
Jamul Dulzura

Community Planning Group Unincorporated County of San Diego

Final MINUTES

February 28, 2023

Location: On-Line Zoom

Recorder: Preston Brown

1. CALL TO ORDER: 7:36

2. ROLL CALL

Present: Preston Brown, Kevin May, Dan Neirinckx, Ed Mollon, Rachel Vedder, Thomas Gray, Michael Casinelli, Steve Wragg

Guests:

Excused: Paul Romero, Eve Nasby, Paul Dombkowski, Janet Mulder,

Vacant Seats: 2,9,6

3. APPROVAL Agenda for February 28, 2023 and **Minutes** for

October 11 and 25, November 14, and December 13 of 2022 and January 10 and 24, and February 14, 2023.

Kevin May moved that we approve the Agenda for tonight. Motion passed unanimously.

Michael Casinelli moved that we accept all the Minutes from October 11, 2022 to February 14, 2023. Motion passed unanimously.

4. OPEN FORUM

Kevin May recommended that move straight to the County presentation.

5. JAMUL CASINO, HOTEL & EVENT CENTER EXPANSION PROJECT

• County Update: Negotiations and Agreements with the Jamul Indian Village (JIV)

- Mark Slovick, Deputy Director of Planning and Development Services (PDS)
- Justin Crumley, Attorney for Planning and Development Services (PDS)
- Murali Pasumarthi, Department of Public Works (DPW)
- David Sibbet, County Fire Authority
- Chief David Nissen, County Fire Authority
- Matthew Glisson, Captain, Sheriff's Department Rancho San Diego
With Mike Vargas, Captain, CHP El Cajon

• Jamul-Dulzura Community Planning Group Subcommittee updates and recommendations

- Based on tonight what do we want to consider recommending to the BOS.

Mark Slovick

Wants to provide update to revisions that were made in the agreements that the County has with the Tribe. Introduced the team members from the County.

Overview: The County does not have any tribal authority over tribal land. The County does not approve the casino project or the hotel project. They are outside the County's land use authority.

Our role is to review the proposal and we provide comment and the tribe decides on their own. In this instance, the Tribe has engaged the County to provide fire and law enforcement services and this is what we do, we do this for the existing communities and we have entered into an agreement for the casino project. Tribe requested from County an update fire services agreement. With the addition of hotel, we need to revise it. For law enforcements services, the tribe is going to establish its own tribal law enforcement. The Tribe has engaged County for permits for construction staging and for offices. We are in the process. These are by-rite ministerial permits.

Fire Service Agreement **David Sibbet**, Director **Collins Dir.** of County Fire and **Chief Mecham** partner. The main part of the revised agreement is that the tribe wants to fund a 4th person at Station 36, we are reviewing all the plans with the Fire Marshal insuring the building is built to the current fire code.

Mark Slovick There are no other revisions. The tribe has informed us that they are going to move forward with their project.

Dan Neirinckx asked **Chief Mecham**.

- Will there be ladder truck? ANS: The JIV has already bought a ladder truck and we will move it back to the station.
- How do you determine cost to the Fire services? ANS: Original agreement the JIV purchased a fire truck and ladder truck for 2.7 million. This is a higher threshold than what would have been require for non-tribal land. Current call volumes are low and we do not think the hotel would have a significant impact.
- Are there any other customers that would have need of a ladder truck? ANS: We had the ladder truck in Jamul when it first opened but later moved it to Otay Mesa. We have all the capabilities to do what we need with our fire engines. The ladder truck is not a great tool to serve single family dwellings in Jamul and Dulzura. We have a rescue vehicle that we are working with and it is a much more useful tool to access the majority of residences.

Michael Casinelli asked if the new agreement is public. **Mark Slovick** said it has been signed and approved. He will email him a copy.

Lisa Hodgson Does the FSA include an evacuation plan from the hotel or casino facility? Chief Mecham said “No”.

Preston Brown asked “Why”? Under CEQA other projects have to do a WEEP. He also stated in the FTEIR the JIV has republished the 2016 fire service agreement (FSA). If you have a new agreement why is not in the FTEIR.

Mark Slovick In regard to the CEQA aspect the tribe does its own environmental review and the County has no control over that. They do not have to follow the rules for a County project.

Preston Brown Why publish the FPP in 2016 if it is meaningless?

Chief Mecham We are not anticipating having to evacuate this hotel. The best thing we can do is keep people inside and “shelter in place”. The hotel will be a modern building built to code. This will keep the roads open for people truly at risk to evacuate from the Community.

Preston Brown The current Maximum Occupancy is 5,300 people. If you have approved a new Fire Protection Plan (FPP), then you have to have established a total maximum occupancy for the entire building altogether. What is that?

Dave Sibbet FPP is a CEQA guideline. This project is not subject to CEQA

Preston Brown Why is this not subject to CEQA when the first project was?

Justin Crumley The tribe does a CEQA like process TEIR through the State Compact. The County only looks at the off-reservation impacts. We use the lens of CEQA to review that for mitigations and then that runs into negotiation.

Preston Brown Based on square footage calculation for the new buildings, event center and hotel, the maximum occupancy could be close to 10,000 people at one time. Is that what you have? This is something we would want to know.

This is essential for a traffic study and to understand what Chief Mecham has referred in the past to as “the capacity of a road” in understanding the loads on SR-94 and the community.

Mark Slovick This is outside the County’s purview. We can follow up with you later on this.

Gary Gray You would think that would be germane to the off-reservation processes for emergencies. Don’t we need to know the impacts could be of off reservation. So, we would need to know those type of numbers to know that.

Mark Slovick we will get back to the group on that particular piece. I can follow up with you in a couple of weeks.

Michael Casinelli The Tribe is responsible for off tribal land mitigation of negative impacts on County property. In the MOU agreed to 7 years ago there were a number of agreements made that have not been addressed to this date. And now there is a proposal to increase the size activity and people and we anticipate the impacts will only grow and current impacts are not being addressed. What can the County do to enforce what has already been agreed to and what can the County do going forward with an expansion to elaborate on the new MOU with the potential new negative impacts.

Mark Slovick We commented to the Tribe that we wanted to see those commitments for mitigations implemented. We have been working with the Tribe on this. A lot of things the Tribe is doing are outside the County’s purview like under the Caltrans right of way and the County has no control over. We can speak to the County improvements. Caltrans did not agree to come tonight.

Michael Casinelli Some of the negative impacts are the increase in vagrancy and crime and destruction of the environment and this is not on tribal land but edges up to the casino.

Murali You are correct there are some improvements that have not been realized like the Otay Lakes Intersection. The ICE report has been completed. We are working with the Tribe who is working with Caltrans to see if there could be some interim solutions and a roundabout could be in the future of the SR-94 corridor. We are keeping an eye on County roads and please contact me with your suggestions and comments.

Steve Wragg Is there a penalty provision if they don’t fulfill the agreement? In a certain time or duration. Do we have any recourse?

Justin Crumley There are no penalties but just “breach of contract” that you sue the tribe. We have no control over Caltrans but they have largely complied with commitment to the County.

Michael Casinelli Is it impossible to sue the tribe because of tribal immunity?

Justin Crumley In the MOU they waive immunity to enter into the agreement. We do have the ability to try to enforce this in State Court.

Michael Casinelli Will the County expand the original or a make new MOU with the Tribe?

Mark Slovick No nothing beyond the Fire Service Agreement FSA.

Lisa Hodgson Concerning the conditions in the MOU. We have identified several errors in the planning assumptions of their TEIR and what is the mechanism for the County make an objective determination that addition mitigations need to be done for off reservation impacts. I am not getting the sense that the County has done that.

Mark Slovick We are not asking for any additional mitigation above what was originally agreed to.

Lisa Hodgson So the County does not think there will be an increase in traffic after the event center and hotel are built with 2-3 events per week?

Mark Slovick We do not have control over SR-94 that is a Caltrans facility. All the folks here tonight have reviewed this project and we are not asking for any additional commitment. But we do want to see the Tribe accomplish everything they agreed to.

Lisa Hodgson Is crime under the County’s purview?

Captain Glisson The JIV is developing its own police department. They effects of this are unknown. We are electing to wait and see how it develops and reevaluate after it opens. Our agreement is open ended on their end and they may need additional law enforcement services.

Lisa Hodgson Aside from the JIV establishing their own police department that is not going to help with the increase of crime in the off reservation in the County.

Captain Glisson I think you are right. The JIV pays for one officer to be onsite of the casino. When their own department is up and running it is our hope to use the deputy as an additional position in the community.

Lisa Hodgson What is the possibility that this deputy would be there to police the areas around the casino and not repurposed to other areas in the County. The community would feel a lot better knowing the Sheriff and the BOS would protect the interests and the safety of the residents when there is no longer any law enforcement on or off the reservation. Residents are feeling unsafe and I am hearing stories of people waiting 40 minutes to an hour for someone to show up if they show up.

Captain Glisson We will share all these concerns and they are being shared up the chain of command and that will be in discussion when it comes time to determine what we are going to do with that position. This part of negotiating process. Concerning response times, the average response times are not consistent with our stats. I am willing to hear from people on specifics and check on the response times that they report. There are a lot of factors to consider especially the type of call based on priority.

Lisa Hodgson It is very frustrating to see agencies claim it is not their jurisdiction or authority and we can't get things agreed to in the MOU accomplished. If there are any new agreements made with the County someone has to enforce them. Please let us know when you make decision on this.

Kevin May One of the comments from the public meeting back in November, one person said if you see something you need to write it down and take pictures if you can.

Ed Mollen 3 areas of concern of off reservation impacts. In addition to the traffic impacts of a fire evacuation is the traffic in regard to daily travel. The 2nd is the increase in off reservation impacts of crime and vagrancy. The 3rd is the impacts of the building itself. It is wildly out of character for the area and will tower over people's homes. There will be an increase in light pollution. There is nothing specific as to how it will be mitigated. How can we have an impact on how light pollution is mitigated.

Mark Slovick We raised those concerns with the Tribe on light pollution and the visual impact. The previous agreement does state they have to comply with dark skies ordinance. We do not have any regulatory control but we identified that as a concern from the staff perspective.

Ed Mollen There is also our concern of the noise. They will have open air events with concerts and things like that. The area they are in is like an amphitheater and the sound travels to a large area. I am feeling we do not have a lot of avenues here. What can people do with a noise complaint. Is there anyone they can contact?

Marl Slovick You can contact us and we can try to address this with the Tribe.

Ed Mollen It seems like the only thing we can do is contact the Tribal leadership and hope they will be good neighbors.

Michael Casinelli It seems to me that if they have a concert and the noise goes beyond their reservation, it is a violation of County noise ordinance. To Murali, I am requesting that the County do a baseline traffic account on Otay Lakes Road now and then you can follow up after the new expansion is in existence to see exactly the increase in traffic. This project is getting built to increase public participation. If there is more congestion at that intersection because of that they should put more money to mitigate those problems.

Murali I am happy to reestablish a baseline for the Otay Lakes Road. We should also capture 7-day average. We can measure the difference in traffic.

Dan Neirinckx To Captain Glisson Has there been an increase in the traffic or crime from the Sycuan Hotel was added, they are all on County roads.

Captain Glisson We do not have traffic stats, that would be the CHP. On crime, I will do the research on Sycuan to see if crime has increased. We have very few calls in that area.

Thomas Gray Relating this to the concerts at the Chula Vista amphitheater where they have a 4-lane freeway and the traffic conglomeration that forms around that for several hours. My question to Mark is that knowing that we are going to have events and concerts on 94 based on Chula Vista should we as the County be partnering up with the State and Caltrans to get a handle on to prepare for this?

Mark Slovick We work closely with Caltrans and we have discussed doing a traffic management plan for these types of events to make sure it does not impact the County roads. We have reached out to both sides to address this traffic from events.

Thomas Gray Have you ever driven by here on a Friday night? There are no concerts and there is a lot of traffic in both directions. This is normal. Add concerts and a fire emergency people are going to leave in mass. Not only local folks everyone will be impacted. We need to engage with the Tribe so they understand what is going to happen out here.

Mark Slovick We will come back to the community as we engage in these conversations and share what we are doing to get your feedback as we develop that.

Kevin May Can you force someone to “shelter in place”. Can you block the entrance of the casino?

Chief Mecham We cannot force anyone to leave and we cannot force anyone to stay. This is in the State Penal Code. The sheriff makes the notification to leave the area. We would set up traffic control with the Sheriff and the CHP. Captain Glisson confirmed this and said they would not predict there to be a mass evacuation from the casino and hotel.

Pat Webb This has to do with the off reservation impacts of the desecration of the cemetery by the installation of the soil nails 40 feet in the earth. The cemetery is under the jurisdiction of the County. Under the health and safety code it would make the owner which includes the Catholic church and the contractor Condon Johnson liable. This is not part of the casino property. We would like to get a copy of the permit issued for the contractor or general contractor.

Mark Slovick Could you send me the information on the property you are talking about. We will get back to you.

Preston Brown Going back to the MOU, there are still 5 intersection improvements that have not been done and these are part of the MOU signed by the County. Just passing the buck back to Caltrans will not get the job done. I am sorry Caltrans could not be here tonight. They have the power to not approve an “encroachment permit” and my suggestion to you and the County is to make this happen. The entrance of the casino is on SR-94 and from there it breaks up into tributaries of County roads County areas where people live. This is an off-reservation impact that effects the circulation patterns of the local residents. If Caltrans does not handle the improvements the impacts are very significant. The County still has negotiating power. There should be coordination with Caltrans. As a subcommittee we are trying to do this with the Sheriff, the CHP, and Caltrans and County agencies. And if agreements are not kept that would trigger a negotiation and or lawsuit. The MOU calls for a mediation and agreements that have not been kept is certainly a reason to put pressure on the JIV and make something happen.

Mark Slovick You have our commitment that we will continue to pursue this with Caltrans and the Tribe to make that happen. We will keep at that and give you updates.

Preston Brown We would also highly recommend that these improvements be done before a new MOU is agreed to and all agreements for mitigations should be accomplished. The County has a responsibility to get these done before the new project opens. This will put enormous loads of traffic on us that could be a possibility of up to 10,000 occupants. You and Caltrans can hold their feet to the fire that these mitigations should be done at least before it opens.

On another topic, in the first TEIR Caltrans was the “Lead Agency” and they presented all the intersection improvements that were going to happen on SR-94. In the current TEIR the Tribe has listed itself as the “Lead Agency” which is illegal under CEQA. Scott Christman, the former planner for this project, said it was exempt from complying with CEQA because it was not an expansion of Class III Gaming but an expansion of entertainment and just a new event center. Federal law says

that you cannot make that distinction between that and even the Compact defines the same thing in terms of a facility or new project. Do you still believe that this is a different kind of project because it is not an expansion of Gaming and therefore exempt from the VMT and they don't have to comply with the process of having a State "Lead Agency"?

Justin Crumley The JIV is not subject to CEQA at all. The Federal government has a process where they have allowed the States to enter into Compacts with the Tribes. The tribes have to draft a TEIR which is their CEQA like process. We look at this through the TEIR lens of CEQA so we can understand what mitigations we need to negotiate. There are no lead agencies.

Preston Brown Then why was Caltrans listed as the "Lead Agency" in the first casino project?

Mark Slovick I think it was because Caltrans had to review and study the environmental impacts resulting in the road improvements that the Tribe committed to make. Those are in Caltrans right of way and they are subject to CEQA as Caltrans is the lead agency.

Justin Crumley Caltrans has to draft an EIR for those improvements because they were studying to take on those projects based on funding from the tribe.

Preston Brown So Caltrans would be the one to enforce this?

Justin Crumley There is 0% for which the Tribe is responsible for under CEQA. For Caltrans to construct any of the improvements they had to conduct an EIR for a CEQA review. This is between the Tribe and Caltrans. What we try to do is incorporate those improvements into our agreements as a courtesy to memorialize the Caltrans agreements what the Tribe has committed to do because we have a little more leverage. The funding goes through Caltrans so it is their responsibility to follow through on this.

Preston Brown What do you mean you have more leverage than Caltrans? **Mark** said the County has less leverage. Caltrans can revoke the "encroachment permit" and stop construction on the spot.

Justin Crumley We have more leverage because of the framework. The Federal government allows the State to enter into a Compacts with the Tribes which allow the local jurisdictions, the County, to review and negotiate intergovernmental agreements. The county is the point person to organize these agreements. We do talk to Caltrans and include their agreements but it is up to Caltrans to get the finding and do the construction.

Preston Brown Would this project require the approval of the Governor as the first project did?

Justin Crumley I don't believe so. These go through the Bureau of Indian Affairs.

Preston Brown Could you check this out? Is it the position of you and the legal staff that because this is not an expansion of Class III Gaming it is just entertainment and other activities, it is exempt from needing the approval of the BOS and the Governor? The law even in the Compact contradicts that and so does Federal Law that state that all the activates that add to and enhance the gambling model are part of it and have to be treated as such. If you could get back to me on that I would appreciate it.

Justin Crumley I would have to review the Compact. **Lisa Hodgson** The CEQA review only applies to reservation land correct and it does not apply to other properties that the JIV owns?

Justin Crumley Generally yes, but it depends on whether it has been taken into trust by the Federal governmental. They own the Barrett Ranch and right now that under County jurisdiction

Lisa Hodgson Who approves whether it goes into Trust?

Justin Crumley The Bureau of Indian Affairs, they have to make an application with the acreage and say what it is for through the Pacific Region of the BIA, you can google them for that information.

Lisa Hodgson Isn't the BIA motivated to approve a private piece of land that was purchase by a reservation to put it into Trust. It is in their vested interest?

Preston Brown said he remembers that the BOS did have to approve the land to trust application For the 86 acres that Lakes Gaming had acquired where they wanted to build a casino.

Mark and Justin disagree and said the BOS has no authority over approving land to trust applications. We have no authority over that.

Preston Brown said he thinks they do and that is the reason why we do not have a casino on the 86 acres the JIV had applied for. The County did change its policy and started allowing consideration of land to trust applications.

Justin Crumley The original BOS passed a policy blanket opposition to all land to trust application. The new BOS has rescinded and they will review all application on a case by case basis.

Mark Slovick To clarify, the Board does not approve all we do is review and comment.

Justin Crumley Historically our comments are reserved the loss of tax revenue. Or latch on to strong position on land use and submit an appeal to the BIA. The County of San Diego does not approve these, all we are is a commenter. We area public commenter and may have more weight than in individual but we do not have jurisdiction to stop them.

Preston Brown Then why did the BOS vote to deny the 86 acres for Fee to Trust?

Justin Crumley disagreed. They never did this. Even under the policy there were still thousands of acres that were taken into trust.

Preston Brown asked what was the policy or document of the blanket opposition to Fee to Trust.

Justin Crumley There was a resolution by the Board from 25 years ago. The new Board rescinded it. If the Board opposes an application and they have concerns they can file a formal opposition.

Preston Brown So there is a process.

Kevin May thanked the County Staff for attending and for their presentation.

6. INCLUSIONARY HOUSING STUDY AND ORDINANCE DEVELOPMENT

Long Range Planning, Planning & Development Services, County of San Diego

Camilla Easland, Mike Madrid, Ben Larson

Mike Madrid is the planning manager for the housing and transportation section of long-range planning. **Camilla Easland** is the project manager. She presented the power point.

The new 'draft' ordinance is under public review. They are holding public meetings.

The goal is to create more affordable homes by requiring new developments to require a percentage of affordable units for moderate to lower income households. It provides incentives to offset the costs. There is also alternative compliance to be included in alternative housing programs when the developer cannot do this on the site.

- There is a deed restriction for affordability. It is recorded on the deed to stay affordable for a period of time.
- ALTERNATIVES: Rehabilitation of units, Offsite development, Accessory Dwelling Units (ADUS)
- GPA General Plan Amendments needed to increase the density of projects
- A map shows that most areas identified as not feasible are located in the eastern areas of the County

We were presented with a detailed series of choices for determining minimum project size and the minimum set aside requirements for affordable housing with a breakdown of graduated percentages for housing and housing types. Economic analysis was done to determine the feasibility of the options. We are accepting public feedback on General Plan compliant projects and GPA compliant projects as to level of affordability. And we have 5 types of alternative compliance that include: offsite development, land dedication. In-Lieu of fees, ADU's and rehabilitation of Units. INCENTIVE: Density Bonus options more than State Law: Expedited Review. On the website there is guide for public input. Public comment will be closed after March 7. New Public hearings will be held in spring of 2023.

Online Information: <https://www.sandiegocounty.gov/content/sdc/pds/advance/housingstudy.html>

Project Contact: Camila Easland, County of San Diego, Planning & Development Services

PDS.LongRangePlanning@sdcounty.ca.gov, (858) 505-6677.

For information on the County Blueprint for affordable housing: Engage.SanDiegoCounty.gov to

Contact: Natalia.Hentschel@sdcounty.gov

FROM THE QUESTIONS FROM OUR GROUP

- Feasibility was determined mainly on economics as to whether a project in these areas could afford to provide affordable housing. Applies to: for sale, for rent and GPA housing.
- This policy does not change anything in what is allowed to be built. The GP still determines what the zoning is. Same process just deed restricted affordable housing is a layer on top of GP zoning. It does not change the community plan.
- A deed restriction in a market rate housing is 55 years. They studied this to make sure that it is not self-defeating because it could not pencil out. They worked with developers to create assumption and used consultants to review the economics.
- There is no fee waiver incentive program at this time. But we could recommend it: TIFF or Park fees.
- The State determines level of affordability and maximum income levels and adjusts it annually.

7. CONSIDERATION OF APPLICANTS FOR JDCPG SEATS

- **Richard Young** He has withdrawn his application.
- **Lisa Hodgson** Members gave numerous compliments to Lisa for her involvement and participation. Well qualified, well prepared, knowledgeable, diverse experience. Lisa is retired and lives on 7 acres and takes care of some rescued horses and other animals. The Vote was unanimous for approval.

8. JDCPG OFFICER'S ANNOUNCEMENTS AND REPORTS

- VOLUNTARY CONSERVATION AND LAND MGMT. ASSISTANCE WORKSHOP
Property owners looking for assistance and support for conservation and land management practices.
 - • Wednesday, March 1, 4–7 PM
 - • County Operations Center Hearing Room, 5520 Overland, San Diego, CA 92123
 - • https://ucanr.edu/sites/Climate_Resilient_Agriculture/Education/Conservation_and_Land_Management/
 - [Management/](https://ucanr.edu/sites/Climate_Resilient_Agriculture/Education/Conservation_and_Land_Management/)
- SOCIALLY EQUITABLE CANNABIS PROGRAM
Topics include the social equitable as directed by the BOS: Virtual public Meetings
 - Thursday, March 2, 2023, at 7:00 P.M
 - Friday, March 3, 2023, at 12:00 P.M.
 - Tuesday, March 7, 2023, at 7:00 P.M.
 - <https://us06web.zoom.us/j/85810283894>
- **Dan Neirinckx** will Chair the next Meeting Kevin will be out of town.
- Next Meeting will be at the Oak Grove Middle School
- **Preston Brown** suggested we wait to respond to the BOS as we consider the information from the presentation by the County this evening.

9. ADJOURNMENT: Motion to adjourn passed unanimously 10:12 pm

NOTICE OF NEXT REGULAR MEETING

TUESDAY March 14, 2023 @ 7:30 P.M.
VIRTUAL MEETING

Meeting Minutes and Agendas can be accessed at
<http://www.sdcountry.ca.gov/pds/CommunityGroups.html>

We strive to protect personally identifiable information by collecting only information necessary to deliver our services. All information that may be collected becomes public record that may be subject to inspection and copying by the public, unless an exemption in law exists. In the event of a conflict between this Public Notice and any County ordinance or other law governing the County's disclosure of records, the County ordinance or other applicable law will control.

Access and Correction of Personal Information

You can review any personal information collected about you. You may recommend changes to your personal information you believe is in error by submitting a written request that credibly shows the error. If you believe that your personal information is being used for a purpose other than what was intended when submitted, you may contact us. In all cases, we will take reasonable steps to verify your identity before granting access or making corrections.

JAMUL DULZURA COMMUNITY PLANNING GROUP

MISSION STATEMENT

"The mission of the Jamul-Dulzura Community Planning Group is to represent the best interests of the communities of Jamul and Dulzura while adhering to County of San Diego, California Board of Supervisors Policy I-1."

PURPOSE STATEMENT

The purpose of the Jamul-Dulzura Community Planning Group is:

- *To provide a public forum where local citizens can learn about issues of importance to them and their community and provide input.*
- *To carefully consider all input when advising the county on such issues as planning, land use, discretionary projects, and community and sub-regional plans.*

APPROVED 5/12/2020