

**JAMUL DULZURA
COMMUNITY PLANNING GROUP
FINAL MINUTES**

**Approved: Tuesday, June 25, 2013
Oak Grove Middle School Library
7:30 pm**

1. **Call to Order:** Jean Strouf called the meeting to order at 7:30 p.m.

2. **Roll Call:** Michael Casinelli, Jean Strouf, Dan Kjongegaard, Janet Mulder Elizabeth Kelly, Randy White, Bill Herde, Joan Kouns, Steve Wragg and Earl Katzer.
Excused: Ray Deitchman, Judy Bohlen,
Absent: Preston Brown, and Yvonne Purdy-Luxton
Vacant Seat #13: Dale Fuller - resigned

3. Motion to approve the Agenda June 25, 2013, as posted 72 hours before the meeting and the minutes of June 11, 2013 as written without corrections or additions. Motion carried unanimously.

4. **Open Forum: Opportunity for members of the public to speak on any item not on the agenda (time limit 3 minutes)**
 - a. **Michael Casinelli** reported that Ray Deitchman will keep in contact with Don Parent of SDG&E for updates on the substation.
 - b. **Steve Wragg will not be present at next meeting.**
 - c. **George Novinger, community member, thanked** members of the sub-committee for being so prepared in the exchange with Steve Davis of Summit representing JIV at the last meeting.
 - d. **Dan Kjongegaard will not be at both meetings in July.**

5. **APPLICATIONS FOR PLANNING GROUP SEAT 13 – To replace Dale Fuller**

Jean Strouf stated that she has four applications and had turned in the request for voter verification on Friday and has not received their okay at this point even though they say they will verify within 24 hours. She introduced **George Novinger, James Groessl, Robert Perry, and Dan Neirinckx who have submitted applications and we will hear from the candidates present at this meeting. The final vote will be taken at the July 9 meeting. At that time we will send our recommendation to Supervisor Dianne Jacob’s office for approval by the BOS for appointment to Seat 13.** Jean announced that there may be other seats opening in the next month or so, and encouraged all of the applicants to stay “in the race”.

The Planning Group asked the following questions of all of the candidates: Where does the candidate live and so where will they represent? What is their position on private property rights? What does it mean to them to keep Jamul rural and how do they feel about it? What do you think is the next big event happening in Jamul in the next 24 months? What is your opinion of sewer vs. septic? Please state your position on gaming in our Jamul area. What is your position on expansion of utilities like electricity, phone, sewer, etc? Are you personally on imported water or ground water? How do you feel about capitalism and how the government interferes or helps regarding property rights? Do you have enough time to give to serve on the Board? Their responses follow:

George Novinger, ran for the seat previously and was a management officer for the U.S. Department of State and is aware of government bureaucracy and has experience dealing with it. George will not be able to be at the next meeting so was glad for the opportunity to answer the questions of the Group. He lives near the Produce Market near Steele Canyon. His position on the question of property rights is that he has become aware of the problems involved due to his own property. He feels that there are things like the Casino, underground wiring, etc that impact it property values. Keeping Jamul rural deals with size of parcels allowed and he feels that they should be larger – keeping it the way it is. Where he grew up has changed so dramatically and makes him sad that they lost their rural feeling. Biggest event happening in Jamul this year is the final decision on the casino and he thinks that the voices he heard at the last meeting are good and that he would hope that the Indians would not be allowed to do construction without mitigation. Sewer vs. septic – he is aware that one needs to have a septic pumped periodically, but would prefer to remain on septic. Indian gaming is not only a safety issue with traffic, but lowers the quality of life and would change the character of Jamul, and he is against it. Expansion of utilities – when he looks at utilities through his eyes, they will be going solar and do have their own well so he would like for people to become more aware, and encourage our community to utilize the opportunities to save their own money on utilities by utilizing solar and underground water. He asked Earl to amplify his question regarding capitalism and property rights. Afterwards, George said he feels that our Supervisor Dianne Jacob is trying to help people protect their property rights and help them to be able not to have to jump through hoops to get something approved. Time is pretty much his own as he is retired and works on his own 9-acre property and he would have time for working on the JDCPG.

Robert Perry (Bob) has lived in Jamul 13 years in Steele Canyon Estates on Devon Drive. Question arose as to if he actually lived in the JDCPG area. The Registrar will check on it. He is a licensed contractor and sympathizes with capitalism. He lived in Alpine and was on the ACPG in the 1980s and took their plan to the BOS. He is also an architect and has been always working with green technology. He is now putting up a solar system at his own home and would like to design a house in Jamul. He feels Planning Group members should represent the whole community. He also sat on the Growth Management under George Bailey and on BPZA under Dianne Jacob. While serving on these committees, he learned a lot about the problems involved and did go out to see the property under question. Re property rights, he has been involved with a County rezone and has experience in helping people sub-divide their property. He feels that property rights are a fundamental right of our country. Sewer vs. septic – he feels that since Jamul is a rural community, unless there is a problem with soil types it should be on septic. Utility expansion should not impact sewers. Indian Gaming – he feels the site is inappropriate and the road makes it very difficult if not dangerous to drive. Biggest event will be the Jamul Fest at Pope Pius Church as his wife is in charge. Time commitment – could be a problem as he is a consultant and flies in and out of the area, but Tuesday would be okay and he would volunteer if necessary.

Dan Neirinckx was off of the JDCPG for 6 months as he was afraid he could not maintain attendance at the time, but circumstances have changed and he now feels that he could now give the time to serve. He has lived on Jamul Drive for 35 years, has Otay Water, as well as owns acreage in Dulzura and is Vice-President of the Barrett Valley Water System. Water is important to him and feels that the expansion of sewer should not occur unless a system fails. Otherwise it would kill the ruralness of the community, as it would encourage growth. Private property rights are an important part of our country and our community. He feels that the County steps in and stomps on people's property rights. He reminded us that public safety and public health should be the only reasons for stepping into the property rights of the individual and that should be exercised sparingly. In the next 24 months, the biggest thing is the casino and the biggest reason for it not going in is the safety of the community and that is the reason he has objected to it. Time to serve on JDCPG is now available, as circumstances have changed dramatically in his life. He

disagrees with the Supreme Court decision regarding eminent domain feeling that the government is overstepping their role. He was on the JDCPG for 15 years taking the GP 2020 through the process.

Jean Strouf reminded us that the JDCPG would be voting at the next meeting July 9, 2013. We will review the answers and give James Groessl an opportunity to answer the Planning Group's questions.

6. **JAMUL INDIAN VILLAGE UPDATE – Jean Strouf announced** that a sub-committee meeting was held prior to this meeting. This meeting was listed on the Final Agenda, which was posted at the Post office 72 hours prior to the meeting, so we adhered to the Brown Act. Members of the committee that were present at the sub-committee meeting included Bill Herde, Michael Casinelli, Jean Strouf and Janet Mulder. The committee is in the process of writing a response to the Supplemental Environmental Impact Statement (SEIS) for the Approval of a Gaming Management Contract and the response is due on July 8, 2013, which is before our next meeting. **Bill Herde** read the official notice regarding this meeting, which does not allow public input but will accept written comments. (This notice is attached to these minutes) Bill recommended that any interested party should write individual letters also voicing their concerns. The sub-committee will reiterate the concerns listed in prior meetings and will list the issues and attach our original letter dated April 24, 2012.

In addition we will take the position that the **land does not qualify for gambling** because approval of the proposed Gaming Management Contract between Jamul Indian Village (JIV) and San Diego Gaming Ventures LLC (SDGV) is not allowed because San Diego County tax assessor's Parcel 597-080-04 ("the Parcel"), upon which the Management Contract proposes to manage gambling, does not qualify as "Indian Lands" under 25 U.S.C, sec. 2703, for the following reasons:

1. The holding of the United States Supreme Court in *Carcieri v. Salazar* ("*Carcieri*") (2009) 555 U.S. 379, prevents the Parcel, from qualifying as "Indian Lands" under 25 U.S.C. 2703.
2. The Indian Reorganization Act of 1934 ("IRA"), 25 U.S.C. secs 465 and 479, only permits land to be taken into trust for Indian tribes that were recognized under Federal jurisdiction as of June 1934, when the IRA was enacted and the JIV was not recognized under Federal jurisdiction in June 1934;
3. The Parcel was not taken into trust for the JIV and was never transferred to the beneficial interest of the JIV, and therefore does not qualify for gaming under 25 U.S.C. 2703 because the JIV has never lawfully exercised governmental power over the Parcel.

Hence, since there was never a subsequent transfer of the individual Indians' beneficial interest in the trust land of parcel 597-080-04 to the subsequently recognized tribe, the individual beneficial ownership of trust parcel 597-080-04 has never been under the governmental power of the Jamul Indian Village, and as such, does not qualify for gambling under 25 U.S.C. 2703, remains subject to California law, including, but not limited to, Public Law 83-280, Cal. Pub. Res. Code and Cal. Health & Safety Codes, and remains held in trust for the beneficial use and quiet enjoyment of the individuals of one-half or more degree of Indian blood who then resided on the Parcel.

We also wish to encourage adherence to the 1999 Compact between the Jamul Indian Village and the State of California paying close attention to page 34, Sec. 10.8.2 which states in part, (a) **Prior to the commencement of a Project**,:...(b) ... *the Tribe shall*:...(2) *Make good faith efforts to mitigate any and all such significant adverse off-Reservation environmental impacts.* (c) *As used in...Section 10.8.2, the term "Project" means...any significant excavation,*

construction, or development associated with the Tribe's... proposed Gaming Facility. This language clearly expects the Tribe to **mitigate all significant off-Reservation environmental impacts identified with significant excavation and construction** which is in direct opposition to their proposal calling for said excavation and construction without completing the mitigation proposed for SR94. We feel that the **increased removal of dirt from 20,600 cubic yards to their revised 200,000 cubic yards and the increase from 1619 truckloads to 14,286 truckloads** is definitely **significant excavation** and the severe **negative impacts should and must be mitigated before excavation is begun**, as stated in the Compact they signed.

Bill Herde moved that we authorize the Sub-committee to finalize the letter from our JDCPG to the BIA including the points discussed this evening, as well as ones discussed previously, and send it to the BIA with copies to our elected officials and Caltrans, on behalf of our Planning Group as our formal position on the SEIS. Motion passed unanimously. The letter composed by the sub-committee will be read at the next meeting.

7. JDCPG OFFICER'S ANNOUNCEMENTS AND REPORTS

- a. Membership concerns regarding a member who could make only one meeting a month**
Would that be acceptable? Dan Kjonogaard suggested that there are avenues through which we could deal with it utilizing BOS Policy I-1.
- b. Yvonne Purdy Luxton** has not turned in her 700 form according to the Registrar's Office, and therefore will not have a vote until it is turned in. We suggested that Jean Strouf contact **David Morton** regarding what we do from here.

ADJOURNMENT:

Jean Strouf, Chair, adjourned the meeting at 9:07 p.m.

Respectfully submitted:

Janet Mulder, Secretary

NEXT PLANNING GROUP MEETING: TUESDAY, July 9, 2013
OAK GROVE MIDDLE SCHOOL LIBRARY

Attached to the email is the letter sent by JDCPG in 2012 regarding JIV proposed casino in pdf and can be opened with a free download from Adobe.