

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
TUESDAY- -JULY 18, 2017- -6:30 P.M.

Mayor Spencer convened the meeting at 6:30 p.m.

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

Absent: None.

Public Comment

Beverly Blatt, Golf Commission, stated the matter should be addressed in open session; discussed proposed amendments to the lease.

The meeting was adjourned to Closed Session to consider:

(17-447) Conference with Legal Counsel – Existing Litigation (Pursuant to Government Code § 54956.9); Case Name: Bailey v. City of Alameda, et al.; Court: Superior Court of California, County of Alameda; Case Numbers: RG15781129.

Following the Closed Session, the meeting was reconvened and Mayor Spencer announced direction was given to staff.

Adjournment

There being no further business, Mayor Spencer adjourned the meeting at 6:38 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

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

MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY- -JULY 18, 2017- -7:00 P.M.

Mayor Spencer convened the meeting at 7:00 p.m.

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

Absent: None.

AGENDA CHANGES

(17-448) Mayor Spencer announced the Sister City Guidelines resolution [paragraph no. 17-467] would not be heard.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(17-449) Proclamation Declaring August 2017 as Alameda World Tournament Baseball Week.

Ken Gala, Alameda World Tournament Baseball Board, made brief comments.

Mayor Spencer read the proclamation and presented it to Mr. Gala.

(17-450) Proclamation Declaring July 18, 2017 as Peter Russell Day.

The Base Reuse Director made brief comments.

Mr. Russell made brief comments.

Mayor Spencer read the proclamation and presented it to Mr. Russell.

Councilmember Matarrese expressed his appreciation for Mr. Russell.

ORAL COMMUNICATIONS, NON-AGENDA

(17-451) Gaylon Parsons, Alameda, suggested board and commission applications be included in the packet.

(17-452) Al Wright, Alameda, discussed blight and health safety hazard issues at 1201 Park Street; urged Council to direct City staff to look into the issues.

CONSENT CALENDAR

Mayor Spencer announced that the Sister City Guidelines resolution [paragraph no. 17-467] would not be heard and the homeless case management [paragraph no. 17-460],

the Cross Alameda Trail gap [paragraph no. 17-469] and the ordinance amending the Site A Disposition and Development Agreement [paragraph no. 17-477] were removed from the Consent Calendar for discussion.

Councilmember Ezzy Ashcraft moved approval of the remainder of the Consent Calendar.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote – 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*17-453) Minutes of the Regular City Council Meeting Held on June 20, 2017. Approved.

(*17-454) Ratified bills in the amount of \$3,042,224.06.

(*17-455) Recommendation to Accept the Investment Report for the Quarter Ending December 31, 2016. Accepted.

(*17-456) Recommendation to Accept the Investment Report for the Quarter Ending September 30, 2016. Accepted.

(*17-457) Recommendation to Authorize the City Manager to Execute a Five-Year Agreement with MuniServices, LLC in an Amount Not to Exceed a Total Five-Year Expenditure of \$375,000 for Utility Users Tax Ordinance Implementation and Audit of Utility Users Tax Revenue. Accepted.

(*17-458) Recommendation to Authorize the City Manager to Amend an Agreement with Carlson Barbee & Gibson to Add the Amount of \$174,000 for a Total Contract Amount of \$652,500 for Civil Engineering and Surveying Consulting Services for Alameda Point. Accepted.

(*17-459) Recommendation to Approve Allocation of Fee Credits for East Bay Municipal Utility District System Capacity Charges (SCC) and Wastewater Capacity Fees (WCF) at Alameda Point for City Facilities, Existing Tenants and Upcoming Transactions and Provide Direction on Criteria for Allocation of Fee Credits for Future Projects. Accepted.

(17-460) Recommendation to Accept Status Report from Operation Dignity on Case Management Services for Homeless Individuals.

Councilmember Ezzy Ashcraft stated Council has received a number of emails regarding the increase in the homeless population; requested an update on the status of Operation Dignity's cases.

The Recreation and Parks Director provided a handout and gave a brief presentation.

Vice Mayor Vella inquired whether the work includes all homeless individuals, not just veterans.

The Recreation and Parks Director responded in the affirmative.

Councilmember Ezzy Ashcraft requested clarification on the details of the program.

Marguerite Bachand, Operation Dignity, provided details on the program.

Councilmember Ezzy Ashcraft moved approval of accepting the status report from Operation Dignity on case management services for homeless individuals.

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

(*17-461) Recommendation to Authorize the City Manager to Execute an Amendment to an Agreement with Ninyo and Moore to Add the Amount of \$22,275 for a Total Agreement Amount of \$122,604 and to Extend the Term Six Months to September 30, 2017 for Geotechnical Testing and Inspection Services for Estuary Park. Accepted.

(*17-462) Recommendation to Authorize the City Manager to Execute a First Amendment to an Agreement with Placeworks to Add the Amount of \$98,129 for a Total Agreement Amount of \$763,957 for the Design of the Jean Sweeney Open Space Park. Accepted.

(*17-463) Recommendation to Authorize the City Manager to Enter into an Agreement with Active Network, LLC for Recreation Registration Software. Accepted.

(*17-464) Recommendation to Authorize the City Manager to Execute a First Amendment to an Agreement with Macks Craic Inc. (dba Mack5) to Add the Amount of \$100,899 for a Total Agreement Amount of \$244,734 for Construction Management Services for Estuary Park; and

(*17-464 A) Resolution No. 15298, “Amending the Capital Improvement Fund Budget for Fiscal Year 2017-18.” Adopted.

(*17-465) Recommendation to Accept Krusi Park Recreation Center Design. Accepted.

(*17-466) Recommendation to Accept the Encinal Boat Launch Facility Design. Accepted.

(*17-467) Adoption of Resolution Approving Guidelines for the Sister Cities Program. Not heard.

(*17-468) Recommendation to Award a Contract in the Amount of \$149,000 to Alta Planning + Design for Bicycle Safety Education Programs. Accepted.

(17-469) Recommendation to Accept Additional Information and Renderings Requested by City Council regarding the Design Concept for the Cross Alameda Trail Gap Closure on Atlantic Avenue between Webster Street and Constitution Way.

Expressed concern about the mid-block crossing creating traffic problems: Jim Strehlow, Alameda.

Mayor Spencer requested clarification on the agenda item.

The City Manager responded the matter was approved by Council with a request to bring back better drawings.

Mayor Spencer stated since the matter was already voted on and passed, Council is only being asked to accept the drawings.

The Transportation Planner reviewed Exhibit 1.

Mayor Spencer inquired whether the no right turn on red could be reviewed by staff and modified if it is not working.

The Transportation Planner responded in the affirmative.

Mayor Spencer inquired whether a car can make a left turn to go into the Housing Authority.

The Transportation Planner responded staff is reviewing the design and trying to arrive at an alternative.

Councilmember Matarrese moved approval of the staff recommendation.

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

(*17-470) Recommendation to Amend the Contract with MCK Services, Inc. to Extend the Term and Increase Compensation by \$5,365,739.15, Including Contingency, for a Total Cumulative Contract Amount of \$15,078,600.41 for Repair and Resurfacing of Certain Streets, Phase 36, No. P.W. 04-17-24 5-S. Accepted.

(*17-471) Recommendation to Amend the Contract with Engineering Mapping Solutions, Inc. to Increase the Contract Amount by \$30,000, Including Contingency, for Continued Geographic Information System Support Services for a Total Contract Amount of \$179,025. Accepted.

(*17-472) Recommendation to Award a Five-Year Contract for an Amount not to Exceed

a Total Five-Year Expenditure of \$5,212,240, Subject to Budget Approval, to Rosas Brothers Construction for the Repair of Portland Cement Concrete Sidewalk, Curb, Gutter, Driveway, and Minor Street Patching, FY 2017-18, Phase 18, No. P.W. 02-17-21. Accepted.

(*17-473) Recommendation to Award Five Separate Five-Year Contracts for an Amount not to Exceed a Total Five-Year Expenditure of \$750,000 per Contract, Subject to Budget Approvals, to Each of the Following: Dudek, ICF, NCE, Panorama Environmental, Inc., and WRA for On-Call Environmental Consulting Services. Accepted.

(*17-474) Recommendation to Amend a Contract to Extend the Term to Nute Engineering for Cyclic Sewer Rehabilitation Project, Phase 14. Accepted.

(*17-475) Recommendation to Amend a Contract to Extend the Term to Lucity, Inc. for a More Comprehensive Computerized Maintenance Management System. Accepted.

(*17-476) Recommendation to Amend a Five-Year Contract by Adding \$175,000 Per Year for up to Three More Years for an Amount Not to Exceed a Total Five-Year Expenditure of \$700,000, Subject to Budget Approval, to Ray's Electric for On-Call Traffic Signal Services. Accepted.

(17-477) Ordinance No. 3185, "Amending the Disposition and Development Agreement between Alameda Point Partners, LLC and the City of Alameda for Site A at Alameda Point." Finally passed.

Councilmember Oddie moved final passage of the ordinance.

Councilmember Matarrese seconded the motion, which carried by the following voice vote: Ayes: Councilmembers Ezzy Ashcraft, Matarrese, Oddie and Vice Mayor Vella – 4. Noes: Mayor Spencer – 1.

(*17-478) Ordinance No. 3186, "Approving a Lease with Friends of the Alameda Animal Shelter (FAAS)." Finally passed.

(*17-479) Ordinance No. 3187, "Approving a 15-Year Lease with Three Five-Year Extension Options with Teleport Communications of America, LLC for Conduit Space for One Innerduct Containing Fiber from the Intersection of Grand Street and Fortmann Way Across the Oakland Estuary to Coast Guard Island." Finally passed.

REGULAR AGENDA ITEMS

(17-480) Resolution No. 15299, "Appointing Thomas Mills as a Member of the Commission on Disability Issues." Adopted;

(17-480A) Adoption of Resolution Appointing Ruben Tilos as a Member of the Planning

Board. Not adopted; and

(17-480B) Adoption of Resolution Appointing Steven Gortler as a Member of the Planning Board. Not adopted.

Councilmember Ezzy Ashcraft moved approval of addressing the Commission on Disability Issues appointment separate from the Planning Board.

Mayor Spencer seconded the motion, which carried by the following voice vote: Ayes: Councilmembers Ezzy Ashcraft, Oddie, Vella and Mayor Spencer – 4. Noes: Councilmember Matarrese – 1.

Expressed concern over having Planning Board members who want to help Alameda achieve its housing goals: Philip James, Alameda.

Urged Council to reconsider the nominees for the Planning Board; stated the Planning Board members must understand the need for housing in Alameda: Cheri Johansen, Alameda Progressives.

Stated when new housing is opposed to solve traffic issues or prioritize views of current homeowners, it is an injustice to those with the fewest resources: Angela Hockabout, Alameda Home Team.

Urged Council to support the appointment of Ruben Tilos to the Planning Board: Dorothy Freeman, Alameda.

Stated Planning Board members need to understand the need for more housing and take the issues seriously; urged Council to appoint Planning Board members who understand the need for housing: Michael Goff, San Francisco.

Stated Renewed Hope is opposed to the two nominees to the Planning Board; there is a housing crisis in the State and Alameda does not need obstructionists on the Planning Board: Doyle Sailor, Renewed Hope.

Stated the Alameda Renters Coalition (ARC) strongly endorse the position by Renewed Hope; the housing crisis in Alameda needs to be alleviated: Tony Grimm, ARC.

Stated a formal application process should be put into place for all Board and Commission nominees; made suggestions on said process: Beth Kenny, Alameda.

Stated appointees to the Planning Board should understand the need for affordable housing: Laura Thomas, Renewed Hope Housing Advocates.

Stated the Chamber of Commerce does not support the nominees for the Planning Board; voting no on projects just to say no is not good for business: Kari Thompson, Chamber of Commerce.

Stated the Planning Board needs members who are qualified; the two candidates do not have the experience needed: Patricia Young, Alameda.

Urged Council to not support the nomination of Ruben Tilos and Steven Gortler to the Planning Board; stated they do not have the experience to address the housing crisis: Paul Anzel, Alameda.

Urged Council to support the nomination of Ruben Tilos and Steven Gortler; stated John Knox White does not represent the majority of Alamedans: Patricia Gannon, Alameda.

Urged Council to approve the nominations of Ruben Tilos and Steven Gortler: Reyli Graber, Alameda.

Stated the nominees should represent the vision the City wants to set for Alameda; housing affordability, homelessness and transportation are important issues; the Planning Board deals with very important and complicated issues; renters interests, minorities and women should be represented on the Planning Board: Brian McGuire, Alameda.

Stated Council has the final word on all Planning Board decisions; urged Council to support the current candidates: Gretchen Lipow, Alameda.

Vice Mayor Vella requested clarification on the nomination process.

Mayor Spencer stated that she interviews all potential candidates; she tries to select new people after someone has termed out; she believes the members are diverse; for the Disability Commission, she believes it is important to have disabled members.

Vice Mayor Vella stated that she would like to make the process as streamlined as possible; suggested including the applications with redactions.

The City Clerk stated the press release includes the duties of the Boards, as well as the meeting times.

Mayor Spencer stated that she also reviews said information with the applicant during the interview.

Councilmember Ezzy Ashcraft stated interviewing all applicants is important; suggested Mayor Spencer discuss the nominations with the Board or Commission staff; staff can provide information to the applicant on the demands of the position; an acknowledgement email should be sent to applicants; stated civility is something everyone could work on.

Mayor Spencer stated that she interviewed all 14 applicants.

Mayor Spencer moved adoption of the resolution appointing Thomas Mills.

Councilmember Matarrese seconded the motion.

Under discussion, Councilmember Oddie inquired whether additional nominations are listed on the agenda because there is another vacancy on the Disability Commission.

The City Clerk responded nominations were listed to allow the Mayor to make a different nomination if the current nominations are not approved.

Councilmember Oddie inquired why there is so much turn over on the Disability Commission.

The City Manager responded there are multiple reasons why someone would not want to be on a committee.

Councilmember Oddie stated that he agrees with Mayor Spencer that the candidate on the Disability Commission should understand the needs of the disabled community.

On the call for the question, the motion carried by unanimous voice vote – 5.

The City Clerk administered the Oath of Office and presented a certificate of appointment to Mr. Mills.

Mayor Spencer moved approval of bifurcating the two Planning Board appointment, which FAILED for a lack of second.

Mayor Spencer stated that she nominated both nominees for different reasons; read the qualifications of Mr. Tilos; stated Mr. Tilos would bring a voice to the people of the West End.

Vice Mayor Vella inquired whether a vote needs to be done to make the applications more transparent or if Council could just give direction.

The City Clerk responded the process is not before Council.

Councilmember Matarrese stated he spoke to both candidates and he believes both have an understanding of the Housing Element.

Councilmember Matarrese moved adoption of the resolutions appointing Mr. Tilos and Mr. Gortler.

Mayor Spencer seconded the motion.

Under discussion, Mayor Spencer read the qualifications of Mr. Gortler; stated Mr.

Gortler favors development; she is confident Mr. Gortler will understand the projects being brought before the Planning Board.

Councilmember Ezzy Ashcraft stated the Planning Board is very important; the application process was not done in consultation with Planning staff; people on Boards and Commissions should not be an advocate for their own position; they must broaden their view and represent the City; attacks on a sitting Board or Commission member do not serve anyone; read an email regarding the incumbent.

Vice Mayor Vella stated no one has said what it means to be a good candidate or a bad candidate; there are mandates coming down from the State; she is looking for a candidate who has attended Planning Board meetings, is aware of the issues, and knows where projects are located; the learning curve on the Boards and Commissions can be steep if applicants have not been paying attention; the Council must make sure the dialogue is going to happen and there is no delay due to the learning curve.

Councilmember Oddie stated that he agrees; the Planning Board is the most critical Board; if someone served on a Commission asked to be reappointed, the history has been the courtesy was extended that person; he would like to see a more consensus candidate to serve on the Planning Board; he has concerns that Alameda has not met its housing requirement.

Councilmember Matarrese stated that he believes the two nominees are good candidates; based on his interviews with both candidates, he believes they would be fair; he is confident they understand the Housing Element and the requirements the City has to meet.

Councilmember Ezzy Ashcraft stated that she will be voting no on the item; she believes the Planning Board is losing two very seasoned, experienced members; some of the remaining applicants have deep professional experience; a finance background is not what is needed for the Planning Board.

On the call for the question, the motion the motion FAILED by the following voice vote: Ayes: Councilmember Matarrese and Mayor Spencer – 2. Noes: Councilmember Ezzy Ashcraft, Oddie and Vella – 3.

Mayor Spencer moved adoption of the resolution appointing Mr. Tilos.

Councilmember Matarrese seconded the motion, which FAILED by the following voice vote: Ayes: Councilmember Matarrese and Mayor Spencer – 2. Noes: Councilmember Ezzy Ashcraft and Vella – 2. Abstention: Councilmember Oddie – 1.

Mayor Spencer moved adoption of the resolution appointing Mr. Gortler.

Councilmember Matarrese seconded the motion, which FAILED by the following voice vote: Ayes: Councilmember Matarrese and Mayor Spencer – 2. Noes: Councilmember

Ezzy Ashcraft and Vella – 2. Abstention: Councilmember Oddie – 1.

Mayor Spencer called a recess at 8:59 p.m. and reconvened the meeting at 9:10 p.m.

(17-481) Public Hearing to Consider Adoption of Resolution No. 15300, “Upholding the Planning Board Decision to Terminate the Use Permit for Automobile Repair at 1200 Park Street 60 Days After Final Action by the City Council.” Adopted.

Councilmember Oddie requested information on the hearing schedule.

The City Attorney responded the City will give a 15 minute presentation without Council interruption; Council can ask questions after the time is up; then, the Appellant will be given 15 minutes of uninterrupted time; Council can ask questions of the Appellant after the time is up; next, the matter will be open to public speaking; staff recommends that speakers be limited to 2 minutes; after the speakers, 5 minutes will be given to the Appellant and also City staff to rebut and respond; then, Council can ask any questions, deliberate and make a decision.

Mayor Spencer requested clarification whether the third party that is currently in escrow to purchase the property could also have 15 minutes to speak; stated the third party is the one who would implement the terms of the Conditional Use Permit (CUP).

Councilmember Ezzy Ashcraft inquired whether Mayor Spencer is referring to Big O Tires as the third party.

Councilmember Oddie stated he is fine with allowing Big O Tires to have 15 minutes.

Mayor Spencer stated City will have 15 minutes, the Appellant will have 15 minutes and Big O Tires will have 15 minutes.

The City Attorney stated questions would be asked after each 15 minute presentation.

Richard Waxman, Attorney representing the current tenant at 1200 Park Street, stated that he would also like 15 minutes to speak.

Mayor Spencer inquired what is the current tenant’s role; stated the current tenant is vacating the premises.

Mr. Waxman stated his client was involved in a series of issues with the City; his client made the decision to relocate incurring major expenses, time and energy.

Mayor Spencer inquired whether allowing Mr. Waxman’s client the 15 minutes would be relevant.

The City Attorney responded the tenant has decided to terminate the lease.

Mayor Spencer inquired when is the last day of tenancy, to which Mr. Waxman responded July 31st.

Councilmember Matarrese stated that he does not believe Mr. Waxman's client is relevant to the current situation.

Vice Mayor Vella stated Mr. Waxman can fill out a speaker slip.

Mayor Spencer stated the Council decision is that 15 minutes would not be allotted to the tenant, who can fill out a speaker slip.

Council concurred to limit speakers to 2 minutes each.

Mayor Spencer stated speakers will be limited to 2 minutes; if someone wants to cede their time to another person they will speak for 4 minutes.

The City Clerk stated the past practice has been to allow speakers to have up to 6 minutes.

The Assistant Community Development Director gave a presentation.

Councilmember Matarrese inquired whether the enforcement is revocation, to which the Assistant Community Development Director responded in the affirmative.

Councilmember Oddie stated Council received documents from the Appellant that outline the applicable standards for a Use Permit (UP) amendment and revocation; inquired whether staff concurs that the standards under California law apply to revocation.

The Assistant City Attorney responded there is a different standard to revoke a UP as opposed to granting or denying a UP; the courts apply an independent judgement rule to the decision to revoke a UP; under said standard, a weight of evidence test would be conducted to determine whether the agency's decision should be upheld; staff believes if Council decides to revoke the UP, the weight of the evidence supports said decision.

Councilmember Oddie inquired whether the City has to adhere to basic standards of due process, to which the Assistant City Attorney responded in the affirmative.

Councilmember Oddie inquired if the due process includes some type of notice.

The Assistant City Attorney responded in the affirmative.

Councilmember Oddie inquired whether the notice needs to include the identification what the City feels the UP holder is violating.

The Assistant City Attorney responded in the affirmative.

Councilmember Oddie inquired what condition the City is saying the Appellant violated.

The Assistant City Attorney responded the Appellant was supposed to find an additional location to park vehicles; stated said condition that was never satisfied; the permit holder is parking cars in residential neighborhoods; neighbors have complained.

Councilmember Oddie inquired whether there is an actual notice that states which requirement the Appellant is charged with violating; stated at the last Planning Board meeting, there was confusion about whether the violation is referring to company or customer vehicles.

The Assistant City Attorney responded there is plenty of evidence in the record concerning the notice to the Appellant about what conditions are not being satisfied and the consequences of the conditions not being satisfied; stated it would be disingenuous for the operator to say they were not on notice about the problems.

Councilmember Oddie inquired whether court cases allow for the totality of circumstances to be adequate in revoking a UP, to which the Assistant City Attorney responded in the affirmative.

Councilmember Oddie inquired whether the City Attorney could find a similar California case.

The Assistant City Attorney responded he would find a case in the next few minutes.

Councilmember Oddie inquired whether a UP can be conditioned based on the end user.

The Assistant City Attorney responded Council should not base the decision on the fact that the current tenant is leaving; stated the real issue is the use will continue to have the same problems.

Councilmember Oddie inquired whether the proposed site is not compatible; stated in 2015, the Planning Board found the use was compatible; he does not understand why the use is all of a sudden not compatible.

The Assistant City Attorney responded based on the information that came to the Planning Board in 2015 versus 2017, conditions have not improved; the finding is that the use is not compatible; the use is nonconforming; the Planning Board decided it is time to move to a use that is conforming.

Councilmember Oddie inquired whether staff can speculate on what a future owner may

or may not do with the space; stated there is no evidence what a new owner would do with the land.

The Assistant City Attorney responded based on the current operator, the new operator will be faced with the same circumstances.

Vice Mayor Vella inquired whether notice can be cured if there was a notice deficiency; and how staff would go about curing a deficiency.

The Assistant City Attorney inquired if the question is if there are new operators and further violations.

Vice Mayor Vella stated Councilmember Oddie's question pertains to due process and whether the law requires a heightened level of notice to revoke the UP; inquired whether there is an ability to cure the deficiency and what would be the process.

The Assistant City Attorney responded staff is not taking the position that the notice was deficient; stated if the Council concludes that adequate notice has not been given to the property owner, Council could decide the UP can continue; staff's opinion is that there is adequate evidence and satisfactory notice was given.

Vice Mayor Vella inquired whether the appellant's continued violations of the UP would result in revocation.

The Assistant Community Development Director responded the property owner and the operator attended four public hearings with the Planning Board; stated the discussion addressed that the penalty for not meeting the conditions is revocation.

Vice Mayor Vella inquired how many opportunities is the City required to offer regarding violations of a UP.

The Assistant City Attorney responded there is no magic number; stated the notice has to be sufficient to allow the property owner and the operator a chance to cure.

Councilmember Ezzy Ashcraft inquired whether written material accompanies the Planning Board agenda and what said material includes.

The Assistant Community Development Director responded in the affirmative; stated there are letters from neighbors and a documented history.

Councilmember Ezzy Ashcraft inquired whether said items are in the staff reports.

The Assistant Community Development Director responded the documents are in the staff reports and attachments; stated at the last Planning Board meeting included over 100 pages.

Councilmember Ezzy Ashcraft inquired whether the documents are public record, to which the Assistant Community Development Director responded in the affirmative.

Mayor Spencer inquired what are the primary operational concerns.

The Assistant Community Development Director responded the three main issues are: 1) the site is small, so a lot of cars cannot fit on the property and overflow parking cannot be on the streets; stated the last five years, the City has received consistent letters from neighbors about parking on the streets; 2) working on vehicles in the parking lot; and 3) the noise of the tools being used.

Mayor Spencer inquired whether the City's response to the first issue was to amend the UP to have the operator purchase an offsite lot to park cars, to which the Assistant Community Development Director responded in the affirmative.

Mayor Spencer inquired how many years the City has enforced the conditions of the UP.

The Assistant Community Development Director responded a lot of activity began in 2013.

Mayor Spencer inquired whether the City did nothing to enforce the conditions of the UP from 1989 to 2013.

The Assistant Community Development Director stated neighbor complaints get the City involved.

Mayor Spencer stated the number one issue is parking; from 1989 to 2013, no one in the City did anything to check compliance with the UP; inquired whether there is a way to amend the conditions of the UP to allow for enforcement of the parking condition.

The Assistant Community Development Director responded the City can amend the UP to have a condition for another site to park cars; the problem is whether the condition would be sufficient; the operator might still park cars on the street because it is faster and more convenient.

Mayor Spencer stated that she is trying to figure out why an offsite lot was considered before and now staff is saying that an offsite lot is not possible.

The Assistant Community Development Director responded that he did not say that an offsite lot is not possible; stated the issue is that a business is constantly shuffling cars; Council could amend the UP to allow for enforcement of the parking condition.

Mayor Spencer inquired whether the condition is already a part of the current UP, to which the Assistant Community Development Director responded in the affirmative.

Mayor Spencer inquired whether the City has not been enforcing the condition.

The Assistant Community Development Director responded the operator already owned an offsite lot, yet cars were still parking on the streets because of the convenience.

Mayor Spencer inquired whether the current operators are the ones who have violated the UP and whose tenancy will expire at the end of the month, to which the Assistant Community Development Director responded in the affirmative.

Mayor Spencer inquired whether the UP runs with the land, not with the tenant, to which the City Attorney responded in the affirmative.

Mayor Spencer inquired whether there is a way to enforce the conditions with the new owner.

The Assistant Community Development Director responded in the affirmative; stated staff can enforce that the tenant has a signed lease; staff ensuring that the tenant does not park on the streets in the neighborhood is difficult to enforce.

Mayor Spencer inquired whether the Harbor Bay Hotel is similar and how will said situation be enforced.

The Assistant Community Development Director responded the hotel has valet service and a no parking zone; stated parking in the area will result in being towed; there are times where a shared parking agreement works and times when it does not; it is not working in this case; for the last year, the tenant has owned another site and is still parking cars in the surrounding neighborhood.

Mayor Spencer inquired who owns the current site, to which the Assistant Community Development Director responded the current operators.

Mayor Spencer inquired whether the new owners could offer a valet service similar to what is being offered at the Harbor Bay Hotel.

The Assistant Community Development Director responded Council could consider the idea.

Mayor Spencer inquired whether staff can obtain a copy of the notice to the Appellant.

The Assistant Community Development Director responded that the notice states: "you were caught parking on the streets; that is a violation of Condition 3," the notice should have stated Condition 2; the notice was after three public hearings stating the exact same violation; the Appellant is stating there was not due process because of the typographical error.

Mayor Spencer stated the violations occurred against the tenant, not the owner.

The Assistant Community Development Director stated the UP goes with the land; the property owner needs to enforce the conditions on their tenant.

Mayor Spencer inquired whether both the owner and the tenant received notices.

The Assistant Community Development Director responded in the affirmative; stated the owner has complained that the County Assessor's mailing address is incorrect; the City has given notice to the property owner.

Councilmember Ezzy Ashcraft stated that she is confused; inquired why the Harbor Bay Hotel is being referenced when the matter was not approved.

The Assistant Community Development Director responded Councilmember Ezzy Ashcraft is correct; stated there is no evidence from the Harbor Bay Hotel.

Mayor Spencer inquired whether staff presented an offsite overflow parking proposal to the Planning Board for the hotel on Harbor Bay, that.

The Assistant Community Development Director responded in the affirmative; stated the requirement is the hotel owner must have a lease with a neighboring property to park vehicles.

Vice Mayor Vella inquired whether the original UP had a three year expiration date, to which the Assistant City Attorney responded in the affirmative.

In response to Vice Mayor Vella's inquiry, the Assistant City Attorney stated a UP could be called for review; if the UP is extended and not revoked with a new purchaser, revoking the UP in the near term would be more difficult; in response to Councilmember Oddie's previous question, if the UP is not terminated and the sale goes through, there is a case on point where a property owner made substantial improvements to the property and the City attempted to revoke the UP; the matter was challenged in court; the court set it aside; if the UP is not terminated and the sale goes ahead, the ability to revoke the UP would be more difficult.

Councilmember Oddie inquired whether there would not be an issue if there is an agreement between the City and the new purchaser to have certain conditions and an expiration date, to which the Assistant City Attorney responded in the affirmative.

In response to Councilmember Oddie's inquiry, the Assistant Community Development Director stated the Planning Board addressed whether the use is not the problem or if the conditions need to be revised; the Planning Board decided the use is the problem.

(17- 482) Mayor Spencer stated a motion is needed to consider the remaining items.

Vice Mayor Vella moved approval of considering the remaining items.

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

Jay and Ben Garfinkle, Property Owners, gave a presentation.

Mayor Spencer inquired whether Council could ask questions of staff as well as the Appellant.

The City Attorney responded that Council should receive clarification from each speaker at the end of the 15 minutes; after the rebuttal, Council could ask questions of either party.

Councilmember Oddie inquired when the photographer took the photographs and what the photographs show.

Mr. Garfinkle responded certain days and times were laid out for the photographer to take photographs.

Councilmember Ezzy Ashcraft inquired whether the Appellant understood they were supposed to acquire an offsite lot for parking but were not required to park vehicles at the location.

Mr. Garfinkle responded in the affirmative; stated all local businesses park on City streets.

Mayor Spencer inquired whether the City did any parking studies.

The Assistant Community Development Director responded the City has done an entire parking analysis on Park Street and Webster Street; stated the Planning Board did not feel a parking study was needed.

David Blackwell and Rick O'Neill, Big O Tires, gave a presentation.

Councilmember Ezzy Ashcraft inquired whether Mr. O'Neill is not going to invest unless he is aware of the conditions.

Mr. O'Neill responded in the affirmative; stated the UP needs to be in place.

Councilmember Ezzy Ashcraft inquired how much is the investment.

Mr. O'Neill responded approximately \$2 million.

Vice Mayor Vella inquired whether Mr. O'Neill has met the conditions of the current UP.

Mr. O'Neill responded that he has met the requirement for employee parking, not customer parking.

Vice Mayor Vella inquired whether Mr. O'Neill would release information regarding work orders for inspection to the City of Alameda.

Mr. O'Neill responded in the affirmative; stated there would need to be authorization.

Vice Mayor Vella stated the legal counsel for Mr. O'Neill stated there is no violation of any current condition, yet one of the UP conditions is to secure offsite parking.

Robert Lane, Big O' Tires, responded the language reads: "to continue to work to locate and secure offsite parking;" stated the language does not read: "you must secure offsite parking by a certain date."

Vice Mayor Vella inquired whether Mr. Lane believes there should be no effort due to the way the language reads.

Mr. Lane stated the effort does have to be there.

Vice Mayor Vella inquired whether Mr. Lane's has evidence of diligently looking to secure parking for customer vehicles.

Mr. Lane stated Big O' Tires is not subject to the UP since it has not purchased the property yet; if Big O' Tires purchases the property, the obligation to secure offsite parking runs with the land.

Mr. O'Neill clarified both customer and employee parking.

Vice Mayor Vella inquired how long Mr. O' Neill has been looking at the site.

Mr. O' Neill responded that he has not signed a lease or closed on the property until he know what the UP will be.

Councilmember Oddie inquired whether Big O' Tires is open to negotiate additional conditions, to which Mr. O'Neill responded in the affirmative.

Councilmember Oddie inquired whether staff has indicated what conditions to expect if Big O' Tires moves into the property.

Mr. O'Neill responded that he would like clear conditions; stated defined rules leave no question as to whether Big O' Tires is complying.

Councilmember Oddie inquired whether staff has provided clarity on the conditions.

Mr. O'Neill stated staff is still renegotiating; conditions will depend on Council direction.

Councilmember Oddie inquired whether Mr. O'Neill is open to sit down with staff and neighbors to come to an agreement if that is Council's direction, to which Mr. O'Neill responded in the affirmative.

Councilmember Ezzy Ashcraft inquired whether Mr. O'Neill is considering purchasing any other sites in Alameda.

Mr. O'Neill responded the site is very convenient and unique.

Councilmember Ezzy Ashcraft inquired whether Mr. O'Neill would be open to another location if it fits the needs of Big O' Tires, to which Mr. O'Neill responded in the affirmative.

Mayor Spencer inquired whether Mr. O'Neill has secured parking offsite for all of the employees, to which Mr. O'Neill responded in the affirmative.

Mayor Spencer inquired whether Mr. O'Neill is willing to commit to finding offsite parking for customer cars, to which Mr. O'Neill responded in the affirmative.

Councilmember Oddie inquired whether Mr. O'Neill would agree to finding an offsite lot by a specific date.

Mr. O'Neill inquired whether the question is regarding finding parking before the UP is decided or if there would be a certain amount of time to secure parking after the UP is decided.

Councilmember Oddie stated the question is hypothetical; inquired what type of amendments Mr. O'Neill is willing to accept.

Mr. O'Neill responded a solution to the employee cars has been found; more time is needed to address customer cars; 30 days is reasonable.

Mayor Spencer inquired whether the UP language could be clarified.

(17-483) Mayor Spencer stated a motion is needed to continue the meeting past 11:00 p.m.

Councilmember Matarrese moved approval [of continuing the meeting].

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

Vice Mayor Vella inquired whether Mr. O'Neill would be amenable to a condition which requires, not just searching for, but actually securing parking for up to 35 or more customer vehicles, by a date certain, to which Mr. O'Neill responded in the affirmative.

Vice Mayor Vella inquired whether Mr. O'Neill would be amenable to clarifying the difference between business vehicles and cars left in the care of Big O' Tires, and producing work orders to City staff for audits, to which Mr. O'Neill responded in the affirmative.

Mayor Spencer inquired whether Mr. O'Neill has a solution regarding the noise complaints.

Mr. O'Neill responded inside of the building could be insulated without changing the outside façade; stated all repair work would be done inside the building and not in the parking lot; things can be done with the brake resurfacing and tire repair; Big O' Tires is will to do all things that will mitigate the noise level.

Urged Council to end the UP; stated the noise levels and contamination are not suitable for the area; the parking survey left out the two busiest days: Bobbie Centurion, Alameda.

Stated the tenants of the buildings in the area were not noticed of the meeting, only the owners; urged Council to pull the UP; stated parking is a terrible problem: Katherine Taylor, Alameda.

Submitted documents; stated many constituents are opposed to the business being on Park Street: James Manning, Alameda.

Stated the business does not belong on Park Street; the business should be at a different site: Mary Manning, Alameda.

Stated parking is an issue; cars backing out on San Jose Avenue; he was almost hit several times; pollution is a concern; urged Council to revoke the UP: Josh Miller, Alameda.

Stated the conditions have never been met by Big O' Tires; the UP requires all cars associated with the business to be parked onsite; parking customer cars on the streets is a loss of revenue to other local businesses: Art Thomas, Alameda.

Urged Council to uphold the Planning Board's decision to terminate the UP at 1200 Park Street; stated there are challenges to operating a tire store at the location; Big Discount Tire Pros has incurred tremendous costs, time and resources to move the business to a location where the use is allowed; to allow Big O' Tires to operate at the location would not be fair to Big Discount Tire Pros, staff or neighbors: Gregg Brandt, Wendel Rosen and Black, Attorney for Big Discount Tire Pros.

Stated establishing a different type of tenant will take time; putting a restaurant in the location would take up more parking spaces at night: Rich Krinks, Alameda.

Stated Park Street has changed and the business does not belong at the location; the fact that the conditions were not met for the UP should result in revocation; urged Council to deny the Big O' Tires UP: Louie Montes.

Stated that he was hired by the Garfinkle family to provide photographs of the parking conditions at different times over a two week period, three days a week, four times a day; he is available to answer questions: Al Wright, Alameda.

Stated his business was told to look for another location; the business is not in compliance with the City's General Plan; it is unfair to Big Discount Tire Pros to allow Big O' Tires to set up shop in the location; Big Discount Tire Pros will have a franchisee running the shop and problems will continue: Guido Bertoli, Big Discount Tire Pros.

Stated the location is not viable for the tire business; Big Discount Tire Pros has been looking for another location for years and has finally secured a site: Gary Voss, Big Discount Tire Pros.

Stated the parking is atrocious; continuing UP is counterintuitive: Jason Tipsis, Alameda.

Stated the location is not appropriate for a tire store; a major corporation should not be saying the UP is not clear so it is entitled to do what it wants: Alan Pryor, Alameda Progressives.

Robert Lane, Attorney for Appellant, gave a presentation.

The City Attorney stated now is the time for Council to ask questions, deliberate and make a decision.

Mayor Spencer inquired who will be operating the store on a daily basis.

Mr. O'Neill responded an experienced, existing franchisee will be operating the store.

Mayor Spencer inquired whether Mr. O'Neill has a specific franchisee in mind.

Mr. O'Neill responded in the affirmative; stated Big O' Tires would own the property and sublease it to the franchisee with very specific language about compliance with the UP.

Mayor Spencer inquired what the operating hours would be.

Mr. O'Neill responded he cannot speak for the franchisee.

Mayor Spencer inquired whether the hours are in the UP or can the franchisee change the hours.

The Assistant Community Development Director responded the franchisee can change the hours.

Mayor Spencer inquired whether Mr. O'Neill would be amenable to not extend the operating hours beyond the current operating hours.

Mr. O'Neill responded he would prefer not to be limited to the hours.

Mayor Spencer inquired whether Mr. O'Neill is committing that cars would not block the sidewalk.

Mr. O'Neill responded Big O' Tires would do their best to not block the sidewalk.

Mayor Spencer inquired whether Big O' Tires is committing to not parking in the metered spaces.

Mr. O'Neill responded in the affirmative.

Councilmember Oddie inquired why the City is not enforcing parking in the metered spaces and not paying, which is illegal.

The City Attorney responded the question is for parking enforcement.

Mayor Spencer inquired how staff encouraging the current operators to find a different location impacts the City's ability to clarify the terms of the UP for the new owners.

The Assistant City Attorney responded staff encouraged the current operators to find a different location because of the success of the business which would be better suited in a larger location.

Mayor Spencer inquired whether the City telling the current operator to relocate when the matter had not even appeared before Council is legal.

The Assistant City Attorney responded that he would be surprised if the Planning Board or City staff would have told an occupant to leave.

The Assistant Community Development Director stated City staff never told the operators they need to leave; there were many public hearings and two and a half years of meetings with the operators being told that they are not complying with the UP conditions.

Mayor Spencer requested to hear from the current operator regarding what was requested.

Mr. Bertoli and Mr. Voss responded that they were not specifically told to leave; stated they were told the use is not in the City's General Plan.

Mayor Spencer inquired whether Mr. Garfinkle ignored condition two of the UP and did not feel the need to secure parking and have cars actually use the parking.

Mr. Garfinkle responded once access to an offsite parking lot was secured, the Planning Board was to be notified to be considered in compliance; the current operator has been in compliance since 2015.

Mayor Spencer inquired whether the current operator secured an offsite parking lot, to which Mr. Garfinkle responded the current operator has an offsite parking lot.

Mayor Spencer inquired whether the current operator is still parking outside people's homes.

Mr. Garfinkle responded that he does not know; stated that is what the City is reporting; the UP does not say the business cannot park cars in the area.

Mayor Spencer inquired whether Mr. Garfinkle thought the condition did not prohibit Big Discount Tires from parking customer cars on the streets.

Mr. Garfinkle responded the Planning Board did not put the language in the UP to prohibit parking cars on the streets; the prohibition states business vehicles, meaning vehicles with the business logo.

Mayor Spencer inquired whether Mr. Garfinkle stopped parking business vehicles on the City streets.

Mr. Garfinkle responded the City notified the franchisee that they were not to park business vehicles on the City streets.

Mayor Spencer inquired whether language could be crafted to be clear; stated if the City does not want vehicles parking on the City streets, the language must be clear.

Councilmember Ezzy Ashcraft inquired whether there is a problem with cars from the current occupant's customers parking in the neighborhood.

The Assistant Community Development Director responded in the affirmative.

Councilmember Ezzy Ashcraft inquired whether the language is so confusing that the tire store was unaware they were not supposed to park customer cars on the streets.

The Assistant Community Development Director responded in the negative.

Councilmember Matarrese inquired whether the conditions of the UP regarding not parking customer vehicles on the streets was explained to the franchisee and acknowledged in all the meetings that the City and Planning Board had with the operator, to which the Assistant Community Development Director responded in the affirmative.

Councilmember Oddie inquired whether the notice alleged a violation of condition number three.

The Assistant Community Development Director responded the language was sloppy; stated photographs accompanied the violation.

Councilmember Oddie inquired whether a notice needs to comply with certain standards; stated the notice alleged a violation of one condition, but all the other evidence supports the violation of another condition.

The Assistant Community Development Director responded the notice may have been done hastily; stated three public hearings were held to discuss the specific problem and everyone involved understood the violation.

Councilmember Oddie stated someone could file a lawsuit arguing proper notice was not given.

Vice Mayor Vella inquired whether there were communications from City staff after the initial notice was sent out, prior to the hearing, relative to the subject matter of the hearing.

The Assistant City Attorney responded said communication is reflected in the Planning Board agenda material.

Councilmember Ezzy Ashcraft stated that she did a site visit and witnessed there were no parking spots available; the Park Street north of Lincoln Avenue Form Based Codes state active automotive uses are not to take place on the main gateway streets; she does not understand how a large, successful business could get confused with the terms of the UP; there are better uses for the property without the implications to the environment; there has been adequate notice and documentation; she supports the Planning Board's decision.

Councilmember Oddie stated that he has not seen any evidence supporting what the occupant is accused of; he is concerned with the location being vacant when it could be producing jobs and customers for other local merchants; any another type of business could generate even more cars in the area; he is concerned due process has not been followed; he would vote to uphold the appeal; if Council agrees, he would be willing to add more conditions to the property.

Councilmember Matarrese stated there is other evidence and other notice that goes along with three public hearings and the documents generated with those hearings; the operator admitted that it is impossible to comply with the conditions of the UP; he will not support overturning the Planning Board's decision.

Vice Mayor Vella stated the conditions are in place because the use restrictions are not in conformity with the area; parking is an issue for the area; she does not believe the conditions will be met by the prospective owner due to the fact that they will not be the actual operators; she supports upholding the Planning Board's decision.

Mayor Spencer stated there is a lot to be learned moving forward; the conditions need to be clearly stated to the parties involved and staff needs to enforce the conditions sooner; property owners should ensure tenants following the UP conditions; requested that staff allow Council to weigh in to be able to make definitive decisions in the future; stated that she will support the Planning Board's decision.

Councilmember Matarrese moved adoption of the resolution.

Councilmember Ezzy Ashcraft seconded the motion, which carried by the following voice vote: Ayes: Councilmembers Ezzy Ashcraft, Matarrese, Vella and Mayor Spencer – 4. Noes: Councilmember Oddie – 1.

Mayor Spencer called a recess at 12:31 a.m. and reconvened the meeting at 12:40 a.m.

(17-484) Recommendation on City Council's Direction to Create a "Straws on Request" Ordinance and Review Ordinance No. 2977 to Address that "To Go" Food Ware, Including Straws, be Reusable, Compostable, or Recyclable.

Stated that she supports the draft ordinance; the ordinance will provide a Citywide model for the Bay Area and the whole country: Ruth Abbe, Community Action for a Sustainable Alameda (CASA).

Vice Mayor Vella moved approval of the staff recommendation.

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

(17-485) Public Hearing to Consider: 1) Introduction of Ordinance Amending the Bayport Alameda Landing Master Plan. Introduced; 2) Approving and Authorizing the City Manager to Execute a Consent to Partial Assignment and Assumption Agreement (Development Agreement (Alameda Landing Mixed Use Commercial Project) - Waterfront); and 3) Authorizing the City Manager to Negotiate and Execute an Operating Memorandum for the Development Agreement Consistent with the Term

Sheet. A Final Supplemental Environmental Impact Report (EIR) for the Alameda Landing Mixed Use Development Project was Certified in Accordance with the California Environmental Quality Act (CEQA) (State Clearinghouse #2006012091) in 2006. An Environmental Assessment for the Proposed Actions has been Prepared.

The City Attorney clarified the order of the remaining items.

The Community Development Director and Assistant Community Development Director gave a Power Point presentation.

Mayor Spencer inquired whether the impact of traffic includes residential plus commercial.

The Assistant Community Development Director responded the trips include the total from morning to night.

Mayor Spencer inquired whether the impact of having more homes, thus more traffic and parking, is taken into account.

The Assistant Community Development Director responded all trips are accounted for in the EIR.

Mayor Spencer inquired whether the Alameda Unified School District (AUSD) would have more money to build more schools with the school impact fees.

The Assistant Community Development Director responded AUSD will be receiving larger school impact fees due to the increased housing.

Mayor Spencer inquired how AUSD will ensure they have additional classrooms for the additional students.

The Assistant Community Development Director responded that AUSD receives notice about all of City projects.

The City Manager clarified Mayor Spencer's question is whether the City can tell AUSD to add more classrooms; stated the City does not have any control over how AUSD spends its money.

The Community Development Director continued the presentation.

Mayor Spencer inquired whether Catellus owns the land.

The Community Development Director responded the land is owned by the Successor Agency to the Community Improvement Commission (SACIC); stated the Disposition and Development Agreement (DDA) is a purchase and sale agreement between the

SACIC and Catellus; Catellus has the right to purchase the land if certain agreements are met pursuant to the DDA.

Mayor Spencer inquired whether the land is City property.

The Community Development Director responded in the negative; stated the land is owned by the SACIC, which is a public entity.

Mayor Spencer inquired whether the land is owned by the public.

The Community Development Director responded in the affirmative; stated Catellus owns a small piece of the property.

Mayor Spencer inquired how much of the land Catellus owns.

The Community Development Director responded 1.5 acres.

Urged Council to support the project; stated Regional Measure 3 will bring desperately needed support for ferry service; he supports the proposed use: Bobby Winston, Bay Crossings.

Stated that she supports the project, but has concerns about the amount of single family homes; Alameda needs more workforce housing: Angela Hockabout, Alameda Home Team.

Mayor Spencer requested clarification on the percentage of single family homes.

The Assistant Community Development Director responded 30% would be single family homes.

Stated that she met with Catellus and staff regarding an alternate proposal to include senior housing; Alameda is in need of senior housing: Dorothy Freeman, Alameda Citizens Taskforce.

Stated more discussion should occur regarding what is needed on the waterfront: Former Councilmember Tony Daysog, Alameda.

Stated Alameda needs affordable housing: Laura Thomas, Renewed Hope Housing Advocates.

Stated there is a critical need for housing; the project will create jobs: Patricia Young, Alameda Home Team.

Stated the project is a solution and a game changer for the maritime industry; the project provides for housing and transportation on and off the Island: Michael McDonough, Chamber of Commerce.

Stated that he supports the proposal because it supports the maritime industry: Dan Morrison, Starlight Marine Services.

Stated Alameda Landing has created a lot of jobs for people in Alameda; the project will create a lot of jobs; urged Council to adopt the ordinance: Doug Biggs, Alameda Point Collaborative.

Stated that she is concerned with the lack of universal design in the proposal: Beth Kenny, Alameda.

Stated the housing can be a mix for families, seniors and single residents; the site creates unique opportunities for bike and pedestrian access; he would like to preserve surface space to have flexibility in the future; urged Council to approve the project: Brian McGuire, BikeWalk Alameda.

Urged Council to approve the project: Rich Krinks, Alameda.

Councilmember Matarrese stated he would like to ensure that the required 50% commercial/industrial use actually happens; the amendment should include language to require that Bay Ship & Yacht, or a maritime commercial occupant, occupies 50% in a limited period of time otherwise the amendment is void; a senior component should be included in the 400 housing units; stated affordable by design is meaningless.

Vice Mayor Vella stated there is a public benefit to constructing housing; the easements in the project provide a substantial benefit to alleviate traffic; requested clarification about whether the easements include surface streets.

The Assistant Community Development Director responded in the affirmative.

Vice Mayor Vella suggested working with the Water Emergency Transportation Authority (WETA) on the water taxi; stated that she has concerns about the universal design aspect; she would like the units to be 100% universal design; visit-ability issues should be worked on; there should be conversations with the Committee on Disability Issues to ensure it is behind the project; inquired where Bay Ship & Yacht currently stands.

Alan Cameron, Bay Ship & Yacht, responded they have funding, are ready to go, and are waiting for the property to close.

Mayor Spencer inquired whether there can be an amendment to guarantee that the property can remain maritime commercial long term.

The Assistant Community Development Director responded the project is maxed out with maritime commercial density uses; if the property is sold, a new EIR will be required, which would prevent any other type of uses.

Mayor Spencer inquired whether a new owner could choose not build maritime commercial.

The Assistant Community Development Director responded the language is in the Master Plan.

The Community Development Director stated the permitted uses are defined in the Amended Reuse Plan; other contemplated uses would need to return for another entitlement process.

Mayor Spencer requested clarification on the word commercial in the language.

The Community Development Director responded it means commercial manufacturing, not retail.

Mayor Spencer inquired whether it is not commercial maritime.

The Community Development Director responded it is broader than just maritime; manufacturing includes research and development and advanced manufacturing, which is permitted in the MX zoning.

Mayor Spencer inquired whether Bay Ship & Yacht is proposing commercial maritime.

The Community Development Director responded Bay Ship & Yacht is proposing a combination of uses.

Mayor Spencer inquired whether protecting the maritime use is not being built into the proposal.

The Community Development Director responded the use is a permitted use; stated a maritime business is proposing to purchase the property; the project addresses a lot of issues, such as jobs.

Mayor Spencer stated the plan has many changes.

The City Manager stated staff is being transparent about the agreement; cautioned the Council on being so restrictive regarding the types of uses, which would makes the project less financially viable for Bay Ship & Yacht; stated the economy, technology and what maritime is would all change over time.

Mayor Spencer stated that the description staff used in the report is waterfront maritime commercial.

The Community Development Director responded the term is general; stated the definition is in the proposed amendment to the Master Plan; the language will be in the

ordinance.

Councilmember Ezzy Ashcraft stated the site will be very attractive to uses that need to be on the water.

In response to Mayor Spencer's inquiry regarding the water taxi commitment and hours, the Assistant Community Development Director stated the Master Plan commitment is that there will be a public water shuttle facility dock constructed; phasing needs to be approved before being constructed; the Transportation Management Association (TMA) will ultimately make the determination.

Mayor Spencer inquired whether there is a commitment to have a water shuttle.

Sean Whiskeman, Catellus, responded the hard work is building the infrastructure for the water shuttle; stated the actual service will fall to the TMA to generate the funds to operate the shuttle.

Mayor Spencer inquired whether the City is going to have a water shuttle or only a dock.

Mr. Whiskeman responded the City will receive the dock and the vessel;; stated the operating funds will be generated by the TMA; additional revenue will be allocated to the TMA from the new housing.

Mayor Spencer inquired whether Catellus has had discussions with WETA.

Mr. Whiskeman responded in the negative; stated Catellus plans on speaking with WETA.

Mayor Spencer inquired whether the TMA will make the final decisions on the water shuttle.

Mr. Whiskeman responded in the affirmative; stated the TMA board is made up of a representative of Catellus, TriPointe, the shopping center and the City.

Mayor Spencer inquired whether TMA would have public meetings; and whether the public be notified of the meetings and be a part of the dialogue, to which the Assistant Community Development Director responded in the affirmative.

Mayor Spencer stated the shuttle would need to be very accessible to be a part of the traffic solution; she does not want to end up with a shuttle sitting at a dock not being used; inquired whether the project will be 100% visit-ability, to which the City Manager responded in the affirmative.

Mayor Spencer inquired whether every project can be required to have 100% visit-ability and 30% accessible housing.

The Community Development Director responded the proposed project has a 15% universal design requirement; Catellus has committed to adding the accessible shower to ensure that the 15% of the units will be universal design.

Councilmember Ezzy Ashcraft stated Mayor Spencer is requesting higher than 15%.

The Community Development Director responded 15% was negotiated with Catellus; Council can ask about increasing the universal design requirement.

Mayor Spencer inquired whether Council can require 30% universal design.

The Community Development Director responded there is an existing Development Agreement (DA); Catellus does not have to comply with subsequent changes.

Mayor Spencer stated Catellus is asking for an amendment.

The Community Development Director responded Catellus is asking for an amendment to the Master Plan; stated staff negotiated 15% universal design units.

Mayor Spencer inquired since whether staff could have required 30% universal design since Catellus is asking for an additional 400 homes.

The Community Development Director responded staff negotiated and the proposal is the end result.

Mayor Spencer inquired whether Catellus is refusing to do the 100% visit-ability and 30% universal design, which is what the Commission on Disability Issues is requesting.

The Community Development Director responded in the affirmative.

Tom Marshall, Catellus, responded Catellus has to make the project feasible.

Mayor Spencer stated serving the disabled in the community is important.

Mr. Marshall stated the developer is aware of the question and cannot support the request.

Mayor Spencer inquired whether the developer is going to set a price range on the units.

The Community Development Director responded the 10% affordable by design would not be deed restricted; stated staff is not recommending the units be deed restricted.

Mayor Spencer inquired whether the developer is willing to commit to the non-single family homes being limited to 55 and over.

The Community Development Director responded in the negative.

Councilmember Oddie inquired whether Councilmember Matarrese's suggestion to ensure that the 50% of the commercial industrial actually happens within a certain timeframe can be required.

The City Manager responded in the affirmative.

The Community Development Director stated if Council would like to move forward with requiring the project take place in a certain timeframe, the concept should be negotiated and included in the Operating Memorandum.

Councilmember Matarrese stated that he does not want to see the process go forward with no commercial development in the end.

The Community Development Director responded Catellus understands the concern and is prepared to do the commercial construction within a certain timeframe.

Councilmember Matarrese stated his request is within a certain time or the amendment will be void.

The Community Development Director responded the current Master Plan amendment includes a variant for existing entitlements.

The City Attorney stated Council may need to take a short recess to allow staff to discuss Councilmember Matarrese's request; she is concerned with putting the request in an Operating Memorandum.

Councilmember Matarrese stated his goal is to ensure the commercial construction is completed; Site A is an example where the commercial is in jeopardy because it is harder to do than housing.

Councilmember Oddie stated if there is a way to satisfy Councilmember Matarrese's concern without destroying the deal, he would like staff to address the issue.

The City Attorney stated that she would like a chance to discuss the issue with her colleagues and Catellus' attorney.

Councilmember Oddie stated that he is excited about the commercial aspect of the project; easements for the additional crossings are important; the project is a good step in improving housing needs; he plans on supporting the project.

Councilmember Ezzy Ashcraft stated that she is excited about the maritime jobs being created and the strengthening of the waterfront; she cannot support a senior component; Alameda needs housing across the board; the universal design ordinance has not passed yet; she would like to see the northern waterfront developers work

together on the water taxi service; she would like Catellus to join the Citywide TMA; she will support the project.

Mayor Spencer called a recess at 2:25 a.m. and reconvened the meeting at 2:41 a.m.

Mr. Marshall stated the deal will not close until the end of the year due to some due diligence items that need to be cleaned up; Catellus can commit to the maritime component.

Councilmember Matarrese inquired whether part of the ordinance can read: “there will be no building permits issued for residential until the commercial component is consummated.”

Mr. Marshall responded he would like the word consummated defined.

Councilmember Matarrese stated consummated means purchased and guaranteed.

Mr. Marshall stated there can be no guarantee after the purchase.

The City Manager responded the attorneys are trying to draft language for the ordinance first reading tonight; she would like the language to be very clear before the vote at the second reading.

Margo Bradish, Catellus Legal Counsel, read the language: “No building permit for residential use in the residential subarea shall be issued until the maritime commercial land is conveyed to a developer or user for use consistent with the permitted uses authorized in the maritime commercial subarea of the maritime commercial residential variant of the Master Plan.”

Councilmember Ezzy Ashcraft moved introduction of the ordinance amending the Bayport Alameda Landing Master Plan as amended.

Vice Mayor Vella seconded the motion, which carried by the following voice vote: Ayes: Councilmembers Ezzy Ashcraft, Matarrese, Oddie and Vella – 4. Noes: Mayor Spencer – 1.

Councilmember Ezzy Ashcraft moved approval of authorizing the City Manager to execute a Consent to Partial Assignment and Assumption Agreement (Development Agreement (Alameda Landing Mixed Use Commercial Project) - Waterfront); and authorizing the City Manager to negotiate and execute an Operating Memorandum for the Development Agreement consistent with the Term Sheet.

Vice Mayor Vella seconded the motion, which carried by the following voice vote: Ayes: Councilmembers Ezzy Ashcraft, Matarrese, Oddie and Vella – 4. Noes: Mayor Spencer

– 1.

Mayor Spencer called a recess to hold the joint meeting at 2:48 a.m. and reconvened the meeting at 2:49 a.m.

The City Attorney requested Council to clarify the action taken on the Public Hearing; stated the ordinance was adopted with the amendment; the amendment language is added to the Master Plan as a condition; the ordinance adopts the Master Plan amendment but the language should be in the Master Plan itself.

Councilmember Oddie moved approval of clarifying the action taken.

Vice Mayor Vella seconded the motion, which carried by the following voice vote: Ayes: Councilmember Ezzy Ashcraft, Matarrese Oddie and Vella – 4. Noes: Mayor Spencer – 1.

CITY MANAGER COMMUNICATIONS

(17-486) The City Manager stated the results from the Registrar of Voters (ROV) verified 129.88% valid signatures on the referendum; Council's would have the choice to either rescind Ordinance No. 3180 or place the ordinance on the ballot for the voters to decide.

ORAL COMMUNICATIONS, NON-AGENDA

(17-487) Brian McGuire, Alameda, expressed concerns for the lengthy Council meetings.

COUNCIL REFERRALS

None.

COUNCIL COMMUNICATIONS

(17-488) Consideration of Mayor's Nominations to the Commission on Disability Issues, Historical Advisory Board, Planning Board and Public Art Commission.

Mayor Spencer nominated Pat Lamborn and Alan Teague for appointment to the Planning Board.

ADJOURNMENT

(17-489) There being no further business, Mayor Spencer adjourned the meeting at 2:53 a.m. in memory of Florence Hoffman.

Respectfully submitted,

Lara Weisiger
City Clerk

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

MINUTES OF THE SPECIAL JOINT MEETING OF THE
CITY COUNCIL AND SUCCESSOR AGENCY TO THE COMMUNITY
IMPROVEMENT COMMISSION (SACIC)
TUESDAY- -JULY 18, 2017- -7:01 P.M.

Mayor/Chair Spencer convened the meeting at 2:48 a.m.

ROLL CALL - Present: Councilmembers/Commissioners Ezzy Ashcraft,
Matarrese, Oddie, Vella and Mayor/Chair Spencer –
5.

Absent: None.

ORAL COMMUNICATIONS

None.

REGULAR AGENDA ITEM

(17-490 CC/17-010SACIC) Public Hearing to Consider: 1) Approving and Authorizing the City Manager to Execute a Consent to Partial Assignment and Assumption Agreement for the Alameda Disposition and Development Agreement for the Alameda Landing Mixed Use Project; and 2) Authorizing the City Manager to Negotiate and Execute an Operating Memorandum for the Disposition and Development Agreement Consistent with the Term Sheet. A Final Supplemental Environmental Impact Report for the Alameda Landing Mixed Use Development Project was Certified in Accordance with the California Environmental Quality Act (CEQA) (State Clearinghouse #2006012091) in 2006. An Environmental Assessment for the Proposed Actions has been Prepared. Approved.

The matter was heard under the Public Hearing regarding Alameda Landing on the regular City Council meeting.

Councilmember/Commissioner Oddie moved approval of the staff recommendation.

Councilmember/Commissioner Vella seconded the motion, which carried by the following voice vote: Ayes: Councilmembers/Commissioners Ezzy Ashcraft, Matarrese, Oddie and Vella – 4. Noes: Mayor/Chair Spencer – 1.

ADJOURNMENT

There being no further business, Mayor/Chair Spencer adjourned the meeting at 2:49 a.m.

Respectfully submitted,

Lara Weisiger
City Clerk and Secretary SACIC

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