



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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MINUTES OF REGULAR MEETING

May 16, 2024

- 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, Mark Monin, Alan Murphy, Stephen
Beverburg, Schelly Sustarsic, Joe Klema, Mike Carroll
Alternate Commissioners Present: Patty Campbell, Jay
Steffenhagen, Vern King, Gary Miller, Shareen Young
- COMMISSIONERS ABSENT:** None
- STAFF PRESENT:** Julie Fitch, Interim Executive Officer
Jeff Stock, County Counsel
- PLEDGE OF ALLEGIANCE:** Chairman Bresnahan led all present in the Pledge of
Allegiance

Interim Executive Officer Julie Fitch introduced new Commissioner, Joe Klema, appointed by the Board of Supervisors, and his Alternate, Shareen Young, who was not present at the time. She also introduced Mark Monin's new Alternate, Jay Steffenhagen.

APPROVAL OF MINUTES:

Commissioner Monin moved to approve the January 18, 2024, minutes, and Commissioner Murphy seconded. Commissioner Beverburg pointed out a typo in the third paragraph of page 3, that the word "continually" should be "continual." The Commissioners who were present at the January meeting voted 5-0 (Murphy, Monin, Bresnahan, Beverburg, Sustarsic) to approve the January 18, 2024, minutes with Commissioner Beverburg's correction.

Commissioner Monin moved to approve the February 15, 2024, minutes, and Commissioner Sustarsic seconded. The Commissioners who were present at the February meeting voted 5-0 (Murphy, Monin, Bresnahan, Sustarsic, King) to approve the February 15, 2024, minutes.

NEW BUSINESS:

1. Election of Officers

Interim Executive Officer Julie Fitch reported that the ALUC bylaws indicate that in May of each year a Chair and Vice-Chair be elected for the year. She asked for nominations for Chairman of Airport Land Use Commission (ALUC). On Commissioner Monin's motion and Commissioner Beverburg's second, the Commission voted 7-0 to reelect Commissioner Bresnahan as Chairman.

Ms. Fitch called for nominations for Vice-Chairman of the ALUC. On a motion by Commissioner Bresnahan and a second by Commissioner Sustarsic, the Commission voted 7-0 to reelect Commissioner Monin as Vice Chairman of the ALUC.

2. County of Orange

Ms. Fitch presented the staff report for the County of Orange's ("County") proposed General Plan Amendment/Land Use Element, Zoning Code Amendment related to a Mixed-Use District and Housing Opportunities Overlay, as well as technical revisions and a Zoning Code change for selected properties in unincorporated areas of the County. Ms. Fitch recommended that the Commission find the proposed project consistent with the AELUP for JWA and the AELUP for Joint Forces Training Base – Los Alamitos.

Commissioner Beverburg commented that if regular housing is built, it is limited to 35 feet, but if it is low-income housing then it can go to 65 feet, and asked if that is safe. Ms. Fitch replied that it is the case with a lot of the cities that to meet their RHNA allocation, they allow higher buildings and/or higher density. Commissioner Beverburg mentioned that it doesn't seem fair that poorer people can be more at risk and live in less safe conditions. Commissioner Carroll mentioned that this is the Orange County ALUC and not the state. He asked the other Commissioners how the County's Housing Element was previously found to be consistent, because Attachment 4 shows that it includes housing in the 60 CNEL.

Commissioner Murphy stated that ALUC is an independent Commission that reviews projects to see if they meet the land use planning documents for the Airports. He said that local agencies are under a lot of state mandates on housing, and when the County's Housing Element was found inconsistent, the County modified the inconsistent areas and resubmitted to the Commission, and then it was found consistent. He mentioned that it was commendable, and he wished more agencies would do that instead of override. Commissioner Carroll asked if the County worked with ALUC staff on it. Ms. Fitch said that based on comments made by the Commission, the County modified their draft Housing Element and resubmitted it the next month. Commissioner Murphy mentioned that that is one of the Commission's tasks, to provide insight and input to local agencies as to what would work and not work, and that the cities have to allow the increased height and density to meet the requirements. There was more

discussion about the environmental justice issues related to putting low-income housing closer to the airports, and that there are conflicting state requirements. Chair Bresnahan mentioned that when you look at a project like this, you have to look at how high the building is and how far away it is from the centerline of the runway. He stated that his opinion is that any time you go from less dense to more dense or lower elevation to a higher elevation, there is a problem.

Commissioner Carroll mentioned that a lot of the existing heights are approximately 30 feet, and this would be double. Chair Bresnahan indicated that it also depends on the ground elevation and that the Commission looks at Above Mean Sea Level, and that what the County is proposing is technically compatible, but it's unfortunate that the state is mandating residential areas essentially forcing agencies to put housing by the airports. He stated that this location will be subject to airplanes at low elevation and at full power. He also mentioned the traffic pattern and referred to the flight tracks exhibit and the elevation of the planes, and that it is more challenging when making a turn.

Ms. Fitch clarified that the current height allowed is 65 feet for affordable housing, and so the permitted height isn't changing, and that the proposed changes will affect over 2,000 properties throughout the County, but that the staff report focused only on those in the airport areas. Alternate Steffenhagen mentioned that the traffic pattern altitude is 854 feet on the east side of the airport and 1,054 feet on the west side. County Counsel Jeff Stock was asked if people living in the new development project would have any legal recourse against the state when they say that it's okay for low-income people to live near the airports. Mr. Stock suggested that the Commission focus on the County's proposed project rather than hypotheticals about what claims and legal remedies residents may have against the state or cities.

Jim Mosher, resident of Newport Beach, asked if the sites are zoned for residential or if they are in residential use, and pointed out that the site on Irvine Avenue and University is abutted by residential uses, but appears to be a school.

Nicole Walsh, Senior Assistant County Counsel for the County, indicated that the site is zoned R-4, but it is in school use. The site will remain R-4 with a density of maximum 43.5 dwelling units per acre, but the County will change the minimum density to 30 units per acre, not the maximum. She also stated that the 65-foot height is not a state requirement, but that it is currently permitted and will remain as the maximum. She stated that sometimes to make a project affordable it has to have higher density or height.

There was a motion by Commissioner Monin and a second by Commissioner Carroll to support the staff recommendation. Commissioner Sustarsic said she agreed with Commissioner Murphy and that she appreciates that the County went back and fixed their Housing Element. Alternate Campbell mentioned that the state is forcing local agencies to put housing in areas they never would have considered in the past, and Seal Beach had to come up with ~~12,000~~ 1,200 housing sites and the city is built-out, and most of the County is built-out. The Commission approved the staff recommendation with a 7-0 vote.

3. The City of Newport Beach has submitted Housing Element Implementation Program Amendments including proposed amendments to the General Plan Land Use Element, Title 20

(Planning and Zoning) of the Newport Beach Municipal Code (NBMC), and Local Coastal Program for a consistency review.

Ms. Fitch presented the staff report and recommended that the Commission find the proposed Newport Beach (“City”) Housing Element Implementation Program Amendments - Proposed Amendments to the General Plan Land Use Element, Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC), and Local Coastal Program inconsistent with the *AELUP for JWA per AELUP Section 2.1.1, Section 2.1.2, Section 2.1.4 and Section 3.2.1, and PUC Section 21674.*

Commissioner Monin asked if an FAA report has been done. Ms. Fitch replied that is usually for specific projects and that she doesn’t believe one has been done for these sites.

Mr. Jim Mosher mentioned that he is a resident of Newport Beach impacted by JWA. He is also one of 30 citizens on the City’s General Plan Advisory Committee and recently selected Chair of a Sub-Committee reviewing the Noise Element, but that his comments are his own and not representing these bodies. He pointed out that the City has also already posted a Notice for a hearing to consider adopting a Notice of Intent to overrule ALUC. As an individual he supports the staff recommendation, and he does not see how the City can make the findings required by state law to limit public exposure to excess noise and safety hazards. He referred to a project at the January meeting and mentioned that Santa Ana Heights had been annexed by the City in 2002, and that there is a Pre-Annexation Agreement where the County Board of Supervisors would have to consent to any changes to the City’s General Plan or Zoning. The golf course had been part of the City since 1955 and perhaps not covered by the pre-annexation agreement. When the City last did a comprehensive general plan update, the County and City entered a Cooperative Agreement or Spheres Agreement where the City agreed that in exchange for the County not extending the runway, that it would not make any changes to Santa Ana Heights without consent of the County Board of Supervisors. He believes that putting housing that close to the airport is not a good idea.

Ben Zdeba, Principal Planner for the City, and Project Manager for the Housing Element, referred to the state housing mandates where the City has had to provide sites for nearly 5,000 units. The City challenged the RHNA process and tried to enact legislative changes to make it more realistic. He described the challenges in meeting the RHNA requirements. The Airport Area has only 30% of the City’s housing program and the remainder is spread out throughout the City in job rich areas. The City is pushing to maintain local control. Regarding the heights, the existing height limit is 18 feet which is not conducive to residential, so the City would like to make it reasonable and prevent a waiver which would make it even higher. Regarding the public notice to overrule, with a state deadline of February 2025, the City must get ballot language to the County by August 9th.

Commissioner Carroll thanked Mr. Zdeba and said he understands the challenges and appreciates what he has done. He mentioned an HCD letter regarding consequences of Housing Element non-compliance and the various state funding sources that could be delayed or ineligibility. He asked if he knows how much funding the City receives. Mr. Zdeba replied that the City does receive some funding and there are other penalties which are very real.

Commissioner Monin agreed with Commissioner Carroll that Mr. Zdeba did a great job of representing the City's side, but that the ALUC has a different mandate.

Commissioner Murphy commented that this is not the first item submitted by the City, and the City had said originally that there was no intent to implement the plan, and that now that is where we are. He referred to the agreement with the County and the requirement to get consent from the County, and asked if the City has done that. Mr. Zdeba responded that the City has reviewed the Agreement, but that these changes are overlays and not actual changes to the land use pattern. And no policies would be changing. Commissioner Murphy believed that the County sent a letter at the end of last year and that the County disagrees, and that he disagrees with the City's interpretation.

Commissioner Monin asked Mr. Stock for a legal opinion. Mr. Stock responded that changes to the General Plan, Specific Plan and Zoning Code are required to go to ALUC, so an argument could be made that this is a change.

Commissioner Murphy made a motion to approve the staff recommendation and Commissioner Beverburg seconded it. Chairman Bresnahan stated that the need to have residential is not a reason to have incredibly poor land use planning and expose more people to noise and safety hazards, and that this is a disservice to the community. The Commission approved the staff recommendation with a 7-0 vote.

4. Administrative Status Report:

Ms. Fitch referred to correspondence between ALUC and the cities as well as a letter from JWA to Newport Beach. There were comment letters regarding the two overrules in Newport Beach. Chair Bresnahan mentioned a letter from the FAA referring to the 2011 Caltrans Handbook. He wanted to suggest that in the next AELUP revision that we refer to the 2011 version or the most recent version of the handbook. Also, he mentioned the two letters from Caltrans, and he thought they were very good letters.

5. Status of Determinations of Inconsistency:

Ms. Fitch reported that the two Newport Beach projects were overruled, but Santa Ana has not yet overruled. Commissioner Murphy asked if she knows the status. Ms. Fitch replied that they had scheduled a public hearing in February, but it was cancelled. Chair Bresnahan asked if there is a clock running. Ms. Fitch replied that this happened once before with the City of Santa Ana took a year to overrule, and there is no statute of limitations. Mr. Stock stated that there is not a timeframe for the city to act after it has been overruled, but that the City's proposed plans will not take effect until they overrule. The Commission could require that additional land use items and decisions be submitted to ALUC.

6. Items of Interest to the Commissioners:

Commissioner Monin referred to an Orange County Pilots meeting where a Senior Air Traffic Controller said that there are fewer Air Traffic Controllers working now and they are working more hours. There is a limit to how many they can train, and the trainees do not always want to go to the assigned place. He expressed his concern about the tower in the future. He also thanked Ms. Fitch for the job she is doing. Chair Bresnahan agreed and expressed his appreciation. He also acknowledged that former Executive Officer Lea Choum retired, wishes her well and would like to recognize her work with ALUC.

7. Items of Interest to the Public:

Mr. Mosher stated that not all members of the public can come to meetings and suggested smaller type on the first page of the agenda and the ability for the public to submit written comments, including instructions about how, where and when to submit comments. On the website it would be helpful to indicate who each of the Commissioners were appointed by, and term of appointment. Information is available on County website roster of all County appointments. He noted that Mark Monin's term ended but is on the Board agenda for next Tuesday to reappoint him. He stated that the Airport Commission posts audio of meeting and that would be helpful as well as a camera to have video of meeting available. He said that there is a directive to review the AELUP every five years, but it has been 8 years, and that staff has said that ALUC is waiting for Caltrans to update the Handbook. He thinks it would be helpful to revisit the noise contours because of the dispute with the City. AELUP is supposed to look twenty years into the future, but the plan is 40 years old and should be reviewed.

ADJOURNMENT:

There being no further business before the Commission, the meeting was adjourned at 5:37 p.m. The next meeting is scheduled for June 20, 2024.

Respectfully submitted,

Julie Fitch
Interim Executive Officer