

**SPECIAL MEETING OF THE CITY COUNCIL**  
Mayor's Closed Session Announcement

DATE OF CLOSED SESSION: March 3, 2020  
CONVENE TIME: 6:00 pm  
ADJOURNMENT: 6:57 pm

---

**PRE-MEETING ANNOUNCEMENT**

LEGISLATIVE BODY: CITY COUNCIL

**SUBJECT OF CLOSED SESSION:**

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
(Pursuant to Government Code § 54956.9)  
CASE NAME: Boatworks v City of Alameda, et al.  
COURT: Superior Court of the State of California, County of Alameda  
CASE NUMBERS: RG16823346, RG16841240, RG19041531

---

**POST-MEETING ANNOUNCEMENT**

The City Council met in Closed Session to discuss:

- Staff provided information  
- see report out

---

---

---

---

---

**VOTE:**

	AYE	NO	ABSENT	ABSTAIN
Mayor Marilyn Ezzy Ashcraft	<u>X</u>			
Vice Mayor John Knox White	<u>X</u>			
Councilmember Vella			<u>X</u>	
Councilmember Daysog		<u>X</u>		<u>X</u>
Councilmember Oddie	<u>X</u>			

## **Boatworks v. City of Alameda: Settlement Report Out**

This matter involves three separate litigations filed by Boatworks against the City relating to property located at 2229, 2235 and 2241 Clement Street. These litigations generally challenge the City's development impact fee ordinance, seek to forestall the expiration of a tentative map approved by the City in 2011, challenge the City's zoning decisions and attempts to enforce a 2010 settlement agreement that the City contends was never fully consummated. Boatworks contends that the City owe Boatworks in excess of \$4.4 Million dollars as contemplated by the 2010 settlement agreement and that various City decisions/actions caused further damages to Boatworks in excess of \$44 Million dollars. The City disagrees with Boatwork's contentions. Nonetheless, in the interest of promoting the development of much needed housing and to avoid the uncertainty of litigation, the City Council authorized the City Attorney to settle every pending litigation and dispute between the City and Boatworks, consistent with the following terms:

### **1. Project approvals**

While the Council's authority over land use cannot be contracted away, the settlement is structured so that the benefits of the settlement will only occur if the Council/Planning Board grants certain regulatory approvals. The approvals are:

#### **a. Tentative map, development plan, development agreement with 15 year term, and density bonus, Final Map authorizing**

- 182 unit project with
  - 21 affordable units (13 very-low; 8 moderate)
  - Generally consistent with the 2016 development plan previously approved by the City
  - Approximately two acre waterfront open space, to be maintained by HOA but open to public. No longer on lands owned by Army Corps; no longer requires Bay fill.

#### **B. Rezoning two acres of open space as "R2-PD" (planned development).**

At each approval, both sides have the opportunity to agree to modifications or cancel the settlement.

#### **C. Other necessary approvals, including building permits.**

### **2. Dismissal of lawsuits, and a release of all past claims**

The dismissal and full release only occur if

1. City Council first grants the above approvals.
2. Boatworks submit a different project than what is agreed to here or subsequently; or
3. 15 year passes and nothing happens at the property.

### **3. Settlement Payment**

The City would pay a total of \$1.8 million to Boatworks generally phased to coincide with the issuance of Qualifying Building Permits for the project.