

MINUTES

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

April 16, 2018

7:00 p.m.

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

ROLL CALL: Present: Commissioners Kraske, Stegink, Gordon, Campbell, Clifford, Rubinstein, and Chair Nibbelin
Absent:

SALUTE TO FLAG: The Planning Commission led the salute to the flag.

STAFF PRESENT: Planning Director Wehrmeister
Asst. City Manager Hines
Assistant City Attorney Sharma

APPROVAL OF ORDER OF AGENDA Commissioner Clifford moved approval of the Order of Agenda; Commissioner Gordon seconded the motion.

The motion carried **7-0**.

Ayes: Commissioners Rubenstein, Kraske, Stegink, Gordon, Campbell, Clifford and Chair Nibbelin
Noes: None

APPROVAL OF MINUTES: None

DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF MAY 14, 2018:

Chair Nibbelin stated that they have Commissioner Clifford designated for the 801 Fassler Call Up.

Planning Director Wehrmeister pointed out that the City Council has moved all annual reports to a study session for all commissions and committees, starting at 5:45 p.m. on May 14th.

Chair Nibbelin thought, if they can make it, it would behoove them to be present for that meeting.

ORAL COMMUNICATIONS:

None.

CONSENT ITEMS:

None

Attachment: Draft Minutes 04-16-18 (2561 : Approval of Draft Minutes - 4/16/18 Meeting)

PUBLIC HEARINGS:

1. CDP-390-17

File No. 2017-029 – Coastal Development Permit CDP-390-17
 For the construction of a two-story, 3,819 square foot (sf) single-Family dwelling on a 12,498 sf vacant lot on the north side of Olympian Way, approximately 1,200 feet west of the intersection with Grand Avenue (APN 023-038-350). Recommended CEQA Action: Class 3 Categorical Exemption, Section 15303.

Chair Nibbelin stated that he understood this item was going to be continued.

Planning Director Wehrmeister stated that, after publication of the agenda, it was determined that there was a misunderstanding about the heritage trees on site and staff will need to do further analysis. The request is to continue the item to a date uncertain and it will be renoticed.

Commissioner Clifford moved that the Planning Commission continue this item; Commissioner Gordon seconded the motion.

The motion carried **7-0**.

Ayes: Commissioners Rubenstein, Kraske, Stegink, Gordon,
 Campbell, Clifford and Chair Nibbelin
 Noes: None

2. TA-111-18

Text Amendment TA-111-18, adding Article 49 to Chapter 4 of Title 9 to the Pacifica Municipal Code relating to short-term rentals. Recommended CEQA Action: Exempt (CEQA Guidelines § 15061(b)(3)).

Planning Director Wehrmeister stated that Asst. City Manager Hines was present, adding that he will oversee the administration of the program and was available for questions, then presented the staff report.

Chair Nibbelin stated that he would take comments or questions from the Commission and, if the public has comments, he will make that available to them, then return to the Commission for discussion.

Commissioner Clifford asked if there was any “teeth” in the ordinance to force people to register as an Airbnb.

Planning Director Wehrmeister stated that it does require short term rentals to register to get a permit and, without a permit, you are in violation of the zoning ordinance. She stated that firms that assist cities with tracking will make the initial notice and ultimately, if they don't comply, it will be a code enforcement issue.

Commissioner Clifford acknowledged that code enforcement will be in charge of enforcing the code, adding that the City Council will decide on the fines when they get this.

Planning Director Wehrmeister responded affirmatively, adding that misdemeanor violations of the zoning ordinance are already prescribed in the codes.

Commissioner Gordon thanked her for the presentation. He stated that he was reading the Coastal Commission's recommendations and noticed that they listed nine bullet points of provisions that they found helpful when cities were crafting their ordinances. He saw that the TOT was on there and in the city's ordinances. He asked if there were any of their other recommendations that were incorporated into the ordinance.

Planning Director Wehrmeister stated that additional recommendations were not added at this time, but once more data is collected additional requirements could be added in the future.

Commissioner Gordon got the sense that with this particular ordinance they need more data and weren't ready to do the full regulation, so it was a holding ordinance for them to move forward on more data and this was a stopgap situation.

Planning Director Wehrmeister agreed, adding that a lot of communities are seeing a tremendous impact. She stated that there was a wide variety of regulations that could apply but she stated that they were not receiving a lot of complaints through code enforcement or the police. She stated that the City needs to collect data to support appropriate regulations.

Commissioner Gordon stated that, by reading the Tribune, he knew there was a "dust up" in the Pedro Point area with a short term rental with lots of parties and a lawsuit. He acknowledged that it was a potential issue and there were concerns involved. He understood it was a stopgap but he got concerned because it was light in terms of its teeth.

Chair Nibbelin stated that maybe he missed it because he was reading too fast, but he asked if there was a renewal requirement. He thought there was a reapplication for those who had permits revoked but he was curious about a term for initial issuance of permits so that if the permit requirements evolve in the future they won't have arguments in the city's ability to impose additional requirements on permits including those who hold a permit.

Planning Director Wehrmeister said there is a renewal requirement and invited the Asst. City Manager's input.

Asst. City Manager Hines stated that, regarding the short term rental permits, they will craft that regulation to insure that as many people comply with obtaining the permit. He stated that there will be teeth built into the requirement. He stated that they are working with various consulting firms who are bringing best practices and they will eventually settle on one of the firms who will do the compliance directly or give them the information so staff can do the compliance. He stated that now they are trying to decide what the best option was from a cost benefit standpoint.

Chair Nibbelin stated that he is aware the County is working on this issue and the City may be able to get a volume discount.

Commissioner Stegink stated that he noted in the staff report that they haven't contacted any of the major players, mentioning several cities that have voluntary collection agreements with the top two market share players. He asked if we have considered that to expedite the process and cut some costs and time.

Planning Director Wehrmeister stated that they intend to contact them directly, adding that the city was also a part of 21 Elements, and one of the projects they are working on it to bring the larger website platforms to the table.

Commissioner Stegink noted that there was no financial argument. He read the 21 Elements report and thought they had an average of 108 days' rental at an average of \$83 per unit which was about \$9,000. He asked if that was consistent with what they would expect for each unit to generate in total revenues in Pacifica.

Asst. City Manager Hines didn't know if they can come up with an estimate now, which is why they don't see numbers in the report. He stated that Pacifica's rental market is unique onto itself and they would need outside help in tabulating what the estimated revenues would be, adding that they know the market is there.

Commissioner Stegink asked if 21 Elements has broken it down by city, stating that they have an average for the whole county.

Asst. City Manager Hines stated that he did not know.

Planning Director Wehrmeister referred to an earlier question, stating that packet page 47, ordinance section 9-4.4906 was revocation and enforcements.

Chair Nibbelin stated that she was right, and he sees the permit term on page 46 which is a one-year permit. He thought one year might be a little short once they are fully established.

Chair Nibbelin opened the Public Hearing.

Jamie Monozon, CEO of the Pacifica Chamber of Commerce, stated that she was present on behalf of the hotel BID. She stated that they have done their research on Airbnb and she was happy to volunteer her time to help assist in that effort to gather information for Airbnb. She felt it was important to cover this and the TOT tax gets collected. She stated that, over the last five years, the Pacifica Hotel Improvement District has spent over \$360,000 advertising visiting Pacifica, adding that the Airbnb people are benefitting from that and the hotels are losing. She stated the Chamber was in support of this getting passed. The bid has hired the same PR person that handles the Hilton Hotels in San Francisco, etc. She stated that hotels have had declining rentals in the last several years due to the increase of Airbnb properties in Pacifica. She stated that there are 335 Airbnbs available in Pacifica, averaging about \$145 per night for a room or a whole house at \$230 and a room at \$84 per night and the hotels can't compete with that. She stated that the economic impact was putting their businesses in a very tough position affecting the local economy by way of jobs, etc. Because hotels can't compete, they would like them to pay TOT tax and become members of the bid if possible so they can be contributing to the advertisement and pay their share. She had informational material showing where Pacifica has been advertising. She reiterated their support for TOT tax and would like to have more conversation with the city to get them involved in the efforts to bring people to Pacifica.

Rick DeAlba, Pacifica, stated that they were opposed to this, adding that they are already over regulated and over taxed as regular citizens and he felt this was more regulation and more tax and they are tired of being taxed at every turn. He stated that, if this goes forward no matter what people in the community say, and they have an Airbnb, they want to be included in the

advertising. He asked, if you are taking money from them, what are they getting back or what does it do for them, or are they going to give the city money and get nothing back. He felt that would be unfair, but they should at least put them in the advertising.

Chair Nibbelin closed the Public Hearing.

Commissioner Stegink was curious about the list the first speaker had with the 335 Airbnbs active in Pacifica.

Ms. Monozon stated that she got that from the Airbnb website.

Commissioner Stegink asked if she was going to submit the documents.

Ms. Monozon stated that she would be happy to do that.

Chair Nibbelin stated that they will become part of the minutes.

Commissioner Stegink asked staff if there was a belief that the Airbnb units cannibalize the hotel sales.

Asst. City Manager Hines stated that it was hard to say, but they know that there is a market in Pacifica that should be subject to TOT business license and a permitting process. He stated that, like all other commercial entities in Pacifica, they have to be part of that equation. He stated that, regarding the impact on the hotel, one can make that conclusion but now they know that there is a commercial activity going on that is not subject to the regulations to which the other commercial activities within the city are subject. They were trying to level the playing field.

Commissioner Stegink asked if it was accurate that the occupancy rate of the hotels has dropped over the last few years.

Asst. City Manager Hines stated that he did not know.

Commissioner Stegink asked if the Planning Director was aware of that.

Planning Director Wehrmeister stated that she was not aware of that.

Chair Nibbelin thought the first speaker might have some data on that if the Commission were inclined to hear from her. He asked her if she wanted to speak to that item.

Ms. Monozon stated that she has an owner of a hotel and he can speak for himself.

Chair Nibbelin stated that they would entertain another public comment.

Dillon Patel, Sea Breeze Motel operator, stated he has operated the motel for the last 20 years and been in the motel business for 30 years in Pacifica. He stated that their occupancy has dropped. He stated that, in the summer, they don't have much of a problem, but now in the wintertime when everyone is renting rooms out, without any permits or business licenses, they are taking business away from the hotels. He stated that they don't have a problem if they file for a business license and do everything legally right, paying taxes. He stated that, with 300 Airbnbs going up

and only 40 people have applied for a business license and were doing it the right way. He stated that the city was getting some TOT back. He stated that they have an inspection every year from the fire marshall, and he was sure some of them do not have smoke alarms, etc., that are required by law. He stated that was for safety. He stated that was another factor they should be looking at. He stated that when they have a party, you don't know who is renting, but the city should know how many are applying for the license. He reiterated that their occupancy was going down a little bit at a time, and he sees that. He stated that someone booking rooms as a group, instead of going to a hotel, they get the whole house and it would be cheaper. If they don't have a business license, the hotels are losing business.

Commissioner Stegink read that the article says they would obtain a business license and pay all TOT tax. He asked if that was retroactive or back to the calendar year.

Asst. City Manager Hines stated that they have not decided if it will be retroactive. He thought the best way to do it was going forward which will probably be the approach they take.

Commissioner Stegink asked if the fee is \$25 or there is no fee for those renting less than three units.

Asst. City Manager Hines stated that they will establish that fee. He stated that he didn't have a level for that fee now.

Commissioner Stegink suggested that it be as low as possible, maybe even \$1.

Commissioner Clifford referred to the bid and wanting to be part of the advertising if the TOT was passed. He wanted to be clear that the bid was not paid for by the TOT or the business license but a separate group. He was pretty sure the Chamber of Commerce which he thought managed that would be more than happy to have any of the Airbnb entities join. He asked if she would come to the mike and say that.

Ms. Monozon apologized if it came across that way, as that was not what she meant. She stated that the TOT tax was completely separate from the bid. She stated that they would love to have the Airbnb folks as part of the Chamber of Commerce and part of the effort of getting people to Pacifica.

Commissioner Gordon stated he was in favor of the ordinance as he felt it seemed fair. He looked forward to seeing it developed as more data is collected. He asked staff if the TOT tax went into the General Fund.

Asst. City Manager Hines stated that the TOT tax rate was 12%. He stated that they currently collect roughly \$1.7 million annually which flows directly into the General Fund to support the city's general operations.

Chair Nibbelin concluded that they haven't received a significant material number of complaints regarding impacts related to these kinds of uses.

Asst. City Manager Hines agreed that they have not received a large amount of complaints, but the few that come in are connected into his office and there are things they have to do. He mentioned instances of too many people in the house with parking in the neighborhood going

away, a lot of noise, a lot of people driving. He stated that it may not be a huge quantity at this time but even a small number of complaints warrant a call to Planning or the PD to find some solution for the homeowner.

Chair Nibbelin thought there were some cost impacts to the flow to the city and city staff and resources in dealing with this. He thought that it might be a fine use, but one that creates impacts that need to be mitigated. He started thinking about things they did when they looked at this for the unincorporated county including the limits on occupancy, such as how many can stay in a house based on the size of the house, off street parking concerns, as some residents find it off putting to not be able to find parking when coming home from work. He assumed that as they move forward, these are things that will be addressed.

Asst. City Manager Hines stated that because of those behaviors they want to make sure folks who obtain a short term rental permit understand that we have noise ordinances, nuisance ordinances, health and safety requirements and they want to make sure it is clear.

Commissioner Gordon moved to adopt the resolution included as Attachment A initiating Text Amendment TA-111-18 and recommending approval to the City Council; Commissioner Campbell seconded the motion.

The motion carried **7-0**.

Ayes: Commissioners Rubenstein, Kraske, Stegink, Gordon,
 Campbell, Clifford and Chair Nibbelin
 Noes: None

CONSIDERATION:

3. Annual Reorganization of the Planning Commission.

Chair Nibbelin stated that they can do one motion for both a Chair and Vice Chair or individually. He suggested doing it individually which is less wieldy. He entertained any motions.

Commissioner Gordon stated that they have had a lot of turnover and they used to have a lot of people who had been on for many years, and they went in order of seniority so that the newer members had a chance to see how things worked. He stated that, in the interest of starting over, he would nominate the most senior commissioner who is Commissioner Campbell if accepted.

Chair Nibbelin stated that he was prepared to second that. He thought Commissioner Clifford was the other person whom he might like to see as Chair, not because anyone is lacking in qualifications as he felt everyone was capable of serving. He stated that he would like to nominate him for Vice Chair.

Commissioner Gordon thought that sounded good. He asked if they would accept.

Commissioner Campbell stated that he would accept.

Commissioner Clifford stated that he would also accept the Vice Chair.

Commissioner Gordon asked if he should make a motion.

Chair Nibbelin stated that was his friendly amendment to his motion.

Commissioner Gordon made a motion appointing Commissioner Campbell as Chair and Commissioner Clifford as Vice Chair; Chair Nibbelin seconded the motion.

The motion carried **7-0**.

Ayes: Commissioners Rubenstein, Kraske, Stegink, Gordon,
 Campbell, Clifford and Chair Nibbelin

Noes: None

COMMISSION COMMUNICATIONS:

Commissioner Stegink asked for the status of recreational marijuana and manufacturing permits.

Planning Director Wehrmeister stated that the use permits were due the following Friday, having received two with a potential of receiving a total of 22.

Commissioner Stegink asked if they were from the same individual.

Planning Director Wehrmeister stated that it was the same individual but different locations.

Commissioner Stegink concluded that only one individual has currently applied as of this moment. He stated that he received an email from a gentleman interested in the heritage trees. He asked if they keep track of heritage trees they cut down.

Planning Director Wehrmeister asked if it was trees the city cuts down or that receive a permit.

Commissioner Stegink responded affirmatively.

Planning Director Wehrmeister stated that heritage trees do receive a permit to be removed and are processed through the public works department.

Commissioner Stegink stated that they total them up in a report. He asked, if there were records of how many heritage trees were removed.

Planning Director Wehrmeister stated that there should be a record of that.

Commissioner Stegink understood that eucalyptus trees were “dead men walking” as there was no protection for them short of a City Council proclamation.

Planning Director Wehrmeister agreed that they were not considered heritage trees under the ordinance but they do have an anti-logging ordinance which was 20 trees no matter what the species.

Commissioner Clifford stated that he attended the Library Advisory Committee meeting and things were moving forward as they were now planning outreach to allow the public to know that they have heard what the public said with their vote and they intend to keep the Sanchez Library and build a new library at the existing Sharp Park Library site, if the voters approve that. He

stated that he has already contacted the Chamber of Commerce and they will be doing a power point there.

Chair Nibbelin thanked him for his service on that committee and he thought great stuff was getting done. He stated that he attended the City Council meeting the previous Monday and the City Council denied the appeal on the 674 Corona project. He stated that there were some concerns expressed about the relative brevity. He stated that there was a very long proceeding before that project and the appellant thought it was truncated relative to what came before.

STAFF COMMUNICATIONS:

Planning Director Wehrmeister thought they would be interested to know that they received a fairly large new hotel application on Oceana, the site north of the Pavilion of Flowers. She stated that it was for two hotels on the site, one a traditional 30 days or less and the other was an extended stay hotel with a total of 194 rooms. She stated that the phase 1 hotel is 108 and the second is 86 rooms.

Chair Nibbelin thought it was the level of hotel they were talking about in terms of diamonds or however they classify things.

Planning Director Wehrmeister thought it was within the Hilton brand.

Chair Nibbelin mentioned that they have the May 14, 2018 Planning Commission annual report.

ADJOURNMENT:

There being no further business for discussion, Commissioner Clifford moved to adjourn the meeting at 7:40 p.m.; Commissioner Stegink seconded the motion.

The motion carried **7-0**.

Ayes: Commissioners Rubenstein, Kraske, Stegink, Gordon,
 Campbell, Clifford and Chair Nibbelin
 Noes: None

Respectfully submitted,

Barbara Medina
 Public Meeting Stenographer

APPROVED:

 Planning Director Wehrmeister