

MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
MARCH 10, 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.

REGULAR MEETING: 1:30 p.m.

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

OTHERS PRESENT: Jana Beatty, Senior Planner; Sandra Rivera, Assistant Planning Director; William Fleishaker, County Counsel's Office; and Nilma Singh, Recording Secretary

There were approximately eleven 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: *None*

REGULAR CALENDAR:

1. **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. (Continued from February 24, 2011).
Staff Planner: Sandra Rivera**

Ms. Rivera presented the staff report and added that staff is also recommending the AMP be updated to reflect correct inventory numbers as noted by NextEra in Section 1.D.ii and iii and adjust the dates in Attachment F to account for any dates that the Board will take action on; and to remove language regarding search intervals in Exhibit G-1 Addendum, Attachment E, Section 5.e.ii (page 6). A discussion followed regarding the basis for continued winter shutdown.

Public testimony was called for. Zach Walton, NextEra environmental consultant, stated their support for seasonal shutdown noting that the only issue is the credit uncertainty. In response to the Board, he further explained that credits will allow continued operation in non-repowered areas until repowering occurs and removal is occurring much earlier than required; language modification (addition of one sentence) to 1.F. would be appropriate and recommended language has been submitted to staff. Kristopher Davis, Counsel for SeaWest and EnXco, concurred with Mr. Walton.

Mike Lyons, Audubon Conservation Director, spoke in support of the AMP as written. Audubon is impressed with NextEra for their efforts. However, they were unsure of the credits. Their preference would be to request SRC for guidance on a credit system or provide some certainty to the proposed language modification as there is some ambiguity with the numbers. He further discussed P189.

Joan Stewart explained the following: NextEra removed a significant number of turbines in the risky locations; the original settlement agreement with the County contained recognition for a credit; and request for credit was submitted to SRC but there had been much delay.

Public testimony was closed. Member Goff concurred with staff recommendations. Member Harvey requested clarification regarding the credit system. Staff replied that SRC will recommend how the credit/ratio will be determined because of the variable landscape. There are some concerns/confusions regarding the numbers. A discussion ensued regarding the credits; a possible formula perhaps per staff discretion; a condition to reflect a 1:1 ratio unless otherwise recommended by SRC within a certain period of time; and the next SRC meeting.

Public testimony was re-opened. Bob Power, Executive Director, Santa Clara Audubon, stated that although they agree with the credits, they were unsure what the credits meant and they had entered the settlement in order to expedite the process. He felt that if SRC does not provide credit ratio clarity in three months, they should proceed.

Mr. Davis agreed adding that a deadline will create a certainty and an estimate number will also be appropriate instead of a formula.

Mr. Walton noted that the uncertainty issue does not apply to them as they are removing all turbines. And, in response to Member Harvey, he confirmed that there is no agreement regarding the ratio; 440 turbines will be removed which includes half of the HRTs and an additional 300 turbines starting in May which should delete the requirement of removing other HRT in non-repowered areas. He urged the Board to recognize this as 'good action' and the SRC to move forward with the EIR to allow additional repowering.

Public testimony was re-closed. Staff explained that the credit will apply till February 2012 when all of HRTs will be removed and Counsel further explained the proposal and the removal process. The Chair announced a recess to allow discussion regarding the recommended language modifications.

Meeting reconvened. Counsel recommended the addition of a sentence at the end of Section 1(f) page 3, "notwithstanding the foregoing"; Section 1(d) (ii) & (iii) to include 'shall not apply to ESI if turbines are removed for Phase I of this repowering plan by February 15, 2012. Staff added the following updates: a) I (d) (ii) A. 38 HRTs instead of 48; b) date adjustments in Attachment F; c) remove the language in 5 (e) ii. (page 6) regarding the search interval. *Member Harvey made the motion to adopt the AMP with the above modifications and Member Goff seconded. Motion carried unanimously, 3/0.*

STAFF COMMENTS & CORRESPONDENCE: *Staff announced that the next meeting, April 10th, will start at 11 am with a workshop.*

CHAIR'S REPORT: *None*

BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS: *None*

ADJOURNMENT: *There being no further business, the hearing was adjourned at 2:45 p.m.*

ALBERT LOPEZ - SECRETARY
EAST COUNTY BOARD OF ZONING ADJUSTMENTS