



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

September 16, 2021

- 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
Commissioner Monin
- COMMISSIONERS PRESENT:** Mark Monin, Stephen Beverburg, Alan Murphy, Schelly
Sustarsic
Austin Lumbard via telephone
- Alternate Commissioners Present: Vern King
Patricia Campbell via telephone
- COMMISSIONERS ABSENT:** Gerald Bresnahan
- STAFF PRESENT:** Lea U. Choum, Executive Officer
Jeff Stock, County Counsel via telephone
Julie Fitch, Staff Planner
Martha McCool, Staff Assistant
- PLEDGE:** Vice-Chairman Monin led all present in the Pledge of
Allegiance.

INTRODUCTIONS:

Vice-Chairman Monin read various instructions regarding the telephonic ALUC meeting and COVID-19 concerns. The public was given the opportunity to provide public comments; two comments were received for Agenda Item 1 and will be read into the record.

APPROVAL OF MINUTES:

A motion to approve the minutes from the November 19, 2020, meeting was made by Commissioner Beverburg and seconded by Commissioner Murphy. Minutes were approved by all Commissioners.

NEW BUSINESS:

1. City of Newport Beach Request for Consistency Determination for the Housing Element

Julie Fitch, Staff Planner, presented the staff report for the City of Newport Beach's request for a consistency determination for the proposed update to the Housing Element.

Ms. Fitch provided an overview of the proposed update; she concluded the staff report by recommending that the Commission find the proposed Housing Element Update, inconsistent with the *AELUP for JWA*.

Ms. Fitch reported that representatives from the City of Newport Beach were present for the meeting; Jim Campbell, Deputy Community Development Director, and Ben Zbeda, Senior Planner.

Mr. Campbell stated that the City is proposing to locate housing by the airport because of a state mandate requiring that they plan for 4,800 new units in the City. The airport area is not the first choice for these sites and only 25% of the new housing sites are proposed for the airport area. Housing is being proposed in the 65 CNEL noise contour and Safety Zones 4 and 6, but avoiding the 70 CNEL noise contour and Safety Zones 1,2,3 and 5. The City will provide all the necessary mitigation measures for any future housing that goes into these areas. Notification requirements will also be maintained, including FAA considerations. The Housing Plan will be followed up with a comprehensive update to the Land Use Element in the General Plan and will be where the housing allocations will be made over the next three years and will also be heard by the Commission. The plan will be taken to the City Council.

Mr. Campbell thanked the ALUC staff for their time in reviewing the Housing Element Update.

Commissioner Beverburg commented that heliports were not proposed in the Update but wanted to confirm there is language regarding heliports included in the General Plan. Ms. Choum stated that language is included in the Land Use Element of the City's General Plan, stating that heliport projects would have to be submitted to the Commission for review.

Commissioner Beverburg also pointed out that although no housing sites are proposed in the 70 CNEL, what would deter the City from building in 70 CNEL in the future? Mr. Campbell explained the City has no intent to put housing in the 70 CNEL and if they did in the future, it would require a two-step process, including ALUC review.

Commissioner Murphy acknowledged the Housing Element requirements and appreciates the City's effort. He wanted to confirm that the City will be approving the Housing Element Update in January, which will cause the General Plan to be updated to reflect any changes. He also asked about updating other specific plans. Mr. Campbell said they would update other specific plans, like the Santa Ana Heights Specific Area Plan, which resides in their zoning code. Zoning Code Amendments and a Land Use Plan Update will be done, with the process taking about three years.

Commissioner Murphy pointed out the 2006 Cooperative Agreement between the City of Newport Beach and the County of Orange, which calls for the Santa Ana Heights Specific Area Plan to not be modified without County consent. Commissioner Murphy asked Mr. Campbell if the City would go to the County for permission. Mr. Campbell stated that they have to because of the agreement and conversations which will need to occur with the County. Commissioner Murphy also mentioned that the City's consistency status would change if there is a change to the Santa Ana Heights Specific Area Plan. Mr. Campbell noted that the Housing Element Update could change before the General Plan is updated and recommended waiting to see what happens before that determination is made for the City.

Alternate King inquired about how the City plans to keep housing out of the 65 CNEL to 70 CNEL contours years from now. Mr. Campbell said that it would be an item for the future but agreed that it is not a great area.

Commissioner Sustarsic asked about removing housing units. Mr. Campbell stated the City's plan includes a buffer amount of housing units and that the City Council is requesting a low buffer amount, but housing units can't be taken from these sites as they will still need to be made up for elsewhere.

Commissioner Sustarsic also asked about suitable parcels and how the parcels in the 65 CNEL area were chosen. Mr. Campbell explained that a committee of citizens analyzed every parcel in the City to see what was suitable, including airport safety zones, investments, and owner input.

Vice-Chairman Monin asked the public if they had any comments. Mr. Mike Smith, a 20 year Bayview Heights resident, stated his community is against housing in the golf course area. His neighbors have provided numerous emails against the golf course development to the City. They would prefer open space. He is located in the 60 CNEL area. The proposed area includes the 65 CNEL, which would be much louder.

Newport Beach resident, Ms. Sandra Genis, commented via telephone that the current state housing law says that if housing is in the plan, it will be more challenging to have any local

agency deny housing in those locations. She quoted a recent case in San Mateo where they denied a housing location and were successfully sued by a renter's advocacy group.

Vice-Chairman Monin read the two comment letters that were submitted for this item. The first comment letter was from Richard Moriarty, who owns property on Mesa drive, next to one of the proposed housing sites. He has also owned various properties in the area. He is familiar with the 65 CNEL area and does not believe it should include housing or low-income housing, which will impact his property value. Mr. Moriarty previously had legal issues with the County for other property on Birch Street that he successfully sued. He opposes the project. The second letter was from Sandra Genis on behalf of the Residents to Save Newport Beach Golf Course and Preserve Open Space, recommending that the Commission agree with the ALUC Staff recommendation that the City of Newport Beach Housing Element Update be found inconsistent with *AELUP for JWA*.

Vice-Chairman Monin asked the Commissioners if they had any questions or comments. Alternate Patricia Campbell had a question regarding the housing identified south of Mesa Drive and on Golden Circle, as the properties are at the end of the runway. She wants to know if these locations were previously discussed. Ms. Choum mentioned they were addressed in the Staff Report and referred to as the Santa Ana Heights Specific Area Plan. Ms. Choum verified housing is located in this area. Alternate Campbell re-iterated the comments made by Sandra Genis regarding approval during the Housing Element plan phase and that it will cause development in the future; she believes it's not a good area and is an area of concern for the airport.

Commissioner Beverburg mentioned that this area was previously grandfathered in due to its existence before the Airport Environs Land Use Plan. Ms. Choum confirmed this area is part of the Settlement Agreement Amendment between the City of Newport Beach, two citizens groups and the County. Commissioner Murphy clarified the area was approved in 1985 as part of the Master Plan for the Airport, which resulted from litigation with the City and caused the settlement agreement. The land-use designation was residential. Strategies were developed to convert some residential areas into commercial, which is more compatible with the Airport. The other strategy was a noise remediation program, where homes were acoustically insulated. Some residents stayed while some left due to the heavily impacted area. This area was formally in the 70 CNEL in the 1980s but the state changed it to 65 CNEL areas. Commissioner Beverburg commented that any noise over 65 CNEL causes harm and that is why mitigation measures are done in areas within the 60 CNEL and above.

Commissioner Lumbard commented on the City's Housing Element Update issues with the directive they were given and the obstacles they face within the coastal area and the airport area and believes the City will be overriding the Commission's findings.

Vice-Chairman Monin called for a motion. The motion was moved by Commissioner Murphy and seconded by Commissioner Beverburg. A roll call vote was taken. The Commission voted unanimously, 6-0, with Alternate Campbell voting on behalf of Chairman Bresnahan to find the Housing Element Update inconsistent with the *AELUP for JWA*, per

the AELUP and PUC sections regarding noise, safety and compatible land uses listed in the staff report.

2. **Administrative Status Report**

Ms. Choum spoke of the correspondence that includes JWA statistics, letters to various cities in the Airport Planning areas regarding their housing element updates, and documents related to the conditions of approval for the Costa Mesa Bridge Shelter that was previously heard by the Commission. The status report includes the sound attenuation report and the City's updated zoning code that ensures future shelters come before the Commission for approval. An update was also provided that the aviation easement was signed by the city manager and is in the process of being signed by the County and will be recorded.

3. **Proceedings with Consistent Agencies:**

Ms. Choum spoke that ALUC staff is in active discussions with Irvine, Tustin, Santa Ana and the County regarding the updates to their Housing Elements.

4. **Proceedings with Inconsistent Agencies:**

Nothing new to report.

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

Commissioner Beverburg commented on the recent special meeting request. He did not recall any prior occurrence. Ms. Choum explained special meetings have taken place; this meeting is for the City of Tustin's Housing Element Update and will be done as a courtesy due to their timeline. Their submittal was received and the Special Meeting is scheduled for September 30, 2021.

Mr. Stock provided an update to the Covid/Teleconference meeting requirements and how it relates to the Brown Act, which is meant to ensure public participation and transparency. The current Executive Order signed by the Governor expires on September 30, 2021, and another order has been submitted to the Governor for signature. An update will be provided at the next meeting. Mr. Stock also clarified the requirements for a Special Meeting.

Ms. Fitch mentioned that ALUC has a new email address. It is ALUCinfo@ocair.com.

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

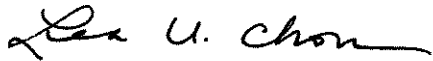
Nothing new to report.

Next Meeting will be a Special Meeting on September 30, 2021.

ADJOURNMENT:

There being no further business before the Commission, the meeting was adjourned at approximately 5:08 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Lea U. Choum". The signature is written in a cursive style with a long, sweeping underline.

Lea U. Choum
Executive Officer