



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY
3160 Airway Avenue Costa Mesa, CA 92626 (949) 252-5170 Fax (949) 252-6012

MINUTES OF REGULAR MEETING

MAY 21, 2020

PLACE: John Wayne Airport Administration Building
Airport Commission Hearing Room
3160 Airway Avenue
Costa Mesa, California 92626

TIME: Regular Meeting called to order at 4:00 p.m. by Chairman
Gerald Bresnahan

COMMISSIONERS PRESENT: Stephen Beverburg, Gerald Bresnahan, Mark Monin,
Austin Lumbard via telephone, Alan Murphy via
telephone, Schelly Sustarsic via telephone
Alternate Commissioners Present: Tim O'Rourke via tele-
phone

COMMISSIONERS ABSENT: None

STAFF PRESENT: Lea U. Choum, Executive Officer
Jeff Stock, County Counsel via telephone
Julie Fitch, Staff Planner
Martha McCool, Recording Secretary

PLEDGE: Chairman Bresnahan led all present in the Pledge of Alle-
giance.

APPROVAL OF MINUTES:

A motion to approve the minutes was made by Commissioner Monin and seconded by Commissioner Beverburg. Commissioner Sustarsic abstained. Commissioners Lumbard, Murphy and Chairman Bresnahan voted for the approval of the minutes from December 19, 2019.

INTRODUCTIONS:

Gerald Bresnahan, Chairman, read various instructions regarding the first telephonic ALUC meeting and COVID-19 concerns. The public was given the opportunity to provide public comments. A 3:00 p.m. deadline was given and no comments were submitted to staff.

NEW BUSINESS:

1. Election of Officers:

Lea Choum, Executive Officer, opened nominations for Election of Chairman for the Airport Land Use Commission. Commissioner Mark Monin nominated current Chairman Gerald Bresnahan and Commissioner Sustarsic seconded the motion. A roll call vote was taken. The motion carried unanimously to elect Gerald Bresnahan as the Chairman for the Airport Land Use Commission.

Chairman Bresnahan opened nominations for Vice-Chair. Alternate Tim O'Rourke nominated current Vice-Chair Mark Monin. Jeff Stock, County Counsel verified that the nomination from an alternate was acceptable. Stephen Beverburg seconded the motion. A roll call vote was taken. The vote carried unanimously for Mark Monin to serve as Vice Chairman for the Airport Land Use Commission

2. City of Santa Ana: Request for Consistency Determination for Proposed General Plan Amendment, Zone Change, and Bowery Mixed Use Project

Julie Fitch, Staff Planner, presented the staff report for the City of Santa Ana's proposed General Plan Amendment and a Zoning Change for the Bowery Mixed-Use Project.

Staff's concern for this proposed project is the residential component, which would introduce over 1,150 housing units in close proximity to overhead flight. The proposed project meets the AELUP for JWA's technical requirements for height, obstruction and noise, but staff took into consideration the broader mission of ALUC, which is to protect the safety and welfare of the public. Based on the review and information submitted by the City of Santa Ana and the developer, staff recommends that the commission find the proposed project inconsistent with the AELUP for JWA per AELUP sections 1.2 and 2.1.4 and Public Utilities Code Section 21674 which states the commission is charged by PUC Section 21674(a), to assist local agencies with compatible land uses in the vicinity of airports, and Public Utilities Code section 21674(b) to coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation while at the same time protect public safety and welfare.

For the ALUC meeting, staff received a comment letter from the City of Santa Ana and a presentation packet from the developer. These items were emailed to commissioners and copies were provided to those present at the meeting.

Ali Pezeshkpour, Senior Planner, spoke on behalf of the City of Santa Ana, and also stated that Jerry Guevara, Assistant Planner and Vince Fregoso, Planning Manager were also on the conference line. Mr. Pezeshkpour clarified that the city will have a notification of Airport in the vicinity for future residents of the development, the policy letting residents know that the property will be subject to overflight will be included in the final Mitigation Monitoring Reporting Program for City Council consideration.

Nick Johnson, the developer representative, spoke on behalf on the project and thanked the commission for the opportunity. Mr. Johnson stated that he believes the project is consistent with the ALUC's policies. The project provides a way of meeting housing objectives throughout the region, in a way that is economically viable and in collaboration with nearby communities of Tustin and Irvine. Mr. Johnson stated the proposed project is consistent with the ALUC policies regarding safety, height restrictions and overflight. Mr. Johnson reported that the City will also bring the mitigation measures back to comply with notification policies for leaseholders and for notice of aircraft overflight in the outdoor recreation areas.

Chairman Bresnahan asked for clarification on the overflight protection comment in the presentation. Mr. Johnson stated that in terms of FAR Part 77, obstruction and notification surfaces, the purpose is to ensure that if there are height issues associated with the project that the FAA will be properly noticed and that the proposed project is outside the safety zones. The CNEL noise contours were reviewed for both the AELUP for JWA and JWA's recent EIR 627, with future considerations for traffic from 2026. The developer recognizes that the project is close to the airport and has residential development associated with it, and respects what the ALUC does for mitigation. Even though the project may be consistent with the noise standards, they will inform residents of the location and the proximity of an airport. They want to reassure the commission that this project meets the standards, relative to what the ALUC represents.

Chairman Bresnahan opened the floor for public comment. No response or emails were received from the public.

Commissioner Murphy asked Jeff Stock, Deputy County Counsel, if ALUC has jurisdiction over the proposed project due to discussions between ALUC staff, the City of Santa Ana and the developer related to the project being within the airport planning area. He also requested a determination as to whether staff's criteria to find the project inconsistent was correct.

Mr. Stock explained that in regard to jurisdiction, the ALUC has jurisdiction because the City of Santa Ana voluntarily submitted and requested a determination review via a letter submitted in April 2020. Mr. Stock acknowledged that there was a discussion between the developer and staff as to whether the project fell within the airport planning area. When you look at the AELUP for JWA, the conclusion that the project is within the notification area and needed to be submitted to ALUC is supportable due to two reasons. The first is that the definition of the planning area is shown on Figure 1 of the AELUP for JWA, and the other is that there is a more elemental approach that is set forth in Section 2.1.6 of the AELUP for JWA, which says that Appendix D defines the planning area. Appendix D has a diagram that shows FAR Part 77 at 20,000 feet radius around JWA. Staff determined this proposed project is

within this area. ALUC has jurisdiction over all three of the issues before the Commission, the general plan amendment, the zone change and the proposed Bowery Project.

Mr. Stock also confirmed staff's review was appropriate. The commissioners can look broadly or generally at these issues. It is legally supportable by statute and by the AELUP for JWA. The duties for the commission are to protect the general welfare of the public. When you look at all of the elements within the AELUP for JWA, in Section 3.2.1, any land use may be found to be Inconsistent with the AELUP which; (1) Places people so that they are affected adversely by aircraft noise, (2) Concentrates people in areas susceptible to aircraft accidents, (3) Permits structures of excessive height, or (4) Permits activities that would adversely affect aircraft operations.. Based on the broad principles the first and second ones apply to where staff has focused. The first is that people would be in the position to be adversely affected by the aircraft noise and second is that the proposed action concentrate people in a manner that would make it susceptible to aircraft accidents. This is where you can see a difference of opinion between the City of Santa Ana and the developer and ALUC staff. There is a general plan amendment, a zone change and a proposed project, that ALUC has jurisdiction to hear and were asked to hear. The commission should look at the general policies behind a proposed project and determine if it is consistent or inconsistent.

Commissioner Lumbard stated that he has a different perspective as he is on the ALUC as a city representative, he is a council member for the City of Tustin. The proposed project is close to Tustin and Irvine and he believes the issue is not the minimum technical requirements, but the spirit of the charter for the ALUC goals. The proposed project is a mixed-use project and is located on the east side of the 55 freeway, within the airports general planning area. He stated that the project should be reviewed based on the well-being of the public. Commissioner Lumbard reported that the cities of Tustin and Irvine have communicated concerns to the City of Santa Ana.

Commissioner Sustarsic is familiar with the area and is aware of the overflight. She has heard the aircraft, even though she was not directly under a flight path. She is glad to see that the developer and city agreed to put the notifications in the leases and rental agreements. She asked about signage for the rooftop deck and the developer confirmed the signage would be provided for outdoor areas. She feels the ALUC has jurisdiction over the proposed project and agrees with the ALUC's mission to protect the public, as well as to protect the airport. She also expressed concern about the zone change which can lead to future residential development.

Commissioner Beverburg asked about the 1,150 plus apartments and the business space, specifically as to how they would increase the amount of people in the area. Mr. Pezeshkpour clarified that it would be 2,000 individuals spread over 14 acres at a 70 dwelling unit per acre category. The occupancy of the commercial component will depend on what type of tenant occupies the space; the spaces are built to accommodate different types of tenants including cafés, restaurants and retail shops and a food hall.

Commissioner Beverburg also questioned the flight tracks, as they appear to be commercial flights and did not show general aviation aircraft, or helicopter tracks. Ms. Choum confirmed

that staff worked with the noise office and pulled a random date that reflected less general aviation flight tracks.

Commissioner Monin commented on the significant amount of general aviation traffic in the area and that a lot of noise will be generated. He commented on the previous project submittal, the Heritage Project being inconsistent. Ms. Choum confirmed the project was similar and was heard by ALUC in 2015. Commissioner Monin questioned and confirmed with the developer that the building and construction will meet quality-building standards, which will provide sound attenuation. Comments were also made about rooftop pools and spaces. Mr. Jeremy Ogulnick, the developer, commented that he just visited the Heritage Project and did not find any issues with noise. The Heritage project has not had noise complaints and has 200 of 1,200 units leased.

Commissioner Murphy commented that he is not swayed by the developer's analysis regarding overflights. The general aviation aircraft can generate as much noise and noise complaints as a commercial flight. He thanked counsel for answering his previous questions. The proposed project area has been a commercial and industrial use area, and JWA is a busy airport and although he does understand the cities and developers interest in providing housing, this location is not meant for a project like this. Based on his past experience, there will be many complaints by residents in the area and the airport will spend a substantial amount of time dealing with those issues. Commissioner Murphy also acknowledged Commissioner Lumbard's overall view and focus on the impact to the public as it relates to airport operations and other issues to the cities of Tustin and Irvine but noted that the ALUC focuses on said policies.

Commissioner Murphy made the motion to accept the staff recommendation, Commissioner Lumbard seconded the motion. Chairman Bresnahan mentioned that he and Commissioner Beverburg are second-generation ALUC members. His father was the first secretary to the ALUC, and a former JWA airport manager who was committed to good planning around airports. The light industrial zones that exist around the airport are there for a good reason, and changing that use by adding residential is not good. He stated that he would not support the project because he believes the existing general plan and zoning designations should remain. The proposed project would put people in harm's way.

Commissioner Beverburg was glad to see the addition of the notification of airport in the vicinity policy in the leases and posted in common outdoor areas. He mentioned that Los Angeles County used to have 70+ airports, but now they have three, because people have moved in and demanded that the airports be closed because of the noise. His biggest concern is that these types of projects have people move in and, even with an aviation easement, still want to sue the airport and have it closed.

Commissioner Lumbard commented that the reason that there is a City representative on the commission is to look at other issues in addition to AELUP policies and he doesn't agree that the existing Heritage Project provides a reason to approve this project.

A roll call vote was taken and the motion was approved via a unanimous vote finding the City of Santa Ana's proposed Zone Change, General Plan Amendment and the proposed Bowery Mixed Use Development, inconsistent with AELUP for JWA per AELUP Sections 1.3 and 2.1.4 and the PUC Section 21674 which state that the commission is charged by PUC Section 21674(a) "to assist local agencies in ensuring compatible land uses in the vicinity of...existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses," and PUC Section 21674(a) "to coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety and welfare."

3. **Administrative Status Report**

Lea Choum, Executive Officer, spoke of the correspondence that includes JWA statistics for November through March as well as other correspondence to the City of Santa Ana and City of Buena Park.

4. **Proceedings with Consistent Agencies:**

Nothing new to report.

5. **Proceedings with Inconsistent Agencies:**

Nothing new to report.

6. **Items of Interest to the Commissioners:**

Commissioner Beverburg discussed his concern regarding future projects being found inconsistent and overruled due to financial gains for city projects. Commissioner Monin reported that airport traffic was at 3% at the start of the pandemic but is now at 9% but numbers are low nationwide. These numbers were reported at the Airport Commission meeting held on May 6, 2020

Chairman Bresnahan polled the commissioners on the meeting format. It was agreed that the format worked well.

7. **Items of Interest to the Public:**

Nothing new to report.

ADJOURNMENT:

There being no further business before the Commission, the meeting was adjourned at approximately 5:15 p.m.

Respectfully submitted,

A handwritten signature in blue ink that reads "Lea U. Choum". The signature is fluid and cursive, with a long horizontal stroke at the end.

Lea U. Choum
Executive Officer