

EP&SC MEETING MINUTES

City of Pacifica
Emergency Preparedness & Safety Commission
Pacifica Police Department Conference Room
2075 Coast Highway
Pacifica, CA 94044

DATE: Wednesday, April 20, 2016

TIME: 6:48 p.m.

CALL TO ORDER: The meeting was called to order.

ROLL CALL:

Commissioners Present: Johnson, Blackburn, Shaw, Chiechi, Salisbury, Erbacher, Chair Taverna

Commissioners Absent: None

STAFF PRESENT: Special Counsel Michael Biddle
Christopher Clements, Police Captain
Bill Glasgo, Police Sergeant
City Clerk O'Connell

APPROVAL

OF MINUTES: The minutes for the March 23, 2016 were presented for approval.

Commissioner Cheichi had a correction on page 11. He stated that it mentioned her comment about Mr. Willoughby stating that he was a coastal analyst, and he stated that it was Commissioner Chiechi who spoke.

Commissioner Johnson stated that she thought she was the one who asked whether Prof. Sitar had come in January.

City Clerk O'Connell asked if she could state what paragraph it was.

Commissioner Johnson stated that it was in the middle of the page where it stated that Commissioner Shaw asked of Prof. Sitar had come in January.

Commissioner Blackburn stated that the professor's name was spelled Sitar.

Chair Taverna asked if there were any other comments or corrections.

Minutes were approved.

**APPROVAL
OF AGENDA:**

Agenda for April 20, 2016 was approved.

COMMISSION COMMENTS:

Commissioner Blackburn stated that the 18th was a celebration in commemoration of the 1906 San Francisco earthquake and fire _____ place to go for people to get plans and preparedness for earthquake _____ disasters _____.

EX-OFFICIO COMMENTS: None

STAFF COMMENTS:

Cpt. Clements stated he received word yesterday, April 19, from Governor Brown's office that a state of emergency had been declared for counties including San Mateo County in response to the El Nino storms for March and were available which will aid the city in its attempts to address the repairs to damaged infrastructure. On April 18 Captain Spanheimer conducted the quarterly CERT meeting. On April 14, their CERT volunteers participated in the countywide silver dragon exercise in emergency preparedness and assisted the Daly City Fire Department. Captain Spanheimer taught a CERT class on Terrorism in Daly City on April 7. The California Disaster Assistance Act meeting was held on March 28 for the City departments, Cal OES and the San Mateo County OES to discuss assistance towards repairs for City infrastructure. On March 24, he attended the monthly meeting of the Emergency Managers Association. At the meeting, there was a presentation on the case study regarding debris removal from the Butte Fire which was very informative. He thought that was a part of disaster management and disaster response which is often overlooked or doesn't get the attention that the initial response does. It was very informative. He stated that Captain Spanheimer represented the City of Pacifica at a series countywide local hazard mitigation workshops. There was a presentation on April 22 to the county's emergency services counsel at the County Board of Supervisor's Chamber. They have scheduled an emergency operation center exercise at the Pacifica Police Department to be held on April 27, which will be attended by a number of staff from city departments for Pacifica, as well as community members from the Pacifica School District and Jefferson Union High School District and San Mateo County Office of Emergency Services. He stated that they registered for the upcoming San Mateo County Disaster Preparedness Day on June 11 which will be attended by police department staff and CERT volunteers. On May 21, they will be holding their first Pacifica citywide CERT exercise at Frontierland Park, mentioning that there was information on the city website about that. He stated that it was being held near the Boys and Girls Club.

_____ asked him if the June 11 Disaster Preparedness Day was at the County Fairgrounds.

_____ stated that it was at the San Mateo County Expo Center.

PUBLIC COMMENTS:

Bart Willoughby, Pacifica resident, stated that he brought some photographs of the current conditions at 310 and he would like to view it as an informative type thing. He stated that, on March 23, the Commission voted on the question based upon the preponderance of evidence that it _____ that the erosion of the bluff has started under _____ building at 310 Esplanade which will result in structural failure and unsafe conditions for its occupants. He stated that an analogy related to this question was based on the preponderance of evidence by NASA _____ large meteorite will strike Pacifica, causing substantial damage to the city _____. The evidence in this instance when taking property from an owner and forcefully evicting residents from their home requires a clear and convincing standard that is essentially missing in this instance. Under some circumstances, the use of the low preponderance of evidence standard as used in this instance may be a violation of constitutional rights. He stated that the Commission's reliance upon making a decision that was made on March 23, is and was based entirely upon the conclusions in the _____ report where Mr. Sayre indicated additional failure and land _____ of the existing Pacifica _____ is especially vulnerable to weakening by prolonged and intense rainfall, precipitation triggered failures. He stated that these _____ failures typically develop first as tension cracks followed by ground water seepage, reducing the strength of materials forming the bluff. In addition, ongoing periods of high swells generated by winter storm systems are anticipated to overtop the impact _____ revetments continue to trigger bluff failure. The current combination of _____ bluffs combined with ongoing El Nino storm season results in high level risk, certain living space areas on the property. The idea of this is that _____. The commission's reliance on this low preponderance of evidence was clearly based on Sayre's reliance on surf and weather conditions that never materialized. He stated that Sayre played a _____ game against the odds and lost, adding that no bluff failure has materialized, conditions in front of 310 have not changed, there have been no high surface swells, no precipitation of any significance with overtopping of the revetment has occurred. He felt this was clear and convincing evidence that supports that the city was premature in the yellow tagging of 310 on the reliance of drone video of January 23. He stated that what Sayre fully relied upon in his analysis in the report this commission relied upon. He was providing the commission today with current photos of the conditions at 310 which essentially have not changed since the yellow tagging of 310 on January 25, 2016 and the previous and current forecast of El Nino is and was El Deco and that La Nina is now the current forecast by Enso Climate prediction center. He stated that the photos and climate information corroborate the appellant's evidence that the building is currently safe and was safe on January 25. He stated that there has been no real analysis or determination by the city that the building at 310 is actually unsafe, given the conditions that never materialized in Sayre's report. He stated that the commission allowed the city to present additional evidence at the hearing on March 23 consisting of six items. Items 1-3 was an email and is a _____ document. Item 5-9 are _____. That should have been produced _____ prior to the hearing where the city had the information in their possession long before the hearing and, in most instances, as of late January 2016. He stated that the testimony by Mr. Sayre on March 23 went beyond the written report that was prepared and provided by the city to all the appellants. He stated that this commission was made up of well _____ citizens of Pacifica but the commission missed the boat in this instance. He stated that the residents of 310 are community of Pacifica, neighbors and _____ friends and deserved better treatment. He thought it was too cruel and in some degree inhumane for the City Manager in a press release to the media after the hearing on March 23 to place the blame on the residents of 310 for living at 310 and who _____

made them feel it was their right. He stated that _____ the City Manager as indicated in the press release after the hearing of March 23. His position is that, if you can't take the heat, get out of the kitchen. He stated that it has been his experience over the years at various local hearings that, once out of the local jurisdiction, he has a better chance at a truly fair and impartial hearing. He stated that an example happened in the hearings in 2006. He appealed the Planning Commission approval of lands End project at the City Council. He lost at the Planning Commission and the appeal with the city. The appeal with the Coastal Commission via de novo hearing where substantial issues were determine and the Lands End project at that point was finished and never got past the drawing board. He was asking today, that it never hurts to ask the commission to reconsider the decision of March 23 supporting the decision by the city to yellow tag 310 Esplanade. He was also requesting that his oral statement in written form and the information provided by him today to the Commission be made part of the record in this matter. He confirmed the _____. He knows after 16 years of bluff observations in Pacifica that he was correct and so far time has proven him right. Time continued to prove him right in this instance and the reasons that he must file for written mandate under California Code of civil procedures of 1094.6 and a potential for federal litigation for constitutional violations for all residents of 310. He felt the Commission should recognize Cpt. Clements throughout this whole process. He stated that he gathered the phone numbers of all the residents. He called each and every one of the residents to find out if they had a place to go and if they had any special needs. He brought them some support for people and, throughout this whole process, he has been very well organized in keeping everyone informed and he thought the Commission should recognize that.

Chair Taverna acknowledge the work of Cpt. Clements.

Cpt. Clements thanked her and he appreciated the kind words from Mr. Willoughby.

UNFINISHED BUSINESS:

Resolution Of The City Of Pacifica Emergency Preparedness And Safety Commission Denying An Appeal Filed By Millard Tong, Bart Willoughby, Elizabeth Benson, Garth Yeaman, Michelle Mackay, Eileen Frances Horan, Juliet Kalotkin, Kathryn Deliceno, Cassidy Saenz, Gordon King, And Doe 1 And Upholding And Affirming The City Of Pacifica Building Official's Notice To Vacate The Premises At 310 Esplanade, Pacifica, California.

Chair Taverna asked if there were any comments. She stated that they need more information and clarification on this resolution.

Commissioner Erbacher understood that the Commission was told to look at the reasons at the time the vacation order was issued and that was the point they were talking about, not the extended period of time after that and it was their only decision at that point in time.

Special Counsel Biddle stated that was the issue before them at this time.

Commissioner Erbacher stated that the time passed, the weather changed, large waves did not happen and that does not affect the action they were doing now, because it was not known at that time or could have been known.

Special Counsel Biddle didn't think they freeze their consideration of the situation in time, but they need to be mindful of the existing conditions that remain there. He stated that they have a bluff that has failed at the southern end of the property and they also have the testimony from the city's expert about the concern that, while maybe the rains have not come, but given the fact that the conditions of the bluff now are prone to failure at any time. He stated that, while they were looking at their act as of that time, they also need to be mindful of the current conditions and the testimony of the expert. He stated that his take on it was that he continues to be concerned that, notwithstanding whether these rain events occur, they have a steep bluff which is prone to failure. He also pointed out the appellant's own expert, Prof. Sitar, and the testimony provided to the Commission the night of the hearing where he did not feel that it was safe by his willingness to allow people to go in merely to retrieve their belongings. He felt that they also need to think about whether it was safe at the present time.

Commissioner Erbacher stated that at the meeting he asked the property owner if he had any plans to stabilize the slope since there was a question by both his consultant and the city's consultant about when it could fail. He stated that Mr. Willoughby pointed out that, if it rains, it is a problem. He also thought Mr. Sitar's study indicated _____. He stated that, from his point of view, he sees a property owner and community that are really _____. He had made comments that it was a sad thing that the city was losing this housing and we need extra housing _____. They indicated that also, but, in this particular site, it was his opinion that it was the property owner's responsibility to come back at this point with either a plan or a detailed study that would give some basis for which the Commission, the city, or the building department could make an informed decision that the building is safe to occupy or part of the building was safe to occupy but maybe some units removed. He would not change his vote at the time of that meeting.

Commissioner Shaw stated that there has been a lot of activity in the ring of fire in Japan and Ecuador with earthquakes and we were part of that ring of fire for the earthquake fault. She stated that you never know when we are going to have one, adding that they have been telling us for years. She thought a good jolt could really _____ of that cliff.

_____ stated that there was testimony in the record about that.

_____ thought the additional information provided to them by Mr. Willoughby didn't really change her mind because their decision was based on the report previous to this and years of information that _____ had collected. She concluded that you can never know when an event is going to occur, but there was still very compelling information to her that it was not safe for the tenants of the building.

Chair Taverna appreciated the evidence and she sees how passionate he feels about this and how he studied it, and as she mentioned before, the Commission's duty was to think of the safety of the lives of the people who are living in an area like this. She still supports the evidence that

was presented at the first meeting that it was unsafe to have people living in the housing at this point because of the unknown prediction of what can happen, such as earthquakes. She was hopeful that they were through the rainy season but, because of the reality that they were in a drought for so many years, they don't know the impact of rains this year and in the future would have on that area and it was very concerning to her. She thought their primary ____ was for the safety of the people. She understood that it has created a terrible burden on many of the residents to try to find some housing, but they have to think of the evidence with which they were presented and make a decision on that. She would like to have the Commissioners say whether they support the evacuation that was done on January 25 and will they support the resolution that was made.

Special Counsel Biddle stated that earlier they adopted their minutes and they were an attachment to the resolution and he wants to be clear for the record that they would insert the corrected minutes that they approved earlier in the meeting as Attachment A to the resolution.

Chair Taverna asked if Commissioner Johnson supported the resolution, followed by Commissioners Salisbury, Blackburn, Shaw, Chiechi, Erbacher, who all responded affirmatively, and she also supported it.

Special Counsel Biddle asked that, as the normal way of seeing resolutions adopted, she ask a commissioner to make a motion to approve the resolution, have it seconded and then ask for the vote.

Commissioner Erbacher so moved, seconded by Commissioner Blackburn.

7-0

NEW BUSINESS:

Chair Taverna stated that they haven't talked about that at the last two meetings and the last time they talked about it, they didn't have anyone who was interested. She stated that a couple of Commissioners tried _____ to find somebody. They were thinking of somebody in high school.

_____ thought they should look at some of their goals and strategize _____.

Chair Taverna stated that it was a good point.

_____ added getting information out to the community _____.

Chair Taverna stated that they did have 2016 goals which they probably need to visit. She suggested they be on their agenda for the next meeting in May.

_____ stated that they could add onto that _____.

Chair Taverna thought that would be a good idea.

_____ stated that there were none but to center on the goals. _____.

_____ asked if it would be broken up and people work within their regions so they know the people in their area.

_____ stated that they're going to make the decisions and they were going to be _____ command posts and they will be there to guide _____.

NEXT MEETING: May 18, 2016

_____ stated that, for the next meeting date, _____.

_____ reminded the Commission that _____.

Chair Taverna stated she would like to adjourn the meeting.

Commissioner Johnson so moved; Commissioner _____ seconded.

_____ thanked _____ for the support of their _____ projects.

Chair Taverna stated that it was difficult and challenging for the Commission to work with an issue like this. She appreciated that they all supported them.

Cpt. Clements thanked them for the kind words, adding that he could not have done it without the assistance of Sergeant Glasgo, special counsel to the Commission Mr. Michael Biddle and City Clerk Kathy O'Connell.

ADJOURNMENT: 7:40 p.m.