with reducing monitoring. Instead, he recommended that the monitoring, although expensive, continue for another 3-4 years. He further requested clarification on the study of the burrowing owls and asked if the SRC or the chartered companies will monitor the study and report back to the County. Staff replied that the study is for repowering purposes and the measurement of the percentage reduced. All information gathered will be incorporated in the EIR which will be heard by this Board. In response to the Board, Mr. Cimino indicated that Audubon supports the seasonal shutdown and unless repowering has addressed the mortality rate, the study should continue, at least through repowering. There is concern that the increase in search interval to 60 days will not provide the correct data as it is important to keep a consistent raptor data due to the lack of a baseline study. Staff clarified that the current monitoring is for the old turbines, the repowered turbines will have a separate monitoring, and pointed out page 6, #5(e) of the G-1 Addendum. Mr. Cimino requested that the Board amend (e) by deleting the 45 or 60 days option.

Karen Sweet, 12233 N. Flynn Road, said her property is adjacent to the windfarm. Her one issue is an accumulative health concern, Wind Turbine Syndrome. She requested that this issue be included in future planning process, any adaptive management plans and EIR processes.

Ryan McGraw, Altamont Winds, Inc., (AWI) stated that AWI operates approximately 20% of the turbines and is neither a party to AMP nor the settlement. His three main points were: 1) AWI thinks that 50% reduction has been met as there has been 79% reduction in mortality; 2) regulatory costs are very high especially monitoring cost which is not very effective as this data will not be applied to the repowered turbines and, as such, would be reasonable to reduce the cost but perhaps with a cap; 3) there is a loss of approximately \$3M due to seasonal shutdown. He further read a section from the monitoring report that described the effect of seasonal shutdown. In response to health concerns, he said that a study was completed in the Altamont area which indicates that the Altamont wind pass saves 140 premature human deaths relating to lung and heart disease and off-setting carbon emissions. They would also like to see the benefits factored into the AMP. In response to the Chair, he added that they could develop a plan to do so; AWI had reviewed the Findings; and, AWI is committed to repowering. However, it would be difficult to provide a timeline.

Nanette Leuschel, representing, Ralph Properties II, concurred with Mr. McGraw adding that the AMP not compromise the ability of other companies to repower. There is a need for winter shutdown, reduction of monitoring costs, and monitoring to focus on repowering instead of the existing turbines.

Mr. Cimino clarified that Audubon supports the winter shutdown as it gives a consistent study timeline.

Public testimony was closed. In response to the Board, staff explained the following: the monitoring cost budget had been approved by BOS and accepted by the companies; although Seawest is evaluating and Enxco has agreed to repowering, there is no timeline; although consideration for off-site mitigation was part of the settlement, it was delayed but will now be part of the EIR and scoping sessions have begun; and there will be further SRC actions/directives per the AMP. A discussion ensued regarding the seasonal shutdown and monitoring costs. Staff noted that although ESI indicates 30% repowering, the Board could modify the AMP to reflect an increase.

Public testimony was re-opened. In response to the Chair, Mr. Cimino indicated that an increase will not change Audubon's negativity. He re-iterated the support for the timeline and no changes to the search interval days, and suggested perhaps generating revenue to allow consistent studies including any new studies. Member Harvey suggested trading seasonal shutdown for 5(e). The Chair recommended a continuance to allow time for Mr. Cimino to obtain a formal response from Audubon.

William Barnes, representing SeaWest Power Resources, one of the parties of the settlement, in response to raising the threshold as an incentive for repowering, stated that more incentive is not needed and a raise could also impact the feasibility of their business. Their project is the smallest and since the land is fragmented, it is difficult to add more turbines due to setback issues. However, they are working to combine with another owner. He urged the Board not to change the threshold and agreed that a trade-off would be reasonable.

Joan Stewart also indicated her support for a continuance to allow time to obtain a formal response.

Public testimony was closed. Staff discussed the issue of credits for repowering which was raised by NextEra and recommended modifying Attachment E 1(f) on page 3 by deleting the words 'HRTs ranked 8 or greater'. *Member Harvey made the motion for a continuance to March 10 and Member Goff seconded. Motion carried unanimously, 3/0.*

APPROVAL OF MINUTES - *Member Harvey made the motion to approve the January 13th Minutes as submitted and Member Goff seconded. Motion carried unanimously, 3/0.*

STAFF COMMENTS & CORRESPONDENCE: *None*

CHAIR'S REPORT: *None*

BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS: *None*

ADJOURNMENT: *There being no further business, the hearing was adjourned at 4:00 p.m.*

ALBERT LOPEZ - SECRETARY
EAST COUNTY BOARD OF ZONING ADJUSTMENTS