

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
TUESDAY- -DECEMBER 19, 2017- -5:00 P.M.

Mayor Spencer convened the meeting at 5:02 p.m.

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

Absent: None.

The meeting was adjourned to Closed Session to consider:

(17-744) Conference with Legal Counsel – Anticipated Litigation; Initiation of litigation pursuant to subdivision (c) of Section 54956.9 of the Government Code; Number of cases: Three (As Plaintiff - City Initiating Legal Action)

Following the Closed Session, the meeting was reconvened and the City Clerk announced direction was given to staff.

Adjournment

There being no further business, Mayor Spencer adjourned the meeting at 6:35 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 JOINT MEETING OF THE
CITY COUNCIL AND SUCCESSOR AGENCY
TO THE COMMUNITY IMPROVEMENT COMMISSION (SACIC)
TUESDAY- -DECEMBER 19, 2017- -6:59 P.M.

Mayor Spencer convened the meeting at 7:00 p.m. and led the Pledge of Allegiance.

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

Absent: None.

ORAL COMMUNICATIONS, NON-AGENDA

None.

CONSENT CALENDAR

Councilmember/Commissioner Ezzy Ashcraft moved approval of the Consent Calendar.

Councilmember/Commissioner 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.]

(*17-745 CC/16 SACIC) Recommendation to Accept the First Quarter Financial Report for the Period Ending September 30, 2017. Accepted.

(*17-746 CC/17 SACIC) Recommendation to Accept the Investment Report for the Quarter Ending September 30, 2017. Accepted.

ADJOURNMENT

There being no further business, Mayor Spencer adjourned the meeting at 7:01 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk and Secretary, SACIC

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

MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY- -DECEMBER 19, 2017- -7:00 P.M.

Mayor Spencer convened the meeting at 7:01 p.m.

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

Absent: None.

AGENDA CHANGES

(17-747) Mayor Spencer moved approval of moving up the referrals.

Councilmember Oddie seconded the motion, which failed by the following voice vote: Ayes: Councilmember Oddie and Mayor Spencer – 2. Noes: Councilmembers Ezzy Ashcraft, Matarrese and Vella – 3.

The Consent Calendar was addressed prior to Special Orders and Oral Communications.

CONSENT CALENDAR

Councilmember Matarrese moved approval of the Consent Calendar, with recording his no vote for the cannabis ordinance [paragraph no. 17-760].

Councilmember Ezzy Ashcraft seconded the motion, with recording her no vote on the cannabis ordinance, which carried by unanimous voice vote – 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*17-748) Minutes of the Special City Council Meetings Held on November 21, 2017. Approved.

(*17-749) Ratified bills in the amount of \$1,384,702.24.

(*17-750) Recommendation to Accept the Quarterly Sales Tax Report for the Board of Equalization Period Ending September 30, 2017 (Funds Collected During the Period April 1, 2017 to June 30, 2017). Accepted.

(*17-751) Recommendation to Accept the 2013 Local Library Bond Measure Annual Report. Accepted.

(*17-752) Recommendation to Accept the Police and Fire Construction Impact Fee Annual Report. Accepted.

(*17-753) Recommendation to Accept the Development Impact Fee and Fleet Industrial

Supply Center (FISC)/Catellus Traffic Fee Report. Accepted.

(*17-754) Recommendation to Accept and File the Community Facilities District (CFD) No. 03-1 (Bayport Municipal Services District) Report for the Fiscal Year (FY) Ending June 30, 2017; the CFD No. 13-1 (Alameda Landing Public Improvements) Report for Fiscal Year Ending June 30, 2017; the CFD No. 13-2 (Alameda Landing Municipal Services District) Report for Fiscal Year Ending June 30, 2017; and the CFD District No. 14-1 (Marine Cove II) Report for Fiscal Year Ending June 30, 2017. Accepted.

(*17-755) Recommendation to Accept the Annual Review of the Affordable Housing Ordinance and the City's Affordable Housing Unit Fee Consistent with Section 27-1 of the Alameda Municipal Code and California Government Code Section 66001, and Accept the Annual Affordable Housing Unit Fee Fund Activity Report. Accepted.

(*17-756) Recommendation to Award a Five-Year Agreement for an Amount not to Exceed a Total Five-Year Expenditure of \$276,285, to Turbo Data Systems for Parking Citation Processing and Collection Services. Accepted.

(*17-757) Resolution No. 15334, "Amending the 15-Year Concession Agreement, with a 10-Year Renewal Option, with Dialemi, Inc. (known as Jim's on the Course), for the Provision of Food and Beverage Service at the Chuck Corica Golf Complex." Adopted.

(*17-758) Resolution No. 15335, "Declaring Results of Special Election in Community Facilities District No. 13-1 (Alameda Landing Public Improvements), Determining that Alteration of the Rate and Method of Apportionment of Special Taxes for the District is Lawfully Authorized, and Directing Recording of a Third Amendment to Notice of Special Tax Lien." Adopted.

(*17-759) Resolution No. 15336, "Authorizing the City Manager to Execute a Cooperation Agreement between Eden Housing, Inc., a California Corporation, and the City of Alameda for Compliance with the Requirements of a Grant Application Under the Affordable Housing and Sustainable Communities Funding Program for the 70-Unit Family Affordable Housing Project on Block 8 within Site A at Alameda Point and for the Cross Alameda Trail Segment along Ralph Appezzato Memorial Parkway." Adopted.

(*17-760) Ordinance No. 3206, "Amending the Alameda Municipal Code by Repealing Section 30-5.15 (Medical Marijuana Dispensaries and Cultivation) in its Entirety and Adding a New Section 30-10 (Cannabis). Finally passed.

Note: The ordinance was finally passed by the following voice vote: Ayes: Councilmembers Oddie, Vella and Mayor Spencer. Noes: Councilmembers Ezzy Ashcraft and Matarrese - 2.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(*17-761) Proclamation Declaring December 19, 2017 as Nick Pereira Day.

Mayor Spencer read the proclamation and presented it to Nick Pereira.

Councilmember Ezzy Ashcraft made brief comments.

Mr. Pereira made brief comments.

ORAL COMMUNICATIONS, NON-AGENDA

(17-762) Gaby Dolphin, Alameda, submitted information and discussed smart meters.

Mayor Spencer requested clarification on the role the City has with the Public Utilities Board (PUB).

The City Manager responded the only role the City has is the appointment of the PUB members; stated the PUB removed the opt-out sunset provision; residents can opt-out indefinitely.

Mayor Spencer inquired what is the cost for consumers to opt-out.

The City Manager responded \$100 to \$125 is the initial cost and then, \$10 a month; stated the cost is for a meter reader to physically come out to the property to read the meter and can fluctuate.

Councilmember Ezzy Ashcraft inquired whether an informational report from Alameda Municipal Power (AMP) can be agendaized in the future, to which the City Manager responded in the affirmative.

Mayor Spencer stated that she would like to list steps the community can take to be posted on the City's website.

The City Manager stated the Smart Meter program started with the intent of enabling AMP to become greener and allow citizens to monitor energy usage.

Vice Mayor Vella stated that she would like staff to inquire whether the opt-out fee is assessed on individual meters or the bank of meters in multi-family units.

REGULAR AGENDA ITEMS

(17-763) Introduction of Ordinance Approving a Real Estate Exchange Agreement between the City of Alameda ("City") and PUR Atlantic LLC ("PUR Atlantic") to Exchange Approximately 820 Square Feet of City Owned Property for Approximately 2,173 Square Feet of PUR Atlantic Owned Property in Order to Facilitate Construction of the Cross Alameda Trail Project along Ralph Appezzato Memorial Parkway between Main and Webster Streets and Authorizing the City Manager to Execute Documents Necessary to Implement Its Terms. Introduced.

The Base Reuse Director gave a brief presentation.

Expressed support for the project: Brian McGuire, Bike Walk Alameda.

Councilmember Ezzy Ashcraft moved introduction of the ordinance approving a real estate exchange agreement between the City of Alameda and PUR Atlantic LLC to exchange approximately 820 square feet of City owned property for approximately 2,173 square feet of PUR Atlantic owned property in order to facilitate construction of the Cross Alameda Trail Project along Ralph Appezato Memorial Parkway between Main and Webster Streets and authorizing the City Manager to execute documents necessary to implement its terms.

Vice Mayor Vella seconded the motion, which carried by unanimous voice vote – 5.

(17-764) Public Hearing to Consider the following Ordinances and Resolutions to Govern the Future Development of the Encinal Terminals Property:

Resolution No. 15337, “Certifying the Final Environmental Impact Report (EIR), Adopting Findings and a Statement of Overriding Considerations, Mitigation Measures, and a Mitigation Monitoring and Reporting Program for the Encinal Terminals Project.” Adopted;

(17-764 A) Introduction of Ordinance Approving a Development Agreement (DA) by and between the City of Alameda and Northern Waterfront Cove Partners, LLC Governing to Encinal Terminals Project for Real Property Located at 1521 Buena Vista Avenue (Authorizing a Public Trust Lands Exchange, Completion of the Clement Avenue Extension and Other Public Benefits). Not introduced;

(17-764 B) Introduction of Ordinance Adopting the Encinal Terminals Master Plan and Density Bonus Application for Redevelopment of the Property Located at 1521 Buena Vista Avenue. Not introduced; and

(17-764 C) Adoption of Resolution Approving a General Plan Amendment to Allow Building Heights Over 60 Feet. Not adopted.

Mayor Spencer inquired how the item will be handled.

The Assistant Community Development Director requested a total of 30 minutes for the presentation.

Mayor Spencer inquired whether Council will be voting on the items.

The Assistant Community Development Director responded that he would like to do the presentations, Council questions, and then public speakers.

Mayor Spencer inquired whether the EIR can be done last.

The City Manager responded the EIR has to be done first to ensure the environmental impacts associated with the projects have been reviewed.

Mayor Spencer requested clarification from the Assistant City Attorney whether the information is correct and the EIR has to be heard first.

The Assistant City Attorney responded in the affirmative; stated the first order of business has to be the environmental findings.

The City Attorney concurred.

The Assistant City Attorney made brief comments regarding the sequence of business.

The Assistant Community Development Director gave a Power Point presentation.

Mayor Spencer requested clarification on the terminology Mixed Use (MX), plus multi-family (MF) residential.

The Assistant Community Development Director responded MX is mixed use zoning district and MF is multi-family residential zoning district.

Mayor Spencer inquired whether Council decides what percentage is housing and what percentage is commercial in an MX zone.

The Assistant Community Development Director responded in the affirmative.

Mayor Spencer inquired whether Council will be determining the percentage tonight.

The Assistant Community Development Director responded in the affirmative; continued the presentation.

Mayor Spencer inquired whether Tim Lewis Communities (TLC) purchased the property in 2013, to which the Assistant Community Development Director responded in the affirmative.

Mayor Spencer inquired whether a timeline can be included for the public.

The Assistant Community Development Director responded in the affirmative; stated the purchase took place in 2013.

Mayor Spencer inquired whether TLC is actually the Waterfront Cove, LLC, to which the Assistant Community Development Director responded in the affirmative; continued the presentation.

Mayor Spencer inquired whether Council is being asked to approve a range between 30,000 to 50,000 square feet of commercial and retail uses and when the uses is decided.

The Assistant Community Development Director responded the Master Plan requires 30,000 square feet to be built whether there is a tenant or not; the entitlements allow the developer to build up to 50,000 square feet.

Mayor Spencer inquired whether Council could request a higher percentage of commercial and retail space.

The Assistant Community Development Director responded the percentage is Council's discretion.

Mayor Spencer inquired if the EIR is approved, will the range be automatically set at 30,000 to 50,000 square foot.

The Assistant Community Development Director responded in the negative; stated the EIR is a document that discloses the impacts of the project; continued the presentation.

Councilmember Oddie requested clarification regarding the current status of the 9.5 acres of improved wharf.

The Assistant Community Development Director responded the improved wharf is 4 acres.

Councilmember Oddie requested clarification regarding the current status of the wharf.

The Assistant Community Development Director responded the existing wharf is unimproved and has not been maintained for years; stated a condition of the project requires the property owner to improve the wharf to current standards.

Councilmember Oddie inquired which portions of the unimproved wharf are on the City owned Tidelands.

The Assistant Community Development Director responded none.

In response to Councilmember Oddie's inquiry, the Assistant Community Development Director stated to mitigate the risk, staff required the property owner to bring the wharf to current code standards.

Councilmember Oddie inquired how the City can ensure the property owner does not request more money.

The Assistant Community Development Director responded staff is requiring the property owner to complete all improvements to the wharf prior to the sale of any land.

Councilmember Oddie expressed concern with other projects not having enough funds to complete the project; inquired what staff can do to reassure there is not a pattern of projects not having enough funds.

The Assistant Community Development Director responded the requirement is up front, before any building permit is issued or any swap of land; the project will not move forward without the improved wharf.

Councilmember Oddie inquired whether problems that arise will it fall on the City.

The Assistant Community Development Director responded in the negative.

Councilmember Oddie inquired what happens if a problem occurs ten years later.

The Assistant Community Development Director responded that after the wharf is brought up to code, staff must assess how much money is needed to maintain the wharf in perpetuity; there is a risk involved.

Councilmember Matarrese inquired whether the swap of land will prevent the shoreline from being privatized, to which the Assistant Community Development Director responded in the affirmative.

Councilmember Matarrese inquired whether public access would still need to be provided to the shoreline, to which the Assistant Community Development Director responded in the affirmative.

Councilmember Matarrese inquired whether the public would have access to the shoreline all around, to which the Assistant Community Development Director responded in the affirmative.

Mayor Spencer inquired whether the requirement is in the project, to which the Assistant Community Development Director responded in the affirmative; continued the presentation.

Mayor Spencer inquired what the extra housing is that makes the total 589 units.

The Assistant Community Development Director responded market rate units.

Mayor Spencer inquired what the size of the market rate units will be.

The Assistant Community Development Director responded a variety.

Mayor Spencer inquired whether the units can be single family homes.

The Assistant Community Development Director responded the project is 100% multi-family homes.

Mayor Spencer requested clarification on the language “up to.”

The Assistant Community Development Director responded the “up to” refers to the maximum.

Mayor Spencer stated some documents do not list a minimum, only “up to.”

The Assistant Community Development Director responded that if the total number of units of the project goes down, the percentage of affordable by design goes down as well.

Councilmember Oddie requested clarification regarding the details of the \$1 million down payment assistance program.

The Assistant Community Development Director responded the City has a down payment assistance program through the Housing Authority.

Councilmember Ezzy Ashcraft stated the program is only available to first time homebuyers and has an income requirement.

Mayor Spencer noted there are different categories of first time homebuyers.

Councilmember Ezzy Ashcraft stated the Housing Authority would have the guidelines.

The Assistant Community Development Director continued the presentation.

Councilmember Ezzy Ashcraft inquired whether a clipper card could be offered for all types of transportation, not only Alameda County (AC) Transit.

The Assistant Community Development Director responded the money for transit can be used for any form of transportation; continued the presentation.

Mayor Spencer inquired how many floors is 60 feet.

The Assistant Community Development Director responded the number of floors would depend on the design; stated if there is parking in the structure, there could be 4 to 5 stories.

Mayor Spencer inquired why the Panomar was allowed to be so high.

The Assistant Community Development Director responded that he is unsure; stated the building has been around a long time.

Mayor Spencer inquired whether the Panomar is the highest building.

The Assistant Community Development Director responded in the affirmative; continued the presentation.

Mayor Spencer requested a definition of the Quimby Act.

The Assistant Community Development Director responded the Quimby Act is a State law mandating the ratio between the number of residents being added and the amount of open space the developer is required to provide; on the current project, the ratio is 3.5%.

Mayor Spencer inquired whether the information could be listed in the report for the public, to which The Assistant Community Development Director responded in the affirmative; continued the presentation.

Mayor Spencer inquired whether the housing units would be reduced to meet the commercial requirements.

The Assistant Community Development Director responded when the matter comes back to Council, more commercial can be requested; the requirements state housing cannot be reduced.

Mayor Spencer inquired when the City rezoned the site in 2012, did the rezoning increase the required amount of housing.

The Assistant Community Development Director responded in the affirmative; stated the rezoning increased the requirement from 21 units per acre to 30 units per acre to be in compliance with State law.

In response to Mayor Spencer's inquiry, the Assistant Community Development Director stated the City picked the site; a total of 10 sites are zoned multi-family to meet the State requirement.

Mayor Spencer inquired whether the property was already zoned MX, to which the Assistant Community Development Director responded in the affirmative.

Mayor Spencer inquired whether staff considered where the commercial would go when the property was rezoned to increase the housing requirement.

The Assistant Community Development Director responded the site is MX, so the City is still requiring commercial; stated the State gives the City credit for 60% of the housing requirement due to the MX zoning.

Mayor Spencer inquired whether the State is requiring only 60% for housing and 40% for commercial.

The Assistant Community Development Director responded in the affirmative.

Mayor Spencer inquired if an area is zoned for housing, will it receive 100% credit from the State.

The Assistant Community Development Director responded the State will give 90% credit.

Councilmember Oddie inquired whether the developer is entitled to build 589 units whether or not the swap is approved.

The Assistant Community Development Director responded in the affirmative.

Councilmember Oddie inquired would the developer have to submit a design under the current configuration if the swap is not approved, to which the Assistant Community Development Director responded in the affirmative.

Councilmember Oddie inquired which way the developer would build if they cannot build on the ground.

The Assistant Community Development Director responded they would build up.

Councilmember Ezzy Ashcraft inquired why the site was zoned MX.

The Assistant Community Development Director responded the decision was made in the General Plan to do commercial and residential on large waterfront sites; stated the City wants more jobs on the Island in addition to residential; a fundamental reason is to aid traffic impacts.

Councilmember Matarrese inquired where the financial analysis contains the valuation of the land prior to the swap versus after the swap, to which the Assistant Community Development Director responded there is no valuation.

Councilmember Matarrese inquired whether the Tidelands parcel currently has no access to the water and whether the parcel is next to other Tidelands property on the West End, to which the Assistant Community Development Director responded in the affirmative.

Councilmember Oddie inquired why there is no answer to the question regarding the valuation of the property; stated he asked the question last summer.

The Assistant Community Development Director responded the developer sent a letter today.

Councilmember Matarrese stated the letter talks about the developer's value, but does not address the specific question; inquired how much the City is adding to the developer's land; stated the conditions should match the value the City is giving.

Councilmember Oddie stated that he would have appreciated an answer before the day of the vote; inquired whether there might be a Statewide policy regarding sea level rise and developments built next to the water.

The Assistant Community Development Director responded the potential future legislation has not been considered.

Councilmember Oddie inquired whether there is discussion that the City will undertake its own requirements regarding sea level rise.

The Assistant Community Development Director responded the City is reviewing the Climate Action Plan.

Vice Mayor Vella inquired if the land swap is not approved, will the Master Plan still return to Council and can the issues of climate action and the legislation coming down be addressed at a later date.

The Assistant Community Development Director responded in the affirmative.

Mayor Spencer inquired whether there are any appraisals of the land to determine the valuation.

The Assistant Community Development Director responded in the negative; stated the City is exchanging 5 acres for 8.5 to 9 acres.

Mayor Spencer inquired whether the Tidelands property is owned by the State but in the City's care.

The Assistant Community Development Director responded the City owns the land in trust.

Mayor Spencer inquired whether there is an appraisal for the property the City is swapping, to which the Assistant Community Development Director responded in the negative.

Mayor Spencer inquired whether the City would receive an appraisal of the property.

The Assistant Community Development Director responded the City currently owns 6.5 acres of Tidelands that cannot be used for residential; stated the City is receiving 8.5 acres of Tidelands in the swap, which also cannot be used for residential.

Mayor Spencer stated the market value would include any risks; inquired why the value is not being disclosed to the public.

The Assistant Community Development Director responded the risks also needs to be assessed.

Mayor Spencer stated Council does not have the fiscal analysis to be able to assess the risks.

Councilmember Matarrese questioned what value the City is adding to the privately owned property.

Councilmember Oddie concurred with Councilmember Matarrese.

Mayor Spencer inquired about the figures listed in the letter received from the developer.

The City Manager responded the developer could describe the letter to the Council and the public.

Mayor Spencer requested the letter be displayed for the public's view.

The City Clerk noted the letter is available online.

Tim O'Hara, Tim Lewis Communities (TLC), gave a Power Point presentation.

Mayor Spencer inquired how the disabled would access the area.

Mr. O'Hara responded the disabled parking would be on ground level and meet requirements; continued the presentation.

Mayor Spencer inquired whether there is a guarantee that the tax increase will not affect people outside Encinal Terminals in the event of a shortage of funds.

Mr. O'Hara responded in the affirmative; continued the presentation.

Councilmember Oddie inquired whether the down payment assistance program will go away if the \$15 million is not achieved.

Mr. O'Hara responded in the affirmative; stated the value created by the proposed plan allows the developer to provide the benefits to the City.

Councilmember Oddie stated Council has not been given the value of the project in its totality with the land swap and without it; inquired how the City will know if it is receiving the value.

Mr. O'Hara responded real estate is a risky business; stated there will be a downturn in 15 years; there are a lot of costs for a developer to take on the project.

Councilmember Oddie inquired whether the developer is investing in the land without a proforma.

Mr. O'Hara responded that proformas are subject to assumptions; stated the City is still receiving an increase in value.

Councilmember Oddie expressed concern over the Del Monte project taking years to even begin construction.

Mr. O'Hara stated the building is very old; the developer is close to permit ready; there have been rampant cost increases.

Councilmember Matarrese inquired whether Encinal Terminals would be subject to the same pressures as the Del Monte building.

Mr. O'Hara responded the pressures are different; stated construction costs increase all the time.

Councilmember Matarrese inquired whether the Bay Conservation and Development Commission (BCDC) engineering approval is yet to be had.

Mr. O'Hara responded the subsequent approval is a BCDC permit; the developer is currently working with BCDC.

Vice Mayor Vella inquired what not doing the swap does to the accessibility of the parcel in terms of transit.

In response, Mr. O'Hara reviewed areas of the map that would allow access to the shoreline.

Vice Mayor Vella inquired if the plan would change if the swap does not go through, relative to shoreline access and usage.

Mr. O'Hara responded possibly.

Vice Mayor Vella inquired whether there would still be a marina.

Mr. O'Hara responded in such a scenario, the land would not be City owned, it would be developer owned; stated the developer would envision the marina would stay.

Mayor Spencer inquired how the City would guarantee that other parts of the Island would not pay for extra services such as Police and Fire for the Encinal Terminal area.

The Assistant Community Development Director responded the City has a consultant study that shows the City in the positive; stated a special assessment district would ensure fiscal neutrality.

Mayor Spencer inquired whether the City would be responsible for the costs of maintenance of the wall or sea level rise in the future.

The Assistant Community Development Director responded staff has to ensure sufficient maintenance costs guarantee there will be enough money on an annual basis to maintain the wharf when the special assessment district is set up.

The City Manager stated the applicant also suggested a Geological Hazard Assessment District (GHAD) and a Community Facilities District (CFD) to allow a District that is separate from the City Council or allow City Council to sit on the District; stated the District would plan for anything that is unforeseen; the District board would assess the people within the District, separate from the City Council and the City Council's budget.

Mayor Spencer inquired how the City could do something greener than a sea wall.

The City Manager responded that would be a totally different project.

Mayor Spencer stated people have expressed concern regarding marine permaculture.

The Assistant Community Development Director stated creating wetlands is different than creating maritime commercial leasing opportunities.

Mayor Spencer inquired whether adding a hoist and more permanent parking spaces for boats would be part of a different plan and whether Council could suggest modifications.

The Assistant Community Development Director responded the plan can be adjusted to include a boat hoist.

Mayor Spencer inquired whether dry boat storage could be added.

The Assistant Community Development Director responded doing so would be a Council decision.

Mayor Spencer inquired whether Council would have input on the type of commercial and retail.

The Assistant Community Development Director responded the proposal guarantees 30,000 square feet of commercial space; stated the types have not been determined.

Mayor Spencer inquired if Council increasing the amount of commercial or retail would significantly change the plan.

The Assistant Community Development Director responded it would be an adjustment to the Master Plan and would depend on the changes.

Mayor Spencer inquired if the project is accessible to the disabled.

The Assistant Community Development Director responded the project is completely accessible.

Mayor Spencer inquired whether Council could make the project more accessible, to which the Assistant Community Development Director responded in the affirmative.

(17-765) Mayor Spencer inquired whether Council would consider hearing the referrals tonight.

Councilmember Matarrese moved approval of tabling the referrals to a later meeting.

Councilmember Ezzy Ashcraft seconded the motion and clarified that additional items would not be considered after 10:30 p.m.

Under discussion, Mayor Spencer noted her nominations would be heard.

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

Mayor Spencer called a recess 9:23 p.m. and reconvened the meeting at 9:34 p.m.

Discussed speaker time limits; urged the Council to say no to developers; stated that he opposes the development: Former Councilmember Lil Arnerich, Alameda.

Stated an appraisal is required; the DA is missing exhibits; the City should receive \$42 million for the Tidelands; discussed the red brick building; reviewed requirements in the City Charter, General Plan, Municipal Code and Northern Waterfront Plan; stated that she would provide her remaining comments in Court: Former Councilmember Barbara Thomas, Alameda.

Submitted and read his comments opposing the project: Paul Foreman, Alameda Citizens Task Force (ACT).

Discussed the number of housing units, the jobs to housing ratio and building height; urged the Council to return the project to the Planning Board: Dorothy Freeman, Alameda.

Expressed concern over public safety; urged the matter return to the Planning Board or

be denied tonight: Jim Sweeney, Alameda.

Stated enough housing is not being built; stated there is a sense of urgency to address the homelessness caused by the economic crisis: Angela Hockabout, Alameda Home Team.

Expressed concern over being misled; urged the Council to deny the project or send it back to the Planning Board: Ken Peterson, Alameda.

Urged approval of the project; stated the biggest problem in the Bay Area is the housing shortage: Denise Trepanier, Alameda.

Stated AC Transit appreciates partnering with the City; discussed proposed AC Transit services: Steven Jones, AC Transit.

Expressed support for the project; stated the developer has done a lot of due diligence; read Tina Blain's letter of support: Kari Thomson, Chamber of Commerce.

Addressed the Master Plan section on sea level rise, which proposes a sea wall on top of the wharf; questioned approval of the master plan: Richard Bangert, Alameda.

Expressed concerns about the City benefit with transit funding, Clement being rebuilt without the project, and job guarantees to afford the housing; stated the City is being sold short on benefits; questioned the project getting homeless in housing; cautioned about the value of public land and public benefits: Andrew Slivka, Carpenters Union.

Offered for her company to be used as a resource; stated infill is the right thing to do; outlined environmental benefits: Sarah Sieloff, Center for Creative Land Recycling.

Submitted and read his comments outlining environmental concerns: Damian Mason, Alameda Backyard Growers and Community for a Sustainable Alameda.

Expressed concern over the development, especially for first responders: Melvin Lim, Alameda.

Stated that he does not believe the developer is entitled to 589 units; urged the Council to push back; stated bus passes are an inadequate solution: Former Councilmember Tony Daysog, Alameda.

Submitted a letter; urged Council to build the housing: Victoria Fierce, California Renters Legal Advocacy and Education Fund.

Stated the project is well thought out and addresses availability at all levels; the swap provides more community benefit; urged approval: Laura Thomas, Renewed Hope Housing Advocates.

Stated the land is currently concrete; the land swap makes sense and will bring in ongoing annual revenue; the City has State obligations: Michael McDonough, Chamber of Commerce.

Discussed financial and housing issues impacting the next generation of children; urged Council to open doors: Phillip James, Alameda.

Urged approval of the project; discussed the adjacent Wind River property; summarized the community benefits; noted the developer has been good to seniors: Karen Bey, Alameda.

Stated that she supports the project; housing and waterfront access are needed; abandoned and blighted sights should be improved; 14 stories does not worry her; expressed concern over traffic: Michelle Button, Alameda.

Responded to legal concerns raised, including density bonus, California Environmental Quality Act (CEQA), GHAD, and the Beverly Act: Applicant's Attorney, Alicia Guerra, Buchalter.

Discussed Community Facilities Districts (CFDs): Applicant's Representative Chris Austin, Development Planning and Financing Group.

(17-766) Mayor Spencer stated a motion is needed to continue past 11:00 p.m.

Councilmember Matarrese moved approval.

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

Showed pictures and discussed the boat lift: Brian McGuire, Alameda.

Expressed concern over the building height; stated the units can be accommodated within height limits; expressed concern over the Design Review loophole in Table 3.2: Christopher Buckley, Alameda.

Stated market rate housing should not be done at the expense of impacts on the City's special qualities; expressed concern over high-rises; discussed housing needs, including for seniors: Janet Gibson, Alameda.

Expressed concern over the jobs being created; urged the developer be required to put money towards a real transit solution: Kelly Marx, Alameda.

Discussed access to the project, transit, building heights, the Clement Avenue

extension, and age restricted buildings: Jessica Grossman, TLC.

Stated traffic is the main issue; more ways off and on the Island are needed: Marilyn Bowe, Alameda.

Councilmember Matarrese requested clarification regarding entitlement over the number of units and what is required by law.

The Assistant Community Development Director responded State law says when calculating a density bonus project, the applicant is allowed a bonus on the property above the maximum number allowed by the current zoning; stated the City can add more commercial but cannot reduce the number of housing.

Councilmember Matarrese inquired whether Council has discretion to set the percentage of commercial but cannot reduce the number of housing units based on the acreage owned by the applicant at the time an application is submitted.

The City Attorney responded in the affirmative.

Vice Mayor Vella inquired about recent changes to the California Housing Accountability Act (HAA) and the City's legal exposure.

The Assistant Community Development Director responded the HAA changes state cities cannot use zoning requirements to try to change the number of units with one exception: if there is evidence on the record of a health or safety problem; the change also states if you violate State law you will pick up the petitioner's attorney fees.

Vice Mayor Vella inquired whether there are mandatory attorney fees if the City loses and the petitioner wins, to which the Assistant Community Development Director responded in the affirmative.

Vice Mayor Vella inquired whether there is also a fine associated with the changes.

The Assistant Community Development Director responded that he is unsure.

Vice Mayor Vella inquired whether an analysis has been done regarding the impact.

The Assistant City Attorney responded that he would have to get back to Council on the answer to Vice Mayor Vella's question.

Councilmember Oddie inquired if the swap does not go through, can the developer still build 589 units, to which the Assistant Community Development Director responded in the affirmative.

Councilmember Oddie inquired whether the City's legal staff concurs with the Assistant Community Development Director.

The City Attorney responded in the affirmative.

Councilmember Oddie inquired whether the City is forced to do the swap, to which the Assistant Community Development Director responded in the negative.

Mayor Spencer expressed concern with the percentages in the MX zoning.

The Assistant Community Development Director responded that changes to the State law have affected the MX zoning requirements.

Mayor Spencer expressed concerns over the way staff has presented the percentages for MX zoning in the past; stated that she will not be supporting the project; experts have not looked at liquefaction for safe housing; Alameda is an Island and the needs are different; Alameda needs higher paying jobs.

Councilmember Ezzy Ashcraft stated that she believes the swap is best for the City due to the benefits the City will receive; Alameda needs housing and development; requested staff delete footnote 6 of Table 3.2 of the Master Plan; requested that prevailing wages be paid even on the residential portion; stated Council has a moral obligation to balance the needs of more housing in the area along with the impacts of traffic; she would like to move forward with the project.

Councilmember Matarrese stated that he is prepared to vote for the EIR; the value is less if the swap does not happen; he would like to know how much value the City should be receiving; he questions whether affordable by design will provide affordable housing in a high value market like Alameda; he will vote no on the Development Agreement (DA); he would like the DA to go back to the Planning Board.

Vice Mayor Vella stated there is a lot of work to be done on the Master Plan; projects have to be approved in accordance with the HAA; she does not support the DA but understands the housing number will not change; the public deserves to know why the City's hands are tied relative to the housing number requirement; she will support the EIR; substantial analysis needs to be done on the sea level rise.

Councilmember Ezzy Ashcraft inquired if Councilmember Matarrese is requesting the matter return to the Planning Board for refinement based on Council's comments, which is the same as voting no on the item.

Councilmember Oddie inquired whether there is any other way the land can be transferred.

The Assistant City Attorney responded the only way to transfer the land out of the public trust would be through a swap; stated the State would not approve selling the land for money; the swap does not need to be attached to a DA.

Councilmember Oddie inquired who has jurisdiction over the land.

The Assistant City Attorney responded the State has already transferred the property in trust to the City.

Councilmember Oddie inquired if Council votes no can the concerns from Council be addressed by the developer and the developer return with a revised proposal.

Mayor Spencer stated that she does not support the matter returning to the Planning Board; she supports having a workshop with the developer to discuss the issues.

Councilmember Matarrese stated that he will vote no on the current DA before Council; he supports negotiating other terms.

Councilmember Oddie stated the binary choice is which project will go forward since the developer is entitled to build the housing by State law; expressed concern over the other housing project not being completed years later; stated that he would like to analyze the project to ensure the costs will be covered; he is prepared to support the EIR.

The City Manager requested direction from Council for the item to return with the financial analysis to allow for the swap to happen.

The City Attorney stated the Council should vote and the developer can determine how they want to proceed.

Councilmember Ezzy Ashcraft inquired whether the Council could return to discuss the concerns instead of voting no.

Mayor Spencer stated the City Attorney requested a vote from Council.

The City Attorney stated the developer has already signed a document that is before Council; if the document is rejected, the developer is not preclude from returning with a different proposal.

Vice Mayor Vella inquired if Council votes no, could the developer return with the same proposal just with more information or does it have to be an entirely new proposal.

The City Attorney responded said decision would be up to the developer.

Councilmember Matarrese moved adoption of the resolution accepting the EIR as presented in the staff report.

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

The Assistant City Attorney clarified the revised resolution is up for consideration.

There was no motion on the DA Ordinance and subsequent items.

CITY MANAGER COMMUNICATIONS

(17-767) Update on Tracking of Council Direction through the Referral Process.

(17-768) The City Manager stated the Council will receive the Comprehensive Annual Financial Report (CAFR) report between now and the end of the year; the report will also be available on the City website.

ORAL COMMUNICATIONS, NON-AGENDA

None.

COUNCIL REFERRALS

(17-769) Consider Directing Staff to Draft an Ordinance Requiring the Licensure of Tobacco Retailers, Including a Ban on the Sale of Menthol Cigarettes and Other Flavored Tobacco and Enacting an Annual Fee. Not heard. (Councilmembers Matarrese and Oddie)

(17-770) Consider Directing Staff to: 1) Determine Whether Council Can Enact City of an Ordinance to Pass Through a Portion of the Housing Program (Rent) Fee to Tenants; 2) Clarify the City's Collection Efforts for Landlords who do not Pay the Fee by December 31, 2017; and 3) Clarify that the Fee May be Passed Through as Part of a Rent Increase. Not heard. (Mayor Spencer and Vice Mayor Vella)

(17-771) Consider Directing Staff to Provide Information on the Citywide Dockless Bike Sharing Program and Return to Council with Additional Safety Requirements. Not heard. (Mayor Spencer and Vice Mayor Vella)

COUNCIL COMMUNICATIONS

(17-772) Councilmember Ezzy Ashcraft stated that she attended the memorial service for San Francisco Mayor Ed Lee.

(17-773) Consideration of Mayor's Nominations to the Commission on Disability (CD) and Housing Authority Board of Commissioners (HABOC).

Mayor Spencer nominated Jennifer Roloff to the CD and Brad Weinman to the HABOC.

ADJOURNMENT

(17-774) There being no further business, Mayor Spencer adjourned the meeting in memory of Ed Lee at 12:28 a.m.

Respectfully submitted,

Lara Weisiger
City Clerk

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