



# Agenda

CITY CLERK'S OFFICE

DATE 10-14-10 TIME 11:05

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**PLANNING COMMISSION**  
**November 4, 2010 – 6:00 P.M.**  
**CITY COUNCIL CHAMBERS**

- A. ROLL CALL**
- B. PLEDGE OF ALLEGIANCE**
- C. APPROVAL OF AGENDA**
- D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS**

**MINUTES:** September 16, 2010, October 7, 2010

**FINDINGS/CONCLUSIONS**

Case #2010-81. Purple Horizon Mobile Home Park General Plan Amendments.

Case #2010-82. Purple Horizon Mobile Home Park Rezoning.

Case #2010-138. Las Soleras Park Location.

**E. OLD BUSINESS**

- 1. Case #2010-97. **442 Camino De Las Animas Appeal.** Richard Klein, Claire Zoeller and Rod Boren appeal the City of Santa Fe Land Use Department issuance of building permit for grading #09-1525 at the residence of James Swearingen at 442 Camino de las Animas. (Kelley Brennan, case manager) **(POSTPONED FOR MEDIATION)**

**F. NEW BUSINESS**

- 1. Case #2010-139. **517 St. Francis Rezoning and Variance.** Darren Branch, agent for Annette Garcia, requests rezoning of .10± acres of land from R-8 (Residential, 8 dwelling units per acre) to C-4 (Limited Office and Retail District). The application also includes a variance request from Section 14-7.4(D)(4)(e), landscape buffer requirements for non-residential uses abutting developed residential uses. (Donna Wynant, case manager) **(POSTPONED FROM OCTOBER 7, 2010)**
- 2. Chapter 14 Rewrite Amendments. Consideration of amendments to three sections of Chapter 14 SFCC 1987 Land Development as recommended by the Planning Commission Chapter 14 Rewrite Subcommittee and by staff: 1) 14-1 General Provisions; 2) 14-2 Review and Decision Making Bodies; and 3) 14-3 Review and Approval Procedures. (Greg Smith, case manager)

**G. BUSINESS FROM THE FLOOR**

**H. STAFF COMMUNICATIONS**

**I. MATTERS FROM THE COMMISSION**

**J. ADJOURNMENT**

**NOTES:**

- 1) Procedures in front of the Planning Commission are governed by the City of Santa Fe Rules & Procedures for City Committees, adopted by resolution of the Governing Body of the City of Santa Fe, as the same may be amended from time to time (Committee Rules), and by Roberts Rules of Order (Roberts Rules). In the event of a conflict between the Committee Rules and Roberts Rules, the Committee Rules control.
- 2) New Mexico law requires the following administrative procedures to be followed by zoning boards conducting “quasi-judicial” hearings. By law, any contact of Planning Commission members by applicants, interested parties or the general public concerning any development review application pending before the Commission, except by public testimony at Planning Commission meetings, is generally prohibited. In “quasi-judicial” hearings before zoning boards, all witnesses must be sworn in, under oath, prior to testimony and will be subject to reasonable cross examination. Witnesses have the right to have an attorney present at the hearing.
- 3) The agenda is subject to change at the discretion of the Planning Commission.  
**\*Persons with disabilities in need of special accommodations or the hearing impaired needing an interpreter please contact the City Clerk’s Office (955-6520) 5 days prior to the hearing date.**

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PLANNING COMMISSION  
November 4, 2010

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<b><u>ITEM</u></b>	<b><u>ACTION</u></b>	<b><u>PAGE</u></b>
<b><u>CHAPTER 14 REWRITE AMENDMENTS.</u></b>		
<b>CONSIDERATION OF AMENDMENTS TO THREE SECTIONS OF CHAPTER 14 SFCC 1987, LAND DEVELOPMENT, AS RECOMMENDED BY THE PLANNING COMMISSION CHAPTER 14 REWRITE SUBCOMMITTEE AND BY STAFF: 1) 14-1 GENERAL PROVISIONS; 2) 14-2 REVIEW AND DECISION MAKING BODIES; AND 3) 14-3 REVIEW AND APPROVAL PROCEDURES</b>	<b>Approved [amended]</b>	<b>4-15</b>
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**MINUTES OF THE MEETING  
OF THE  
PLANNING COMMISSION  
November 4, 2010**

A regular meeting of the City of Santa Fe Planning Commission, was called to order by Acting Chair Signe Lindell, at approximately 6:00 p.m., on November 4, 2010, in the City Council Chambers, City Hall, Santa Fe, New Mexico.

**A. ROLL CALL**

**MEMBERS PRESENT:**

Dr. Signe Lindell, Chair  
Ken Hughes, Vice-Chair  
Estevan Gonzales  
Lawrence Ortiz  
Dr. Mike Mier  
Ruben Montes  
Angela Schackel-Bordegary  
Tom Spray  
Renee Villarreal

**OTHERS PRESENT:**

Matthew O'Reilly, Director, Land Use Department  
Greg Smith, Director, Current Planning Division  
Kelley Brennan, Assistant City Attorney  
Melessia Helberg, Stenographer

There was a quorum of the membership in attendance for the conducting of official business.

**B. PLEDGE OF ALLEGIANCE**

**C. APPROVAL OF AGENDA**

A Memorandum dated November 4, 2010, with attached additional correspondence regarding Agenda Item F(1) and Agenda Item F(2), to the Planning Commission from Current Planning Division, is incorporated herewith to these minutes as Exhibit "1."

Greg Smith said there has been a request to postpone Item F(1) to the Commission meeting of December 2, 2010, noting there is correspondence in the packet from the applicant requesting the postponement to allow them to make revisions to their Plan [Exhibit 1"].

**MOTION:** Commissioner Montes moved, seconded by Commissioner Villarreal, to approve the Agenda as amended.

**VOTE:** The motion was approved on a voice vote, with Commissioners Bordegary, Mier, Montes, Ortiz, Spray and Villarreal voting in favor of the motion, no one voting against, and Commissioners Hughes and Gonzales absent for the vote [6-0].

#### **D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS**

##### **1. MINUTES – September 16, 2010, and October 7, 2010**

**MOTION:** Commissioner Mier moved, seconded by Commissioner Montes, to approve the minutes of the meeting of September 16, 2010, as presented

**VOTE:** The motion was approved on a voice vote, with Commissioners Bordegary, Mier, Montes, Ortiz, Spray and Villarreal voting in favor of the motion, no one voting against, and Commissioners Hughes and Gonzales absent for the vote [6-0].

The following corrections were made to the minutes of October 7, 2010:

Page 6, Paragraph 2 heading, should be William "Mee" not "Mead"

Page 22, under I. Matters from the Commission, Paragraph 1, line 3, correct as follows: "...learning curve code."

**MOTION:** Commissioner Mier moved, seconded by Commissioner Spray, to approve the minutes of the Planning Commission meetings of October 7, 2010, as amended

**VOTE:** The motion was approved on a voice vote, with Commissioners Bordegary, Mier, Montes, Ortiz, Spray and Villarreal voting in favor of the motion, no one voting against, and Commissioners Hughes and Gonzales absent for the vote [6-0].

##### **2. FINDINGS/CONCLUSIONS**

The Findings of Fact and Conclusions of Law in Case #2010-81, #2010-82 and #2010-138 are incorporated herewith collectively to these minutes as Exhibit "2."

**MOTION:** Commissioner moved, seconded by Commissioner Villarreal, to approve the Findings of Fact and Conclusions of Law in Case #2010-81, as submitted by staff.

**VOTE:** The motion was approved on a voice vote, with Commissioners Bordegary, Mier, Montes, Ortiz, Spray and Villarreal voting in favor of the motion, no one voting against, and Commissioners Hughes and Gonzales absent for the vote [6-0].

**MOTION:** Commissioner Mier moved, seconded by Commissioner Villarreal, to approve the Findings of Fact and Conclusions of Law in Case #2010-82, as submitted by staff.

**DISCUSSION:** Commissioner Spray quoted from page 2 under Conclusions of Law: "...provided that the LUD staff recommends such distribution to the Commission and that the School District and the MPO have consented to such distribution." He asked if they would have veto power over that.

Mr. Smith said he isn't familiar with the facts of the case, and understands Kelley Brennan supervised preparation of these findings, so the language has been reviewed by the Legal staff.

Mr. O'Reilly said, in reading the paragraph, it does appear to reflect the decision of the Commission that evening.

Mr. Spray said, then we are saying the School District will consent to this distribution, and will review this as well.

Mr. O'Reilly said this is correct.

Mr. Spray asked if this is the Chair's understanding as well – that the School District and MPO consented to the distribution as a part of our process the night this was heard.

Chair Lindell said this is correct.

Chair Lindell pointed out a typographical error in the Ordering paragraph, noting there needs to be an "I" on "IT."

*Commissioner Hughes arrived at the meeting*

**VOTE:** The motion was approved on a voice vote, with Commissioners Bordegary, Mier, Montes, Ortiz, Spray and Villarreal voting in favor of the motion, no one voting against, Commissioner Hughes not voting because he just arrived, and Commissioner Gonzales absent for the vote [6-0]

## **E. OLD BUSINESS**

1. **CASE #2010-97. 442 CAMINO DE LAS ANIMAS APPEAL. RICHARD KLEIN, CLAIRE ZOELLER AND ROD BOREN APPEAL THE CITY OF SANTA FE LAND USE DEPARTMENT ISSUANCE OF BUILDING PERMIT FOR GRADING #09-1525 AT THE RESIDENCE OF JAMES SWEARINGEN AT 442 CAMINO DE LAS ANIMAS. (KELLEY BRENNAN, CASE MANAGER). (POSTPONED FOR MEDIATION)**

**F. NEW BUSINESS**

1. **CASE #2016-139. 512 ST. FRANCIS REZONING AND VARIANCE. DARREN BRANCH, AGENT FOR ANNETTE GARCIA, REQUESTS REZONING OF .10± ACRES OF LAND FROM R-8 (RESIDENTIAL, 8 DWELLING UNITS PER ACRE) TO C-4 (LIMITED OFFICE AND RETAIL DISTRICT). THE APPLICATION ALSO INCLUDES A VARIANCE REQUEST FROM SECTION 14-7.4(D)(4)(e), LANDSCAPE BUFFER REQUIREMENTS FOR NON-RESIDENTIAL USES ABUTTING DEVELOPED RESIDENTIAL USES. (DONNA WYNANT, CASE MANAGER). (Postponed from October 7, 2010)**

This item is postponed to the Planning Commission meeting of December 2, 2010. [See Exhibit "1" for correspondence regarding this postponement.]

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**MOTION:** Commissioner Hughes moved, seconded by Commissioner Mier, to reconsider the previous action to approve the minutes of the meeting of October 7, 2010, as amended, to enter the following correction, and to approve the minutes as further amended: Page 8, paragraph 6, line 1, correct as follows: "...It is not a factor..."

**VOTE:** The motion was approved on a voice vote, with Commissioners Hughes, Bordegary, Mier, Montes, Ortiz, Spray and Villarreal voting in favor of the motion, no one voting against, and Commissioner Gonzales absent for the vote [7-0].

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2. **CHAPTER 14 REWRITE AMENDMENTS. CONSIDERATION OF AMENDMENTS TO THREE SECTIONS OF CHAPTER 14 SFCC 1987, LAND DEVELOPMENT, AS RECOMMENDED BY THE PLANNING COMMISSION CHAPTER 14 REWRITE SUBCOMMITTEE AND BY STAFF: 1) 14-1 GENERAL PROVISIONS; 2) 14-2 REVIEW AND DECISION MAKING BODIES; AND 3) 14-3 REVIEW AND APPROVAL PROCEDURES. (GREG SMITH, CASE MANAGER)**

A Memorandum prepared October 28, 2010, for the Planning Commission meeting of November 4, 2010, with attachments, to the Planning Commission, from Greg Smith, Director, Current Planning Division, is incorporated herewith to these minutes as Exhibit "3." [Please also see Exhibit "1," for Additional Amendments to 14-3.1.]

*Commissioner Gonzales arrived at the meeting*

Matthew O'Reilly gave a brief history of this effort, noting these changes first came before the Commission about two years ago. At that time, the Commission felt it would be better to set up a Subcommittee to work through these changes to Chapter 14 in detail. He chaired that Subcommittee and



stayed on as Chair after he came to work with the City. The Subcommittee has been working on the proposed changes for 1½ years. He thanked the members of the Subcommittee for doing the grueling work to get to this point, which is the consideration of the first batch of Sections of the Chapter 14 Repair.

Mr. Smith said, procedurally, he would like to review changes to 14-1 and 14-2, then take questions, and then proceed to review 14-3.

*The staff report was presented by Greg Smith, Case Manager. Please see Exhibits "1" and "3," for specifics of this presentation.*

Mr. Smith said he is pleased to recommend these changes, with consensus among staff and the Subcommittee. The majority of the changes are not significant, and are housekeeping and reorganization type changes. A handful of significant changes do affect procedures and policies which will have impact, and his presentation will focus on those, recognizing that the Subcommittee reviewed these changes, in some cases line-by-line, and Commission doesn't have to devote that level of attention to these. He said staff tentatively has scheduled 3 hearings for the Planning Commission to go through the entirety of Chapter 14. He said staff will be back in two weeks with additional sections, and perhaps again at the first meeting in December, depending on the progress. He said one hearing may be needed in January 2011 to wrap-up.

Mr. Smith said staff still is reviewing some of the sections of Chapter 14 with the Subcommittee, and can't make a recommendation to the full Commission until that work is complete. He said the staff and Subcommittee may be working into January to get the last sections completed.

Mr. Smith noted the parallel process by the Escarpment Working Group on those regulations and the H-Board Subcommittee which is working on the Historic Regulations. He said, with these exceptions, the balance of the review has been done by staff, the Planning Commission Subcommittee and Chris Graeser. Several members of the public have regularly attended the Subcommittee meetings and participated in that process. He said considerable outreach was done in the beginning by Clarion & Associates in 2002-2004. He said additional outreach was done through focus groups in 2006-2007 by the current consultant, Chris Graeser. He noted Mr. Graeser is in attendance and is available to answer questions on the work he has done on legal issues.

*Mr. Smith highlighted the changes in 14-1 and 14-2, as outlined in his Memo under Summary of Proposed Amendments. Please see Exhibits "1" and "3" for specifics of this presentation.*

Mr. Smith noted a significant recommendation is the elimination of the BCD DRC once all BCD development currently in process is approved or denied by that body, noting that body really doesn't have a lot of work and now meets only 3-4 times a year. The cases now heard by the BCD DRC will now go to the Planning Commission. He said this suggestion is made in terms of streamlining the process, reducing duplication and cost reduction.

Chair Lindell thanked Chris Graeser for his work, commenting that the Subcommittee met every other Tuesday for 1½ years. She thanked Mr. O'Reilly for his willingness to continue to lead that group after he left the Planning Commission.

### **Public Hearing**

**Donna Reynolds, Chief Executive, Santa Fe Association of Realtors**, said she appreciates the opportunity to participate in the process, and said the Association will continue to be a part of the process. She said the Association's Public Affairs Committee reviewed all of the documents because the Association wasn't involved in the early part of the process.

Ms. Reynolds said under General Purposes, the definition includes the word "morals," as one of the purposes of the overall plan, and they question the use of that word. She asked the rationale for its use. Secondly, under annexation, the notice is being expanded to 200 ft., and they are in support of that, and would suggest going beyond 200 feet. She said in the presumptive City limits there are areas where the population is less dense, and they want to insure adequate notice is being given. She suggested extending that further, perhaps up to 300 feet, and said the Association is willing to support that.

### **The Public Testimony Portion of the Public Hearing was Closed**

Mr. Graeser said State statute suggests that the general plan should include ways of ensuring that it complies with the morals of the community. However, there is no requirement to include this language in the Code, and there is no problem in eliminating it.

Mr. Graeser said the noticing in the draft complies with the minimum requirements of State statute for noticing, and to the extent the Commission would like to expand those it would be fine, noting it is a policy question.

Chair Lindell said the Subcommittee had lengthy discussions about the distance for noticing. She said in the current City limits there are some areas where that could add hundreds of mailings. However, in the County in the areas to be annexed, increasing the distance would be a good idea. She asked Mr. O'Reilly to comment.

Mr. O'Reilly said he agrees. However, one of the overriding principles of the repair of Chapter 14 and throughout the Subcommittee process, was to streamline and make things consistent throughout the Code. His only hesitation to making this change would be that there would be different rules in different areas in terms of notice, noting the Subcommittee tried to consolidate the rules, make them more simple and consistent throughout the Code.

Mr. Smith noted he has a presentation later in the meeting with an additional memo from staff with regard to this issue [Exhibit "1"].

*Mr. Smith continued his presentation, highlighting the changes in 14-3, as outlined in his Memo under Summary of Proposed Amendments. Please see Exhibits "1" and "3" for specifics of this presentation.*

Mr. Smith said the supplemental Memo [Exhibit "1"] distributed to the Commission this evening, summarizes the Subcommittee discussion with regard to postal notice by certified mail. He said it costs \$5.50 to mail a letter by Certified Mail, return receipt requested. He said the experience of the property development representatives is that people often don't go to the post office and sign the notice in time, or wilfully avoid signing because they fear it is in regard to taxes and such.

Mr. Smith said the Subcommittee and staff discussed a number of alternatives which would provide less costly and/or more effective notice. The Subcommittee concluded it would be appropriate to fix the process by having the applicant to be assigned the responsibility for preparing a correct list of property owners and get those to City staff timely to mail. The applicant then certifies the list is correct and staff certifies that the mailing, based on the list, went out on time.

Mr. Smith said, in subsequent investigation, staff discovered there is an alternative from the postal service to get the Post Office to certify that someone did mail a piece of mail which costs \$1.15 per piece of mail, without the need for a signature on the other end. This would leave the responsibility with the applicant and cut the mailing costs by \$4, and would provide verification about who and where the notice was sent, without the added cost of having the recipient sign a receipt that they received the notice. Mr. Smith said sending notice certified/return receipt can run into significant costs, for example, for a subdivision next to a condominium complex.

Mr. Smith noted that 14-3.6 is difficult to understand until we get to 14-6. He said 14-3.6 talks about the Special Use Permit process and 14-6 will have the triggers as to who goes where and what kind of hearing it will be. He said over the years, staff has concluded that the Planning Commission wastes time hearing non-controversial cases which have no real impact or possibility of adverse impact on neighbors or the community. He said they will attempt to change the required criteria which requires a public hearing before the Planning Commission to eliminate these kinds of projects. For example, a 10,000 sq. ft. addition to a shopping center, which itself may not be within 200 ft. of a residential neighborhood, but the parcel, has to go through the same kind of application/public hearing/notice process which is more significant. He said they get comments from people, for example, that a McDonald's built next to a residential area would not trigger a review process because it would be less than 10,000 sq. ft.

Mr. Smith said the challenge between Section 14-3.6, which we are reviewing tonight and 14-6, which will be reviewed at a future hearing, is to more accurately distinguish the projects which have potential impacts which are worthy of taking significant Commission time from those which do not, and to refine the criteria for 10,000 to 30,000 sq. ft. to make it more responsive to the characteristics of the points involved, rather than just a simple square footage.

Mr. Smith said this has been discussed since the ENN process was adopted in 1999, and working with the Planning Commission, staff hopes finally to achieve a better test for who comes before the Commission and who doesn't. He said the other part of this is to take more of the cases that do need a

public hearing process and assign those to the Board of Adjustment to review. He said staff is hopeful the review process can be adjusted – application deadlines and notification procedures – so the Board of Adjustment process takes several weeks less in the review process. So, we will catch square footage cases that need to be caught; let large square footage cases which should not go to public hearing, go without a public hearing; and assign the big cases to the Planning Commission and the small cases to the Board of Adjustment. He said Section 14-3.6 is the start of that process, but it won't be complete until we look at Section 14.6. He said Section 14-3.6 talks about the special use process, and Section 14-6 will have the triggers as to which kind go to hearing, when and to what body.

Mr. Smith said this concludes his presentation on Sections 14-1, 14-2 and 14-3, and in two weeks, at the next public hearing, staff will be prepared to present on Sections 14-3.7 through 14-3.19.

### **Question and comments from the Commission**

- Commissioner Bordegary, asked, regarding the proposal to eliminate the BCD DRC on page 4 in bullet #5, if there was opposition to doing this, and if so, what was the nature of that.

Mr. O'Reilly said there really wasn't a lot of opposition at the Subcommittee level. He said the BCD DRC had certain powers and purview, and 3 years ago those were increased, and the BCD DRC was given same powers and purview as the Planning Commission within the area it oversees. He said part of the reason for that was that the BCD DRC was doing a lot of work related to the Railyard project. It was possible in some cases, that a case would have go to the Historic Design Review Board, the BCD DRC and to the Planning Commission. It was felt that potentially could create a review loop where one Commission would recommend something while another Commission something else, which would require it "to go back." He said since that time, we have learned the Railyard is mostly finished, noting a lot of the big projects being considered by the BCD DRC were in the Railyard. He said right now, as Mr. Smith said, the BCD DRC is meeting 3-4 times annually to hear one case. He said it was felt since the powers and duties of the Planning Commission and the BCD DRC essentially are the same, it would be easy to roll those cases up and give the power back to the Planning Commission. He said there was no opposition at the Planning Commission level, but we have heard from at least one City Councilor who would prefer this not happen.

- Commissioner Bordegary said this is a good decision, and the majority of the major projects in downtown already have happened. She said Planning Commission is for the whole City, and as a planner, believes it should be looking at all projects.

Commissioner Gonzales said the State is looking at ways to streamline its cost of doing business, and one of those is eliminating boards and commissions. He said there is a cost at the City for the boards and commissions with which staff has to deal. He said it is important to tell the Council that there is an economic cost to having another Commission that is doing the exact same thing as the Planning Commission.

- Commissioner Villarreal suggested going through the sections in order to comment and ask questions.

#### 14-1.

- Commissioner Villarreal said 14-1.8(B) on page 3 under Approved Projects provides, "Approvals of permits granted under the former Chapter 14 that were valid on December 24, 2001.." She asked what is the significance of that date.

Mr. Smith said that is the date that the Chapter 14 was recodified from the old to the new version – the very first phase of the Chapter 14 repair was completed on that date, which was the effective date of the recodification to the new numbering system done by Clarion & Associates.

Mr. Graeser said he considered removing that language, but there was concern that there could be a project could be floating around which was still valid from that time, so they decided to leave it in.

- Chair Lindell said she is concerned about the language in 14-1.3, at the bottom of the page, that the City will best promote health, safety and morals. She understands this is in State statute, but Mr. Graeser said it is not necessary to reflect that in the Code. She would like to strike the word "morals" from that language.
- Chair Lindell, responding to a question from the Commission, said at this time we are not making motions. We are having a general discussion and then if we can reach a consensus we can put that on a list of items to include in the approval.
- Ms. Kelley said the Commission can vote on this section by section, or vote on it in total at the end of the evening.

Commissioner Mier said perhaps we can move forward with a consensus.

- Mr. O'Reilly said staff can keep a list of the consensus items, and later a member of the Commission can craft a motion to include all of those things.

Mr. Smith said it is the intention of staff that the changes will be reflected in the version which moves forward to the Governing Body. He said past practice is that the Commission gives direction to staff and staff reflects those in the materials which are forwarded to the Council. Staff will continue to work with the Subcommittee on larger changes.

There was no objection by the Committee to removing the word "morals," in 14-1.3.

## 14-2

- Commissioner Spray said he wanted to commend the great work done by the staff, the consultant and the Subcommittee.
- Commissioner Spray said Mr. Smith commented earlier that certain elements of the Chapter were done in ordinances developed in a different time frame. He said at the September 16<sup>th</sup> meeting of the Planning Commission, the Commission recommended an ordinance to the City Council amending various portions of the Code regarding appeals. One was in 14-2.2, specifically talking about striking final actions of the Land Use Director and what the Governing Body can hear. He said the wording in Section 14-2 in this document, is different from that in the Ordinance we approved on September 16<sup>th</sup>. He asked if the Ordinance we approved and forwarded to the City Council is "in play," or is it the one before us this evening.

Mr. Smith said the Subcommittee has been in the review process for 1½ years. He said during that time there are a small number of Code amendments that are "playing leap frog" with each other. He said staff presumes, with regard to Commissioner Spray's specific question, that the Commission's recommendation to the City Council in September on Appeals would take precedence over the Subcommittee draft. He said there is a consensus that there will be a point during the process where a definition will be pulled out of the Appeals Section and put in the General Section, but it is staff's responsibility to be clear with the Commission and the Governing Body as to which is getting precedence when we run into these "leap frog" issues.

- Commissioner Spray thanked Mr. Smith for the clarification. He asked if there will be other elements which will come before the Commission which would modify the content of this draft. He said if the Commission approves the draft before us, we're saying there may be other cases where it will be different and it might make a substantial difference.

Mr. Smith said staff doesn't anticipate there will be a lot of these cases. He said there may be newer amendments to the Telecom Ordinance which would play leap frog with the Subcommittee version, if the Council decides to adopt those over the next two months. He said staff will do its best not to undo something by accident which is done by the Governing Body.

Commissioner Spray asked Mr. O'Reilly his thoughts.

Mr. O'Reilly said he totally concurs with Mr. Smith. He said the City Council often decides to change a particular ordinance and may decide to change something the Commission and/or the Subcommittee is doing, and the Telecom Ordinance could be one of those. He said another is the Escarpment ordinance which specifically was not undertaken, because we knew there was a separate working group working on that. It is possible that the Escarpment section of Chapter 14 could be before the Governing Body at the same time as sections of the Chapter 14 repair, and there could be conflicts which would have to be resolved. He said it is possible that whole sections might have to be changed, noting the Governing Body has the authority to change anything the Planning Commission decides to recommend to it at any time.

- Commissioner Spray asked if the Ordinance approved by the Commission in September has been adopted by the Council.

Mr. O'Reilly said changes to the Appeals ordinance are going to the Governing Body for final approval on November 10, 2010. He said those essentially are the same as recommended by this Commission, noting the ordinance change has been considered by the Public Works and Finance Committees.

Commissioner Spray thanked Mr. O'Reilly for the clarification, saying it sounds like a movable feast, and he appreciates him keeping the Commission posted on what is happening.

Mr. O'Reilly said other than these two, staff doesn't see any major changes to Chapter 14 between now and the time the Planning Commission approves the last section.

- Commissioner Montes said language on page 21, provides that the Archaeological Review Committee may recommend the expenditure of money from the City archaeological fund. He asked how this is funded.

Mr. O'Reilly said there is a very small fee which is collected on each building permit which goes into the archaeological fund which is intended to be used for surprise discovery, for example, when there is a find/discovery which is not funded in a large project.

Commissioner Montes asked if this is for a residential or business permit or both.

Mr. O'Reilly said it is charged to any permit whether commercial or residential.

- Commissioner Montes said the draft language provides that up to \$1,000 may be approved by the Land Use Director, and asked a common use for those funds.

Mr. O'Reilly said if something is discovered, and it is determined that an archaeologist needs to go to the site and determine whether or not it is significant, then the archaeologist would be paid for 2-3 hours at an hourly rate to make that determination. He said this is the kind of thing we would like for the Land Use Director to be able to do, and if more money is required later, it would require other approvals.

- Commissioner Montes said language on page 27 refers to "creatures of the Planning Commission."

Mr. O'Reilly said the comment boxes are for staff to track over time, and he is unsure what this is supposed to mean.

Ms. Brennan said this is a legal term of art.

- Commissioner Villarreal asked if we need to discuss all of the comment boxes.

Chair Lindell said no.

Mr. Graeser said these are things for your attention, but which don't require you to make a decision.

#### **14-3.1**

- Commissioner Villarreal asked, regarding 14-3.1 on page, if the Land Use Director would have to do all of the applications himself.

Mr. O'Reilly said the Section references the Land Use Director or his designee, and he wouldn't be doing that unless there is no one in the office that day, and would be done by one of the staff.

- Mr. O'Reilly said Mr. Graeser pointed out a typographical error on page 7 of 14-3.1, noting the missing word is "require," which should be added after the word "otherwise," so the sentence reads (iii) Time extensions that do not otherwise require a project approval. Staff would request this correction be made a condition of any motion made. Mr. Smith thinks that word should be "modify" instead of "require," so it reads: (iii) Time extensions that do not otherwise modify a project approval
- Mr. Montes referred to (k) on page 15, which discusses a "compact urban form." He asked what is a compact urban form."

Commissioner Hughes said the quick answer is the traditional Santa Fe look, as well as development patterns, which has been emulated in certain developments since then.

Mr. Smith said the opposite of sprawl is compact urban form.

- Mr. Smith asked if the Commission concurs with the modification to notification language, and if the Commission would like to discuss Plan 1 or 2 for us to take back to the Subcommittee.

Mr. Smith said the initial idea was to use first class mail to provide notice, where the applicant would provide a list and staff would mail the notice with first class stamps. Another idea investigated after that was for the applicant to provide the stamped letters to the Post Office who would verify that a letter was mailed.

Commissioner Hughes said verification by the Post Office that the applicant has mailed the notices should be sufficient.

Commissioner Mier asked if this creates an undue burden on City staff to do the mailing. He said it seems to make more sense for the applicant to do this at the Post Office.



Chair Lindell said there was a discussion about providing the notices to staff who would then drop them in the mail.

Mr. O'Reilly said that was discussed at the Subcommittee. He said what wasn't discussed was the second paragraph in the supplemental memorandum which is what staff learned later – that we could continue to make this the applicant's responsibility, but significantly reduce costs by getting a verification from the Post Office. He said it would slightly increase the work of staff if it was done the way originally proposed, but it wouldn't be an undue burden.

Commissioner Bordegary said the second option is fine, and to acquire a certificate of mailing from the Post Office would significantly reduce the cost. She said if it is done by the applicant, there should be some accounting that it actually was timely done.

Mr. Smith said currently we do require the applicant to sign an affidavit saying they did send out the mailing, and we likely will continue that.

Mr. Smith, responding to a comment by Commissioner Bordegary, said the advantage of having the applicant to do this instead of staff, is that staff is not assigned any liability for failure to give notice in a timely fashion. He said we have that issue from time to time when notice of a meeting isn't delivered timely to the newspaper. He said, however, that might be outweighed by the fact that staff has ensured that adequate notice has been given.

Mr. O'Reilly said Option 2 increases the likelihood that people will get these letters because they will be delivered to them by First Class Mail, and eliminates the issue that people just don't want to go to the Post Office to pick up a registered letter, so that's an improvement. It is an improvement to applicants because the cost will be reduced from some \$5 per letter to \$1.15 plus postage, as well as takes away the liability of staff and keeps it on the applicant. He said staff prefers Option 2.

It was the consensus among the Commission to recommend Option 2 for required noticing [Exhibit "2"].

- Commissioner Villarreal quoted from page 11, paragraph 1, which provides, "At such meeting the applicant shall present an appropriate drawing..." Commissioner Vigil suggested amending that to provide "... an appropriate drawing or other effective visual aid suitable...."

After discussion, it was the consensus among the Commission that staff come up with the appropriate term to indicate items other than drawing which is more broad.

#### **14-3.2**

Mr. Graeser, responding to a question from Commissioner Villarreal, asked Commissioners to provide him with any typographical errors they might find during this his review, and he will incorporate those into the draft.

- Commissioner Villarreal suggested a language change on page 7, 14-3.2(e)(2), to replace "property" with "properties," saying she believe this should be plural, noting there is a reference to "surrounding property" in the paragraph preceding this one.

Mr. Graeser said the recommendation is to strike this section in its entirety.

Mr. Graeser said he reads "property" as plural and does encompass any number of properties, although he can see the confusion.

It was the consensus among the Commission to change "property" to "properties."

#### **14.3.3**

The Commission had no comment.

#### **14.3.4**

The Commission had no comment.

#### **14-3.5**

- Commissioner Villarreal quoted from page 8, item (2), "If the proposed rezoning creates a need for an additional streets..." She suggested deleting the "an."

Mr. Graeser said that makes sense.

It was the consensus among the Commission to delete the "an."

#### **14-3.6**

The Commission had no comment.

**MOTION:** Commissioner Spray moved, seconded by Commissioner Mier, to recommend approval of the proposed amendments to Section 14-1, 14-2 and 14-3.1 through 14-3.6 of Chapter 14 SFCC 1987, as recommended by the Planning Commission Chapter 14 Rewrite Subcommittee and by staff, with the list of changes as detailed by Director Matthew O'Reilly, as follows:

- a) Section 14-1.3(A): delete the word "morals";

- b) Section 14-3.1(F)(2)(a)(15)(iii): add "modify" after the word "otherwise";
- c) Section 14-3.1(H)(1)(a)(iii): on page 18 in paragraph 2, reflect the mailing requirements that appear in paragraph 2 of Staff Memo that was handed out this evening [Exhibit "1"];
- d) Section 14-3.1: on page 11, change as follows, "... present an appropriate drawing or other graphical representation suitable to..";
- e) Section 14-3.2(E)(2): Change the word "property" to "properties"; and
- f) Section 14-3.5(D)(2) delete the word "an" in the first sentence.

**VOTE:** The motion was approved unanimously on a voice vote, with Commissioners Hughes, Bordegary, Gonzales, Mier, Montes, Ortiz, Spray and Villarreal voting in favor of the motion and no one voting against [8-0].

#### **G. BUSINESS FROM THE FLOOR**

There was no business from the floor.

#### **H. STAFF COMMUNICATIONS.**

Mr. O'Reilly thanked Mr. Graeser for participating in this process, saying his help has been invaluable and staff could not have done this work without him.

Mr. Smith reminded the Commission of its meeting on November 18, 2010. He said the meeting will start at 7:00 p.m., rather than 6:00 p.m., noting he will ask staff to send several emails to Commissioners prior to the meeting regarding the change in starting time.

#### **I. MATTERS FROM THE COMMISSION**

Chair Lindell said when members leave the Commission, there is a tradition that we purchase and present a plaque to each of the outgoing members, noting currently there are three Commissioners to honor: Boni Armijo, John Salazar and Dolores Vigil. She asked each Commissioner to pay \$25 each for their share of the three plaques. She will try to find a time in the very near future to honor these three outgoing Commissioners.

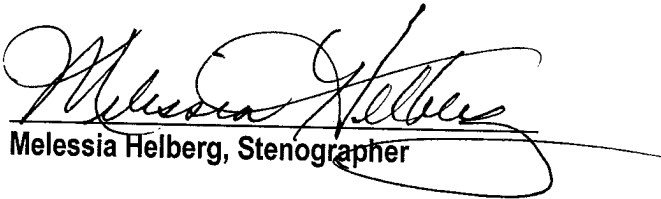
Commissioner Bordegary commended the consultant, Mr. Graeser, and City staff, specifically Greg Smith and Matthew O'Reilly for bringing these results to the Commission, noting she sat in some of the Subcommittee meetings. She said the process which they put together for this effort is tremendous.

**J. ADJOURNMENT**

There was no further business to come before the Commission and the meeting was adjourned at 7:55 p.m.

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**Signe Lindell, Chair**



**Melessia Helberg, Stenographer**