

CITY OF CAMPBELL PLANNING COMMISSION

MINUTES

7:30 P.M.

TUESDAY

JUNE 9, 2020
REMOTE ON-LINE ZOOM MEETING

The Planning Commission meeting of June 9, 2020, was called to order at 7:30 p.m. by Chair Krey and the following proceedings were had, to wit:

ROLL CALL

Commissioners Present: Chair: Michael Krey
Commissioner: Adam Buchbinder
Commissioner: Stuart Ching
Commissioner: Nick Colvill
Commissioner: Terry Hines
Commissioner: Andrew Rivlin

Commissioners Absent: Vice Chair: Maggie Ostrowski

Staff Present: Community
Development Director: Paul Kermoyan
Senior Planner: Daniel Fama
Finance Director: Will Fuentes
Police Chief: Gary Berg
City Attorney: William Seligmann
Recording Secretary: Corinne Shinn

APPROVAL OF MINUTES

Motion: Upon motion by Commissioner Buchbinder, seconded by Commissioner Hines, the Planning Commission minutes of the meeting of February 11, 2020, were approved as submitted. Note that the meetings of February 25, March 10 and 24; April 14 and 28 were cancelled. (5-0-1-1; Vice Chair Ostrowski was absent and Commissioner Rivlin abstained).

COMMUNICATIONS

None

AGENDA MODIFICATIONS OR POSTPONEMENTS

Staff advised that two emails were forwarded on to the members of the Commission since the packet went out on Friday, June 6th. One pertaining to Item 1 (CIP 2021-2025) and the other pertaining to Item 2 (596 Emory)

ORAL REQUESTS

None

PUBLIC HEARINGS

Chair Krey read Agenda Item No. 1 into the record as follows:

1. **City-Initiated** Public Hearing to consider the **City of Campbell 2021-2025 Capital Improvement Plan (CIP)** for citywide projects for consistency with the Campbell General Plan. Staff is recommending that the project be deemed exempt under CEQA. Tentative City Council Meeting Date: June 25, 2019. *Project Planner: Daniel Fama, Senior Planner*

Mr. Daniel Fama, Senior Planner, provided the staff report. He advised that this is a yearly task for the Planning Commission to review the Annual CIP with a focused purview of finding that the projects of the CIP are consistent with the City's General Plan. He introduced Margarita Mendoza, Administrative Analyst, with the City Manager's Office.

Chair Krey asked if there were questions for staff.

Chair Krey said he understands that the CIP has 26 projects, 13 of which are carryovers and 13 that are new. He suggested that the new projects somehow be highlighted.

Commissioner Hines said that the desk item provided by Planner Fama by email yesterday provides that information.

Commissioner Buchbinder said he has concerns over the proposed purchase of a militaristic vehicle for the Police Department. He asked how often the PD's existing such vehicle is used.

Administrative Analyst Margarita Mendoza:

- Reported the more recent use that occurred when there was a hostage situation at the Denny's Restaurant on Bascom Avenue.
- Advised that Campbell PD needed to borrow equipment for that incident.
- Stated that this item is considered to be a critical public safety need.
- Added that the cost of this vehicle is spread out over four years via a lease purchase.

Commissioner Buchbinder said it was his understanding that the City secured its current such vehicle through the 1033 Program that provided free military equipment to cities.

Administrative Analyst Margarita Mendoza replied yes.

Commissioner Buchbinder stressed that it was important that this vehicle would not be used for public safety in the manner seen most recently throughout the nation during protests.

Administrative Analyst Margarita Mendoza said that the role of the Commission is to determine if the CIP projects conform to the General Plan. She added that Commissioner Buchbinder's concern is a policy issue.

Commissioner Buchbinder questioned how this vehicle serves the goal of public safety.

Planner Daniel Fama read Section 8.51.1A – Emergency Planning funding. He added that Chief Berg believes this vehicle serves that need to respond to emergency situations.

Commissioner Buchbinder also questioned the Harriet Avenue Sidewalks Project that claims to enhance street access to pedestrians and bicycles. He stated that he doesn't think it improves conditions for bicycles.

Planner Daniel Fama advised that there is a Bicycle & Pedestrian Advisory Committee that provides feedback to the City Council from a cyclist perspective that would likely review the project.

Commissioner Hines said he agrees with Commissioner Buchbinder.

Director Paul Kermoyan:

- Pointed out that Harriet Ave Sidewalks Project is an existing project that is expanding outward. It was already found to be consistent with the General Plan with earlier CIP review.
- Added that the CIP is a five-year plan. There are items for Year 1, Year 2, Year 3, Year 4 and Year 5.
- Reiterated that Harriet is already deemed consistent with the General Plan.
- Suggested that if anyone on the PC has a concern, they should contact Public Works Director Todd Capurso to express those concerns.
- Concluded that the are valid.

Commissioner Buchbinder pointed out that this CIP is reviewed under the existing General Plan. The General Plan is currently under revision/update and will come before this Commission in the near future.

Director Paul Kermoyan agreed. He said that the draft was just circulated to the GPAC (General Plan Advisory Committee). The Planning Commission will see it later this year.

Commissioner Rivlin questioned the alternatives offered with the Measure O project. If Measure O funds are not used for what they were voted in for, those funds can't be used otherwise. What happens if it doesn't move forward?

Administrative Analyst Margarita Mendoza deferred to the Finance Director Will Fuentes who is also present this evening. She agreed that the obligation is to spend the Measure O funds as voters approved. She added that not doing it may not need to be offered as an alternative.

Finance Director Will Fuentes assured the Commission that the funds must be spend as voted. There is no alternative.

Administrative Analyst Margarita Mendoza suggested deleted that alternative.

Commissioner Rivlin said he would support that removal. It would make it clearer.

Commissioner Hines said he has four comments:

- Expressed the abiding commitment on the part of the Chamber of Commerce, of which he is a member, that "Black Lives Matter!"
- Stated his total support for the variety of items within the CIP intended for the Police Department. It is important to have those items.
- Reminded that a number of steps have already been taken in terms of future plans for City Hall. He stressed the need to make sure that budgets are not thrown out with Measure O. We must make sure we're not going to throw them out.
- Stated that an important issue to consider is how Campbell will address COVID-19 moving forward until a vaccine is developed, which made be within a year or so.
- Added that other viruses will come along in the future as well. We need a clear understanding on how we will address that important issue moving forward.
- Supported the idea of sending comments on to Council.

Chair Krey said that seems to be the general discussion on the part of the Commission.

Director Paul Kermoyan suggested Chair Krey open the public hearing to see if there are members of the public with comments about the CIP and its projects.

Chair Krey first asked if there are any further questions of staff.

Commissioner Ching:

- Said he too questions whether the proposed purchase of a militarized rescue vehicle truly meets the citizens' needs.
- Asked how exactly that conclusion was determined in this current situation with protests nationwide. How does it improve the feeling of safety within the community?
- Suggested that some in the community would feel unsafe with such a vehicle.
- Admitted that Campbell's Police Department is a great one.

Chief Gary Berg, Campbell Police Department:

- Stated that he is disappointed that anyone has the belief that this vehicle makes the community less safe.
- Reported that the 90's 1033 Program vehicle is routinely used by the Department's SWAT Team for regular monthly training.
- Informed the Commission that PD needs for its officers to have a way to resolve such situations.
- Reminded that the Denny's hostage situation lasted for 11 hours. We didn't have a vehicle and had to borrow one using mutual aid.
- Stressed that this is a commonly used armored vehicle used by law enforcement. Such a vehicle helped resolve the Denny's situation. Such vehicles are used for a lot of training and tactical situations.
- Said that it is important to provide his officers with the appropriate tools and equipment.
- Admitted that while he understands the bigger conversation being had right now his concentration is on safety in Campbell.
- Concluded that this armored vehicle will be available for use in rescuing citizens and keeping his officers safe in doing so. This vehicle is definitely a "need" for this community.

Commissioner Ching:

- Said that this Commission is questioning how such a purchase meets the needs of the citizens of Campbell. How do we know that? What evidence supports this equipment is required?
- Questioned whether this community may have not changed its view due to the current events going on.
- Pointed out that it is a \$250,000 purchase.
- Reiterated that the Commissioners purview is to find all projects contained within a CIP can be found as consistent with the City's General Plan.
- Admitted that he is not so convinced.

Chief Berg:

- Replied that the number one need of a community is for its residents to be safe. Public safety is a priority.
- Added that PD needs to prepare to keep this community safe.
- Said that his role is making sure we have the tools and training necessary to serve our community.
- Stated that should an event come up we need to be prepared.
- Pointed out that how people feel about this vehicle is a subjective question, but he knows that people want to feel safe.

Commissioner Colvill

- Stated that a great discussion is happening here in determining how the CIP fits with the provisions of the General Plan.
- Pointed out that police are also members of our community. Their safety is also very important.
- Said his only question is about where they line up between the estimated cost and actual costs. He asks about the accountability with the numbers.

Finance Director Will Fuentes:

- Stated that the CIP represents a total amount and not by individual project.
- Added that he could have a CIP Update prepared on each project showing what has been spent and what was approved. That would represent a new CIP-type of report that would show detail Commissioner Colvill is requesting.

Commissioner Colvill thanked Finance Director Will Fuentes and asked how the Commission should go about asking management to put that report together.

Director Paul Kermoyan:

- Cautioned that the Commission often tends to venture off topic during these annual reviews of the CIP. The role is to find projects consistent with the General Plan and that's all.
- Added that on the other hand, as individual members of the community, any member of this Commission can approach the Council directly to submit such a request.
- Reiterated that the purpose of this meeting is to focus on the correlation of each included project with the stated policies of the General Plan as they pertain to each project.
- Warned that the Commission is not her to discuss Police Department's need for body armor/vehicle or ammo for their guns.
- Added that the concern raised about the merit of the Harriet Sidewalk Project is limited as to whether the project serves to assist in mobility within the area. We are using the broad brush of the General Plan to ensure that all items included are conforming to the General Plan itself.
- Stated that he would reach out to Finance Director Will Fuentes about the possibility of additional reporting for the public's purpose.

Commissioner Hines thanked Chief Berg and his department for their service to the community.

Commissioner Buchbinder:

- Admitted that he is concerned that if the proposed armored vehicle is not because it might be used to perform a hostage rescue or active shooter situation but rather whether it might ever be used to disperse crowds.

Chief Berg:

- Reported that there are very detailed policies and procedures in place that dictate how police resources are to be used; when they are authorized to be used; and who is authorized to use the equipment.
- Admitted that there could be the potential need at some point for crowd control to occur under approved guidelines and policies if deemed necessary.
- Stated that he is proud of the work of our Police Department.
- Added that he understands that important issues have recently come to the forefront nation-wide and assured that the operational aspects of Campbell Police Department are based upon legal advice, training and years of experience.
- Reminded that tonight's discussion requires the Commission to decide if the CIP items are consistent with the General Plan.

- Said that the projects include the purchase of armored vehicle equipment to appropriately serve our City and provide the safety you deserve. He reminded that there are a variety of uses for such a vehicle and policies for uses.
- Agreed that discussions are valid right now and important conversations to have.

Chair Krey opened the Public Hearing for Agenda Item No. 1.

There were no speakers waiting on Zoom to address this CIP.

Chair Krey closed the Public Hearing for Agenda Item No. 1.

Chair Krey:

- Said that the discussion was good with good and valid questions being raised.
- Added that all members of the Commission did a good job.
- Stated that the question remains if the proposed CIP 2021-2025 conforms to the General Plan.
- Pointed out that priorities for policing are changing everywhere.

Commissioner Ching:

- Stated that all projects of the CIP are consistent, but he has a problem with the proposed Bearcat armored vehicle that is included.
- Admitted, however, he does not feel qualified to say if it is right for us to have one.
- Said that we may need more or may not need it at all.
- Suggested we pause and think about this further. Perhaps go back to Council within a public forum for further discussion.

Commissioner Hines:

- Stated his support for the comments of Commissioner Colvill and Chief Gary Berg.
- Added that Chief Berg has a life-long career and commitment to policing.
- Said that he fully supports the proposed Bearcat and accepts to move it forward as part of the CIP.
- Cautioned that there is no line-item veto offered to the Commission on the CIP.

Motion: **Upon motion of Commissioner Colvill, seconded by Commissioner Hines, Planning Commission adopted Resolution No. 4561 forwarding its Determination that the 2021-2025 Capital Improvement Plan (CIP) is consistent with the Campbell General Plan, by the following roll call vote:**

AYES: **Buchbinder, Colvill, Hines, Krey and Rivlin**

NOES: **Ching**

ABSENT: **Ostrowski**

ABSTAIN: **None**

Chair Krey advised that this item would be Considered by the City Council at its meeting of June 25, 2020.

Director Paul Kermoyan pointed out to the Commission that their individual comments will be reflected in the minutes of this meeting and conveyed to Council.

Chair Krey read Agenda Item No. 2 into the record as follows:

2. **PLN2019-215** Public Hearing to consider the application of Antje Paiz for a Site and Architectural Review Permit (PLN2019-215) to allow the construction of an approximately 3,800 square-foot one-story single-family residence and an increase to the allowable fence height, on property located at **596 Emory Avenue**. Staff is recommending that this item be deemed Categorical Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Daniel Fama, Senior Planner*.

Mr. Daniel Fama, Senior Planner, provided the staff report.

Chair Krey asked if there were questions for staff.

Commissioner Buchbinder asked why there are fence height limits in general and if they exist why is more flexibility being recommended here.

Planner Daniel Fama:

- Replied that the standard fence height is six feet for rear and side fencing.
- Added that as a fence approaches the front setback distance, it must reduce to no more than 3.5 feet.
- Reported that there are more frequent requests for expanded heights, but most are approved at staff level if both property owners sharing that fence agree.
- Explained that Campbell Village wanted to create a 7-foot height by right and incorporated that in their neighborhood plan.

Commissioner Buchbinder said it seems like there must be a balance between the need for privacy and not create a fort-like appearance.

Commissioner Ching provided the Site and Architectural Review Committee report as follows:

- Advised that the key notes from SARC have been provided in the staff report.
- Stated that this proposal was seen as good design. It is modern but single-story. It fits within the San Tomas Area Neighborhood Plan.
- Concluded that there were no issues and this project is excellent.

Commissioner Hines:

- Stated that this home design is a good fit. They are not pushing standards.
- Reported that this applicant spoke with the neighborhood association (STACC – San Tomas Area Community Coalition) leaders and they support this proposal.

- Said that the new owners want to be a part of the community.

Chair Krey opened the Public Hearing for Agenda Item No. 2.

Antje Paiz, Project Architect & Applicant:

- Reported that this is her first project in Campbell, and she has been working with her clients for about a year developing this final plan.
- Advised that a lot of their decisions were guided by the site itself.
- Said that this building has a clean line. It is informal and inviting and not pretentious.
- Stated her hope that the Planning Commission would support this project.

Mr. & Mrs. O'Brien, Property Owners:

- Said that they have nothing to add to their architect's comments.
- Stated that their last meeting (SARC) occurred about three months back and they are hoping to get to the point of securing their building permits.
- Shared that they are happy to be joining the Campbell Community.

Chair Krey closed the Public Hearing for Agenda Item No. 2.

Commissioner Colvill:

- Said that he is a neighbor of this area.
- Pointed out that this property backs onto the percolation ponds behind. It can be noisy back there.
- Said that this fence height is important for both privacy and sound attenuation.

Chair Krey:

- Stated his agreement with the SARC report. This home incorporates a nice design.
- Said that the support from STACC was good to see.
- Described this home design as somewhat Eichler-like. It fits in. It is unique.
- Concluded that there is no reason why the San Tomas Neighborhood cannot have a nice modern design constructed within it.

Commissioner Rivlin said that he is supportive as this home fits nicely in this neighborhood and community.

Commissioner Buchbinder:

- Stated that he is in support and likes the way this house looks.
- Added that it will be a beautiful house and thanked the project architect for its design.

Motion: **Upon motion of Commissioner Colvill, seconded by Commissioner Ching, the Planning Commission adopted Resolution No. 4562 approving a Site and Architectural Review Permit (PLN2019-215) to allow the construction of an approximately 3,800 square-foot one-story single-family residence and an increase to the allowable fence height on property located at 596 Emory Avenue, by the following roll call vote:**

AYES: **Buchbinder, Ching, Colvill, Hines, Krey and Rivlin**

NOES: None
ABSENT: Ostrowski
ABSTAIN: None

Chair Krey advised that this action is final unless appealed in writing to the City Clerk within 10 calendar days.

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Paul Kermoyan provided the following updates to his written report:

- Reported that the City Council has been working to help businesses within the community.
- Said that at its last meeting, Council discussed how best to work with the business community in recovery.
- Advised that as of Friday, June 5th, restaurants would be able to offer outdoor dining.
- Explained that the City Council has directed staff to allow some flexibility of the City's zoning standards.
- Informed that staff has been working with businesses since last Friday to help them expand outdoor dining without requiring permits and allowing relaxation of codes that normally apply.
- Said that with this expansion, restaurants will be allowed to expand their outdoor seating beyond their storefronts.
- Added that staff will meet with the Downtown Campbell Business Association to discuss the logistics for allowing outdoor dining to occur on public parking lots and parks.
- Suggested that the Commission "stay tuned" and concluded that he is available for questions.

Commissioner Hines thanked Council and staff for this help for businesses.

Director Paul Kermoyan:

- Pointed out that lots is changing. Zooming these meetings is the new "normal" for now.
- Assured that City Hall is fully functioning, and the Community Development Department's divisions are operating the permitting process on-line since the beginning of May through now.
- Added that the demand is high, and we are super-swamped. Again, everything is done on-line. We've taken in about \$500,000 in permit fees representing a good time of recovery.
- Reiterated that both SARC and PC will continue to meet via Zoom but will one day be back in the Council Chambers for public in-person meetings.

Commissioner Ching said great job.

Director Paul Kermoyan said that a lot of credit is due to both Senior Planners, Daniel Fama and Stephen Rose.

Commissioner Hines suggested that some form of How to Zoom Handout be prepared to facilitate new users to Zoom on-line meetings.

Commissioner Rivlin said that those interested in attending/participating have to pre-register.

Chair Krey said that it is pretty easy.

Commissioner Hines encouraged more assistance be provided.

Commissioner Buchbinder pointed out that while attending the Planning Commission Academy in March, he learned that a Planning Commission can initiate changes to the Zoning Code. He asked for that potential to be agendaized for a future meeting and discussion.

Director Paul Kermoyan agreed that it is within the Municipal Code that the Commission can initiate an amendment. However, if it involves money and staff time, the proposed amendment would be sent to Council to see if it matches their current priorities.

Commissioner Buchbinder:

- Said his first area of interest for change the parking standard to lower required parking within areas near mass transit.
- Said that he'd like to see this option discussed for both residential and commercial uses close to transit.

City Attorney William Seligmann advised that the first step is for this topic to be placed on a future Planning agenda.

Commissioner Buchbinder said he would like to do that.

Commissioner Colvill said he would second that if it was a motion.

Chair Krey said he's not sure about Council's priorities and would suggest a joint meeting with Council as a first step to get their input.

Commissioner Buchbinder restated that the Municipal Code allows us (PC) to initiate such a change.

Motion: **Upon motion of Commissioner Buchbinder, seconded by Commissioner Colvill, the Planning Commission took minute action to request that staff place a discussion item on a future Planning Commission Agenda to allow for the discussion of proposing parking modifications for sites located near transit, by the following roll call vote:**

AYES: **Buchbinder, Ching, Colvill and Rivlin**

NOES: Hines and Krey
ABSENT: Ostrowski
ABSTAIN: None

Commissioner Buchbinder:

- Advised that another topic that he'd like to see agendized is the consideration of a five-year deferment of the enforcement of any Zoning Code violations against existing non-conforming accessory dwelling units (ADUs) for a five-year period.
- Explained that such a State-wide deferment currently exists deferring Building Code enforcement of existing ADUs for a five-year period.

Motion: Upon motion of Commissioner Buchbinder, seconded by Commissioner Colvill, the Planning Commission took minute action to request that staff place a discussion item on a future Planning Commission Agenda to allow for the discussion of proposing a five-year Zoning Code deferment for enforcement of existing non-conforming ADU's, by the following roll call vote:

AYES: Buchbinder, Colvill and Rivlin
NOES: Ching, Hines and Krey
ABSENT: Ostrowski
ABSTAIN: None

Without a majority vote, this motion failed.

Commissioner Colvill commended Commissioner Buchbinder for bringing these ideas forward. He both appreciated and thanked him for that effort.

Commissioner Hines:

- Said he totally agrees with Commissioner Colvill's comments about the importance of the PC being able to bring up new business items. That is despite the fact that he personally voted against the motions this evening.
- Explained that he feels that there are currently other higher priority issues for the City to deal with including how to address the response to the COVID-19. A focus on that is an immediate and vitally important issue.

ADJOURNMENT

The Planning Commission meeting adjourned 9 p.m. to the next Regular Planning Commission Meeting of **June 23, 2020**, which will be conducted on Zoom.

SUBMITTED BY: _____
 Corinne Shinn, Recording Secretary

APPROVED BY: _____
 Michael Krey, Chair

ATTEST: _____
 Paul Kermoyan, Secretary