

City of Sparks
City Council Meeting
February 25, 2019

Subject: General Business, 9.1

Title: Consideration, discussion, and possible direction to the City Attorney concerning whether to dismiss pending litigation, City of Sparks v. IPC D'Andrea LLC, CV17-01066.

Respondent: George Emery, President, D'Andrea Community Association (DCA)

Recommendation: The DCA strongly encourages City Council to direct the City Attorney to actively prosecute the case currently pending as City of Sparks v. IPC D'Andrea LLC, Case Number CV17-01066

Background: Ask the right questions.

The temptation to criticize frequently obfuscates critical questions. The City's Staff analysis and subsequent options posed for Council consideration seem on their face to be fairly well balanced. Broadening the field of inquiry by asking questions – especially the 'right' questions – is essential to arriving at proper conclusions. **Key questions follow:**

1. How long has the 179 acre former golf course been fallow re: abandoned structures, a haven for ne'er do wells and targets for tagging?
2. How many actual or rumored prospective buyers have come and gone during that period of time?
3. In citing absence of financial impact, does Staff analysis ignore impact from loss of life and property damage posed by wild fires surrounding DCA, D'Andrea Ranch Phase III as well as neighboring habitats in the eastern Sparks canyons and foothills?

Finally, what do we know?

- Grasses and brush recur and flourish in abundance each year aggravated even more so by increased seasonal precipitation.
- Wildfires, whether inadvertent, by accident of nature or simple carelessness are unpredictable in direction; fires also create 'wind' by their own inertia and are driven erratically by the Coriolis effect in our canyons and foothills; dried grasses and bushes provide ample fuel threatening our families, property and first responders.

- Multiple drains dot the former golf course property with gates left open or damaged. Some drains located near Moss Elementary and Mendive Middle School offer an open invitation to curious children and to others who would seek to harm them (the children) in such locations. Abandoned golf course structures as noted in the Staff analysis are no less inviting.

Summation:

Clearly, optimistic though we may be, it remains anyone's guess when and/or if the property will be sold in part or in total and redeveloped; past history is not encouraging. If only in that regard, the option to Council to recommend dismissal of pending litigation is premature. Staff observes that 'problems on the property will persist for the foreseeable future'. The City's March, 2017 effort "to seek declaratory and injunctive relief to abate the nuisance conditions on the property" is laudable and, absent issuance of further stays, should be reinforced by Council with a recommendation to actively prosecute the pending litigation.

We would ask Council to consider one last question:

Is it asking too much – even if we have to utilize litigation – to insist on clearing not only the 25' of defensible space but also fairways and other areas of the fallow course and repeatedly boarding up abandoned structures to insure resolution of concerns identified by Staff?

As Council, what would you choose for your constituents: do all that you can, prosecuting the case to protect the community or do nothing by dismissing the case and incurring liability as a result? What price do you want to pay?

Respectfully yours,

George E. Emery
President, D'Andrea Community Association (DCA)









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