

City Council Member comments at July 14, 2015 City Council Meeting

For a link to the audio:

<http://palosverdes.siretechnologies.com/sirepub/mtgviewer.aspx?meetid=141&doctype=AGENDA%20---%20Compiled>

Jim Goodhart (Mayor) comment

Jim Goodhart: Mr. Fay. Now that the ruling is out, some of the words in your script refer to meetings in private, and I can assure you that is exactly counter on this very dais, there were a number of meetings where this was done in public, and then in the school board also in this chamber, so I discount that.

Dick Fay: How would people know about that?

Jim Goodhart: Through public notice, sir.

Jim VanDever (City Councilmember comment)

I'd like to address a couple of things that I've heard tonight, and possible address some misunderstandings that may be out there about the reactions to the settlement of the lawsuit.

From the moment that I joined the Council, I was urged by the Citizens Committee and others to try take an independent look of this lawsuit, the settlement, the MOU. I think that's really appropriate. I tried to do that. I was not on the Council when the settlement was considered. I learned about it when I was on the Planning Commission. The matter came before the Planning Commission, so I did get a chance to look at it. If you recall the history on that, the Planning Commission did not grant the re-zoning that was sought. But looking at everything, I want you to know that I sincerely conclude that the Council has acted reasonably and in the best interests of the City and all the residents. There were two goals with that settlement. It was to stop spending money on legal fees and to secure the deed restrictions on 18 different properties that the School District owned, and to do that without presenting that to further judicial review. And I think that settlement that the City entered into basically it accomplished the goals and resolved some additional ancilliary issues as well. The City did not – I just think we should be really clear – the City did not go into the settlement so they could sell parkland. They weren't trying to do that at all. It was to settle a lawsuit that involved a lot of different parties, it was to protect the parklands throughout the City – all of the parklands not just Parcel A. It wasn't a perfect situation. It wasn't the City's choice. Lawsuits are messy. But sometimes you compromise or you keep on fighting and you might lose, and that was on all the City Council Members' minds when they made the decisions they made. I also concluded that there is no lack of transparency, there is no cover-up, there is no backroom deal. And I'm really disappointed that the Citizens Committee and

others have developed and promoted the storyline that the City has been involved in some kind of shady dealings or there has been a reckless sale of parkland – that didn't happen. There is no reason in the world that the citizens of our City can't trust its City Government. It is true that the litigation discussions were not conducted in public. They shouldn't be. They never are. Unless I missed a notice, I don't think the Citizens Committee conducts their litigation discussions in public either. That's just not the way it's... It doesn't happen that way. It's really important to note that the settlement was discussed and approved by the council in an open session that was properly noticed. In fact I think it came to this Council twice, if I understand it correctly.

So I'm just really saddened and disappointed how casually the Committee has launched an attack on the integrity of the City, the City Attorney, the City Council. I've looked at the website. I've reviewed the remarks in the paper. It's disappointing. It really is. You certainly have the right to disagree with the wisdom of the Council, you can disagree about the enforceability of the settlement agreement. But I don't think you have to immediately assume that it's OK to attack the credibility and integrity you of everybody in the City just to get support for that cause.

The (primary) folks that sponsored this lawsuit live directly across the street from the parcel. They are obviously trying to protect and enhance the view and the open space for that neighborhood, and I don't begrudge that. If I lived across the street from the gate and the tree I might have acted in the same way. And if I thought there was good cause to question the party's ability or authority to carry out that settlement I might have done what they did. But I would hope I would stop and consider that the City might have been acting in good faith too in trying to make a decision that was good for all the residents of the entire City.

I've read the decision carefully. I disagree with a number of the conclusions in the court. Like many lawyers who have read that decision, I am puzzled by the lack of any authorities cited in that decision, and I think it is especially unusual in a summary judgment matter. I'm also concerned where this decision leaves us. I think the remedies proposed will lead to further litigation and further disagreement. The City Attorney I'm sure will be working to see if the parties can find something to be done to resolve what's happened there. I think I also really want to note that there has been no illegal transfer and that the City did not do anything illegal. To the extent the Court says or concludes the City acted illegally it just is wrong. The lawsuit is about the construction of language in a deed and a contract. Whether the HOA had the authority to transfer the property under the CC&Rs it is a matter of contract law and interpreting CC&Rs. There is no law that prohibits the City or the HOA from transferring property. Nobody acted illegally here.

It's also frustrating to think about some of the claims of the Committee. This decision did not establish the deed restrictions were enforceable against the School District. That matter had already been decided. The original case that was litigated by the City

established the enforceability of the deed restrictions on Lots C&D, and in the settlement agreement extended the enforceability or determined the enforceability of the (sorry, I need water). The settlement actually carried/established that those rules were enforceable as to respect of all of the properties owned by the School District. That was the whole point of the settlement, so that decision was already decided before this lawsuit came up. I just think the City made a reasonable decision. They wanted to settle a lawsuit. They wanted to stop spending taxpayer dollars and dollars (excuse me) on lawyers and they wanted to make sure that deed restrictions would be enforced on all the 18 properties. The City believed it was risky to continue the litigation and there was a lot at stake if the School District had prevailed on an appeal. The Citizens Committee action disregards those considerations. The lawsuit has pushed the City back into litigation, it's required the City to pay more taxpayer money on lawyers, and now, as I understand it, the Committee may want the City to pay its legal fees. So, in summary, I just don't think this lawsuit is a noble quest against a corrupt or clueless City. That's not what's happening here folks. The decision didn't save the parklands and it did not establish an important precedent. It's just frustrating. We're all your neighbors here trying to do the right thing.

Thanks you for letting me go through that.

John Rea (City Councilmember comment)

I have a very brief comment. Just for the record, at tonight's meeting it says as the Mayor noted earlier began at 6pm and before we went into closed session the first item on the agenda was "public comment on closed session items," which means this lawsuit. Nobody showed up for that public comment. If anyone's interested in further information about the City's position in this case, which has never been recorded in our local papers, never been reported in our local papers, please refer to the City website. In fact we had to set up that page on our website in order to get our story out because the press won't carry our side of the story. Also on the City website you will find audio recordings from prior hearings – it's still up on the website. I would refer you to the (if anyone is interested) the May 8, 2012 hearing on the approval of the Memorandum of Understanding the July 24th 2012 audio recording concerning Lots C&D and the March 12, 2013 audio recording of the application for a zone change.

Those are my comments.