

LARA WEISIGER

From: Paul Foreman <ps4man@comcast.net>
Sent: Saturday, March 04, 2017 1:41 PM
To: LARA WEISIGER
Subject: FW: March 7, 2017 Agenda Item 9-A 2017-3971 Revising the City Council Call for Review Process by Requiring that Two, Rather Than Just One, City Council Members Initiate a Call for Review

Lara,

I should have copied this to you for inclusion in the correspondence file for this issue, so I am forwarding it to you below.

Paul

From: Paul Foreman [mailto:ps4man@comcast.net]
Sent: Saturday, March 04, 2017 9:49 AM
To: 'Trish Spencer' (tspencer@alamedaca.gov); mvella@alamedaca.gov; Marilyn Ezzy Ashcraft (mezzyashcraft@alamedaca.gov); fmatarrese@alamedaca.gov; joddie@alamedaca.gov; Jill Keimach (JKeimach@alamedaca.gov)
Cc: gretchenlipow (gretchenlipow@comcast.net)
Subject: March 7, 2017 Agenda Item 9-A 2017-3971 Revising the City Council Call for Review Process by Requiring that Two, Rather Than Just One, City Council Members Initiate a Call for Review

ACT

Alameda Citizens Task Force

Vigilance, Truth, Civility

March 4, 2017

Re: March 7, 2017 Agenda Item 9-A 2017-3971 ***Consider Revising the City Council Call for Review Process to Appeal Board and Commission Decisions by Requiring that Two, Rather Than Just One, City Council Members Initiate a Call for Review and State a Reason for the Appeal. (Councilmember Ezzy Ashcraft)***

Dear Mayor Spencer, Vice-Mayor Vella, Councilmembers Matarrese, Ashcraft, and Oddie and City Manager Keimach:

We are writing to express our opposition to the above captioned Council Referral. One of the goals of Alameda Citizens Task Force is to make the City government as open and responsive to our citizens as possible. Councilmember Ashcraft's Referral constricts that goal.

Such a constriction of citizen access to the Council should not be enacted unless there is clear and convincing data that supports the conclusion that the present procedure unduly burdens Council and Staff or has some other demonstrable significant adverse impact on the City. The "Meeting Details" document attached to this item on the Agenda provides no such data.

The first statement of support for changing the rule is that, "an individual Council Member might feel pressure to accommodate the wishes of constituents, regardless of the merits of an appeal, and without consideration of the

financial and time burden an appeal places on applicants and staff.” Feeling pressure to accommodate the wishes of constituents with regard to any city issue is part of a Councilmember’s job. They must listen to their constituents and use good judgement as to whether to pursue those wishes or not. If they do not use good judgement on a consistent basis they will suffer the judgement of the voters.

The second statement of support for changing the rule is that, “City Council has heard from members of the public who have expressed concern with the current Call For Review process.” The only constituent identified is a past President of the Chamber of Commerce, expressing the Chamber’s concern with the frequent use of the Call For Review process by individual City Council members. She also notes that a unilateral request to appeal a Planning Board decision generates additional time and expense for both applicant and City staff and that, ultimately, this practice can discourage businesses from locating in Alameda and deter existing businesses and residents from improving their properties.

We have a number of problems with this statement. It cites complaints by “members of the public”, but identifies only the Chamber of Commerce. Are there others, and how many? It complains of the “frequent use” of the Call for Review with no data to establish the frequency. The issue of discouraging businesses from locating in Alameda is a two edged sword. A business may be just as discouraged by having limited access to review of a negative decision by a Board or Commission as it is by a citizen appeal of a favorable decision. Council is well aware of the substantial fees which must be paid by one who is forced to appeal such a decision without access to a Councilmember Call for Review.

Both statements discussed above raise the issue of “unreasonable burden”. We submit that validity of this claim can only be evaluated by analyzing the more recent Calls for Review. The following is a list of the same covering the time period from 2015 through the current date.

Call for Reivew	Project	Called By
2015		
5/19/2015	Cell Tower at 1777 Shoreline; and	Daysog
Cell Tower at 1538 St. Charles St		Spencer
9/1/2015	Hotel at 2350 Harbor Bay Parkway	Spencer
12/1/2015	Shipping containers at 1926 Park Street	Daysog
2016		
2/2/2016	Use Permit 1716 Webster Street	Spencer/Oddie
5/3/2016	Density Bonus 1435 Webster Street	Spencer
9/6/2016	Assisted living at 2900 Harbor Bay Parkway	Spencer
11/15/2016	Alameda Point Street names	Daysog
2017		
2/21/2017	Structure at 1208 St. Charles Street	Spencer

All of the 2015 Calls for Review were significant public issues of interest to the community. The cell towers had been removed from School District due to concerns about affecting the health of students. The neighbors at Shoreline and St. Charles had the same concerns and were entitled to be heard. The approval of the towers by the Planning Board was affirmed. Both the Hotel and 1926 Park St. Calls for Review were high public interest items impacting large sectors of the community. In both cases Planning Board approval of the projects were eventually rejected, the first, after review by a Regional Agency and the second by Council acting under the Call for Review.

In 2016, the issue for 1716 Webster Street was the denial of a use permit for the sale of beer and wine at a convenience store. Two Councilmembers filed the Call for Review. Thus, it would have qualified for review even if the two person rule

was in place. The Planning Board had rejected a staff recommendation to grant the permit. The issue was much broader than the one store. It involved contentions that other stores in the vicinity, including big box stores, had been granted a permit and whether the area was “saturated” with beer and wine sale outlets. The Board was upheld by a 2-2 vote, with Councilmember Daysog recusing himself.

The final three items in 2016 were all matters of public interest impacting a large sector of the community. 1435 Webster St. involved appeal of a Planning Board approval of an infill mixed use development project that was challenged primarily due to parking space issues. Council approved the project, but with adjustments to mitigate the parking issue. The proposed Assisted Living project at 2900 Harbor Bay Parkway was approved by the Planning Board, but rejected by Council. The Planning Board’s process for naming Alameda Point Streets was confirmed by Council.

The lone Call for Review in 2017 involved objections to the Planning Board’s approval of the home owner’s proposal to remove a two car garage and replace it with a larger three car garage that included an artist’s studio. Two neighbors expressed concern about the project’s threat to the survival of several trees in the vicinity. Council affirmed the Board.

In summary, of the eight Calls for Review discussed above, seven were either high public interest items or matters that impacted a much broader sector of the community than the property that was the focus of the Call. Of those six, four resulted in either reversal or adjustment of the underlying Board action. Only the 1208 Charles St. project was an item of significant interest to only the adjacent neighbors.

Based on all of the above, we submit that this Council Referral is totally devoid of any data to support an amendment of the Alameda Municipal Code; and that, in fact the data supports the continuance of the current rule.

We have no objection to a Councilmember being required to include in the Call For Review a statement of reasons thereof, but as Councilmember Ashcraft admits, this is already required by AMC Section 30-25.4 d, and therefore no Council action is needed other than the City Attorney advising all Councilmembers and Staff of the need to do this.

Sincerely,

Gretchen Lipow
President
Alameda Citizens Task Force