

CALIFORNIA COASTAL COMMISSION

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**W21**

DATE: January 23, 2013
TO: Coastal Commissioners
FROM: Charles Lester, Executive Director
SUBJECT: **DRAFT MINUTES of MEETING of JANUARY 9-11, 2013**
City of Pismo Beach
Veteran's Memorial Hall
780 Bello Street
Pismo Beach, CA 93449

WEDNESDAY, JANUARY 9, 2013

1. **CALL TO ORDER.** The meeting of the California Coastal Commission was called to order at 8:30 a.m. by Chair Shallenberger.
2. **ROLL CALL.** Present: Chair Shallenberger, Vice Chair Kinsey, Blank, Bochco, Brennan, Groom, McClure, Mitchell, Zimmer. Sanchez arrived at 8:35. Absent: Burke. Non-voting: None.
3. **AGENDA CHANGES.**
4. **GENERAL PUBLIC COMMENT.** Members of the public addressed the Commission on various issues affecting the coast.

STATEWIDE

- 4.5. **EXECUTIVE DIRECTOR'S REPORT.**
 - a. **Draft Strategic Plan – Discussion Only.** Public hearing and Commission discussion of the Coastal Commission's draft Strategic Plan for the next five years (2013 to 2018). No action taken.

NORTH COAST DISTRICT

5. **DEPUTY DIRECTOR'S REPORT.** Report by Deputy Director Dettmer on permit waivers, emergency permits, immaterial amendments & extensions, LCP matters not requiring public hearings, and on comments from the public. There being no objection, Chair Shallenberger ruled concurrence.

6. **CONSENT CALENDAR (removed from Regular Calendar).** Staff moved one item [8a] to the expanded consent calendar and recommended approval with conditions.

Motion & vote: McClure moved to approve the consent calendar pursuant to the staff recommendation and recommended a yes vote, seconded by Brennan. Chair Shallenberger ruled that the vote was unanimous in favor of the motion. **Approved with conditions.**

7. **LOCAL COASTAL PROGRAMS (LCPs)**

- a. **County of Humboldt LCP Amendment No. HUM-MAJ-1-12 (Guttero & Williams).** Staff recommended approval as submitted.

Motion & vote: McClure moved to certify the Land Use Plan as submitted and recommended a yes vote, seconded by Brennan. Chair Shallenberger ruled that the vote was unanimous in favor of the motion. **Approved as submitted.**

Motion & vote: McClure moved to reject the Implementation Plan as submitted and recommended a no vote, seconded by Brennan. Chair Shallenberger ruled that the vote was unanimous in opposition to the motion. **Approved as submitted.**

8. **COASTAL PERMIT APPLICATIONS.**

- a. **Application No. 1-12-32 (California Department of Parks & Recreation, Humboldt & Del Norte Co.)** Moved by staff to the expanded consent calendar. **Approved with conditions.**

ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY

9. **ENERGY, OCEAN RESOURCES and FEDERAL CONSISTENCY.** Report by the Deputy Director Dettmer on permit waivers, emergency permits, immaterial amendments & extensions, negative determinations, matters not requiring public hearings, and status report on offshore oil & gas exploration & development. There being no objection, Chair Shallenberger ruled concurrence.

10. **CONSENT CALENDAR (removed from Regular Calendar).** None.

11. **REVISED FINDINGS.**

- a. **Application No. E-12-005 and CC-027-12 (Pacific Gas & Electric Co., San Luis Obispo Co.)** Staff recommended adoption of the revised findings.

[Commissioner Mitchell recused.]

Motion & vote: Bochco moved to adopt the findings and recommended a yes vote, seconded by Zimmer. Chair Shallenberger ruled that the vote of the prevailing side was 7 in favor (Bochco, Brennan, Kinsey, McClure, Sanchez, Zimmer, Shallenberger) and none opposed. **Approved.**

12. **FEDERAL CONSISTENCY.**

a. **CD-057-12 (Corps of Engineers, Pismo Beach)** Staff recommended concurrence.

Motion: Sanchez moved to concur that the project is consistent and recommended a yes vote, seconded by Bochco.

Amending motion & vote: Mitchell moved to amend the motion to require a 5-year report from the City of Pismo Beach on a managed retreat plan and recommended a yes vote, seconded by Brennan. The roll call vote was 8 in favor (Blank, Bochco, Brennan, Groom, Kinsey, Mitchell, Sanchez, Shallenberger) and 2 opposed (McClure, Zimmer). **Approved.**

Vote on main motion: The roll call vote was 7 in favor (Blank, Bochco, Brennan, Groom, Mitchell, Sanchez, Shallenberger) and 3 opposed (Kinsey, McClure, Zimmer). **Approved.**

STATEWIDE

[These items were trailed and heard on Thursday and Friday]

CLOSED SESSION.

Cannery Row Marketplace, LLC v. CCC,
Macpherson v. CCC,
Venice Stakeholders Assn. v. CCC et al.

No closed session was held on these items.

13. **APPROVAL OF MINUTES.** The minutes of **November 2012** were approved. **Motion & vote:** Sanchez moved to approve the minutes as written and recommended a yes vote, seconded by Brennan. Chair Shallenberger ruled that the vote was unanimous in favor of the motion. **Approved.**

14. **COMMISSIONERS' REPORTS.** Information only. No action taken.

15. **CONSERVANCY REPORT.** Information only. No action taken.

16. **SANTA MONICA MOUNTAINS CONSERVANCY REPORT.** None.

17. **SANTA MONICA BAY RESTORATION REPORT.** Information only. No action taken.

18. **DEPUTY ATTORNEY GENERAL'S REPORT.** Information only. No action taken.
19. **EXECUTIVE DIRECTOR'S REPORT** including reports and possible Commission action on legislation and water quality.
 - a. **Legislation.** Legislative report. Informational only. No action taken.
 - b. Update on public access planning and state parks. Informational only. No action taken.

The Commission recessed for the day at 1:00 p.m. and took a field trip.

COMMISSION FIELD TRIP

The Commission took a field trip to the Diablo Canyon Nuclear Power Plant and other sites.

THURSDAY, JANUARY 10, 2013

1. **CALL TO ORDER.** The meeting of the California Coastal Commission was called to order at 8:30 a.m. by Chair Shallenberger.
2. **ROLL CALL.** Present: Chair Shallenberger, Vice Chair Kinsey, Bochco, Brennan, Groom, McClure, Mitchell, Zimmer, Shallenberger. Sanchez arrived at 8:37; Blank arrived at 8:39. Absent: Burke.
3. **AGENDA CHANGES**
4. **GENERAL PUBLIC COMMENT.** Members of the public addressed the Commission on various issues affecting the coast.

ENFORCEMENT

5. **ENFORCEMENT REPORT.** None.

SOUTH COAST DISTRICT (LOS ANGELES COUNTY)

6. **CONSENT CALENDAR.**
 - a. **Application No. 5-12-304 (Podleski, Venice, City of Los Angeles)** Staff recommended approval with conditions.

Motion & vote: Brennan moved to approve the consent calendar pursuant to the staff recommendation and recommended a yes vote, seconded by Kinsey. Chair Shallenberger ruled that the vote was unanimous in favor of the motion. **Approved with conditions.**

SOUTH COAST DISTRICT (LOS ANGELES COUNTY)

7. **DEPUTY DIRECTOR'S REPORT FOR LOS ANGELES COUNTY.** Report by Deputy Director Ainsworth on permit waivers, emergency permits, immaterial amendments & extensions, LCP matters not requiring public hearings, and on comments from the public. There being no objection, Chair Shallenberger ruled concurrence.
8. **CONSENT CALENDAR (removed from Regular Calendar).** Staff moved one item [9a] to the expanded consent calendar and recommended approval with conditions.

Motion & vote: Brennan moved to approve the consent calendar pursuant to the staff recommendation and recommended a yes vote, seconded by Kinsey. Chair Shallenberger ruled that the vote was unanimous in favor of the motion. **Approved with conditions.**

9. **COASTAL PERMIT APPLICATIONS.**

- a. **Application No. 5-12-263 (Los Angeles World Airport, Environmental Services Division, Los Angeles Co.)** Moved by staff to the expanded consent calendar. **Approved with conditions.**
- b. **Application No. 5-12-301 (MacPherson, Pacific Palisades) [POSTPONED]**

10. **PERMIT AMENDMENTS.**

- a. **Permit No. 5-06-460-A3 (Orange County Flood Control District, Long Beach) [POSTPONED]**

SOUTH CENTRAL COAST DISTRICT

11. **DEPUTY DIRECTOR'S REPORT.** Report by Deputy Director Ainsworth on permit waivers, emergency permits, immaterial amendments & extensions, LCP matters not requiring public hearings, and on comments from the public. There being no objection, Chair Shallenberger ruled concurrence.

12. **CONSENT CALENDAR (removed from Regular Calendar).** None.

13. **LOCAL COASTAL PROGRAMS (LCPs)**

- a. **City of San Buenaventura LCP Amendment No. SBV-MAJ-1-12. Time Extension.** Staff recommended approval of the time extension.

Motion & vote: Brennan moved to grant the time extension and recommended a yes vote, seconded by Kinsey. Chair Shallenberger ruled that the vote was unanimous in favor of the motion. **Approved.**

14. **COASTAL PERMIT APPLICATIONS.**

- a. **Application No. 4-12-044 (Trust for Public Land and Devereaux Creek Properties, Inc., Santa Barbara Co.)** Staff recommended approval with conditions.

Motion & vote: Zimmer moved to approve pursuant to the staff recommendation and recommended a yes vote, seconded by Brennan. Chair Shallenberger ruled that the vote was unanimous in favor of the motion. **Approved with conditions.**

NORTH CENTRAL COAST DISTRICT

15. **DEPUTY DIRECTOR'S REPORT.** Report by Deputy Director Carl on permit waivers, emergency permits, immaterial amendments & extensions, LCP matters not requiring public hearings, and on comments from the public. There being no objection, Chair Shallenberger ruled concurrence.
16. **CONSENT CALENDAR (removed from Regular Calendar).** None.
17. **NEW APPEALS.**
 - a. **Appeal No. A-2-SMC-12-013 (Zbiczak, San Mateo Co.)** Staff recommended the Commission determine that the appeal raised **no substantial issue** on the grounds in which the appeal was filed.

[Commissioner Groom recused.]

Motion & vote: Kinsey moved to determine that the appeal raised no substantial issue on the grounds in which the appeal was filed and recommended a yes vote, seconded by Brennan. Chair Shallenberger ruled that the vote was unanimous in favor of the motion. **No Substantial Issue found.**

CENTRAL COAST DISTRICT

18. **DEPUTY DIRECTOR'S REPORT.** Report by Deputy Director Carl on permit waivers, emergency permits, immaterial amendments & extensions, LCP matters not requiring public hearings, and on comments from the public. There being no objection, Chair Shallenberger ruled concurrence.
19. **CONSENT CALENDAR (removed from Regular Calendar).** None.
20. **LOCAL COASTAL PROGRAMS (LCPs)**
 - a. **City of Pismo Beach LCP Amendment No. PSB-1-12 Part 2 (Parks and Recreation/Land Use Update).** Staff recommended denial as submitted and approval if modified as suggested by staff.

Motion & vote: Brennan moved to certify the Land Use Plan as submitted and recommended a no vote, seconded by Sanchez. Chair Shallenberger ruled that the vote was unanimous in opposition to the motion. **Certification denied.**

Motion & vote: Brennan moved to certify the Land Use Plan if modified as suggested by staff and recommended a yes vote, seconded by Sanchez. Chair Shallenberger ruled that the vote was unanimous in favor of the motion. **Approved with modifications.**

21. **VESTED RIGHTS.**

- a. **Application No. 3-12-013-VRC (McCarthy, San Luis Obispo Co.)** Staff recommended that the Commission deny the claim of vested rights.

Motion & vote: Sanchez moved to determine that the Vested Rights claim is substantiated and recommended a no vote, seconded by Blank. Chair Shallenberger ruled that the vote was unanimous in opposition to the motion. **Denied.**

LUNCH RECESS. The Commission recessed for lunch at 12:15 p.m. and returned at 1:00 p.m.

22. **NEW APPEALS.**

- a. **Appeal No. A-3-SLO-11-061 (McCarthy, San Luis Obispo Co.)** Staff recommended the Commission determine that the appeal raised substantial issue. There being no objection, Chair Shallenberger ruled that the Commission found substantial issue and opened the hearing on the merits of the project. Staff recommended approval with conditions.

Motion: Blank moved to approve pursuant to the staff recommendation and recommended a yes vote, seconded by Brennan.

Amending motion & vote: Zimmer moved to add a new assumption of risk, indemnification, and hold-harmless condition (associated with potential well failure) based on language provided by staff and recommended a yes vote, seconded by Bochco. The roll call vote was 9 in favor (Blank, Bochco, Brennan, Kinsey, McClure, Mitchell, Sanchez, Zimmer, Shallenberger) and one opposed (Groom). **Approved.**

Vote on the main motion: The roll call vote was 3 in favor (Blank, McClure, Shallenberger) and 7 opposed (Bochco, Brennan, Groom, Kinsey, Mitchell, Sanchez, Zimmer). **Denied.**

23. **COASTAL PERMIT APPLICATIONS.**

- a. **Application No. A-3-PSB-10-062 (Koligian, Pismo Beach)** Staff recommended approval with conditions. [Brennan abstained]

The Commission went into Closed Session during this item.

REPORT OF CLOSED SESSION: In closed session the Commission received information and advice about potential litigation.

Motion & vote: Bochco moved to approve pursuant to the staff recommendation and recommended a no vote, seconded by Sanchez. The roll call vote was none in favor and 9 opposed [Blank, Bochco, Groom, Kinsey, McClure, Mitchell, Sanchez, Zimmer, Shallenberger]. **Denied.**

b. **Application No. A-3-MRB-11-001 (City of Morro Bay & Cayucos Community Services District, Morro Bay)** Staff recommended denial of the project.

Motion & vote: Kinsey move to approve and recommended a no vote, seconded by Sanchez. Chair Shallenberger ruled that the vote was unanimous in opposition to the motion. **Denied.**

The Commission recessed for the day at 6:15 p.m.

FRIDAY, JANUARY 11, 2013

1. **CALL TO ORDER.** The meeting of the California Coastal Commission was called to order at 9:00 a.m. by Chair Shallenberger.
2. **ROLL CALL.** Present: Chair Shallenberger, Vice Chair Kinsey, Wickett(alternate), Bochco, Groom, Sanchez, Zimmer. McClure and Mitchell arrived at 9:05 a.m.; Brennan arrived at 9:45 a.m. Absent: Burke.
3. **AGENDA CHANGES.**
4. **GENERAL PUBLIC COMMENT.** Members of the public addressed the Commission on various issues affecting the coast.

SOUTH COAST DISTRICT (ORANGE COUNTY)

5. **CONSENT CALENDAR.** Staff recommended the Commission approve the consent calendar with conditions.
 - a. **Application No. 5-12-140 (Cambon, Newport Beach)**
 - b. **Application No. 5-12-224 (Shah, Newport Beach) [POSTPONED]**

Motion & vote: Kinsey moved to approve the consent calendar pursuant to the staff recommendation and recommended a yes vote, seconded by Brennan. Chair Shallenberger ruled that the vote was unanimous in favor of the motion. **Approved with conditions.**

SAN DIEGO DISTRICT

6. **CONSENT CALENDAR.**
 - a. **Application No. 6-12-60 (California Department of Transportation, San Diego)**
Staff recommended the Commission approve the consent calendar with conditions.

Motion & vote: Kinsey moved to approve the consent calendar pursuant to the staff recommendation and recommended a yes vote, seconded by Brennan. Chair Shallenberger ruled that the vote was unanimous in favor of the motion. **Approved with conditions.**

SOUTH COAST DISTRICT (ORANGE COUNTY)

7. **DEPUTY DIRECTOR'S REPORT FOR ORANGE COUNTY.** Report by Deputy Director Sarb on permit waivers, emergency permits, immaterial amendments & extensions, LCP matters not requiring public hearings, and on comments from the public. There being no objection, Chair Shallenberger ruled concurrence.
8. **CONSENT CALENDAR (removed from Regular Calendar).** None.
9. **LOCAL COASTAL PROGRAMS (LCPs)**

- a. **City of Laguna Beach LCP Amendment No. LGB-MAJ-3-11 (Notification Procedures).** Staff recommended denial of the Implementation Plan as submitted and approval with suggested modifications.

Motion & vote: Kinsey moved to reject the Implementation Plan as submitted and recommended a yes vote, seconded by Brennan. Chair Shallenberger ruled that the vote was unanimous in favor of the motion. **Certification denied.**

Motion & vote: Kinsey moved to certify the Implementation Plan if modified as suggested by staff and recommended a yes vote, seconded by Brennan. Chair Shallenberger ruled that the vote was unanimous in favor of the motion. **Approved with modifications.**

- b. **City of Newport Beach LCP Amendment No. NPB-MAJ-1-12 (Shoreline Height). Time Extension.** Staff recommended approval of the time extension.

Motion & vote: Brennan moved to grant the 90-day time extension and recommended a yes vote, seconded by Kinsey. Chair Shallenberger ruled that the vote was unanimous in favor of the motion. **Approved.**

10. **PERMIT AMENDMENTS.**

- a. **Permit No. 5-88-784-A3 (Vista Pacifica Inc., San Clemente)** Staff recommended approval with conditions.

Motion & vote: Brennan moved to approve pursuant to the staff recommendation and recommended a yes vote, seconded by Kinsey. Chair Shallenberger ruled that the vote was unanimous in favor of the motion. **Approved with conditions.**

SAN DIEGO COAST DISTRICT

11. **DEPUTY DIRECTOR'S REPORT.** Report by Deputy Director Sarb on permit waivers, emergency permits, immaterial amendments & extensions, LCP matters not requiring public hearings, and on comments from the public. There being no objection, Chair Shallenberger ruled concurrence.

12. **CONSENT CALENDAR (removed from Regular Calendar).** Staff moved one item [14a] to the expanded consent calendar and recommended approval with conditions.

Motion & vote: Sanchez moved to approve the consent calendar and recommended a yes vote, seconded by Brennan. Chair Shallenberger ruled that the vote was unanimous in favor of the motion. **Approved with conditions.**

13. **LOCAL COASTAL PROGRAMS (LCPs)**

- a. **City of Oceanside LCP Amendment No. OCN-MAJ-3-12 (Downtown Visitor-Serving Uses) Time Extension.** Staff recommended approval of the time extension.

Motion & vote: Sanchez moved to approve the time extension and recommended a yes vote, seconded by Brennan. Chair Shallenberger ruled that the vote was unanimous in favor of the motion. **Approved.**

14. **COASTAL PERMIT APPLICATIONS.**

- a. **Application No. 6-12-13 (Sherman, San Diego Co.)** Moved by staff to the expanded consent calendar. **Approved with conditions.**

15. **REVISED FINDINGS.**

- a. **Appeal No. A-6-ENC-09-40 (Okun, Encinitas)** Staff recommended adoption of the findings.

Motion & vote: Sanchez moved to adopt the findings and recommended a yes vote, seconded by Kinsey. The vote of the prevailing side was 6 in favor (Bochco, Brennan, Kinsey, McClure, Mitchell, Sanchez) and none opposed. **Approved.**

- b. **Appeal No. A-6-ENC-09-41 (Okun, Encinitas)** Staff recommended adoption of the findings.

Motion & vote: Sanchez moved to adopt the findings and recommended a yes vote, seconded by Kinsey. The vote of the prevailing side was 6 in favor (Bochco, Brennan, Kinsey, McClure, Mitchell, Sanchez) and none opposed. **Approved.**

STATEWIDE. Items trailed from Wednesday's agenda were heard.

There being no old or new business, Chair Shallenberger adjourned the meeting of the California Coastal Commission.

Respectfully submitted,

Charles Lester
Executive Director