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Airport Land Use Commission
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Ray Schoch
Chairman

SOLANO COUNTY AIRPORT LAND USE COMMISSION

MINUTES OF THE SPECIAL MEETING OF October 5, 2010

The special meeting of the Solano County Airport Land Use Commission was held in the Solano County Administration Center, Board of Supervisors Chambers (1st floor), 675 Texas Street, Fairfield, CA 94533.

MEMBERS PRESENT: Chairman Schoch, Commissioners Stockard, Baldwin, Cavanagh, Seiden, and Vancil

MEMBERS ABSENT: Commissioners Potter and Baumler

OTHERS PRESENT: Jim Leland, Resource Management, Lee Axelrad, County Counsel, Diane Buschman, Resource Management,

Item Nos.

1, 2 & 3: Chairman Schoch called the meeting to order at 7:00 p.m. Roll call was taken and a quorum was present.

The following agenda item was taken out of order.

Item No. 7. Land Use Compatibility Determination for ALUC 10-07, the Shiloh III Wind Energy project.

Jim Leland stated that he would like to call the Commissions attention to a request from the applicant of item 7 of the agenda to defer it's hearing to the October 14th regular ALUC meeting.

Brian Sarantos, Shiloh III project manager, asked the ALUC to give them a continuance to the October 14th meeting so that additional questions that have been raised by the City of Rio Vista and the Rio Vista Airport Advisory Committee could be addressed. Mr. Leland added that if the item was heard on October 14th it would still be within the 60 day application requirement period. Mr. Leland asked if the Commissioners could give an indication if they would be available for a meeting on October 14th. It was determined that there was not a quorum for that meeting. Mr. Sarantos indicated that enXco would be willing to waive the 60 day review period as

long as the ALUC could hear the item before it goes before the Solano County Planning Commission on November 4th.

Lee Axelrad, Deputy County Counsel, noted that the State Aeronautics Act provides strict timelines for review by the Airport Land Use Commission. Ordinarily within 60 days the project would be deemed consistent with the Land Use Plan if the ALUC did not hear the item. In saying that the applicant is willing to waive the benefit of that 60 day time period in order to postpone to a later date they would be waiving that provision of the State Aeronautics Act. Mr. Axelrad asked the applicant "Is that correct?" Mr. Sarantos replied that it was correct. Mike Yankovich, Solano County Planning Manager, stated that he would agree to a waiver of the 60 day time period because it would be beneficial for the Solano County Planning Commission to hear input from the Airport Land Use Commission.

Chairman Schoch asked for a motion to offer the continuance of the Land Use Compatibility Determination for ALUC 10-07, the Shiloh III Wind Energy project. Commissioner Stockard made a motion to continue the item. Commissioner Seiden seconded the motion. Chairman Schoch called for a vote on the motion to continue the item. The motion was carried by a unanimous vote.

Item No. 4. Public Comment

Chairman Schoch announced that the presenters for the next item on the agenda are allocated fifteen minutes to make their presentation. Members of the public who wish to make comments were asked to try to keep their remarks to five minutes.

Item No. 5 Approval of the minutes: September 9, 2010 and September 27, 2010.

The minutes of September 9, 2010 and September 27, 2010 were both approved with one abstention.

Item No. 6. Land Use Compatibility Determination for ALUC Application No. 10-06, the Nut Tree Ranch Policy Plan Amendment and Planned Development Master Plan modifying the location of certain uses and modifying the types of uses allowed.

Mr. Leland gave a brief description of the project highlighting points made at the September 9th and September 27th meetings. The application is an amendment to an existing policy plan and review of a planned development master plan from the City of Vacaville. The questions before the Commission are two fold 1) Is the policy plan amendment consistent with the 1988 Nut Tree Airport Land Use Compatibility Plan and 2) are there other aviation related factors that the City of Vacaville should consider during its CEQA process and project approvals. The staff is

aware that that the Commission at its last hearing on this item had some frustrations that arose from the fact that the Airport Land Use Compatibility Plan was approved in 1988 and things are very different today. Mr. Leland stated to the Commission: that "in your role as the ALUC even if you feel you end up making a determination that the project is consistent with the Land Use Compatibility Plan you can also do a number of other things. You can say you wish the Compatibility Plan were updated and you don't like what you are doing. You can say notwithstanding a consistency determination you would like to make the following comments or have staff make the following comments on their environmental review, on their project review. You can go further than that if you desire as we did last year with the wind turbine developers and the Air Force. The Commission actually convened a work-study session to bring the parties together and get them to start talking to one another and it led to the Air Force taking the leadership role in the CRADA process to resolve the disagreements between the Air Force and the wind turbine developers. It's not out of the question that the Commission could determine that as a follow up step a workshop or some other device could be considered to bring parties together to talk about a plan to move forward".

He continued that staff's task is to analyze projects in light of the official Land Use Compatibility Plan which in this case is the 1988 Nut Tree Plan. As a reminder the project is located principally in area E down near the south end of the runway. This was the plan that was approved by the ALUC in 2002. It provided for approximately an 80 acre mixed use project where the commercial development and vacant land now exists. It also provided for a golf course and other open space on an additional 300± acres. The Policy Plan has been approved. They are proposing to amend portions of the plan but not all of it. So anything they are not amending stays in place and does not need a consistency determination from the Commission at this time.

What is being shown here are the areas of that policy plan, not to be confused with the Compatibility Plan designations. These A, B, C and D areas are Policy Plan areas and the ALUC is principally concerned with A and C which is at the Nut Tree core. One of the things they are proposing to do is re-designate that area into subcomponents. What used to be called area A is now called A1, A2, A3, A4 and A5, along with B and C. A1 is essentially the event center and all of the existing parking lot and commercial development that is there plus space for additional buildings. A2 is the location of the hotel and conference center. A3 is the health club, A4 currently has approved residential and proposed residential and A5 is an area that is proposed for office use or recreational vehicle resort. This is how the compatibility zones overlay on the Policy Plan. Most of the property down in the commercial core area is in zone E. There is a little band of zone C and a little band of zone A. This is their master plan with the boundaries of the compatibility zones shown.

Mr. Leland described the proposed amendments to areas A, B, C and D in the Policy Plan. As indicated in the staff report in its analysis, if each one of the land uses were taken separately they all in and of themselves are consistent with the 1988 Nut Tree Airport Land Use Compatibility Plan. Staff provided a chart to the Commission that shows what the consistency criteria was in the 1988 Plan for each of the zones and where they lie in relation to the noise contours. And there is an analysis in the staff report of how the plan is consistent with that.

The Travis AFB Land Use Plan is in compatibility zone D which means that there is airspace review for object over 200 feet. None of the buildings are proposed to be in excess of 90 feet. There is no further action required on the Travis Plan.

Beyond making a consistency determination there are other factors that are going on. There has been a lot of correspondence raising a number of issues. There is a new airport planning handbook. There is a 2007 Airport Layout Plan that has been prepared by the Nut Tree Airport and submitted to the FAA and the update of the Nut Tree Airport Master Plan. These factors are going on now but are outside the consideration, in staff's view, of the 1988 Plan. Mr. Leland concluded by stating that staff's recommendation is that the ALUC find the Nut Tree Ranch Policy Plan amendment and Planned Development Master Plan consistent with both the Nut Tree Airport Land Use Compatibility Plan and the Travis AFB Land Use Compatibility Plan.

Chairman Schoch opened the public hearing.

Fred Buder, City of Vacaville Planning Division, stated that the project is an amendment to an existing policy plan and master plan and that that the City is in agreement with the two conditions that are listed in the Solano County staff report. He advised the Commission that they had received additional comment letters most notably a very detailed letter from Cal Trans, Division of Aeronautics. Mr. Buder stated that after a presentation by Westrust, he would present a detailed response to the issues raised by the Division of Aeronautics in their letter.

Rick Capretta, Westrust, stated that his presentation would focus on the issues raised in the prior meetings as well as recent correspondence. He started off with brief summary of previous approvals and current changes. The major differences comparing the 2002 approval and the changes for 2010 are an increase in acreage of 18 acres and reestablishing the old Nut Tree Airport connection. The project developers are looking to reduce the number of residential units by 53.6 % from the current approval; residential land is slightly smaller. They are looking to have a solar farm on the office parcel because they believe it is a good zero occupancy use. The conference/hotel center has expanded from 5.52 to 13.55 acres with a reduction in height from 6 storeys to 4 storeys and the stadium property,

through a reallocation of land, went from 17.29 to 11.4 acres of office retail and R and D uses. What they were asking for on the changes to their current approved policy plan are really four items. In the last week they have dropped the request to have RV as a use in the plan. Now they are asking for solar use on our office and R and D parcels. The convention/hotel is moving to a much larger site and the building height is being reduced by 33%. The baseball stadium which used to seat 3500 people has been eliminated and replaced with a lower occupancy office, retail and R and D uses. They are also looking to formally reestablish the connection from their land to the Airport land. Over all the proposed policy plan has less development on all four of the issues just mentioned including the reduction on the residential portion. Mr. Capretta stated he was disappointed by negative and misleading coverage from the press and the difficulty trying to arrange a meeting with Cal Trans regarding the project.

Mr. Capretta reviewed the six CEQA issues: residential density; noise; solar farm; wildlife strikes; building heights and air protection. Regarding density the current project is asking for 270 units which is an 86.5% reduction from what existed before 2002. Regarding noise analysis the 1993 noise map was used because it was more current than the 1988 map. In the 1993 noise analysis the residential site is completely within the 60 db CNEL contour shown on the 1993 noise map and no portion of the residential site is in an area in excess of 60 db. In addition the ALUCP clearly states that once the contour lines for zone A, C and E were calculated that those by default allow that use within that zone. So in zone E where residential is allowed that means zone E is 60 db or less. A noise study completed this year for the Nut Tree Master Plan shows the 60 db line at approximately the same and slightly more advantageous location than the 1993 noise study. The solar farm will be located on the office parcel because it is a good zero occupancy use. The developers, City of Vacaville and the Airport are working on a land swap which will expand the Airport boundaries and in exchange the Airport will remove trees that are in violation of FAA height limits. Building heights will not exceed the FAA clearance requirements. The project developers do not believe it is likely that a precision approach could be installed on runway 2. They believe it is more likely to be installed on runway 20. The requirements in the California Airport Land Use Planning handbook would not apply to runway 2. The requirements would apply to runway 20.

Mr. Capretta stated that one of the issues that has been difficult for all parties is that the City does not yet know what the instrument approach needs to look like because it has not been designed yet. On the other side of the equation the Airport would like to have an instrument approach in the future but has not designed it yet. It was pointed out that the Airport is unusual in that most airports have alternating traffic. The traffic for the Nut Tree Airport is put to the west which is closer to the Browns Valley residential development. The project residential site is completely within

zone E and the ALUCP allows for residential uses in zone E. The project is also in compliance with zone A and C as well.

The issue of missed approaches coming too close to the proposed residential site was studied and Mr. Capretta presented a graphic that illustrated how missed approaches would not be too close to the proposed residential site. TERPS was also studied. The sum of what they learned was that every airport with a precision approach has unique conditions. He believed that in the future the Nut Tree Airport will have a loss precision approach rather than a precision approach.

Mr. Capretta concluded by stating that he believed the Nut Tree Ranch project would benefit the Nut Tree Airport by improving the master plan and connectivity to make the Nut Tree a great fly in location once again. He also stated that he agreed with Solano County staff's recommendation to find the Nut Tree Ranch Policy Plan Amendment and Planned Development Master Plan consistent with the Nut Tree Airport ALUCP and the Travis AFB ALUCP.

Phillip Wade, Environmental Science Associates, stated that they were asked by the project developers to provide an independent and third party professional review of the Nut Tree Ranch project for its consistency with the 1988 Nut Tree Airport ALUCP. They looked at the components of the project and compared them to the compatibility policies as set forth in the 1988 Nut Tree Airport Land Use Compatibility Plan. They also considered previous ALUC consistency determinations for the project and also previous studies for similar projects near other airports. The first area they looked at was noise. They concluded that the residential uses would be compatible with the noise policies in the Nut Tree Airport ALUCP. The next area they looked at was safety. They concluded that when looking at the proposed residential uses contained within the amendment to the policy plan in conjunction with the safety policies identified in the ALUCP that the proposed project was consistent with those policies. The next area they looked at was air space protection. Looking at the proposed project components they noted that portions of the components were located within the Nut Tree Airport approach and transitional surfaces. They concluded that until further information was available about the structures they could not make a final determination. Therefore additional airspace evaluation by FAA 7460 review process should be required by the City for approval of each project component as they come up for consideration. In summary Mr. Wade stated that essentially with the exception of the airspace protection policies which they could not confirm and with the recommendation that the FAA 7460 review process be pursued, they found all other proposed uses within the Nut Tree policy plan amendment to be consistent with the 1988 Nut Tree Airport ALUCP.

Commissioner Seiden asked what was the measurement from the centerline of the runway to the nearest residential area. Mr. Capretta

answered that the extended centerline of runway 2 was 750' with the line curving to 800' or 850' as the site curves inward towards I-80.

Commissioner Stockard asked about a reference to the policy plan that was approved in 2002 which did not have a site plan. She asked if the development plan and a site plan were two separate things. Mr. Buderer answered that the policy plan adopts zoning regulations and land use characteristics, development standards, densities and amounts of land use. After adopting a policy plan they will adopt the planned development master plan which sets out conceptual site plan showing how the uses that are allowed under the policy plan would be arranged on the property. So the policy plan comes first and following that the planned development master plan is adopted. The policy plan was adopted in 2002. The City established the planned development master plan in 2004. Now the master plan is being amended by bringing the additional acreage that was formerly occupied by the stadium into the master plan area. The plan was referred to the County but was not brought before the ALUC in 2004. Commissioner Stockard continued that the plan today was based on the concept of the policy plan that was passed in 2002. Mr. Buderer replied that was correct.

Commissioner Vancil asked for more detail about a reference to an FAA 7460 review for some obstruction criteria. Mr. Wade answered that the FAA 7460 form must be filled out and submitted to the FAA before any sort of development permit is issued. It requires the longitude and latitude of the proposed structures and identification of the exact height of the structures. The information on the form is compared to the Part 77 imaginary surfaces of the airport. If applicable, TERPS criteria are also considered.

Commissioner Vancil stated that a presentation at the 9/9/10 ALUC meeting had noise contours that showed some of the residential area lying inside the 60 decibel area. He asked how that came up on the initial proposal. Mr. Buderer answered that the 1988 Airport Land Use Plan does contain a set of noise contours that were mapped for that particular document. Using that map was not correct because subsequent to the 1988 noise contours the Airport Master Plan was adopted in 1993 and adopted its updated noise contours which should have been the ones used. The updated noise contours were presented at tonight's meeting.

Referring to earlier discussion Commissioner Stockard asked Mr. Axelrad asked if it was possible for a precision approach to work for runway 2 as well as runway 20. Mr. Axelrad answered that he thought that the speaker was expressing his own opinion about whether the precision approach was workable for one or more runways. He deferred the technical portion of the question to someone with more aviation expertise.

Commissioner Seiden responded that based on his experience and knowledge of TERPS he believed that it would be very unlikely that a precision approach could be designed for runway 2 because of terrain obstacle clearances.

Commissioner Vancil commented that the 1988 Nut Tree Airport ALUCP reflects an agreement to consider protecting the ability to create a precision approach at the Nut Tree airport. There are factors that go into the creation of a precision approach including the design of the runway. Taking current requirements into consideration it looks like it would take a runway that is longer than the runway that is there now. Part of the problem now is determining from a planning standpoint where the precision approach area is. Another factor is the approach lighting system. He thought that the City of Vacaville and the Airport need to get together and determine what a precision approach means in terms of land use planning.

There being no further comments from the Commission Chairman Schoch took comments from the public.

John Valentine stated that he represented the ownership of the stadium parcel. He noted that a 2007 Airport Layout Plan showed his land included in that plan as part of the airport. Their land will be included in the Nut Tree Master Plan. He believed that the biggest change that has taken place in the plan is the stadium use becoming office flex use. He agreed with the recommendation to find the project consistent.

John Foster, suggested that the Commission make their decision based on what they feel given their experience and background. He disagreed that the residential hasn't changed from back in 2002. He also believed that the project should become the City of Vacaville's responsibility to approve not the ALUC.

Jim MacKnight, Cal Pilots Association, stated that he agreed with the State Department of Aeronautics position of finding the project inconsistent. He believed the "residential" were too close at only 750 feet away. He concluded by saying the once the land is given away its benefit to the airport is gone forever.

Juan Carlos Cantevello, owner of a flight school and flight instructor, believed that the residential area was too close to the runway and was unsafe. He also believed that the airport would be too noisy for residential use.

Duncan Miller, stressed the importance of ensuring safety around the airport. He stated that the worse thing he had ever witnessed was a plane with 50 passengers crash into a populated area.

Thomas Bucci, Pilots Association, stated that it was important for the ALUC to wait to get the information they need before they make a decision regarding the Nut Tree Airport. He stated that the decision should not be about possible generation of tax revenue but should be about safety. And homes within 700 feet of the runway make no sense.

Roberto Valdez, was concerned about negative impacts to habitat in the Nut Tree Airport area. He cited the removal of the eucalyptus trees and the loss of habitat for the Swainsons Hawk.

June Guidotti, stated that she wasn't against everything that was going on but was concerned about safety citing underground gas lines under the project. She also thought the residential area was too close to the airport.

Bill Sanders stated that he has been a pilot for over 20 years. He applauded the developer for trying to restore some of the old Nut Tree vitality to the site. He proposed that the ALUC make a finding of incompatibility. He stated that Cal Trans strongly suggests that if the ALUC follows the 2002 planning handbook a determination of incompatibility can be made.

Cyndi Johnston, Director, Vacaville Housing and Redevelopment, summarized how Vacaville Housing and Redevelopment came in and made many improvements to the deteriorating Nut Tree property that had been closed down for years. Ideas to revitalize the property included bringing back the flavor of the old Nut Tree and create a new mixed use project that would be unique to Solano County. They have been working to recreate the synergy between the Airport and the Nut Tree project and create jobs and opportunities for people to live and work in the same neighborhood. She urged the Commissioner to find the project consistent.

Woody Harris, Nut Tree Airport Advisory Committee, stated that he wished Mr. Capretta and the Nut Tree project success with the proposed hotel and conference center element of the project. The idea is compatible with the Airport and good for the City. However the residential element of the project is not a compatible use with the Nut Tree Airport. He referred to the California Public Utilities Code as it applies to the State Aeronautics Act. He stated that the document is the law with regard to aviation in the state of California and directs ALUCs to use the 2002 Airport Land Use Planning handbook in their determinations.

Andy Wilson, Cal Pilots Association, stated that for development around airports it was important to plan and develop appropriate uses. He referred to previous statements such as "What would happen if you approve this; Or it goes in anyway?" He answered that "Well one of the things that Cal Pilots does is sue. We bring in lawyers. We are currently now before the Environmental Appeals Board in Washington, DC. A subset of Cal Pilots sued at the Watsonville airport over that development. So we watch over.

So we let you; we let the local people; we let your local government participate; try to iron it out; but we're here. So please""vote it inconsistent".

Chairman Schoch closed the public hearing. Mr. Leland asked if the applicant could be allowed time for a rebuttal as provided by the ALUC by-laws before the public hearing was closed. Chairman Schoch agreed and stated that the ALUC would take a 15 minute recess for the rebuttal period.

Chairman Schoch called the meeting back to order and asked if the applicant had any comments.

Fred Buder, City of Vacaville Planning, referred to 2002 when the Policy Plan was first written to allow residential development in the Nut Tree core area. In June 2002 when the City received the consistency determination for adding residential zoning into the Nut Tree core area, the ALUC was advised of the text that the City would incorporate into the plan so as to provide a clear record. The plan states that the ALUC reviewed the revisions to the Nut Tree Ranch policy plan in June of 2002 and determined that the proposed additions of residential uses in the Nut Tree core area were consistent with the ALUCP while the City acknowledged that no additional residential uses/units were anticipated in other parts of the policy plan. He brought it up to the Commission so they would understand why the City throughout the development of the project believed the residential uses to be consistent with the commitments that they made when the plan was first adopted. The City has tried to carefully go thru the Compatibility Plan and the Cal Trans Handbook to ensure that the proposed uses were allowable uses for each of the zones.

Phillip Wade, Environmental Science Associates, stated that ESA appreciates the concerns and sentiments expressed and wanted to assure the Commission that ESA has not been asked to advocate for or against the proposed project but rather to simply evaluate it's consistency in conjunction with adopted land use compatibility policies in the 1988 ALUCP.

He noted that several speakers had referenced the state aeronautics act to support the idea that the ALUC shall be guided by the 2002 Airport Land Use Planning Handbook when making a consistency determination. He wanted to clarify that point from the aeronautics act itself. He quoted section 21674.7 of the Airport Land Use Planning Handbook "an Airport Land Use Commission that formulates, adopts or amends a comprehensive airport land use plan shall be guided by information prepared and updated pursuant to section 21674.5 and referred to as the Airport Land Use Planning Handbook published by the Division Of Aeronautics Department Of Transportation". Mr. Wade stated that therefore according to the Handbook it is when an ALUC is either trying to

adopt or amend an ALUCP that it should be guided by the Handbook and not when it is making a consistency determination. When an ALUC is making a consistency determination of a proposed project it should weigh that against the adopted plan which in this case is the 1988 ALUCP.

Mr. Capretta, Westrust, thanked the ALUC and the audience for their time and comments. He stated that he sees it as a continual process past the hearing tonight to continue to work closely with the Nut Tree Airport and the Airport Advisory Committee. He reviewed several issues. The first was that he did not think it was reasonable for the ALUC to create a policy for someone like himself and his predecessor (at this point Mr. Capretta was interrupted by heckling from the audience) and then go on to talk about changing the issues that are clearly specified in the ALUCP. Residential buildings only cover 25% of the residential site and the residential site has been in the same location for the past eight years. The second item was that in no way will building heights ever exceed FAA allowable heights. The third issue concerned a comment that longer runways were needed. Because the Airport is at a 116' elevation and Browns Parkway is 50' to 60' higher it is unlikely that there will be an extension to runway 2. His forth comment was to Mr. Valdez stating that care for the Swainsons Hawk habitat will be provided. Regarding Mr. Harris' comments and comments about Westrust's integrity, Mr. Capretta stated that they have shown great integrity since they took over the project 15 months ago. They have tried to be forthright and are in support of the Airport's continued existence. He believed that John Valentine made a good point that Westrust would not be in front of this audience if it weren't for the stadium uses being replaced and for the City moving its hotel and convention center. Regarding comments to the ALUC about how they should make their decision based on how they feel. He stated that he believed their pledge as an ALUC Commissioner is to make sure the plan is consistent with the 1988 ALUCP. There being no further comments Chairman Schoch closed the public comment session.

Mr. Leland commented on the issue of clustering. He stated that staff has with them the 2002 staff report that went before the ALUC at that time and that it clearly discusses the clustering that would create open space on one side of the airport and place the residential on the other side. The minutes reflect on a 5 to 1 vote that the Commission understood that and endorsed that concept. He stated that he would assume the reason that the open space was valuable away from the residential project was that there is a left hand turn into runway 2. There is a right hand turn onto runway 20 and that's where the open space is concentrated.

Mr. Axelrad responded to statements made during the public comment period. He stated that "With respect to the question of whether there is a provision in the state aeronautics act in the PUC that is triggered by a 1991 date. I believe that the testimony during the public comment period was something to this effect. The Nut Tree Land Use Compatibility Plan

was issued in 1988. There is a statute that says if you don't update your plan by 1991 a certain set of rules apply that puts everything in front of you. Mr. Axelrad said that he would like to correct the record. The statutory provision that is being referenced there is PUC 21675.1. That statutory provision did not refer to updates of the Plan. It referred to a deadline for ALUCs who had never promulgated and published land use compatibility plans to do so by 1991. The Solano County ALUC had a plan by then so it did not apply to you."

Mr. Axelrad continued that there has been an issue regarding whether the Cal Trans handbook can be used as the sole basis for a determination tonight. He stated "I believe it was Mr. Wade who provided some discussion a few minutes ago, Mr. Wade from ESA, he accurately cited the principle that is involved I believe. I think the code citation was off by a couple of numbers. The PUC section 21674.7 subdivision A says that an airport land use commission that formulates, adopts or amends an airport land use compatibility plan shall be guided by information prepared and updated pursuant to the Cal Trans Airport Land Use Planning Handbook published by the Division of Aeronautics." The language "shall be guided by" applies to ALUCs as they are promulgating and publishing their land use compatibility plan. It does not say that once an ALUC has published their plan that they may simply disregard it and refer solely to the Cal Trans Handbook. The statement that your decision must be made in reference to the Land Use Compatibility Plan is true. That statement could be qualified to say that the ALUCP may not speak to or explain every subject so there may be some matters of interpretation or gaps in the Plan so that the Cal Trans Handbook might also be used as a reference. But as to matters where the ALUC has made an affirmative decision in context to material in its Plan the authority of the Nut Tree ALUCP should not be ignored. Regarding Mr. Capretta's comments, a power point slide showed zones A, C and E and showed some horizontal lines. Mr. Axelrad stated that he believed that those lines were lines that appear in the ALUC's Land Use Compatibility Plan and are not lines that the FAA has put on the map.

Chairman Schoch asked the Commission for a motion of consistency. Commissioner Vancil stated that in the past week he had read the California Airport Land Use Planning Handbook. He noted that the Nut Tree plan is dated may of 1988. The handbook refers to a date in 1993 where before that point the California ALUP Handbook was an example or a best practices guide. The PUC changed in 1993 where it became a guide that the ALUCs should follow. And that the burden is on the ALUC for deviation from the Handbook. His interpretation is that in dealing with a 1988 Plan which is still in force and should be followed but at the same time the issues that are raised in the California ALUP Handbook do have some relevance to the issue at hand.

Commissioner Cavanagh made a motion to find the Nut Tree Ranch Policy Plan Amendment and Planned Development Master Plan consistent with the Nut Tree Airport ALUCP and the Travis AFB ALUCP. The motion was not seconded and therefore failed.

Commissioner Stockard made a motion to find the Nut Tree Ranch Policy Plan Amendment and Planned Development Master Plan inconsistent with the Nut Tree Airport ALUCP and the Travis AFB ALUCP. The motion was seconded by Commissioner Vancil. Chairman Schoch asked for comments from the Commission.

Mr. Axelrad stated that staff had prepared draft resolutions and would like to have a discussion at the appropriate time about the detailed content for the resolution.

Commissioner Baldwin commented that he thought the project was a good development for the City of Vacaville, the Airport and the County. However he had issues with the residential units being too close to the center line and not having a discussion on how to proceed on protecting the future instrument approaches. He stated that he hoped the parties could find a happy medium to make the project work.

Commissioner Seiden stated that there were still issues with the project that were unresolved and particularly with respect to safety he was unable to conclude that the location of residential property 700 feet from the center line of the runway and just off the end of the runway was safe enough. At the same time he thought that tremendous appreciation should go out to all of the efforts that have been put in by City and County staff and by the developer. He thought that many portions of the project were to be lauded. However the safety issues regarding the proximity of the residential units to the runway were too serious to ignore.

Commissioner Stockard commented that she also felt that the development in general was very good especially the mixed uses being proposed. Her issue was with the location of the residential units and the fact that there "are no outs" if an aircraft was having an emergency. There was not enough open space to put the plane down.

Commissioner Cavanagh stated that he believed the ALUC has a responsibility to ensure safety by developing an ALUCP through careful deliberation that provided for that safety which was done back in 1988. An equally important responsibility to make sure that plan is followed. The ALUCs responsibility to all applicants that come before us is that they have a road map to guide them towards compliance. If the Commission finds for inconsistency at this meeting then what we are really doing is developing a new plan. He did not think that was lawful. It was his belief that even though he has misgivings about some parts of the proposal; He

thought the ALUC had an obligation and a responsibility to find for consistency.

Chairman Schoch stated that he had mixed emotions about the project. He had concerns with safety and wished the residential development was not so near the runway. He thought however that the ALUC does an injustice to City of Vacaville Planning and the developer when we “pull the rug out from under them” after they were acting upon a prior approval.

Chairman Schoch called for a five minute recess before the vote.

Chairman Schoch called the meeting back to order. Mr. Axelrad advised the Commission that staff had a draft resolution to provide the framework for the Commission to take action. He suggested that a finding for inconsistency was based on the determination that the proposed residential land use was located approximately 750 from the centerline of the runway and presented a safety hazard. Commissioner Stockard stated that she had issues with the lack of open space in the residential area. Mr. Axelrad explained that the motion and second needed to be restated to include the above issues and any other issues they may have. Commissioner Vancil commented that the matter of lack of safety with residences so close to the runway was sufficient because the applicant and the developer had heard the public raise many issues including open space and will want to address them.

Commissioner Stockard amended the motion to include the fact that the finding for inconsistency was based on the determination that the proposed residential land use was located approximately 750 from the centerline of the runway and presented a safety hazard. Commissioner Vancil seconded the motion. Commissioner Stockard also added that the action be by resolution including the language regarding the safety hazard. Commissioner Vancil seconded again saying that he understood the inclusion of the language regarding the safety hazard. Chairman Schoch called for the vote. The motion failed 4 to 2 with Commissioners Schoch and Cavanagh dissenting. Chairman Schoch asked counsel if he had any other comments. Mr. Axelrad asked the secretary what the count of the vote was. The secretary answered that there were 4 votes for a finding of inconsistency and 2 votes against the finding of inconsistency. The motion did not carry. Mr. Axelrad asked Chairman Schoch to confirm that there was a rule that in order for official action to be taken a vote of a majority of the full membership is required. Chairman Schoch replied that the statement was correct. There being no further questions the meeting was adjourned.

Item No. 8. Adjournment.

The next meeting of the Solano County Airport Land Use Commission (ALUC) will be a special meeting held on **October 20, 2010, at 7:00 p.m.** in the Solano County Administration Center, Board Chambers (First Floor), 675 Texas St., Fairfield, CA 94533.

The County of Solano, in compliance with the Americans With Disabilities Act of 1990, will provide accommodations for persons with disabilities who attend public meetings and/or participate in County sponsored programs, services, and activities. If you have the need for an accommodation, such as, interpreters or materials in alternative format, please contact Diane Buschman, Department of Resource Management, 675 Texas St., #5500., Fairfield, CA 94533, (707) 784-6765.