



**NOTICE OF SPECIAL MEETING
ALAMEDA RECREATION AND PARK COMMISSION
MINUTES FOR SPECIAL MEETING**

SPECIAL MEETING MINUTES

DATE: Thursday, October 5, 2009

TIME: 7:00 p.m.

PLACE: Room 360, City Hall, corner of Santa Clara Avenue and Oak Street, Alameda, CA 94501

1. CALL MEETING TO ORDER

Terri Ogden, Recreation Commission Chair, called meeting to order.

2. ROLL CALL

Present: Chair Terri Ogden, Vice Chair Joe Restagno , Commissioners Mike Cooper, Jo Kahuanui and Bill Sonneman

Staff: Ann Marie Gallant, Interim City Manager (ICM)
Dale Lillard, ARPD Director

Absent: Commissioners Lola Brown and Gina Mariani

3. NEW BUSINESS

A. Discussion and Review of Proposed Revised Projects for East Bay Regional Park District (EBRPD) Measure WW Funds – (Discussion/Action Item)

Director Lillard introduced Ann Marie Gallant (ICM) to discuss the proposed revised projects for EBRPD Measure WW Funds. This item was a referral from a Council Member which is honored if there are three votes from the Council for staff to analyze the issue. That referral was referred to staff with a series of questions. The two biggest tests were eligibility and proof of financial capacity. For the last 30 days there has been extensive research and staff time put into this issue.

Both the ICM and City Attorney have requested a written opinion from the Bond Counsel as to the eligibility of this project. The City has heard informally the EBRPD comments from their staff. It is our understanding that the EBRPD Counsel gave a preliminary determination that this project was eligible, but the District Counsel is not their Bond Counsel. The City felt that the safest view would be to have the Bond Counsel give an opinion. As of today the Bond Counsel has not given us their opinion. We received an e-mail late Friday (10/2/09), after the City Council Agenda had gone

out, that the Bond Counsel will need a few more weeks to be able to provide an opinion because this project is more complicated than a normal project. Therefore, the action tomorrow night (absent a change in motion) will be to follow through on what the City Council's motion was which is absent the two pieces, only one of which they have. Without the other piece showing up, the Council's prior motion would be to continue this issue until they receive that information. Absent the Bond Counsel letter the prior motion would be to continue this item until such time as we have received the letter from the Bond Counsel. They have said that it will be several weeks so we are figuring a 30 day continuance. There is a possibility that the Council could pass a motion to amend their prior motion. Ms. Gallant feels that is unlikely but there is a possibility. Other than that it is on the agenda schedule. Since we do not have the letter it will be continued for 30 days until the information is received.

Chair Ogden clarified that we have to wait until the Council Meeting on Tuesday, October 06, 2009, to see if the Bond Counsel Letter is received. ICM Gallant stated that we received the e-mail that it will take several weeks so she does not feel that it will show up. She anticipates that the Bond Counsel will have to do a lot of due diligence.

Commissioner Cooper asked about the loan of \$1 million. ICM Gallant stated that in terms of eligibility of Measure WW when she raised the issue with EBRPD staff they stated that they were not so sure about it. In actuality, they cannot really opine or give us an opinion as to whether we can loan our money. The bottom line is if this project is eligible, it is eligible. Whether we choose to loan it to someone else or give it to someone and make them pay it back is a separate agreement between us and the recipient of the money. As long as we are loaning it for a legitimate project under Measure WW, it is the eligibility that is going to drive this issue. Whether we choose to do it on a loan basis or partial funding is really up to the City and is really a joint use agreement between us and the Boys and Girls Club.

The Joint Use Agreement for the loan would be a separate agreement between the City and the Boys and Girls Club. It does not drive the eligibility of the Measure WW. If we choose to do it as a loan it is our (City) option to do it as a loan. The Bond Counsel cannot opine on that, the Bond Counsel can only opine as to whether the use of the dollars are legitimate under the Bond resolution.

Commissioner Restagno asked if we know the term of the loan. ICM Gallant stated that the action of this Council is only to amend the list subject to a Joint Use Agreement, Loan Agreement, terms and conditions of the arrangement between the City and Boys and Girls Club.

Commissioner Restagno asked if it could be a 50 year loan and those funds could potentially never funnel back into the Recreation and Park Department. ICM Gallant stated that it could be, but that is not what we have talked about. We have not come to an agreement about it, but what we have talked about is 5 years. Since we do not have an executed agreement, it would have to be memorialized in an agreement which both the Boys and Girls Club and City Council approved.

Jean Sweeney, Alameda resident, asked how the loan would be secured; by a piece of the building or what. ICM Gallant stated that in negotiating an agreement for long repayment there are several things that could be done. Basically, in negotiating an agreement for loan repayment there are several things that can be done. We could look

for security/collateral as part of their endowment fund, use security as part of the building, etc. There are all sorts of things that could be negotiated in the term.

Barbara Kerr, former Council Member and Alameda resident, stated that if it is not a building it does not count, right? ICM Gallant stated that if the Bank of Alameda is willing to take the endowment as collateral then the City should be able to do an agreement.

Commissioner Cooper asked why the Boys and Girls Club needs to borrow \$1 million when they have \$3 million in cash. ICM Gallant stated she cannot answer for them, but their endowment monies are used to generate interest which pays for their operating costs. Nobody will use an endowment dollar for capital if they are using it for operating costs.

Commissioner Restagno stated that nest eggs/endowments are to be used in dire situations and current conditions are dire.

Commissioner Cooper asked why we (City) would donate to a private concern when we ourselves are cutting our programs to the bone. This does not make sense and does not sound like good business. ICM Gallant stated that she felt it was a very good deal in terms of a compromise solution. What we are proposing is to substitute \$1 million of the projects on the proposed list on the west side for \$1 million of the Boys and Girls Club. Basically, loan them \$1 million for five years for getting the monies back. As an example, if you look at the original proposed list you get the same amount of money back within 5 years that you would spend on other projects.

In looking at the original Measure AA funds that were spent before, you get the same amount of money back within 5 years that you would spend on other projects. The original Measure AA funds were not spent in 48 months. It took approximately 6-7 years. We could not do \$4.5 million worth of capital projects in 36 months; we do not have the staff to do it.

Also, in terms of cutting staff government operates on colors of dollars. These are capital project monies not operational dollars. So we could not use the funds to pay for recreation and park programs.

Chair Ogden stated that we could use the monies for facilities. ICM Gallant stated they could be used for hardscape.

Chair Ogden stated that we have a lot of projects for hardscape that need to be done. ICM Gallant stated that she did not disagree with that statement.

ICM Gallant stated that she knows there is a lot of need. There is no opportunity here in a significant amount, absent this kind of Measure WW, to generate a lot of capital dollars for park acquisition and development. Vice Chair Restagno stated that is what Council needs to think about. In his speaking with some individuals, what he is hearing is that if these monies go to a private non-profit organization the next time a bond measure comes up there is not a snow balls chance that it will pass. Mr. Restagno stated that he does not feel that anybody reading through the Measure WW materials could have envisioned that the funds would go for such a use. To have the voters treated in such a way will have long-term ramifications for future park and recreation

bond measures. He himself would never vote for a bond measure again unless something was in it specifically stating that it would not go to non-profit, private organizations. The Boys and Girls Club is a great organization. They have the ability to get funding in many ways. Mr. Restagno wishes them all the best and that it will help in serving youth. We are talking about the masses, tens of thousands of citizens for whom the \$1 million could be used.

Vice Chair Restagno stated that he knows that the ICM is not the decision maker. Chair Ogden stated that in essence the ICM is making a decision by making the recommendation to the Council. ICM Gallant stated that with all due respect she does not make the vote. Staff was directed to give them (Council) an objective based on the referral which had a majority vote to give them an analysis on two aspects: funding and finances to what was a wise choice. She herself and the City Attorney both stated that they would not comment or opine on the eligibility list. It is not their (ICM of City Attorney) call.

ICM Gallant stated that her job is to do the best that she can independently regardless of everybody's personal, political, and professional views. She feels that it is the best way to accomplish the best of both worlds. The Commission can agree or disagree, but it was an objective analysis and it is up to Council to decide whether or not they want to use their money in that way. But, first they cannot make that decision until we get the eligibility. That is the key right now.

Ms. Sweeney asked if the loan is going to be encumbered by the construction loan. There is a lot of construction out there, would the City's encumbrance be first. ICM Gallant stated that the City could do a soft second that is very common in government, but it would be subject to the terms and conditions that are negotiated in the agreement.

ICM Gallant stated that as an example lets say that the Bond Counsel wrote the letter and the Counsel said the project was eligible and this letter is in the Council packet for tomorrow night. All the Council can do on Tuesday night is amend the Measure WW Project List. The Council would still have to approve the joint use agreement for the space and the loan agreement terms and conditions. Should the Boys and Girls Club go ahead with the project and take that calculated risk and should the Council in the future not like the deal negotiated, the risk is that we have no responsibility at the City level to write that check for \$2 million. It is the first step in the process and know that the use agreement and terms and conditions of the loan still have to be worked out and that is a lot of paperwork. It takes a long time to get those documents drafted.

Barbara Kerr stated that this is called people creeping in the back door. They get one thing approved and then they use that as an excuse to get the next thing approved. She has seen this happen time after time. Ms. Kerr referred to the County Council summary of Measure WW which was on the ballot. Voters depended on this analysis when they went to vote. The summary talks about local cities and counties acquisition and development of parklands. Parklands is used several times throughout the ballot measure itself, recreation facilities is used once but it is certainly within the context of park lands. Under no circumstances is the Boys and Girls Club cleared to provide more park space. In looking at the core program of the Boys and Girls Club it is a social service club. Ms. Kerr is hoping that the Recreation and Park Commission will rewrite the letter that they sent to Council from the last Special Recreation and Park Commission Meeting on September 10, 2009 with a revised date. One of the items

removed from the project list that bothers Ms. Kerr is that the improvement of the Alameda Point Gym has been eliminated in order to build a new gym. As the Mayor pointed out at the last Council Meeting, why should we spend \$2 million for a new gym when we could spend a fraction of that on a much bigger gym that we are most likely to get title to ourselves? Do you really want to spend \$2 million for a new gym when we could use our precious City dollars to renovate something that we are very likely to get later?

Joe Woodard, Alameda resident, stated that they spent time walking the neighborhoods trying to get peoples opinion and hopefully a signature on a letter included in the Council packet for tomorrow night asking the Council to remember the promises made about Estuary Park and parks in general in the City. Everyone was interested and more than half knew what was going on. Everyone is aware of how important park systems are to everyone. It is not going to be acceptable to anyone that we talked to in our neighborhood that this use of monies is legitimate. Nobody voted for this project. The group was happy that the Recreation and Park Commission's letter was included in the Council packet and appreciate it greatly. The group hopes that the Commission will stick to their guns.

Chair Ogden stated that she wanted to go over some capital improvement projects and would like a follow up on the following:

- Lincoln Park irrigation improvements – Director Lillard stated it was tabled for lack of funding.
- Veteran's Building Elevator – Director Lillard stated that is still on the list.
- Veteran's Building Kitchen – Director Lillard stated that this is unfunded.
- ADA Upgrades to Parks – Director Lillard stated the parks are done as they are renovated. Play areas are all done. Buildings still need work.
- Lights – Director Lillard stated that they are still on the list.
- Krusi Park Building – Director Lillard stated that it is one of the top three on the list.
- Tennis Courts – Director Lillard stated that they are on the list.
- Washington Park Basketball Courts – Director Lillard stated that they are on the list.

Chair Ogden stated that the Boys and Girls Club gets their building but we do not get our upgrades. Director Lillard stated that the list that is in the packet will come back to the Commission for approval. Chair Ogden stated why should we even bother.

Red Wetherill, Mastick Board Director and Alameda resident, asked how many years parks renovations have been differed. Director Lillard stated that it has been a while. The last time the tennis courts at Washington Park were done was approximately 8-10 years ago.

Ms. Sweeney asked how many parks are in danger of being closed for lack of safety due to lack of maintenance; for instance possible lawsuits due to accidents that could be prevented if courts were resurfaced, etc. Director Lillard stated that at this point there are no parks scheduled to be closed. Of course the further you defer the list it will be come more urgent. Ms. Kerr stated it will also become more expensive. Director Lillard stated that is true.

Vice Chair Restagno stated that the bigger issue is that we know there are deficiencies and issues. It is known by the City that if something happens there is liability. That may cost more than \$1 or \$2 million that is going somewhere else. We need to think about what the cost potential will be when the Council, Commission, City, etc., knew that they were deficient and needs to be addressed.

Ms. Kerr stated that she is very concerned about the Mastick Senior Center. It was first in line to be cut last time and asked where it stands now. Director Lillard stated that Mastick is fully funded in the next two year cycle. The original issue was that Mastick was used as an example in that if we needed to cut \$500,000 - closing Mastick would equal that amount. It was used as an example to show that we were way past the cutting of line items in the budget.

Mr. Wetherill asked if the Measure WW money was allocated for 20 years. Director Lillard stated that we have 10 years to spend the money which would put it out to 2019.

Ms. Helena Lengel, teacher at College of Alameda, stated that she agreed with the issue that Commissioner Restagno brought up with regard to liability issues. She works for College of Alameda and they had several issues come up where people were getting hurt because the District was unable to make repairs because of lack of funding. The City will end up putting a lot of money into law suits and medical settlements if repairs are not kept up.

George Phillips, Boys and Girls Club Director, discussed the need for facilities in the west end of town and requested that the City become a partner in meeting those needs.

Chair Ogden pointed out that in recent years the City has opened 2 new facilities in the west end which were the newly renovated Washington Park Recreation Center and the newly constructed Bayport Park site.

Commissioner Sonneman expressed support for all the youth serving groups in Alameda but has difficulty in seeing a connection that would allow the use of Measure WW funding to complete construction of a building owned solely by a non-profit organization.

Vice Chair Restagno asked if the project could be phased-in allowing the project to be started with the funds currently available. Mr. Phillips responded that such a concept was possible but pointed out that the savings may not be as sustainable as estimated due to increased costs for mobilization and the dynamics of large scale construction. It would also limit their ability to provide programming.

Commissioner Sonneman inquired about the progress of a joint use agreement. ICM Gallant stated that initial talks have begun but no final document is in place.

Mr. Wetherill discussed the need for the Alameda Boys and Girls Club project to downsize and stay within its financial means.

Commissioner Kahuanui asked about the time line for application. Director Lillard outlined the guidelines as required by EBRPD.

M/S/C COOPER/KAHUANUI (approved)

“That the original letter from the Commission be resubmitted with the current date to say that the Commission had reviewed the Council staff report and still opposes providing Measure WW funding for the Boys and Girls Club project.”

Approved (4): Ogden, Restagno, Cooper, Kahuanui, Sonneman
Absent (2): Brown and Mariani

4. ADJOURNMENT

Adjournment was at 8:00 p.m.