



**MINUTES
CARSON CITY COUNCIL
SPECIAL MEETING
MAY 14, 2012**

2:00 P.M.

THE CARSON CITY COUNCIL REGULAR MEETINGS ARE BROADCAST LIVE VIA TIME WARNER CABLE CHANNEL 35 AND AT&T U-VERSE CHANNEL 99 AS WELL AS VIA THE INTERNET AT: [HTTP://CI.CARSON.CA.US](http://ci.carson.ca.us)

AGENDA POSTED: MAY 11, 2012

“In accordance with the Americans with Disabilities Act of 1990, if you require a disability related modification or accommodation to attend or participate in this meeting, including auxiliary aids or services, please call the City Clerk’s office at 310-952-1720 at least 48 hours prior to the meeting.” (Government Code Section 54954.2)

CALL TO ORDER: The meeting was called to order at 2:47 P.M. by Mayor Dear in the Council Chambers, Carson City Hall, located at 701 E. Carson Street, Carson, California 90745.

FLAG SALUTE: Mayor Dear led those present in the Flag Salute.

INVOCATION: Mayor Dear requested those present observe a moment of silence to acknowledge the women and men fighting in Afghanistan and Iraq and other parts of the world protecting the liberty and freedom of the American people.

ROLL CALL: City Clerk Gause noted the following:

Council Members Present: Mayor Jim Dear, Mayor Pro Tem Julie Ruiz-Raber, Council Member Lula Davis-Holmes, Council Member Mike Gipson, and Council Member Elito Santarina

Council Members Absent: None

Other Elected Officials Present: Donesia Gause, City Clerk, and Karen Avilla, City Treasurer

Other Elected Officials Absent: None

Also Present: David Biggs, City Manager; William Wynder, City Attorney; Sunny Soltani, Assistant City Attorney; Jeff Malawy, Deputy City Attorney; and staff:

Robert Eggleston, IT Manager; Ken Freshauf, Housing Program Manager; Sheri Repp-Loadsman, Planning Officer; Glenn Turner, Computer Systems Support Technician; and Joy Simarago, Deputy City Clerk

SPECIAL ORDERS OF THE DAY (Item 1)

ITEM NO. (1) PUBLIC HEARING FOR CONSIDERATION OF TENTATIVE PARCEL MAP NO. 27014 PROVIDING FOR CONVERSION TO RESIDENT OWNERSHIP OF THE CARSON HARBOR VILLAGE MOBILEHOME PARK LOCATED AT 17701 AVALON BOULEVARD (APN NO. 7339-001-005) (CITY MANAGER)

Assistant City Attorney Soltani summarized the staff report and recommendation. She reported that today's rehearing was solely to determine, in the City Council's discretion, whether the conversion application was *bona fide* based on any and all evidence submitted; the City Council was to accept and consider all evidence (oral and written) offered by all persons, including without limitation the Applicant, the park residents, the general public, and the City's independent experts; and that notice of time, place, and purpose of the meeting was duly given. She further indicated that the City Council would hear testimony and consider written reports from three independent experts hired by the City. The following experts had investigated the facts, assessed the Application against the "*bona fide*" standard, and developed opinions to assist the City Council in determining whether the Application was *bona fide*:

- Dr. Susan Mearns, Ph.D., an environmental consultant with over 20 years of experience.
- Mr. James Brabant, MAI, a licensed appraiser with over 40 years of experience and with special expertise in the appraisal of mobilehome parks for a variety of purposes.
- Mr. Gerald Gibbs, an attorney with over 35 years of experience in mobilehome park law issues and an expert in all forms of conversions of mobilehome parks, who has pursued successfully over 25 conversions, representing public benefit non-profit entities, homeowner groups, municipalities, and park owners.

Dr. Susan Mearns, Ph.D.

Provided a written report ("Mearns Report"), testimony, and narrated a slide presentation regarding issues with past oil well operations at the mobilehome park site, the need for reabandonment of oil wells due to cracked casings and other conditions posing a health risk, the past existence of sumps and above-ground storage tanks on the property, potential contamination in the park's wetland drainage area, and the potential costs of remediating or correcting these issues.

(Council Member Davis-Holmes exited the meeting at 3:34 P.M. and reentered the meeting at 3:36 P.M.)

James Brabant, MAI, Licensed Appraiser, Anderson and Brabant, Inc., 353 W. Ninth Avenue, Escondido, California 92025

Clarified that the Brabant Report compared several conversions that were successful in transferring a significant number of lots to resident ownership with several conversions that were not successful in doing so. The Report found that strong resident support was an important characteristic of successful conversions, whereas lack of resident support was a characteristic of unsuccessful conversions.

(Council Member Gipson exited the meeting at 4:18 P.M. and reentered the meeting at 4:20 P.M.)

Gerald R. Gibbs, The Gibbs Law Firm, Palizada Professional Building, 110 E. Avenida Palizada, Suite 201, San Clemente, California 92672

Provided a written report (Gibbs Report), testimony, and narrated a slide presentation regarding the comparison of several conversions that were successful in transferring a significant number of lots to resident ownership with several conversions that were not successful in doing so.

(Council Member Davis-Holmes exited the meeting at 4:45 P.M. and reentered the meeting at 4:47 P.M.)

Thomas W. Casparian, Gilchrist & Rutter, APC, 1299 Ocean Avenue, Suite 900, Santa Monica, California 90401, Attorney for the Applicant

Reported that today's rehearing was his third time before the City Council and provided an historical recapitulation of coming before the City Council on the previous two occasions. He referred to and discussed the conclusions of Gerald Biggs and James Brabant. In conclusion, he felt that fake standards were set and that the application from the Parkowner was a *bona fide* application. He introduced Linda Sue Loftin, Applicant's attorney.

William J. Constantine, 303 Potiero Street, Building No. 29, Suite 104, Santa Cruz, California 95060, Attorney, Carson Harbor Village Mobilehome Park Homeowners' Association

Provided evidence of other mobilehome park converters that have disclosed the prices at this stage. Further, he provided evidence that the Applicant had required the HOA to distribute a handout with every 2007 Survey ballot, which represented typical lot prices and purportedly available loan sources. In summary, and based upon the evidence, it was his contention that this was not a *bona fide* conversion and that the Application should be denied.

The following attached documents to the e-mail transmittal dated May 12, 2012, 9:03 A.M., from William Constantine (wconstantinesantacruz@gmail.com), to Sheri Repp Loadman, Planning Officer, City of Carson, regarding Tentative Parcel Map Application No. 27016, relating to the proposed conversion of Carson Harbor Village Mobile Home Park to a resident-owned subdivision, were submitted into the administrative record:

- Letter dated May 11, 2012 from William J. Constantine to the Mayor and City Council
- Declarations in support of the letter dated May 11, 2012
- Exhibits A & C through I to the letter dated May 11, 2012
- Exhibit B to the letter dated May 11, 2012

(Council Member Davis-Holmes exited the meeting at 5:49 P.M.)

RECESS: The City Council was recessed at 5:53 P.M. by Mayor Dear for staff.

RECONVENE: The City Council was Reconvened at 6:31 P.M. by Mayor Dear with all members previously noted present, including Davis-Holmes present.

James Brabant, MAI, Licensed Appraiser, Anderson and Brabant, Inc., 353 W. Ninth Avenue, Escondido, California 92025

Upon inquiry, referred to and clarified Tab No. 14, Subdivided Park Comparison Chart (Carson Harbor Village Hearing Material May 14, 2012 Index G&R Docs 3401.086) regarding the sales rates; Tab No. 19, Declaration of Anne James, Page 2, Paragraph 5 (Carson Harbor Village Hearing Material May 14, 2012 Index G&R Docs 3401.086) regarding lot sales and vacant spaces; and Exhibit A, Transcript Deposition of Anne James dated August 4, 2005, Page 46, Line 13, (Declaration of Sunny K. Soltani dated October 14, 2008) regarding rented and vacant spaces.

Mayor Dear ordered Mr. Brabant's citation to be made part of the record, with no objections heard.

(Council Member Davis-Holmes exited the meeting at 6:34 P.M.)

RECESS: The City Council was recessed at 6:43 P.M. by Mayor Dear.

RECONVENE: The City Council was Reconvened at 9:20 P.M. by Mayor Dear with all members previously noted present, except Santarina absent.

L. Sue Loftin, The Loftin Firm, LLP, 5760 Fleet Street, Suite 110, Carlsbad, California 92008

Submitted a written report ("Loftin Report") and offered testimony in response to the Gibbs Report. She addressed the negative concept raised by the experts that the Application was not a *bona fide* conversion.

(Council Member Santarina reentered the meeting at 9:46 P.M.)

A discussion ensued regarding several issues, including but not limited to: 1) \$4.2M from MPROP; 2) home appraisals and financing, including impact by the issue regarding contamination of oil wells; and 3) implementation of 2007 MOU.

(Council Member Davis-Holmes exited the meeting at 11:09 P.M. and reentered the meeting at 11:10 P.M.)

RECESS: The City Council was recessed at 11:15 P.M. by Mayor Dear for staff.

RECONVENE: The City Council was Reconvened at 11:40 P.M. by Mayor Dear with all members previously noted present.

Public Hearing

Mayor Dear declared the Public Hearing open **FOR CONSIDERATION OF TENTATIVE PARCEL MAP NO. 27014 PROVIDING FOR CONVERSION TO RESIDENT OWNERSHIP OF THE CARSON HARBOR VILLAGE MOBILEHOME PARK LOCATED AT 17701 AVALON BOULEVARD (APN NO. 7339-001-005).**

City Clerk's Report

City Clerk Gause reported that notice of the Public Hearing had been given pursuant to applicable law, including but not limited to the timely notice to the applicant, Ann James & Associates (jamesk.assoc@verizon.net), 255 N. El Ciela Road, Suite 140-285, Palm Springs, California 92262; postings as required by law; and other mailings as requested by individuals and organizations. The affidavits attesting to mailing and publishing such notice were on file in the City Clerk's Office. No written communications were received.

Mayor Dear directed that all affidavits of notice be made part of the record.

Staff Report

Assistant City Attorney Soltani reported that there was no additional staff report.

Administration of Oath

Mayor Dear requested that all persons wishing to testify to stand and take the Oath, which was administered by City Clerk Gause.

Public Testimony

The following persons, being previously sworn, testified before the City Council:

Kate Simpson, 17701 S. Avalon Boulevard, No. 249, Carson, California 90746

Offered comments in opposition to the conversion.

Joanne Swan, 17701 S. Avalon Boulevard, No. 80, Carson, California 90746

Provided historical information about the Board and the Homeowners' Association.

David Garcia, 17701 S. Avalon Boulevard, No. 125, Carson, California 90746

Felt that information should be shared; however, he did not see any benefit to the conversion.

Dr. Rita Boggs, 21328 Island Avenue, Carson, California 90745

Referred to the remediation of contaminated oil wells and suggested that environmental testing be done to ensure that there was no contamination.

Ronald Shimokaji, 1502 E. Carson Street, Sp. 135, Carson, California 90745

Felt that other mobilehome park residents had a financial stake in this matter.

Rosa Banuelos, 17700 Avalon Boulevard, No. 66, Carson, California 90746

Reminded the City Council that low-and-fixed-income households were in need of rent control.

Terri Forsythe, 17700 Avalon Boulevard, No. 282, Carson, California 90746

Offered comments in opposition to the conversion.

Paul Randall, 17701 S. Avalon Boulevard, No. 318, Carson, California 90746, President, Carson Harbor Village Homeowners Association

Referred to and discussed Pages 19 and 22 of the staff report and provided the following documents:

- Possible Incentives/Benefits for Carson Harbor Village Conversion as discussed by Paul Randall, Roger Branch, Joanne Swan, Bill Wynder, Lindsay Tabaian, Susy Forbath, and Richard Close on May 2, 2011.
- English/Spanish notice regarding the delivery of the Conversion Description Presentation and Conversion Voting Ballot and Powerpoint slides regarding Conversion Voting Information, Carson Harbor Village Home Owners Association, 12th & 15th of July 2007.

At 12:10 A.M., on Tuesday, May 15, 2012, there being no further testimony to be provided, Mayor Dear declared the Public Hearing closed.

Deliberation

James Brabant, MAI, Licensed Appraiser, Anderson and Brabant, Inc., 353 W. Ninth Avenue, Escondido, California 92025

Stated that he has not changed his conclusion that the Application was not a *bona fide* conversion.

Gerald R. Gibbs, The Gibbs Law Firm, Palizada Professional Building, 110 E. Avenida Palizada, Suite 201, San Clemente, California 92672

Stated that he has not changed his conclusion that the Application was not a *bona fide* conversion.

Dr. Susan Mearns, Ph.D.

Submitted the following documents into the record and was so ordered by Mayor Dear with no objections heard:

- Phase 1 Environmental Site Assessment prepared by Vertex Environmental Services, Inc.
- History of Oil or Gas Well from the State of California, Department of Natural Resources, Division of Oil and Gas
- Notice of Intention to Deepen, Redrill, Plug or Alter Casing in Well from the State of California, Department of Natural Resources, Division of Oil and Gas

Stated that she has not changed her conclusion that the Application was not a *bona fide* conversion.

L. Sue Loftin, The Loftin Firm, LLP, 5760 Fleet Street, Suite 110, Carlsbad, California 92008

Referred to and clarified environmental issues regarding Carlsbad and El Dorado.

Thomas W. Casparian, Gilchrist & Rutter, APC, 1299 Ocean Avenue, Suite 900, Santa Monica, California 90401, Attorney for the Applicant

Offered rebuttal comments to the issues raised this evening relative to the following: 1) unfairness to consider the report and statements from Dr. Mearns; 2) that the State Department of Fish and Game was responsible for the maintenance of the marsh; 3) chart sell-off rate; 4) HOA survey response; 5) that low-income families would not be required to buy; and 6) that the main purpose was to protect residents.

Assistant City Attorney Soltani clarified the guidelines for tonight's rehearing as follows:

- The City Council must conduct a public hearing, consider all evidence submitted by all persons, and determine whether the conversion application is *bona fide* as defined by the Court of Appeals.
- The City Council must decide whether to approve or deny the conversion. If the Council finds the conversion is not *bona fide*, it must deny the conversion.
- If the Council finds the conversion is *bona fide*, it may approve the conversion tonight, or it may maintain denial of the conversion based on the remaining reasons for denial in Resolution 11-090 adopted in July 2011 (i.e., lack of resident support for the conversion, deficient tenant impact report, and deficient survey.) Although Judge Chalfant has already held those remaining grounds for denial are legally valid, the City Attorney would appeal Judge Chalfant's decision if the Council chooses to deny the conversion tonight.

The City Council expressed its appreciation for the presentations and testimony provided this evening and provided brief comments regarding the following issues:

- Contamination
- Financing and lenders
- Home values

RECOMMENDATION for the City Council:

TAKE the following actions:

1. CONSIDER all evidence submitted at the public hearing by the Parkowner, the park residents, the City's independent experts, and the general public, and DETERMINE whether the proposed conversion is "bona fide."
2. Then, DECIDE whether to approve or deny the conversion.
 - a. If the Council finds the conversion is not bona fide, it must deny the Tentative Parcel Map No. 27014.
 - b. If the Council finds the conversion is bona fide, it may approve Tentative Parcel Map No. 27014 tonight, or it may maintain denial of Tentative Parcel Map No. 27014 based on the remaining reasons for denial in Resolution No. 11-090 adopted in July 2011 (i.e., lack of resident support for the conversion, deficient tenant impact report, and deficient survey.)

ACTION: It was moved to deny the conversion on motion of Dear and seconded by Santarina.

During discussion of the motion, Assistant City Attorney Soltani requested that the motion be amended to include direction to staff to bring back a resolution denying approval of Tentative Parcel Map No. 27014, which was accepted by the maker and second and unanimously carried by the following vote:

Ayes: Mayor Dear, Mayor Pro Tem Ruiz-Raber, Council Member Davis-Holmes, Council Member
Gipson, and Council Member Santarina

Noes: None

Abstain: None

Absent: None

ADJOURNMENT

The meeting was Adjourned at 1:34 A.M., on Tuesday, May 15, 2012, by Mayor Dear.

Mayor Jim Dear

ATTEST:

City Clerk Donesia L. Gause