

MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
TUESDAY- -MARCH 10, 2015- -5:30 P.M.

Mayor Spencer convened the meeting at 5:30 p.m.

Roll Call – Present: Councilmembers Daysog, Ezzy Ashcraft, Matarrese, Oddie and Mayor Spencer – 5.

[Note: Councilmember Daysog arrived at 5:36 p.m.]

Absent: None.

The meeting was adjourned to Closed Session to consider:

(15-173) Public Employee Appointment/Hiring; Pursuant to Government Code Section 54957; Title/Description of position to be filled: City Manager

Following the Closed Session the meeting was reconvened and Mayor Spencer announced the Council voted unanimously to offer the Interim City Manager position to Assistant City Manager Liz Warmerdam; the position is effective upon Mr. Russo's last date to serve until a new City Manager is appointed; the offer was accepted; the formal contract will be brought to Council in open session for approval.

Adjournment

There being no further business, Mayor Spencer adjourned the meeting at 6:40 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

The agenda for this meeting was posted in accordance with the Sunshine Ordinance.

MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
TUESDAY- -MARCH 10, 2015- 6:30 P.M.

Mayor Spencer convened the meeting at 6:48 p.m. Vice Mayor Matarrese led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers Daysog, Ezzy Ashcraft, Matarrese, Oddie and Mayor Spencer – 5.

Absent: None.

ORAL COMMUNICATIONS, NON-AGENDA

(15-174) Jan Suttan, Alameda, submitted photos and discussed traffic in the Posey Tube during rush hour; suggested a traffic count be done and traffic flow management be done by reputable people; noted the Tube would not be able to be used in a earthquake.

Councilmember Ezzy Ashcraft stated that she heard from a number of constituents about the length of the meeting and she promised to pass on a request to the Mayor to have speakers adhere to the three minute time limit.

(15-175) Janet Gibson, Alameda, expressed concern over matters being heard late; stated that she wanted to comment on the Fire Station and Emergency Operations Center (EOC) item at the last Council meeting, but the matter was heard too late; expressed concern over the funding for the Emergency Operations Center (EOC); urged Council to give the matter serious financial consideration and separate the EOC and Fire Station 3 bids.

WORKSHOP

(15-176) Housing and Transportation Workshop: (1) Presentation on Housing and Density Bonus Policies and Programs; and (2) Provide Direction to Prepare Amendments to the City of Alameda Density Bonus Ordinance.

The City Planner gave a Power Point presentation.

Councilmember Ezzy Ashcraft stated the staff report mentions the need to bring Bay Area Rapid Transit (BART) to Alameda; inquired how and when.

The City Planner responded the City has been in contact with BART for years; stated Alameda Point was the main driver; an informal partnership was formed between Alameda and Jack London Square; that he attended meetings with BART and discussed that a station should come a little farther to Alameda if a station goes to Jack London Square; BART came up with the idea of the Estuary Station serving both [Alameda and Jack London Square]; the conversation has been going at a lower

simmer for years; recently BART ridership increased and the San Francisco Mayor raised the need for a second crossing, which has heated up the conversation at the regional level; although not a driver, Alameda should be involved in the conversation, should make it clear up front and should participate throughout the process which will probably take 10 to 15 years; Alameda not participating would be a mistake; Alameda should be at the table to express the station is something the City wants and supports; Alameda would not want to jump in at the end of not participating and say the City was forgotten.

Councilmember Ezzy Ashcraft inquired whether the matter would come to Council, to which the Transportation Coordinator responded BART staff is interested in providing a briefing to the City Council in May.

Councilmember Ezzy Ashcraft inquired about the timeframe for expanding AC Transit services; and whether consolidation of the West End shuttles could be reviewed.

The City Planner inquired whether the questions could be deferred to the transportation presentation, to which Councilmember Ezzy Ashcraft responded in the affirmative.

Councilmember Oddie requested staff to provide the Council and public with data on shuttle ridership; stated under the density bonus ordinance, the City has the ability to enforce the affordable housing in the Del Monte project phases; requested the matter be elaborated upon.

The City Planner stated the Master Plan establish the number, location and phasing of units; however, the developer has not designed every building; when the developer is ready to build, a public hearing will be held regarding the building design and a review will be done to check it against the Master Plan; the City has the ability to enforce new aesthetics and address concerns at each project phase; if the Master Plan requires 15 comparable to market rate affordable units in the first building, the building permits would not be issued if there are not 15 units; the floor plans are not needed in the first year because the City has reserved the right to say no when the plans are submitted.

Councilmember Oddie inquired what would happen in 2023 [when the current Housing Element expires], to which the City Planner responded the State would do a new projection in 2022; the number of units would be divided amongst the regions; the Association of Bay Area Governments (ABAG) would come up with a process to decide how to divide the units amongst the Bay Area cities; after the City receives its required number of units, the City has to go through the process of identifying sites; if a site currently on the list is still available, it can remain on the list.

Councilmember Oddie requested confirmation that the City Council cannot address traffic by limiting or banning additional housing, to which the City Planner responded the City would immediately be out of compliance with State law and would have to deal with the consequences.

The City Attorney stated State law does not allow the City to use traffic as means to get out of addressing the Housing Element; California Environmental Quality Act (CEQA) has clamped down even more; transportation cannot be considered as an environmental impact; there are two kinds of moratoriums; staff does not believe the City could qualify for the lesser 45 day moratorium, which could be extended up to two years; the findings to justify a [two year] moratorium are very severe and do not include traffic; the City Planner mentioned public health, safety and welfare; the welfare category cannot be used for a moratorium; not having a water source would be an example of the type of thing to justify a moratorium.

In response to Councilmember Oddie's inquiry whether another attorney might answer the question differently, the City Attorney stated a City Attorney is required to have experience in municipal law; anyone experienced in municipal law would provide the same advice.

Councilmember Oddie further inquired whether the answer would remain the same if there were a different City Manager and different Councilmembers, to which the City Attorney responded in the affirmative.

Mayor Spencer inquired whether the location of the affordable housing units is required for a long term project, to which the City Planner responded in the affirmative; stated when the affordable housing would be built in each phase and the location of each phase has been identified for the Del Monte project.

Mayor Spencer inquired whether Measure A still applies, to which the City Planner responded in the affirmative; provided background on Measure A; stated State law requires the City to designate some land for multi-family housing; cities cannot cover the entire city in single family zoning; there is a conflict between State law and Measure A; State law always wins; the City received a letter from the State in 2006 outlining all of the City's problems, which took 6 years to fix; once the City fixed everything, the State certified the Housing Element; the fix included the City adopting the density bonus ordinance; developers willing to build affordable housing units are given certain things, such as additional units, in order to pay for the affordable housing; in addition, waivers must be granted for other development standards, such as height limits if units are physically prohibited from fitting on the site, which is why the City came up with the multi-family overlay zoning district in 2012 for particular sites; the City did not need to go to the voters since the district was created to comply with State law; Measure A still applies to 99% of Alameda.

Councilmember Oddie inquired what would happen to Measure A if the City did not follow State law, to which the City Planner responded that he gave a presentation on the matter in 2012; stated a lawsuit was pending; the City did not want go down the Pleasanton route; if the City Council had not adopted the multi-family overlay, the lawsuit would have been filed and Measure A could have been found invalid by the Courts for the whole City; the City Council did a very careful 1% cure; the multi-family overlay saves Measure A.

The City Attorney stated that her office put out a memorandum on the history; Alameda can have Measure A on the books because it is a Charter City; matters of Statewide importance can pre-empt the City Charter; that she does not give up Charter rights lightly; the City maintained Measure A to the fullest extent reconciled against State law.

Expressed concern with the pro-development tone of the staff report; expressed concern over Alameda being low lying, the water supply and the Transportation Demand Management (TDM) plan; suggested conducting a survey: Darcy Morrison, Alameda.

Concurred with staff that a moratorium would be illegal; stated serious amendments to the density bonus ordinance are not needed, except for phase projects to allow holding off on the design portion; expressed concern over the number of properties with the multi-family overlay and the possible number of units: Paul Foreman, Alameda.

Provided background information on density bonus, the number of housing units and rental evictions; stated additional housing is needed: Laura Thomas, Renewed Hope Housing Advocates.

Expressed support for the staff recommendation; urged a moratorium not be passed; stated housing is needed: Angela Hokabout, Alameda Renters Coalition.

Expressed support for the density bonus; stated affordable housing is needed and requires subsidy, which can be provided by developers; transportation solutions should be Citywide: Lynette Lee, Renewed Hope/Buena Vista United Methodist Church.

Provided background information on the 2012 letter from the State; provided an example of housing creating an economic incentive; urged the idea of a moratorium be dismissed: Bill Smith, Renewed Hope.

Submitted a letter from Helen Sause; expressed concern over the blight at Alameda Point and not moving forward; stated more affordable and market rate housing is needed: Diane Lichtenstein, Alameda Home Team.

Stated Alameda Point, which is one-third of the Island, will not be under Measure A; people cut through Alameda and ferry riders come from off the Island; development adjacent to Alameda will impact traffic getting off the Island; discussed the Chinatown lawsuit and affordable housing requirements; expressed concern over the Tube not being retrofitted: Former Councilmember Doug deHaan, Alameda.

Discussed census data and Alameda's population: Jan Suttan, Alameda.

Urged the Council to not allow the State and courts to get involved with running Alameda; urged Council to listen to the City Attorney; stated Alameda needs a unified shuttle service: Robb Ratto, Park Street Business Association.

Stated focus should be on solutions, such as the shuttle and ferries; suggested hiring a full time employee to oversee the TDM; discussed the need for parking at the ferry terminal; stated development helps fund traffic solutions: Karen Bey, Alameda.

Stated that he received a notice for a 15% rent increase; Alameda Point Partners wants rental housing for Alameda's workforce; Alameda does not have traffic congestion; running buses through the Tubes would increase capacity; single occupancy vehicles are the problem; a moratorium is not needed; high density housing is needed: Jon Spangler, Alameda.

Expressed concern over senior citizens being displaced; stated a transitional living community is needed for seniors, which would not create more traffic; expressed support for the Shoreline Drive cycle track, which should be connected throughout town: Linda Weinstock, Mastick Senior Center Board.

Stated there should be a comprehensive shuttle service that serves the whole Island: Tony Kuttner, Greater Alameda Business Association.

Vice Mayor Matarrese stated the City Attorney explained a moratorium is not a viable option; the risks outweigh any potential benefits; that he does not have a problem with the density bonus ordinance, which he voted for in 2009 because the ordinance includes provisions that protect the City; his issue is the City has not required complete applications prior to granting a density bonus; that he would like staff to revise the ordinance to include checkpoints for the risk that is presented; a financial report or pro forma evaluating whether a density bonus is needed would provide a scale; if a density bonus project in Alameda were compared to one across the estuary, the values and risks for the developer would be different; the return in Alameda would be much higher than Oakland; the application needs to include evidence why it is necessary to provide concessions for the affordable housing; everything required in the application should be completed prior to granting the bonus; if requirements are met prior to issuing permits instead, the developer is already entitled to certain rights that they do not have at the time of submitting the application; protecting the City is important; that he would like to give direction to Planning staff to reconcile the phase options with some protections; the City Council should also consider limits on housing, as long as the limits are within the Housing Element; 2,245 total units is a number based on realistic capacity, which is far lower; the Del Monte's realistic capacity is 200 units and the project is for 380 units; 200 units were included for the site to reach the 2,245 units required in the housing needs assessment; the City should take another look at the zoning; the zoning should be changed to lower the amount for North Housing, which has 282 empty units; a 2009 agreement with the Navy calls for 435 units, with 90 very low housing unit to address the homeless requirement and 30 units of affordable low income homeownership for a total of 120 units, which is 28% of the project; the units would be done without using the density bonus; there are 1,121 units at the site; with a density bonus, there would be 1,233 units, which is almost all of the Regional Housing Need Allocation (RHNA) in one location; said analysis would help respect the constraints of being an Island; traffic in

the Tube is an indication that the City has a constraint; as long as the City works within the envelop of what was promised to the State, there is latitude to put reasonable limits on the growth to respect the constraints the City is under as an Island; that he would like to see 25% affordable housing, as long as the units could be integrated into project.

Councilmember Oddie expressed his support for the matter being discussed; stated that he is concerned about traffic which would be generated from the Northern waterfront; discussed Alameda Point and Alameda traffic being compared to other cities; noted that he drove his daughters to school; stated an article in the Chronicle indicated that the 29<sup>th</sup> Avenue ramp onto the freeway is one of the most dangerous; the issue is regional and cannot be addressed in a vacuum; discussed adding another express bus to San Francisco to alleviate parking at the Harbor Bay Ferry Terminal; stated the City skeptically looks at development projects and will continue to do so; projects are not rubber stamped; the Council has the City's best interest at heart; housing is a Statewide concern and the City cannot say no to housing; the required number of units should be the cap; everything should not be built so quickly that the City runs out of space; traffic cannot be used as a reason to stop housing; the City has two choices: mitigate or litigate; Council will listen to the staff proposal to mitigate, which is what needs to be done; litigating has too many risks; the City could lose funding and control to the State, which he does not want to happen; expressed concern over litigation being costly and causing the City to lose Measure A.

Councilmember Ezzy Ashcraft stated the City has to abide by applicable law; the Council needs to provide direction to staff regarding revisions to the density bonus ordinance; expressed appreciation for the information provided by Vice Mayor Matarrese and requested said documentation be provided when the matter returns to Council; discussed evidence and census data; stated that she is intrigued by the free shuttle suggestion; funding sources need to be identified; discussed the difficulty of funding affordable housing; stated more affordable housing is needed, but the answer is not simple.

Councilmember Daysog stated a moratorium should not be implemented on the density bonus ordinance; staff recognizes Alameda is an Island and that the City has to be nimble moving forward in limited capacity; more units could be built under density bonus and the multi-family overlay; the projects that have come forward have not used the full potential; staff is being pushed by the State, is being sensitive to the City's constraints, and recognizes the needs for a mix of more market rate and affordable rental housing; Site A at Alameda Point should be viewed as an opportunity; that he looks forward to discussing traffic solutions and implementation.

Mayor Spencer stated that she is concerned about the safety of the community, which should be reviewed separately; the City needs to look at its water supply, the Tube and transportation in the event of a natural disaster; that she agrees a moratorium is not an appropriate solution; concurred with Vice Mayor Matarrese's comments about not over building and holding to the number of units, which should be reviewed; stated the City should review reducing the number of units from 30 to 21 as suggested by a speaker;

the City should put reasonable limits on housing until safety issues are addressed; that she would like to increase the number of below market rate units; the City has to do better; the ratio should be closer to 50/50; inquired whether encouraging the creation of senior housing is a zoning issue; stated that she does not want to leave the matter up to the developers; there is a serious need for senior housing; Alameda does not want traffic congestion similar to other large cities; regarding the shuttles, Oakland is concerned about traffic from Alameda to BART stations; the issue needs to be addressed; suggested the Water Emergency Transportation Authority (WETA) conduct a ridership survey; stated parking is an issue at both ferry terminals.

The City Attorney stated staff has heard Council direction; suggested a motion be made to go forward with the process to make amendments to the density bonus ordinance; staff can come back with a procedure and timeline regarding the rebalancing of the housing units.

The City Planner stated a motion should be made on both matters; that he sees the efforts as two simultaneous efforts: 1) the direction on the density bonus ordinance, which will go through a Planning Board public hearing process and return to Council, and 2) developing the reshuffling of the units and reducing the overall capacity, which will have a conceptual game plan return directly to Council for direction.

Mayor Spencer stated apartments at Alameda Point have been discussed; inquired whether rent control cannot apply to apartments built after 1995.

The City Planner responded in the affirmative; stated it does not apply to new units even in cities with rent control.

Mayor Spencer stated that she would like a higher percentage of below market rate units, which should be protected; market rate apartments will not serve the needs of many people in town; staff should bring back information to educate the public.

The City Planner stated staff would be coming to Council on Alameda Point in the near future; Alameda Point already requires 25% affordable housing.

Vice Mayor Matarrese moved approval of directing staff, through the City Manager, to propose revisions to the density bonus ordinance to address the issue of phasing, which is not connected at this moment, with the protections to ensure that there is sufficient evidence to justify why it is necessary to provide the concessions to deliver the affordable housing and to ensure that the application includes a financial report which shows the concessions sought will result in the affordable units proposed; the revisions will provide the same protections that were intended with the original ordinance.

Councilmember Ezzy Ashcraft requested the motion be restated.

The City Clerk stated the motion is that staff, through the City Manager, propose revisions to the density bonus ordinance to address the issue of phasing with



protections...

Vice Mayor Matarrese continued: with the projections that were included in the original ordinance.

The City Clerk continued: that are specific to grant the affordable housing; the application would include a financial report that the concessions sought will result in affordable units and provide the same protection [as the current ordinance].

Councilmember Daysog stated his interpretation of the motion is that reporting should be done as part of the density bonus program; some of the reporting has not been done; his interpretation of the motion is the City would be requiring all of the reporting that is indicated under the density bonus as a necessary part of the application and approval process, not something that can be done afterwards.

Councilmember Oddie stated the motion seems to be another way of stating the three proposals in the staff report [phased projects; incentives and concessions; and waivers], except waivers were not mentioned; the evidence, site plans and drawings are to be provided.

Vice Mayor Matarrese stated that he separated out the drawings because said issue is most prominent in the phasing; that he is looking for the protections and the evidence that the concessions are needed to provide the developer with the funds to build affordable housing and the pro forma prior to granting the density bonus.

Councilmember Oddie inquired whether the direction is number 2 of the staff recommendation [incentives and concessions], to which Vice Mayor Matarrese responded that he believes so.

Councilmember Oddie inquired whether the motion does not include number 1 or 3 [phased projects, and waivers], to which Vice Mayor Matarrese responded in the affirmative.

Councilmember Oddie inquired whether Vice Mayor Matarrese is opposed to number 1 and 3 [phased projects and waivers], to which Vice Mayor Matarrese responded that he called out what he thinks is most important.

Councilmember Daysog inquired whether the motion would put the City in a legal conundrum with the State; stated the requirements are on the books, but were not done for the Del Monte project; his interpretation is the motion is to have the requirements met on the front end of the project.

The City Attorney responded that she takes the direction to mean that Council wants staff to try to clarify the density bonus ordinance so that everyone understands it, and the way staff is interpreting it, more clearly; Vice Mayor Matarrese's suggestion will be reviewed as part of the process.

The City Planner stated staff is looking to find whether Council thinks work needs to be done on the density bonus ordinance; Vice Mayor Matarrese is saying the City wants to have as much control over density bonus as possible within State law and wants to clarify the phasing process; that he will work with the City Attorney's office to write an analysis for public review at a Planning Board hearing explaining the confines of State law and where adjustments can be made; then, the matter will return to Council; Council does not need to direct exactly what to amend and can simply direct staff to begin the process.

The City Attorney stated staff has heard Vice Mayor Matarrese's concerns, as well as the concerns of other Councilmembers.

Councilmember Oddie stated that he would second the motion, but would like to see numbers 1 and 3 [phased projects and waivers] considered; inquired whether Vice Mayor Matarrese would rather have a separate motion on said items.

Vice Mayor Matarrese responded that he is not sure the items need to be separated out; stated that he just wants to ensure staff incorporates the City not losing upfront justification required by the current ordinance to grant the bonus when there is a large project with phasing; when the Del Monte development agreement was approved, the bonus was granted without a complete application, which created risk; the City has entitled the developer and is waiting to enforce the financial stability at the time of issuing the permit, which is a bad way to do business.

In response to Councilmember Daysog's inquiry regarding the Del Monte project already being passed, Vice Mayor Matarrese and the City Attorney stated the matter is being raised for example only.

The City Attorney stated the Del Monte project was appropriately approved; staff is just trying to clarify the ordinance.

Councilmember Ezzy Ashcraft stated that she would like to see the amendments in the staff report addressed: 1) phased projects, 2) incentives and concessions, and 3) waivers; that she does not see the harm of including all three.

Vice Mayor Matarrese stated that he agrees; however, he wants to ensure the City does not give up frontend controls in the phasing.

Mayor Spencer inquired whether the motion could include the three, plus Vice Mayor Matarrese's concerns.

Councilmember Ezzy Ashcraft inquired whether Vice Mayor Matarrese is saying that he wants to add language to address the concerns he raised regarding item number 2 on phasing, to which Vice Mayor Matarrese responded in the affirmative.

Councilmember Ezzy Ashcraft inquired whether staff would be able to do so, to which the City Planner responded in the affirmative.

Vice Mayor Matarrese amended the motion to: approve giving direction based on the three points [phased projects; incentives and concessions; and waivers] recognizing and asking staff to pay attention to ensure that the City is focusing on the items listed in section 2 [incentives and concessions] at the frontend of granting the density bonus.

Councilmember Ezzy Ashcraft seconded the motion, which carried by unanimous voice vote – 5.

The City Attorney requested Council to make another motion on the timeline for reshuffling the units.

Vice Mayor Matarrese stated the motion staff is looking for is: directing staff to return to Council with a proposed timeline for looking within the confines of what has been certified by the State in the Housing Element [number of units], adjusting the zoning such that City puts reasonable limits on the potential of housing that is listed under the current zoning.

Councilmember Ezzy Ashcraft inquired whether direction can just being given to staff through the City Manager without a motion.

Mayor Spencer inquired whether the direction satisfies staff's request, to which the City Attorney responded staff would like all Councilmember to confirm the direction.

Councilmember Oddie inquired whether the direction includes possible reshuffling.

Vice Mayor Matarrese responded in the affirmative; stated the direction includes readjusting [units], taking into consideration that the City is working within the confines of what has been certified [by the State], and that the City has other development, namely Alameda Point, that follows behind it as listed in the Housing Element as a future path of providing more housing.

Councilmember Oddie stated that he supports the direction.

Mayor Spencer inquired whether staff would review rezoning to include senior housing, to which the City Attorney responded staff would come back with a conceptual plan and timeline for completing the analysis; stated staff took notes on all the issues.

Mayor Spencer confirmed that the Councilmembers support the direction.

(15-177) Housing and Transportation Workshop: Presentation on Recommended Approach to Citywide Transportation Plan. Not heard.

The Assistant City Manager suggested the item be heard at a later date; suggested

March 31st.

Councilmember Daysog and Oddie concurred with hearing the matter at a later date.

In response to Mayor Spencer's inquiry, the City Attorney stated the matter could be continued to a specific date.

The Assistant City Manager noted the March 31<sup>st</sup> date does not work.

The City Clerk stated the matter could be re-noticed.

#### ADJOURNMENT

There being no further business, Mayor Spencer adjourned the meeting at 10:06 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

The agenda for this meeting was posted in accordance with the Sunshine Ordinance.