

MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
JANUARY 27, 2005
(APPROVED FEBRUARY 10, 2005)

The meeting was held at the hour of 1:30 p.m. in the Conference Room of the Public Works Operations Building, 4825 Gleason Drive, Dublin, California.

FIELD TRIP: 9:00 p.m.

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

OTHERS PRESENT: Sonia Urzua, Planner.

FIELD TRIP: The meeting adjourned to the field and the following property was visited:

1. **MARK and SHELLY SKINNER/ROBERT DEFILLO, CONDITIONAL USE PERMIT, C-8273** – Application to allow a horse boarding facility for 45 horses with riding arena and round pen, in an “A” (Agricultural) District, located at 41798 Vargas Road, north side, approximately 0.4 mile north of Mission Boulevard, unincorporated Fremont area of Alameda County, bearing Assessor’s Parcel Number: 0096-0056-013-00.
2. **AT&T WIRELESS SERVICES, INC., CONDITIONAL USE PERMIT, C-8344** – Application to allow continued operation of a wireless communication facility, in an “A” (Agricultural) District, located at 11600 Pleasanton/Sunol Road, southeast side, corner of Paloma Way, unincorporated Sunol area of Alameda County, bearing Assessor’s Parcel Number: 0096-0376-007-02.
3. **CLIFTON MATHEWS, CONDITIONAL USE PERMIT, C-8352** – Application to allow operation of an outdoor recreation facility (Paintball Park), in an “A” (Agricultural) District, located at 3726 May School Road, north side, approximately 0.35 miles west of Dagnino Road, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Number: 0902-0004-007-00.

REGULAR MEETING: 1:30 p.m.

MEMBERS PRESENT: Members Jon Harvey, Chair; Donna Flavetta, Larry Gosselin.

OTHERS PRESENT: Ronald Gee, Senior Planner; Sonia Urzua, Planner; Kate Conner, Planner; Nilma Singh, Recording Secretary.

There were approximately twenty-two people in the audience.

CALL TO ORDER:

The meeting was called to order by the Chair at 1:40 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: The Chair announced that Consent Calendar items 1 and 2 are being moved to the Regular Calendar, to be placed at the end and Regular Calendar item #6 (C-8311) to be moved to the Consent Calendar, to be continued without discussion to March 24, 2005.

CONSENT CALENDAR:

1. **WINDWORKS, INC., CONDITIONAL USE PERMIT, C-8216** – Application to allow continued operation of an existing wind generation facility, in an “A-B-E” (Agricultural, 160 acres Minimum Building Site Area) District, located at 12251 North Flynn Road, east side of South Flynn Road, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Number: 099A-1810-001-00. (Continued from November 13, December 11, 2003; January 29, February 19, March 25, April 29, July 29, August 12, September 23, October 28 and November 18, 2004; to be continued without discussion to February 24, 2005). **(Moved to the Regular Calendar)**
2. **ALTAMONT INFRASTRUCTURE COMPANY/ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY, CONDITIONAL USE PERMIT, C-8243** – Application to allow continued operation of an existing wind generation facility consisting of 404 turbines, in an “A-B-E” (Agricultural, 160 acre Minimum Building Site Area) District, located at 11700 and 11701 North Flynn Road, east corner, southwest of South Flynn Road, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Numbers: 099A-1770-002-01, 099A-1770-002-02, 099A-1770-002-03, 099A-1780-001-04, 099A-1790-003-00 and 099A-1810-001-00. (Continued from August 12, September 23, October 28, November 18, 2004; to be continued without discussion to February 24, 2005). **(Moved to the Regular Calendar)**
3. **MICHAEL J. ECKERT, CONDITIONAL USE PERMIT, C-8309** – Application to allow operation of a small winery and tasting room, in a R-1-L-B-E (Single Family Residence, Limited Agricultural Uses, 5 Acre Minimum Building Site Area, 100 feet Minimum Lot Width, 30 feet Front Yard Setback) District, located at 2416 Marina Avenue, north side, approximately 0.263 miles east of Arroyo Road, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Number: 0099-0700-011-03. (Continued from August 12, September 23, November 18, 2004; to be continued without discussion to March 24, 2005).
4. **SUNOL VALLEY GOLF COURSE, CONDITIONAL USE PERMIT, C-8317** – Application to modify improvements to an existing outdoor recreation facility by the relocation of the existing maintenance yard and to up-grade the existing irrigation system, in an “A” (Agricultural) District, located at 6900 Mission Road, north side, end of Andrade Road, unincorporated Sunol area of Alameda County, bearing Assessor’s Parcel Number: 0096-0056-015-02.(Continued from August 12, September 23, October 28, November 18, 2004, to be continued without discussion to February 10, 2005).
5. **AT&T WIRELESS SERVICES, INC., CONDITIONAL USE PERMIT, C-**

8343 – Application to allow continued operation of a wireless communication facility, in an “A” (Agricultural) District, located at 38000 Palomares Road, east side, northeast corner of Niles Canyon Road, unincorporated Fremont area of Alameda County, bearing Assessor’s Parcel Number: 085A-5500-001-16 (To be continued to without discussion to February 24, 2005).

6. **BIOSOLIDS RECYCLING, CONDITIONAL USE PERMIT, C-8311** - Application to allow continued operation of a sanitary landfill (land spreading of biosolids/digested sewage sludge) in an "A" (Agriculture) District, located in Section 26, off of Jess Ranch Road, approximately 1.5 miles west of Grant Line Road, in Unincorporated Mountain House Area of Alameda County, Designated Assessor's Parcel Numbers: 99B-6400-2-6 and 99B-7800-9. (Continued from September 23, October 28 and November 18, 2004).

Regular Calendar item #6 (C-8311) was moved to the Consent Calendar to be continued without discussion to March 24, 2005, to allow completion of the environmental review work. Member Flavetta made the motion to approve the Consent Calendar per staff recommendations with the above modifications. Member Gosselin seconded the motion, which carried 3/0.

REGULAR CALENDAR:

1. **JOSE and MARIAM DaSILVA, CONDITIONAL USE PERMIT, C-8119** – Application to allow retention of unpermitted boarding stables for 20 horses and expansion to 40 horses, in a R-1-L-B-E (Single Family Residence, Limited Agricultural, 5 acre Minimum Building Site) District, located at 5100 Raymond Road, north side, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Number: 902-0003-002-00. (Continued from May 27, June 10, July 29, September 23, November 18, 2004).

Ms. Urzua summarized the staff report adding that the Applicant was unable to attend today’s hearing. This matter had come in as a complaint but was now resolved. Manure management was in place, no special events were allowed, all horses to be cared by owners and an approval would be subject to Exhibit B instead of “A” as reflected in the staff report.

No public testimony was submitted. The Chair noted that a site visit had been made and much discussion has occurred on this matter previously. Member Gosselin made a motion to approve the application, subject to Exhibit “A” and the recommended eight conditions. Member Flavetta seconded the motion, which carried 3/0.

2. **CINGULAR WIRELESS, CONDITIONAL USE PERMIT, C-8144** – Application to allow continued operation of a radio transmission facility (cellular telephone antenna) in an “A” (Agricultural) District, located at 16163 Grant Line Road, south side corner, southeast of Altamont Pass Road, unincorporated Tracy area of Alameda County, bearing Assessor’s Parcel Number: 099B-7700-004-01. (Continued from May 1, June 26, July 24, September 25, December 11, 2003; February 19, April 29, July 29, September 23, October 28, November 18, 2004).
3. **AT&T WIRELESS/JOSE and JOSEFINA AVILA, CONDITIONAL USE PERMIT, C-8195** – Application to allow continued operation of a radio transmission facility (cellular telephone antenna), in an “A” (Agricultural)

District, located at 16163 Grant Line Road, east side corner, southeast of Altamont Pass Road, unincorporated Tracy area of Alameda County, bearing Assessor's Parcel Number: 099B-7700-004-00. (Continued from September 25, December 11, 2003; February 19, March 25, April 29, July 29, September 23, October 28, November 18, 2004).

4. **CALCOM SYSTEMS, INC., CONDITIONAL USE PERMIT, C-8221** – Application to allow a radio transmission facility (cellular telephone antenna facility) in an “A-B-E” (Agricultural, 160 square feet Minimum Building Site Area) District, located at 16163 Grantline Road, east side, corner southeast of Altamont Pass Road, unincorporated Tracy area of Alameda County, bearing Assessor's Parcel Number: 099B-7700-004-06. (Continued from November 18, 2004).

Ms. Conner pointed out that one staff report had been prepared for items 2 (C-8144), 3 (C-8195) and 4 (C-8221). The proposal was for one flag pole with co-locations. Landscaping will include Poppies instead of olive trees due to inadequate water and harsh climate. The Chair asked if the photo simulation from the prior hearing was still current. Staff replied yes.

No public testimony was submitted. Member Gosselin felt that the Gateway entrance issue could be considered by Supervisor Haggerty's office and the matter could move forward. Ms. Conner recommended deleting the last sentence from the fourth Finding; deleting Condition #3 and modifying the expiration to read 2015. Member Gosselin made the motion to approve the applications per staff recommendation and the above modifications. Member Flavetta seconded the motion, which carried 3/0.

5. **MARK and SHELLY SKINNER/ROBERT DEFILLO, CONDITIONAL USE PERMIT, C-8273** – Application to allow a horse boarding facility for 45 horses with riding arena and round pen, in an “A” (Agricultural) District, located at 41798 Vargas Road, north side, approximately 0.4 mile north of Mission Boulevard, unincorporated Fremont area of Alameda County, bearing Assessor's Parcel Number: 0096-0056-013-00. (Continued from February 19, March 25, April 29, May 27, July 29, September 23, October 28, November 18, 2004).

Ms. Urzua presented the staff report adding that at the last hearing, concerns had been noted with the Fire Department approval. Since then, both Fire Department and Applicant have reached an agreement and, as such, staff recommends an approval with an additional condition to reflect that the Applicant address and plan for erosion control and work with Resource Conservation District. Member Gosselin felt that since the matter has been continued numerous times and the condition been suggested late, he wanted confirmation from the Applicants that they had no concerns with the erosion control.

Public testimony was called for. Mark Skinner, co-applicant, requested clarification. Member Gosselin explained adding that this was a new concern and asked if their operation would be affected by a delay. Mr. Skinner replied no but said he would like to know the requirement.

Shelly Skinner said that they had purchased a water tank which had been costly and now they were in an awkward position. If an approval is not granted, they would have to close down. Member Gosselin explained that if approved and they were unable to comply with the requirements of the different agencies, then the Board would have no authority. Ms. Skinner said they would prefer a continuance. A discussion followed. Staff explained that perhaps a separate condition be added with a time frame instead of an addition to Condition #14, to read: Applicant to submit an erosion plan within 60 days for approval

by the Planning Director. Ms. Skinner said it would also depend on when the District could do a site visit.

Robert Defillo, landowner, explained that the erosion problem has become evident because of the heavy rains. He concurred with staff on a separate condition but requested an approval.

Public testimony was closed. Member Gosselin noted that there was an erosion problem which could get worse with a storm in future and, as such, it was time to address the problem. He suggested contacting Mark Fournier, Clean Water Program. Ms. Skinner said they had and was advised to contact Resource Conservation District (RCD). A discussion followed regarding RCD. The Chair suggested the Board write a letter to RCD. Ms. Urzua explained that staff gives out RCD handouts to horse boarding facilities and refers some applications but were unaware of the outcome. Hence, a continuance would be appropriate to allow time for the Applicant/staff to become aware of their requirements. At the suggestion of Member Gosselin that this Board be a liaison, the Chair appointed him.

Member Flavetta made the motion to continue the matter to March 24, 2005. The Chair recommended that it should be continued to the next meeting and if not ready, the matter could be continued again. Member Flavetta amended her motion for a continuance to February 24, 2005. Member Gosselin seconded the motion, which carried 3/0.

6. **BIOSOLIDS RECYCLING, CONDITIONAL USE PERMIT, C-8311** - Application to allow continued operation of a sanitary landfill (land spreading of biosolids/digested sewage sludge) in an "A" (Agriculture) District, located in Section 26, off of Jess Ranch Road, approximately 1.5 miles west of Grant Line Road, in Unincorporated Mountain House Area of Alameda County, Designated Assessor's Parcel Numbers: 99B-6400-2-6 and 99B-7800-9. (Continued from September 23, October 28 and November 18, 2004). **(Moved to the Consent Calendar).**
7. **CALCOM SYSTEMS, INC., CONDITIONAL USE PERMIT, C-8330** - Application to allow continued operation of a wireless communications facility with minor modifications, in an "A" (Agricultural) District, located at 3800 Palomares Road, east side, corner of Niles Canyon Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 085A-5500-001-16. (Continued from November 18, 2004).

Ms. Conner presented the staff report adding that there had been some concerns at the last hearing as to what existed on site and what was being proposed. This was previously approved but not implemented and the site was not visible from the road. Member Flavetta requested clarification that it was not visible from any roads. Staff replied no and provided further clarification with the maps.

Public testimony was called for. Thesha Blas, CALCOM representative, said she was available to answer any questions. No other public testimony was submitted.

Member Flavetta said she understood the proposal better now and made the motion to move staff recommendation for an approval subject to eighteen recommended conditions. Member Gosselin seconded the motion, which carried 3/0.

8. **AT&T WIRELESS SERVICES, INC., CONDITIONAL USE PERMIT, C-**

8344 – Application to allow continued operation of a wireless communication facility, in an “A” (Agricultural) District, located at 11600 Pleasanton/Sunol Road, southeast side, corner of Paloma Way, unincorporated Sunol area of Alameda County, bearing Assessor’s Parcel Number: 0096-0376-007-02.

Ms. Conner summarized the staff report adding that although the site is visible, landscaping is required and trees were growing. So far no complaints have been received. The Chair pointed out that the Board had approved a facility 2002 that would expire in two years. Ms. Conner explained that all co-locaters would expire on the same date and if any new co-locaters at this site, they would also expire on the same date as this permit. No public testimony was submitted. Member Gosselin made the motion to approve the application subject to the eighteen recommended conditions. Member Flavetta seconded the motion, which carried 3/0.

9. **CLIFTON MATHEWS, CONDITIONAL USE PERMIT, C-8352** - Application to allow operation of an outdoor recreational facility (Paintball Park) in an “A” (Agricultural) District located at 3726 May School Road, north side, 0.35 miles west of the intersection with Dagnino Road, in the unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Number: 0902-0004-007-00.

Ms. Conner presented the staff report. The Chair asked if staff has received a written response from the Sheriff’s Department. This facility was in close proximity of the Rod and Gun Club. Staff replied yes, in support.

Public testimony was called for. Cliff Mathews, Applicant, explained that there were three misconceptions about a paintball park. It was violent, safety and paint concerns. But he pointed out that statistics indicate it was safe, masks, nets and rules were provided and the paint was bio-degradable. He was available to answer any questions. Member Gosselin asked if a PA system would be used. Mr. Mathews said he does not intend to use one but if needed, would install one away from the residences. In response to the Board, he further explained that he uses a trailer to take all equipment home in the week-days for cleaning and repair; uses only removal barricades and he did not live on the property. The owner lives in the front portion and he leases the rear portion of the property.

Darlene Bettencourt, property owner at 4760 Bel Roma Road, in opposition, said she lives nearby. She complained that none of the neighbors were aware of this proposal or this hearing. The only notice was one telephone pole posting. Her concerns included safety, animal and quality of life (week-end disruptions). Such a park was not appropriate in this area but away from residents and livestock. She further discussed the reference to Measure D on Page 5. This recreational use was not an agricultural use. The other similar park was in Sunol and none of the other recreational sites were close to the residences. Horses and paintballs do not go together. In response to the Chair, Ms. Bettencourt said the Rod and Gun Club was located against the hillside and was also not in close proximity. She disagreed with the third and fourth Findings adding that the fourteen residences in this area were against the proposal as the park would affect their week-ends. Although no PA system was being used currently, it was included in

the conditions of approval and she was concerned that it will be used in the future. Ms. Bettencourt submitted a letter on behalf of the owner of the training facility located at the rear of the park.

Gail Vardanega, 4681 Bel Roma Road, submitted and discussed her written testimony. Although her property was further than 300 feet, it would be mostly affected. She also complained of lack of

notification adding that all neighbors could not response since unaware of the proposal. As such, she requested a continuance. There were valuable horses in the neighborhood which will be affected by the popping guns. Rosemary De Leon's, Development Services, report did not refer to the west of the property but only the east. Some of her other concerns included traffic increase, inappropriate location; use of PA system; trash; noise, portable toilets; 24 feet netting on the east but no noise mitigation for the west; no limit on the number of players and paint drainage. Zone 7 has not completed a study. Ms. Bettencourt requested an opportunity for all neighbors to voice their concerns.

Lona McCallister, 4700 Bel Roma Road, said she had fire concerns. She asked what other services was this use related to and further discussed the second Finding. Her other concerns were lighting and unsightliness. She also requested a continuance to allow adequate time to prepare a response. The Chair explained that other services included fire, police and water. Mr. McCallister pointed out that the Fire Department was located in South Livermore and there was always a fire hazard in this area. She also announced that another neighbor, Linda Niese, will be submitting her letter of opposition by mail.

Mr. Mathews, in rebuttal, apologized for lack of notification. The area between the field and the existing horse facility was about 2½ miles away and, as such, noise should not be a problem. Other existing residences were about a mile away and with the wind blowing from west to east, the noise will be carried further away.

Ms. Bettencourt, in rebuttal, disagreed that the horse facility was 2 ½ miles away. The portion of the property that Mr. Mathews was renting was closer. Contamination of well water was another concern since it was the only source of water for this area.

Public testimony was closed. Member Gosselin recused himself for this item. The Chair suggested a continuance due to lack of public notice, to make a full site visit and to obtain more information. Member Flavetta made the motion for a continuance to February 24, 2005. The Chair seconded the motion, which carried 2/0.

10. **WINDWORKS, INC., CONDITIONAL USE PERMIT, C-8216** – Application to allow continued operation of an existing wind generation facility, in an “A-B-E” (Agricultural, 160 acres Minimum Building Site Area) District, located at 12251 North Flynn Road, east side of South Flynn Road, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 099A-1810-001-00. (Continued from November 13, December 11, 2003; January 29, February 19, March 25, April 29, July 29, August 12, September 23, October 28 and November 18, 2004; to be continued without discussion to February 24, 2005).
11. **ALTAMONT INFRASTRUCTURE COMPANY/ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY, CONDITIONAL USE PERMIT, C-8243** – Application to allow continued operation of an existing wind generation facility consisting of 404 turbines, in an “A-B-E” (Agricultural, 160 acre Minimum Building Site Area) District, located at 11700 and 11701 North Flynn Road, east corner, southwest of South Flynn Road, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Numbers: 099A-1770-002-01, 099A-1770-002-02, 099A-1770-002-03, 099A-1780-001-04, 099A-1790-003-00 and 099A-1810-001-00. (Continued from August 12, September 23, October 28, November 18, 2004; to be continued without discussion to February 24, 2005).

These two applications, C-8216 and C-8243, were moved from the Consent Calendar to the Regular Calendar. Ms. Urzua presented the staff report. No public testimony was submitted. The Chair asked for a status on the applications adding that at the last hearing, the applications were continued to allow staff to draft a new set of conditions. Member Gosselin provided an up-date on the Working Group. The Planning Director was now more involved, issues have been presented to CEC, goals of the windpower were being discussed and a strong focus to reduce raptor mortality. The deadline for Board of Supervisor's hearing is March and the goal of the Working Group is to make a recommendation before March. A subcommittee has been set by the Agricultural Advisory Committee to work on the mitigation funds. The Board requested clarification on the time frame for appeal hearings.

Ms. Flavetta asked to be excused for the remainder of the hearing.

Member Gosselin made the motion to continue these applications to the next hearing, February 10th instead of February 24th as recommended by staff. He suggested that staff check with Mr. Gray whether the matter needed to be re-noticed. The Chair seconded the motion, which carried 2/0. Member Flavetta was excused.

Approval of Minutes – October 28, 2004 – The Chair made the following corrections: Page 5, item #4, to reflect the vote; Page 6, the last sentence “The Chair agreed” to be deleted; Page 7, item #9, to double check the first sentence as to whether or not Mr. Gray agreed in support or not; and to double check the vote for the approval of September 23rd Minutes.

November 18, 2004 – Member Gosselin made a correction on Page 7, second paragraph, to delete the words, “...member of the Agriculture Advisory Board...”.

Member Gosselin made the motion to approve the October 28th and November 18th Minutes with the above modifications. The Chair seconded the motion, which carried 2/0. Member Flavetta was excused.

STAFF COMMENTS & CORRESPONDENCE: Mr. Gee noted that there were four items for the February 10th hearing and asked if the Board would be interested in doing a field trips, perhaps even for the new on the February 24th agenda. He pointed out the other Boards do similarly. The Chair agreed and requested that the paintball facility, C-8352, be added to the Field Trip.

CHAIR'S REPORT: None.

BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS: None.

ADJOURNMENT: There being no further business, the hearing was adjourned at 3:55 p.m.

CHRIS BAZAR - SECRETARY
EAST COUNTY BOARD OF ZONING ADJUSTMENTS