

April 11, 2023  
Study Session

# **Public Comments**

## **Agenda Item 1 – Strategic Planning**

Written Comments Received After 12pm on 04/11/2023



*Study Session*  
*Tuesday, April 11, 2023*

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**From:** Cheryl Greene [REDACTED]  
**Sent:** Tuesday, April 11, 2023 3:39 PM  
**To:** Public Comment  
**Cc:** \_City Council  
**Subject:** City Study Session, April 11th

**[CAUTION: External Email]**

Dear Mayor Bigstych, City Council Members, and City Staff,

Thank you for your work to create the 2023-24 fiscal year Implementation Action Program to drive the City of Pacifica's work plan.

I support addressing aging infrastructure including the sea wall, affordable housing -- especially for seniors, the negative changes to our community from far too many unhosted STRs, the impact of climate change on Pacifica, and climate change mitigation strategies.

I am particularly concerned about creating a new, robust short-term rental ordinance for Pacifica and hope addressing this issue will be part of the City's 2023-24 work plan. I hope it will be in a highly prioritized position on the work plan so this issue can be addressed in short order.

Thank you for all you do for this City and its residents.

C~

Cheryl Greene  
[REDACTED]

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Pacifica Planning Workshop, April 11, 2023  
James Kremer, resident of Sharp Park

***Public comment:***

I welcome this workshop, and its goals of Identifying Mission, Vision and Values plus strategies to fulfill them. I want to focus on the CCC – the CA Coastal Commission.

The City's relationship with the Coastal Commission is implicated in a number of this evening's Strategic Goals, directly & indirectly –

The obvious link is Goal #4 Climate. But the tentacles reach:

#1 Fiscal w/grants & litigation; #2 Infrastructure w/BBIRP; #3 Housing on the coast; #5 Public communication w/openness; & #6 Safety and Hazards w/required oversight.

With my Comment here, I am submitting a narrative statement, a longer version of one I've sent to the Tribune. (& I've left copies for the public)

Perhaps we should consider if the city suffers from a propensity for policies that conflict with the Coastal Act, as it appears? If this is essentially true, reevaluating this could be productive. Further, just because Coastal Act compliance is required in a narrow coastal strip of land, this DOES NOT MEAN that such prudence may not benefit the City elsewhere. Hazards with risks to safety and long term resilience are **not** limited to our sand beaches and infrastructure from sea level rise. We have fires, floods, and landslides elsewhere, and we **must** be sure safety & environmental laws are not being evaded in parallel projects which lack the added layer of CCC oversight.

***I contend our relationship with the CCC is dysfunctional.*** My narrative focuses on **two years** of failed dialog. How many of us appreciate that the city made **no** revisions to the Certification Draft-Local Coastal Land-Use Plan in that process? Further, when CC Staff finally acquiesced and filed the unmodified submission while offering a compromise that minimally met compliance with the Coastal Act – which they encouraged the Commissioners vote to ACCEPT – the city ***rejected this offer*** saying it needed more time. While this sounds appropriate, I must call this a “rejection” because ***the CC Staff*** emphasized that ***no new issues were raised in the modified version***; all had been suggested earlier, considered and rejected by the City, apparently repeatedly.

I have professional background in the science of effective adaptive resilience to sea level rise. I have tried to understand the impasse over the LCLUP, yet I was startled to discover the **level** of the City's rejection of the legally required compliance with the Coastal Act.

So,

**I vigorously support the strategy letter I for goal 4 on Climate adaptation to “Improve communications and collaboration with the Coastal Commission.” In the LCLUP and other cases, it really does appear that we are starting from ground zero. I really hope we can change this.**

Attachment: Narrative on LCLUP Process

## Playing Chicken With the Coastal Commission By James Kremer

The recent dialog between the California Coastal Commission and Pacifica City officials over a new Local Coastal Land Use Plan (LCLUP) appears at an impasse. Both an LCLUP and an LUP are required under the California Coastal Act for coastal cities. The California Coastal Commission (CCC) must approve the LCLUP as an amendment to the city-wide LUP. Without an update, the 1980 LCLUP is still in effect and the City must base its coastal planning decisions on very old documents. City projects are being reviewed under out-of-date standards which are not adequate to address current problems such as sea level rise. That leads to other problems such as conflicts with the state Coastal Act. It is instructive to appreciate how we got here–

**Pacifica's ongoing disagreement over a new LCLUP** – In June, 2020, the City submitted a draft LCLUP, and a two-year dialog began. Pacifica submitted 4 letters and received 4 responses, in which Coastal Commission Staff repeatedly advised changes to comply with the Coastal Act.

In July 2022 the City's 4<sup>th</sup> submittal again explained its positions. The response to the most substantive request from the CCC Staff was, *"the City has already prepared a very detailed 34-page table that responded to each of CCC suggestions and the City has no other narrative to provide at this time."* However, this table was in the agenda packet that City Council considered on 2/3/2020 when the draft LCLUP submitted in June was approved. ALL entries in this table cited in July 2022 were CCC Staff input and city reactions to pre-approval drafts incorporated prior to the June 2020 submittal. It appears that no real progress has resulted from 2 years of CCC Staff guidance.

CCC Staff offered a compromise. They accepted and filed the original draft LCLUP in August 2022, and scheduled it for a hearing before the full Commission March 8, 2023, conveniently in Half Moon Bay. The CC Staff Summary stated that the D-LCLUP was still unsatisfactory, citing, *"the City's proposal does not actually take on the difficult coastal hazard questions facing this community, and is most aptly described as a 'full-armoring' adaptation plan that would essentially commit the City in the long run to the detrimental effects of same, including the loss of its beach and shoreline recreational areas. ... The... coastal hazard provisions cannot be found consistent with the Coastal Act"* without modification.

CC Staff's solution: In guidance to the 12 Commissioners, CCC Staff recommended two votes:

**A. DENY the [LCLUP] as Submitted**, for non-compliance with Coastal Act and not meeting requirements of CEQA (CA Environmental Quality Act), when feasible alternatives exist.

**B. APPROVE a revised [LCLUP] with Suggested Modifications**. They included a revision with many specific additions and deletions that would meet minimum compliance with state law and allow the City to proceed with further steps toward approval of a General Plan.

Responding, the city requested a continuance (delay) stating insufficient time to respond. Yet CCC Staff had anticipated this, reminding Commissioners and the City, *"...modifications are suggested to ensure Coastal Act consistency. To be clear, such modifications should not appear to be unfamiliar to the City as they are the same types of changes that staff has been suggesting to the City for many years. In fact, they are even further refined and limited to the extent feasible to the core changes necessary to allow for a functioning LUP with respect to hazards. [Many] appropriate changes ... have been 'left on the table' ... in the spirit of trying to provide the City an as-modified LUP that can be approved and that retains the City's proposed structure and many of its core provisions in a way that can ideally be accepted by the City and form the basis for future LCP planning."*

What the City is planning next is uncertain. They might compromise so that an acceptable revision can be approved by the Commission at a future meeting. Or they may try to move ahead without legal approval. Regardless, we should consider the potential consequences, and try to understand the possible motivations that explain this City action.

**Coastal Commission: mandate, authority and process** – A popular vote approved the California Coastal Act of 1976 and created the Coastal Commission (CCC). MISSION: *"The Commission is committed to protecting and enhancing California's coast and ocean for present and future generations. It does so through careful planning and regulation of environmentally-sustainable development, rigorous use of science, strong public participation, education, and effective intergovernmental coordination."*

The CCC has responsibility and legal authority to oversee coastal activities. “We the people” actually OWN tidal lands in Public Trust, but CCC has regulatory oversight nearshore regardless of ownership. Coastal Act provisions ensure long-term access and sustainable protection for everyone. This authority is not unfettered: explicit policies, legal precedent, and recommendations define boundaries within which a city has jurisdiction.

When the City considers coastal activities, they submit details to the CCC Staff which provides feedback ensuring compliance with the Coastal Act. A dialog may ensue until the document is ready to go before the 12 Commissioners, accompanied by a CCC Staff background statement and recommendation.

**A Pacifica example of process and outcome** – In 2019 City Council approved a proposal for condos on Beach Blvd. The developer and the City refused strong CCC Staff suggestions to modify their design and move the condos back under the threat of rising sea level. Deliberations stalled. Eventually, noting that the plan violated the City’s own LCP and the Coastal Act, CCC Staff submitted the plan to the Commissioners, recommending it be REJECTED. Importantly, CCC Staff recommended *“that the Commission take jurisdiction over the application for the proposed project.”* Facing this, the developer agreed to changes. CCC Staff recommended a vote TO APPROVE a compromise version. Overriding its Staff’s recommendations, however, the CCC voted to deny the project for unacceptable future risk and insufficient protection. This case demonstrates the process, and a worst-case outcome for the developer despite City official support.

**What lies ahead** – The stalled dialog over LCLUP certification places Pacifica on a fraught path. CCC Staff, in filing the City’s draft for consideration by the Commissioners, commented *“that the City and Commission staff have had and continue to have different approaches to addressing the coastal zone issues facing the City.”*

**Citizen activism** – In recent cases, citizens have appealed City Council decisions contending violations of state CEQA law when these rules seemed to be evaded. When the city loses litigation it may also have to pay plaintiff’s legal expenses, in a recent case perhaps exceeding \$1M. Worse, protracted delays from unproductive discussions and litigation take time and staff energy unnecessarily. I and others are puzzled that the City chooses this path.

**Widespread resistance** – A number of coastal cities are reportedly advocating overt refusal to comply with CCC and the Coastal Act, although not admitting this openly. Complaints reject CCC Staff guidance as “regulatory overreach.” It is certainly true that CCC approval forces delays and should be streamlined. In the case of Pacifica’s LCLUP, however, it appears that the City’s refusal to compromise is largely responsible.

**Seeking a balance** – Many Pacificans have spoken against the City’s stance, provided expert opinions, supported CCC staff suggestions, and have been ignored. The disadvantages of noncompliance with the Coastal Act are considerable, including the legal and financial hazards of rejecting CCC input, the risks of losing expensive litigation, and the interminable delay in achieving modernization of the General Plan and its required parts. Yet some issues transcend short-term policy. The city’s official reliance on coastal armoring raises questions of tradeoffs for unreliable protection. Such proposals are not true resilience, and will be exorbitantly expensive to remove eventually, placing further burden on future generations. In addition, everyone should appreciate that the protracted refusal will harm our chances to compete for funding essential to any large scale coastal protection responses we eventually undertake.

Personally, I am grateful that the Coastal Act protects our access to the coast and ensures sustainability of this public resource. Once it is degraded or lost, it is gone forever. CCC is a guardian of Pacifica’s valued coastal resources and of access not only for Pacificans but for all Californians. “Playing Chicken” is rarely prudent. Playing Chicken against State authorities is precarious. I doubt that most Pacificans support this tactic.

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Dr. James Kremer is a Coastal Systems Ecologist and emeritus professor, residing in Sharp Park since 2008. He served on the Pacifica Community Working Group on Sea Level rise in 2019.

## Pacifica City Council Study Session April 11, 2023

I am Patricia McCarthy Kremer and I live in the Sharp Park District of Pacifica.

I am pleased to attend this evening and provide input toward refining the City's Mission, Vision and Values statements. Defining critical Goals and Strategies will help guide the City's work on behalf of the community for the coming years.

I am particularly excited by the inclusion of **Goal #5: Broaden public communications and collaboration**. I sincerely hope "collaboration" means that members of the public can sometimes be, as alluded to in the musical "Hamilton", "in the room where it happens".

Just about every time I speak at a City Council Meeting, I plead for City authorities to seek and incorporate the knowledge and expertise of the citizens of Pacifica, in addition to any input paid consultants, who do not live here and do not have a deep sense of our history and evolution. The public should be **much** more involved in writing and rewriting important community documents such as the Draft General Plan, the Draft Housing Element, and the Pacifica Land Use Plan. Most importantly, this involvement needs to happen **before** important decisions are made.

I sincerely believe that such citizen involvement could in fact help the City Staff be **more** efficient and **expedite** how the city handles a range of issues. I believe that prudent use of volunteers could actually reduce the work load of City staff and assist them with their responsibilities.

Finally, I want to suggest a process we might pursue concerning one particular parcel included the Draft Housing Element. Many of us learned about the sale of the Sea Bowl property less than two weeks ago. This property is among the most desirable in Pacifica for development. The use of this property is truly an opportunity for Pacifica "to have its cake and eat it too", to make the future of this property a true win-win-win for **all** involved. I am more than happy to discuss my ideas with anyone. Also I am volunteering myself **right now** to be on any task force or Ad Hoc committee focusing on the Sea Bowl property as a place that is attractive, creatively designed and unique – a great place to live, a commercial success, including interesting activities for both Pacifica residents and visitors.

Thank you.