

Minutes
City of Clayton Planning Commission
Regular Meeting
Tuesday, June 22, 2021

1. CALL TO ORDER

Chair A.J. Chippero called the meeting to order at 7:00 p.m.

2. ROLL CALL

Present: Chair A.J. Chippero
Vice Chair Terri Denslow
Commissioner Bassam Altwal
Commissioner Frank Gavidia
Commissioner Ed Miller

Absent: None

3. PLEDGE OF ALLEGIANCE

Commissioner Miller lead the Pledge of Allegiance.

4. PRESENTATIONS AND ANNOUNCEMENTS

None.

5. ACCEPTANCE OF THE AGENDA

Commissioner Altwal moved and Commissioner Miller seconded a motion to accept the agenda as presented. The motion passed 5-0.

6. PUBLIC COMMENT

Dee Vieira thanked Chair Chippero for his service on the Planning Commission.

William Jordan thanked Chair Chippero for his service on the Planning Commission.

Scott Denslow thanked Chair Chippero for his service on the Planning Commission.

7. CONSENT CALENDAR

A. Approval of Planning Commission Meeting Minutes.

Approval of the minutes for the May 25, 2021 Planning Commission meeting.

Vice Chair Denslow moved and Commissioner Altwal seconded a motion to approve the May 25, 2021 Planning Commission meeting minutes, as amended. The motion passed 5-0.

8. PUBLIC HEARINGS

None

9. ACTION ITEMS

A. Review of the FY 2021/22 Capital Improvement Program Projects for Conformity with the Clayton General Plan (GPA-01-2021).

Section 65401 of the California Government Code requires the Planning Commission to determine whether projects proposed in the City's Capital Improvement Program (CIP) for planning, initiation or construction during the ensuing fiscal year are in conformity with the General Plan. The Planning Commission is requested at tonight's meeting to review the draft list of CIP projects for which funding is proposed to be identified for planning, initiation or construction during fiscal year (FY) 2021/22, and to make determinations of General Plan consistency for the projects, in accordance with the Government Code. The Planning Commission's determination will be forwarded to the City Council for the City Council to consider prior to their adoption of the final CIP for the next fiscal year

Interim Community Development Director Dana Ayers presented the item.

Commissioner Altwal had the following questions and comments:

- What is Fund 303? City Manager Reina Schwartz responded that Fund 303 is an accounting mechanism to track other fund transfers for other projects rather than being a stand-alone fund in and of itself.
- Is the City in the red for Fiscal Year 2021/22? Ms. Schwartz responded that the City is not in the red but, rather, the City appropriated money in the prior fiscal year or two and implements the planned spending of that money to spend across the fiscal years that followed the year the money was appropriated.
- Regarding the Americans With Disabilities Act (ADA) program (CIP No. 10394A):
 - \$6,000 is not sufficient for curb accessibility improvements.
 - The City needs to increase the funding for accessibility improvements.
 - It appears that multiple accessibility-related issues have been addressed through other CIP projects.

Ms. Schwartz responded that the general consensus is that the \$6,000 is an insufficient amount, but it is just a small surplus of money that the City can save every year to build up an emergency fund. The City is looking to perform accessibility-related improvements through funding provided for other CIP projects such as the Neighborhood Pavement Preservation Project (CIP No. 10449)

- Title 2 of the 1992 ADA requires every city to have an ADA transition plan. Does Clayton have an ADA transition plan? Ms. Schwartz responded that, yes, Clayton has an ADA transition plan, but it is very old and in need of updating.
- Has the City implemented anything from the ADA transition plan? Ms. Schwartz responded that she has not had Clayton's ADA transition plan implementations brought before her but, as the City addresses other Citywide ADA improvements, we will be prepared to discuss these implementations.

- Clayton staff should be aware that there is a group of people going around suing jurisdictions because of ADA transition plans not being implemented. The City of San Francisco, City of Los Angeles, County of Marin, San Francisco School District, and the City of Concord have all been sued. Ms. Schwartz indicated that, during her employment with the City of Sacramento, they dealt with the ADA curb ramp lawsuit, so she is well aware of the risk involved with not facilitating the ADA transition plan implementations.

Commissioner Miller had the following questions and comments:

- Regarding the North Valley Playground Rehabilitation (CIP No. 10442), is the North Valley Playground located in Lydia Lane Park? Ms. Schwartz responded the North Valley Playground is located in North Valley Park.
- Regarding the Emergency/Auxiliary Power at City Hall Complex (CIP No. 10447), has any thought been given to utilizing solar power for short, day-long power outages in order to save money? Ms. Schwartz responded that, currently, there is a lack of funding for this CIP project. The City has looked at viable locations for solar such as the City Hall parking lot since the City Hall building is not conducive to the installation of solar panels. Staff we will be considering such solar-related issues as the cost of installing solar arrays, storage of solar energy, and selling solar energy back to the grid.
- Regarding the Neighborhood Pavement Preservation Project (CIP No. 10449), are Measure J funds being used? Ms. Schwartz responded that the funding is generated from a combination of Measure J funds, gas tax, and SB 1 monies.
- He indicated support of the Pine Hollow Road Upgrades (CIP No. 10379) since there are a lot of children using the public right-of-way on Pine Hollow Road, and the complete streets transportation policy and design approach will increase pedestrian safety along that corridor.

Commissioner Gavidia had the following questions and comments:

- How confident is the City in the projected and adopted revenue numbers being so reliant on gas tax monies? Ms. Schwartz responded that the City is confident since we have a fairly flat estimate that does not take into consideration one of the gas tax sources while drawing from other SB 1 funds. The City has the capacity to swap out revenue sources if one particular revenue source dips lower than others.
- It is good that the City is aware since vehicles are becoming more efficient, more people are working from home, and the overall use of petroleum has been flat for a long time. Both the Federal and State governments have been talking about this trend of not being able to rely on gas tax monies as we move forward.

Vice Chair Denslow had the following questions and comments:

- Why are we seeing CIP projects from previous Fiscal Years being carried forward to the next Fiscal Year's CIP? Ms. Schwartz responded that the reasons you are seeing previous fiscal years' CIP projects again are the bidding of certain CIP projects have been delayed, some CIP projects are phased out, some CIP projects are awaiting new funds to become available, and some CIP projects are ongoing for an extended period of time.

- It would be good to have that information included in the list of CIP projects so that there is an explanation as to why some CIP projects are carried forward through time. Interim Community Development Director Dana Ayers indicated that there is nothing in the California Government Code that requires differentiation between new CIPs and ongoing CIP projects in the annual evaluation of CIP/General Plan consistency. A jurisdiction must continue to find that its current CIP conforms to its General Plans regardless of how many times the CIP conformity with the General Plan has been found in previously. Part of the rationale for this is because General Plans change over time and sometimes new policies are added, existing policies are removed, or existing policies are amended which necessitates a CIP to continue to be analyzed for conformity to new or modified policies.

Commissioner Gavidia moved and Vice Chair Denslow seconded a motion to adopt Resolution No. 05-2021 determining the CIP projects identified for planning, initiation, or construction during Fiscal Year 2021/22 to be consistent with the Clayton General Plan. The motion passed 5-0.

10. PLANNING COMMISSION REQUESTS AND UPCOMING AGENDA DEVELOPMENT

Commissioner Altwal provided the following comments for Chair Chippero:

- Thank you for your service.
- It was a pleasure working with you on the Planning Commission and getting to know you as a person and your passion for Clayton.
- You were kind enough at previous festivals to offer to help clean up the festival area.
- You are a good person and I consider you a good friend.

Vice Chair Denslow provided the following comments for Chair Chippero:

- You will be missed.
- You have been an asset to the Planning Commission, Clayton Business and Community Association, and to the community.
- All your hard work is very much appreciated.
- Your contributions have made a difference.
- Thank you for all you have done.

Director Ayers provided the following comments for Chair Chippero:

- It has been a pleasure working with you.
- Wish you all the best.
- On behalf of staff, extending our thanks and appreciation.

Chair Chippero provided the following comments in a farewell speech:

- In November 2010, my wife and I moved to Clayton just days before my first daughter was born.
- We quickly realized what a wonderful community Clayton is.
- Within months of moving to Clayton, I wanted to give back to my community and I joined the Trails and Landscaping Committee that I served on for six years before serving on the Planning Commission for the last four years.
- My only intention was to help give back to our great community and I have done that through my work with the Trails and Landscape Committee, Planning Commission, and Clayton Business and Community Association (CBCA).

- On a different note, it pains me to have to leave on this note but I feel it is important to not let mistruths and misinformation fester like it has done these past several years with groups such as Save Clayton.
- On May 18, 2021, Commissioner Gavidia made the following statement to the City Council: “The members of the CBCA found out about the vote before the tax payers of Clayton found out. That does not make any sense to me. A private organization that gives money to the City gets to find out the results of votes before the rest of the public.”
- Since I was the Planning Commissioner giving that report at the CBCA meeting, I can assure you that what Commissioner Gavidia accused me of doing is false.
- The vote count that I reported to the CBCA on February 25, 2021 was a publicly-recorded vote that transpired two days prior at the February 23, 2021 Planning Commission meeting.
- Any member of the public who attended the February 23rd Planning Commission meeting or watched the video replay could have provided the same report to the CBCA that I did on February 25th.
- While Commissioner Gavidia may have been exercising his right to free speech as a citizen during the comment portion of the City Council meeting, he is also a current Planning Commissioner that was acting irresponsibly by making reckless accusations against the current Planning Commission Chair and the CBCA.
- Left unchecked, these accusations may have caused irreparable damage.
- This begs the question: does Commissioner Gavidia have a responsibility as a Planning Commission to refrain from making false and damaging claims against another Planning Commissioner by spreading the seeds of misinformation?
- There should be consequences for a current Planning Commissioner for making such reckless and false claims.
- Since Commissioner Gavidia made this public accusation, he has not made any effort to retract his statement or correct his misinformation.
- If Commissioner Gavidia does not issue a public statement acknowledging his misstatement, then I am urging the City Council to censure Commissioner Gavidia or a more suitable action would be to include his removal from the Planning Commission.
- Unless Commissioner Gavidia issues a public statement correcting his misstatement, I am urging my fellow Commissioners to censure Commissioner Gavidia by preventing him from being selected to serve as Vice Chair or Chair.
- Congratulations to Justin Cesarin for his appointment to the Planning Commission as he will be a wonderful addition.
- Thank you Vice Chair Denslow for going above and beyond the call of duty with your thorough research. You are a great asset to this group.
- Commissioner Altwal, I have enjoyed being in the trenches with you. What you have brought to the table combined with your knowledge and experience has been an invaluable asset to the Planning Commission and our community.
- Thank you Reina, Dana, and the rest of the staff.
- Thank you Milan for all of your service to our City and the support you provide the Planning Commission. Feel free to call me anytime to discuss music as I have enjoyed talking with you about it.

Commissioner Gavidia asked Chair Chippero if he could respond.

Chair Chippero said that Commissioner Gavidia’s response should be provided directly to the City Council.

11. ADJOURNMENT

The meeting was adjourned at 8:00 p.m. to the regularly-scheduled meeting of the Planning Commission on July 12, 2021.

Respectfully submitted:



Dana Ayers, AICP, Interim Secretary

Approved by the Clayton Planning Commission:



Chair