



# **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 15, 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:** Jerry Bresnahan, Stephen Beverburg, Schelly Sustarsic  
  
Alternate Commissioners Present: Gary Miller, Brendan  
O'Reilly, Vern King
- COMMISSIONERS ABSENT:** Mark Monin, Austin Lumbard, Alan Murphy
- STAFF PRESENT:** Lea U. Choum, Executive Officer  
Jeff Stock, County Counsel  
Kari Rigoni, Staff Planner Extra Help  
Kelley MacPherson, Office Assistant
- PLEDGE:** Chairman Bresnahan led all present in the Pledge of  
Allegiance

### **INTRODUCTIONS:**

None

### **APPROVAL OF MINUTES:**

Chairman Bresnahan stated that there were not enough Commissioners present who were also present at the February and March 2022 meetings to approve the minutes from those two meetings, and that the minutes will be carried over to the next meeting.

### **NEW BUSINESS:**

1. **Election of Officers**

Chairman Bresnahan stated that the election of officers has not occurred because there were no meetings in May, June, July, or August. Executive Officer Choum reported that elections of Chair, Vice-Chair and the Commissioner representing the general public were due. On a motion by Commissioner Beverburg and a second by Commissioner Sustarsic the Commission voted for Jerry Bresnahan to continue as Chairman. On a motion by Chairman Bresnahan and a second by Commissioner Beverburg, the Commission voted for Mark Monin to continue as Vice-Chairman. On a motion by Commissioner Sustarsic and a second by Chairman Bresnahan, the Commission voted for Steven Beverburg to continue as the Commissioner representing the general public.

2. **County of Orange Proposed Land Use Element Amendment LU22-01 and Zoning Code Amendment CA 22-01**

Staff Planner Kari Rigoni presented the staff report for the item and recommended that the Commission find the County of Orange Proposed General Plan Amendment LU 22-01 (Land Use Element) and Zoning Code Amendment CA 22-01 to be consistent with the *AELUPs for JWA, JFTB Los Alamitos and FMA*.

Commissioner Sustarsic asked if the sites identified were the same as the sites identified in the Housing Element Update. Ms. Rigoni replied that yes they are the same sites. Ms. Sustarsic asked why the change from the Planning Commission approval to the Director of Public Works approval. Justin Kirk from Orange County Public Works (OCPW) replied that the change is procedural in nature and that it does not change any policy. Ms. Sustarsic asked about the increase of density to 84 units per acre, and if that includes density bonus for low-income housing. Mr. Kirk replied that it does include the income-based density bonus.

Commissioner Beverburg commented that Attachment 3 of the Land Use Element included language about the 65 dBA CNEL near the airport, but does not address development in the 65 CNEL outside of the airport area. He suggested that the wording state that it is a noise level issue and not an airport issue. Nicole Walsh, Senior Deputy County Counsel for the OCPW, stated that the 65 CNEL is the limit for residential development anywhere in the County and that no changes have been made regarding the 65 CNEL.

Chairman Bresnahan asked if the increase in height from 35 feet to 65 feet is new or if that was included in the December submittal. Ms. Rigoni replied that at the December meeting the Commission only considered the locations of the housing Opportunity Sites within the Housing Element. The Commission is now reviewing the proposed Zoning Code and Land Use Element amendments to ensure land use categories are consistent with the recent Housing Element amendment, including designations for affordable housing, extra density and height limitations. Ms. Walsh clarified that residential zones will remain unchanged at

a 35' maximum. However, commercial and industrial areas (within the Housing Overlay District) that would now accommodate housing will be allowed up to 65' in height to accommodate the increase in density. Chairman Bresnahan asked what it would entail to add a new overlay zone. Ms. Walsh replied that it would take a Zoning Code Amendment and a General Plan Amendment and both of those would have to be submitted to ALUC for review. Mr. Kirk indicated that 65' accommodates approximately four stories.

Hearing no other comments from the public, a motion was made by Commissioner Beverburg and seconded by Commissioner Sustarsic to approve the staff recommendation and find the County of Orange proposed Land Use Element Amendment LU22-01 and Zoning Code Amendment CA 22-01 consistent with the *AELUPs for JWA, JFTB Los Alamitos and FMA*. The motion carried unanimously.

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

Ms. Choum reported that at the last meeting, there was discussion about whether to require the City of Seal Beach to submit all projects to ALUC because the City adopted its Housing Element prior to ALUC review and the Commission found the Housing Element to be inconsistent with the *AELUP for JFTB Los Alamitos*. The City provided a letter at that meeting (March 2022) challenging the Commission's use of the term "inconsistent agency."

Since then, on August 29, 2022, the City of Seal Beach overruled ALUC's inconsistent finding for the 2021-2029 Housing Element Update in accordance with PUC 21676. Ms. Choum stated that staff researched the term "inconsistent agency" and that ALUC Counsel Jeff Stock will report his findings. Mr. Stock reported that "inconsistent agency" is used to refer to an entire agency being inconsistent, however, the Commission also finds individual projects or General Plan Amendments or Zoning Code Amendments inconsistent. He gave the example of when ALUC updated the *AELUP for Heliports* that Laguna Woods chose not to update its General Plan and therefore, the City was referred to as an "inconsistent agency." There is no reference in the PUC regarding the term "inconsistent agency" but that it refers to individual submittals to ALUC as being inconsistent. Until an agency overrules an inconsistent finding, ALUC may require all future agency projects and permits within the planning area, to be submitted to ALUC.

Mr. Stock asked if the Commission would like to discuss further, or if staff should revise future agendas to modify the agenda item of "inconsistent agencies" to "inconsistent agencies/inconsistent rulings." When the Commission makes an inconsistent finding, the status of these projects could be shown on the future agendas as action items and the Commission could choose to require that all future items be submitted for review.

Alternate Commissioner Miller asked for clarification if the City of Seal Beach would be required to submit each project to ALUC because the Housing Element was found to be inconsistent. Mr. Stock replied that the City overruled ALUC and therefore it does not need

to submit each project as long as the project complies with its overruled General Plan Element.

Chair Bresnahan stated that Seal Beach has been listed on the agenda as an inconsistent agency for many years and asked if staff knew why. Ms. Choum replied she suspects that it was because the City had not updated its General Plan to be consistent with the *AELUP for JFTB Los Alamitos* when the AELUP was updated.

Chair Bresnahan asked if it would be best to look at each Element of a General Plan as consistent or inconsistent. Mr. Stock stated that staff may have to monitor agencies more closely to determine if amendments are being proposed, but have not been submitted to ALUC.

Commissioner Miller asked if the City of Seal Beach has to bring anything to ALUC again. Mr. Stock replied that any additional Zoning or General Plan changes would have to be submitted to ALUC, but individual projects that comply with the overruled Housing Element would not have to be submitted (unless they require a change to zoning). Commissioner Sustarsic mentioned that the City was considering a Specific Plan and Mr. Stock confirmed that a Specific Plan would have to be submitted to ALUC.

Chair Bresnahan asked what options are available for ALUC and could we send a letter to the cities letting them know if they are inconsistent. Mr. Stock said yes, we could send a letter to inconsistent agencies letting them know they are not in compliance with the PUC, and we could further inform them of possible litigation.

Chair Bresnahan suggested that staff recommend a definition of the phrase “inconsistent agency” and “consistent agency” and in the future incorporate it in the agenda. He further suggested that staff indicate on the agenda if an inconsistency designation is related to the General Plan or Zoning Code. Also, if staff could prepare an agenda item indicating when the ALUC last reviewed General Plan, Zoning Code and Specific Plan Amendments for each city in the County. He indicated that if it is a huge project then it would be okay to skip it, but if there is something readily available he would like to see it.

Chair Bresnahan asked if we should respond to the City of Seal Beach as to why it was referred to as an “inconsistent agency.” Mr. Stock replied that we had discussed that part of the letter during the meeting while Seal Beach staff was present. Alternate Commissioner O’Reilly suggested the ALUC send a letter to the City of Seal Beach clarifying that issue.

4. **Administrative Status Report:**

Ms. Choum reported the administrative status report includes the JWA statistics for February through July 2022 along with all ALUC correspondence with Costa Mesa, Irvine and Seal Beach regarding their overrules.

5. **Proceedings with Consistent Agencies:**

Ms. Choum mentioned that there is nothing new to report.

6. **Proceedings with Inconsistent Agencies:**

Nothing new to report.

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

No items were mentioned.

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

No one from the public reported.

The next meeting is scheduled for October 20, 2022.

**ADJOURNMENT:**

There being no further business before the Commission, the meeting was adjourned at 5:05 p.m.

Respectfully submitted,



Lea U. Choum  
Executive Officer