

**From:** [Shelby S](#)  
**To:** [City Clerk](#)  
**Subject:** [EXTERNAL] subsequent comment on 2A and 4C on tonight's CC meeting  
**Date:** Tuesday, July 2, 2024 1:25:42 PM

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Clerk-

I would like to add my comments as to applicability of CEQA, in alignment with Mr Bangert and Mr Hickman, by alerting council that this action is in fact a Project under CEQA Section 15378, as follows:

CEQA Guidelines § 15378 defines a "project" as "the whole of an action" a public agency directly undertakes, supports, or authorizes, "which may cause either a direct physical change in the environment, or a reasonably **foreseeable** indirect physical change in the environment."

The summary report itself notes that the sale is for the purpose of later development, therefore this action is being undertaken as part of a larger (whole) action that is specifically intended for a future (foreseeable) development Project, and therefore this action is in fact a "Project" subject to CEQA.

Legal counsel should state in the meeting for a matter of record that the CEQA determination in the Summary Report is an error and that this action is in fact subject to CEQA.

For the record, I would also like to add that I agree and am incorporating by reference both Mr Hickman's and Mr Bangert's comments in addition to my previous comments.

Thank you

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Shelby  
510-435-9263

**From:** [Tod Hickman](#)  
**To:** [City Clerk](#)  
**Cc:** [Trish Spencer](#); [Tony Daysog](#); [Yibin Shen](#); [Tracy Jensen](#); [Malia Vella](#)  
**Subject:** [EXTERNAL] Public Comment July 2, 2024 City Council meeting closed session items 2A and 4C  
**Date:** Monday, July 1, 2024 3:40:39 PM

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Regarding July 2nd's closed session items 2A and 4C:

1. Comments for these items (already in the record for closed session 2A and 4C) submitted by Mr. Bangert and Ms. Sheehan are spot on. They have identified some apparent glaring violations of law, policy, citizen trust, and conflict of interest. All issues raised in their respective comments should be thoroughly investigated by an outside Agency.
2. I believe that any Council member that votes in favor of pushing this malignant agenda forward should be re-called from office. The CEQA implications alone are enough for you to stop these items.
3. It is very concerning that this Joe Ernst individual keeps turning up in these apparent illegal insider deals with the City of Alameda.
4. I find it alarming that Joe Ernst was appointed to the mayor's economic advisory council and continues to turn up in all of these apparent illegal insider trading type deals. Wasn't his development company one of the mayor's largest donors? Why weren't Joe and all of the other members of the mayors economic advisory committee required to file form 700's? This filing would give the voters a clearer picture of how all these relationships are connected.
5. It is encouraging to see the Federal raid unfold in Oakland. A significant number of Alamedians believe this same behavior is rampant in Alameda and have been yearning for accountability.
6. I was equally concerned when the City gave Firebrand Bakery a \$300,000 loan at 2% interest with no required owner personal guarantee and used kitchen equipment as collateral. This loan occurred not too long ago when home loans were at 7% and small business loans were mostly unattainable, 15% if you were lucky. Then I find out that Joe Ernst is the landlord to Firebrand. Then the owner of Firebrand, Matt Kreutz, gets nominated to the mayor's economic advisory committee with Joe Ernst.
7. It appears to me that the City Attorney and Vice Mayor Tony Daysog are at a critical juncture in their careers, at a time to dig deep and find the strength and resolve to do the right thing. The two of you have a fiduciary responsibility to the people and City of Alameda and must protect our interests.

City Council, Mr. Daysog, and Mr. Shen please act on your fiduciary responsibility to the People and stop these items from moving forward. I urge you to do the right thing and initiate an investigation into the issues addressed in 1-7 above, along with the issues called out by Mr. Bangert and Ms. Sheehan.

Respectfully,

Tod Hickman  
Building43Winery  
Spirits Alley Alameda Point  
510 872-1710

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**From:** [Shelby S](#)  
**To:** [City Clerk](#)  
**Subject:** [EXTERNAL] RE CC Items 2A and 4A for tomorrow's meeting----this is a better site for the Theater  
**Date:** Monday, July 1, 2024 2:42:15 PM

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Further comment on this item:

Aside from the obvious favoritism being granted to SmErnst and their track record of not complying with their contracts with the City--This property and others like it need to go out for a formal bid process to give fair opportunities to others. Joe was shoed in based on something previously published 5 years ago so it needs to be republished and the public needs to know the assigned fair market value of the property.

For example, the Little Opera house should be given the opportunity to bid as there will be no demolition costs and this area has already been identified as a possible relocation site.

It is an error for this site not to be available as an alternative to the taxiway for the performing arts theater, especially since it is already served with sufficient infrastructure and it is so huge--especially since this land is available and there it wont interfere with the historic vistas on the taxiway.

Its almost like the city is intentionally trying to take away this alternative site so it isnt available to evaluate for the other project. OR you are going to let Ernst and co re-sell it and reap the profits.

suspicious ey?

In any case, this item should be withdrawn.

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**From:** [Richard Bangert](#)  
**To:** [Marilyn Ezzy Ashcraft](#); [Tony Daysog](#); [Tracy Jensen](#); [Trish Spencer](#); [Malia Vella](#)  
**Cc:** [City Clerk](#); [Lara Weisiger](#)  
**Subject:** [EXTERNAL] July 2 Special CC meeting Item 2-A property negotiation  
**Date:** Sunday, June 23, 2024 11:04:39 AM

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Dear Mayor Ezzy-Ashcraft and members of the council,

On July 2, the Special City Council meeting commencing at 5 p.m. includes approval of negotiators for an Alameda Point property in the Enterprise District and then adjournment to closed session to discuss the matter. In my opinion, there are a number of significant problems with this agenda item, including policy questions, and it should be withdrawn.

In the staff report describing background under Consent Item 2-A (approving negotiators), it says that it is regarding "the sale of the premises" and the following:

"On April 22, 2019, the City Council directed staff and Cushman & Wakefield to market 23.9 acres of land in the "Enterprise District," which is an area generally bounded by West Atlantic Avenue, Main Street, San Francisco Bay and Seaplane Lagoon. Cushman & Wakefield commenced marketing in May 2019, and in October 2019, received eight initial offers. After some clarification with the parties, four offers were presented and four declined to continue in the process. On October 9, 2019, Governor Newsom signed AB1486 (Ting), which strengthened the Surplus Land Act and imposed requirements on local government selling publicly owned land to first accommodate affordable housing. This legislation effectively halted the process to advance nonresidential development within the former Naval Air Station."

Subsequently, the passage of Assemblymember Mia Bonta's legislation in 2022 resolved the ambiguity about surplus land at NAS-Alameda and no longer required offering land to affordable housing providers before selling or leasing to a commercial developer.

Absent from this agenda item is the reason the City has not re-contacted the four parties following the Bonta legislation's passage, which had made bonafide offers to purchase the tract for \$36.5 million and develop it (not land bank it). Instead of pursuing a major infusion of investment dollars in new infrastructure and economic development that could occur as a result of selling a large tract, the council is now being asked to consider selling only a small portion of the original development tract. The council, as well as the public, need to first understand why the staff is proposing to go piecemeal and negotiate with one developer on one lot, rather than put the original large development tract back out to the developer community for proposals.

The staff report concludes by stating, "This action does not constitute a "project" as defined in California Environmental Quality Act (CEQA)..." If a developer is offering to buy a lot and develop it, how is that not a project? By definition there is a project embedded in the negotiations. The staff report even says so: "In 2024, srmErnst Development Partners ("srmErnst") submitted a **proposal to develop** a subset of this [23.9-acre] property...."

The staff report also states, "There are no identifiable climate impacts or climate action opportunities associated with the subject of this report." It would be on faith alone that the public should accept that there are no climate impacts from the project the developer is proposing.

Lastly, when the council adjourns to closed session to negotiate a secret development project, the agenda item 4-C states “Under negotiation: Price and terms of **lease**.” Maybe that’s a typo, but nevertheless confusing. Consent Item 2-A approving negotiators says it is for the *sale* of the premises.

Nothing about this negotiation over a small lot in the Enterprise District makes any sense, given the significant interest among developers (four to be exact) to develop a large tract of land in the Enterprise District. Therefore, I respectfully ask that you pick the alternative in the staff report that says, "Choose not to negotiate terms related to the **sale** with srmERNST for the premises, and thus do not identify negotiators.”

Instead, I ask that staff be directed to send the larger tract (or some version of a larger tract) out to the developer community for proposals.

As a reminder, back in 2014 when the city first sent out RFPs for Sites A and B, Site B received interest from developers but without any commitment to begin developing the large tract. They cited a lack of “there” there at Alameda Point. Essentially they wanted to land bank the tract until Site A started showing progress, something the city decided not to entertain. Site A has clearly shown progress. Why, then, is the staff not re-posting an RFP for Site B (or some version of it), especially after the serious interest expressed by developers in 2019?

Best,

Richard Bangert

Photo site: <https://www.flickr.com/photos/63740093@N03/>

Blog: <https://alamedapointenviro.com/>

**From:** [Shelby S](#)  
**To:** [City Clerk](#)  
**Cc:** [Trish Spencer](#)  
**Subject:** [EXTERNAL] comment RE upcoming CC Items 2A and 4C 390 W Oriskany -enough of Joe Ernst favoritism  
**Date:** Saturday, June 22, 2024 2:27:19 PM

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I am writing this to make it a matter of record that I object to the monopoly the City has given Joe Ernst over the land and development in the southeast portion of Alameda Point.

He and his partners/companies or whatever have been getting sweetheart deals for years, and he always has excuses for not performing to the contract and getting the City to OK the changes.

Site A is now 100% residential and it sure aint mixed use.

FOR EXAMPLE....

In 2018 during Mayor Spencer's term, he asked for an exception to the financing deals and PROMISED to have the financing (and then build) Phase 3 commercial development for Site A--he even staked his reputation on it--go watch the video.

BUT instead of making good on that promise, he came back last year and got Council to amend the Development plan AGAIN and got all the commerical blocks to be residential. Not only that but the "original" open space that the public would benefit from is now 10% of what it was when he got the agreement.

This bait and switch is rampant throughout everything he touches and it is obiovus he is taking advantage of his insider status. Neither the City nor the public are receiving appreciable monetary or public benefits, but Joe Ernst sure is still raking in the dough.

The City should not lease and certainly not SELL any more property to Joe Ernst and Co. it is unfair bias and insider dealing.

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