



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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MINUTES OF REGULAR MEETING

February 17, 2022

- 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
Bresnahan
- COMMISSIONERS PRESENT:** Gerald Bresnahan, Stephen Beverburg, Austin Lumbard,
Mark Monin
Alternate Commissioners Present: Gary Miller
- COMMISSIONERS ABSENT:** Alan Murphy, Schelly Sustarsic
- STAFF PRESENT:** Lea U. Choum, Executive Officer
Jeff Stock, County Counsel
Julie Fitch, Staff Planner
Kari Rigoni, Staff Planner Extra Help
Athena Shaygan, Contractor
- PLEDGE:** Chairman Bresnahan led all present in the Pledge of
Allegiance

INTRODUCTIONS:

None

APPROVAL OF MINUTES:

Chairman Bresnahan called for a motion to approve the minutes from the January 20, 2022, meeting. Lea Choum, Executive Officer, explained there were not enough Commissioners present who had attended the January meeting to approve the minutes. She also stated that the City of Irvine submitted a letter with requested revisions. After additional review of the recording on January 20, 2022, staff found that the minutes were accurate as attached.

NEW BUSINESS:

1. Update on the City of Irvine's Status Regarding the Inconsistent Finding on the 2021-2029 Housing Element Update

Lea Choum, Executive Officer, stated that at the January 2022 meeting, the Commission found the City of Irvine's Housing Element Update inconsistent with the *AELUP for JWA*. In addition, the Commission voted to require the City to submit all actions and permits within the JWA Planning Area to the Commission for review. She referred to the letter from the City in which the City suggested that this requirement is premature.

Jeff Stock, County Counsel explained that the Commission could renew the finding today, however, it is not necessary as the Commission's stance is defensible.

After a brief discussion, Chairman Bresnahan moved that ALUC staff filter all of the City's permits and only submit to the Commission those items which may pose a conflict with the AELUP. The motion was seconded by Commissioner Lumbard and approved 5-0.

2. City of Seal Beach 2021-2029 Housing Element Update

Ms. Fitch presented the staff report for the City of Seal Beach Housing Element Update and addressed noise, height restrictions, land use compatibility and safety considerations. She concluded by recommending that the Commission find the proposed Housing Element Update, inconsistent with the *AELUP for Joint Forces Training Base, Los Alamitos* in accordance with AELUP Sections 1.2, 2.1.1, and 3.2.1, and PUC Section 21674.

Ms. Fitch stated that the Seal Beach Community Development Director, Alexa Smittle, was present and available to answer questions. Ms. Smittle addressed questions from the Commissioners regarding the Bixby Ranch and golf course properties. She explained that residential uses would be allowed at the golf course with a conditional use permit, as long as the use was related to golf. This would not require a zone change.

Commissioner Miller asked if staff is familiar with the conditional use permit requirement. Ms. Fitch explained that both the City's General Plan and Zoning Code designate the property as "Open Space/Golf Course," and that staff was not aware of the conditional use permit option to allow residential uses.

Commissioner Miller stated that he is not familiar with it either and will need to go back and check his records during his tenure on the City Council.

Commissioner Monin questioned how homes could have been approved in 1995 and 1998 so close to the runway.

Ms. Fitch explained that staff reviewed the staff reports and minutes from 1995 and 1998 ALUC meetings, and that there was no housing included on the golf course property in Area 3 as now proposed in the Housing Element Update.

Commissioner Miller asked if staff would look into if the Commission approved a conditional use permit. Ms. Choum responded that staff has no record of the Commission approving a conditional use permit.

Ms. Smittle added that no conditional use permit has been issued, but it is allowable under the City's current zoning for the area.

Commissioner Lumbard expressed his empathy for the city being forced by the state to accommodate 1,243 units in a small city adjacent to the ocean, within Coastal Commission authority, and with an airport on the other side. He stated that, unfortunately this Housing Element Update is not consistent with the policies of the airport land use plan that this Commission must follow.

Commissioner Miller stated his concern that a conditional use permit would not normally need to come back to ALUC for review.

Commissioner Lumbard asked for clarification that if the Commission were to find the Housing Element Update inconsistent, would the city need to come back to the Commission.

Mr. Stock stated that if the Commission were to find the proposed Housing Element Update inconsistent with the AELUP, then the City could choose to overrule the Commission. If that were done, projects would not have to come back to ALUC unless a general plan/specific plan amendment or zone change were proposed.

Chairman Bresnahan stated that it is upsetting that the City of Seal Beach had not submitted its 2013 Housing Element Update, because a Housing Element Update is required to come to the Commission for cities within the airport planning areas for Orange County. Chairman Bresnahan asked what tools are available to ALUC and what risk is there to a city to ignore ALUC and not bring a Housing Element Update to the Commission. He asked what options ALUC has to ensure that cities submit upcoming projects and plan amendments to the Commission. He stated that his understanding is that if a City overruled ALUC, it would only be related to the proposed Housing Element Update, and the City as a whole would still be an inconsistent Agency. One option is that the Commission can require an inconsistent city to submit all actions and permits for staff's review and then ALUC will know when projects will be built.

Commissioner Beverburg stated that the golf course area is the protection if aircraft were to crash beyond the clear zone, which is entirely on the JFTB property. His biggest concern is that the golf course area would be used to build homes with no consideration for what it takes to maintain a safe airfield operation.

Chairman Bresnahan stated that he supports the staff recommendation in order to protect the airport from the people and the people from the airport, and that the Commission is not doing this if it allows people to live in the proposed areas.

Commissioner Beverburg moved the staff recommendation. Commissioner Lumbard clarified that he wanted the Commission to set direction for the City to come back with any permits that might be in conflict with the AELUP, rather than give direction that is too broad, as may have been done for the City of Irvine. If the Commission is concerned about certain development projects and certain areas, the Commission can find the proposal inconsistent and ask the City to come back.

Commissioner Lumbard asked for clarification from Counsel that if the Commission finds this Housing Element Update inconsistent and the Seal Beach City Council overrules, does the Commission have any authority to require the City to come back to the Commission in Area 3 as an individual project. He suggested that the Commission should request the City's cooperation to bring Area 3 projects to the Commission for review and that this should be reflected in the minutes.

Chairman Bresnahan also asked for clarification that if the Commission were to find the proposed Housing Element Update inconsistent, would ALUC see any projects that are proposed in that area.

Mr. Stock explained that there are two scenarios. First, in the event that the Commission finds the Housing Element Update inconsistent and if the city decides not to revise the General Plan, and does not overrule this Commission, then the Commission can put conditions on the city to submit all of its permits and all of its land use actions. Secondly, in the event that the Commission finds this item inconsistent and was then overruled properly by the Seal Beach City Council, under this scenario, subsequent projects would not be required to come back to the ALUC for review unless the city agreed.

Ms. Fitch noted for the Commission that the Seal Beach City Council has already approved the Housing Element Update, prior to this ALUC meeting.

Commissioner Monin confirmed, stating that it was approved on February 7, 2022.

Commissioner Miller asked that if the Commission were to find the Housing Element Update inconsistent and City Council overrides, for upcoming and future projects, does that put the liability on the City.

Mr. Stock confirmed that it would insulate the airport from liability, which is one benefit of the inconsistency finding.

Commissioner Lumbard stated that he understands that adopting a Housing Element Update includes a lot of negotiation between Sacramento and cities right now. He is concerned that the Commission does not have anything on the record saying it would like for the City to come back for projects in Area 3 specifically, because that is the Commission's main concern. Commissioner Lumbard stated that he would like to put it on record that he would like the city to come back to ALUC for projects in Area 3.

Commissioner Miller asked if there is any way that the Commission can request all documents at this point.

Mr. Stock stated that it is possible because the City of Seal Beach is currently an inconsistent agency, and that is an option for this Commission. Additionally, it would be an option for this particular item, in the event that they do not follow the correct process.

Commissioner Lumbard stated that it sounds like the Commission would like to review potential projects that will be built in Area 3.

Chairman Bresnahan asked if the maker of the motion would like to modify it.

Commissioner Beverburg stated that the motion can include the requirement that was just mentioned.

Chairman Bresnahan stated that the motion is to move the staff recommendation and that the Commission requests that any development in Area 3 be brought to the Commission if it includes housing.

Chairman Bresnahan called for a motion. On Commissioner Beverburg's motion, as amended, and Commissioner Lumbard's second, the staff recommendation to find the Seal Beach Housing Element Update inconsistent with the *AELUP for JFTB, Los Alamitos*, with additional language requesting that any development on Site 3 come back to the Commission for review, was approved 5-0.

3. **Administrative Status Report:**

Lea Choum, Executive Officer, reported the administrative status report includes the JWA statistics for November and December 2021 along with the correspondence related to all the Housing Elements that the Commission has reviewed this past month.

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:**

Chairman Bresnahan proposes that at the next ALUC meeting, the Commission agendaize a discussion about the Seal Beach action and what options are available to the Commission moving forward, and to receive more clarity about timing issues, including discussion of what options are available to the Commission when Housing Elements are not brought to the Commission for review.

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

Nothing new to report.

The next meeting is scheduled for March 17, 2022.

ADJOURNMENT:

There being no further business before the Commission, the meeting was adjourned at 5:10 p.m.

Respectfully submitted,

A handwritten signature in blue ink that reads "Lea U. Choum". The signature is written in a cursive style with a long horizontal line extending to the right.

Lea U. Choum
Executive Officer