

MINUTES OF THE REGULAR CITY COUNCIL MEETING  
TUESDAY- -FEBRUARY 15, 2011- -7:00 P.M.

Mayor Gilmore convened the meeting at 7:57 p.m.

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

Absent: None.

AGENDA CHANGES

(11-069) Mayor Gilmore announced that the Resolution of Appointment [paragraph no. 11-072] would be addressed after special orders of the day, which would be followed by the Alameda Landing matter [paragraph no. 11-009 CIC] on the joint meeting.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY & ANNOUNCEMENTS

(11-070) Proclamation Declaring January 30, 2011 to April 4, 2011 as A Season for Nonviolence.

Mayor Gilmore read and presented the proclamation to Cynthia Wasko, Social Service Human Relations Board (SSHRB) President.

(11-071) Proclamation Declaring February 15th as Kathy L. Moehring Day.

Mayor Gilmore read and presented the proclamation to Kathy Moehring.

Speaker: Judi Friedman, West Alameda Business Association.

REGULAR AGENDA ITEM

(11-072) Resolution No. 14550, “Appointing Charles Patrick Wallis as a Member of the Planning Board.” Adopted.

Councilmember Tam moved adoption of the resolution.

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

The City Clerk administered the Oath of Office and presented Mr. Wallis with a certificate of appointment.

\* \* \*

Mayor Gilmore called a recess to hold the joint meeting at 8:14 p.m. and reconvened the meeting at 9:13 p.m.

\* \* \*

### ORAL COMMUNICATIONS, NON-AGENDA

(11-073) Omer Karacaylak, Alameda, invited everyone to attend his daughter's art exhibit at the Alameda Library and provided an announcement about the exhibit.

### CONSENT CALENDAR

Mayor Gilmore announced that the recommendation to approve the Acting City Manager and Acting City Attorney pay [paragraph no. 11-078], the recommendation to accept \$397,216 from the US Department of Homeland Security [paragraph no. 11-079] and the Resolution Increasing Parking Penalties [paragraph no. 11-087] were removed from the Consent Calendar for discussion.

Vice Mayor Bonta moved approval of the remainder of the Consent Calendar.

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

(\*11-074) Minutes of the Special City Council Meeting held on January 25, 2011; and the Special and Regular City Council Meetings held on February 1, 2011. Approved.

(\*11-075) Ratified bills in the amount of \$2,929,344.76.

(\*11-076) Recommendation to Accept the Treasury Report for the Quarter Ending December 31, 2010. Accepted.

(\*11-077) Recommendation to Adopt the Legislative Program for 2011. Accepted.

(11-078) Recommendation to Approve Acting City Manager Pay at \$213,524 Per Year and Acting City Attorney Pay at \$196,484 Per Year Effective December 29, 2010 for the Duration of the Acting Assignments.

The Acting City Manager and Acting City Attorney left the room.

The Human Resources Director gave a brief presentation.

Councilmember deHaan stated the previous City Manager was making \$250,000; the pay is for an interim period during the selection process; inquired whether \$213,000 is the highest pay.

The Human Resources Director responded the Interim Police Chief's salary is currently \$212,524.

Councilmember deHaan inquired whether the Acting Police Chief benefits are higher, to which the Human Resources Director responded the amount includes most all benefits, with minor exceptions, such as equipment or uniform pay; stated the salary is pretty much the full compensation.

Councilmember deHaan noted the process has not started for the City Attorney.

Mayor Gilmore stated the City still has a City Attorney.

Councilmember deHaan moved approval of the staff recommendation.

Councilmember Johnson stated the public should understand there are retirement benefits, which are a very substantial cost.

The Human Resources Director stated the full benefit package is higher for the Police Chief if the PERS retirement contribution is counted; the amount for public safety is around 30%, while for miscellaneous, the contribution is closer to 12%; the health and welfare benefit is also not included.

Councilmember Johnson stated the amounts are known; the amount is closer to 70% of pay for public safety; that she does not know the amount for non-safety.

The Human Resources Director stated the amount is around 30%.

Councilmember deHaan stated the amount [\$213,524] is the base pay, not the entire package.

The Human Resources Director stated the amount is base plus any benefits that are considered salary; the compensation package is exclusive of the PERS contribution that the City pays and any health and welfare benefits for medical, dental and life insurance.

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

(11-079) Recommendation to Accept \$397,216 from the US Department of Homeland Security's Assistance to Firefighter Grant Program for the Replacement of a Fire Rescue Vehicle Using the Alameda County Fire Department's Competitive Bid Award, Appropriate \$99,304 from the General Fund to Meet the Matching Funds Requirement of the Grant, and Authorize Purchase.

The Acting Deputy Fire Chief gave a brief presentation.

In response to Councilmember deHaan's inquiry, the Acting Deputy Fire Chief stated the converted delivery van is used to transport equipment for training; the van is unsafe.

Councilmember deHaan inquired how the Fire Department responds to hazardous incidents, to which the Acting Deputy Fire Chief responded mutual aid.

Councilmember deHaan inquired whether Oakland has a rescue response vehicle, to which the Acting Deputy Fire Chief responded Oakland and Alameda County have rescue response vehicles.

Councilmember deHaan inquired whether special equipment is the bulk of the cost.

The Acting Deputy Fire Chief responded \$500,000 is for the vehicle only; stated the Fire Department has acquired equipment through a previous grant.

Councilmember deHaan inquired whether the equipment would be put into the rescue vehicle, to which the Acting Deputy Fire Chief responded in the affirmative.

Mayor Gilmore inquired what makes the rescue vehicle so expensive.

The Acting Deputy Fire Chief responded in addition to the cab and chase, the vehicle would offer fire fighter protection for Code 3 responses involving lights, sirens, and request of right-of-way at intersections.

Councilmember deHaan inquired whether the grant could be used for other equipment, to which the Acting Deputy Fire Chief responded the grant could only be used for a rescue vehicle.

Vice Mayor Bonta inquired whether the City would be contributing \$100,000 and getting \$500,000 in value, to which the Acting Deputy Fire Chief responded in the affirmative.

Vice Mayor Bonta commended the Fire Department for going after outside funding sources.

Councilmember Johnson inquired why the \$100,000 would be taken out of the General Fund, not the Vehicle Replacement Fund.

The Controller responded the Vehicle Replacement Fund has limitations and require certain qualifications bet met.

Councilmember Johnson stated Council direction should be to take the \$100,000 from the Vehicle Replacement Fund.

The Acting City Manager stated existing vehicles pay into the Vehicle Replacement Fund; the current vehicle came from the Navy and depreciation was not being paid.

Councilmember Johnson stated Council could amend the rules for the Vehicle Replacement Fund.

The Controller stated the Vehicle Replacement Fund is an extension of the General Fund; Council could authorize using a designated portion of the Vehicle Replacement

Fund.

Vice Mayor Bonta inquired how much is in the Vehicle Replacement Fund, to which the Controller responded a little over \$2 million.

Vice Mayor Bonta inquired whether the \$2 million has been budgeted for other things.

The Acting City Manager responded the Fire Department needs a truck, engine, and ambulance, which would total \$1.7 million; stated the Police Department also has needs; the City does not have enough money in the fund to pay for everything needed.

Councilmember Johnson stated using the Vehicle Replacement Fund would force Council to set priorities.

The Acting City Manager stated unfortunately, fire trucks and engines are very expensive.

Councilmember Johnson stated the Vehicle Replacement Fund payment could be accelerated.

Councilmember Tam stated forcing the money to come from the Vehicle Replacement Fund would create an inherent inequity because the converted delivery van was inherited from the Navy and depreciation has not been paid.

Vice Mayor Bonta stated payments should be accelerated to cover older vehicles; questioned whether the City has other older vehicles that do not qualify to use the Vehicle Replacement Fund.

Councilmember deHaan stated the City holds onto a lot of vehicles that have outlasted usefulness; the Fire Department has an old white truck that came from the Navy; the City has over 500 vehicles; that he is surprised the 1981 converted delivery van still operates.

The Public Works Director stated the City's fleet has been reduced by twenty or thirty vehicles; the inventory is approximately 400, including equipment; a Council resolution states any Navy vehicle that does not pay into the Vehicle Replacement Fund cannot use the Fund.

Mayor Gilmore suggested that Council approve the staff recommendation and have a discussion later regarding how many Navy vehicles the City has and whether to amend the resolution; at a later date, Council can address the policy.

Councilmember Tam moved approval of the staff recommendation.

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

Councilmember Johnson requested staff to bring the resolution back to Council.

Mayor Gilmore requested that the resolution come back in enough time to discuss and set policy prior to next year's budget.

(\*11-080) Recommendation to Accept the Work of Sand Channel Greens for the Alameda Point Multi-Use Field Upgrades, No. P.W. 04-09-11. Accepted.

(\*11-081) Recommendation to Accept Works of Golden Bay Construction, Inc. for Culvert Reconstruction at Various Locations, No. P. W. 02-10-04. Accepted.

(\*11-082) Recommendation to Accept the Work of Salt River Construction, Inc. for the Harbor Bay Dredging Project, No. P.W. 06-09-16. Accepted.

(\*11-083) Recommendation to Accept the Work of Top Grade Construction for the Webster Street/Wilver "Willie" Stargell Avenue Intersection Project, No. P.W. 10-08-26. Accepted.

(\*11-084) Recommendation to Award Contract in the Amount of \$433,431, including Contingencies, to Schaaf & Wheeler for the Preparation of Engineering Documents for the Upgrade of the City of Alameda Sewer Pump Stations, Phase 1: Reliability Improvements, No. P.W. 12-10-33. Accepted.

(\*11-085) Recommendation to Award Contract in the Amount of \$93,373, including Contingencies, to Schaaf & Wheeler for the Preparation of Engineering Documents for the Upgrade of the City of Alameda Sewer Pump Stations, Phase 2: Immediate Improvements, No. P.W. 12-10-34. Accepted.

(\*11-086) Recommendation to Authorize the Replacement of Two Street Sweepers through the Houston-Galveston Area Council Procurement Program, Known as HGACBuy, Appropriate \$60,000 in Urban Runoff Funds, and Authorize the Acting City Manager to Execute All Required Agreements. Accepted.

(11-087) Resolution No. 14551, "Increasing Civil Penalties for Parking Violations of the Municipal Code and California Vehicle Code." Amended and adopted.

The Acting City Manager and Controller gave a brief presentation.

Councilmember Johnson inquired how the State is able to take part of the money for a municipal code violation, to which the Controller responded all parking citations are processed through the Department of Motor Vehicles (DMV).

The Acting City Manager stated the money is used to fund trial courts.

Vice Mayor Bonta requested an explanation of the 35% collection fee.

The Controller stated a person would be assessed an additional 35% if a citation is not paid within a certain period of time; the additional assessment would cover attorney costs.

The Acting City Manager stated the City was handling citation collection in house before contracting with the City of Inglewood.

Vice Mayor Bonta inquired whether a 35% collection assessment is typical, to which the Controller responded in the affirmative.

\* \* \*

Councilmember deHaan left the dais at 9:54 p.m. and returned at 9:55 p.m.

\* \* \*

Speakers: Robb Ratto, Park Street Business Association; and Jon Spangler, Alameda.

Councilmember Johnson stated all violations should not have a fixed fee; that she would not mind considering different fees for different violations; inquired what "Major Repairs/Display for Sale" means.

The Acting Police Chief responded blight issues; stated people cannot work on vehicles on City streets.

Councilmember Johnson stated the fine for said violation should be more expensive.

Vice Mayor Bonta stated different violations should have different fees; currently, the City has varied fees; inquired why flat fees are being proposed.

The Controller responded for simplicity sake; stated most of the current fees range from \$30 to \$35; the difference is minimal; the collection part of the staff recommendation is the most important part because the collection agency is looking to implement the proposed increases March 1, 2011.

Councilmember Tam inquired whether a \$50 assessment would be reasonable given the egregiousness of a violation.

The Acting Police Chief responded that he is very reluctant to get involved with the fee structure because enforcement should not be tied to fees; stated that he supports updating the fee schedule; he does not want it to appear that the Police Department is doing enforcement to generate revenue.

Councilmember Tam stated asking the Finance Department should not have to answer whether an expired meter is worse than parking by a fire hydrant.

The Acting Police Chief stated that he likes the simplicity of the \$50 fee; taking a closer look at a fee variance is hard to argue against.

Councilmember deHaan stated a \$50 fee would be fairly standard and would not vary too much from other cities.

Councilmember Johnson stated that she would prefer to have the fees refined; the metered parking fee should be reduced; the downtown area should be welcoming and friendly; the overnight commercial vehicle fee should be more egregious; that she has no problem with moving forward with the collections portion of the staff recommendation.

The Acting City Manager summarized that the Council direction is to decrease the fees for parking time limit, overtime parking in the City lot, overtime meter zone, expired meter and increase more egregious violations such as overnight commercial vehicle parking and 15' from a fire hydrant; stated staff would come back with a new schedule.

Councilmember Johnson stated that she would like to lower the street sweeping fee; many people are given a ticket after street sweeping has been done.

The Acting Police Chief stated the Police Department is looking at a system to remedy the problem.

The Acting City Manager stated staff is trying to keep in line with other cities; the fees could be tiered into three categories.

Mayor Gilmore stated the parking prohibited at all times and RV trailer parking violation fees should be raised; the City has an ordinance regarding RV trailer parking.

The Acting Police Chief stated the problem has dropped significantly since passage of the ordinance.

Mayor Gilmore stated fees should be raised if people are not paying attention to the ordinance.

Councilmember deHaan stated fees should be raised for front or side yard parking, heavy vehicle three hour parking, and 72-hour limit violations.

Mayor Gilmore inquired what is the definition of a heavy vehicle.

Councilmember Johnson stated knowing how other cities define a heavy vehicle is important.

In response to Mayor Gilmore's inquiry, the Acting Police Chief responded a heavy vehicle has six wheels or more.

Mayor Gilmore stated she is particularly concerned with cabs pulling long trailers, being disconnected, and parked on Ralph Appezato Parkway.



The Acting Police Chief stated that he would get back to Council on the matter.

Councilmember Tam stated that she is fine with the average for handicap and disabled parking.

Councilmember Johnson stated a lower fine should be given for overtime parking in the parking structure.

The Acting City Manager stated fees apply to all City lots, not just the parking structure.

Mayor Gilmore requested a motion on the collections and court part of the staff recommendation.

Councilmember deHaan moved adoption of the section of the resolution pertaining to collection and court fees, with direction to bring back the modified fees as discussed.

Councilmember Johnson seconded the motion.

The Controller suggested the court fees be addressed as part the overall fees.

Mayor Gilmore inquired whether there is agreement to modify the motion, to which Councilmembers deHaan and Johnson responded in the affirmative.

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

(\*11-088) Resolution No. 14552, “Supporting the Alameda Reuse and Redevelopment Authority’s Response to Lawrence Berkeley National Laboratory’s Request for Qualifications for a Second Campus at Alameda Point.” Adopted.

(\*11-089) Ordinance No. 3026, “Amending the Alameda Municipal Code by Adding Section 3-7 at Article I, (Finance) of Chapter III (Finance and Taxation), Regulating Holders of State Video Franchises.” Finally passed.

## REGULAR AGENDA ITEMS

(11-090) Public Hearing on Community Development Block Grant Action Plan Amendment Two and Annual Plan for Fiscal Year 2011-2012.

The Housing Division Manager gave a Power Point presentation.

Speakers: Lisa Gross, Bay Area Community Services; Cyndy Wasko, SSHRB; Liz Varela, Building Futures with Women and Children; Cherri Allison, Family Violence Law Center; Franklin Hysten, Alternatives in Action; Ginger McBride, Alternatives in Action (submitted handout).

Vice Mayor Bonta thanked the SSHRB, the social service organizations, and staff for all the hard work.

Councilmember Tam echoed appreciation to the SSHRB; stated the SSHRB is very consistent in making the best use of limited resources.

Councilmember Tam moved approval of the staff recommendation.

Councilmember Johnson seconded the motion; urged everyone to do everything possible to advocate against cutting CDBG funding allocations.

Mayor Gilmore thanked the SSHRB and providers; stated the SSHRB is asked to do more with less every year.

Councilmember deHaan thanked the SSHRB and groups; stated it is commendable to see what has been done.

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

(11-091) Recommendation to Approve the Next Steps in the City Manager Selection Process.

The Human Resources Director gave a brief presentation.

Councilmember Johnson stated Department Head participation is a good idea; however, input should be provided informally to the Council subcommittee; inquired what would be the plan to get Department Head input.

Mayor Gilmore responded a panel process; stated Department Heads would interview candidates.

Councilmember Johnson stated the input should be confidential.

Mayor Gilmore concurred with Councilmember Johnson.

Councilmember Johnson inquired how a final decision would be made.

Mayor Gilmore responded a meeting would be scheduled to discuss recommendations and selection; inquired whether “Public Employment” would be appropriate for Closed Session discussion.

Councilmember Johnson stated Council might want to narrow down the candidates and have another round of interviews.

In response to Mayor Gilmore’s inquiry, the Acting City Attorney stated past practice involved a recruiter and Closed Sessions under the title of “Public Employment”; offering

a contract would be in open session.

Vice Mayor Bonta stated after interviewing the six candidates on Saturday, the list could be narrowed down to a smaller subset; the subset could be interviewed by stakeholders, a panel of Department Heads, and those attending the reception; then, Council could interview the finalists again.

Councilmember Tam stated that she appreciates the Council subcommittee's thoughtful process; she is comfortable in having a panel of stakeholders with each Councilmember appointing a community member and Councilmember Johnson's suggestion regarding Department Head input; suggested replacing the reception process with something more related to the City; inquired whether the City has 13 employee associations, to which the Human Resources Director responded the City has 8 bargaining units.

Councilmember Tam suggested having bargaining unit leaders interview the finalists and share input in a confidential manner.

Councilmember deHaan stated that he concurs with Vice Mayor Bonta except for the reception; the process should not be too laborious.

Mayor Gilmore stated the social portion may be premature and could be done after a final candidate is selected; the social portion could be more of an introduction to the community; including panels of stakeholders, Department Heads, and bargaining unit leaders and having the top candidates interviewed by the Council again after receiving input seems to have consensus.

Councilmember Johnson stated the matter [follow up Council interviews] could be left to the discretion of the Council.

The Human Resource Director stated that Council might want to interview again because of the length of time since meeting the candidates.

Councilmember Johnson stated in the past, people within the community where the candidate lived were interviewed.

Vice Mayor Bonta stated said interviews could be part of the process.

Mayor Gilmore stated the interviews were conducted when Council got down to the last candidate.

The Acting City Attorney stated having Council take a formal action to create a panel of stakeholders would become subject to the Brown Act; however, the interviews could be held in Closed Session.

Councilmember Tam inquired whether the Closed Session would include the Council appointees but the City Council would not be there.

Vice Mayor Bonta inquired what are the aspects of applicant confidentiality by the time the candidates are the final two; further inquired how the reception concept has been used in other executive searches.

The Human Resources Director responded the process would be more open once two finalists come back for a more intense process; stated the expectation would be that there would not be any confidentiality; that she has seen one informal reception; the purpose was for Council to look at how a candidate interacts in a social environment; she has seen a reception start out as a public forum.

Vice Mayor Bonta inquired whether the on-line input tool is still available.

The Human Resources Director responded public input has been requested regarding the City Manager criteria; stated said information submitted would only be provided to the Council.

Vice Mayor Bonta inquired whether hard copies could be provided to Council for Saturday, to which the Human Resources Director responded in the affirmative.

Mayor Gilmore stated the more she hears, the more she agrees that a reception should not be included in the process; the process should include stakeholder, Department Head, and bargaining unit panels; then, the Council could interview the top candidates again.

Councilmember Johnson responded all Departments Heads should be included in the panel.

The Human Resources Director stated someone from Human Resources would sit on the panels.

Councilmember Johnson inquired whether the panels would involve all six candidates, to which Mayor Gilmore responded only the top two or three candidates.

Speaker: Jon Spangler, Alameda.

Councilmember Tam stated last time, the reception involved community stakeholders providing comments to Council.

Councilmember deHaan stated each Councilmember could have one community at large selection and one organization selection.

Councilmember Johnson stated each Councilmember could pick an organization and volunteer someone.

Mayor Gilmore stated that she likes the organization aspect but there might be an

overlap if each Councilmember picks an organization.

Councilmember Johnson stated the Mayor could ask for representatives from the organizations.

Mayor Gilmore stated that she likes the idea of a list of various organizations; suggested limiting the group to 14 to 15 which would expand Step 1; the Council sub-committee could provide a list to the Human Resource Director; the Human Resource Director could e-mail the list to the rest of Council for input.

Vice Mayor Bonta stated that he agrees with the three panels; Step 3 [the reception] is a valuable piece of the process; the process should be as open and transparent as possible; the more input the better; having the public meet the finalists and provide input is important.

Mayor Gilmore stated having candidates go through the process [reception] could be awkward because two of the three candidates would be rejected.

Councilmember Johnson inquired whether Step 3 [the reception] could be narrowed down to one candidate, to which Mayor Gilmore, Councilmember Tam, and Councilmember deHaan responded they are okay with said idea.

Councilmember Johnson stated Step 3 could happen before the contract.

Vice Mayor Bonta stated a reception would be good at a later date but would not allow community input.

Mayor Gilmore stated Council has reached consensus on the three panels [stakeholders, Department Heads, and bargaining unit leaders] and has decided not to decide address the social event; the social event could be discussed later.

The Acting City Attorney requested clarification on how Councilmembers would select one person per Councilmember.

Mayor Gilmore stated that she assumes that each Councilmember would provide a name to the Human Resources Director; the Human Resource Director would advise Council in the event Councilmembers nominate the same person.

Vice Mayor Bonta stated deciding the number on the stakeholder panel would be helpful in order to know how many organizations to have.

The Human Resources Director stated getting all calendars together might be difficult.

Councilmember Johnson stated a date should be set with five representatives; notice could be given to organizations to send a representative; if a representative cannot come, another organization could be selected.

Councilmember Tam inquired what type of groups would be considered.

Mayor Gilmore responded the Alameda Unified School District, College of Alameda, and a business community representative.

Councilmember Tam inquired whether church and advocacy groups would be considered.

Mayor Gilmore responded church groups could come under the heading of service organization; stated service organizations could be a broad category which would include a church group and the Red Cross; the organization would have to be active in Alameda.

#### CITY MANAGER COMMUNICATIONS

None.

#### ORAL COMMUNICATIONS, NON-AGENDA

None.

#### COUNCIL REFERRALS

None.

#### COUNCIL COMMUNICATIONS

None.

#### ADJOURNMENT

There being no further business, Mayor Gilmore adjourned the meeting at 11:23 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

MINUTES OF THE SPECIAL JOINT CITY COUNCIL AND ALAMEDA  
REUSE AND REDEVELOPMENT AUTHORITY (ARRA) MEETING  
TUESDAY- -FEBRUARY 15, 2011- -6:00 P.M.

Mayor/Chair Gilmore convened the meeting at 6:00 p.m.

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

Absent: None.

The meeting was adjourned to Closed Session to consider:

(11-068 CC) Conference with Legal Counsel – Anticipated Litigation; Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; Number of cases: Two

(11-016 ARRA) Conference with Real Property Negotiators; Property: Alameda Point; Negotiating parties: ARRA and Navy; under negotiation: Price and terms

\* \* \*

Mayor/Chair Gilmore called a recess to hold the regular meeting at 7:50 p.m. and reconvened the closed session at 12:30 a.m.

\* \* \*

Following the Closed Session, the meeting was reconvened and Mayor/Gilmore announced that regarding Anticipated Litigation, legal strategy was discussed and the City Council provided direction; and regarding Real Property, price and terms were discussed; direction was given to staff.

Adjournment

There being no further business, Mayor/Chair Gilmore adjourned the meeting at 1:38 a.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

MINUTES OF THE SPECIAL JOINT CITY COUNCIL, ALAMEDA  
REUSE AND REDEVELOPMENT AUTHORITY (ARRA), AND  
COMMUNITY IMPROVEMENT COMMISSION (CIC) MEETING  
TUESDAY- -FEBRUARY 15, 2011- -7:01 P.M.

Mayor/Chair Gilmore convened the meeting at 8:15 p.m.

ROLL CALL - Present: Councilmembers / Board Members / Commissioners  
Bonta, deHaan, Johnson, Tam and Mayor/Chair  
Gilmore – 5.

Absent: None.

AGENDA ITEM

(11-009 CIC) Recommendation to Approve Execution of Estoppel Certificates and Consent to Assignments of the Following Documents (collectively, “Alameda Landing Agreements”) to Catellus Alameda Development, LLC (“Catellus”) Conditioned upon Receipt of Entity Relationship Information: 1. The Disposition and Development Agreement Dated December 5, 2006, By and Between the Community Improvement Commission of the City of Alameda (“CIC”) and Palmtree Acquisition Corporation (“PAC”), as Amended by (a) the First Amendment to Disposition and Development Agreement (Alameda Landing Mixed Use Project) Dated as of December 4, 2007, and (b) the Second Amendment to Disposition and Development Agreement Dated as of June 4, 2008 (Collectively, the “Alameda Landing DDA”); 2. The Development Agreement (Alameda Landing Mixed Use Commercial Project) Dated as of January 16, 2007, By and Between the City of Alameda (“City”) and PAC, as Amended by the First Amendment to Development Agreement (Alameda Landing Mixed Use Commercial Project) Dated as of December 4, 2007 (Collectively, the “Commercial DA”); 3. The Development Agreement (Alameda Landing Mixed use Residential Project) Dated as of January 2, 2007, By and Between the City and PAC (the “Residential DA”); 4. The Right of Entry for Preliminary Work (Alameda Landing - Testing/Investigation) Permit, Dated August 31, 2009, By and Between PAC, as Permittee, and the CIC, as Amended by That Certain Right of Entry for Preliminary Work (Alameda Landing - Testing/Investigation), Dated August 30, 2010 (the “Permit”); 5. Agreement of Property Exchange and Joint Escrow Instructions, Dated as of May 13, 2008, By and Among PAC, the Peralta Community College District (the “District”), and the CIC, as Amended by (a) the First Amendment to Agreement of Property Exchange and Joint Escrow Instructions Dated as of June 3, 2008, and (b) the Second Amendment to Agreement of Property Exchange and Joint Escrow Instructions Dated as of June 24, 2008 (Collectively, the “Property Exchange Agreement”).

The Deputy City Manager – Development Services gave a brief presentation.



Tom Marshall and Sean Whiskeman, Catellus Development Corporation, gave a Power Point presentation.

Commissioner Tam stated the schedule is aggressive and inquired whether the new owners have committed funding.

Mr. Marshall responded a financial analysis has been done as part of the asset acquisition; stated TPG has an interest in developing Alameda Landing; standard things have to happen before going forward; the Governor's pursuit of redevelopment funds needs to be understood; lining up Target and additional retailers and bringing conversations with homebuilders to fruition are important; close to \$20 million has already been spent, including Stargell improvements; TPG would be the majority owner, not an investor, and would be prudent underwriters.

Commissioner Johnson inquired how the project would be impacted if the Governor's proposal goes forward, to which Mr. Marshall responded that he does not know whether grandfathering in the project would be possible.

Commissioner Johnson stated existing debt could be grandfathered, but no future debt would be issued.

Mr. Marshall stated \$20 million has been spent based upon the assumption that redevelopment funds would be available; there is a contract [DDA] to that effect, however, the City has been careful not obligate itself to something it does not have; other cities and developers are in the same position and will fight to avoid it [elimination of redevelopment funding]; the loss would not be insurmountable.

The Deputy City Manager – Development Services stated the City considers that it has an obligation that constitutes debt under redevelopment law.

The Acting City Attorney stated an action was taken several weeks ago to protect everything locked in by contract.

Commissioner Johnson inquired when are the next milestones under the current DDA.

Mr. Marshall responded an infrastructure commitment would be needed by the end of 2012; stated the DDA includes a first phase or an alternative first phase, which is a minimum of 14 acres; the intent is to comply with the milestone.

Chair Gilmore inquired whether Target would be opening in 2013, to which Mr. Marshall responded the current schedule is working towards a 2013 opening.

Chair Gilmore inquired whether infrastructure for the 14 acres would have to be done well before [Target opens], to which Mr. Marshall responded in the affirmative.

In response to Commissioner Johnson's inquiry regarding the timeline in the agreement, Mr. Marshall stated Catellus is proposing to abide by the timelines in the DDA; operating under a tighter timeframe would be difficult; the schedule has been discussed with Target; adequate contingency is needed for issues that might arise.

Commissioner Johnson stated the community has been hearing about Target for some time; the term sheet was negotiated a couple of years ago; inquired whether there is anything firmer now.

Mr. Marshall responded Catellus has four deals with Target; stated Target has set priorities and has slotted Alameda Landing for 2013; ground is being broken for a Target in Fremont, which has a more pressing need; Target calls the shots; Catellus is not in a position to push the schedule because of the economic environment; new ownership and an improved economic environment allow Catellus to better project the schedule; however, the Target project is not iron clad and cannot be guaranteed.

In response to Commissioner Johnson's inquiry regarding when the project would start, Mr. Marshall stated demolition would have to start soon.

Commissioner Johnson stated Catellus would have to move quickly to meet the milestone with or without Target.

Mr. Marshall stated quite a few decisions have to be made to commit to the process; Target is an important piece; Catellus has its work cut out to deliver on schedule.

Commissioner Johnson stated that she is disappointed to hear that the project was relegated to a non-core asset status [under ProLogis; inquired how and when the status occurred and how the City can ensure it does not happen again.

Mr. Marshall responded ProLogis never indicated the project would not go forward; stated the point is that Alameda Landing would be the centerpiece going forward [under TPG]; the project is reintroducing the Catellus brand.

Commissioner deHaan inquired whether the proximity of the Emeryville Target would impact Alameda.

Mr. Whiskeman responded Target took over the old Home Depot Expo in Emeryville; stated the store would open March 6<sup>th</sup> and is in an area that is massively underserved.

Commissioner deHaan stated milestones have been extended; the City put up \$2 million to remove the hospital; inquired how the City would be reimbursed.

The Deputy City Manager – Development Services responded staff has discussed the

matter with Catellus; stated Catellus would be asking for DDA amendments; both Catellus and the City want recognition for past expenditures.

Commissioner deHaan stated the City's sewer funds were loaned to the Stargell Project, which some thought should have been covered by Catellus.

Commissioner Johnson inquired when conveyance would occur, to which Mr. Marshall responded Catellus is focused on committing to infrastructure, which would precede conveyance.

Commissioner Johnson stated not moving forward aggressively would be easy for Catellus; the City does not want Catellus holding on to the land longer than necessary.

The Deputy City Manager – Development Services stated Catellus would be taking down the land and selling 10 acres to Target.

Commissioner Johnson stated having something more concrete on Target's plan to move forward in Alameda would be nice; Target is opening in other areas within close proximity; questioned when market saturation would be reached; stated decisions have been made based on Target coming to Alameda; an economic disincentive should be established, such as conveying the land by a set date, to prevent Catellus from simply holding on to the land; that she is reluctant to consider the Estoppel Agreement if Catellus is asking for DDA amendments; that she would prefer to see everything come at the same time.

Chair Gilmore inquired what happens if Catellus does not meet the first mandatory milestone.

Mr. Marshall responded the City would put Catellus on notice; stated one remedy would be for the City to start marketing the property; Catellus would have a first position lien to recover the money it advanced on the Stargell right-of-way.

Chair Gilmore inquired whether Catellus asking for consent to the transfer would allow the City to impose any more stringent requirements to accelerate the timeline.

The Acting City Attorney responded the Commission has absolute discretion over approval; stated the Commission deciding to deny the transfer would trigger a sequence of events, including a meet and confer process; Catellus has remedies available under the Contract; staff has recommended keeping DDA amendments separate from the transfer; the Commission could discuss including conditional approval items.

Chair Gilmore questioned the point of withholding consent when Catellus has to meet the 2012 deadline.

Mr. Marshall noted that the City would be talking to ProLogis, not Catellus, if the transfer is not approved; stated everyone involved with the project is leaving as part of the TPG transaction; that he understands the frustration with the lack of progress; however, progress has been made with Stargell; the schedule is tight; the DDA amendments being contemplated are more technical in nature to accommodate the Target building; the amount of square footage allowed south of Mitchell Avenue is limited; a lot [of the amendments] are planning in nature; the issues have been discussed with Community Development staff; staff has liked what Catellus has presented.

Chair Gilmore stated that she is not asking the questions because she does not want to give consent; rather, she is letting Catellus know if consent is given and the 2012 deadline is not met, there probably would not be any second chances; Catellus is hearing the community's and Commission's frustration; the economy could not have been predicted, but is turning around; hopefully, the project is a centerpiece; the City expects the project to be aggressively pursued; there will be a serious discussion if the 2012 deadline is missed.

Mr. Marshall stated Catellus would do a better job of keeping the City informed.

Chair Gilmore stated that she appreciates the sentiment; updates would be helpful going forward.

Commissioner Tam stated that she sees the transfer as a fresh start; the lag has been due to the economy; Mr. Marshall has indicated the DDA amendments would be technical changes; the Deputy City Manager – Development Services has implied there would be an adjustment and crediting of the fire that cost \$2.2 million and the Stargell project which came in at \$9.2 million.

The Deputy City Manager – Development Services stated staff could discuss the matter as part of the DDA amendments; the current DDA does not include anything regarding the fire.

Commissioner Tam stated that she recalls the DDA has a demolition requirement.

The Deputy City Manager – Development Services stated the DDA does not address anything regarding the City being reimbursed.

Commissioner deHaan stated the building had to be removed after the fire; the City did not have a choice; Catellus did not step up to the plate.

The Deputy City Manager – Development Services stated Catellus would have had to pay for demolition as part of its costs.

Commissioner Tam stated the City's costs exceeded the demolition cost.

The Acting City Attorney stated there was urgency to do the clean up; in the [DDA] the developer has the choice of whether or not to elect to do the next piece, which is why the City took care of demolition without insisting that the developer pay, with the idea that the matter would be revisited later on if the developer proceeds.

The Deputy City Manager – Development Services stated staff could discuss reimbursement as part of the DDA discussions.

Commissioner Tam inquired whether Catellus is receptive.

Mr. Marshall responded Catellus understands how everything works; stated the topic is familiar; Catellus would put a plan together that would attempt to meet the schedule; whatever can be done to not overly burden the initial phase would be helpful in implementing the schedule; Catellus recognizes that it would have had to pay to demolish the hospital after committing to the phase that includes that part of the property; unfortunately, the costs the City incurred were exponentially higher than what Catellus would have had to pay; Catellus understands the City will want to discuss the matter.

In response to Commissioner Bonta's inquiry about the size of the Emeryville Target, Mr. Whiskeman responded approximately 138,000 square feet.

Commissioner Bonta inquired whether Target is aware of the schedule and whether being slated to open [in Alameda] in 2013 is consistent with Target's plans, to which Mr. Whiskeman responded Target has a very specific process to open a store and the schedule fits.

Commissioner Bonta stated there has been frustration with project delays; clearly, there have been challenges; hopefully, Catellus gets the sense that the community really wants the project; that he is excited about the new energy, money and the project becoming a higher priority [under TPG]; however, nothing will speak louder than action.

Commissioner Johnson inquired whether Catellus would ask for any changes to the milestones or schedule in the DDA amendments, to which Mr. Marshall responded Catellus has not contemplated doing so at this point.

Commissioner Johnson urged Catellus not to do so.

In response to Commissioner deHaan's inquiry about when the DDA amendments would come back, Mr. Marshall stated planning efforts have been shared with staff and the process would continue at another meeting scheduled for March 20<sup>th</sup>; Catellus is doing technical studies and background underwriting needed to press forward; Catellus should be in a position to come back with the list of items [DDA amendments] in a

matter of months.

Commissioner deHaan stated Catellus has been involved in the Emeryville and Fremont Target stores; inquired where the other store mentioned would be located, to which Mr. Marshall responded New Jersey.

In response to Commissioner deHaan's comments regarding handling the DDA separately, Mr. Marshall stated Catellus has a very limited timeline to meet the initial phase obligation; coming with a list of egregious DDA amendments would be foolish; a protracted DDA negotiation is not in Catellus's schedule.

Commissioner deHaan moved approval of the staff recommendation, with stipulations that the DDA amendments would be presented to the Commission in the next few months and concerns about the City's outstanding money [spent on the hospital fire and Stargell improvements] would be part of the [DDA amendment] discussions.

Commissioner Johnson seconded the motion, which carried by unanimous voice vote – 5.

\* \* \*

Mayor Chair Gilmore called a recess to hold the regular meeting at 9:12 p.m. and reconvened the meeting at 11:24 p.m.

\* \* \*

### CONSENT CALENDAR

Mayor/Chair Gilmore announced that the Contract [paragraph no. 11-018 ARRA] was withdrawn from the agenda.

Councilmember/Board Member/Commissioner deHaan moved approval of the remainder of the Consent Calendar.

Vice Mayor/Board Member/Commissioner Bonta seconded the motion, which carried by unanimous voice vote – 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(\*11-092 CC/11-017 ARRA/11-010 CIC) Minutes of the Special Joint City Council, ARRA, and CIC Meeting Held on January 25, 2011; and the Special Joint City Council, ARRA, CIC, and Housing Authority Board of Commissioners Meeting Held on February 1, 2011. Approved.

(11-018 ARRA) Recommendation to Award Contract for the Alameda Point Resource Team to Perkins + Will in the Amount of \$200,000 for Land Use Planning Consulting Services. Not heard.

## AGENDA ITEM

(11-093 CC/11-019 ARRA/11-011 CIC) Recommendation to Accept the Quarterly Financial Report Through December 31, 2010 and Approve the Mid-Year Budget Adjustments to the City's FY10-11 Budget.

The Controller gave brief presentation.

Mayor/Chair Gilmore inquired whether the \$1.1 million for the Alameda Point Going Forward Project is related to what was requested tonight under another item [Perkins + Will contract, paragraph no. 11-018 ARRA]

The Deputy City Manager – Development Services responded the Contract is included in the \$1.1 million; stated staff is suggesting using \$300,000 in bond money so that the net would be \$700,000, which includes \$400,000 for water and \$330,000 for the Alameda Point Going Forward Project.

Mayor/Chair Gilmore inquired whether approving the funding would back ARRA into approving the contract.

The Deputy City Manager – Development Services responded the item would not go forward without the contract being approved by ARRA.

Mayor/Chair Gilmore stated that she and Councilmember/Board Member/Commissioner deHaan asked for an explanation regarding the General Fund balance.

The Acting City Manager/Executive Director stated a memo would go out tomorrow.

The Controller stated the available reserves in the General Fund ranged from 14% to 21% for Fiscal Year 2001-2002; the Fiscal Year 2010-2011 budget is at 21% and is similar to Fiscal Year 2002-2003 and Fiscal Year 2003-2004; the main reason the percentage has gone up is that the Fleet Industrial Service Center (FISC) Special Revenue Fund has repaid the City \$1 million from a loan; the City has had expenditure savings on average of about 5% the last couple of years; unexpected vacancies result in savings; capital maintenance expenditures were approximately \$600,000 for Fiscal Year 2004-2005; in Fiscal Year 2009-2010, \$1.5 million was spent; \$2 million has been budgeted for Fiscal Year 2010-2011.

The Acting City Manager/Executive Director stated departments have done a lot of belt tightening; one year, expenditures came in \$5 million under budget.

The Controller stated Fiscal Year 2009-2010 had a positive variance and generated about \$3 million in savings; the percentage variance was only 2% for revenues in Fiscal

Year 2009-2010 and was in the norm for projections.

In response to Councilmember/Board Member/Commissioner Johnson's inquiry regarding the Community Development positions, the Deputy City Manager – Development Services stated the Community Development Department is doing much better than in the last three years; currently, Community Development funds are \$40,000 in the black; staff expects to break even by the end of the year even with budget adjustments; permits have increased by 37% with a 70% increase in construction value; two code enforcement inspectors have been converted to permit positions; code enforcement generates over \$260,000 in revenue and expenditures are at \$179,000; a temporary, part-time counter planner has been doing a tremendous job; staff would like to change the position to a full-time, permanent position.

The Building Official stated the part-time counter planner has provided consistency and improved customer service.

Councilmember/Board Member/Commissioner Johnson stated some of the revenue from the sale of the Alameda Towne Centre sale should be set aside for capital improvements; the money is one-time revenue.

The Acting City Manager/Executive Director stated most of what is in the General Fund are one-time expenses.

Councilmember/Board Member/Commissioner Johnson inquired whether the \$2.1 in property transfer tax [from the sale of the Alameda Towne Center] would be spent through June.

The Controller responded in the affirmative; stated some payments are required versus discretionary; the City cannot get out of the \$860,000 EMS payment and \$575,000 in labor settlements; the cable studio upgrade expenditure is optional.

Councilmember/Board Member/Commissioner Johnson stated cable studio upgrading needs to be done; maintaining fiscal discipline in Internal Service Funds is important.

The Controller stated all funds are contributing to Internal Service Funds; staff wants to bring up the fund balance in the unemployment insurance fund.

Councilmember/Board Member/Commissioner Johnson stated departments need to build the Unemployment Insurance Fund.

The Acting City Manager/Executive Director stated some expenses need to be paid one way or another; requesting departments to eat a cost would result in being over budget.

Councilmember/Board Member/Commissioner Johnson stated the \$2.1 million is



artificial and should be used for mandatory one-time expenses.

\* \* \*

(11-094 CC/11-020 ARRA/11-012 CIC) Councilmember/Board Member/Commissioner deHaan moved approval of continuing the meeting past midnight.

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

\* \* \*

Mayor/Chair Gilmore stated departments would come in over budget at the end of the year and look to the General Fund if the \$2.1 million is not used for projected overages.

Councilmember/Board Member/Commissioner Johnson stated departments would need to explain why they are over budget; some of the \$2.1 million is being used for mandatory expenses; the discretionary portion of the \$2.1 million is probably \$500,000.

The Controller stated the discretionary portion is approximately \$400,000.

Councilmember/Board Member/Commissioner deHaan stated Other Post Employment Benefits went up 11%; inquired whether the Police and Fire Departments are fine with the projected overtime budget.

The Acting Police Chief responded that he is comfortable with the bottom line; stated overtime has been projected; the Police Department has had more overtime than normal due to injuries; the Superior Court closure has had an impact; a significant incident, such as a homicide, is out the Department's control.

The Acting Deputy Fire Chief responded the Fire Department anticipates overtime savings because of the Staffing for Adequate Fire and Emergency Response (SAFER) hiring.

Councilmember/Board Member/Commissioner deHaan inquired what is the overtime budget for Police and Fire, to which the Controller responded overtime for Fire is \$725,000 and Police is \$400,000.

The Controller stated overtime [overage] would be covered with savings in other categories.

The Acting City Manager/Executive Director stated barring unforeseen major incidents, the projected overtime is a worse case scenario.

Mayor/Chair Gilmore stated that she appreciates the heads up; the Council/Board/Commission would not have been happy hearing about projected

overtime for the first time in June.

Councilmember/Board Member/Commissioner Tam stated the staff report notes the CIC is losing \$4.4 million in redevelopment funds because of Supplemental Educational Revenue Augmentation (SERAF) and has a potential loss of \$900,000 to \$1 million this year; inquired whether Proposition 22 was suppose to help shelter the funds.

The Acting City Manager/Executive Director responded the SERAF payments are a hold over from the budget a couple of years ago; stated the City is stuck with the second year SERAF payment regardless of Proposition 22.

Councilmember/Board Member/Commissioner Tam stated the City will never get the money back; inquired why projections at June 30, 2011 are approximately \$55 million for revenues and \$69 million for expenditures.

The Controller responded the Special Revenue Funds are project oriented; stated funds get built up and are spent when there is enough money; reserves are being used [for projects] this year; some years, Special Revenue Fund reserves go down.

Councilmember/Board Member/Commissioner Tam inquired whether lumping the Alameda Point Going Forward Project with ARRA repairs would sacrifice one for the other; stated the ARRA fund balance is \$7.5 million as of June 2010.

The Deputy City Manager – Development Services responded \$700,000 would be drawn down on the ARRA fund balance leaving a \$6.2 million fund balance at the end of this fiscal year.

Councilmember/Board Member/Commissioner Tam stated the Police and Fire Departments have provided worst case scenarios; an unanticipated \$2 million FISC fire required drawing down on ARRA reserves; ARRA was not previously charged for using water consumption due to an opened bypass valve diverting water from East Bay Municipal Utility District (EBMUD); there is a \$407,000 charge; there are unpaid reimbursement costs associated with the Joint Powers Authority (JPA) for maintenance of the Alameda Point water system between August 2005 and June 2009.

The Public Works Director stated a year ago, EBMUD advised the City that ARRA had not been paying for water; a bypass valve had been opened which allowed water to go to Alameda Point without being metered; the City is on a payment plan for 18 months; 2008 and 2009 water expenditures were significantly less; the JPA realized that some bills were not paid while negotiating JPA renewal; EBMUD could not verify whether the charges were billed; the City is on an 18-month payment plan for said charges also.

Councilmember/Board Member/Commissioner Tam inquired whether combined charges total \$407,000.

The Public Works Director responded \$282,000 is for water, and \$125,000 for is for JPA; stated the 18-month payment plan includes payments next year.

Vice Mayor/Board Member/Commissioner Bonta stated burning through the \$2.1 million transfer tax in a short period of time is difficult; alternatives should be explored for the discretionary items; putting some of the money aside would be nice.

Councilmember/Board Member/Commissioner deHaan stated every good budget has contingencies; inquired why some items could not be taken care of with contingencies.

The Controller responded the City Manager contingency amount for Fiscal Year 2010-2011 is approximately \$200,000; stated half has been used this year.

The Acting City Manager/Executive Director stated the contingency would be used for the City Manager recruitment and employee training; some contingencies exist because departments have been good at saving money; a lot of departments will come in under budget.

Councilmember/Board Member/Commissioner deHaan inquired how things would have been paid without the money from the Alameda Towne Centre sale, to which the Controller responded the General Fund reserve would have had to be drawn down.

Councilmember/Board Member/Commissioner deHaan stated the established threshold would be broken; inquired whether there would be enough revenue generation next year.

The Acting City Manager/Executive Director responded revenues will not have a spectacular growth; stated the real problem will be on the expenditure side; there will be a \$1.3 million hit for PERS, payments for miscellaneous employees and health care costs will go up.

Councilmember Tam moved approval of accepting the Quarterly Financial Report.

Councilmember Johnson seconded the motion.

The Controller inquired whether the motion includes approval of the budget adjustments.

Councilmembers Tam and Johnson agreed to amend the motion to include budget adjustments.

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

## ADJOURNMENT

There being no further business, Mayor/Chair Gilmore adjourned the meeting at 12:25 a.m.

Respectfully submitted,

Lara Weisiger, City Clerk  
Secretary, CIC

The agenda for this meeting was posted in accordance with the Brown Act.