

MINUTES

**CITY OF PACIFICA
PLANNING COMMISSION
COUNCIL CHAMBERS
2212 BEACH BOULEVARD**

May 7, 2012

7:00 p.m.

Chair Gordon called the meeting to order at 7:00 p.m.

ROLL CALL:

Present: Commissioners Brown, Clifford, Langille,
Evans and Chair Gordon

Absent: Commissioners Campbell and Leon

SALUTE TO FLAG:

Led by Commissioner Evans

STAFF PRESENT:

Planning Director White
Assoc. Engineer Ray Donguines
Assoc. Engineer Maria Aguilar

**APPROVAL OF ORDER
OF AGENDA**

Commissioner Clifford moved approval of the Order
of Agenda; Commissioner Evans seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Brown, Clifford, Langille, Evans and
Chair Gordon

Noes: None

**APPROVAL OF
MINUTES:
APRIL 2, 2012**

Commissioner Langille moved approval of the
minutes of April 2, 2012; Commissioner Clifford
seconded the motion.

Commissioner Langille stated that, on page 17, she would like to clarify that, when she was talking about mega ordinances, she meant mega home ordinances.

The motion carried **5-0**.

Ayes: Commissioners Brown, Clifford, Langille, Evans and
Chair Gordon

Noes: None

DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF MAY 14, 2012:

Planning Director White stated that, while there was an item related to Planning Commission matters, the assisted living facility, there was a quorum problem and it will be continued to the first meeting in June. He stated that he thinks there is no need for a Commission representative since there won't be any hearing or discussion.

Chair Gordon agreed with the Planning Director.

Commissioner Clifford reminded everyone that he was designated as the representative and, when it was actually heard, he will be present.

CONSENT ITEMS:

None.

PUBLIC HEARINGS:

None.

CONSIDERATION:

1. ADOPTION OF RESOLUTION Certifying that the 1012-1017 Capital Improvement Program is Consistent with the General Plan.

Planning Director White presented the staff report and stated that Assoc. Engineers Donguines and Aguilar were available to answer questions.

Commissioner Clifford stated that, on Project No. 0213, there was no information on the back page whereas all other projects had zeros, etc.

Planning Director White thought it might be a copying error.

Assoc. Engineer Donguines confirmed that it was a copying error.

Commissioner Clifford assumed that there was some budget information that they did not have.

At this point, the Planning Director passed the referenced material to the Commission to look at briefly.

Commissioner Brown asked if anything came off of the previous year's Capital Improvement Program.

Assoc. Engineer Donguines responded affirmatively, clarifying that, in this version, the City Manager and staff scrutinized the process to include only actual projects, deleting items that were not projects and a few projects that had been completed.

Commissioner Brown asked for the definition of an actual project.

Assoc. Engineer Donguines stated that it was an actual project that the city does, such as construction.

Commissioner Brown assumed that it required the City to take action, and those that didn't require action or were completed were deleted.

Assoc. Engineer Donguines responded affirmatively.

Commissioner Brown liked the table showing the new items on which to focus their attention. He stated that all except one of the new ones were related to the Waste Water Treatment Facility, pump station and sewage, mentioning and that those costs added up to more than \$15 million in capital improvements. He wondered if they could get some "color" since that was a big addition.

Assoc. Engineer Aguilar stated that those projects came from the sewer master plan which was completed by RMC in October. She explained that it was a 20-year CIP and they were prioritized. She stated that the equalization basin was a priority because the City has an I&I problem and they need storage for the flow. She stated that it was a 3-4 year project, and the first step was a feasibility study to identify locations where they can put the equalization basin based

on land ownership, mostly looking in the Linda Mar neighborhood, at a total of about \$20 million which will include permitting, construction, design and environmental. She added that the Finance Department has been working on how to finance the projects.

Commissioner Brown asked if they were related to the unauthorized spillage which led to some fines.

Assoc. Engineer Aguilar stated that the spill was in January 2008 and the City was required to do the Master Plan which they did and part of the plan identified problems and how they can be resolved so that, in the future, they can avoid the bypass.

Chair Gordon stated, since that concluded the question portion, they could now bring it back to the Commission for further discussion or a vote.

Commissioner Evans asked for confirmation that they have already approved the previous items still in the program and, in essence, they were really only looking at the new items for approval.

Planning Director White agreed that, in essence, he was correct, but it was a rolling plan and needed to be authorized every year and it was the entire plan for which they were making the findings.

Commissioner Evans acknowledged that, and commented that if they voted yes the prior year, it would be odd to now say no.

Commissioner Clifford referred to a comment about deciding which project should actually go in the program and those that were removed. He pointed out that there were some that were canceled and he asked if those were the same as the removed ones.

Assoc. Engineer Donguines stated that they were not. The removed ones were deemed not a project and were not part of the CIP.

Commissioner Clifford assumed they never saw them.

Assoc. Engineer Donguines stated that they were in the previous year, but then were canceled because they didn't meet the criteria for being a CIP.

Commissioner Clifford asked if there were a number of projects that were deemed to be projects but it was decided that they were not doing them.

Assoc. Engineer Donguines responded affirmatively.

Commissioner Clifford stated that he was a little disappointed on some that were canceled such as painting the firehouses, because they have a situation where they might be looking at dry rot at a much greater cost later on. However, he did understand that there wasn't any money in the budget and they would not be painting the firehouse.

Assoc. Engineer Donguines stated that the painting was still an ongoing project in the plan but not active.

Commissioner Clifford reiterated that he had noticed several projects dealing with the firehouses had been canceled and he was a little disappointed.

Commissioner Brown stated that, since their responsibility was limited to certifying the consistency of the Capital Improvement Plan with the General Plan and not to debate the merits of individual projects, he was ready to go forward with the motion.

Commissioner Brown moved that the Planning Commission **ADOPT** the attached resolution entitled, "A Resolution of the Planning Commission of the City of Pacifica Certifying that the Proposed 2012-2017 Capital Improvement Program is Consistent with the General Plan;" Commissioner Evans seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Brown, Clifford, Langille, Evans and
Chair Gordon

Noes: None

OTHER AGENDA ITEMS:

2. Discussion and possible direction on initiating zoning ordinance amendments in relation to project extensions.

Planning Director White presented the staff report.

Commissioner Brown thought it sounded as though there would be a fair amount of discussion around what the ordinance says and their discussion would center around what they would recommend, essentially a group editing decision making. He thought the best next step would be a study session on it.

Chair Gordon stated that he understood the process as proposed by the Planning Director was to have a deliberation now on two things; first, what would any possible limits or changes be; and the second was what were the underlying rationales for the proposed changes. He thought they were envisioning a discussion among themselves about each thing and seeing if there is a consensus. He thought that previously there was a fair amount of consensus on some commonly viewed issues with some common suggestions. He thought, if there was a consensus that could be developed through their discussion, the Director would go back to his office and summarize their proposals and rationales and return with a resolution from those proposals that would be agendized at the next meeting with a public hearing for the public to voice their opinions. They would then have an opportunity to vote and, if they had changes, they could propose them at that point and they would either vote on the proposed changes or ask the Director to rework the proposal. He asked for confirmation regarding that being the process.

Planning Director White clarified that the resolution was not to change anything, but only to request that the Council initiate the code amendments. Once that request was received by the Council, he could not predict the outcome. He reiterated that the resolution would be limited to that.

Commissioner Brown asked if that would reduce to some extent the need to come up with hard and fast guidelines such as their opinion that it should be three years.

Planning Director White confirmed that he was correct, adding that they didn't have to stipulate what the changes might be. He stated that his experience in other places was that they would have a "laundry list" of things, such as saying "these amendments could include but won't be limited to ..." He added that it wasn't necessarily specific because, if the Council agrees with them that there was a good reason to initiate the amendments, there was a public process which would likely include a study session so the public could weigh in as to the merits of limits, etc. They would deliberate and, ultimately, the Council would adopt the changes. He mentioned that there was a fairly lengthy process, including public participation, with the request for the initiation of the change.

Commissioner Clifford stated that his "laundry list" would include one year to get a building permit.

Planning Director White stated that they were talking about two different things. He stated that the building permit process was its own discrete process and then there was the extension of discretionary project approvals, which included Use Permits, etc. He felt they had to be specific

about that. He acknowledged that he was interested in the building permit part of it, but he thought what led them to this point was the discussion about the extension requests that the Planning Commission received on a regular basis, which was not the building permit extension.

Commissioner Clifford stated that his second concern was that an approval would have up to three extensions and then, after that, they would have to come back and reapply and the Commission would be able to look at the whole project again. His third concern was a recovery of the real cost of the extensions. He thought the extensions cost the City a fair amount of money and they charge approximately \$150 to do this.

Planning Director White asked if he was talking about the cost for processing the extension.

Commissioner Clifford responded affirmatively. He thought they should look to recover the costs, due to the economic situation, but not make a profit.

Planning Director White stated that, by law, the City cannot make a profit.

Chair Gordon asked if there was any discussion of his rationale for those proposals.

Commissioner Clifford thought the recovery of cost was explained. He thought, for the up to three years of extensions, in four years' time, things change, either to the benefit of the applicant or to the detriment in terms of environmental impact reports, etc. He added that species do go extinct and you could wind up with a situation where limits were placed because of environmental concerns that no longer exist, or there might be additional environmental concerns. Since it can go either way or stay the same, he felt they should look at those things, adding that there were other things besides environmental issues that can change over time. He felt these extensions can lead to problems. He felt four years was quite a bit of time to get a project going.

Planning Director White referred to Commissioner Brown's comment, stating that it may be prudent, since they weren't actually changing the code, only requesting that changes be initiated, that the categories they were interested in might be broader, such as placing some sort of overall limit on the number of extensions. Then, the public process determines the outcome and they would not be locking themselves into something. He also thought the public would perceive that as a deliberative process.

Commissioner Clifford heard what he was saying, adding that he has thought about this for years.

Commissioner Evans was also in agreement with the idea of changing the current status since they don't really have a current status. He thought they needed to upgrade and become more in line with some of the neighboring cities. He stated that, without getting into detail, he would like to see something where, if nothing has changed from the previous year, they could have an administrative review and approval process for the first and possibly the second extension as they have now for some items. He thought it would save taxpayer money, processing time and designers' time. He also liked the idea of terms, specifically a solid end term to it. He thought, after possibly three renewals, it would then be available but at a higher cost. We wouldn't be saying they can't do it but it would cost them. He referred to the high costs with other cities, adding that we didn't have to be that expensive, but we could certainly charge more than \$150 each time, and make the one after two or three years quite a bit more expensive. He also thought there should be a final number of how many times they can renew. He reiterated that he liked the

administrative idea because nothing has changed after the first or second extension. It was only because they can't get financing. He thought they should try to help them out on that and cut some of the City's costs.

Chair Gordon thought caps were a good idea. He referred to the Director's comment about stepping back from offering specifics. He stated that, while it was the Director's view, he disagreed. He thought it would be a good idea to hear about specific suggestions and, if they do have a consensus, they would be doing everyone a favor by offering their recommendations in broad strokes, as well as recommendations to get more specific.

Commissioner Brown stated that the issue of unlimited time frames for extensions, for him, was that they found themselves reviewing things 5-7 years after they were put into play and a lot can change in that time period. He added that their specific purview with extensions was quite limited and he would think it was a pro forma review of the extension request itself rather than whether it was still a good project. He thought there were some questions that they would want to look at, and that was not how it worked. He felt there were three elements that could be part of their recommendation. One was the general concept of limiting extensions, adding that there had been some great points brought up with respect to a reasonable time frame. He also liked the element of intent for progress. He pointed out that several other cities required plans to be issued, adding that it meant someone was trying to move. He wanted to give them as smooth a path to making things happen as possible. The second element was cost recovery which he felt was a no brainer. It aligns economic incentives, such as waiting a year before going to the Planning Commission because the developer was not quite ready. The third element was that he would like it to be consistent with regional practices. He acknowledged that not everyone else had it nailed, but he thought there was a fair amount of consistency and the City could say that they benchmarked it and that was how they aligned it.

Commissioner Langille referred to consistency, stating that the building permit was one idea and the extension was another idea. She thought there was a discussion of deadlines to get building permits and discussion of extensions. She referred to Commissioner Brown's suggestions about timing, acknowledging that she didn't know how they put that together. She realized they would be separate amendments but she thought they should go hand in hand. Regarding regional consistency, she thought other cities have maximum times to obtain building permits and a lot of them have extensions. She agreed with other Commissioners regarding either a time limit, such as four years, or a specific number of extensions. She thought it would obviously depend on what the Council thinks. She liked Commissioner Evans idea of administrative approval for the first extension. She thought extensions would be on a case-by-case basis and the cost recovery for staff time should be based on the time needed for review for extension. She thought the regional consistency was important, adding that there were reasons why many cities have extension deadlines, and she was open to time limits or number of extensions.

Chair Gordon would start with what the status quo was currently, specifically that we didn't have any caps on the number of times to get extensions and the only way that approval can be denied was a clumsy mechanism, basically evidence of materially changed circumstances which was a vague, clumsy and high standard. He questioned what constituted changed circumstances, asking if they have to go out to the site and take soil samples for erosion or commission a biological assessment regarding species on the property. He would start with the status quo and why it doesn't work and then segue into how most neighboring communities have caps in place and were not using the same clumsy mechanism as Pacifica. He referred to Commissioner Brown's

comment that it would be great to have greater consistency with the neighboring communities. He thought almost every commissioner mentioned seeing requests where the project had been approved 6-7 years previously with the public, saying that circumstances have changed and the commissioners don't know what to do with that. He thought that was a greater issue because of being a coastside community with extreme weather and environmental issues. He thought about having caps, and asked if the logical time was when they apply for a building permit.

Planning Director White stated that it was currently the issuance of the building permit. He stated that, in some jurisdictions, it was at the time of applying for a building permit. He thought the danger there was that the building permit process could also be extended, such as Commissioner Clifford mentioned. He explained that there were regulations in the building code that allowed for extensions of a building permit under certain circumstances and a lot of communities will put the requirement that the building permit needs to be issued rather than just applied for, which was the way it was in Pacifica now.

Chair Gordon stated that he would be in favor of a limit with respect to the time from receiving approval from the Commission and getting a building permit issued. He liked Commissioner Clifford's suggestion of 12 months initially and then three 12-month extensions, as well as Commissioner Evans' idea that the first request for an extension be administrative and not come before the Commission. In terms of cost recovery, that made sense to want to recover the staff costs for processing the requests. He would be in favor of a mechanism tied to actual costs. He wasn't sure if another suggestion was that the costs go up with successive permits, but he would prefer something tied to actual costs.

Commissioner Evans asked if his suggestion of an administrative approval can happen in the coastal zone.

Planning Director White thought it could, depending on where in the coastal zone. He commented that the coastal zone was divided, with one area that the Coastal Commission has direct authority over and the area that Pacifica has authority over, subject to appeal should someone chose to appeal a decision, such as the Coastal Commission. He stated that they notify the Coastal Commission of any action the City takes. He reiterated that, if it was our authority, we would take the action, inform the Coastal Commission and they could, theoretically, take that up on appeal.

Commissioner Evans stated that he had seen some administrative approval for minor things within the coastal zone, but he thought this was not minor and he was skeptical of that. He liked the idea of administrative approval for the first extension only as a good faith effort if nothing has changed, adding that normally not a lot changes.

Planning Director White thought another thing to remember regarding practices in the coastal zone is that, if this amendment was initiated by the Council at their request, the Coastal Commission itself would have the ability to participate in the public process. The City would inform them and they would be able to comment on everything proposed.

Commissioner Evans thought it would probably be in paper form.

Planning Director White stated that it was hard to say but agreed that it would at least be in paper form.

Commissioner Brown thought they were all in agreement in asking the City Council to consider initiating a zoning ordinance amendment process. He was ready to second a motion.

Chair Gordon asked the Director, after hearing their thoughts, if he had any thoughts himself.

Planning Director White stated that there was nothing beyond what he already said which was, to some extent, accepted. He stated that his role was to provide them with advice and, if the process actually occurs, they would take it seriously and provide the staff work needed in order to make this happen. He stated that there was more than one way to do anything and they would hopefully find the right way after the appropriate public process.

Chair Gordon asked if he had enough information to prepare a resolution.

Planning Director White stated that he would try to fold in their comments in terms of the specific things they would like to consider, as well as the rationale for making those considerations. He would put it in a draft resolution and bring back for the Commission's perusal. He stated that they can feel free to "slice and dice" but they would get there one way or the other.

Chair Gordon stated, as a lawyer, that some things lawyers love was simplicity and the most elegant pieces of law were those that were short, sweet and simple because they were easiest to administer. He would be in favor of a resolution that was not cluttered.

Commissioner Evans asked how much time was spent in hours for the longer extensions.

Planning Director White stated that he didn't know, but stated that currently they took essentially one hour of staff time, which they charge at \$150/hour. He stated that probably, in almost every case, it exceeds that amount because just the processing of anything that has to come to the Planning Commission is going to take more than an hour of staff time, adding that it was not just one person but the Planner, administrative staff, etc. He thought it would fall between 2 and 3 hours for the simple ones, but others may be more complicated as Commissioner Langille pointed out.

Commission Evans asked if it got more convoluted the more times it came back.

Planning Director White stated that it did because of compiling the records, which were material costs as well as the time.

Commission Evans stated that they all spoke about an item for consideration to at least recover real costs.

Planning Director White stated that they cannot justifiably do more.

Commissioner Evans stated that he was not asking for more, but he didn't think that they were recovering real costs.

Planning Director White clarified that in just about every other case they do, but there were a few exceptions which have flat fees. In most cases, they do work on a cost recovery basis. They were pretty good at recovering their costs for most cases but not for every single one, and this one was one of those.

Commissioner Evans assumed this might help close up some loopholes.

Planning Director White agreed.

Chair Gordon thought, in stating the rationale, it might be important to include that, in most other situations, the department was able to recover their costs but, in this case, it sounded like, in almost every extension request, it was not.

Planning Director White agreed that it probably would not, although he had not done a study of it. In this area, it was one hour's worth of time, and he had to believe that, in just about every case, it has taken more than an hour's worth of staff time.

Commissioner Brown moved that the Planning Commission request staff to draft a resolution initiating the zoning ordinance amendments in relation to project extensions and that this draft be presented to the Planning Commission for review and approval at an agendaized Planning Commission meeting; Commissioner Evans seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Brown, Clifford, Langille, Evans and
Chair Gordon
Noes: None

COMMISSION COMMUNICATIONS:

None

STAFF COMMUNICATIONS:

None

ORAL COMMUNICATIONS:

None

ADJOURNMENT:

There being no further business for discussion, Commissioner Clifford moved to adjourn the meeting at 7:50 p.m.; Commissioner Langille seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Brown, Clifford, Langille, Evans and
Chair Gordon
Noes: None

Respectfully submitted,

Barbara Medina
Public Meeting Stenographer

APPROVED:

Planning Director White