



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

March 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 Vice-Chairman Monin
- COMMISSIONERS PRESENT:** Mark Monin, Alan Murphy, Stephen Beverburg, Schelly Sustarsic
Alternate Commissioners Present: Gary Miller, Vern King, Patricia Campbell
- COMMISSIONERS ABSENT:** Gerald Bresnahan, Austin Lumbard
- 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:** Vice-Chairman Monin led all present in the Pledge of Allegiance

INTRODUCTIONS:

None

APPROVAL OF MINUTES:

Vice-Chairman Monin called for a motion to approve the minutes from the January 20, 2022, meeting. With a motion by Commissioner Sustarsic and a second by Commissioner Beverburg, the minutes were approved with a 4-0 vote.

Vice-Chair Monin asked for a motion to approve the February 17, 2022 minutes. Lea Choum, Executive Officer, explained there were not enough Commissioners present who had attended the February meeting to approve the minutes, so the minutes will be carried over to the next meeting.

NEW BUSINESS:

1. Update on the City of Seal Beach Status Regarding the Inconsistent Finding on the 2021-2029 Housing Element Update

Commissioner Sustarsic and Alternate Campbell inquired about conflict of interest as Commissioner Sustarsic is a member of the Seal Beach City Council and Alternate Campbell is a member of the Seal Beach Planning Commission. ALUC Counsel Stock indicated that they do not need to leave the meeting room, but that they should refrain from discussion and voting on the item.

Julie Fitch presented the staff report for the item. At the February 17, 2022 meeting, the Commission found the City of Seal Beach Housing Element Update inconsistent with the *AELUP for JFTB Los Alamitos* and voted to request that the City submit any development proposals for Site 3 to the Commission for review. In addition, the Commission requested that staff report back on the City's allowance of a Conditional Use Permit for housing on the golf course site and asked legal counsel to provide options for how to proceed.

Ms. Fitch reported that when the Bixby Ranch area was last submitted to ALUC in 1995 and 1998, that the golf course did not include housing where Site 3 is now located. The Seal Beach Zoning Code now allows residential uses on the golf course property with a Conditional Use Permit. This revision to the Zoning Code was not submitted to ALUC for a consistency review. Staff recommended that the Commission consider the requirement that the City of Seal Beach submit all actions, regulations, and permits within the JFTB Los Alamitos planning area to ALUC.

Jeff Stock, County Counsel explained that there are two options. Since the City has failed to submit earlier actions to the Commission and this has caused the City to be considered an inconsistent agency, the Commission could place the requirement on the City to submit all actions, regulations, and permits to the Commission for review. Or, because the Commission found the Housing Element Update to be inconsistent, the Commission could place the same requirement on the City until it properly overrules the inconsistent finding.

Commissioner Murphy mentioned that the City of Seal Beach has submitted a letter which claims that the Commission cannot impose that requirement. He asked Mr. Stock if he had a chance to review the letter.

Mr. Stock mentioned that due to the last minute submittal of the letter, he had only a short time before the meeting to review the letter. He disagrees with the City's statement that this action would be premature, mainly because the City of Seal Beach already adopted the Housing Element Update prior to review by the Commission.

Vice-chair Monin commented that he is unhappy that the City voted on the Housing Element Update before ALUC review and have now submitted a letter at the last minute. Mr. Stock stated that the Housing Element Update was approved by the City out of order. The PUC specifically states that any General Plan Amendment must be submitted to ALUC prior to City Council adoption. There was discussion about the timing of the Housing Element submittal and timing of the letter and the lack of time for the Commissioners or legal counsel to review the letter.

Ms. Fitch mentioned that Alexa Smittle, Seal Beach Community Development Director, was present at the meeting, and that she may wish to address the Commission.

Ms. Smittle provided an overview of the City's six page letter. She stated the City objects to the proposed recommendation in the staff report and that the Commission's powers are limited by the applicable statutes to only assisting local agencies to ensure compatible land uses. She stated that the Commission can only require the submittal of permits if the City fails to overrule the Commission and that the City has not been able to overrule the Commission yet. She stated that the City objects to being referred to as an "inconsistent agency," because there is no statutory basis for that designation and that ALUC does not have statutory authority to require the City to submit subsequent actions for its review.

Vice-chair Monin asked staff if the Commission could take time to review the letter and discuss it at the next meeting. Ms. Choum affirmed and Mr. Stock agreed.

Commissioner Beverburg asked for clarification about the timing of taking action and if they fail to take action at this meeting, would that change anything from the inconsistent action taken at the previous meeting. Mr. Stock stated that no, the item on today's agenda was an update requested by the Commission.

Vice-chair Monin asked for Counsel input regarding the comments made in the letter. Mr. Stock stated that he believed that the Commission could require that all subsequent actions be submitted to ALUC because the City approved the Housing Element Update out of order.

Alternate Miller asked Ms. Choum to repeat the staff recommendation and said that he believed that the Commission should require all subsequent actions be submitted. He stated that receiving the letter at the last minute made it difficult to address. He was concerned that it would only take a Conditional Use Permit to get housing approved and a CUP would not normally require ALUC review.

Mr. Miller also expressed concern that the US Army does not know what is being proposed. Ms. Choum mentioned that ALUC staff sent last month's staff report to Tom Tandoc at JFTB Los Alamitos and that he agreed with the staff recommendation. Ms. Fitch commented that Mr. Tandoc is with the State of California but that he shared the staff report with a U.S. Army contact at the base.

Vice-chair Monin asked if Alternate Miller could vote as an alternate to Commissioner Sustarsic.

Alternate Miller stated that he would like to require the City submittals. Vice-Chair Monin said that he would like time to review the letter. Commissioner Murphy agreed with Vice-Chair Monin. He found it surprising that after so many years of being designated as an inconsistent agency, that the City now questions this. He thought it would be helpful for staff and Counsel to research the issue and report back to the Commission.

Alternate Miller asked for clarification and Mr. Stock stated that there are two parts, one is the City as an inconsistent agency and the other is the inconsistency of the Housing Element Update. The City could either revise and resubmit their General Plan Amendment or they could begin the overrule process.

Commissioner Beverburg stated that the original issue was about Site 3 being identified for housing, and was concerned that the Commission should not lose sight of this.

Vice-Chair Monin said that he would be more comfortable if Counsel could review and analyze the issues and narrow things down for the Commission.

Commissioner Murphy addressed Commissioner Beverburg's concern by stating that the Commission did take action at the last meeting to find the Housing Element Update inconsistent. Mr. Stock affirmed.

Alternate Miller stated that there is only one person who is still at the City who knows the history and that is the current City Manager. He stated that the contract between Seal Beach and Old Ranch Country Club states that the golf course property is restricted to golf, period. And that agreement is still in effect.

Commissioner Beverburg stated that the Commission should discuss what is the right thing to do related to the Housing Element Update, and not on items outside of the Commission's authority.

There was discussion about a motion and how to move forward. Mr. Stock stated that the recommendation under consideration is whether the Commission should impose any conditions on the City, but that no action needs to be taken. Staff could come back at the next meeting and provide an update, or the Commission could consider imposing a requirement for the City to submit all actions, regulations and permits to ALUC.

Commissioner Murphy stated that the letter from the City states that the role of the Commission is to assist cities, but that is impossible when the City adopts changes prior to bringing items to the Commission. The Commission has had this problem with other cities as well.

Vice-Chair Monin stated that he is sympathetic that almost every city in the state has to meet these RHNA numbers and that some City Councils have approved Housing Element Updates prior to ALUC review in order to meet the state deadline. But, many issues could have been avoided if Updates were sent to the Commission sooner, prior to City approval.

Commissioner Murphy made a motion to continue the item to the next meeting and direct staff and Counsel to review the letter and the comments made, and report back to the Commission. Vice-Chair Monin seconded.

Commissioner Beverburg asked if there is any chance that a development could be approved by the City prior to the next meeting. Mr. Stock said that he could not comment on that as he does not know how long it takes the City to approve a permit. Ms. Smittle stated that no application has been received and that it would be highly unlikely for a CUP to be processed in one month and that the Specific Plan would have to be amended. Ms. Choum added that a Specific Plan amendment would have to be submitted to the Commission.

The motion carried 4-0, with Commissioner Sustarsic and Alternate Campbell abstaining.

2. City of Costa Mesa 2021-2029 Housing Element Update

Staff Planner Kari Rigoni presented the staff report for the City of Costa Mesa Housing Element Update and addressed noise, height restrictions, overflight and safety considerations. She concluded that due to the candidate housing sites in close proximity to JWA, specifically in Focus Area 2, which would penetrate the horizontal surface, staff is recommending that the Commission find the proposed Housing Element Update to be inconsistent with the *AELUP for JWA* in accordance with AELUP Sections 2.1.3 and 2.1.4, and PUC Section 21674. In addition, she recommended that, in accordance with PUC Section 21676.5(a), the Commission consider requiring the City to submit all future actions within the airport influence area to ALUC until the City's General Plan is revised or it overrules the Commission.

Ms. Rigoni noted that the City of Costa Mesa submitted a letter yesterday which has been handed out to the Commissioners, and that there are representatives from the City in attendance.

Costa Mesa Assistant Development Service Director, Scott Drapkin, thanked ALUC staff for all the meetings over the past months. He mentioned that the City had to identify an additional 5,770 sites over the 11,760 RHNA amount in order to meet the number of required affordable units. It was not easy for the City to identify these sites and he apologized for going out of order by having the City approve the Housing Element Update prior to ALUC review, but that the State was threatening to withhold funding of critical City projects. He also apologized for submitting a letter only one day prior to the meeting. He referred to Focus Area 2 and stated that there was only a three to four foot elevation difference that may be based on the topography of the area, thereby creating a penetration of the imaginary surface. The Commission will still get at least one or two more opportunities to review land use changes needed to implement the Housing Element Update. He stated that he did not think that the PUC was written for Housing Element Updates. He mentioned that it might be out of turn for the Commission to require that the City submit all permits without giving the City a chance to overrule, and requested that only permits related to the Housing Element be required for ALUC submittal. It would be a

burden for the City, for ALUC and for the residents of Costa Mesa if the City must submit all permits.

Commissioner Murphy stated that this would be a challenge for ALUC, but that Mr. Drapkin's comments are consistent with what all of the cities have said. Even if it is not the cities' intent to have housing built on all of those sites, the State thinks that it is. He stated that even if ALUC has another chance to review land use changes, that part of the charge of ALUC is to provide input at the earliest point possible, and it has worked in the past. Regarding the permit submittal, Mr. Murphy stated that the Commission can only provide meaningful input if it is prior to City approval, and because the City approved the plan first, the only thing the Commission can do to get the City's attention is to require that all future permits be submitted.

Mr. Drapkin stated that in the future the City would submit prior to City approval.

Vice-chair Monin asked if there was a study done around a year ago regarding height of buildings in the airport area. Commissioner Beverburg stated that there was an inventory of buildings taken, but that it was not a precise survey, and there are different ways of measuring height. He stated that the height restrictions are based on the elevation of the runway.

Vice-chair Monin asked if the City could find better locations for the housing sites considering that the City identified sites for an additional 5,700 units. Commissioner Sustarsic asked if the additional units had to do with the 15% affordable housing bonus, and Mr. Drapkin answered yes.

Commissioner Beverburg stated that with affordable housing, the first buyer is low-income, but when those units are sold, the next owner may not be low-income.

Commissioner Sustarsic stated that if the Commission were to find the Housing Element Update consistent, then it would imply that the Commission is saying that it is okay to have residential uses in these areas.

On Commissioner Beverburg's motion and Commissioner Murphy's second, the staff recommendation to find the Costa Mesa Housing Element Update inconsistent with the *AELUP for JWA*, with additional language requiring that all actions, regulations and permits within the JWA influence area be submitted to the Commission for review until the City's general plan is revised or specific overrule finding are made, was approved 5-0.

3. **Administrative Status Report:**

Ms. Choum reported the administrative status report includes the JWA statistics for January 2022 along with all ALUC correspondence for the 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:**

Commissioner Beverburg asked how many cities were left to submit Housing Elements. Ms. Choum replied Anaheim, Los Alamitos and Fullerton, and that Santa Ana did not have to be reviewed by ALUC as they did not propose any new housing sites within the airport planning area.

Vice-Chair Monin asked if staff has encouraged Cities to submit Housing Elements. Ms. Choum replied that ALUC staff has sent out letters to the cities.

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

Nothing new to report.

The next meeting is scheduled for April 21, 2022.

ADJOURNMENT:

There being no further business before the Commission, the meeting was adjourned at 5:40 p.m.

Respectfully submitted,



Lea U. Choum
Executive Officer