

Woodland City Council Minutes
Council Chambers
300 First Street
Woodland, California

November 15, 2000

WOODLAND CITY COUNCIL
SPECIAL ADJOURNED MEETING
COUNCIL CHAMBERS

Mayor Borchard called the special adjourned meeting of the City Council to order at 7:10 p.m.

ROLL CALL:

COUNCIL MEMBERS PRESENT: Borchard, Dote, Flory, Monroe, Peart

COUNCIL MEMBERS ABSENT: None

STAFF PRESENT: Richard Kirkwood, Phillip Marler, Ed Quinn, Ann Siprelle, Steve Harris, Margaret Vicars, Gary Wegener, Henry Agonia, Greg Moutinho, Ron Pinegar, Sue Vannucci

ALSO PRESENT: Consultants Nicholas Ponticello, Heidi Tschudin

PUBLIC COMMENT:

John Murphy, Chairperson of the Tree Commission, thanked and commended the Public Works staff for their assistance in planting trees on Fourth Street.

VERBATIM DISCUSSION ON FAIR POLITICAL PRACTICES COMMISSION RULING REGARDING COUNCIL MEMBER MONROE'S PARTICIPATION ON OLIVE TREE ISSUE

"Dan Ryhal: Good evening. My name is Dan Ryhal and I am a current resident of the City of Woodland. My concern is, I am going to direct it all to you Jeff, because it is all yours, I am a little surprised and disappointed to see that you are sitting on the dais because I believe that you have a

conflict of interest. I read the FPPC ruling and I also talked to John Wallace who wrote the ruling because I had some additional information that I think is pertinent that he didn't have. When I read the information that Margaret provided the Council concerning the increase in the landscaping and landscape and lighting, the fees that are going to be passed on to the additional homeowners and not yourself, that gives you a financial gain. I talked to a Real Estate agent concerning increasing the buffer by moving the road, also increases, gives your home a financial gain. The further away the road is, the greater the sound barriers, whatever, the increased potential for the selling cost of your home. So there are financial gains that the FPPC are willing to look at as far as the ruling is concerned. The other thing, what I think is even more important, I had to dig for this but I think it is more important, is just that I think there is a moral issue here. Your wife was listed as one of the, on the lawsuit against the City of Woodland, on this issue. You supported your wife with that issue and it was also a part of, her efforts were part of your campaign to get on the Council. So for you to sit there and say that it is a not a conflict of interest, in my honest opinion is incorrect. To me that is even the greater of the two issues is the moral issue. So, based upon the fact that there is financial gain, be it however miniscule, there is financial gain and the fact that you wife was listed as on the lawsuit against the City, I think there is some serious conflict of interest. What I am asking you to do, what you do is your own choice, but what I am asking you do to is step down off the dais and let the four people who are up there that have no interest, would have no conflict in the decision make the decision. Any questions before I sit down.

Mayor Borchard: Thank you Mr. Ryhal. Dudley Holman.

Dudley Holman: Pass.

Mayor Borchard: You'll pass? OK. Any other comments from the public. Mr. Peart.

Council Member Peart: Yes, I would like to just make a comment. I would like to concur with Dan Ryhal's. When you are on the Council we have a legal responsibility and we have a moral responsibility. And I do feel the same that due to the fact Council Monroe's wife was part of the action, or part of the lawsuit against the City of Woodland, that there is a conflict, if nothing but a moral conflict. This issue obviously has been very sensitive. The community has come out for it and also against it and I just wanted to go on record that I feel as a Councilman that my fellow Councilman is doing wrong by sitting on the dais.

Mayor Borchard: Thank you Mr. Peart. Jeff certainly we will accommodate your response. I have something to say too and I'll just allow you the last word too, after me. Mr. Bruce Jacks, did you have a public comment that is not directly related to the issue tonight? The discussion that has just taken place, the couple of speakers from the audience and Mr. Peart have raised an issue that is indirectly related and I think germane to the public comment period and that is why I...

Bruce Jacks: My comment was...

Mayor Borchard: If you could introduce yourself and say whether you are a resident of Woodland.

Bruce Jacks: My name is Bruce Jacks, resident of Woodland. My comment piggybacks on the previous speaker. However I was prepared to make that during the public comment discussion after this particular portion of the meeting. I can present my comments right now.

Mayor Borchard: I just think there, it is not directly related to the issue of what we are deciding tonight, so if you have something to say about Mr. Monroe's role in the discussion, I think now is the time to say it.

Bruce Jacks: OK. I have something here that I will pass out later and it has the contents or the written comments that I am just going to recite here. This is actually the last third of my comments which were prepared, and I am going to state that this is the final comments directed toward the City Council decision making process. Apparently the Fair Political Practices Committee has ruled that Councilman Monroe has no conflict of interest and can participate in deciding the fate of the Olive trees. From my perspective if any Councilperson deciding this issue can view the Olive trees from his bedroom window and or his rear yard, then he has a conflict of interest. If any Councilperson has a spouse who is the chief proponent leading a petition drive to save these trees, then you are too close to the issue and you have a conflict of interest. Mr. Monroe, I believe you have a clear conflict of interest in deciding this issue. The right thing for you to do tonight is to acknowledge that conflict and to promptly remove yourself from tonight's discussion and decision making process. Thank you.

Mayor Borchard: Thank you Mr. Jacks. Mr. Flory. Excuse me, I'll yield to Mr. Klein.

Jack Klein: My name is Jack Klein. I have I think a little interest out there in the Southeast area. I was, in the beginning when they first decided to take the Olive trees out and that is about ten years ago. I believe Mr. Monroe should disqualify himself. I also, I wanted ask at this time, each Councilman if they do leave the trees there, who is going to pay the cost of this? I would like to start with Mr. Flories and work that way and get an answer from each one of you.

Mayor Borchard: Mr. Klein, I think that question probably is appropriate for the issue when we get to the Agenda item. The comment you made about Mr. Monroe's role in discussion I think is appropriate for this time. So we will see you again when we get to the issue.

Leslie Marcus: My name is Leslie Marcus, I am a resident of Woodland. It is my understanding that when this body voted to send this, to pay the money, to send it to the Fair Political Practices Commission to make a decision on whether there is a conflict of interest that exists for Councilman Monroe it was based on information that our City Attorney provided to the FPPC, on professional appraisals that were done and conflict of interest relating specifically to financial benefit or detriment to the Council member in question. The Commission has made its decision. It is unfortunate that people don't like the decision that they have come to but that's the decision they have come to. This is not the time or the place to be discussing the morality involved. If we want to talk about conflict of interest and morals, then I would ask each Council member to look into their own driving patterns. How many times do you guys drive up and down Gibson Road past those trees. If you see them your conflicted, you have a conflict of interest OK. If you have ever had your car shaded by them when it is 102 in Woodland as you are driving past, you have a conflict of interest. Morally, none of you who have ever driven past those trees on Gibson Road should be voting on the issue. Thank you.

Mayor Borchard: Thank you Mrs. Marcus. Any other public comments? A repeat offender.

Dan Ryhal: That's me. Do I need to say my name again? It's the guy in the red coat. I had a real interesting discussion with John Wallace, the person who wrote this.

Mayor Borchard: Dan could you speak into the microphone.

Dan Ryhal: I'm sorry. This is the FPPC ruling and I had a real interesting discussion with John Wallace. It's really in the last paragraph that says it all. OK. It says, "please note that our advice is limited to the facts presented." And that is under section 83114, "ultimately the public official with potential conflict of interest bears the responsibility of deciding whether a material financial effect is reasonably foreseeable. Evidence that there will be no financial effect on real property may take the form of an independent appraisal that takes into account the factors listed above or and omits no other pertinent factor". Obviously, if I can find it, other people should have found pertinent factors. "Such an appraisal is appropriate evidence upon which to rely when determining whether there will be no financial effect on the real property. The actual sufficiency of any appraisal is, of course, a question of fact that the Commission cannot decide". And that, then again he states the law form. "Reliance on an appraisal immunizes the official only to the extent that such is reliance is reasonable at the time of the decision". OK. So that doesn't mean you are covered Jeff. Let's clarify that. Because the FCC or the FPPC gave you that ruling you are covered, you're not. OK. That is straight out the of the horse's mouth. So, let's be real clear about that. I don't want anybody mincing words here, because now isn't the time to. I've always shot straight off the shoulder and I am telling you now that you not, because of this ruling, you're not free and clear.

Mayor Borchard: Thank you. If there is no other comment I will yield to my senior colleague Mr. Flory.

Vice Mayor Flory: Thank you. I am not going to address the issue of conflict of interest or ethics or what people have said as moral responsibility and so forth, but I am going to address the fact that we did request a ruling from the Fair Political Practices Commission on whether Mr. Monroe was eligible to vote on this issue, based on the facts that the City or City staff felt was pertinent. Those facts were given to the Fair Political Practices Commission and they made their ruling based on that, and for that reason I think that Mr. Monroe legally is, has the right to vote on this issue. If he decides not to for other reasons that is his decision, but I would stand behind the ruling of the Fair Political Practices Commission and his right to vote on this issue based on those facts. Thank you.

Mayor Borchard: Thank you Vice-Mayor. Council member Dote.

Council Member Dote: Thank you. I have a question for our City Attorney. If Council Member Monroe chooses to recluse himself, can he

still participate from the audience or does conflict of interest preclude that?

City Attorney Siprelle: He would not be able to participate because he doesn't have a unique interest in this. If he had a unique interest that was different from any of his neighbors he would be able to participate, but he really doesn't in this case so....

Council Member Dote: OK. Thank you.

Mayor Borchard: Thank you. Are there any other comments from the public or my colleagues? Mr. Klein. Come forward.

Jack Klein: I really believe that he should withdraw on this thing and maybe if this is not the case maybe we ought to let the court decide; if he is not a conflict if you want to spend a lot of money.

Mayor Borchard: Thank you Mr. Klein. Jeff, like I said, I'm going to give you the last word on this. I brought this issue forward before. Earlier in my tenure in my first two years, I was conflicted out of the general plan discussions which actually came as quite a surprise to me a week after I was elected, that I really couldn't have a direct affect on it. But eventually I became involved once my personal life changed a little bit as far as my business relationships and I did not have that conflict any longer and I went ahead headfirst into the issue. I brought this up because it is sensitive to me because it was a large part of my life in 94, 95, 96 about this conflict of interest. I couldn't talk about the general plan, and through legal counsel, I talked with legal counsel over and over even asked for an FPPC ruling on one redevelopment issue and that said, yeah, I do have a conflict. We did vote to have this looked at by the FPPC. They did levy a ruling. It certainly doesn't mean that we approve no matter what decision they came up with. I made a statement last time that I disagree with the evaluation of the appraisal of the property noting that the view from the backyard wasn't really mentioned. Certainly everyone's backyard has a view, normally look up, or horizontally and up and Mr. Monroe's property backs up to the project. The project, this discussion tonight centers around the removal or the leaving in place the Olive trees which are in direct view of Mr. Monroe's property's backyard. Certainly I can speak from experience when there is a perception of conflict, I weighed that, and the legalities involved. In the legality part of my decision the cost of the project, and there is an additional cost, and of course we are going to contend how much that cost is, whether it is a half million, whether its two hundred and fifty thousand, whatever it is, there

is still an impact and an effect on the residents in the Sycamore Ranch. And even though Mr. Monroe is quoted in the Friday, November 10th newspaper by saying that, talking about the figures, it would be paid by Sycamore Ranch residents and with those figures would only amount to the 2% increase in fees they currently pay. To me that, Mr. Monroe is quoted in the paper, I, hopefully it is an accurate quote, and Mr. Monroe will correct me if that is not an accurate quote, but there certainly appears to be a direct financial relationship between the property and the project. So with that said, I don't envy Mr. Monroe's, my colleague, Jeff's position on this. He wants to have a part in this discussion, it is very important to him, and on the face of it, I will take his reasoning that he wants for the public good. But still, those trees add to the property in shade, in appearances, the view of a particular property is not only the front yard and the neighborhood in the front, it is the backyard as well and that is something avoided in the discussion in the appraisal. So with that I will stop my remarks and ask Jeff to respond.

Council Member Monroe: Thank you. Well, I wasn't expecting this tonight. I probably should of I guess. Just to answer the Mayor first, the quote in the paper, 2% of the entire project which is listed at ten million, eight hundred something thousand dollars is what I meant, not that it would cost the residents 2% more. Basically, the improvements as listed by Public Works, which I am in disagreement with, are, would be 2% of the entire project is what I meant. It is my understanding that any increase in Mello-Roos would be passed on to the residents who have not been built yet. I believe there is nine hundred something units, so that would not affect me either way. Going on further, as far as additional fees and stuff that Mr. Ryhal brought up, I can only assume that staff gave all the information to the FPPC. I have to go with legal counsel on this issue. I do want to participate, that's why we had the appraisal and asked for the ruling from this organization, a State organization that is notorious for being very conservative on the side of the conflict. They have made it clear that I don't have a conflict. In addressing the moral issue, Councilman Peart brought up the fact that my wife was on the lawsuit to save the trees. Well, not initially, and a matter of fact, her name was added at the very end of the lawsuit. Her participation in that lawsuit was minimal at best. But to say that I support my wife, of course I support my wife. I hope everybody out there supports their spouse, in everything she does, I support her. But she is independent of me; she is a freethinking individual. She makes her decisions on her own. I mean I would hope that that is the kind of society we live in. My wife doesn't do what I say; I do what my wife says though, I mean, you know it is only safe. (Laughter) But, and the fact I don't believe I have ever used this as

a real campaign issue. I tried to stay outside of that during the campaign. Of course, I did not support the removal of the Tree Commissioners. But you never saw me get up here in public and say that I disagreed with that removal. I didn't do it. Unless there is something that the FPPC did not get, and I have to assume they got everything, I would like to go with the ruling that states that there is no conflict.

Mayor Borchard: Thank you Jeff. Mr. Klein, I see your hand. I'm not going to allow any more comment on this item, in all fairness to Mr. Monroe.

Council Member Dote: Could I ask one quick question?

Mayor Borchard: What was it?

Council Member Dote: I'd like to ask another question of Counsel. Assuming that we proceed with this and Mr. Monroe sits on the dais and at a later date there is some evidence of conflict that comes up, what happens with any decision that we have, we undertake tonight?

Council Member Monroe: I could answer that. If at any time during our discussion something comes up that has some type of financial impact on me, whether fees to my community of any kind, I will immediately step down.

Council Member Dote: No that wasn't the question. The question is that, assuming you stay here through the conclusion of the discussion, you are part of the motion, part of the action and at a future time something comes forward that means that you should have stepped down, what happens to the action that we took.

Council Member Monroe: Well, one of, I'm sorry, a citizen brought the a fact that let's let the court decide. I mean, is there a process where we can put this in front of the court? Does the Council want to do that? I, you know I am more than willing..

Vice Mayor Flory: This will be the Florida of the West Coast.

Mayor Borchard: Can we leave those politics out of this? (Laughter) Maybe I can phrase the question to our legal staff. Ann, is the decision that we make tonight more susceptible to litigation if Mr. Monroe continues as a discussor?

City Attorney Siprelle: Given the fact that the FPPC has rendered formal written advise, that does immunize Mr. Monroe unless there is evidence that at the time he makes a decision makes his reliance on that appraisal completely unreasonable. Mr. Ryhal quoted the correct section out of the Political Reform Act. The only information that I am aware of that the FPPC did not have is that additional costs would be borne by residents in houses yet to be built. Now, I don't think that it would be considered significant new information that would change the appraisal, so given that I think the chances are extremely slim that his participation could be considered incorrect or that he would not receive protection or indemnification because he does have formal written advice.

Mayor Borchard: That answers the question about the indemnification for Mr. Monroe, but what about the decision we make tonight?

City Attorney Siprelle: If an enforcement action were taken against Mr. Monroe at a later point, and concluding that he should not have participated, I think it would depend on what the rest of the vote was. If his vote was needed to make the decision, it is possible that somebody could try to have a court overturn the decision. Again, I think it is unlikely.

Mayor Borchard: Thank you, Ann.

Council Member Peart: I had a question.

Mayor Borchard: Mr. Peart.

Council Member Peart: This is getting interesting. If by chance there is legal action and someone challenges Mr. Monroe, who bears the legal cost? Does the City, does he?

City Attorney Siprelle: If there is an enforcement action him for violating the Political Reform Act, that is his individual obligation to defend himself. That is not a cost that has to be borne by the City. If the Council decided to, it could, in its discretion, decide to provide him with a defense but it is not, they are not obligated to do that. It is one of those situations, another example of violation of the Brown Act, where it is an individual duty and obligation.

Mayor Borchard: But Ann, I thought he was indemnified by the FPPC ruling.

City Attorney Siprelle: Well he is, but if someone, I am saying that if new information came to light or if someone, if for some reason the Fair Political Practices Commission got new information supplied by someone and decided to take enforcement action against him and if he had to incur costs to defend himself..it is so unlikely, I am just saying that if some significant information came to light that would make them change their advice.

Mayor Borchard: OK. Thank you.

Council Member Monroe: Could I ask a question?

Mayor Borchard: Sure.

Council Member Monroe: You talk about some type of information that would come to light. Are you just trying to give me the worst case scenario. I mean...I am a Police Officer so I am used to getting sued but obviously it is not a pleasant experience. Is there something...

City Attorney Siprelle: I am speculating about something that I think is highly unlikely to happen. I don't see any reasonable possibility that it would.

Mayor Borchard: Vice-Mayor.

Vice Mayor Flory: Along those lines, then. If someone could, though, challenge him independently of the Fair Political Practices Commission could they not.

City Attorney Siprelle: I...., no they would have to go to the Fair Political Practices Commission.

Vice Mayor Flory: And challenge him. So there wouldn't be any chance then, the only way he would be drug into court other than through a reversal of the Fair Political Practices Commission or an investigation.

City Attorney Siprelle: That is correct.

Vice Mayor Flory: If it was an investigation he would be required, if the City did not provide legal counsel, he would be required to have his own legal counsel in an investigation.

City Attorney Siprelle: Correct.

Council Member Monroe: Thank you. I would like to say one other thing. I did not hire this appraiser the City found. I really don't know what information that appraiser got for my property, I saw it afterwards. But during the process, you know, I was totally out of it. Whatever was given to the Fair Political Practices Commission I had no idea. I can only again rely on the ruling.

Mayor Borchard: Thank you Jeff. Any other comments from Counsel.

City Attorney Siprelle: Well, I can tell you again what the appraiser was given was the project description out of the Environmental Impact Report. The description of the project including the alternatives for realigning the road, etc. But the appraiser was not given the cost information that you are being provided with tonight.

Mayor Borchard: Well. Isn't that, couldn't that be, is there a possibility of that information which we are going to see and discuss tonight, whether it's, we are going to discuss numbers back and forth here tonight, whatever they come out, does that have any effect on...

City Attorney Siprelle: Well, I haven't seen those numbers but my understanding is that they involve costs that would be, could be spread to other property owners, not Mr. Monroe's property, and again the question whether this decision affects the fair market value of his property, not other properties, so I don't think it is relevant.

Mayor Borchard: OK. If there is no other comments, and no other public comments of another nature, we will move on to item C, reports of the City Manager."

REPORTS OF THE CITY MANAGER:

FINAL SOUTHEAST AREA SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT FOR SYCAMORE RANCH COMMUNITY FACILITIES DISTRICT 1, PHASE 2 IMPROVEMENTS PROJECT:

Community Development Director Harris reviewed the process of the certification of the EIR. The Council must determine whether the EIR is adequate. Should the EIR provide adequate information, Finance Director Vicars and Public Works Director Wegener will assist Council in addressing the mitigation issues within the EIR. Should the EIR be found inadequate, staff will need direction from Council as to their intent for changes to the EIR. The

original EIR did not specifically address the issue of the Olive trees. This supplemental EIR satisfies all environmental review requirements. Issues considered were the cultural resources and visual/aesthetic resources. It also addresses other issues which were not considered in detail in the initial EIR. Included as well are the land use, agricultural resources, geology, air quality, mineral, noise, recreation and hazardous materials, which may face the area. The cultural resources consider unidentified prehistoric and historic cultural resources. Should artifacts of possible historical significance be uncovered, progress stops, the items are preserved, recorded and managed. Another cultural resource for consideration is that of possible removal of the Olive trees on Gibson Road and Bourn Drive. These trees have been evaluated against national, state and local historic criteria and found not of historical significance. Removal would not result in loss of a unique resource as other Olive trees of the same age and character exist in the vicinity. The findings in relation to the removal would not create a substantial adverse change of historic or cultural nature. There would be less than a significant impact on historic resources and the Tree Commission concurred with this finding.

In regard to visual resources, if the Olive trees were to be removed, there would be an increase in the artificial lighting, as the new streetlights to be installed would not be partially blocked by the trees. This lighting is consistent with City design guidelines and ordinances. This impact would be less than significant and no mitigation would be required. The other visual impact would be that the removal would alter public views. In that the road is to be changed from two to four lane, the impact would be significant and unavoidable in this respect.

In summary, the only significant impact would be visual. The project does change the character of Gibson Road. Should the trees remain, the impact is still significant and unavoidable. Should the Council not certify the EIR, the project stops and no further consideration of mitigation measures are required. Should they proceed, funding sources and uses, mitigation options, cost factors, input from the public, discussion and decision would be the next steps.

One of the issues before the Council is whether Gibson Road should be changed from two to four lanes. Council Member Dote asked if the widening of Gibson Road was addressed in the Spring Lake Specific Plan and Consultant Tschudin stated to the affirmative. Council Member Peart asked that if the EIR were rejected, what would be the next step. City Attorney Siprelle stated that Council would then direct staff to address those issues of concern and return with suggested changes. Additional costs would be incurred for the Consultant to review and make recommendations for revision. Director Wegener reminded

Council that as the process lengthens, the costs rise due to inflation of approximately 5% to 8%.

Council Member Dote asked about the contingency and Director Wegener said we have built in about 10%.

Council Member Peart left the meeting at 8:02 and returned at 8:04.

City Attorney Siprelle stated that the EIR certification only states that enough information is available for the Council to make decisions on the mitigation issues.

Council Member Peart asked Director Wegener for the estimated cost on the Phase 2 portion and he responded approximately \$10 million. City Attorney Siprelle stated that the steps are: (1) Certification of the adequacy of the EIR, (2) Approve the project with CEQA findings on the mitigation measures and if changes are significant, an Addendum to the EIR could be developed.

Marjorie Brown stated she had attended the Tree Commission meeting when the EIR was discussed. They had voted only to certify the EIR as it would allow them to make recommendations on the mitigation measures. She felt they disagreed that the Olive trees were not of historical importance. While she understands the trees do not meet historical value based on State and local criteria, she disagrees with the criteria. If trees are very close to over 100 years old and relate to the farmlands in the area they should have agricultural historical value. She would like the mitigation measures expanded to include a lower cost, drought resistant design utilizing the trees in their original location. The Commission had voted three to one to recommend the EIR be approved.

Leslie Marcus stated that some of the residents in the area at present are concerned about the "amenities" to have been included in their area, which have not been completed to date. They don't have greenbelts, bike paths or other greenery they thought would be included in the area when they purchased homes. As Spring Lake Specific Plans unfolds, there appears to be some financial concerns in this area and it is possible that these same amenities will be reduced or eliminated to finance the infrastructure. She asked if the EIR addresses the visual and cultural impacts that the Olive trees will have on Sycamore Ranch and the new Spring Lake area. City Attorney Siprelle stated that these issues have been addressed in the Spring Lake EIR.

Ken Trott said the findings are based on standards established in Park and State law or by local standards. There were no local standards in place so we relied on State standards. We don't have an environmental threshold under CEQA so the listing of historical resources does not include the trees. Goal 6-A in the General Plan states we are to preserve landscapes that serve as a visual reminder of the City's social, architectural, and agricultural past, he feels the trees fit into this Goal. He doesn't feel the EIR is adequate, as it does not address the costs. He prefers the option to keep the trees where they are. They provide places for birds, windbreaks, visual relief, they are healthy, they are old and will live a lot longer. It is a risk to move them.

Joy Cohan, Chair of the Historical Preservation Commission, stated that reference to historical value of these trees has not been before the Commission. Council Member Dote asked if the Commission had viewed trees considered having historical value in the past and Ms. Cohan stated this has not been the process to her knowledge. There has been discussion on declaring "heritage" trees.

David Wilkinson said the City historical resources inventory had not been updated since approximately 1982. When he was a member of the Historical Commission that had received funding to update the Redevelopment Area only. They had utilized a consultant and volunteers as resources were not available to do the entire inventory at that time. He felt that with the growth of the City, it would be prudent for the City to budget for an update of that inventory. The County does have an ordinance for designating stands of trees.

Dan Ryhal stated when he was a member of the Council the project was agreed upon and should move forward. He suggested perhaps the reason amenities in the area have not proceeded is due to the cost on this issue and the litigation surrounding it.

Mr. Brian Herbert, Consultant on the possible historical aspects of the trees, gave specific criteria which designates historical items. The trees were formerly in the County and none of the criteria fit the Olive trees. He said someone planted these trees and they are not a natural stand. An example of a stand of trees which could be considered for their historical value would be that at "Yolanda" where they are part of a historical homestead. Vice Mayor Flory stated they might have fit should other criteria have been given to Mr. Herbert.

Council Member Monroe left the meeting at 8:55 and returned at 8:56.

Council Member Peart left the meeting at 8:56 and returned at 8:58.

On a motion by Council Member Dote, seconded by Vice Mayor Flory and carried by a unanimous vote, the Council moved to certify the Final Environmental Impact Report, per recommendation of the Tree Commission, with the appropriate findings, in that the Final EIR has been completed in compliance with CEQA; was presented to the decision-making body of the lead agency and that the decision-making body reviewed and considered information contained in the Final EIR prior to approving the project, and; the Final EIR reflects the lead agency's independent judgment and analysis as per CEQA Guidelines, Section 15090. On roll call the vote was as follows:

AYES:	Council Members Dote, Flory, Monroe, Peart and Borchard
NOES:	None
ABSENT:	None
ABSTENTIONS:	None

The Council recessed from 9:02 to 9:15 p.m.

Finance Director Margaret Vicars presented information regarding the funding of this project. The funding sources are: Mello-Roos bonding capacity at \$16.0 million, less bonds issued to date of \$13.0 million which leave us with an available bonding capacity of \$3.0 million. Infrastructure fees in the amount of \$5.2 million are also available. The needs for this project in Phase II are \$5.9 million and \$2.4 million in Phase III. The impact is then a negative \$0.1 million for the project completion without any of the mitigation measures in relation to realignment of the road.

Vice Mayor Flory stated that Director Wegener has said an additional \$800,000 would be needed for the joint trench and that had utilized the contingency for Phase I. Director Vicars stated the shortfall was unrelated to Phases II and III. Vice Mayor Flory asked should the school district purchase the property in this development, would there be an additional shortfall in housing which would then further reduce the income. Director Vicars stated to the affirmative. Approximately 200 houses would not be constructed on the land the district proposes to purchase. The total cost for Phases II and III is \$17.8 million and would come from Citywide development fees, infrastructure and Mello-Roos.

Revenue would not be forthcoming for five years. She said that since the FEMA map concerns have put the building on hold, some of the income from property taxes is questionable.

Consultant, Heidi Tschudin stated the widening of Gibson Road was triggered by the development of Sycamore Ranch. Council Member Monroe stated the FEMA maps are of concern and we may wish to cut back on the project and redesign to fit the available funds. The new FEMA maps are expected in February.

On a motion by Council Member Dote, seconded by Council Vice Mayor Flory and carried by a unanimous vote, the City Council extended the Council meeting to 11:00 p.m.

Director Vicars stated that funding is available for Phase II, but her concern is regarding full funding for Phase III. Director Wegener responded to a question from Council Member Dote in that the major cost for Phase III is the completion of Pioneer Road to four lanes in its entirety. Completion of the upgrades to Road 102 are included in Phase II. Council Member Peart reminded those present that the delay of the project for one year has increased the cost to between \$500,000 and \$800,000. Director Vicars stated the funds presently on hold for this project are in an account collecting interest. We could proceed with Phase II without new FEMA maps but it would take time to process and begin that Phase.

Mayor Borchard asked Director Wegener if the Spring Lake development was contingent upon the widening of Gibson Road and he responded it was. Mayor Borchard feels we need to re-evaluate the project when the new FEMA maps are available.

Council Member Peart left the meeting at 10:20 and returned at 10:22.

Council Member Peart said that the high school is to be completed by 2002 and how would that affect the Gibson Road issues. Director Wegener said that Pioneer would be extended but Gibson would not be changed. The high school construction would go forward regardless of the other issues.

Council Member Monroe left the meeting at 10:30 and returned at 10:32.

Vice Mayor Flory feels we need more information regarding the funding shortfall prior to proceeding with the mitigation issues. Council Member Monroe feels this funding shortfall will directly affect the Council decision on the Olive trees.

On a motion by Council Member Dote, seconded by Council Member Peart and carried by a unanimous vote, the City Council extended the meeting to 11:30 p.m.

Jack Klein said he is a property owner in the Southeast area and has one of the biggest pieces of land impacted by Phase II. It has taken nearly nine years for the Planning Department to move ahead with the project. There were many obstacles to meet and with the FEMA determination, many of the developers have opted not to build here. We could have absorbed 250 houses per year. There are approximately 600 lots left to be developed. Since the school district has decided to take over some of the lots, they should be required to pick up the loss of income to the City for those lots. Pioneer Avenue is to be made a four-lane road in Phase III, but he does not feel the traffic will increase dramatically when the build out is complete. This could be a shortfall. The trees are located where a ranch was and we have a great deal of them left. He does not feel we need more. As the plan was to put the road in without the Olive trees and the Council has said the developers will pay for the balance of the cost, but when the area was done, everyone was to be equal. If that is the decision, then the other developers should have to pay for their portion of the increase cost due to these trees as well. All of the property owners are paying on the Mello-Roos and if you are going to put it to the remaining developers, there will be a lawsuit. He also said that one Council Member removed himself from an issue that was a conflict and the present Council Member should do the same. He said he originally had 120 acres and now has 65 left to develop.

Marjorie Brown stated since we are going to be \$1.4 million short for Phase II and we would be able to borrow to proceed, is it possible to add the cost of leaving the trees in place to that loan? She would like to see all of the mitigation costs itemized and substantiated as it is hard to see where the numbers come from. In June of 1999, she had heard it was going to cost \$300,000 extra to redesign the road and utilize the Olive trees as part of the design. Now we are hearing \$523,000 up to \$627,000. The increased cost is 4%-8% based upon inflation. These figures do not compute. Some of the increased costs were curbing and sidewalk when we would have to use them as costs regardless. The other cost was for buying the right-of-way at \$20,000. There are two aspects of the value of the trees. One is an economic value and

the other is aesthetic. She feels that by utilizing the Olive trees in the landscape we avoid becoming a "cookie cutter" community with landscaping that is like all other communities.

Council Member Dote stated the redesign cost is about \$45,000. Mayor Borchard stated that at present we have information on the costs but not the sources of funds. Council Member Peart said it was \$391,000 which is the high. The low-high figure as well. Ms. Brown wanted the Council to be very clear on the numbers so that we can make a financially sound decision. Council Member Peart stated that if at 5%-8% it is \$500,000 to \$800,000 for this last year, plus \$69,500 in the lawsuit and it is accumulating a lot of money as we discuss the issues. She asked how real the figures are and Council Member Peart said that the \$69,500 is a real cost, which is the EIR, the attorney fees, plus \$1,500 for a determination from FPPC for Council Member Monroe's decision. The 5%-8% is an estimate, but this is a percentage of \$10 million. Ms. Brown said that these are high figures and this mitigation can be adjusted to come in with a much lower cost design. She said that at the beginning of the project ten years ago, keeping the trees should have been included in the project.

Assistant City Manager Marler asked if the costs included were the high or low-end costs. He said that the landscape costs are the low-end costs. Council Member Peart said that the sale in the back of the handout for scenario gives low end and high end. The costs in the memo are the low-end range cost for the landscaping. The other costs as shown by Community Development Director Harris is for the road at \$186,000 which is not contained in the handout. The \$186,000 and the \$336,000 gives the \$523,200. Public Works Director Wegener said the hardscape includes a 15% contingency and a \$45,000 design fee. There is a separate \$45,000 estimated design fee in the landscaping. The hardscape listed at \$186,000 is the curb and gutter work, pavement, traffic signals, to the intersection where we must demolish existing curb returns, sidewalks and pavement and extend it out for the new alignment twenty feet South.

Bruce Jacks distributed a handout to the members of the Council. He stated that his information says that saving the trees will cost the City between \$523,000 and \$627,000. The information says that for option B2, \$523,000, there is a \$288,000 shortfall. The staff report infers that the CFD is contributing approximately \$235,000. Is the City willing to deplete the reserve or some other CFD fund to save these trees and make up the shortfall? The deficit will be spread over the 800 units remaining to be built rather than the total 3,000 units. Each of the 800 units will be assessed to pay for these trees. A property owner like Mr. Klein is negatively impacted by this issue. The remaining residents in Woodland should not have to pay for the trees. We have had an increase in

property tax as well as the increase in sales tax and do not want to pay an increase for the trees.

On a motion by Vice Mayor Flory, seconded by Council Member Dote and carried by a unanimous vote, the City Council extended the meeting to 12:00 p.m.

Finance Director Vicars clarified that the proposed fees go on to all of the remaining development in the City at between \$40 and \$50 per unit and has nothing to do with CFD. The remaining fund shortfall is still under discussion. This is a one time building permit fee charge.

David Wilkinson thanked the members of the previous Council for conducting the Supplemental EIR. Leaving the trees where they are uphold the community values of the General Plan. The Plan requires developers to maintain trees in new subdivisions. The City should have the same requirements when they do construction. The trees at present keep the noise and air pollution for the residents to a manageable level. The costs given to save the trees seem inflated and without creativity. The extra landscaping costs seem unnecessarily high. What is lacking in the analysis is a side-by-side line item comparison of the total landscape and road cost with and without road realignment along the entire length of Gibson Road. East of Pioneer there would be less land to landscape which could be a cost savings. There are less costly landscaping scenarios than those presented. He had suggested turning the landscaping around the Olive trees into a community project utilizing the Yolo Resource Conservation District and UCD. A senior landscape student from UCD familiar with drought resistant landscaping would reduce the landscape design cost. A licensed architect could sign off on the grading and drainage plans for a nominal fee. The Resource Conservation District director is very interested in overseeing the project. The irrigation would be very low tech with above ground drip system only needed for a couple of years and then removed. Volunteers could do the planting. This would be a major reduction in costs and provide a good educational design. Footpath lighting along the width of the Olive trees would be good to have but is \$135,000 in cost. He asked why City trimmers could not prune the trees as the cost estimated for outside sources is \$23,000. The costs should be shared by the City. Gibson will be traveled by all of us and we will benefit from the trees and the associated landscaping. He suggested that an extra \$200 to \$300 on top of a \$200,000 mortgage in the new construction would be negligible. He believes the majority of the citizens will share the cost and the City can find the money.

Dudley Holman complimented Finance Director Vicars for her presentation on the timeliness of the news on the funding shortfall. At the last meeting you gave away \$44,000 in development fees without questioning. At the Planning Commission meeting discussion on the \$44,000 development fees, staff had suggested two other lesser amounts which the Commission did not consider. He hoped that the discussion on development fees would remind the Council how important these fees are to the City budget. He urged the Council to adopt the Plan this evening as they know the facts about the issue. We have the ability to complete a good part of Phase II. The majority of people within the community who do not want the Olive trees retained. Council Member Monroe asked Mr. Holman if staff is able to save these trees without any further cost would you vote to save them and he stated to the affirmative.

Tom Flynn registered his support for realigning Gibson Road and his support for Marjorie Brown and David Wilkinson and their efforts.

Council Member Peart left the meeting at 11:50 and returned at 11:51.

Liz Tara said that loss of habitat is one of the main causes of the decline in wild bird populations. Many of species of birds eat large quantities of insects and if there were more birds, there would be less need for insecticides. The trees are visited by wild birds. There are presently few mature trees in the Sycamore Ranch division. The mature trees which are existing should be maintained to provide food and shelter for birds. The EIR may not state that the trees are not important to habitat as this information can only be achieved by many hours of observation. The nearby homeowners have put in those hours of observation and she urged the Council to maintain the trees for the birds as well as the citizens.

Marcia Carey referred to the "historic fabric" of the community and the trees have been referred to as a remnant. The trees are a remnant of what was and serve as a reminder of our history. There is so much new construction that saving a resource like to trees allow a feeling of history to remain. Keeping the trees recognizes them as an amenity rather than a liability.

Dan Ryhal stated that Finance Director Vicars' report was very clear and provides Council with needed information for them to make their decision. We need to look at City finances as do senior citizens on a fixed income. When we spend money elsewhere for a "want item" we forfeit the "need item". We redid the EIR because we believed that issues needed to be addressed. The EIR states that the trees have no value. Visual aspects can be mitigated with other

trees. There is no environmental impact. When we look at lowering the costs, you begin to compromise the project and get a "cheap" product. If you had placed on Measure H to save the Olive trees the Measure would not have passed. These trees had a value at one time but have outlived their lifecycle. One option to consider is to have those who want the trees come and say they will buy one or more. He has heard no one say they would purchase the trees. He has heard people who say they will spend the City's money for the tree. We need playgrounds and new equipment for children. We need better amenities for the senior citizens.

On a motion by Vice Mayor Flory, seconded by Council Member Dote and carried by a unanimous vote, the City Council extended the meeting to 12:15 p.m.

Mr. Ryhal continued that he has a problem spending General Fund money on very narrow, focused personal opinions. If the EIR had returned stating the trees had a true historical value, then we would have an issue. Council Member Monroe asked Mr. Ryhal if the Public Works Department presented a plan to save the trees without any cost, would he be in favor of saving the trees. Mr. Ryhal said he would be very upset because they have been asked that question for one year and it is not on the board today, then why isn't it there? The direction has always been, "is there a way to save those trees"? He said that he is proud of the staff and if there had a been a way, they would have informed the Council prior to this time.

Council Member Peart asked Director Wegener where the figures came from for the project which created the shortfall. Director Wegener stated the hardscape costs came from McGill and the landscaping from RRM. Council Member Dote would like a summary of the costs, including base costs, adding mitigations, and for those ideas presented by members of the community. Council Member Monroe would like to see the trees kept but would like to see the costs dropped or eliminated for the project. The ideas presented should return to the Tree Commission for consideration and recommendation.

On a motion by Vice Mayor Flory, seconded by Council Member Dote and carried by a unanimous vote, the City Council extended the meeting to 12:30 p.m.

On a motion by Vice Mayor Flory, seconded by Council Member Dote and carried, the City Council requested the Tree Commission to review their recommendation to the Council, address issues that were presented by members of the community, and provide possible solutions on how their recommendations can be mitigated as close to zero cost as possible. Council directed staff to develop a financial analysis of the CFD and provide alternatives.

CITY COUNCIL AND SENIOR MANAGEMENT PLANNING RETREAT:

At the recommendation of City Manager Kirkwood, this item was deferred to be considered at the November 21, 2000 Council meeting.

ADJOURN:

The adjourned regular meeting of the City Council was adjourned at 12:17 p.m. to the regular meeting of November 21, 2000.

City Clerk, City of Woodland