

MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY- -OCTOBER 2, 2012- -7:00 P.M.

Mayor Gilmore convened the meeting at 7:08 p.m. Councilmember Johnson led the Pledge of Allegiance.

ROLL CALL – Present: Councilmembers Bonta, deHaan, Johnson, Tam and Mayor Gilmore – 5.

Absent: None.

AGENDA CHANGES

(12-471) Mayor Gilmore announced that the Public Hearing regarding final passage of the ordinance [paragraph no. 12-487] was continued to October 16, 2012.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY & ANNOUNCEMENTS

(12-472) Mayor Gilmore announced that she and the City Manager having been working to address the extensive noise at the Coliseum in Oakland the past Saturday night.

(12-473) Proclamation Declaring October 7 through 13, 2012 as Public Power Week.

Mayor Gilmore read and presented the Proclamation to Greg Hamm, Public Utilities Board, and Girish Balachandran, Alameda Municipal Power Executive Director.

ORAL COMMUNICATIONS, NON-AGENDA

(12-474) Michael John Torrey, Alameda, announced that the Alameda Democratic Club would be showing the Presidential debates.

(12-475) Bill Garvine, Alameda, gave background information about Matt Hussain.

(12-476) Matt Hussain, Alameda, made an announcement regarding an Aga Khan Development Network event in Fremont and submitted information.

(12-477) Ken Peterson, Alameda, discussed pension costs and employee salaries.

(12-478) Jon Spangler, Alameda, urged signage be posted regarding the Smoking Ordinance.

CONSENT CALENDAR

Mayor Gilmore announced that the recommendation to authorize the City Manager or His Designee to enter into Purchase Agreements for the Replacement of Ten Police Department Vehicles [paragraph no. 12-481] was removed from the Consent Calendar

for discussion.

Councilmember Tam moved approval of the remainder of the Consent Calendar.

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

(*12-479) Minutes of the Special and Regular City Council Meetings Held on September 4, 2012. Approved.

(*12-480) Ratified bills in the amount of \$3,118,682.23.

(12-481) Recommendation to Authorize the City Manager or His Designee to Enter into Purchase Agreements Not to Exceed \$302,000 for the Replacement of Ten Police Department Vehicles and not to Exceed \$174,000 for One Special Response/Rescue Vehicle.

Councilmember Tam requested staff to explain the thought process in financing an outright purchase as opposed to leasing.

The Police Lieutenant gave a brief presentation.

In response to Councilmember Tam's inquiry about the armed response specialty vehicle, the Acting Police Chief stated having the vehicle specifically assigned to Alameda would be better because of response times; Hayward, Fremont, Union City, and Oakland have armed specialty vehicles; sharing with San Leandro would make the most sense geographically; however, the San Leandro Police Department wants its own vehicle; Alameda has had an armored vehicle since 1998; the engine froze last year and could not be repaired due to costs; armored vehicles are used on high risk search warrants and Critical Incident Response Team calls, allow officers to go into dangerous environments and set up command in an area under fire or can be used to rescue a downed officer or a citizen when other rescue options are not available.

Councilmember deHaan inquired if the purchase would put the City on the regular replacement schedule; stated the City's vehicle replacement schedule is five to six vehicles per year.

The Acting Police Chief responded the average replacement of patrol vehicles alone has been about three and a half vehicles per year; stated staff cars and detective cars are usually in the fleet longer; the Department replaces patrol cars first and falls behind on replacement of the other vehicles which are equally necessary; the Department is trying to rectify the situation now.

Councilmember deHaan inquired how many vehicles the City anticipates replacing next year, to which the Acting Police Chief responded the budget calls for replacement of

seven vehicles.

Councilmember deHaan stated that he was surprised the armored vehicle was not noted as a requirement as part of Measure C.

The Acting Police Chief stated the armored vehicle was on the priority list for Measure C, however, the fleet needed to be replaced first.

The City Manager noted the Measure C list was the subject of a tremendous amount of staff debate.

Suggested all items that involve spending money should include finance department projections that the City will be broke in three years: Ken Peterson, Alameda.

Mayor Gilmore stated the City always balances the budget every year; the City has a 24% balance in the General Fund.

Councilmember deHaan inquired whether the City would go forward with depreciation.

The City Manager responded in the negative; stated that he did not want to debate Measure C tonight; stated, in response to Mr. Peterson, the expense is not additional; the money is already budgeted; further stated hopefully the City will be in a position to start doing depreciation in three years.

Councilmember deHaan inquired whether the City put money into the reserves to procure and replace vehicles during the last budget cycle.

The City Manager responded money was placed in the General Fund reserve, not the vehicle replacement fund; the Council's policy is a 20% reserve; the City is at 24%; discussions about a two-year budget will occur in the next two months to produce the sound budgetary planning.

Councilmember deHaan stated that he is concerned about the City substantially eroding the \$3.1 million.

The City Manager stated the next budget would include an item to replenish the vehicle fund and the proposed depreciation process.

Councilmember Tam moved approval of the staff recommendation; reiterated Measure C was supported by the City Auditor and the City Treasurer precisely because it provided means to provide funding for depreciation; the vehicle replacements have been budgeted, approved, and the 24% reserve is still retained.

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

(*12-482) Recommendation to Accept \$375,000 from the US Department of Homeland

Security's Port Security Grant Program to Purchase a Fire Boat, and Authorize the City Manager or His Designee to Enter into Purchase Agreements for an Amount not to Exceed \$500,000 for a Fully-Equipped Fire Boat. Accepted.

(*12-483) Recommendation to Appropriate \$160,000 in Gas Tax Funds and Award a Contract in the Amount of \$860,000 Including Contingencies, to West Coast Arborist for Urban Forest Maintenance Services (Citywide), No. P.W. 06-11-16. Accepted.

(*12-484) Resolution No. 14732, "Authorizing the Mayor to Execute a Grant Deed to the State of California, Department of Transportation, for Conveyance of the Right-of-Way Along Webster Street and Stargell Avenue, and Authorizing the Mayor to Execute an Accommodation Recording Agreement with First American Title Company." Adopted.

(*12-485) Ordinance No. 3055, "Approving A Lease and Authorizing the City Manager to Execute Documents Necessary to Implement The Terms Of The Lease with Faction Brewing Company LLC for Five Years with Two Five-Year Options in a Portion of Building 22 at Alameda Point, 2501 Monarch Street." Finally passed.

REGULAR AGENDA ITEMS

(12-486) Public Hearing to Consider Resolution No. 14733, "Approving Tentative Map PLN11-0223 to Develop an 11-Lot Subdivision on a 1.29-Acre Property Located at 2001 Versailles Avenue Between Fernside Boulevard and Tilden Way." Adopted.

The Acting City Planner gave a brief presentation and provided a handout.

Councilmember deHaan inquired how parcels 9 and 10 would be accessed, to which the Acting City Planner responded Parcel 9, 10 and 11 are accessed through a central common driveway.

Councilmember deHaan inquired whether the road comes back to Versailles and is a cul-de-sac, to which the Acting City Planner responded in the affirmative.

Urged the removal of Condition 9 of the Tentative Map requiring opening a path: Bill Garvine, Alameda; Robert Bathiany, Alameda (submitted information); Colleen Arnerich, Alameda; Rich Bennett, Alameda (submitted original petition); Lester Cabral, Alameda; Kim Hammond, Alameda; Gregg Dillenbeck, Alameda; Nelton Joe, Alameda; Jamie Shauvin, Alameda; Tracie Klein, Alameda; and Nick Cote, Alameda.

Urged the subdivision be rezoned from R2 to R1: Lester Cabral, Alameda

Urged the removal of Condition 9 of the Tentative Map requiring opening a path and revision to Condition 7 regarding affordable housing: Evan Schwimmer, Alameda.

Expressed concern about noticing: Ken Peterson, Alameda.

Urged keeping the easement for a path as a future option: Jon Spangler, Alameda.

Councilmember Johnson stated that she was concerned about the process complying with the Brown Act; stated significant change after the close of public comment should be noticed.

The City Attorney stated the Brown Act was not violated; the Brown Act only requires adequate notice of the topic of the item being discussed, not the individual pieces.

Mayor Gilmore stated often times matters come up in the course of discussion that could not have been noticed in advance.

Councilmember Johnson stated that she agrees with Mayor Gilmore but disagrees about the significance of the change.

Councilmember Tam questioned how the public is being deprived of access to information.

Councilmember Johnson stated the Planning Board should have re-noticed the matter to include opening the gate.

The City Manager noted that noticing every possible outcome curbs open deliberations.

Vice Mayor Bonta inquired if the Police Department could provide a history and analysis about the public safety components of the potential access point.

The City Manager responded the analysis would not be meaningful because the gate was opened 20 years ago.

Mayor Gilmore stated the City does not have money to do Americans with Disabilities Act access; questioned whether the access would be desired 20 years from now; stated the issue is preserving possibilities.

Councilmember Johnson stated that she would like to separate the motion and address the subdivision map application, then Condition 9.

Councilmember Tam inquired whether Councilmember Johnson is proposing approval of the tentative map without the condition, to which Councilmember Johnson responded in the affirmative.

Councilmember deHaan inquired whether the fencing adjacent to Tilden Way would be six feet and whether the adequacy of the height was ever discussed.

The Acting City Planner responded that the height of the fencing was not discussed; condition of approval requires submittal of a plan as to how that edge is treated so the entrance is attractive.

Councilmember deHaan inquired whether the fencing could be raised, to which the Acting City Planner replied in the affirmative.

In response to Councilmember deHaan's inquiry regarding affordable housing, the Acting City Planner stated affordable housing requirements were discussed in the staff report and Planning Board meeting; an 11-14 unit project needs to provide two affordable homes; the property owner also owns two adjacent units that are already built; the property owner has two options: dedicate the two lots from the subdivision for affordable housing or dedicate the two existing homes for affordable housing.

Councilmember deHaan inquired whether the zoning was discussed.

The Acting City Planner responded the site has been zoned R-2-PD for a long time; the Planning Board did not take action on the zoning.

Mayor Gilmore inquired whether the Council could approve the subdivision map and take Condition 9 separately.

The City Attorney recommended that the Council address Condition 9 first and then take action on the tentative map.

Councilmember Johnson moved approval of taking Condition 9 out of the tentative subdivision map.

Councilmember deHaan seconded the motion.

Councilmember Tam stated that she would abstain from voting on the motion because of the need to preserve future land use possibilities consistent with the General Plan requirement to provide pedestrian and bicycle access; she has no understanding whether future flexibility is being eliminated; there should be a fuller community discussion about the security issues; she does not have enough information to support or oppose the motion.

Mayor Gilmore stated if the Council removes Condition 9, a future Council could want the easement to put in a path; the only real difference is that the easement would probably cost money whereas now it is free.

The Acting City Planner stated the land would have to be purchased from the property owner in the future, but right now the land would be included in the project.

Vice Mayor Bonta stated leaving Condition 9 is not voting for a public right-of-way, rather the option is left open for the future and would require a public hearing before any decision is made to actually have the public right of way; questioned what the costs might be to purchase the land later.

Mayor Gilmore stated the underlying concern is if the Council removes the condition, sometime in the future Council will be talking about putting in the path and opening the gate; Condition 9 could be retained and another condition could be added that 80% of the lots have to be occupied before the access is considered, which would relieve the anxiety of the gate being opened immediately and give future property owners an opportunity to weigh in on the matter.

Vice Mayor Bonta stated details should be flushed out; filling in blind spots would benefit the discussion.

The City Manager stated data points are not going to be predictive of what the crime would be; urged the Council to make a decision.

Mayor Gilmore inquired whether the access point would be for pedestrians and bicyclists to get to the Fruitvale BART station, to which the Acting City Planner responded in the affirmative, stated hopefully, there would be more points of interest in the future.

Mayor Gilmore inquired whether staff is aware of Oakland's development plans.

The Acting City Planner stated there are plans for new residential development across the Park Street Bridge, including improvements for bicycle and pedestrian access; noted the Planning Board knew the residents did not like the idea of opening the gate, which is why additional language was added to the condition about the opportunity just being preserved for the future.

Councilmember deHaan stated that he does not think there would be a future need for access; the Tilden Way walkway could be made wider and more accessible.

Mayor Gilmore stated the Council should be fiscally responsible and proactive in planning the future; what development will occur across the estuary is not known, which is why Condition 9 should remain, however, she also understands homeowners wanting to feel secure; hopefully the decision is not regretted in the future; she would vote to pass it.

On the call for the question, the motion carried by the following voice votes: Councilmembers deHaan, Johnson and Mayor Gilmore – 3. Abstentions: Vice Mayor Bonta and Councilmember Tam – 2.

Councilmember Johnson inquired whether the Planning Board focused on bicycles and why attention was not given to the sidewalk on Tilden Way.

The Acting City Planner responded Public Works looked at Tilden Way before the matter went to the Planning Board; the City is looking into funding to rebuild Fruitvale Bridge as the lifeline bridge; widening Tilden Way and getting better access for pedestrians and bicyclists is definitely a priority in the General Plan; taking land away

from plots 8, 9 and 10 for widening would require backyards of existing homes be purchased.

Councilmember Johnson moved adoption of the resolution approving the tentative map.

Vice Mayor Bonta seconded the motion.

Councilmember deHaan stated Condition 7 and 10 should be discussed.

In response to Mayor Gilmore's request for clarification, the Acting City Planner stated the property owner is okay with providing the two affordable units in the existing structures.

Mayor Gilmore stated the condition gives the property owner an option, but the Council does not want to give the property owner an option and instead would make the two affordable units technically off-site.

Councilmember deHaan stated language should be added to Condition 10 regarding noise impacts and the fence.

The City Attorney stated Condition 10 would read: "improvement plan for the subdivision shall include a plan for the construction of an attractive fence or other feature along the Tilden frontage of lots 8, 9 and 10 to minimize noise and security impacts on the neighborhood."

Councilmember deHaan stated the condition could say the height of the fence would be increased.

Mayor Gilmore stated the fence design would go through design review so that it is attractive and considers security and noise.

The Acting City Planner stated the new language would state the fencing would be attractive, address neighborhood security concerns, and come back for a future Planning Board public hearing.

In response to Councilmember Johnson's concern, the Acting City Planner stated the property owner would have to come back for design review.

Councilmember Johnson stated the language should read: "may consider;" walls might echo and be louder.

The Acting City Planner stated the condition would be structured so it is clear there will be discussion at the community level about the edge of the fencing.

Mayor Gilmore inquired what would happen to the rest of the fencing as lots are developed.

The Acting City Planner responded a development plan for the entire property is required; the City would review project issues up front.

On the call for the question, the motion carried by unanimous vote with modifications to Conditions 7 and 10. Councilmember Johnson and Vice Mayor Bonta agreed to amend the motion.

(12-487) Public Hearing to Consider Final Passage of Ordinance Amending Section 30-4.9A of the Alameda Municipal Code Related to the C-C, Community Commercial Zone. Continued to October 16, 2012.

CITY MANAGER COMMUNICATIONS

(12-488) The City Manager announced there is a special meeting of the City Council on October 30 to receive the report from the pension reform task force and receive input from the public regarding the City's future labor negotiations with Public Safety bargaining groups.

Mayor Gilmore requested a press release be issued.

Councilmember Tam inquired whether the Task Force report addresses implications of the State pension legislation, to which the city Manager responded in the affirmative.

Vice Mayor Bonta inquired if there would be a unanimously supported recommendation or multiple voices with different options.

The City Manager responded a menu of options would be presented; the group reached consensus on the scope and depth of the financial gap.

Councilmember Johnson stated having a summary of the new pension reform impacts would be helpful.

The City Manager stated said information would be included in the report.

ORAL COMMUNICATIONS, NON-AGENDA

None.

COUNCIL REFERRALS

None.

COUNCIL COMMUNICATIONS

(12-489) Councilmember Johnson discussed a pension system she heard about

recently.

(12-490) Councilmember deHaan announced Walk and Roll would be tomorrow.

(12-491) Consideration of Mayor's Nomination for Appointment to the Golf Commission, the Public Art Commission, the Social Service Human Relations Board and the Youth Advisory Commission.

Mayor Gilmore nominated Ray Gaul, Bill Schmitz, Timothy Scates, Jane Sullwold, and Jefferey Wood for appointment to the Golf Commission; Sherman Lewis for appointment to the Public Art Commission; Jennifer Williams and Jennifer Watkinson for appointment to the Social Service Human Relations Board; and Kimberly N. Walter for appointment to the Youth Advisory Commission.

ADJOURNMENT

There being no further business, Mayor Gilmore adjourned the meeting at 9:33 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

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

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
TUESDAY- -OCTOBER 2, 2012- -6:00 P.M.

Mayor Gilmore convened the meeting at 6:02 p.m.

Roll Call – Present: Councilmembers Bonta, deHaan, Johnson, Tam and Mayor Gilmore – 5.

Note: Councilmember Johnson arrived at 6:05 p.m. and Vice Mayor Bonta arrived at 6:17 p.m.

Absent: None.

The meeting was adjourned to closed session to consider:

(12-468) Conference with Legal Counsel – Existing Litigation (54956.9) Name of Case: Kapler v. City of Alameda, et al.; Superior Court Case No. HG11570933; Court of Appeal, 1st Appellate District Case No. A133001

(12-469) Conference with Legal Counsel – Existing Litigation (54956.9) Name of Case: Gallant v. City of Alameda, et al.; Superior Court Case No. RG11590505; Court of Appeal, 1st Appellate District Case No. A133777

(12-470) Conference with Legal Counsel – Existing Litigation (54956.9) Name of Case: Doherty v. City of Alameda, et al.; United States District Court Case No. C-09-04961 EDL

Following the closed session, the meeting was reconvened and Mayor Gilmore announced that regarding Kapler v. City of Alameda, direction was given to staff; regarding Gallant v. City of Alameda, direction was given to staff; and regarding Doherty v. City of Alameda, direction was given to staff.

Adjournment

There being no further business, Mayor Gilmore adjourned the meeting at 7:00 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

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