

TO: TOWN COUNCIL
 FROM: TOWN MANAGER 
 RE: CONSENT ITEM
 SELECT ROCKLIN DEVELOPMENT PROJECTS UPDATE

ISSUE

The City of Rocklin has a number of development projects moving along in the area along Sierra College Blvd and on Del Mar Street that could impact Loomis residents, roads, and the general quality of the Loomis community.

RECOMMENDATION

Receive and File;
OR

Review development information and direct the Council Borders Sub-committee (Mayor Liss and Council Member Scherer) as to any actions the Council would like the Committee and/or Special Legal Counsel and staff to take.

CEQA

There are no CEQA issues associated with addressing the CEQA issues of another agency.

MONEY

Costs for Special Legal Council are running about \$149,501 since June 2007. Staff or Town Attorney time not been tracked for work on Rocklin projects. It is unknown how much more legal and/or staff costs might be involved. At the July 09 Council meeting staff noted that all project impacts being litigated could save over \$2.5 million dollars in various impacts, specifically traffic, if the court finds in favor of Loomis.

ACTIVITY

The focus in May was on the Rocklin Crossing project.

5/6/10 Mayor Liss, Council Member Scherer, Special Counsel Mooney and I met with representatives from Donahue Schriver and WalMart to discuss settlement rather than Loomis filing an appeal on the Rocklin Crossing. Since that date several exchanges of information have taken place and at this writing Special Counsel Mooney is preparing to answer the latest proposal for settlement.

PROJECTS BEING CONSIDERED BY ROCKLIN THAT ARE EXPECTED TO IMPACT LOOMIS**ROCKLIN LOWES PROJECT – 9/11/08 Writ filed**

A City of Rocklin project to build a Lowes store behind the Chevron and McDonalds on Sierra College Blvd at east end of Granite Drive.

3/9/10 Special Counsel advised as follows:
On January 15, 2010, Rocklin filed its return on the writ. On January 27, 2010, the Court entered Judgment. Loomis filed a Memorandum of Costs to recover the costs of litigation (i.e. preparation of administrative record) for approximately \$5,000. Rocklin and Real Parties did not file any objection to the Memorandum of Costs. If Loomis were to seek attorney's fees as the prevailing party, a Motion for Attorney's Fees would have to be filed by March 26, 2010. Code of Civil Procedure section 1021.5 specifically provides for the award of attorney's fees to a public agency brought against another public agency. (Code Civ. Proc., § 1021.5; *City of Hawaiian Gardens v. City of Long Beach, supra*, 61 Cal.App.4th at p. 1113.) An award under section 1021.5 is appropriate when the cost of the claimant's legal victory transcends his personal interest, that is, when the necessity for pursuing the lawsuit placed a burden on the plaintiff "out of proportion to his individual stake in the matter." (*Woodland Hills, supra*, 23 Cal.3d at p. 941; quoting *County of Iyo v. City of Los Angeles* (1978) 78 Cal.App.3d 82, 89.) Since one of Loomis' reasons for filing the Petition for Writ of Mandate was to have mitigation fees directed towards improvements on Sierra College Boulevard, Rocklin would have a strong argument that Loomis had a financial interest in bringing the case. We were unsuccessful seeking fees in *Bickford* primarily on the grounds that Loomis had a financial interest in bringing the action.

In filing a motion for attorney's fees, counsel are entitled to its fair market rate for an hourly rate. Currently I bill Loomis at \$150 an hour, but the fair market rate is between \$350 to \$400 an hour. I have spent approximately 160 hours on the case and my clerk spent about 40 hours on the case. Loomis has paid approximately \$28,000 in fees. A motion for attorney's fees would seek \$62,000 to \$70,000 – based upon the hours spent on the case and the fair market rate. The court has the discretion to deny a fee award or to reduce the fee award based upon a variety of factors. If Loomis prevailed in a fee award, then Loomis would be reimbursed all fees paid. Any fees recovered in excess of the amount that Loomis paid to my office would be retained by my office.

3/22/10 Special Counsel Mooney was advised to proceed with filing for attorney fees.

ROCKLIN CROSSING PROJECT – 12/24/08 Writ filed

A City of Rocklin project to build a WalMart, Home Depot and other stores immediately south of I-80 along Sierra College Blvd.

2/25/10 Special Counsel Mooney advised as follows:

The court granted the Petition for Writ of Mandate on one issue for Rocklin Crossings and denied as to Loomis's Petition for Writ of Mandate.

ISSUE**COURT ACTION**

Rocklin Residents Issues

Defective cumulative traffic impacts study	Denied
Inconsistent traffic and economic impact analysis	Granted
Adequacy of urban decay analysis	Denied

Loomis Issues

Adequacy of the analysis on cumulative global warming	Denied
Adequacy of cumulative traffic impacts	Denied
Adequacy of cumulative air quality impacts	Denied
Adequacy of analysis of noise impacts on Diaz Ln	Denied
Adequacy of analysis of urban decay impacts	Denied
Adequacy of alternative analysis (24/7 operation)	Denied

5/6/10 Loomis met with developer representatives and started exchanging information to arrive at a settlement and possibly avoid an appeal.

6/1/10 Loomis and developer representatives continue to exchange settlement proposals.

ROCKLIN DEL MAR BUSINESS PARK

The City of Rocklin initiated this project to adopt a general development plan for the properties located generally west of Del Mar Avenue (between the railroad tracks and the Loomis border) and rezone portions of the property to light industrial from the current large residential zoning of 3 to 10 acre per unit.

8/26/09 Special Counsel submitted comments. Issues noted:

- Project is not exempt from environmental review
- Rocklin exemption violates CEQA as it constitutes piece meal environmental review

- CEQA requires supplemental / subsequent environmental review to address the projects potential impacts to global warming and greenhouse gas emission
- New information regarding cumulative traffic impacts mandates EIR preparation

ROCKLIN WHITNEY RANCH PHASE II

This project is approximately 641 acres east of Hwy 65, north of Stanford Ranch, west of Whitney Oaks and abutting the Rocklin/Lincoln border. Project has 1,663 single family lots, additional lots that could be built on later and commercial and business professional.

9/23/08 Special Counsel Mooney submitted comments. Issues noted:

- CEQA requires Draft EIR to address global warming & greenhouse gas emissions
- New information regards cumulative traffic impacts requires subsequent EIR

ROCKLIN COMMONS

This project is approximately 40 acres located at the northwest quadrant of the I-80 / Sierra College Blvd interchange and bounded by Granite Drive on the west and Sierra College Blvd on the east. The project is to construct a regional shopping center (Kohls and Target have been mentioned) consisting of approximately 17 building totaling a maximum of 415,000 sq ft.

9/29/09 Special Counsel Mooney submitted comments. Issues noted:

- CEQA requires Draft EIR to address global warming & greenhouse gas emissions
- Cumulative traffic impacts to areas outside of Rocklin
- Weak alternatives analysis, only project and no project were addressed
- Urban decay

12/8/09 Special Counsel Mooney submitted additional comments for the Rocklin Council hearing as follows:

- Cumulative traffic impacts not being considered and the EIR fails to include mitigation measures that would reduce the impacts to less than a significant level.
- Final EIR fails to adequately respond to the Air Pollution Control District comments regarding flawed analysis and mitigation measures.

Rocklin Council approved the EIR and project.

12/15/09 Special Counsel Mooney advised not pursuing a court action in the case of Rocklin Commons because the issues raised are the same as Rocklin Crossing and the court ruling there would likely carry over to the Commons since the same developer and a similar project (commercial) is involved.

- 3/9/10 Special Counsel Mooney advised: Also, the mitigation measures in Rocklin Commons provides that mitigation fees regarding impacts to Sierra College Boulevard be directed to Loomis. This is what Loomis has sought in most cases and Rocklin has finally started adopting more appropriate mitigation measures that ensure the mitigation fees are available to Loomis.

ROCKLIN CROFTWOOD

This project is in two segments located West of Barton Rd and east of Secret Ravine abutting Loomis on the east and the Rocklin Crossing project on the west: Croftwood 1 is 83.3 acres with 156 single family homes, 6.3 acre park, 4.8 acre open space, 11.7 acre wetland preserve and 2.1 acre Barton Rd buffer. Croftwood 2, an expired map, is north of Croftwood 1 and is 25.5 acres with 62 single family lots on 16.68 acres and 5.9 acres of open space.

- 12/17/08 Rocklin advised that the project is currently at a standstill. The project is fully entitled until April of 2010, unless proponents file a map for another phase which would extend that deadline by one year. The thought is that someone will pick it up before the deadline arrives.

ROCKLIN CLOVER VALLEY

This project is approximately 662 acres located in the northeast quadrant of Rocklin along Sierra College Blvd north of Loomis. The project is to construct 558 residential lots, 5 acres of commercial, five acre park and 366 acres of open space.

- 3/9/10 Special Counsel Mooney advised as follows:
We filed the Opening brief on Appeal on December 3rd. The Opposition brief was due on January 29th. Loomis reply brief was filed on February 18. Now waiting for the Court to set the matter for oral argument.

ROCKLIN CENTER AT SECRET RAVINE

This project is approximately 3.3 acres located south of I-80 along Sierra College Blvd on the east side just south of the proposed location of the Rocklin Crossing project. The project is to construct 23,600 sq ft of commercial buildings.

- 5/20/09 Comments filed with Rocklin noting the following issues:
- Traffic will create additional impacts to surrounding area
 - Parking lot lighting address night sky concerns
 - Limit delivery vehicles to certain hours
 - Center not be a 24/7 operation

- Provide for bicycle use
- Oak tree mitigation should include mitigation in road medians along Secret Ravine and in other suitable areas close to the project
- Cumulative impacts (list of 10 developments in Rocklin enumerated) are not being covered.

ROCKLIN 60

This project is approximately 56.9 acres located south of I-80 between the proposed Rocklin Crossing project and Diaz Lane. The project is to construct 179 single family homes.

6/26/09 Special Counsel Mooney submitted comments. Issues noted:

- Storm water drainage should favor a biologic versus mechanical method
- Street lighting, night lighting and visual character
- Lot sizes abutting Diaz Ln should be the size of lots in the area on the Loomis side
- No access, except emergency, to Diaz Ln in Loomis
- It would be prudent to look beyond only the 100 year flood for protection given the type of flooding experienced in the area.
- Cumulative impacts (9 Rocklin projects enumerated) are not being covered.
- Traffic impacts to Sierra College Blvd, payments to be made to Loomis for the sections in Loomis
- Roads to schools due to people traveling to Loomis schools not addressed
- Climate change requires further analysis; lack of substantial evidence

8/9/09 Special Counsel advised that Rocklin 60 Counsel contacted him to discuss possible mitigation measures such as reducing lot size or using trees buffers.

10/6/09 Sacramento Business Journal article indicates that Tim Lewis Communities acquired this project noting that it paid \$4.8 million for a property carrying \$31 million of debt as of summer 2009.