

**CITY OF MANHATTAN BEACH  
[DRAFT] PLANNING COMMISSION  
MINUTES OF REGULAR MEETING  
SEPTEMBER 8, 2010**

The Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 8th day of September, 2010, at the hour of 6:30 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

**A. ROLL CALL**

Present: Andreani, Lesser, Paralusz, Seville-Jones, Chairman Fasola  
Absent: None  
Staff Present: Laurie Jester, Acting Director of Community Development  
Carol Jacobson, Building Official  
Sona Kalapura, Environmental Programs Director  
Esteban Danna, Assistant Planner  
Recording Secretary: Sarah Boeschen

**B. APPROVAL OF MINUTES – August 25, 2010**

Commissioner Seville-Jones requested that the fifth sentence in paragraph 6, on page 9 of the August 25 minutes be revised to read: “She indicated that the findings of the City Council in 2001 provide sufficient guidance that the proposal can be approved if the Commission can conclude that the parking demand would not ~~being~~ be increased.”

Commissioner Andreani requested that the first sentence of paragraph 2 on page 10 of the August 25 minutes be revised to read: “Commissioner Andreani said that she also supports neighborhood oriented establishments, and she enjoys walking to restaurants and other uses in the downtown area. She commented that she feels it is also important to consider that the applicant lives in the ~~downtown~~ North End area. . . ”

Commissioner Paralusz requested that the third line of paragraph 1 on page 10 of the minutes be revised to read: “She commented that it is not a ~~large request~~ asking to much to ask for the ability to serve dinner with a glass of wine to customers at 8:15 in the evening.”

Chairman Fasola requested that the third sentence of paragraph 6 on page 5, of the minutes be revised to read: “She said that the permitted operating hours are enforced on a ~~compliant~~ complaint basis.”

Chairman Fasola requested that the first sentence of paragraph 5 on page 11 of the minutes be revised to read: “Chairman Fasola commented that there is an incremental effect in allowing longer hours and alcohol service for restaurants.”

A motion was MADE and SECONDED (Lesser/Seville-Jones) to **APPROVE** the minutes of August 25, 2010, as amended.

AYES: Andreani, Lesser, Paralusz, Seville-Jones, Chairman Fasola  
NOES: None  
ABSENT: None.  
ABSTAIN: None

**C. AUDIENCE PARTICIPATION**

**D. BUSINESS ITEMS**

**E. PUBLIC HEARINGS**

**08/25/10-4 Consideration of Environmental Task Force Recommendations to Amend Title 10 Planning and Zoning of the Manhattan Beach Municipal Code and the City's Local Coastal Program for Comprehensive Sustainable Building Measures, as part of the City Council 2009-2010 Work Plan**

Acting Director Jester said that the item was continued from the last meeting, as the Commissioners decided that they wanted to devote more time for discussion of the item. She pointed out that a few changes were made to the staff report since it was distributed for the previous meeting. She commented that those changes are shown on pages 4 and 6 of the staff report and pages 10, 11 and 12 of Exhibit A to the staff report.

**Chris Conaway**, representing the Green Building Subcommittee of the Environmental Task Force, said that the Subcommittee was formed to address the City's fair share of climate impact and environmental footprint for construction in the City; to meet the City's obligations to the 2006 Global Warming Solutions Act; to provide leadership in the region; and to improve the value and quality of life for the community. He stated that the size of homes in Manhattan Beach currently averages 2,132 square feet per person, which is more than a four fold increase since the 1970s. He pointed out that houses can become more energy efficient, but the benefit of efficiency is counteracted by the larger size of homes. He said that Manhattan Beach benefits by having very walkable neighborhoods. He stated that the Environmental Task Force chose to concentrate on priorities that are very important for the City, which include water quality, water efficiency, and energy efficiency. He indicated that they are also focusing on measures that are easy to implement; that would not burden the construction industry; and that would make a substantial rather than a very small contribution. He commented that they looked very closely at the measures that are being implemented in other cities such as Santa Monica, Santa Barbara, and Palo Alto. He stated that the Subcommittee has presented 18 to 20 recommendations to the City Council for new green building measures, including more efficient plumbing and water irrigation systems; pushing for permeable sites; handling storm water on site; asking for energy star appliances in all new construction; and requiring high energy efficiency lighting. He stated that their recommendations mainly focus on site sustainability in terms of storm water runoff retention and green roofs, water efficiency, and energy efficiency with renewable energy sources.

**Mr. Conaway** said that the Subcommittee is proposing that California Stormwater Quality Association's Best Management Practices for low impact development be implemented for storm water retention. He said that storm water picks up the particulates and poisons that have accumulated on the ground as it flows into Santa Monica Bay. He said that retaining storm water on site reduces the amount of runoff that ultimately reaches the Bay. He stated that they are recommending a requirement of allowing a maximum of 20 percent non-permeable side yard setbacks landscaping for lots under 7,500 square feet. He indicated that they are recommending that lots over 7,500 square feet be required to meet California Stormwater Quality Association's Best Management Practices. He stated that the measures would reduce load on the stormwater system; reduce runoff and discharge of pollutants into Santa Monica Bay; and allow for early compliance with Regional Water Quality Control Board.

Commissioner Lesser asked regarding the ability of property owners to comply with the proposed measures regarding storm water retention in all of the area districts, particularly in Area Districts III and IV which has narrow side yards and a large percentage of concrete.

In response to a question from Commissioner Lesser, **Mr. Conaway** said that they are not proposing to mandate the amount of permeable surfaces for lots over 7,500 square feet. He commented that for larger sites, it is appropriate for a design to be prepared by a licensed civil engineer. He said that the Best Management Practices provide a guide to a number of methods of handling water on site.

In response to a question from Commissioner Andreani, Acting Director Jester said that there is an issue with contaminants building up on the pavement over a long period of dry weather and then being washed into the ocean from storm water runoff. She commented that the City has installed several CDS units that capture and filter the storm water under normal conditions.

In response to a question from Commissioner Andreani, **Mr. Conaway** said that requiring organic material to be added to the soil to increase permeability is not an option that was considered by the Subcommittee.

Acting Director Jester said that the intent is for the measures to allow flexibility and provide options for methods to comply. She said that organic matter being added to the soil provides more of a benefit for landscaping than for permeability.

In response to a question from Commissioner Seville-Jones, Assistant Planner Danna said that the suggested requirement for 50 percent of the parking area on commercial sites to be paved with pervious surfaces was taken out of the draft Code language. He said that staff's intent was for the Commission to provide input on appropriate regulations regarding water retention for commercial sites.

**Mr. Conaway** commented that the Subcommittee felt that assigning requirements for percentages of sites provides less flexibility.

Commissioner Seville-Jones asked if applicants for projects on commercial properties would have the same option as applicants for projects on residential properties to comply with the site permeability requirements by submitting a plan from a licensed engineer.

**Mr. Conaway** pointed out that there are numerous methods of achieving the goal of preventing storm water runoff from flowing into storm drains. He commented that permeability is a major method of preventing storm water runoff; however, it is not appropriate for all sites.

Commissioner Paralusz said that a new library is hopefully going to be constructed in the near future, and she asked about measures for municipal buildings.

**Mr. Conaway** commented that the City Council has already adopted the recommendation of the Environmental Task Force that the City will commit to a LEED gold certification for all new municipal buildings.

Acting Director Jester indicated that the City is working with the County toward making the new library LEED certified.

Chairman Fasola said that he would suggest requiring that a minimum amount of area on the entire site be permeable rather than requiring that 80 percent of side yards be permeable. He commented that permeable pavement cannot very well be used for stairs or in areas with tiers or steep slopes. He indicated that requiring a certain percentage of the site to be permeable would allow more flexibility for designs in that the permeable surface could be outside of the setbacks. He stated that larger projects are currently required to provide a method of retaining

the storm runoff water, which is more important than requiring permeable surfaces. He commented that it would be more effective to retain water from roofs rather than from the site yards on sites with a large percentage of building area.

**Mr. Conaway** pointed out that permeable surface means any permeable material and not only permeable concrete.

**Ben Burkhalter**, representing the Green Building Subcommittee of the Environmental Task Force, indicated that requiring a certain percentage of the lot to be permeable would make compliance more difficult to achieve. He said that the building would need to be more greatly articulated by requiring a certain percentage of the site to include permeable surfaces.

Chairman Fasola pointed out that requiring a certain percentage of the site to include permeable surfaces would allow the requirement to be met in other areas of the site rather than only in the side yards.

Acting Director Jester suggested changing the language to read that the area of non-permeable surface must equal a maximum of 20 percent of the setbacks and that it may be located anywhere on the site.

Commissioner Seville-Jones commented that she would be concerned that providing a maximum percentage on the site for non-permeable surfaces may be a more complicated calculation than a requirement of a maximum for side yards.

Acting Director Jester suggested changing the language to read that an area equal to a maximum of 20 percent of all required yards and required parking areas may be non-permeable.

Commissioner Andreani commented that she feels it would be simpler to follow the original recommendation of the Subcommittee. She said that a requirement for the area of the lot would disregard that there are requirements for front side and rear yard setbacks.

**Amber Rochane**, representing RREEF, the operator of the Manhattan Village mall, said that they support the City's efforts to address storm water pollution and encourage innovative site design and improve water quality. She indicated that RREEF and staff are coordinating to incorporate certain LID (Low Impact Design) principles into the Manhattan Village Mall enhancement project. She indicated that RREEF submitted a letter to staff for the August 25 hearing to offer suggestions and recommendations for additional consideration in drafting an appropriate LID Ordinance for Manhattan Beach. She stated that RREEF is suggesting that the Code provide clear language regarding the volume of water to be retained; regarding the methodology for determining the amount of water to be retained onsite; regarding storm water management techniques; regarding standards for redevelopment projects; regarding provisions for technical infeasibility; and regarding grandfathering provisions. She said that the proposed Amendments should be flexible rather than apply strictly to all sites and should take into account unique site constraints, particularly with redevelopment projects. She stated that they feel that flexibility should be applied to projects to employ a variety of storm water management techniques to comply with LID.

In response to a question from Commissioner Lesser, **Ms. Rochane** said that RREEF would like clarification regarding the method for measuring the volume of water for the first  $\frac{3}{4}$  inches of rain water, which can be measured using two different techniques. She indicated that RREEF does not have a suggestion for which method should be used for measuring the water.

She commented that they have a meeting with staff scheduled in September regarding the Ordinance and how they intend to meet the proposed new requirements.

In response to a question from Chairman Fasola, **Mr. Burkhalter** said that the Manhattan Village project would at a minimum need to meet the District's requirements for storm water retention.

Carol Jacobson said that there is a regional municipal storm water permit that is required for projects which provides at least four methods for retaining storm water. She indicated that the purpose of LID is also to retain as much storm water as possible on site. She stated that many jurisdictions are adopting very specific LID ordinances to require as much water as possible to be retained, which is not feasible in some instances. She commented that the meeting that is scheduled with RREEF and staff will hopefully help to address their concerns. She indicated that the proposed amendments provide sufficient flexibility through the Community Development Director to address requirements that are not feasible for a particular site.

Commissioner Lesser requested that staff provide the Commissioners with the code language of other cities regarding storm water retention. He commented that looking at the language of other cities could help in the consideration of the suggestion of Chairman Fasola to require a maximum percentage of non-permeable surfaces for an entire site rather than for side yards and in considering the concerns raised by RREEF.

Ms. Jacobson said that the Subcommittee has looked at the code language of Santa Barbara, San Diego, Santa Monica and Los Angeles in arriving at the proposed storm water requirements and landscaping requirements.

Commissioner Lesser requested that staff provide the Commissioners with a summary of the code language used in other cities, particularly as it relates to the concerns raised by RREEF.

Commissioner Lesser said that he would like for staff to have an opportunity to comment regarding the concerns raised in the letter from RREEF. He asked regarding the feasibility of installing grey water tanks for homeowners and whether they are currently available on the market.

**Mr. Conaway** said that they are not proposing to mandate gray water tanks, and gray water is not addressed as part of the requirements for storm water permeability. He indicated that the reference to storm water and grey water retention in Section B on page 11 of draft Resolution 10.60140 is an error, and grey water should not be included.

Assistant Planner Danna suggested that storm water retention can be addressed for commercial sites by adding language that a maximum of 20 percent of the required yard area have non-permeable surfaces. He said that adding such language would not rely on required setbacks, as many commercial properties do not have setbacks.

In response to a question from Commissioner Seville-Jones, **Mr. Conaway** commented that commercial sites would be required to retain 100 percent of the runoff from the first  $\frac{3}{4}$  inch of water from a storm event.

**Mr. Conaway** stated that the Subcommittee wanted to balance the advantages of allowing green roofs with the concerns that were raised regarding such roofs becoming useable areas or with the plants growing very tall. He indicated that green roofs are allowed in areas where decks and balconies are allowed. He commented that exceptions can be granted to allow green roofs on roofs that are sloped and not easily accessible. He said that the Subcommittee wanted

to be certain that the Community Development Director would have the ability to allow exceptions. He said that they did not want to discourage green roofs, and there are many examples of such roofs that are beautiful amenities. He indicated that the benefits of green roofs include reducing the load on the stormwater system; filtering pollutants; increasing thermal and acoustic insulation; and reducing energy loads.

Chairman Fasola pointed out that green roofs do help with energy conservation but generally do not help with water conservation, contrary to the indication included in the definition of green roof decks on page 1 of the draft Resolution. He suggested that it could help with storm water mitigation, which is different than water conservation.

In response to a question from Commissioner Seville-Jones, Acting Director Jester said that applications for green roofs would require landscaping plans to be submitted.

Commissioner Seville-Jones suggested adding language to limit the height of plants on green roofs.

Chairman Fasola commented that his reading of the first sentence under Item C on page 12 of the draft Amendments is that green roofs may only be located in areas where decks and balconies are allowed and that the second sentence falls under the requirement of the first sentence.

Acting Director Jester said that the language of Item C can be reworded to clarify that green roofs are not restricted to locations where decks and balconies are allowed, if approved by the Community Development Director.

In response to a question from Commissioner Lesser, Acting Director Jester indicated that appropriate types of plant material would be required for green roofs. She said that any alterations from the approved landscaping plan would be enforced on a complaint basis. She pointed out that it is difficult to grow plants that are very high on green roofs because of the large volume of soil that is needed to grow taller plants. She said that green roofs would be allowed on sloped roofs where safety and maintenance issues are mitigated at the discretion of the Community Development Director.

Chairman Fasola pointed out that property owners currently are allowed to have planters on decks that are below the height limit.

**Matt Dickinson**, representing Greensulate, said that they have designed green roofs in the Los Angeles area and have found that they do well in the region. He commented that a variety of Sedum is typically used for such roofs. He said that Sedum is low growing; is drought resistant; and flourishes in Southern California. He said that such plants require approximately 4 inches of soil and grow to be 4 inches tall. He commented that there are more opportunities on commercial buildings to include a greater amount of soil and to have taller plants on roofs. He indicated that they would be able to provide staff with a list of plants that flourish in Southern California and do not require a large amount of water. He indicated that there are also methods for limiting accessibility on green roofs.

Commissioner Andreani indicated that she is concerned with green roofs exceeding the maximum height limit. She indicated that there is a height difference between having a flat roof and with having an additional 8 inches of soil and plant material.

Acting Director Jester said that the intent with the new requirements is that green roofs remain within the maximum height limit for structures. She indicated that language can be added to clarify that green roofs must remain within the maximum height limit.

**Mr. Dickinson** pointed out that green roofs can also enhance the views of the neighboring properties and can raise neighboring property values.

**Mr. Conaway** indicated that they are recommending requiring high efficiency landscapes, and the intent is to discourage the use of plant species that require a large amount of water to maintain. He stated that they are suggesting that new construction on lots under 7,500 square feet be required to meet a WUCOLS (Water Use Classification of Landscape Species) water budget worksheet or that a landscape architect provide calculations for the required amount of water usage. He said that lots over 7,500 square feet would require water use calculations from a landscape architect. He commented that the goal is to encourage the use of native plant species and drought tolerant species rather than the traditional large lawn. He indicated that the goal is for a 20 percent reduction in the amount of overall water usage. He indicated that there would be exemptions for using non-potable water, grey water or rain water. He said that the Community Development Director would have the ability to exempt certain installations in areas that are determined to be a hardship. He pointed out that there are exemptions also included in the WUCOLS standards for areas where there is a benefit to having lawns such as ball fields and parks.

In response to a question from Commissioner Lesser, Environmental Programs Director Sona Kalapura said that 70 percent of the water consumption for residential properties is typically used for irrigation of traditional landscaping. She said that the intent is to reduce water consumption by encouraging the use of plants that are included in the WUCOLS standards. She commented that the Manhattan Beach Botanical Garden offers suggestions for changing to water efficient landscaping.

In response to a question from Chairman Fasola, Ms. Kalapura said that the figure of 70 percent of household water consumption being used for traditional landscaping applies to California and not specifically for Manhattan Beach.

Chairman Fasola said that it would be important to consider the amount of water that Manhattan Beach specifically uses for maintaining traditional landscaping as opposed to other areas of California.

In response to a question from Commissioner Seville-Jones, Ms. Kalapura said that people would be able to have traditional lawns with the new requirements by using drip irrigation, non-potable water, grey water, rain water, or a reduced size of lawn.

In response to a question from Commissioner Lesser, **Mr. Burkhalter** said that traditional lawns would be permitted under the WUCOLS worksheet provided that it is demonstrated that the amount of water consumption would be reduced 20 from the base line that is provided.

Commissioner Lesser pointed out that it is important for many homeowners who have children and pets to have a lawn.

Chairman Fasola asked whether limiting lawns is the most effective method of reducing water consumption in the City given the small size of the lots. He commented that he has a concern that property owners not be overregulated.

**Mr. Conaway** commented that they felt the WUCOLS water budgeting process was a simple method of providing flexibility for providing high efficiency landscapes which reduce the amount of water consumption. He said that they are not suggesting that the requirement be immediately implemented to every property in the City. He pointed out that the requirement is intended for new construction and major renovations. He pointed out that a reduction in water use also reduces the energy costs required for transporting the water.

Chairman Fasola stated that there is a benefit to having lush landscaping, and he is not certain that he would want for the City to only have xeriscaping. He said that he would like to know the amount of water that is used for maintaining traditional landscaping for residences specifically in Manhattan Beach. He pointed out that the lots in the City are very small, and the climate in the City is very mild.

Commissioner Lesser commented that he would like further information on the exemptions that would apply with the WUCOLS standards and how they may apply to the amount of lawn area that would be permitted for properties.

Commissioner Seville-Jones said that she would like more information regarding the cost of installing grey water retention tanks. She indicated that they would not be a feasible option for many homeowners if they are cost prohibitive. She also requested that staff provide the Commissioners with pictures of drought tolerant gardens that include lush landscaping.

Commissioner Andreani commented that there are great examples of a variety of drought tolerant plants at the Manhattan Beach Botanical Garden. She pointed out that the lawn at neighboring Pollywog Park is watered three times a week, and the plants at the botanical garden are watered three times a year. She indicated that there are many options of drought tolerant plants that are available.

**Mr. Burkhalter** commented that there is a type of turf grass currently available that requires moderate water usage to maintain and looks the same as a traditional lawn.

Commissioner Seville-Jones commented that it seems odd that people who plant landscaping that requires a low amount of water usage to maintain would still be restricted to watering only on certain days.

Acting Director Jester commented that there is a home on 9<sup>th</sup> Street that has a very lush rear yard lawn which is irrigated using grey water and a subsurface drip system. She commented that the home also has a front driveway that is a decomposed granite which is permeable.

Acting Director Jester indicated that the artificial turf that is now available looks very real.

**Mr. Conaway** said that the Subcommittee is recommending that decorative water features be limited to a maximum of 25 square feet and that they must use recirculated water with no overspray. He stated that they are suggesting allowing an exemption for fountains that provide a public benefit. He commented that they would also request input from the Commissioners as to whether they feel the maximum size for fountains should be increased. He indicated that fountains that use non-potable water would be exempted. He said that the benefit of the draft Amendment is to increase water efficiency from less evaporative loss.

In response to a question from Commissioner Seville-Jones, **Mr. Conaway** indicated that the fountains in the Metlox plaza and the fountain in the municipal plaza all exceed 25 square feet, and those fountains provide a great benefit to the community.



Commissioner Seville-Jones stated that she feels the City should adhere to the same standard for the size of fountains that would be imposed on the residents. She said that it does not seem fair for the City to dictate that residents may not have a water feature over 25 square feet and then exempt fountains that are for public use. She indicated that she feels the restriction is intrusive on the residents.

In response to a question from Commissioner Lesser, **Mr. Burkhalter** indicated that Santa Monica has a restriction on water features.

Commissioner Paralusz requested further information regarding restrictions on the size of fountains in other cities. She indicated that she also feels that the City should adhere to the same requirements regarding the size of fountains that they are imposing on the residents.

Chairman Fasola asked regarding the number of gallons that are used by fountains in the City.

Commissioner Lesser said that it would be helpful for the Commissioners to have further information regarding the number of fountains and the amount of gallons of water that are used for fountains in the City. He said that he would like to know the amount of water that would be saved by restricting water features as proposed.

Chairman Fasola commented that he feels regulating water features would be extremely invasive and onerous. He said that regulating the size of fountains would not save a significant amount of water. He stated that limiting fountains to 25 square feet does not seem justifiable when the size of pools is not being regulated. He indicated that the spray from fountains helps to provide cooling on hot days, which is a traditional passive cooling design dating back to the Romans and Greeks. He said that he does not believe that fountains should be regulated, and people would most likely choose on their own to design fountains that use a limited amount of water. He said that he would like further information regarding the number of gallons of water that is used per year Citywide for fountains.

In response to a question from Commissioner Paralusz, Ms. Jacobson said that the West Basin Water District and the L.A. County Department Public Health are working to develop good methods for using non-potable water for fountains, but she is not certain if non-potable water is routinely used for fountains currently.

Ms. Kalapura said that there are examples of designs for fountains that use non-potable water. She pointed out that the requirement would apply to new construction which can utilize newer technologies. She said that Manhattan Beach is holding a Sustainable Building Summit on October 10 that will include discussion of sustainable landscaping and rain water harvesting.

**Mr. Conaway** commented that the State of California has passed the Solar Rights Act which states that municipalities may not restrict the installation of solar panels over height limits provided health and safety concerns are met. He indicated that municipalities may limit the height of panels over the maximum height limit provided that the panels are able to operate at 80 percent of their maximum efficiency. He stated that the Subcommittee is suggesting to allow a height of 12 inches above the maximum height limit for solar panels. He commented that solar panels cannot be flat because of debris and water that can collect on the panels which results in a loss of efficiency. He also commented that space is needed under the panels to provide for air flow. He said that the optimum angle for a solar panel during winter varies between 33 and 17 degrees, and 17 degrees is generally the best orientation year round. He said that reducing the angle of the panel to 5 degrees results in a loss of efficiency that is within the limits permitted by the Solar Rights Act. He indicated that they received feedback from

solar companies that they could add solar panels to existing homes that are to the height limit with an allowance of an additional 12 inches.

Commissioner Andreani said that she has a concern with exceeding the height limit, particularly for new construction.

Commissioner Lesser pointed out that there was a representative of a solar power company present at the last hearing regarding the issue who indicated that an additional height of 12 inches above the maximum height limit would not be sufficient to allow for the installation of solar panels.

**Mr. Conaway** said that there were representatives of solar panel companies who have indicated that they feel 12 inches is reasonable.

Acting Director Jester indicated that solar companies would prefer to use existing equipment that is already manufactured rather than change their hardware to meet the 12-inch requirement.

Commissioner Andreani said that she feels the City has the right to control height limits. She indicated that allowing an exception to the height limit for new construction to install solar panels could result in requests for exceptions to the height limit for other features. She said that increasing height limits for any reason can result in problems.

Chairman Fasola commented that he agrees with the comments of Commissioner Andreani that he does not feel the maximum height limit should be allowed to be exceeded. He said that constructing a home to the height limit is already using the entire envelope that is allowed by Code. He indicated that homes should be required to be less than the maximum height in order to include solar panels or else provide a pitched roof in order to remain within the maximum height limit.

Commissioner Paralusz said that she does not like the idea of restricting a homeowner who has an existing home that is built to the height limit from installing solar panels.

Assistant Planner Danna stated that staff does not want to include two different standards regarding solar panels for existing homes and for new construction. He pointed out that having separate standards could result in people constructing homes to the height limit and then requesting to install solar panels 12 inches above the height limit after construction is complete.

Commissioner Andreani suggested the possibility of not allowing the addition of solar panels above the height limit for five years after a house is constructed if they are not included during construction.

Chairman Fasola commented that requiring solar panels to remain within the height limit may create a demand for homes that are built under the height limit.

Commissioner Seville-Jones pointed out that the Solar Rights Act addresses existing homes. She indicated that the City does not have the ability to restrict property owners with homes that are already built to the maximum height limit from installing solar panels, but solar panels can be required to remain within the height limit for new construction. She asked if there is a method of prohibiting someone from building a new home to the height limit and then requesting solar panels above the height limit after construction is completed.

Acting Director Jester said that she would need to consult with the City Attorney regarding whether differentiating between existing homes and new construction would be in violation of the Solar Rights Act.

In response to a question from Chairman Fasola, Acting Director Jester indicated that fire and safety requirements that limit the amount of area on a roof that can be covered by solar panels.

In response to a question from Chairman Fasola, **Mr. Burkhalter** indicated that residents in cities such as Palos Verdes Estates that have view ordinances have successfully sued under the Solar Rights Act to be allowed to install solar panels, as the language specifically states that panels may not be restricted simply because of impacts to aesthetics or views.

Commissioner Seville-Jones said that she would like further input from the City Attorney as to whether the intent of the Solar Rights Act is mainly regarding existing construction and whether it is possible for the City to make a requirement that solar panels for new construction remain within the height limit.

**Mr. Conaway** stated that there have not been many requests for wind turbines to be installed. He commented that current wind turbines must raise 150 feet to be efficient in an urban environment. He indicated that technology is continuing to improve; however, current designs are not efficient at providing energy for individual residential properties. He commented that the recommendation of the Subcommittee is that turbines be permitted provided that they are located within the building envelope subject to any existing Code restrictions.

In response to a question from Chairman Fasola, **Mr. Conaway** indicated that there are new designs for wind turbines that generate a low level of noise.

Assistant Planner Danna pointed out that wind turbines would be regulated by the City's Noise Ordinance.

Commissioner Seville-Jones asked whether addressing wind turbines is premature, as currently they are not able to meet the objectives of the Code Amendments to reduce the use of fossil fuels.

**Mr. Conaway** commented that the language regarding wind turbines was included with the draft Code Amendments because there was a homeowner that approached the Subcommittee who inquired as to whether wind turbines would be able to exceed the height limit and whether they could encroach outside of the building envelope. He said that the Subcommittee felt that specific new regulations were not necessary to address wind turbines and decided to recommend that they be regulated using existing Code requirements.

Chairman Fasola said that he can foresee that homeowners may wish to install wind turbines, and he feels it is good to include language to address them in the Code.

Commissioner Seville-Jones indicated that she is concerned with wind turbines impacting views of adjacent properties. She indicated that she understands the need for renewable energy sources. She commented, however, she is concerned about the visual pollution that could result from wind turbines that are not incorporated into the building, particularly if they do not provide a significant amount of energy to power the home.

In response to a question from Commissioner Lesser, Acting Director Jester said that the language would not change any requirements for wind turbines but would simply codify that

they must be placed within the building envelope. She said that staff does feel there is a need to include the language regarding turbines in the proposed Amendments for clarification.

Commissioner Seville-Jones said that she is suggesting that the Code Amendments be more restrictive regarding wind turbines than the current proposed language to allow them within the building envelope. She indicated that her main concern is that the wind turbines are particularly visually intrusive because of their constant motion.

Chairman Fasola commented that he feels looking at an ocean view through a windmill would be preferable to looking at a view of the solid side of a building. He indicated that people may have differing opinions regarding the visual attractiveness of wind turbines.

Commissioner Seville-Jones requested further information regarding the amount of energy that can be generated by wind turbines located on a residential property.

Commissioner Lesser said that he would not want to prevent homeowners from utilizing new technologies for wind turbines that are currently being developed.

Assistant Planner Danna pointed out that the Community Development Director has the discretion to bring any projects to the Commission where concerns have been raised by neighbors or that are questionable as to whether they meet the intent of the Code requirements.

Chairman Fasola suggested including a requirement that the turbines must be maintained in working condition.

Commissioner Seville-Jones said that such a requirement is included in the draft language.

Commissioner Lesser requested further information regarding turbines that have been installed in other cities in Southern California.

Acting Director Jester said that staff will look into the questions that have been raised by the Commissioners and will provide additional information. She said that she would recommend that the hearing be closed and the item be renoticed when staff has had an opportunity to research the questions that have been raised.

Chairman Fasola closed the public hearing.

Chairman Fasola thanked the members of the Environmental Task Force for all of their hard work and for attending the hearing to present their findings and recommendations.

## **F. DIRECTORS ITEMS**

## **G. PLANNING COMMISSION ITEMS**

Commissioner Paralusz asked regarding the status of the Chevron station at the corner of Aviation Boulevard and Marine Avenue and the Rite Aid project at Sepulveda Boulevard and Manhattan Beach Boulevard.

Acting Director Jester said that there is currently a lawsuit between Chevron and the current property owner, and it will be approximately two more months before it is settled. She stated that Rite Aid has decided not to go forward with their project at this time. She indicated that Rite Aid is leasing parking to construction workers who are working on a project on an adjacent site.

In response to a question from Commissioner Paralusz, Acting Director Jester said that the Commission's decision denying the appeal for the property at 626 Rosecrans Avenue was received and filed by the City Council. She commented that staff has been working closely with the applicant and architect to revise the proposal, and the project should be finalized in the next two weeks.

Acting Director Jester said that the applicant for the Shade Hotel and neighborhood representative jointly agreed to appeal the Commission's decision to the City Council in order to further modify the conditions. She stated that the revised conditions were approved by the City Council.

Chairman Fasola said that he received a complaint from a resident regarding the traffic condition driving south on Sepulveda Boulevard which narrows from three to two lanes toward Marine Avenue.

Acting Director Jester said that Sepulveda Boulevard improvements are included in the Capital Improvement Plan projects that are going forward. She suggested that the resident contact the City Engineer, Steve Finton, to address his concern.

**H. TENTATIVE AGENDA September 8, 2010**

**I. ADJOURNMENT**

The meeting was adjourned at 9:40 p.m. to Wednesday, September 8, 2010, in the City Council Chambers, City Hall, 1400 Highland Avenue

SARAH BOESCHEN  
Recording Secretary

ATTEST:

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LAURIE B. JESTER  
Acting Community Development Director