



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, April 15, 2010, 7:00 p.m.
777 B Street, Hayward, CA 94541**

MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Chair Mendall.

ROLL CALL

Present: COMMISSIONERS: Márquez, Loché, Peixoto, Lavelle
CHAIRPERSON: Mendall
Absent: COMMISSIONER: McKillop, Thnay

Chair Mendall noted that Commissioner McKillop called before the meeting to recuse herself due to a conflict of interest with the hearing item. After roll call, Commissioner Márquez also recused herself due to a conflict of interest with the hearing item.

Commissioner Loché led in the Pledge of Allegiance.

Staff Members Present: Conneely, Cruz, Patenaude, Rizk

General Public Present: 18

PUBLIC COMMENTS

None

PUBLIC HEARING

1. Historic Preservation Program, including 1) a Historical Resources Survey & Inventory; 2) a Historic Context Statement; 3) a Historic Preservation Ordinance; 4) Goals and Objectives for Historic Preservation; and 5) Incentive Programs

Planning Manager Richard Patenaude, born and raised in Hayward, explained how his passion for the history of his hometown started at Tennyson High School. He said he served as the Historic Preservation Officer for the City of Palm Springs for 15 years before returning to Hayward. Mr. Patenaude expressed his excitement that Hayward was reviewing its Historic Preservation policies and ordinance and presented his report.

Chair Mendall explained to the members of the public present that the Planning Commission will make a recommendation to the City Council who will make the final decision on the matter.

Commissioner Lavelle thanked staff for the report and indicated that as background it was helpful to see the draft Historic Context Statement prior to that evening's meeting. From the report, Commissioner Lavelle asked what was meant by "feeling" under the physical aspects and integrity

criteria the National and California Registers of Historic Resources use to determine the historic value of a property.

Planning Manager Patenaude explained that "feeling" is the most subjective of qualities on the criteria list and basically comes down to how you relate to the building in question. Does it feel like the building retains its historic integrity, he asked. "If someone from the past was standing there with you, would they recognize the building," he questioned.

Commissioner Lavelle said that one number that jumped out as she read the report was the volume of properties in the survey area and especially the 160 buildings that retain a "high degree of integrity". She asked if that number was high or low for a city of Hayward's size. Mr. Patenaude said staff was encouraged that there were still that many structures standing considering historic preservation hasn't received a lot of attention. The City was incorporated in 1876, he said, and since that time has lost many wonderful buildings, that 160 still remain, however, is really great. Commissioner Lavelle said it seems like a grand effort by property owners and felt encouraged.

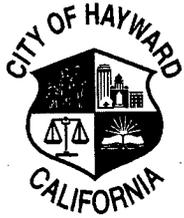
Commissioner Lavelle asked who or what body would maintain the local register of designated historical resources as called for by the City's proposed historic statement. Mr. Patenaude said the City's Planning Director would maintain that list and would make the information available to the public via the City's GIS (Geographic Information System).

Regarding the proposed City ordinance, Commissioner Lavelle asked if earthquake zones would also be taken into consideration when developing standards of approval for development in historically-sensitive areas.

Planning Manager Patenaude said some years ago the state started requiring local agencies to bring unreinforced masonry buildings up to certain seismic standards and in the City of Hayward all of the buildings now meet that requirement. But because some of these masonry buildings (and other buildings) sit directly on top of the Hayward fault, Mr. Patenaude said it is likely we will lose them in a major quake. Commissioner Lavelle said hopefully the buildings lost will be ones with a low level of historic integrity, but Mr. Patenaude said losses will probably impact all levels. He pointed out that when a historic building that is located on a fault trace is lost, it is usually not replaced. An example of that is Newman Park in downtown, he said.

Also in the report, Commissioner Lavelle said she saw the word "uniqueness" under the list of criteria to determine if a building has historic integrity and she asked Mr. Patenaude to define what was meant or give an example. Mr. Patenaude explained that "uniqueness" is what sets the property apart from similar structures in Hayward. Or, he went on, if there aren't very many examples of that particular architecture left or, for example, if looking at Victorians, the one that is the very best.

Commissioner Lavelle said that the proposed ordinance would include some of the provisions of the Mills Act, allowing the City to offer financial incentives for property owners to maintain their historic properties. She said the limit of \$1.5 million for the value of a residential dwelling seemed low and asked Mr. Patenaude how that number was arrived at and if it would be reevaluated in the future when the economy improves. Mr. Patenaude said that amount could be reevaluated by the Council at any time.



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Commissioner Lavelle asked Mr. Patenaude to confirm that the proposed incentives really only apply to those property owners who do not already maintain their home. Mr. Patenaude responded by saying that was not necessarily true and that assumes that the higher value properties are owned by people with higher incomes. It may be, he explained, that someone has owned the home for a long time and has a low mortgage payment. They may be able to afford the house, but they can't afford to make repairs and improvements, he said. The incentives are for people who can't afford to make the improvements without some assistance.

Commissioner Lavelle said per his request, she had some comments for the Issues, Goals and Objectives of the City's Historic Preservation policy but would wait until the discussion had reached that point.

Planning Manager Patenaude said he forgot to report that Sheila McElroy, principal, and Sarah Hahn, architectural historian, from Circa were in the audience to answer any specific questions. (Circa produced the survey that identified individual structures and made a recommendation regarding the establishment of historic districts.)

Chair Mendall asked Mr. Patenaude to confirm that if someone owns a historical home worth \$3 million they are not disqualified from benefitting from the tax savings, they are just limited to benefitting up to \$1.5 million of the home's value. Mr. Patenaude corrected him explaining that the value of the home cannot exceed \$1.5 million, but there may be justifiable reasons to provide an exception to that.

Commissioner Loché said he appreciated Planning Manager Patenaude's personal interest and involvement in the issue and concurred with Commissioner Lavelle that \$1.5 million seems low for a value cap. He said the proposed ordinance includes provisions from the Mills Act, but the report indicates that staff will developed specific local incentives. Commissioner Loché suggested those incentives be put in place as soon as possible because the City is poised for some major development and those incentives could play a huge role. He asked Mr. Patenaude when those incentives will be put in place.

Planning Manager Patenaude indicated that in the next fiscal year (FY10/11) staff is already scheduled to look at Upper B Street Historic District and local incentive programs under the Planning Division's Work Program.

Chair Mendall asked Mr. Patenaude to explain the immediate consequences to a property owner whose home or structure has been declared historically significant. Mr. Patenaude explained that being included on the inventory list does not place the property on the City's register and that there are no "immediate" consequences because there's a whole process that has to occur before a property is deemed historic. If a property is deemed historic, having a survey in place, Mr. Patenaude continued, would allow CEQA (California Environmental Quality Act) evaluations to be made much quicker which could be a benefit to the property owner.

Chair Mendall asked Mr. Patenaude to describe the process once a property has been included on the City's register. Mr. Patenaude said the Hayward City Council has made it clear that any residential designation should be made voluntarily by the property owner. That said, the City may find some properties so important that the designation may occur anyway, he said, but that will most likely occur with commercial and civic properties.

Due to the number of properties included in the survey area, Chair Mendall asked how many residential properties does Mr. Patenaude predict will be found historic without the property owner volunteering the status. Planning Manager Patenaude said he can't predict the number but the properties with highest level of integrity would be the most probable and he hasn't done a count of residential versus commercial. Most of the commercial properties will be downtown, he said, for example the old bank building at B and Main Streets. Mr. Patenaude further explained that the number of properties deemed historic by the City without the property owner volunteering the status, will only be a handful each year because it takes staff time to assess each property. He pointed out that the survey does not include a lot of background information for properties labeled medium or low integrity so staff, with the assistance of the owner, will have to conduct the research.

Chair Mendall said based on what Mr. Patenaude had said, the number of properties going through the historic designation process will probably be four or five each year and Mr. Patenaude said yes. Chair Mendall also confirmed with Mr. Patenaude that most of those will hopefully be initiated by the property owner and Mr. Patenaude said especially residential structures.

Planning Manager Patenaude added that the City might see a large influx of properties when staff starts looking at the historic districts. At that time, he said, staff would have to consider the entire district to make the determination if a particular property sets the standard for the historic character of the neighborhood and also what any infill designs are going to look like in that area.

Commissioner Loché asked Mr. Patenaude what the City can do to encourage property owners to participate in the process. Commissioner Loché pointed out that the level of involvement in other cities varied dramatically and he wondered what those cities are, or are not, doing to generate participation. Planning Manager Patenaude said the biggest factor is promotion and getting the word out to owners about the potential benefits. For example, Los Angeles has a lot of information on its website and has done an excellent job of promoting historic preservation, he said. When he worked in Palm Springs, Mr. Patenaude said he made it a point to write letters to property owners of known historic properties and yet only secured one Mills Act contract and was contacted by only one other owner. He said he has no explanation for the lack of a better response although he suspects many had owned their homes for so long there was no financial benefit to participating.

Commissioner Loché confirmed that the City of Palm Springs didn't do anything to deter interest, owners just didn't participate, and Mr. Patenaude said that was correct. It's the same for San Francisco, Mr. Patenaude explained, "It may just be a matter of hitting the right people at the right time." Mr. Patenaude also explained that in big cities, surveys are done in a piecemeal process so promotion is usually only aimed at one area at a time. In the City of Hayward, he said, there are still areas that have not had a detailed survey conducted, however, information from others sources has helped find potential historic structures outside of the focus area.



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There being no other questions or comments, Chair Mendall opened the Public Hearing at 8:05pm.

Frank Goulart, with a business address on Main Street, said the Planning Commission's priority is the Mills Act and directed the Commissioners to a City of Oakland website that calculates Mills Act benefits, or devaluations, for property owners. Mr. Goulart explained that a percentage of the property tax goes back to the owner to spend on improvements to his or her historic property. For example, last year he said he had his building painted for \$12,000 for the first time in 5 years. That equals the amount he would have saved over the course of those 5 years under the Mills Act. He said the City needs to look at the Mills Act as an incentive program so property owners, and the City, realize that spending some money will ultimately benefit everyone by having our historic structures "come to life".

In Section 4.2.1 of the Historic Context Statement, Mr. Goulart noted that it said that American Indians changed their burial practices in this area several times, but the source of that information was not cited. Mr. Goulart wanted to know where that information came from and he was directed to speak to staff.

Commissioner Peixoto clarified with Mr. Goulart that according to the calculator and his understanding of the Mills Act, Mr. Goulart was saying that for every dollar that the City receives under the Mills Act, the historical property owner receives four dollars. Mr. Goulart said that is correct except in the Redevelopment Area. Commissioner Peixoto asked Mr. Goulart if he had figured out the cost to the City on the total project and Mr. Goulart said he had not. Mr. Goulart noted that of the 160 significant buildings in the City, part of the criteria that would add them to the City's register is whether or not the past owner was also historically significant. Mr. Goulart said staff should calculate the cost to the City to adopt the Mills Act; he would have tried, but he only found the calculator earlier that day.

Chair Mendall closed the Public Hearing at 8:12pm.

Planning Manager Patenaude thanked Mr. Goulart for bringing the calculator to his attention. In preparation for his report to Council, Mr. Patenaude said he would be using the calculator to run some numbers under the current ordinance for the 12 properties in Hayward already designated historical to see how those numbers compare to the proposed \$1.5 million limitation.

Commissioner Lavelle said this is an exciting time for the community and City. She pointed out that Hayward is over 100 years old so it is surprising that the City hasn't had a more in-depth discussion of its important structural history, she said. For those interested in seeing more pictures, she recommended a book available at the library and historical society entitled, "Early Hayward." It includes pictures of the Hayward Union High School which she described as a fantastically gorgeous Greek revival building. She said it was worthwhile for the City to get to this level of depth to have the knowledge and understanding of the value of the City's historic buildings. Commissioner Lavelle said the most important sentence of the report concerning property owners is the one that states no property is automatically placed on any official historic registry. She said the

City and Council are depending on and encouraging the homeowners to participate in the program. She pointed out that only a handful of properties could make contract under the Mills Act, but there are other incentives for residents to participate that are well worth discussing.

Commissioner Lavelle made a motion to approve staff recommendation and recommend that the City Council 1) determines that this program is exempt from CEQA; 2) accepts the Historical Resources Survey & Inventory; 3) accepts the Historic Context Statement; 4) adopts the Historic Preservation Ordinance; 5) approves the Goals and Objectives for Historic Preservation; and 6) resolves to participate in the Mills Act Program. Chair Mendall seconded the motion.

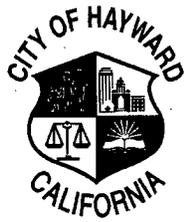
Regarding the Issues, Goals, Objectives and Actions for Historic Preservation, Commissioner Lavelle said it was very thorough and she supported the idea of coming up with a logo to symbolize the historical program. She also supported promoting and marketing Hayward as a broad, comprehensive goal that should include all facets of the City and not rely solely on the historic preservation alone. Finally, she encouraged staff to include photos when promoting the historic preservation program on the City's website so potential developers and business owners can see how well Hayward has maintained its older buildings.

Planning Manager Patenaude wanted to add that under the proposed ordinance, an immediate impact would be the review of any planned alteration or demolition of any properties 50 years or older regardless if the properties had ever been designated historic. In that respect, the survey has already been utilized as well as the City's GIS, to allow staff to determine that a property is low integrity and give the go-ahead for the homeowner to change out windows or add siding. He's also had the pleasure of informing a few homeowners that their house is considered medium integrity and explaining the various options to improve the home's energy efficiency without compromising its historical value. Mr. Patenaude indicated that he has attended workshops, and will be attending an upcoming State conference, dealing with improvements to energy efficiency in historic homes.

Chair Mendall noted that Hayward is fortunate to have someone with the level of experience and passion as demonstrated by Planning Manager Patenaude and this shows in the quality of the proposal put forward. Because of Mr. Patenaude's experience, Chair Mendall said the City's proposal is "strong out of the gate" and avoids many of the pitfalls experienced by other cities. He said he was also pleased to see that the feel of the overall proposal is about creating incentives and providing positive reasons for property owners to participate. The City's willingness to participate in the Mills Act creates a financial plus for the property owner. Chair Mendall said if this proposal was wildly successful he can imagine 100 properties officially registered as historic in the next 20 years with the cost to City being manageable especially when considering the value those homes will bring back to the owner and to the City. As a whole, Mr. Mendall said he sees the proposal as a net benefit with relatively minor costs to the City, and said he was pleased to support the motion.

There being no other comments, the motion passed 4:0:3 with the following vote:

AYES:	Commissioners Loché, Peixoto, Lavelle Chair Mendall
NOES:	None
ABSENT:	Commissioner Thnay
ABSTAINED:	Commissioner Márquez, McKillop



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Chair Mendall asked when these recommendations would go to the City Council and Planning Manager Patenaude indicated May 18, 2010.

WORK SESSION

2. Planning Commission Best Practices

Chair Mendall gave a brief introduction and explained the origins of the work session. The Commissioners then discussed and made suggestions on the potential ways the Commission could function more effectively.

Chair Mendall requested that they receive the Notice of Decision postcard, which contains the action taken by the Planning Director, in advance or via email so they have an opportunity to comment on a project.

In response to Chair Mendall, Assistant City Attorney Conneely said that if Commissioners speak to applicants about a project or receive application materials before the meeting to be sure to disclose it from the dais.

Chair Mendall asked when it is appropriate to give extra time for members of the public to speak. Ms. Conneely responded that the Planning Commission follows the same guidelines as the City Council and those are outlined in a handbook. She explained that it is always at the Chair's discretion to give more time to a speaker when appropriate.

In response to Commissioner Marquez, Assistant City Attorney Conneely said additional time can be given to someone who speaks another language.

Chair Mendall asked staff to explore the possibility of providing Commissioners with digital copies of documents. He also asked if it is possible to allow for public comments from people who are not present at the meeting. Ms. Conneely responded that a conference call can be set up, people can call in, and their comments can be broadcast as part of the discussion. Chair Mendall said he would like to move in that direction to make meetings more interactive.

Commissioner Marquez suggested that staff add a link (webcast) to the web page specific to the Planning Commission.

Commissioner Lavelle suggested holding a "debriefing" after a challenging public hearing to discuss and evaluate how the Commission responded. This would allow Commissioners an opportunity to brainstorm and improve the flow of the hearing, she said. Assistant City Attorney Conneely expressed her concern that members of public may think the "debriefing" is a discussion about City business and suggested that Commissioners give more thought to the topic before taking action.

In response to Commissioner Marquez, Ms. Conneely explained that a legislative body can only meet in closed session under very specific enumerated circumstances under the Brown Act, most of which don't apply to the Planning Commission but do apply to the City Council.

Commissioner Lavelle suggested that for more effective leadership, both the outgoing and incoming Chair should meet with the Planning Manager to discuss what the incoming Chair needs to know. Planning Manager Patenaude stated the City offers training/orientation to new commissioners and that the roll of the Chair can be added to the topics currently available and everyone is invited to attend a refresher course.

Planning Manager Patenaude said the Notice of Decision (a blue postcard) can be emailed to the Commissioners ahead of time. The initial notice can be also sent to the Commissioners when the application first comes in so they can make comments. Mr. Patenaude said he will consider the scope of the project when determining what notices should be sent to the Commissioners.

Chair Mendall thanked everyone for a very good discussion.

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters

Planning Manager Patenaude announced that there will be three items on the agenda for the May 13th meeting including a work session for the draft form-based code for the South Hayward BART project, a review of the Capital Improvement Program (CIP) and a public hearing on the Housing Element. Chair Mendall requested that the report on the CIP be provided as early as possible so there would be enough time to thoroughly review the typically large document. Commissioner Lavelle said she would like to pick up her copy rather than have it sent by mail and asked that staff call her when it is ready.

4. Commissioners' Announcements, Referrals

Commissioner Loché asked that the meeting be adjourned in memory of Pastor Emeritus Charles Bennett, the founder of the Palma Ceia Baptist Church more than 40 years ago, who was a vital part of the City of Hayward.

APPROVAL OF MINUTES

5. Minutes from March 11, 2010 were unanimously approved with one minor change.

ADJOURNMENT

Chair Mendall adjourned the meeting at 9:29 p.m. in memory of Pastor Charles Bennett.



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APPROVED:

Elisa Márquez, Secretary
Planning Commissioner

ATTEST:

Suzanne Philis, Senior Secretary
Office of the City Clerk