

MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY- -OCTOBER 16, 2012- -7:00 P.M.

Mayor Gilmore convened the meeting at 7:04 p.m. Boy Scout Troop 16 led the Pledge of Allegiance.

ROLL CALL – Present: Councilmembers Bonta, deHaan, Johnson, and Mayor Gilmore – 4.

Absent: Councilmember Tam – 1.

AGENDA CHANGES

None.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY & ANNOUNCEMENTS

(12-494) Proclamation Declaring October 2012 as Disability Awareness Month.

Mayor Gilmore read and presented the Proclamation to Audrey Lord-Hausman, Commission on Disability Issues.

ORAL COMMUNICATIONS, NON-AGENDA

(12-495) Philip Michaels, Alameda, expressed his objection to the policy which requires that he obtain a business license for his duplex which is not being used as a rental.

Mayor Gilmore suggested that Mr. Michaels provide staff with his contact information.

CONSENT CALENDAR

Councilmember Johnson moved approval of the Consent Calendar.

Vice Mayor Bonta seconded the motion, which carried by unanimous voice vote – 4. [Absent: Councilmember Tam – 1.] [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*12-496) Minutes of the Special and Regular City Council Meetings Held on September 18, 2012. Approved.

(*12-497) Ratified bills in the amount of \$2,186,127.08.

(*12-498) Recommendation to Authorize the City Manager to Execute an Agreement Between the City of Alameda and the Alameda County Fire Department Regarding the Regional Emergency Communication Center and Fire Dispatch Services. Accepted.

(*12-499) Resolution No. 14734, "Amending Resolution No. 9460 to Reflect Current Positions and Entities to be Included in the City of Alameda's Conflict of Interest Code and Rescinding Resolution No. 14476." Adopted.

REGULAR AGENDA ITEMS

(12-500) Resolution No. 14735, "Reappointing Ray Gaul as a Member of the Golf Commission." Adopted;

(12-500A) Resolution No. 14736, "Reappointing Bill Schmitz as a Member of the Golf Commission." Adopted;

(12-500B) Resolution No. 14737, "Reappointing Jane Sullwold as a Member of the Golf Commission." Adopted;

(12-500C) Resolution No. 14738, "Reappointing Jeffrey Wood as a Member of the Golf Commission." Adopted;

(12-500D) Resolution No. 14739, "Appointing Timothy Scates as a Member of the Golf Commission." Adopted;

(12-500E) Resolution No. 14740, "Appointing Sherman Lewis as a Member of the Public Art Commission." Adopted;

(12-500F) Resolution No. 14741, "Appointing Jennifer Williams as a Member of the Social Service Human Relations Board." Adopted;

(12-500G) Resolution No. 14742, "Appointing Jennifer Watkinson as a Member of the Social Service Human Relations Board." Adopted; and

(12-500H) Resolution No. 14743, "Appointing Kimberly N. Walter as a Member of the Youth Advisory Commission." Adopted.

Vice Mayor Bonta moved adoption of the resolutions.

Councilmember deHaan seconded the motion, which carried by unanimous voice vote – 4. [Absent: Councilmember Tam – 1.]

The City Clerk administered the Oath of Office and presented certificates to Ray Gaul, Bill Schmitz, Jane Sullwold, Timothy Scates, Sherman Lewis, Jennifer Watkinson and Jennifer Williams.

(12-501) Public Hearing to Consider Ordinance No. 3057, "Amending Section 30-4.9A of the Alameda Municipal Code Related to the C-C, Community Commercial Zone to Revise Setbacks for Commercial Buildings Adjacent to Residential Uses." Finally passed.

The Acting City Planner gave a brief presentation.

Vice Mayor Bonta moved final passage of the ordinance.

Councilmember Johnson seconded the motion, which carried by unanimous voice vote – 4. [Absent: Councilmember Tam – 1.]

(12-502) Public Hearing to Consider an Appeal of Two Conditions Imposed on the Approval of a Design Review and Use Permit Application to Construct Two New Retail Buildings at 1600 Park Street; and

(12-502A) Resolution No. 14744, “Upholding the Planning Board Resolution PB-12-13 Approving Design Review and Use Permit Applications (PLN11-0378) to Construct Two New Retail Buildings at 1600 Park Street.” Adopted.

The Acting City Planner gave a Power Point presentation.

Councilmember Johnson inquired whether there would be any difference in the configuration of the parking lot if the agreement with Market Place does not go through.

The Acting City Planner responded if the agreement between the two property owners goes through, there would be access between the two parking lots; one big parking lot would serve all three buildings.

Councilmember Johnson inquired whether there are two entrances/exits from Foley Street, to which the Acting City Planner responded in the affirmative; stated the new plan would add a third egress.

Councilmember Johnson inquired how CVS trucks would get in and out of the parking lot for loading.

The Acting City Planner responded the trucks would come in from Park Street and exit Tilden Way.

Councilmember Johnson inquired whether the trucks would be able to exit on Tilden Way, to which the Acting City Planner responded in the affirmative; stated CVS wants the ability to load and unload trucks parked on Park Street before normal business hours, so as not to clog the customer parking lot.

Councilmember deHaan inquired whether the proposal would allow the activity in the parking lot daily, to which the Acting City Planner responded in the affirmative.

Mayor Gilmore inquired whether consideration was given to unloading the trucks between 8 p.m. and 11p.m.

The Acting City Planner responded in the negative; stated the scenario was not discussed; the assumption was the trucks come in the morning.

In response to Councilmember Johnson's inquiry, the Acting City Planner stated the issue is trucks in the parking lot during loading/unloading.

Councilmember Johnson stated appeals to the Council are de novo; the current hearing is not limited to CVS issues; the next time appeal notice should be described differently.

The Acting City Planner stated staff would make said correction.

Councilmember deHaan inquired whether the entry to Market Place parking lot is one-way, to which the Acting City Planner responded it is currently one-way.

Councilmember deHaan suggested trucks unload in another row, would not be as disturbing.

The Acting City Planner concurred, stated the concern would be that the truck would take longer and block two bays of parking.

Councilmember deHaan stated that changing hours to earlier was not aired with the public.

The Acting City Planner stated that the original application was for a 24 hour business; the Planning Board limited loading from 7 a.m. to 11 p.m., CVS withdrew the request for 24 hours and is an extension from 5 a.m. to 7 a.m., to allow loading and unloading before the store opens.

Councilmember Johnson inquired whether Foley Street and Tilden Way would be for ingress and egress, to which the Acting City Planner responded in the affirmative; stated Park Street would only be an ingress.

Vice Mayor Bonta inquired whether there is currently other loading activity on Park Street between 5 a.m. to 7 a.m.

The Acting City Planner responded a lot of the businesses on Park St. have rear access for unloading.

Councilmember deHaan inquired whether loading would stop at 7 a.m.

The Acting City Planner responded in the affirmative; stated an incentive would be created for CVS to finish loading before the store opens.

Councilmember deHaan inquired how trucks would be travel through Alameda.

The Acting City Planner responded both Tilden Way and Park Street are truck routes.

Councilmember Johnson inquired what would inhibit the trucks from loading after 7

a.m.

The Public Works Director responded there would be enforcement.

Mayor Gilmore called the CVS representative up to address Council questions.

Josh Eisenhut, Armstrong Development representing CVS, stated CVS is comfortable withdrawing the request for 24 hour operations, but may request the hours in the future depending on public demand; the main deliveries are expected two to three times per week, with three to four smaller trucks per day staggered throughout the week; the biggest concern is to access Park Street; exiting onto Park Street is important for several reasons: CVS's business model is driven by convenience to customers; because of the convenience of the drive thru, upgrades to the facilities and location; however, the current CVS store is profitable and above average in the region; Park Street access is causing CVS to see the project less and less attractive.

Mayor Gilmore inquired whether the traffic study prepared by CVS/Armstrong Development considered how long the cars would be queued across the sidewalk at Park Street; Foley and Tilden Streets do not get as much pedestrian traffic as Park Street does.

Mr. Eisenhut responded CVS wants to reduce the pedestrian conflicts; a stop sign would make drivers legally responsible for stopping to check for pedestrians.

Councilmember Johnson inquired what is CVS's expectation for people going back and forth between the Market Place and CVS.

Mr. Eisenhut responded the easement agreement for one cohesive, integrated parking lot is close to finalization.

Councilmember Johnson inquired if there would be a fee for parking in the CVS parking lot without the agreement.

Mr. Eisenhut responded that he is not aware of any fee.

Councilmember Johnson recommended a condition be added that prohibits a fee for parking in the CVS parking lot; stated people should not have to move their car to go to the Market Place after going to CVS.

Expressed concern about parking: Pauline Williams, Alameda.

Expressed concern about parking and urged Council not to approve the project: Mary Kay Williams, Alameda.

Expressed concern about noise and parking: Patsy Paul, Alameda (submitted letter); and Brian Kernan, Alameda.

Urged a Foley Street exit not be added and expressed concern about parking: Nanette Burdick, Alameda.

Mayor Gilmore requested CVS to address sidewalk Park Street queuing.

Rich Haywood, TJKM Transportation Consultants, stated there would be 94 vehicles in the morning and 64 in the afternoon with right turn only exiting traffic; the average delay for a vehicle exiting with a right turn would be less than 15 seconds; queuing would be one or two vehicles at the most.

Mayor Gilmore inquired if all the vehicles would cross the sidewalk, to which Mr. Haywood responded in the affirmative.

Vice Mayor Bonta inquired about the average delay.

Mr. Haywood responded the delay for exiting vehicles would be approximately 12 seconds.

Vice Mayor Bonta inquired whether the crosswalk wait would be 12 seconds and another vehicle queued behind would also wait another 12 seconds.

Mr. Haywood responded 12 seconds is the average for each vehicle.

Vice Mayor Bonta inquired whether vehicles would creep up to see the oncoming traffic; to which Mr. Haywood responded in the affirmative; stated creeping would not be for the entire 12 to 15 seconds.

Mayor Gilmore inquired whether cars would creep up over the sidewalk.

Mr. Haywood responded there would be a buffer area to the left of the vehicle as it exits, which would include a 12-foot entry lane, a cross walk on the south side of Park Street, and a 25-foot red curb.

In response to Councilmember Johnson's inquiry about the red curb, Mr. Haywood stated the red curb would be for crosswalk visibility.

Councilmember Johnson stated the City determines red zones locations, not CVS; inquired why a third driveway on Foley Street is necessary.

Mr. Haywood stated it was an additional outlet to give people another option.

Councilmember deHaan suggested the exit be closed off completely.

Councilmember Johnson stated whether two exits would be sufficient.

Mr. Haywood stated having the third driveway on Foley Street would provide another alternative.

Mayor Gilmore inquired how many employees CVS has and where employees would park.

Mr. Eisenhut responded the store will have between 25 to 30 employees; all are directed to park on site.

Mayor Gilmore inquired how many employees work per shift, to which Mr. Eisenhut responded between 4 to 8.

Vice Mayor Bonta inquired if the parking area for the employees is designated, to which Mr. Eisenhut responded in the negative.

Mayor Gilmore stated a condition requiring designated employee parking should be considered.

Vice Mayor Bonta inquired how many spaces are in the two designs.

The Acting City Planner responded the number of spaces only differs by one or two spaces; stated the advantage of the joint lot is a cleaner circulation system with two points of access onto Foley Street.

Vice Mayor Bonta inquired about the exact number of spaces, to which the Acting City Planner responded 81.

Councilmember Johnson stated a condition could be added to impose a fine on CVS if loading occurs after the designated hours.

Mr. Eisenhut stated with the reciprocal easement there would be two driveways on Foley Street; CVS would be willing to install flashing lights across the driveway [or Park Street] to warn motorists exiting the site that a pedestrian is present.

Mayor Gilmore inquired if the flashing lights would be pedestrian-activated, to which Mr. Eisenhut responded in the affirmative.

Councilmember Johnson stated relocating CVS is not the best use for the Park Street site, CVS should consider staying in the current location.

Vice Mayor Bonta inquired whether trucks arriving at 4:30 a.m. to the Market Place are violating a restriction in regards to loading times.

The Acting City Planner stated that he does not believe the business has a use permit for 24 hour operations which means loading and unloading should not occur at 4:30 a.m.

In response to Vice Mayor Bonta's inquiry about the standard, the Acting City Planner stated normal business hours in the City of Alameda are 7 a.m. to 10 p.m.; any operation outside said hours requires a use permit.

Vice Mayor Bonta inquired if a public hearing is required to approve extended hours, to which the Acting City Planner responded in the affirmative; stated the Planning Board denied CVS's request for 24-hours, but approved one additional hour in the evening to 11 p.m.

Vice Mayor Bonta stated that he understood the reason for the request to get the loading and unloading done before 7 a.m., which makes sense from a business perspective; there are different interests, including the comfort and quality of life of the surrounding residents.

Councilmember deHaan moved that the Council not allow exiting onto Park Street.

Councilmember deHaan stated the second issue is loading and unloading from 5 a.m to 7 a.m. and allowing offloading on Park Street.

Councilmember Johnson stated other issues are: not allowing an additional driveway on Foley Street, employee parking, no parking fees, and loading zone enforcement.

Vice Mayor Bonta inquired whether issues were raised during the Planning Board discussion regarding the Foley Street egress and ingress.

The Acting City Planner responded the issue was discussed; stated the Planning Board included conditions to ensure the City gets very good screening along Foley Street, including decorative hedges and walls to block noise and lights; reciprocal easement create a more unified parking lot; if the agreement is not reached and there is no Foley Street exit, that would be more pressure on the Tilden Way exit.

Councilmember Johnson stated encouraging more cars to go in and out Tilden Way because Foley Street is very small and narrow.

Mayor Gilmore inquired why loading on Park Street after 7 a.m. presents an issue as there are two lanes of traffic going down Park Street.

The Public Works director responded the concern is that trucks are wider than the parking spaces and Park Street is very narrow, which would create traffic congestion and increase delays during commute hours; unloading from 8 p.m. to 11 p.m. would allow CVS to unload on Park Street.

Mr. Eisenhut stated most deliveries occur in the morning; however, he could present the option to CVS.

Mayor Gilmore inquired what CVS's peak hours are for the drive thru.

Mr. Eisenhut responded from 12:00 p.m. to 1 p.m., and 5 p.m. to 7 p.m.

Mayor Gilmore stated unloading could be done by 8 a.m. if trucks arrive at 7 a.m.; inquired when the Market Place opens, to which the Acting City Planner responded 8 a.m. to 8 p.m.

Vice Mayor Bonta inquired what time the trucks arrive at the existing site.

Mr. Eisenhut responded he is not familiar with delivery patterns at the current location; stated schedules vary, which is why CVS is requesting the two-hour window.

Councilmember deHaan inquired whether leaving the hours as approved by the Planning Board would be disruptive, to which Mr. Eisenhut responded deliveries would not be as disruptive as during peak hours.

Mayor Gilmore stated the Council is trying to balance CVS's needs with the needs of the neighborhood.

Councilmember Johnson stated that she would prefer to not allow CVS to add a driveway on Foley Street.

The Acting City Planner stated that if CVS does not get the reciprocal access agreement with the Market Place, the Foley entry and exit would not exist and cars would go out Tilden; the two driveways at the Market Place would remain.

Mayor Gilmore noted the Council discussed requiring employee parking on site and the parking fee issue, which only becomes an issue if CVS shares parking with the Market Place.

The Acting City Planner stated the parking fee issue only applies if the reciprocal parking easement is not achieved.

Mayor Gilmore stated that she is in favor of leaving the loading zone hours with giving some leeway to unload from 8 p.m. to 11 p.m.

The Acting City Planner stated the Planning Board decided the loading had to be between 7 a.m. and 10 p.m. but the store could be open 7 a.m. to 11 p.m.; Council would just be modifying that condition to allow loading whenever the store is open; further stated the conditions the Council is interested in modifying are: 1) adding a condition about employee parking on site; 2) there is no Foley Street exit or parking fees if there is no reciprocal access easement; 3) and allowing loading until 11 p.m.

Vice Mayor Bonta stated that he does not think the extra hour to unload until 11 p.m. is beneficial.

Councilmember deHaan inquired if Vice Mayor Bonta would like unloading until 11 p.m. struck, to which Vice Mayor Bonta responded in the affirmative.

Councilmember deHaan moved adoption of the resolution with the proposed amendments [1) adding a condition about employee parking on site; 2) there is no Foley Street exit or parking fees if there is no reciprocal access easement].

Vice Mayor Bonta seconded the motion, which carried by unanimous voice vote – 4. [Absent: Councilmember Tam – 1.]

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Mayor Gilmore called a recess at 9:12 p.m. and reconvened the meeting at 9:17 p.m.

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(12-503) Introduction of Ordinance Approving a Lease and Authorizing the City Manager to Execute Documents Necessary to Implement the Terms of the Lease with Bay Ship and Yacht Corporation for an Initial Term of 20 Years, with Two 20 Year Options and a 6 Year Option, for a Total of 66 Years, for the Tideland Property Located at 2900 Main #2100 and Surrounding Area. Introduced.

The Economic Development Division Manager gave a presentation and the City Manager discussed the importance of the lease.

Provided background information on Bay Ship and Yacht: Leslie Cameron, Bay Ship and Yacht (submitted letters).

Urged approval of the lease: Alan Cameron, Bay Ship and Yacht; George Phillips, Alameda; Svend Svendsen, Alameda Marina; John Platt, West Marine; Bobby Winston, Alameda.

Councilmember deHaan stated that he appreciates the 66 year commitment.

Councilmember Johnson stated Bay Ship and Yacht has always been a treasure of Alameda; commended the business's training programs; stated Bay Ship and Yacht is a leader; more employers should train people for specialized jobs; she is happy with the long term commitment between the City and Bay Ship and Yacht.

Vice Mayor Bonta thanked Bay Ship and Yacht for all the great work as a business for the maritime community and community.

Vice Mayor Bonta moved introduction of the ordinance.

Councilmember Johnson seconded the motion.

Under discussion, Mayor Gilmore thanked Bay Ship and Yacht; stated that she is

thrilled to continue the partnership and expects nothing but wonderful things going forward.

On the call for the question, the motion carried by unanimous voice vote – 4. [Absent: Councilmember Tam – 1.]

(12-504) Introduction of Ordinance Amending the Alameda Municipal Code by Amending Section 1-5.4 (Liability for Costs) of Article V (Penalty Provisions; Enforcement) of Chapter 1 (General) to Provide Reciprocity in Provisions for Recovery of Attorneys' Fees. Introduced.

The Acting City Attorney gave a brief presentation.

Mayor Gilmore stated that she does not like the reciprocal agreement requirement, yet understands State law requires the provision.

Vice Mayor Bonta moved introduction of the ordinance.

Councilmember Johnson inquired whether the provision might not apply because Alameda is a Charter City.

The Acting City Attorney responded the provision does apply to Alameda.

Councilmember deHaan seconded the motion, which carried by unanimous voice vote – 4. [Absent: Councilmember Tam – 1.]

CITY MANAGER COMMUNICATIONS

(12-505) The City Manager announced a special meeting would be held on October 30th to receive the Pension Reform report and allow input on upcoming labor negotiations.

COUNCIL REFERRALS

None.

COUNCIL COMMUNICATIONS

(12-506) Councilmember deHaan inquired when Council would receive a status report on Fire Department work shifts.

The City Manager stated the status report was not up for review yet.

(12-507) Councilmember Johnson requested information from the School District on the wall recently put up.

The City Manager stated the matter could be addressed at an upcoming joint City

Council, School Board meeting.

(12-508) Mayor Gilmore announcement that she attended the Alameda County Mayor's Conference.

(12-509) Vice Mayor Bonta announced that he attended the Alameda Filipino American History Month Celebration; the Partnership Walk Against Global Poverty, and the Walk and Roll to school day event at Otis Elementary School.

ORAL COMMUNICATIONS, NON-AGENDA

(12-510) "Happy" Nancy Montano Jonvbeh, Oakland, requested assistance with getting her dog back from the Alameda Animal Shelter.

ADJOURNMENT

There being no further business, Mayor Gilmore adjourned the meeting at 10:16 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 16, 2012- -6:00 P.M.

Mayor Gilmore convened the meeting at 6:03 p.m.

Roll Call – Present: Councilmembers Bonta, deHaan, Johnson, and Mayor Gilmore – 4.

[Note: Councilmember Johnson arrived at 6:04 p.m.]

Absent: Councilmember Tam – 1.

The meeting was adjourned to closed session to consider:

(12-492) Liability Claims (54956.95); Claimant: Maria Martinez-Granata; Agency Claimed Against: City of Alameda

(12-493) Conference with Legal Counsel – Anticipated Litigation; Significant Exposure to Litigation (54956.9); Number of Cases: One

Following the closed session, the meeting was reconvened and Mayor Gilmore announced that regarding Liability Claim, direction was given to staff; and regarding Anticipated Litigation, direction was given to staff.

Adjournment

There being no further business, Mayor Gilmore adjourned the meeting at 6:40 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

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