



Coastal Cities Issues Group



**California Coastal Commission
& California Coastal Cities
Joint Workshop
August 12, 2009
San Francisco**

**Background Materials
Submitted by
League of California Cities'
Coastal Cities Issues Group &
Coastal City Attorneys Caucus**

WHAT IS THE LEAGUE OF CALIFORNIA CITIES?

The League of California Cities is an association of California's 480 cities. Our mission is to restore and protect local control for cities through education and advocacy in order to enhance the quality of life for all Californians.

WE BELIEVE:

- local self-governance is the cornerstone of democracy.
- our strength lies in the unity of our diverse communities of interest.
- in the involvement of all stakeholders in establishing goals and in solving problems.
- in conducting the business of government with openness, respect, and civility.
- the spirit of public service is what builds communities.
- open decision-making that is of the highest ethical standards honors the public trust.
- cities are the economic engine of California.
- the vitality of cities is dependent upon their fiscal stability and local autonomy.
- the active participation of all city officials increases the League's effectiveness.
- focused advocacy and lobbying is most effective through partnerships and collaboration.
- well-informed city officials mean responsive, visionary leadership, and effective and efficient city operation.

WHAT IS THE COASTAL CITIES ISSUES GROUP?

The coastal cities bear an additional and important role in preserving California's coastal resources, promoting and maintaining public access to the coastline and implementing the Coastal Act. Recognizing the common interests and responsibilities of coastal cities, the Board of Directors for the League authorized the creation of the Coastal Cities Issues Group.

The Group meets regularly and its meetings are open to all California Coastal cities, counties and special districts. Elected officials and staff regularly attend the meetings and have developed the following work plan:



Coastal Cities Issues Group 2009-2010 Work Program

I. Communications Element

A. Continue to improve communications with Commissioners and staff.

- Meet with commissioners on an as-needed basis to review ideas for improving working relationships.
- Encourage cities to contact commissioners who represent their area of the coast to offer comments about Local Coastal Plan (LCP) certification and/or permit appeals.
- Meet with senior staff to formulate and document one or more protocols intended to achieve closer collaboration between cities and commission staff.
- Encourage cities to invite commissioners and/or staff to visit their cities.
- Conduct a workshop with commissioners, staff, and city and county representatives about ways to make the LCP process more predictable and time-sensitive.

B. Identify and resolve ways to address coastal matters that will result in improved communication, working relationships and a predictable efficient process.

- Identify cities that have had a good working relationship with local commission staff and identify the factors that lead to the good relationship.
- Conduct regional focus meetings, prior to the workshop with the commission, on the theme: "What Works – What Does Not Work?"
- Include an educational component to CCIG meetings, and provide a conference line so that city officials may participate remotely.

II. Substantive Issues to Address

A. Place a priority on the content and process for preparing and certifying Local Coastal Plans.

- Streamline the process by assisting the commission and staff to prepare a written guide for submitting a new or amended LCP.
- Work with the commission to set a more predictable time line for coastal matters, in line with the Permit Streamlining Act.
- Establish a process where commission staff is more aware of efforts by local governments to prepare new or amended LCPs.
- Ensure that Chapter 3 of the Coastal Act is the standard of review for each LCP submitted for certification, including review standards in the written guide.
- Advocate that the commission to allocate adequate staff to process LCPs. Use collaboration between local governments and commission staff early on in the process to increase efficiency.
- Provide for concurrent processing of an amended LCP with a Coastal Development Permit that will implement the LCP amendment.

B. Address other coastal matters after the Local Coastal Plan process has become more predictable and efficient.

- Establish a timely process for introduction or amendment of city ordinances that apply in the Coastal Zone to be reviewed in a collaborative manner.
- Resolve the matter of jurisdiction and best practices in the matter of storm water discharge and wild land fire safe practices.
- Work with the commission to establish guidelines for interpretation where multiple state laws apply. (*Example: State housing law, as amended by SB 315, vs. coastal land use law.*)
- Reduce the need to issue numerous Coastal Development Permits by local governments by applying efficiencies in the Coastal Act.
- Address beach erosion and bluff stability through a standard format.
- Address issues related to bluff stability and retention walls.
- Allow cities and counties to administer temporary events in their coastal zone.

WHAT IS THE COASTAL CITY ATTORNEYS CAUCUS?

The Coastal City Attorneys Caucus is a working group of the City Attorneys Department of the League of California Cities. It is comprised of the city attorneys and assistant and deputy city attorneys for all cities within the coastal zone. The Caucus meets twice a year (May and September) and shares information in between meetings. The purpose of the Caucus is to share resources and assist one another as colleagues in providing legal advice to California coastal cities.

HOW DOES THE COASTAL ACT DEFINE THE RELATIONSHIP BETWEEN THE COMMISSION AND COASTAL CITIES?

The Coastal Act creates a partnership between coastal cities and the Coastal Commission.

The state Legislature established broad policies set out in Chapter 3 of the Coastal Act and required local governments to implement these broad policies through certified local coastal programs. The California Supreme Court has determined that Legislature left “wide discretion to a local government not only to determine the contents of its land use plans, but to choose how to implement these plans” *Yost v. Thomas* (1984) 36 Cal.3d 561, 573. However, the Coastal Commission plays an important regulatory role with respect to amendments to LCPs. The Commission’s job under the Coastal Act is to certify that an LCP or any amendment to an LCP is consistent with the state policies.

The Coastal Act defines the Commission’s role in certification applications:

§ 30512.2. Land use plan; criteria for decision to certify or refuse certification

The following provisions shall apply to the commission's decision to certify or refuse certification of a land use plan pursuant to Section 30512:

(a) The commission's review of a land use plan shall be limited to its administrative determination that the land use plan submitted by the local government does, or does not, conform with the requirements of Chapter 3 (commencing with Section 30200). In making this review, the commission is not authorized by any provision of this division to diminish or abridge the authority of a local government to adopt and establish, by ordinance, the precise content of its land use plan.

(b) The commission shall require conformance with the policies and requirements of Chapter 3 (commencing with Section 30200)

only to the extent necessary to achieve the basic state goals specified in Section 30001.5.

Cities are accustomed to implementing state policies. Like the Coastal Act, there are numerous statutory schemes that create alliances between local government and a state agency (in areas such as housing law,¹ solid waste reduction,² the National Pollution Discharge Elimination System program³ and traffic congestion management,⁴ to name a few). These statutory schemes work well because they allow the state to set minimum standards without infringing on the diversity of California cities; when implementing the state policies, local governments still may exercise broad discretion to reflect local conditions.

WHAT IS AN LCP?

The overarching goals of the Coastal Act are to maximize public access to the beach and protect sensitive coastal resources. The state's policies toward these ends are set forth in Chapter 3 of the Coastal Act⁵ and constitute the standards by which the adequacy of an LCP or an LCP amendment is determined. Public Resources Code §30200.

The Coastal Act contemplates the implementation of these goals through the enforcement of certified local coastal programs. Each local government

¹See Govt Code §65585 (providing for state review of local housing elements to determine consistency with state housing policy)

²See Public Resource Code § 40000, *et seq.* (California Integrated Waste Management Act requiring plans and programs to reduce solid waste)

³See Water Code §§ 13370-13389 (State Water Resources Control Board administers federal Clean Water Act, issuing permits to cities for, among other things, stormwater management)

⁴See Gov't Code §65088, *et seq.* (Requiring cities to establish congestion management programs to meet and maintain state and regional levels of service)

⁵ Chapter 3 is divided into six articles, each dedicated to a subject area: Public Access, Recreation, Marine Environment, Land Resources, Development and Industrial Development. Each article consists of five to seven substantive policies. All together, Chapter 3 is comprised of 41 policies covering six subject areas.

with jurisdiction over land in the coastal zone is required to prepare and have certified an LCP.

The Coastal Act defines an LCP as “a local government’s (a) land use plans, (b) zoning ordinances, (c) zoning district maps, and (d) implementing actions which, when taken together, meet the requirements of, and implement the provisions and policies of [the Coastal Act] at the local level.” Public Resources Code Section 30108.6. The Land Use Plan is defined as “ the relevant portion of a local government’s general plan, or local coastal element which are sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies and, where necessary, a listing of implementing actions.” Public Resources Code §30108.5.

WHAT IS THE PROCESS TO ADOPT OR AMEND AN LCP?

The LCP preparation or amendment process has five basic steps:

- (1) the local government proposes an amendment and meets the requirements for public participation during review, usually this will require public notice and a hearing before a planning commission and a hearing before the legislative body;
- (2) the local government adopts and submits to the Coastal Commission the proposed amendment, along with supporting materials as set forth in the Coastal Act and related Commission;
- (3) Commission staff reviews the submittal, filing it if complete and determining if it is a minor or *de minimis* amendment (may be approved administratively) or major (requires a hearing);
- (4) the Commission holds a hearing and votes to certify the amendment or suggests “modifications” or denies the amendment; and

- (5) if certified, the local government takes any necessary steps to implement the LCP amendment; if “modifications” suggested, the local government may accept those or prepare alternatives and re-do steps 1 through 5.

This is a public process and a city employs significant resources to comply. Section 13515 of the Commission’s regulations provide that, among other means of notice, notices of public hearings or availability of draft LCP amendments must be mailed to (i) members of the public requesting such notices; (ii) contiguous and affected local governments (iii) certain regional, state and federal agencies; and (iv) local libraries and media. Individuals may also request that copies of LCP amendment drafts and related documents be mailed to them and the local governments may charge fees sufficient to cover the cost of duplicating and mailing these materials. Notices of public hearings must be published and mailed to interested persons and public agencies at least 10 working days before the hearing. *See* 14 Cal. Code Regs Section 13515(d).

An LCP amendment submittal to the Commission must include various supporting materials. These are listed in Section 13552 of the Commission's regulations and include (i) a summary of public participation measures; (ii) a list of interested persons contacted for comment; (iii) significant comments received and the local government's response; (iv) a full description of the LCP amendment (policies, standards, text with strike-outs and underlines, maps); (v) a discussion of the amendment's relationship to and effect on the rest of the LCP including the access component; (vi) an analysis of how the amendment complies with the "common methodology" for LCP preparation (Commission Regulations Section 13511); (vii) any environmental documents required pursuant to CEQA;⁶ and (viii) an indication of the zoning measures that will be used to carry out an LUP Amendment.

An application must be determined to be complete before the review begins (and the clock starts ticking). The Commission staff decides if the submittal is complete for filing. If so, staff files the amendment submittal, starting the Commission's review period. If not, staff notifies the local government in writing of the submittal's inadequacies.

⁶ *But see* Public Resources Code Section 21080.9, exempting from CEQA the activities and approvals by any local government associated with preparation of an LCP or its amendment.

The Coastal Act contemplates an expeditious review by the Commission. Public Resources Code Sections 30512 and 30605 provide that the Commission shall make its determination within 90 days of its submittal. If the amendments are only to the Local Implementation Plan, the statute provides only 60 days for the Commission to act. Public Resources Code Section 30517 also allows the Commission to extend the action deadline for up to a year for “good cause.”