



## ADVISORY BOARD MINUTES

### REVISED

Wednesday, September 14, 2011, 1:30 P.M.

8<sup>th</sup> Floor Conference Room

City Hall Building, 2 Civic Center Plaza

#### **Members Present:**

Lois A. Balin, Joanne Burt, Katrina M. Martich, Andres Quintana, James H. Tolbert, Kevin von Finger, and Charlie S. Wakeem

#### **Members Absent: 2**

Bill Addington and Richard L. Thomas

#### **Planning and Economic Development Staff:**

Mathew McElroy, Deputy Director; Philip Etiwe, Development Review Manager; Fred Lopez, Comprehensive Plan Manager; David Coronado, Lead Planner; Melissa Granado, Senior Planner; Todd Taylor, Planner; Kimberly Forsyth, Lead Planner; Eddie Garcia, Lead Planner; Raul Garcia, Senior Planner; Esther Guerrero, Planner; Frank Delgado, Planner; Justin Bass, Planner

#### **Others Present:**

Lupe Cuellar, Assistant City Attorney, City Attorney's Office; Marcia Tuck, Parks & Recreation, Open Space Trails and Parks Coordinator, Richard Garcia, Parks Planning and Development Manager; Kareem Dallo, Engineering Division Manager; Rudy Valdez, EPWU-PSB; Gonzalo Cedillos, EPWU-PSB; Arturo Duran, EPWU-PSB; Jim Shelton, EPWU-PSB; David Torres, EPWU-PSB; Trish Tanner, Jobe; Conrad Conde, Conde, Inc.; Richard Dayoub, President and CEO, The Greater El Paso Chamber of Commerce

### **1. Meeting Called to Order**

Chair Wakeem called the meeting to order at 1:30 p.m.

### **2. Call to the Public** (items not listed on the agenda)

None.

### **3. Discussion and Action**

- a. Approval of Minutes: August 31, 2011

#### **PAGE 8 OF 10, BOTTOM OF THE PAGE**

Mr. von Finger revised the sentence to read from ..." ~~OSAB proceed with~~ ..." to " ... **OSAB wishes Staff to proceed with** ..."

**TYPOGRAPHICAL ERRORS**

Chair Wakeem referred to and corrected several typographical errors.

**PAGE 8 OF 10, MIDDLE OF THE PAGE**

Ms. Cuellar revised the sentence to read from “Ms. Risher Gilbert, attorney representing the city regarding the **continuous** property ...” to “Ms. Risher Gilbert, attorney representing the city regarding the **contiguous** property ...”

**MOTION:**

*Motion made by Mr. von Finger, seconded by Ms. Martich and **UNANIMOUSLY CARRIED TO APPROVE THE MINUTES FOR AUGUST 31, 2011, AS CORRECTED.***

**ABSTAIN:** Ms. Martich

b. Changes to the Agenda

Mr. Coronado requested that items 4. through 7. be moved to the top of the agenda per EPWU-PSB.

**MOTION:**

*Motion made by Mr. von Finger, seconded by Ms. Burt and **UNANIMOUSLY CARRIED TO ACCEPT THE CHANGES TO THE AGENDA AS RECOMMENDED BY STAFF.***

c. Review and comment on current zoning applications, as indicated below:

<b>(1) PZCR11-00002:</b>	Portion of Lot 2, Block 5, Mesa Hills Plaza, City of El Paso, El Paso County, Texas
LOCATION:	470 Eagle Drive
ZONING:	C-4/sc (Commercial/special contract)
REQUEST:	Release conditions imposed by Ordinance No. 009264 and Contract dated April 26, 1988
EXISTING USE:	Sales/Warehouse
PROPOSED USE:	Church
PROPERTY OWNER:	The Foundation for the Los Robles Church
REPRESENTATIVE:	Sonny Brown Associates
DISTRICT:	8
STAFF CONTACT:	Esther Guerrero, (915) 541-4720, <a href="mailto:guerreroex@elpasotexas.gov">guerreroex@elpasotexas.gov</a>

Ms. Guerrero gave a presentation and noted the property is located in the HDA (Hillside Development Area). Planning Staff and the DCC (Development Coordinating Committee) recommend approval.

**MOTION:**

*Motion made by von Finger, seconded by Mr. Tolbert and **UNANIMOUSLY CARRIED TO RECOMMEND APPROVAL.***

d. Review and comment on current subdivision applications, as indicated below:

- (2) **SUSU11-00063:** Desert Pass Drive – Being a portion of Tract 3A, A.F. Miller Survey No. 210, City of El Paso, El Paso County, Texas
- LOCATION: East of IH-10 and North of Resler Drive
- PROPERTY OWNER: Camino Real Investments
- REPRESENTATIVE: Conde, Inc.
- DISTRICT: 1
- APPLICATION TYPE: Major Preliminary
- STAFF CONTACT: Frank Delgado, (915) 541-4238, [delgadofx@elpasotexas.gov](mailto:delgadofx@elpasotexas.gov)

Mr. Delgado gave a presentation. Planning and Parks & Recreation Staff recommend denial based on:

1. lack of compliance of the TIA as submitted;
2. the plat does not meet criteria for approval.

Mr. von Finger, Mr. Cedillos and Mr. Dallo discussed water harvesting, retention on site, runoff and Keystone Heritage Park.

Chair Wakeem commented on providing a public park and concerns regarding erosion.

Mr. Conde stated the goal is to locate the pocket parks in the multi-family areas and that he and Mr. Gaglio are discussing a tiered retaining wall system with planters. Additionally, the arroyos will be left in their natural state.

***1<sup>st</sup> MOTION:***

*Motion made by Mr. von Finger, seconded by Mr. Tolbert and **UNANIMOUSLY CARRIED TO APPROVE.***

**FOR CLARIFICATION**

Mr. Coronado asked if the motion was to support the Staff recommendation to deny the application.

Mr. Delgado reiterated the Planning and Parks & Recreation Staff is recommending denying the application.

Mr. Conde interjected that the application was postponed to revise the issues.

***1<sup>ST</sup> MOTION CLARIFIED:***

*Motion made by Mr. von Finger, seconded by Mr. Tolbert and **UNANIMOUSLY CARRIED TO RECOMMEND APPROVAL SUBJECT TO ISSUES BEING RESOLVED.***

- (3) **SUSU11-00080:** Chaparral Park Unit Forty One Replat "A" – Being a replat of Lot 21, Block 176, Chaparral Park Unit Forty One, City of El Paso, El Paso County, Texas
- LOCATION: East of Via Descanso and North of Ojo De Agua
- PROPERTY OWNER: Gordon L. Sather
- REPRESENTATIVE: Conde, Inc.
- DISTRICT: 1
- APPLICATION TYPE: Resubdivision Combination
- STAFF CONTACT: Justin Bass, (915) 541-4930, [bassjd@elpasotexas.gov](mailto:bassjd@elpasotexas.gov)

Mr. Bass gave a presentation and noted the subdivision is located in the Hillside Development Area (HDA). Planning Staff and the DCC are recommending approval of the request.

**MOTION:**

*Motion made by Mr. Tolbert, seconded by Mr. von Finger and **UNANIMOUSLY CARRIED TO RECOMMEND APPROVAL.***

4. **Discussion and Action:** Status of stormwater funding for Open Space acquisition and restoration. Contact: Nicholas J. Costanzo, EPWU, [njcostanzo@epwu.org](mailto:njcostanzo@epwu.org)

**CHANGES TO THE AGENDA**

Mr. Coronado requested that items 4. through 7. be moved to the top of the agenda per EPWU-PSB.

**1<sup>ST</sup> MOTION:**

*Motion made by Mr. von Finger, seconded by Ms. Balin and **UNANIMOUSLY CARRIED TO ACCEPT THE CHANGES TO THE AGENDA AS RECOMMENDED BY STAFF.***

Mr. Arturo Duran, Fiscal Operations Manager for the EPWU-PSB gave the presentation because Mr. Costanzo was unable to attend. Mr. Duran, Mr. Jim Shelton, and Mr. Rudy Valdez responded to questions and/or comments from the Board.

**CEMENT LAKE**

The EPWU-PSB sent a letter to Cemex regarding the sale of the property. However, there has been no response. Staff was unsure whether Stormwater funds would be used for the purchase. However, the PSB is hoping that the property will be donated.

**NO ACTION WAS TAKEN.**

5. **Discussion and action** on recommendations to Council on how to preserve in its natural state property that was identified in the initiative petition located along Transmountain road. Contact: Charlie Wakeem, [charliewak@sbcglobal.com](mailto:charliewak@sbcglobal.com)

**CHANGES TO THE AGENDA**

Mr. Coronado requested that items 4. through 7. be moved to the top of the agenda per EPWU-PSB.

**1<sup>ST</sup> MOTION:**

*Motion made by Mr. von Finger, seconded by Ms. Balin and UNANIMOUSLY CARRIED TO ACCEPT THE CHANGES TO THE AGENDA AS RECOMMENDED BY STAFF.*

Chair Wakeem discussed the possibility of recommending a conservation easement for any open space zoned NOS and that any infrastructure be constructed in an environmentally and aesthetically responsible manner with Green Infrastructure Low Impact Development) principals.

Ms. Cuellar explained that City Council will consider taking action on two ordinances at the September 20<sup>th</sup> City Council meeting:

1. the ordinance drafted by the petitioners;
  2. the alternative language ordinance that removed the portion of land deeded to TxDOT.
- City Council wondered if the OSAB might be able to think up some kind of compromise,

Mr. McElroy stated that Staff and the OSAB had agreed on a process.

Ms. Burt concurred with Mr. McElroy and stated that the OSAB neglected to include the conservation easement in that motion.

Chair Wakeem stated his intent was to amend that motion.

**FIVE STEP PROCESS**

Mr. McElroy explained the five step process:

1. Comprehensive Plan amendment;
2. Public process, to include a public charrette, on the Northwest Master Plan;
3. Report back to Council in 90 and 120 days; and
4. Rezoning of the Northwest Master Plan to Smart Code; and
5. Land designated as NOS or T1 be placed in a conservation easement

Mr. McElroy stated that the EPWU-PSB, at a future OSAB meeting, will explain why the process would not be feasible. The matter is now between the City Council and the EPWU-PSB.

Ms. Cuellar assumed that, at the September 20<sup>th</sup> City Council meeting, clear direction would be given so that everyone will know what the next step(s) would be.

Mr. Tolbert concurred with Chair Wakeem's recommendation.

Ms. Cuellar responded it is her hope that there are petitioners present at the City Council meeting and should City Council decide to postpone taking action, Council understands the steps that the OSAB recommends.

Chair Wakeem clarified that the five step process is what the OSAB had asked for.

Ms. Cuellar suggested the OSAB take action on recommending following the five step process.

Ms. Martich remarked that the minutes do not reflect what Mr. McElroy stated.

Mr. McElroy explained the discussion regarding the next steps was lengthy and may not be reflected in the minutes. He stated that Planning Staff got a fee proposal for each of the major steps.

#### **147 ACRES**

Mr. Valdez explained that at the PSB Board meeting this morning, Board Members voted to recommend the alternative plan to City Council; that the additional 147 acres be designated NOS and added to the existing open space in the Northwest Master Plan.

Chair Wakeem asked if Board Members wanted to take an action on Mr. McElroy's recommendation.

#### ***MOTION:***

***Motion made by Ms. Burt, seconded by Ms. Balin TO CLARIFY THE RECOMMENDATION FROM THE LAST OSAB MEETING WITH THE INFORMATION THAT WAS READ TO THE BOARD REGARDING THE FIVE STEP PROCESS.***

For clarification, Ms. Martich asked if the motion needs to include a recommendation that Council postpone decision on the petition to allow OSAB to go through these steps.

Mr. McElroy responded yes, and explained that the Mayor and City Manager felt that the OSAB was the appropriate Board to vet things through.

Mr. Tolbert made comments regarding the number of days and the lack of trust between the petitioners and the City.

In addition to the charrettes, Ms. Cuellar suggested City Council appoint an Ad Hoc Subcommittee to be involved in the process.

Ms. Balin asked if the PSB alternative plan, presented today, would be the basis for the OSAB discussions.

Mr. Tolbert stated the only map to work off of is the one the petitioners submitted to City Council.

Ms. Martich moved to amend the motion to recommend that City Council delay their decision on the petition

Ms. Burt and Ms. Balin agreed to allow the friendly amendment to the motion.

Mr. Tolbert stated he would vote in favor of the motion, as an OSAB member.

**1<sup>ST</sup> MOTION AMENDED:**

*Motion made by Ms. Burt, seconded by Ms. Balin AND UNANIMOUSLY CARRIED THAT THE OSAB RECOMMEND THAT CITY COUNCIL POSTPONE ACTION ON THE PETITION AND DIRECT STAFF TO INITIATE THE FOLLOWING ACTIONS:*

1. Comprehensive Plan amendment;
  2. Public process, to include a public charrette, on the Northwest Master Plan;
  3. Report back to Council in 90 and 120 days; and
  4. Rezoning of the Northwest Master Plan to Smart Code; and
  5. Land designated as NOS or T1 be placed in a conservation easement
6. **Discussion and action** on recommendations to Council on rezoning of property located in the original Northwest Master plan.  
Contact: Charlie Wakeem, [charliewak@sbcglobal.com](mailto:charliewak@sbcglobal.com)

**CHANGES TO THE AGENDA**

Mr. Coronado requested that items 4. through 7. be moved to the top of the agenda per EPWU-PSB.

**1<sup>ST</sup> MOTION:**

*Motion made by Mr. von Finger, seconded by Ms. Balin and UNANIMOUSLY CARRIED TO ACCEPT THE CHANGES TO THE AGENDA AS RECOMMENDED BY STAFF.*

**NO ACTION WAS TAKEN.** See item 5. for discussion and action.

7. **Discussion and Action:** Report on the design and construction plans of a PSB pipeline crossing FEMA Flowpath 41A. Contact: Rudy Valdez, [rvaldez@EPWU.org](mailto:rvaldez@EPWU.org)

**CHANGES TO THE AGENDA**

Mr. Coronado requested that items 4. through 7. be moved to the top of the agenda per EPWU-PSB.

**1<sup>ST</sup> MOTION:**

*Motion made by Mr. von Finger, seconded by Ms. Balin and UNANIMOUSLY CARRIED TO ACCEPT THE CHANGES TO THE AGENDA AS RECOMMENDED BY STAFF.*

Mr. Valdez gave a presentation explaining that the PSB approved a bid for the design of the 24" waterline and at this time, the proposed waterline will not cross FEMA Flowpath 41A.

Mr. Tolbert asked if at the time the waterline crosses 41A, would it be done in such a way to minimize impact on the natural setting.

Mr. Valdez responded it was his understanding that that was the intent

Chair Wakeem requested Staff update the OSAB on the status of the project in three to four months.

Ms. Martich asked Mr. Dallo if the subdivision plan called for a road crossing and substantial alterations to FEMA Flowpath 41A.

Mr. Dallo explained Staff had not yet received the CLOMAR

*NO ACTION WAS TAKEN.*

8. **Discussion and Action:** Status update on the Mitigation Bank Subcommittee.  
Contact: Kareem Dallo, (915) 541-4425, [dallokf@elpasotexas.gov](mailto:dallokf@elpasotexas.gov)

Mr. Dallo distributed copies of a proposed scope of work from METRICS and noted the approximate project cost would be \$200,000.00 and stated that one of the most important components of this project is the market analysis.

Chair Wakeem noted that Ms. Balin, Ms. Burt and Mr. von Finger will represent the OSAB at the Mitigation Bank Subcommittee meetings.

Mr. von Finger and Ms. Martich discussed possible mitigation alternatives.

*NO ACTION WAS TAKEN.*

9. **Discussion and action** on revisions to Chapter 18.46 (Landscape) of the El Paso City Code.  
Contact: Fred Lopez, (915) 541-4322, [lopezar@elpasotexas.gov](mailto:lopezar@elpasotexas.gov)

Mr. Lopez gave a presentation and referred to the landscape ordinance amendment recommendations made at the City Council Legislative Review Committee (LRC) meeting last week.

Mr. Lopez explained that the LRC directed these changes come back to the OSAB.

Chair Wakeem named himself, Ms. Balin and Mr. Tolbert or Ms. Burt to the Landscape Ordinance Subcommittee. and noted time is of the essence.

Ms. Cuellar and Mr. Lopez will clarify when the landscape ordinance will come before the City Council for action.

Mr. McElroy explained that an ordinance to allow an additional 30 days, before the effective date, will go to City Council.

Ms. Martich gave background information regarding the existing Landscape ordinance and wondered if the OSAB would want to recommend that Council enact the ordinance as already adopted.

Chair Wakeem however, wanted the Subcommittee to review the proposed changes.

Mr. McElroy confirmed that the cities of Las Cruces, Albuquerque and Tucson were used in developing the landscape ordinance and explained the differences between the currently

adopted landscape ordinance and the Tucson and Albuquerque ordinances. Staff is recommending changing the existing ordinance language due to the extent and timeframe of the changes. However, it was the development community that requested the changes.

Mr. Dayoub explained, as a citizen, he liked what was happening and would like to see the direction of the community become more cognizant of quality of life issues but he challenged the OSAB to look at the peer cities and where they are regarding water conservation.

Mr. Tolbert agreed with Mr. Dayoub and would like more time to review the proposed ordinance language changes.

Chair Wakeem responded that he wanted the OSAB and the experts to look at the proposed changes and make a recommendation.

Ms. Balin commented that the OSAB had recommended an amount of native plants to be used and stated that that would make a huge difference in the water use.

Mr. Lopez responded that language was carried over from the 2007 landscape ordinance which requires that 75% of the plants installed must be from the approved city tree and plant list

**1<sup>st</sup> MOTION:**

*Motion made by Ms. Balin, seconded by Mr. Tolbert and UNANIMOUSLY CARRIED TO AUTHORIZE CHAIR WAKEEM TO APPOINT THE SUBCOMMITTEE ON LANDSCAPING.*

Chair Wakeem stated that the first Subcommittee meeting will take place next Wednesday at 1:30 p.m.

10. **Discussion and Action:** Status update on a recommendation by the Open Space Advisory Board that the City initiate rezoning of Keystone and Rio Bosque to a Natural Open Space (NOS) District, that both Keystone and Rio Bosque be designated as a Wildlife Sanctuary under the Natural Open Space (NOS) District, and that staff make any other necessary efforts to coordinate with other property owners within the Keystone and Rio Bosque areas to rezone their property to Natural Open Space (NOS) and if appropriate, to designate it as a Wildlife Sanctuary. Contact: Melissa Granado, (915) 541-4730, [granadom@elpasotexas.gov](mailto:granadom@elpasotexas.gov)

Ms. Granado gave a presentation regarding the status of rezoning Keystone Heritage Park and Rio Bosque to NOS and to designate both sites as wildlife sanctuaries. Staff received comments from Engineering & Construction Management - Capital Assets and the Museums & Cultural Affairs Department. Staff is currently discussing possible amendments to the NOS to allow additional uses.

Ms. Cuellar explained there are many uses specified in the Keystone Heritage Park and Rio Bosque lease agreements not allowed in the NOS ordinance and the NOS ordinance

language would be amended to specify what types of uses are allowed within the entire NOS area.

Mr. von Finger commented on allowing bird ~~lines~~ blinds and trails within the wildlife sanctuary area.

Ms. Burt asked that the OSAB be allowed to review the proposed NOS ordinance language.

Mr. von Finger explained the idea of a wildlife sanctuary includes doing research and would like to ensure that the OSAB could designate that habitat as wildlife sanctuary. So that in the event any incompatible land uses would occur next to the habitat, the Keystone Heritage Park could trigger the buffer and the wall.

Ms. Balin stated that the OSAB had stipulated that the EPWU-PSB would be able to do maintenance on the properties and thought that the OSAB had stipulated that no structures at all on Natural Open Space.

Chair Wakeem clarified that there would be no structures on wildlife preserves.

#### **POINT OF INFORMATION**

Mr. Valdez stated there is a possibility that the PSB may take over Rio Bosque, at the request of UTEP.

Ms. Martich seconded the statement that OSAB resolve these issues with the ordinance. and that, within an urban environment, structures that are research and education oriented should be encouraged

Ms. Cuellar stated that there is nothing in the NOS ordinance that specifies what is allowed under wildlife sanctuaries

Mr. von Finger preferred that the OSAB take the lead on the amendment.

Mr. Richard Garcia asked that the Parks & Recreation Department be allowed to discuss the matter of Rio Bosque further with the PSB.

Mr. von Finger asked if Staff would continue researching the possibility of the Rio Bosque rezoning to NOS. Ms. Granado responded that Staff can continue moving forward regarding the Rio Bosque.

Ms. Cuellar clarified that Staff will need to rewrite the ordinance language before taking any NOS rezoning to Council and recommended the OSAB establish a Subcommittee.

Mr. von Finger asked that Staff inform the OSAB what the proposed art would be; whether or not the property north of Keystone Heritage Park was already platted and whether or not that would preclude the requirement to buffer and build a wall; and what was proposed for that property south of the Keystone Heritage Park, other than the Citizen Recycling area.

Mr. Coronado will make sure the OSAB is provided the information regarding the proposed sculpture and the platting at the next meeting.

**MOTION:**

*Motion made by Ms. Martich, seconded by Mr. von Finger and UNANIMOUSLY CARRIED THAT CHAIR WAKEEM APPOINT A SUBCOMMITTEE TO REVIEW THE NOS ORDINANCE AND MAKE RECOMMENDATIONS.*

The following OSAB members volunteered to be subcommittee members:

1. Mr. von Finger;
2. Ms. Balin; and
3. Ms. Martich

11. Discussion by legal counsel concerning Texas Open Meetings Act.  
Contact: Lupe Cuellar, (915) 541-4702, [cuellarlm@elpasotexas.gov](mailto:cuellarlm@elpasotexas.gov)

Ms. Cuellar stated that the OSAB members should not be sending emails to each other; all emails should be sent through the Chair to Staff. Discussions should occur during the OSAB's public meetings.

12. **Discussion and Action:** Items for Future Agendas

Chair Wakeem requested:

1. Staff update the OSAB regarding the Ojo de Agua trailhead;
2. The landscape ordinance recommendation from the subcommittee;
3. The vesting of the land north of the Keystone Heritage Park;
4. TxDOT improvements to freeways and highways including landscaping requirements.  
Chair Wakeem suggested that the OSAB recommend that City Council send a resolution to TxDOT to use more trees and landscaping;

Ms. Balin requested:

5. The PSB Staff update the OSAB regarding the Cemex situation

Mr. Tolbert requested:

6. The PSB Staff provide more information to the OSAB regarding the PSB taking over the Rio Bosque

Mr. von Finger requested:

7. Specific land use, other than just public works, regarding the property south of the Keystone Heritage Park and art proposal for Keystone Heritage Park

13. **Adjournment**

**MOTION:**

*Motion made by Mr. Tolbert, seconded by Mr. von Finger and UNANIMOUSLY CARRIED TO ADJOURN THE MEETING.*