

MINUTES APPROVED AT THE HPC MEETING ON APRIL 9, 2024

Historic Preservation Commission Meeting

Virtual

April 11, 2023

5:30 p.m.

MINUTES

Roll Call:

Chair Pavlinec called the meeting to order at 5:43 p.m.

Present: Chair Joann Pavlinec, Vice Chair Caitlin Hibma; Commissioners Fatema Crane, Jonathan Haerber and Michael Hibma

Absent: Linda Hemmila and Gretchen M. Stromberg

Staff: Roberta Feliciano

Approval of Minutes:

None

Meeting Procedures:

Chair Pavlinec announced there was no appeal date due to the item being a study session.

Public Forum:

No speakers

Liaison Reports:

No report

Consent Calendar:

None

Public Hearing:

- 1. PLN21-160 BRICKYARD LANDING CHIMENY/KILNS STABILIZATION AND PRESERVATION PROJECT**
- | | | | |
|---------------|---|-----------------|------------------------------|
| Description | STUDY SESSION TO RECEIVE AND PROVIDE COMMENTS ON THE HISTORIC RESOURCE EVALUATION (HRE), PLANS AND PROPOSAL TO PRESERVE THE HISTORIC BRICKYARD LANDING CHIMNEY AND KILNS STRUCTURES OF THE BRICKYARD LANDING HOMEOWNER'S ASSOCIATION. | | |
| Location | 1223 BRICKYARD COVE LANE, RICHMOND, CA | | |
| Zoning | PA, PLANNED AREA DISTRICT | | |
| APN | 560-480-011 | | |
| Applicant | BRICKYARD LANDING HOMEOWNER'S ASSOCIATION (MICHAEL CARNALL) | | |
| Staff Contact | ROBERTA FELICIANO | Recommendation: | PROVIDE AND RECEIVE COMMENTS |

Ms. Feliciano introduced the item and reported the Commission discussed the item at its September 21, 2021 meeting. At that meeting, the Commission conditionally approved the

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Demolition Permit to remove the top 35 feet of the chimney. The conditions of approval included that the applicant provide a Surety Bond in the amount of \$300,000 within 1 year to ensure that the chimney be constructed to the Secretary of the Interior's Standards or in a way that met the threshold of the California Environmental Quality Act (CEQA). On April 12, 2022, the applicant presented the long-term stabilization plan for the chimney and kilns and on March 27, 2023, the applicant requested an amendment to Condition #9 and that it be due before the issuance of the Building permit.

She remarked the item was a study session to discuss the HRE, plans and proposals to preserve the chimney and kilns. Included in the proposal was a plan to strengthen and proposed maintenance of the southern kiln, and removal of the north kiln and chimney base. If approved to extend the due date for Condition of Approval #9, the extension would allow the team time to work through the long-term stabilization and implementation plan for the chimney and kilns. Staff recommended that the Commission provide comments on the HRC, the plans, proposals and the amendment.

Chair Pavlinec invited Commissioners to ask questions of staff.

Commissioner Crane asked when the Surety Bond was currently due and if the applicant had applied for a Building Permit. Ms. Feliciano answered the bond was due within 1 year of September 2021 and that the applicant had not applied for a Building Permit yet.

Mark Hulbert, Preservation Architect, summarized the Brickyard Homeowner's Association (HOA) has received its Demolition Permit, completed the documentation survey, removed parts of the chimney for safety reasons, stabilized the south kiln, explored issuance of a Surety Bond, and drafted a proposal for treatment evaluations. He emphasized that the Brickyard HOA has been very corporative throughout the process.

With respect to funding, the team selected a project management firm to help the HOA draft a construction budget. The budget explored several options for the chimney and kilns including removal, strengthening, replacement and others. A legal team was also consulted to provide the HOA with cost estimations with lead Bay Area restoration companies. To reconstruct the base of the chimney was approximately \$1.7 million and that did not include soft costs which was an additional cost of 25 percent. The retention and strengthening of the south kiln were identified as the preferred, most feasible, and most historically appropriate solution. To date, the Brickyard HOA had committed \$400,000 for the project.

Mr. Hulbert shared that the base of the chimney was a 10 by 10 square with a smaller chimney inside. When the chimney was reduced in height, the bricks were cleaned and moved to a storage facility on site. He mentioned that the bricks are not suitable to be used again due to their size and condition. Though the chimney had ties to a historic event, the chimney lacked integrity and was not identified as a historic resource. The chimney was reduced in height to 10 feet and no longer appeared as a chimney. With respect to the north kiln, he reported the kiln was in a state of emanate collapse and was not repairable. With that said, the kiln had lost its integrity and should be removed. With respect to the south kiln, the kiln had been stabilized, documented and was repairable. The plan was to retain the south kiln, remove the chimney base and remove the north kiln with an exploration of having landscaping that reflected their existence. If approved, the south kiln would be filled which would eliminate entrance to the interior space while stabilizing and retaining it.

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Mr. Hulbert concluded that there was no understanding by the homeowners that the kilns and chimney were a potential historic resource.

Chair Pavlinec invited Commissioners to ask questions of the applicant.

Commissioner Crane requested the budget slide be shared and asked why during the evaluation the applicant determined the historic status of the structures. Mr. Hulbert responded it was a necessary piece of the work. The team explored the basis of historic significance and found none. Commissioner Crane understood that the property was not listed on any historic register. Mr. Hulbert remarked the old Brickworks was on the Richmond Historic Register, not the three structures in question. The three structures were the remnant structures of the old Brickworks and they were the only remaining structures from the Brickworks facility.

Commissioner Haeber recalled the structural engineer from ZFA remarked the subterranean features of the structures were unique and the presented Criterion C analysis indicated that the south kiln was significant under Criterion C. Mr. Hulbert agreed there are several kilns in the Bay Area and the south kiln was a distinctive construction.

Commissioner C. Hibma mentioned that based on her research the property was listed on the Built Environmental Resource Directory (BERD), listed on the Contra Costa County Historic Resource Inventory and on the Richmond Register. She agreed it was confusing because the structures were listed as old Brickworks. In that sense, she agreed an HRE was an appropriate approach to establish if the structures are a historic resource under CEQA. Mr. Hulbert confirmed he reached the same conclusion.

Chair Pavlinec asked if the structures could be considered contributing elements to the old Brickworks and if was there any evidence why the three structures were retained when the facility was demolished. Mr. Hulbert stated he evaluated the two kilns and the chimney after it was reduced in height. The chimney had to be reduced in height due to safety concerns and lost its integrity because of that safety concern. That same evaluation applied to the north kiln. Chair Pavlinec asked if the structures were analyzed with the seven aspects of integrity and Ms. Hulbert confirmed that was correct.

Commissioner C. Hibma pointed out that condition and integrity are two separate entities. Often time, poor integrity meant great condition and great condition meant poor integrity. With respect to the structures, physical their integrity was poor but historically their integrity was excellent because they had not been touched. She remarked one could not use a Demolition Permit to claim that there was no integrity. Mr. Hulbert mentioned his perspective on integrity was if a structure did not have a future then it did not have integrity because it could not be salvaged.

Commissioner Crane remarked the Commission discussed the chimney when it was still at its full height and the Commission's perspective on the project was much broader.

Commissioner Haeber agreed the project was first brought before the Commission for the demolition of the chimney, not the demolition of the kilns. He asked at the beginning of the kilns were being considered as well and the applicant remarked no, the kilns were not part of the project. The project was being presented to the Commission as a segmented project and that could be a legal issue from a CEQA standpoint.

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Ms. Klein stated for piecemealing, the projects needed to have a connection and the original demolition of the chimney was an independent utility from what was being proposed now. From a CEQA perspective, the baseline was the existing conditions.

Commissioner M. Hibma asked why the HRE did not consider the Richmond Register criteria and pointed out there was evidence that the kilns and chimneys together could be eligible under Criterion 4 for their unique characteristics as part of engineering for information potential. Mr. Hulbert stated the California Register criteria were used for the purposes of CEQA. Based on his research, other scenarios do not apply because of the character of the resources because the south kiln was the only historic resource.

Chai Pavlinec indicated it was made clear early in the process that the structures were in poor condition due to lack of maintenance and that was concerning. She remarked this was a clear case of demolition by neglect. Mr. Hulbert believed that was an unfair statement because the HOA was not involved in the derogation of the resources. He emphasized it was important to find a solution that was corporative and affirmative. The Brickyard HOA was very involved and maintenance of the structures would not have prolonged their life. The City never mandated that the structures be reconstructed and steel enforced.

Chair Pavlinec opened the public comment period.

GENE FILIPI, Brickyard HOA President, appreciated the Commission's work and working with the Commission on the project.

RICHARD NEARY was unsure if the chimney and kilns belonged in a residential neighborhood. He suggested they be demolished and built in a more public space.

AIMEE HENDERSHOTT concurred the Brickyard HOA had done its due diligence and spent a lot of money to comply with the Commission's conditions. She supported the reduction in height of the chimney because of the safety hazard it posed. The experts have concluded that restoring the chimney and the north kiln exceeded their value in community interests. The City could have required the neighborhood to maintain the structures when the neighborhood was established but it did not and now the residences were handed an obligation that it could not afford. She requested the Commission deny the recommendation to reconstruct the chimney and preserve the north kiln.

WENDIE S-MARTIN shared that when she purchased her home she did not notice the chimney or kilns for several months. She was never informed of the historic designation of the structures, nor was there any information in her deed. As documented, the structures were in poor condition and had been severely neglected by the time the neighborhood was built. She mentioned nobody ever visited the kilns or chimney, and even the Commission has never visited the site and raised awareness of the deterioration of the structures. Increasing HOA dues to pay for the reconstruction of the chimney and kilns would place a huge burden on homeowners.

JESSICA REYNOLDS remarked that age did not make something historic. She agreed the brick's conditions made them unusable. The HOA had cleaned and stored them, as directed by the Commission, even though they had no historical value. Also, there was no public benefit to the preservation or reconstruction of the structures because they are located on private property. She believed requiring the homeowners to fund a renovation or preservation was a special assessment that was being placed on the homeowners without a vote. She opposed any

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requirements that included renovation or preservation of the structures beyond what had already been completed.

IDA ABELSON differed any decision on the historical aspect of the structures to the experts and the Commission. She asked the Commission to help the project move forward and work with the neighborhood to complete the project in a timely and affordable manner.

JEFF VINES mentioned many residents of Brickyard Landing have submitted emails and requested that the Commission consider those perspectives during their deliberation. He restated that the structures were already 60 years old when the neighborhood was developed and the City did not require the developer to bring the structures into a safe condition. Nor did the City place any conditions on the neighborhood at its establishment that the structures be maintained. The neighborhood could not afford to spend any more money on the structures and needed the money to maintain the older condominium buildings on the site.

EILEEN MCDAVID believed it was a double standard because there were a lot of historic resources that were crumbling and the City was not maintaining those structures. Now, the City was requiring the neighborhood to maintain three structures it had no idea were historical.

SALLIE DEWITT said many generations of her family resided in Richmond and were very involved in the community. She agreed this was as much of a surprise to the residents as it had been to the Commission. If the structures were indeed historic, the cost of rebuilding and maintaining should be spread over a boarder population of people. She supported the idea of reconstructing the structures in a place where the public could see them.

DIANA WEAR agreed that many of the residents were middle class or seniors and could not afford the \$2 million budget to reconstruct the structures. She urged the Commission to pursue grants and find funding to reconstruct the structures. Not place it on 310 residents who had no idea they were responsible for the maintenance of the structures. She suggested raising informational placards to be placed in the neighborhood that highlighted the historical nature of the site.

KAREN BOSKO agreed any more financial obligations placed on the neighborhood would impact the retired residents greatly. She agree the restoration of the chimney and the north kiln exceeded their value in community interests. She said as a member of the finance committee for the neighborhood, the existing buildings needed maintenance to keep them livable and adding cost could jeopardize the lives of folks living in those buildings.

STEVEN PASKOWITZ mentioned Brickworks came to Richmond to extract resources cheaply, exploited its labor force, polluted the Bay and then abandoned the site in ruins. He believed the bricks were a symbol of industrial blight and reminded the community of the public policies that allowed it. He concurred the neighborhood had not budgeted for the reconstruction of the structures. He stated the structures would not elevate history, would not attract folks to the site and should be seen as industrial waste.

STEVE BIRNBAUM felt the residents were being subject to a special assessment. He stated there was a lack of process in the City's Municipal Code, Chapter 6.06, which indicated that Brickyard Landing was not a designated historic district. That chapter did not list any historic landmarks in the neighborhood and the Commission had never publicized the neighborhood as being a local historic resource site. The Commission was also tasked with designating historic resources in historic districts and that had not been done. Due to the lack of documentation, the argument could not be made that the structures are historical. Another duty of the Commission was to

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explore federal, state, local and private funding sources to promote preservation in the City. He asked why hasn't the Commission performed that duty and helped the neighborhood. Based on the criteria of the chapter and lack of documentation of the Commission's duties, it implied the City does not care about the structures and the neighborhood should not be required to reconstruct and maintain them. He echoed Mr. Paskowitz's comments regarding the working environment of Brickworks and the City's interest in highlighting those conditions.

MARTIN DEEHAN stated requiring residents to pay for a hazard that sat 20 feet from the community's pool was stupid. As a resident who moved to the United States from Scotland, he mentioned his love for history and visiting historical sites. Those structures could be visited and their interior spaces could be explored. The three structures in question could not be visited and their interior spaces could not be explored.

PATRICE SOLOM said the purpose of honoring history was to teach folks about the past and Ferry Point was the perfect place to honor folks who rebuilt the City of San Francisco after the earthquake. Repairing the structures, structures nobody could and hasn't visited, was inappropriate.

SCOTT MCELHINNEY thanked the Commissioners for their service. He said if money was not an issue, he would love to see them restored but there was no interest among the residents to do that. He stated there was no contract between the City and the Brickyard Landing HOA to maintain the structures. That lack of documentation suggested that the Brickyard Landing HOA and its residents had no financial obligation to maintain the structures. If the City believed the structures are historically significant then the City should pay for their rehabilitation and maintenance. He agreed with the other speakers that the City should focus its efforts on Ferry Point and Winehaven.

CLARK BOUWMAN agreed he was one of a small few who were interested in the preservation of the kilns and the chimney. With that said, he stated the neighborhood was not financially able to fund the restoration. He urged the Commission to consider the suggestion raised by the public speakers.

Paul Marner, Joy Kay Rynearson, Bonnie Landfield, Janet Darling, Annie Meyer, Anne Sawmer, Judith J. Kronely, Gene Harris, Catherine Deehan, Gina Belleci, Randy Bush, Jeanne Sutter, John Skoriale, Maria Echavarren, Maurice Sainte-Yues and Gail Marrison were in attendance and had ceded their time to the previous speakers.

The public comment period was closed.

Chair Pavlinec invited comments from the Commission on the proposed preservation plan.

Commission M. Hibma confessed he had not had enough time to consider the preservation plan in its entirety. He said a consultant could determine whether or not Brickyard Landing was an example of senior-age in-place living. He said the City has a Mills Act program that provided tax abatement for landmarks and that could apply to any historic resource listed in the Richmond Register. That program could lessen the financial burden and he suggested that option be considered.

Commissioner Haeber stated there was an important level of context, in terms of the original project, that the residents must be made aware of. A draft Environmental Impact Report (EIR) from 1981 stipulated the adaptive reuse and salvage of the kilns. At the time of its drafting, the public provided comments and they wanted the protection of the historic resources on the site.

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This was a social exchange and the public at large benefited from the resources located within the Brickyard's private property. The Commission was tasked to protect and maintain the historic resources. Over the past several years, the Commission has seen many projects that only wanted to demolish the historic structure. If the neighborhood genuinely appreciated historic resources, then it would find creative solutions that did not cost money. Such a program was the Mills Act Program and he echoed Commissioner M. Hibma's comment that it was an avenue the neighborhood could explore.

Commissioner Crane acknowledged the comments that many homeowners were not told that they were purchasing a property that had historical resources. She asked if that was true and invited staff to comment on whether or not there was information recorded with the deed of the property. Ms. Klein explained she had not reviewed every deed but the deed she did review had not mentioned historic resources. Nor did the HOA's Covenants, Conditions, and Restrictions (CC&R). Commissioner Crane asked whose responsibility it was to disclose that information to a property owner or potential purchaser. Ms. Klein remarked it was the seller's responsibility to disclose that information, not the City's.

Chair Pavlinec commented that part of the proposed preservation plan should include an interpretive program. She acknowledged while yes, the structures are on private property, there were little pieces of historic significance all over Richmond and together they made up the history of the city. She mentioned the Commission recently crafted a 6 mile walking/biking tour of the significant historic resources in the city.

Commissioner C. Hibma stated she heard the comments and the Commission wanted to work with the neighborhood. Many of the Commissioners are historical professionals and are frustrated by the academic versus the practical, and the emotional versus the procedural processes. She stated she felt hamstrung by the fact that there was a safety emergency demolition. She believed some compromises could be made in what was lost versus what could be saved for the future generation. While moving the structures to Ferry Point was great, the project would not meet the Secretary of the Interior's Standards, and there were ownership issues and other challenges.

Chair Pavlinec invited comments on the amendment request for Conditional of Approval #9. She recalled the condition was not for a construction bond but a financial instrument that could provide assurance. Ms. Klein clarified that the City is responsible for reviewing and approving CC&Rs. With respect to bonds, she mentioned another City Attorney agreed that a surety bond could not be issued for the project because bonds were based on an action to ensure the action occurs. She said the project must be defined in order to get a surety bond for the project.

Commissioner C. Hibma remarked the surety bond was to ensure the reconstruction of the chimney but now there were other elements of the project. She suggested the condition be revised to reflect those other elements.

Commissioner Crane asked if language such as "if the applicant failed to provide such a timely bond then certain fees may be incurred". Ms. Feliciano clarified the applicant was requesting that the deadline be extended and agreed with the City Attorney that she had only seen a bond that was linked to construction or a project. She recommended that the bond be due prior to the issuance of a Building Permit.

Commissioner Crane recalled the surety bond was linked to the issuance of the Demolition Permit. Chair Pavlinec answered yes and Ms. Feliciano agreed but noted it was related to the reconstruction of the chimney.

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Ms. Klein restated that legally there was nothing to bond against until a project was identified.

Chair Pavlinec wanted to know if there was any other financial instrument that could be used to ensure that the work is done.

Commissioner Crane was concerned about modifying a condition for a project that had already happened. The condition was for the demolition and that had already occurred. Mr. Hulbert agreed and restated the HOA had already spent \$400,000 on the project.

Commissioner Haeber shared the \$400,000 was related to the demolition of the chimney and the neighborhood would have had to do that demolition anyway.

[unknown male speaker] stated the demolition was done in a way that preserved the bricks. The Commission was concerned about the neighborhood's commitment to comply and it proved that with the preservation of the bricks.

Chair Pavlinec said another condition was to do a peer review and wondered if the peer review could identify another financial mechanism that could be used to ensure the work was done.

[unknown male speaker] asked who would pay for the peer review.

Chair Pavlinec remarked the condition was outstanding, it had not been met and should be met. She agreed to postpone it and include it as an inquiry to the peer review group.

Commissioner C. Hibma questioned what solution did the HRE provide. From an academic standpoint, it was important to determine whether the structures are a historic resource or not. With respect to Condition of Approval #9, she believed the neighborhood had made a good faith effort and was willing to remove the condition if agreeable by the other Commissioners. If the Commission wanted a surety bond, another meeting should be held with the Commission to discuss more constructively what should happen at the site.

Commissioner Haeber seconded Commissioner C. Hibma's statement to postpone the surety bond until a project is identified.

Chair Pavlinec pointed out that a great interpretive project was the Rosie Riveter Ship. If the neighborhood used landscaping, or other structures, to outline the footprint of the structures, those could be interpretive pieces. She found the height of the smoke stack to be a character-defining feature of the resources and any way to replicate that in a simple structure would be appreciated. She supported postponing Condition of Approval #9 until a project is identified.

Commissioner Crane stated the proposal was to remove the chimney base and north kiln while preserving the south kiln. That was the project and postponing the bond was not going to facilitate a different project.

Chair Pavlinec found the proposal to be the first step and Mr. Hulbert had mentioned there was a discussion about reinterpreting the structures. The proposal needed to be refined and details needed to be provided.

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Mr. Hulbert found the discussion very valuable and appreciated the comments about the interpretive elements. He agreed that further discussions must be held with the neighborhood and then bring those ideas back to the Commission for discussion.

[unknown male speaker] stated the comments regarding the Mills Act were very important and acknowledged that many of the residents did not know enough about the program. He requested the City supply materials to the neighborhood to understand and consider it further. Mr. Hulbert remarked he will work with the residents on the Mills Act Program. He noted the Mills Act was a property tax credit and it was very unlikely scenario that the neighborhood would be granted it due to the neighborhood being condominiums.

Chair Pavlinec commented an ad hoc committee of the HPC was working on implementing a Mills Act Program in the City of Richmond.

[unknown male speaker] understood the Mills Act Program was mentioned because the neighborhood was an example of a senior-age-in-place community. Commissioner M. Hibma announced that was a speculation he made. Commissioner Haeber added there are several examples in other cities where large apartment complexes use the Mills Act Program.

Chair Pavlinec asked for the status of the peer review. Ms. Feliciano shared in the Packet as a peer review proposal from Page and Turnbull but also Joanna Street and Margery Dobkin [phonetics]. The peer review was for the proposal to determine if it was appropriate to preserve only the south kiln and demolish the northern kiln and chimney.

Commissioner M. Hibma understood the peer review was for the HRE and the project. Ms. Feliciano answered yes.

Chair Pavlinec restated the project had not been identified yet.

Ms. Feliciano clarified the peer review was for the HRE and the proposal.

Mr. Hulbert shared that the neighborhood, and himself, were not happy to hear that a peer review would take place. They wanted to know who would be paying for the peer review and who the peer review party was. Chair Pavlinec noted it was common practice to have a peer review.

Commissioner M. Hibma agreed a peer review should be done to establish the baseline for cultural resources. He asked if staff was asking the Commission to choose the peer review group.

Commissioner Haeber confessed he did not know the standard practice of who pays for the peer review. Ms. Feliciano answered it was customary for the applicant to pay for the peer review, but noted that the applicant is not willing to pay for the peer review.

Ms. Klein said in her experience, the applicant preferred to have their consultants prepare the technical reports and then pay the City to peer review it because CEQA was a City document.

Ms. Feliciano added the HOA hired Mr. Hulbert to complete the HRE and that was not a City document. So, it was appropriate for the City to request a peer review.

Commissioner C. Hibma mentioned the Commission never asked for an HRE and Ms. Feliciano confirmed that was correct.

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Chair Pavlinec agreed with Commissioner M. Hibma that a peer review would be appropriate.

Commissioner C. Hibma agreed.

Ms. Klein remarked it was the City's responsibility to pay for the peer review. Ms. Feliciano answered she would look into it.

Commission Business:

- A. Commission member reports, requests, or announcements –
- CLG Annual Report
 - Rooted in Richmond APP

Commissioner Haeber announced that the City received [his comments could not be discerned from the other folks talking]. He mentioned Chair Pavlinec and the Director of Planning would attend that ceremony.

Ms. Feliciano announced the annual CLG Report was submitted.

Chair Pavlinec recalled the project proposed for Ferry Point Pier was to return to the Commission in 6 months with a maintenance plan and implementation schedule. She recommended staff follow up with the applicant. She asked if the legal department had approved a Mills Act contract. Ms. Feliciano mentioned she had not followed up on the email she sent to them. Chair Pavlinec emphasis the program could not move forward without a contract that was approved by the legal department. Ms. Feliciano said she would be working on a draft with the subcommittee.

Commissioner M. Hibma did not believe drafting a contract would be a new process.

Chair Pavlinec agreed many cities had contracts that could be modified to fix Richmond. She suggested the subcommittee meet before the next Commission meeting to discuss it.

Commissioner M. Hibma suggested a representative from the legal department attend the meeting.

Chair Pavlinec suggested the Commission Councilmember liaison be involved as well.

Adjournment - The Commission adjourned at 8:017 p.m. to May 9, 2023