

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
JUNE 1, 2009
(Approved June 15, 2009)

FIELD TRIP: *Cancelled*

Housing Element Subcommittee: 4:30 p.m.
(The Planning Commission sitting as a Committee of the Whole)

MEMBERS PRESENT: Commissioners Ken Carbone, Chair; Frank Imhof; Mike Jacob, Vice-Chair; Glenn Kirby; Kathie Ready and Richard Rhodes.

MEMBERS ABSENT: Commissioners Alane Loisel and Frank Imhof

OTHERS PRESENT: Liz McElligott, Assistant Planning Director; Angela Robinson-Piñon; Michelle Starratt, HCD

1. **2009 HOUSING ELEMENT UP-DATE**

REGULAR MEETING: 6:00 p.m.

MEMBERS PRESENT: Commissioners Ken Carbone, Chair; Frank Imhof (arrived late); Mike Jacob, Vice-Chair; Glenn Kirby; Kathie Ready and Richard Rhodes.

MEMBERS ABSENT: Commissioner Alane Loisel

OTHERS PRESENT: Albert Lopez, Planning Director; Rodrigo Orduña, Senior Planner; Allen Lang, Building Official; Nilma Singh, Recording Secretary.

There were three people in the audience.

CALL TO ORDER: *The Chair called the meeting to order at 6:05 p.m.*

ANNOUNCEMENTS BY THE CHAIR: *None*

OPEN FORUM: Open forum is provided for any members of the public wishing to speak on an item not listed on the agenda. Each speaker is limited to three (3) minutes. *No one requested to be heard under open forum.*

CONSENT CALENDAR:

1. **APPROVAL OF COMMISSION MINUTES ~ May 18, 2009.**
Commissioner Ready made the motion to approve the May 18th Minutes as submitted and Commissioner Kirby seconded. Motion carried unanimously, 5/0, with Commissioners Loisel and Imhof absent.

REGULAR CALENDAR:

1. **AN ORDINANCE OF THE BOARD OF SUPERVISORS OF ALAMEDA COUNTY, ADDING SECTION 470 “CONSTRUCTION AND DEMOLITION DEBRIS MANAGEMENT” TO THE ALAMEDA COUNTY MUNICIPAL CODE CHAPTER 15.08, BUILDING CODE.** Presented by Allen Lang, Building Inspections Department.

Mr. Orduña announced the Ordinance has been through numerous public meetings as outlined on page 2 of the staff report and noted the corrected copy of the staff report has been distributed to the Commission. This matter will be heard by the BOS on June 23rd and not the 16th [*Since moved to June 30th, 2009*].

Allen Lang, Building Official, presented the staff report and introduced Mery Soll from, StopWaste.org. Commissioner Ready expressed concern with the difference between the square foot numbers under Sections 470.3(c) and 470.10(e); the repeat of the words “building official” under 470.10(e); and suggested perhaps replacing the word “may” with the word “will” to remove the subjectivity of discretion. Mr. Lang explained that the difference is due to the different monitoring stages during the review of the project. Staff further explained that with smaller projects less than 2,000 square feet, there is an option of verification and projects over 2,000 will require mandatory verification. Commissioner Kirby concurred with Commissioner Ready that this would allow subjective discretion -- a 2,000 sq. ft for a residential project is too arbitrary and needs more flexibility; and any exemptions should be performance based with a consistent message to the community. The Chair thought the every applicant should be required to file the form without mandatory verification at the end, to move the process and to educate the applicant. Commissioner Ready also added that a list of recyclable materials should be included with or on the form (Section 470.1.g) and that the ordinance should be written and enforced in such a way not discourage the small property owners from improving their properties.

Commissioner Imhof arrived.

Commissioner Kirby agreed to adding language that would allow for changes in the market without modification of the ordinance. Commissioner Rhodes suggested rewording the Ordinance such that if, in the middle of the project, there are changes for the recyclable materials, the application is ‘grandfathered’ in. In response, Mr. Lang explained that the codes will be applied when the project is initially submitted and this is covered under the Building Ordinance. In response to Commissioner Jacob, Mr. Lang explained that the “approved list” of facilities (Builders Guide) has been compiled by StopWaste.org.

Mery Soll, StopWaste.org, added that every 12-16 months, the Builders Guide is updated based on an exhaustive review of every company. This Guide is used by almost every city that has a C&D Ordinance. Commissioner Jacob noted that the Ordinance does not

reflect this and suggested perhaps adding the words "Public Works Agency shall designate a third party listing" to reference where the approved list of facilities can be found. Mr. Lang replied that although no such specific language was added because of the potential need to change the ordinance based on updates to the approved list, some language could be added referencing the holder of the approved list. Commissioner Rhodes suggested the following language: "Any other materials that the Building Official has determined at the time of the application that can be reasonably diverted." Commissioner Jacob suggested language providing flexibility for Building Official to choose additional items to be placed on the list through a set process. He also requested clarification on the percentages under Section 470.4. Mr. Lang replied that it is a percentage of either the volume or weight. Commissioner Jacob asked if there is a section that specifies the percentages by volume or weight, and if there is a baseline for the percentages. Mr. Lang said that a study could be done on other cities and the baseline is of the original estimate. A discussion followed on estimates, good faith estimates, variables from estimates, sizes of a demolition relative to demolition waste, and documentation requirements. Commissioner Jacob expressed concern that the Commission did not look at the language in advance and there is only a month between the first advisory committee meeting and the BOS hearing. A public process is needed to ensure the best possible ordinance. Mr. Lang explained that initially this ordinance had been discussed simultaneously with the Green Building Ordinance and since it is part of the GB Ordinance, staff had dropped the discussion. However, the GB Ordinance covers only the new construction and the C&D covers demolition debris for remodels. Commissioner Ready asked why CVMAC will be hearing this item twice and asked for the Sunol Advisory Council's recommendation. She expressed concern that recommendations from advisory councils were not included in the report and that this Commission will not be able to look at the final Ordinance. Mr. Lang provided the CVMAC recommendation, and stated that the CV Sanitary District already has a similar ordinance in place. A letter in support has also been submitted by the District, stating that the CV Sanitary District would eliminate their ordinance if the County adopted the proposed ordinance. Oro Loma Sanitary District has indicated that they do not have a project manager to monitor/enforce their existing program.

Commissioner Kirby noted that the Commission had requested to look at the ordinance at the subcommittee level which is also reflected in the last Commission minutes and expressed similar concerns as Commissioner Ready that the Commission will not be able to look at the final Ordinance. Staff pointed out that there is a Commission meeting before the BOS adoption hearing.

The Chair requested clarification on Section 470.9 -- the implementation of the Administration Fees. Mr. Lang explained that the Building Inspection Department has to recover costs unless other funding sources are identified. Ms. Soll added that the matrix of other cities in the County does not reflect a fee. However, some cities have bonds and performance fees, and others have increased fees for every type of building, electrical, and plumbing permit to reflect the increased cost of administering their C&D Ordinances. Commissioner Kirby requested a list of ordinance adoption dates for other cities and their costs associated with the Ordinance and the Chair asked for the success rate. Ms. Soll

replied that the 2000 Waste Characterization Study reflects 22% of the waste generated in the County is construction waste which is now down to 7%. Mr. Lang added that the Building Inspection Department's website will have a link to the Stopwaste.org website.

Commissioner Imhof thought that the final destination of the waste is very important. When the fee is paid, the form is filled out and receipts are submitted to back the declarations in the form. In the event there are no receipts, Mr. Lang pointed out and read the language of the second paragraph under Section 470.11. In response to Commissioner Rhodes's question on the need for such an ordinance vs. the already approved Green Building ordinance, Mr. Lang indicated that data for the last six months was checked; this program will manage approximately between 200 - 400 projects, or 80% of renovation and addition projects. A discussion followed regarding variations and types of projects; difference between fees and fines; whether or not good faith effort precludes fines; filing of an amendment; what is a good faith action; and administration fees. Commissioner Jacob recommended encouraging good faith amendment instead of fines. He also recommended moving the second paragraph either with the amendment language under 470.7 or under 470.9.

Commissioner Kirby made the motion for a continuance and Commissioner Imhof seconded. Mr. Lang requested a threshold number for applicability of the ordinance. The Chair suggested 1,500 square feet and smaller projects be exempt. Commissioner Kirby recommended that every applicant above the threshold be required to fill the form and verification at the Building Official's discretion on the adequacy of good faith effort/reporting. Commissioner Ready made a correction under 470.4.d.--to delete the words "...as determined by the building official" at the end of the sentence. Commissioner Jacob recommended the following modifications: Section 470.1.g. to read: ".....determines can be locally and reasonably divertedaccessible as specified by the Alameda County Waste Management Authority."; Section 470.4.a & b. to specify by weight or volume; and moving the second paragraph under 470.11 to either 470.7 or 470.9, to provide a separation between fines and fees. *Motion for the continuance carried unanimously, 6/0.*

STAFF COMMENTS & CORRESPONDENCE: *None*

CHAIRS REPORT: *None*

COMMISSION ANNOUNCEMENT, COMMENTS AND REPORTS: Commissioner Imhof requested an update on a project on Liberty Street and expressed concern on the workmanship. Staff responded that the project, know as Bali Court, has been abandoned without completion by the developer and is now owned by a bank. Commissioner Jacob announced that he will not be in attendance at the next meeting, June 15th.

ADJOURNMENT: *There being no further business, Commissioner Kirby moved to adjourn the meeting at 7:30 p.m. Commissioner Rhodes seconded the motion. The motion was carried 6/0.*

ALBERT LOPEZ, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY