

MINUTES OF THE REGULAR CITY COUNCIL MEETING  
TUESDAY- -SEPTEMBER 4, 2012- -7:00 P.M.

Mayor Gilmore convened the meeting at 7:06 p.m. Vice Mayor Bonta led the Pledge of Allegiance.

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

Absent: None.

AGENDA CHANGES

None.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY & ANNOUNCEMENTS

(12-425) Proclamation Declaring the Week of September 15, 2012 as Pollution Prevention Week.

Mayor Gilmore read and presented the Proclamation to Doug Siden and Sharol Nelson-Embry, East Bay Regional Park District.

Ms. Nelson-Embry displayed items from past coastal cleanup days; stated some of the smallest items can actually be quite pervasive and damaging to the environment and animals.

In response to Councilmember Johnson's inquiry, Ms. Nelson-Embry stated nurdles are used to make hard plastics and also come from bigger pieces of plastic; noted plastic never really goes away.

Councilmember Johnson stated smokers should not litter cigarette butts.

ORAL COMMUNICATIONS, NON-AGENDA

(12-426) Ken Peterson, Alameda, made suggestions regarding the City's budget; outlined how much the City should actually be spending.

CONSENT CALENDAR

Mayor Gilmore announced that the resolution extending the vehicle abatement program [paragraph no. 12-437] was removed from the Consent Calendar for discussion.

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

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

5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(\*12-427) Minutes of the Special City Council Meeting Held on June 26, 2012; the Special and Regular City Council Meetings Held on July 3, 2012; and the Special City Council Meetings and Regular City Council Meeting Held on July 17, 2012. Approved.

(\*12-428) Ratified bills in the amount of \$17,391,910.94.

(\*12-429) Recommendation to Award a Contract in the Amount of \$269,700, Including Contingencies, to Pacheco Brothers for Landscape Maintenance of Median Strips and Special Areas, No. P.W. 05-12-11. Accepted.

(\*12-430) Recommendation to Award a Contract in the Amount of \$53,328, Including Contingencies, to Universal Building Services for Janitorial Service in City Buildings, No. P.W. 05-12-12. Accepted.

(\*12-431) Recommendation to Award a Contract in the Amount of \$89,490, Including Contingencies, to Prime Mechanical for Annual Heating, Ventilating, and Air Conditioning Systems Maintenance in Various City Facilities, No. P.W. 05-12-13. Accepted.

(\*12-432) Recommendation to Award a Contract in the Amount of \$608,600, Including Contingencies, to Rosas Brothers Construction for Repair of Portland Cement Concrete Sidewalk, Curb, Gutter, Driveway, and Minor Street Patching, Fiscal Year 2012-13, Phase 13, No. P.W. 04-12-08. Accepted.

(\*12-433) Recommendation to Accept the Work of Gallagher and Burk, Inc. for the City of Alameda Various Streets Rehabilitation Project (Central Avenue), No. P.W. 02-09-04. Accepted.

(\*12-434) Recommendation to Approve an Agreement Between the Department of the Army and the City of Alameda for the Bay Farm Island Shoreline Protection Study, Provide a Local Match of \$360,000, and Authorize the City Manager to Execute all Required Documents. Accepted.

(\*12-435) Recommendation to Accept \$1,763,754 Grant from the Staffing for Adequate Fire and Emergency Response Program (SAFER). Accepted.

(\*12-436) Recommendation to Authorize the City Manager or His Designee to Enter into a Purchase Agreement for the Replacement of a Fire Department Ambulance. Accepted.

(12-437) Resolution No. 14727, "Extending the Abandoned Vehicle Abatement Program until May 31, 2023." Adopted.

Councilmember deHaan commended the Police Department for improvements in the abandoned vehicle program; noted areas such as Clement Street have improved; stated concerns regarding recreational vehicles have been addressed.

Councilmember Johnson stated enforcement has been improved since the Council passed an Ordinance recently; noted the resolution is regarding participation in a program which the City has participated in for 20 years.

Urged Council to review how the program works before adopting the resolution; stated due process is not allowed prior to towing; discussed the regulations and committees responsible for due process: Carol Gottstein, Alameda.

Mayor Gilmore requested a brief overview of the steps taken to abate vehicles.

The Police Chief gave a brief presentation on the process.

Mayor Gilmore inquired whether the warrant process is different from the abatement process.

The Police Chief responded in the affirmative; stated people are given notices about the upcoming abatement; Ms. Gottstein was given a couple extensions; staff works with people in tough situations.

Councilmember Johnson requested a brief explanation of the program; stated the resolution addresses participation in the program and does not define the City's process.

The Police Chief stated the program provides funding for Alameda and a number of organizations throughout Alameda County; funding comes through the Department of Motor Vehicles (DMV); the resolution does not have to do with the City's process and is just a funding mechanism for the program for the next ten years.

Councilmember Tam moved adoption of the resolution.

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

(\*12-438) Resolution No. 14728, "Approving an Amendment to the City of Alameda Executive Management Compensation Plan Established by Resolution 14699, to Establish Salary and Benefits for the City Clerk." Adopted.

### REGULAR AGENDA ITEM

(12-439) Public Hearing to: 1) Consider An Appeal of the Planning Board's Decision to Deny a Use Permit Amendment to Allow the Existing Convenience Store at the 76 Gas Station Located at 1716 Webster Street to Sell Beer and Wine;

(12-439A) Resolution No. 14729, “Upholding Planning Board Resolution PB-12-04 Planning Action to Deny Modified Use Permit PLN10-0153 to Allow the Sale of Alcohol at a Convenience Store Located at 1716 Webster Street.” Adopted; and

(12-439B) Introduction of Ordinance Amending Sections 30-4.9A of the Alameda Municipal Code Related to the C-C, Community Commercial Zone. Introduced.

The Acting City Planner gave a brief presentation and provided a revised resolution.

Councilmember Johnson inquired why the Zoning Text Amendment ordinance is part of the same report as the appeal; stated that she does not think the ordinance should have been part of the report; people looking at the report might not realize changes are being made to the City’s Zoning Ordinances.

The Acting City Planner responded the items are together because both were generated by the Applicant’s desire to redevelop; stated the Zoning Amendment is necessary if the property owner is going to redevelop the site; the actions are separate.

Councilmember Johnson questioned whether notice people would expect the ordinance change to would be part of a staff report on a project.

The Acting City Planner stated items could be separate in the future.

Mayor Gilmore inquired whether the Park Street Business Association (PSBA) weighed in on the matter.

The Acting City Planner responded PSBA weighed in on the Zoning Text Amendment, which changes the CC zoning and affects Park Street as well as Webster Street; stated that he believes PSBA also supports the applicant’s request to allow the alcohol sales.

Urged approval of the appeal and stated that it was unknown why the original restriction on selling alcohol was present: Daniel Hoy, Project Architect, representing Delong Hu

In response to Councilmember Johnson’s inquiry regarding the West Alameda Business Association (WABA) opinion, Mr. Hoy stated WABA supports the appeal and would like to see as many business opportunities on the street as possible.

Councilmember deHaan inquired about a Park Street project, to which the Acting City Planner responded the project was a convenient store and issues were related to cigarette sales.

Mayor Gilmore provided background information on the Park Street location; inquired about neighbors’ comments at Planning Board hearings.

The Acting City Planner responded neighbors were concerned about adding more alcohol sales in that immediate neighborhood; neighbors noted there are a large

number of stores and liquor outlets right around the corner and in the immediate vicinity; of the 13 places to buy alcohol in the Webster Street corridor, five locations are right within a block of the location; alcohol can also be purchased at 22 bars and restaurants; neighbors also felt there is a correlation between alcohol sales and crime in the area.

Councilmember Johnson inquired whether the City is going to prohibit other places from selling alcohol; stated if so, a policy should be made so the City does not appear to be arbitrary.

The Acting City Planner responded the Use Permit process allows the City to address the matter on a case-by-case basis.

Councilmember Johnson inquired whether or not it would be better to let people know the City's position is that there are enough places selling alcohol and more will not be allowed.

The Acting City Planner responded in the affirmative; stated an agreement would need to be reached on how to structure the zoning to make the right number clear; stated a quota is one approach some cities have taken for different uses; clear standards could be applied uniformly if an agreement could be reached; the counter argument is that setting a limit or quota might prohibit a better business and essentially does not let the market do its thing; said matters were discussed at a Planning Board meeting regarding a Chinese restaurant; the decision was quotas would not be set for Park and Webster Streets.

Councilmember Tam noted the same discussion came up about tattoo parlors; inquired whether the Arco convenient store on Park Street and Encinal sells beer and wine, to which the Acting City Planner responded in the affirmative.

Councilmember Tam inquired whether a Use Permit was required for the Arco station and whether radius and saturation were reviewed.

The Acting City Planner responded that he does not know said history; stated Use Permits are required for all convenient stores in Alameda.

Councilmember deHaan stated that he recalls the Webster Street Visioning discussions about the transition from a Navy town loaded with bars; the area seems to be a hub of Police activity; inquired if staff has determined whether liquor sales are a factor.

The Police Captain responded the City has had a slight increase in crime on the West End and on the blocks surrounding Webster Street in the last year; that he could not say the crime is directly related to alcohol sales.

Councilmember deHaan inquired whether there are loitering problems.

The Police Captain responded any liquor store would have people loiter; noted Alcohol

Beverage Control (ABC) licenses always have a condition that the owner will allow loitering on the premises.

The Deputy City Manager provided background information on ABC licenses; noted trying to get a license revoked is almost impossible.

Councilmember Johnson inquired how much of an economic disadvantage is caused from not selling alcohol; questioned whether gas stations have to compete with other stores.

Mr. Hoy responded the property owner met with a major convenient store operator; stated an analysis was done regarding the store size and necessary proportion of the store which should be dedicated to beer and wine; the amount was substantial.

Vice Mayor Bonta inquired whether staff had more information about PSBA's and WABA's positions.

The Acting City Planner responded that he could not remember WABA's and PSBA's reasoning other than wanting to support a local business person; noted that he did talk with the organizations extensively about the Zoning Text Amendment.

Councilmember deHaan stated WABA and PSBA want operational consistency.

Vice Mayor Bonta inquired whether WABA and PSBA specifically referred to the issues of alcohol saturation, residential concerns, and crime, to which the Acting City Planner responded in the negative.

Mr. Hoy noted during the Webster Street Vision Study, WABA supported bringing in all types of businesses.

Mayor Gilmore stated the current situation is not broad based; lots of businesses on Webster already sell alcohol; WABA and PSBA want more businesses and speak for members and not necessarily residents of the neighborhood; stated there are probably fewer convenient stores on Park Street which sell alcohol than Webster Street; that she is concerned permitting the easiest businesses would not necessarily attract the best businesses.

Councilmember Johnson stated the City needs gas stations and gas stations are not allowed in residential areas; questioned whether gas stations would survive without full convenience stores.

Mayor Gilmore inquired whether the gas station across the street from the project sells alcohol; if not, perhaps approval would cause the station to want to sell alcohol also.

The Acting City Planner responded alcohol is not sold at the gas station convenience store across the street.

Councilmember Johnson inquired whether other gas stations on Webster Street sell alcohol.

The Acting City Planner responded the five liquor stores in the immediate vicinity are not at gas stations.

Councilmember Tam noted the new gas stations at Nob Hill, Safeway and Harbor Bay do not have liquor sales.

The Acting City Planner noted the Planning Board was concerned about whether the project approval would set a precedent and other businesses would also ask to sell liquor.

Councilmember Tam moved adoption of the revised resolution [and introduction of the ordinance].

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

The Acting City Planner noted staff would re-notice the Zoning Text Amendment and bring back the second reading in a month.

#### CITY MANAGER COMMUNICATIONS

(12-440) The City Manager announced that the extended agenda deadlines have been in place for a year; some members of the public are still unaware of the extended noticing requirement; urged the public to look at what the Council is considering and contact elected officials with opinions or contact staff with questions prior to meetings; stated the noticing allows the Council to have a well-informed discussion of items.

#### ORAL COMMUNICATIONS, NON-AGENDA

None.

#### COUNCIL REFERRALS

None.

#### COUNCIL COMMUNICATIONS

(12-441) Councilmember deHaan expressed concern with the condition of the Webster Tube railing; further stated the Planning Board reviews upcoming items and perhaps the Council should do so.

#### ADJOURNMENT

There being no further business, Mayor Gilmore adjourned the meeting at 8:18 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- -SEPTEMBER 4, 2012- -6:00 P.M.

Mayor Gilmore convened the meeting at 6:04 p.m.

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

[Note: Vice Mayor Bonta arrived at 6:17 p.m.]

Absent: None.

The meeting was adjourned to closed session to consider:

(12-424) Conference with Legal Counsel – Existing Litigation (Pursuant to Subdivision (a) of Section 54956.9); Name of Case: SCC Alameda Point, LLC, et al v. City of Alameda, et al.; U.S. District Court Case No CV-10-5178; this is to discuss strategy regarding a lawsuit brought by our former developer, SunCal, based on the Exclusive Negotiating Agreement.

Following the closed session, the meeting was reconvened and Mayor Gilmore announced that Council gave direction to staff.

Adjournment

There being no further business, Mayor Gilmore adjourned the meeting at 6:57 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

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