

Nanci Lima

From: Jeff Britz [jbritz@lemoore.com]
Sent: Tuesday, July 20, 2010 1:45 PM
To: 'Billy Siegel'; 'John Murray'; 'John Plourde'; 'Mary Hornsby'; 'Mary Hornsby'; 'Willard Rodarmel'; 'Willard Rodarmel'
Cc: Holly Smyth; Jarrell Prichard; Nanci Lima
Subject: FW: Walmart Update
FYI

Nanci – please provide hard copies in Council Folders for tonight as well.

Thanks
jb

From: Andy Andersen [mailto:andy@passantinoandersen.com]
Sent: Tuesday, July 20, 2010 1:42 PM
To: Jbritz@lemoore.com
Subject: Walmart Update

Hi Jeff,

Amelia Neufeld asked me to send you the final version of our correspondence to the City Council regarding Walmart's position on issues related to this evening's study session.

I have emailed it to the council members as shown below, but you may wish to share a copy with them in case they do not read my email before they convene this evening.

My colleague, Brian Forrest will be attending the meeting this evening, but Walmart will not be making a formal presentation.

Kind Regards,

Andrew Andersen, Founding Partner
Passantino Andersen Communications

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"Educate and inform the whole mass of the people...They are the only sure reliance for the preservation of our liberty."

- Thomas Jefferson

Dear [NAME],

As you know, Walmart is eager to resolve issues pertaining to the City's proposed traffic fee in a way that keeps their proposed store economically feasible. Prior to your study session this evening, I wanted to quickly update you on Walmart's position.

Walmart remains committed to pay their fair share for roadway improvements, but if the City imposes costs that exceed what is required under the California Environmental Quality Act ("CEQA"), the project will be deemed economically infeasible.

Walmart's consultants have been engaged with the City for several years on these issues, and today, many issues remain outstanding. To help expedite resolution, we have provided a list of outstanding issues with suggested actions City staff can take to get this project underway.

The tax revenue, affordable products, job creation, economic development potential, generous philanthropy and one-stop shopping convenience that a Walmart store provides could substantially improve the City's fiscal health and greatly improve quality of life for Lemoore residents. By working with your staff to resolve these issues quickly, you will be providing the kind of leadership that your constituents deserve and depend on.

OUTSTANDING ISSUES & SUGGESTED ACTIONS

Issue #1: A "peer review" of the Kimley-Horn Associates ("KHA") study is not warranted and will further delay this project.

Background: The KHA study was initiated in November 2008, when it was clear that the amount of opening-day improvements the City was requiring of Walmart was based upon the 2007 Dowling traffic study's assumption that many, now-dead projects would be open by Walmart's opening day. The City spent approximately 6 months preparing the updated list of projects for use in the KHA report. In July 2009, KHA presented a draft study to the City with the intent of obtaining the City's agreement with the opening day roadway improvements that were required under CEQA. To date, we are still working to reach agreement on this critical issue.

On May 28, 2010, the City provided written comments on the July 2009 KHA Traffic Study using the substantial expertise it has on Staff. The KHA study can be revised to reflect the City's comments, should the Project move forward. Further "peer review" will unnecessarily delay this project even longer, due to the subsequent back-and-forth over the peer reviewer's conclusions.

Suggested Action: Respond to Walmart's July 12, 2010 letter addressing the City's May 28 comments, and work with Walmart to finalize the study and the fair share traffic improvement costs that Walmart must determine before moving forward with the Project.

Issue #2: City staff told Walmart in a May 28, 2010 letter that any money Walmart spends for opening day improvements above its fair-share long term traffic mitigation costs will be deducted only if the City concludes that no part of the opening day improvements are what the City considers to be "throw away" improvements.

Suggested Action: The debate over what constitutes a "throw away" improvement could last for months and still result in Walmart not being credited for over-payment. Walmart suggests that City staff allow a credit against the \$479,000 Walmart would owe for long-term fair share costs. In Walmart's experience, cities do not require that

opening day improvements are 100% usable in the long-term buildout condition before allowing a credit.

Issue #3: The City's proposed Westside Fee Study is based upon a 2008 General Plan that assumes levels of future growth and population that do not reflect present conditions. By including all of the future population growth and related infrastructure in the Fee Study, the amount of the fee--\$3,262,341—will bankrupt the Walmart project, and other developments that may have otherwise located in Lemoore.

Background: Any sizable development in the Westside will require legally adequate fee-based mitigation to be available for a project's long-term traffic impacts. Thus, Walmart has encouraged the City to adopt a traffic fee program that would enable the City to spread around to Walmart and other future development the costs of building out the Westside's infrastructure. An adequate fee program that included the Westside would allow Walmart to pay traffic fees, and move on from the difficult negotiations over the traffic mitigation identified in the KHA traffic report.

Suggested Action: Prepare a Fee Study that reflects a more realistic set of future Westside growth assumptions and addresses other issues identified by Walmart in its July 22, 2009 letter to the City, and in response to the City's January 2010 draft:

- The fees do not appear to be part of an enforceable program such that the fees paid by a developer can be shown to actually fund future improvements the developer's project is partially responsible for. As such, Walmart's EIR cannot rely on the payment of fees as adequate traffic mitigation under CEQA.
- Allocate the costs of Westside infrastructure to the entire City. Many of the proposed Westside projects are intended to and will benefit existing residents. New Eastside projects also will help create traffic on Westside roads as Eastside residents will patronize the new Westside development.
- Provide the documentation supporting the City Engineer's cost estimates for each of the improvements included in the fee program. We have asked for the backup documentation, but it has not yet been provided by the City.

Please call me at 559-472-6257 with any questions.

Kind Regards,

Andrew Andersen, Founding Partner
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