Planning Commission Meeting
March 25, 2009
Verbatim Excerpt

ZONING ORDINANCE AMENDMENT (ZONING FEE SCHEDULE)

Decision Only During Commission Matters
(Public Hearing held on March 12, 2009)

Commissioner Alcorn: We had a public hearing on March 12th, 2009 on this topic. And we had quite a lively discussion among us Commissioners at least about the pros and cons of that, of those proposed changes. I did work with staff to talk through and to consider changes to the proposal based on these discussions. And I would draw the Commission's attention to a memo dated March 23rd to the Planning Commission from Mr. Zook which discusses the items that were discussed that evening. There are a handful of changes made now as a result of that discussion. There are other items that are not being proposed for change but are appropriate for perhaps additional consideration by the Planning Commission's Land Use Process Committee. So, I'll go ahead and make a motion and, as there needs to be additional discussion, I'm sure there will be. I'll start with a statement. As the Commission may recall, a public hearing was held on March 12th, 2009 to consider the proposed Zoning Ordinance Amendment that would increase zoning fees to achieve up to a 75 percent cost recovery rate. During the public hearing there were a number of questions raised with staff, testimony from representatives of the development community, and discussion among the Commission that caused deferral of the decision only until tonight. Since the public hearing, staff has submitted to the Commission a memorandum from Jim Zook, dated March 23rd, 2009, with attachments that provide responses to the topics raised during the public hearing. In addition, staff has submitted tonight slight revisions to the proposed text. In summary, staff concurs with the sentiment expressed by some Commissioners during the public hearing regarding several items: first, the need to refer the topic of establishing new fees for applicant-requested deferrals of public hearings to the Land Use Processing Committee of the Planning Committee for further review; second, staff has also reduced and created a differentiation in the appeal fees; and finally, based on further review of the conceptual plans, done under the PRC District, in concerns raised at the public hearing, staff proposes to withdraw the establishment of a fee for that application type. There are no other changes in the staff recommendation. The revisions for the proposed Zoning Ordinance texts that reflect these recommendations have been distributed to the Commission in the memo – are described in the memo but are specified in the documents distributed tonight, dated March 25th, 2009. So, given the current budget situation, staff continues to recommend the implementation of the fees associated with 75 percent cost recovery with an effective date of July 1st, 2009, and staff does not support phased implementation. And I would just make one other comment: in the advertised budget, the advertised budget assumes a 75 percent recovery rate for these fees. So should the Board ultimately not go with the 75 percent, then that would create – – say, it went with a 50 percent recovery, that would create about a $900,000 gap in the budget that would have to be made up somewhere else. So I would just point that out as we're dealing with something we don't normally deal with, which is the budget. We are a little bit under the gun. That said, let me just ask one question of staff before I make my actual motion here. The changes that staff is now recommending in terms of the deferral fee, in terms of differentiating the appeals fee, would those have a significant affect on the budgeted amounts in the advertised budget, and the conceptual plan as well?

Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning: Staff's proposed changes do not have a significant impact on the budget that has been advertised. There is a slight decrease in estimated amounts, but it's not a significant decrease.

Commissioner Alcorn: Okay. Should I make my motion, and then –

Commissioner de la Fe: Before we go into the motion, based on your statement –

Commissioner Alcorn: Yes.

Commissioner de la Fe: You said that the memo was recommending that there not be a fee for conceptual plans. That is not what is attached. I would like a clarification on that.

Commissioner Alcorn: Thank you, Commissioner de la Fe.

Ms. Coyle: This evening, staff distributed in each Planning Commissioner's package a revised set of Zoning Ordinance Amendment text which does incorporate the staff's suggestion to omit the conceptual plan.

Commissioner de la Fe: Okay, because you refer to the March 23rd –

Commissioner Alcorn: Right.

Commissioner de la Fe – one, and that one still had it.

Commissioner Alcorn: Right. You're right. That's, that's the one significant update from the March 23rd to the March 25th documents.

Ms. Coyle: Right.

Commissioner de la Fe: I am glad. Thank you.

Ms. Coyle: The attachments we're referring to are as revised through March 25th, 2009.

Commissioner de la Fe: Thank you.

Chairman Murphy: Mr. Alcorn.

Commissioner Alcorn: Mr. Chairman, I'll go ahead and make a motion then. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT ADOPT THE PROPOSED ZONING ORDINANCE AMENDMENT PERTAINING TO ZONING FEE INCREASES DISTRIBUTED BY STAFF AND ENTITLED, "PLANNING COMMISSION ALTERNATIVE A (75 PERCENT COST RECOVERY)," DATED MARCH 25TH, 2009.

Commissioner de la Fe: Second.

Chairman Murphy: Seconded by Mr. de la Fe. Is there a discussion of the motion?

Commissioner Lawrence: Mr. Chairman?

Chairman Murphy: Yes, Mr. Lawrence.

Commissioner Lawrence: Just one point of clarification. In staff's view, does staff feel that a more regular review of these fees – for example, it's been suggested every couple of years – does not need to be memorialized or encoded, but can still be practiced?

Ms. Coyle: That's correct. As a matter of fact, staff has been directed by the Board via policy to review our fees every other year in the same vein that DPWES will be reviewing their fees.

Commissioner Lawrence: Thank you. Thank you, Mr. Chairman.

Chairman Murphy: Further discussion of the motion?

Commissioner Flanagan: Mr. Chairman?

Chairman Murphy: Yes, Mr. Flanagan.

Commissioner Flanagan: Yes, there's been no discussion of the email that we received as a part of the public testimony recommending a 20 percent range that would be incrementally then increased over the years from 20 to 30 to 40 to 50, I guess, rather than the enormous jump in one year, which was felt to be almost a punishment in a way. It might deter unfortunately, you know, the projects from being even submitted. I don't think we've had enough time yet to analyze that recommendation. Certainly, I'm not prepared to vote in favor of this motion tonight, you know, based upon that prospect, and some deliberation of that prospect. I know that staff has reviewed the 20 percent proposal and has just said that they do not favor it, but they didn't say why. And so I think we do need to have a better response, you know, from why we are not giving more consideration to that proposal which was made on the part of industry, which the ones who are going to paying this increase in fees. So I'm not prepared to vote in favor of this motion at this point until there's some better understanding of what could be done that's less severe on the industry.

Commissioner Alcorn: Mr. Chairman?

Chairman Murphy: Mr. Alcorn.

Commissioner Alcorn: I hear Commissioner Flanagan and understand the statement. But similar to what I mentioned earlier about this being driven in large part by the budget, this has to get to the Board by the 30th in order for it to be considered as part of the budget cycle. So we really don't have any more time, unfortunately. I mean, everyone clearly should vote, you know,

whatever their conscience tells them to do, but this is unfortunately one of those situations where deferral is really not an option. And I would also just point out that when it was brought to my attention that the 75 percent recovery was already in the proposed budget, that certainly opened my eyes to, I guess, the implication that if we do recommend some other recovery amount, I'm not sure, you know, the money's got to come from somewhere. Either it comes from more taxes or it comes from cuts to someone else's budget. So that's a tough spot and we don't usually find ourselves in that situation. So my recommendation would be for us to move forward, and whatever type of recommendation we make we need to move this.

Chairman Murphy: Further discussion of the motion, Mr. Flanagan, on that point?

Commissioner Flanagan: Yes, on that point, I just would like to – I agree with you, you know, that we don't have the time. However, I would like the Board to be aware from our bulletin, what's transmitted to them, that – and I'm sure they'll probably hear in their own public hearing testimony along the lines that I've just been enumerating – that the reasons that are being given for this increase is what I find uncomfortable; doesn't – you know, it's just to find some money some place, you know, and that's kind of uncomfortable. I think, you know, if it was reasonable to do this, we would have been doing it all along. And so I think that question needs to be answered, you know, why haven't we been charging for these services, you know, all along. Thank you.

Chairman Murphy: Mr. de la Fe.

Commissioner de la Fe: Mr. Chairman, actually on the same point, I was one of the ones that raised an issue about the possibility of phasing and so on. But given the fact that this is part of the budget and the Board will begin, you know, to really hold public hearings and truly concentrate on the public input for the budget next Monday, what we are recommending is the highest and fastest possible way. I would feel uncomfortable recommending anything else. At this point the Board has the ability to act otherwise, but I can't come up with a set of budget alternatives if I were to recommend something else, so at this point I'm ready to support it.

Commissioner Lawrence: Mr. Chairman?

Chairman Murphy: Yes. Further discussion? Mr. Lawrence.

Commissioner Lawrence: On that same point, my take on this has to do with the recovery rate. What we are saying, in effect, is that one quarter of all the costs attendant to land use is borne by the general public; it's part of the public good. Three quarters are borne by those who will have the costs but also reap the gains of changes in land use. I'm very comfortable with that sort of arrangement, and I think that's fine and I intend to support the motion.

Chairman Murphy: Further discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt the proposed Zoning Ordinance Amendment as it deals with the Zoning Fee Schedule, according to Attachment 1, a proposed amendment which is the 75 percent cost recovery attachment dated March 25th, 2009, say aye.

Leslie Johnson, Senior Deputy Zoning Administrator, Department of Planning and Zoning: Commissioner Murphy (*sic*), can – as revised, because there's two versions. Okay.

Chairman Murphy: As revised. I said, Attachment 1, as revised.

Ms. Johnson: Okay, fine. I just wanted to make sure the revision word was in there. Thank you.

Chairman Murphy: Attachment 1. Yes. All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioners Flanagan, Hart, and Murphy: Abstain.

Chairman Murphy: Mr. Flanagan, and Mr. Hart, and Mr. Murphy abstain.

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(The motion carried by a vote of 8-0-3 with Commissioners Flanagan, Hart, and Murphy abstaining and Commissioner Hall not present for the vote.)

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