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MAYOR



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CHAIR

Miguel Bustos
VICE-CHAIR

Dr. Carolyn Ransom-Scott
Mara Rosales
Darshan Singh
COMMISSIONERS

Nadia Sesay
EXECUTIVE DIRECTOR

**MINUTES OF A REGULAR MEETING OF THE
COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE
OF THE CITY AND COUNTY OF SAN FRANCISCO HELD ON THE
2nd DAY OF APRIL 2019**

The members of the Commission on Community Investment and Infrastructure of the City and County of San Francisco met in a regular meeting at City Hall, 1 Dr. Carlton B. Goodlett Place, Room 416, in the City of San Francisco, California, at 1:00 p.m. on the 2nd day of April 2019, at the place and date duly established for holding of such a meeting.

REGULAR MEETING AGENDA

1. Recognition of a Quorum

Meeting was called to order at 1:04 p.m. Roll call was taken.

Commissioner Rosales - present
Commissioner Scott - present
Commissioner Singh - present
Vice-Chair Bustos - present
Chair Mondejar - present

All Commissioners were present.

Chair Mondejar asked for a moment of silence to acknowledge the passing of Corinne Woods, a long-time community activist in Mission Bay.

2. Announcements

A. The next scheduled Commission meeting will be a regular meeting held on Tuesday, April 16, 2019 at 1:00 p.m. (City Hall, Room 416).

B. Announcement of Prohibition of Sound Producing Electronic Devices during the Meeting

Please be advised that the ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised the Chair may order the removal from the meeting room of any person(s) responsible for the ringing of or use of a cell phone, pager, or other similar sound-producing electronic device.

C. Announcement of Time Allotment for Public Comments

3. Report on actions taken at previous Closed Session meeting – None

4. Matters of Unfinished Business

- a) Finding, pursuant to Section 9.07 of the Disposition and Development Agreement with Transbay 8 Urban Housing, LLC, that the Developer has made good faith efforts, but has been unsuccessful, in leasing an approximately 12,400 square-foot grocery store at Transbay Block 8 (450 Folsom Street); and approving the termination of the Developer's obligation under Section 9.07; north block of Folsom Street between First Street and Fremont Street; Transbay Redevelopment Project Area (Discussion and Action)(Resolution 04-2019)

Chair Mondejar requested that this matter be delayed to a later time in the meeting, which it was, but presented in order herein.

Presenters: Nadia Sesay, Executive Director; Shane Hart, Transbay Project; William Witte, President, Related California; Jonathan Shum, Vice President, Related California; James Morales, General Counsel and Deputy Director, OCII; Katie Lamont, Director of Housing Development, Tenderloin Neighborhood Development Corporation (TNDC)

PUBLIC COMMENT

Speakers: Peter Hartman, Transbay CAC; Katina Johnson, Transbay CAC; Ace Washington, community activist

Mr. Hartman stated that he was one of the people who had voted in support of allowing the developer to be released from this obligation because he felt that at this point it was like beating a dead horse. He was present at the CAC meeting in December and after listening to the presentation by the developer at that meeting, Mr. Hartman felt that the developer had met all obligations under the agreement with OCII and had made a good faith effort in trying to meet this obligation. Mr. Hartman added that even though the developer had not been able to find a grocer for the space, perhaps other organizations including OCII could find a solution to this issue.

Ms. Johnson stated that she was a nine- year resident of Rincon Hill and had voted to not allow Related to be released from its obligation. She stated that she was frustrated over this issue and wanted to hear from Related under what conditions would a grocer come into this area. Ms. Johnson felt that Related had done everything they could do to put a grocery store into this area, but did not want to give up on this issue. She indicated that like North Beach they may not be able to have an affordable grocer in the future; however, the neighborhood still wanted and expected to have a grocer there. Ms. Johnson mentioned the results of a recent survey which indicated that many neighborhood residents would shop at an affordable grocer, if one was available. Survey results had indicated a preference for Trader Joe's, Sprouts, Rainbow and Safeway. She added that currently the only grocer in the neighborhood was Woodlands, which was an upscale, expensive grocery store.

Mr. Washington stated he was in support of releasing Related from this obligation. He stated that Related California was doing a good job in his neighborhood and his experience was that Related had done excellent work for the City, so they should be let out of this obligation.

Commissioner Singh inquired about what would happen with this space if a grocer did not occupy the space; he inquired about an alternative; inquired about the parking accommodations.

Mr. Shum responded that they had provided the maximum parking allowed for the Transbay (TB) according to entitlement guidelines, which was one parking space for every 1500 sq. ft. He indicated that they would try to locate additional parking locations for more spaces. Regarding an alternative, Mr. Shum reported that they would consider food and beverage facilities because there was a lack of these types of establishments there as well.

Commissioner Rosales recalled her motion from December which was for Related not to respond with so many negatives but rather to indicate what conditions must be for a positive response.

Mr. Witte responded that as part of their discussions with retail grocers, it was not unusual for them to indicate that they would be willing to start negotiating if the developer paid for all the tenant improvements. However, in this case, they never even got to that point because the other obstacles were too great. Mr. Witte stated that “affordable grocer” was a contradiction in terms; Trader Joe’s was relatively affordable and they could not even bring them to the table. Mr. Witte explained that it was not about the rent or the tenant improvements, but was more about layout and parking.

Commissioner Rosales referred to page 2 of the staff memo dated April 2 regarding good faith efforts and quoted from the memo which stated that the lead developer had agreed to design a plan to find a tenant for the grocery store space. She directed her question to Mr. Morales and inquired as to whether this was indeed a good faith effort.

Mr. Morales responded that OCII had approved the design of the building with the idea that efforts would be made to find a grocer and the grocery store was part of that design. Therefore, he stated that the obligations had been fulfilled by the developer.

Commissioner Rosales inquired about whether the design came first or whether the expectation of what they were designing for came first. She gave an example: that if they were designing a day care center with a playground but no children could play at the playground, whether that would be the fault of OCII or the developer. Ms. Rosales stated that she was trying to figure out how they approved this design for a grocery store when it was not going to be possible to get a grocer in there. Now they were stuck with a design issue which was specifically made for a grocery store.

Mr. Morales responded that OCII had approved the design which was brought forth by the developer. He explained that within those constraints, the developer did try to find a grocer. OCII had agreed to the building design which was part of the decision to have a grocer tenant and the other part of the decision was for affordable housing and market rate.

Chair Mondejar mentioned that they knew about these objections back in June 2018 when this issue first came before them and the major problem then had to do with space.

Mr. Witte responded that 1) different users had different problems; 2) Whole Foods, who started this, created their signature store in Manhattan in the basement of Related’s Time Warner center project and when they looked at this, the fact that there was a basement level was not a problem for Whole Foods. Only later did other problems surface. This was not childcare center which included state standards for indoor and outdoor space. Mr. Witte explained that Related always knew that this was a smaller and challenging space and they were never thinking about getting Safeway in there; however, there seemed to be users out there who might accept the amount of space and possibly a basement level if not contiguous. Related accepted the idea that this would be desirable and they thought it would be plausible. Mr. Witte added that now the operating costs have worsened over time

everywhere in the City. He stressed that Related entered into this idea thinking it would work; otherwise, they wouldn't have accepted it.

Mr. Shum added that when they were designing the space, Woodlands had not yet opened their market. After Woodlands came in, this deterred other operators from coming into the project which was after Related had designed the space and after OCII had approved the project

Executive Director Sesay clarified that the DDA and the SD's were approved at the same time so there was no lag and at the time, it was thought to be appropriate; however, over time different issues had surfaced.

Chair Mondejar quoted from a memo from Related dated December 31, 2017, which contained a retail listing report and reasons why grocers had declined the space. To expand on her previous comment, she inquired as to what Related had done to accommodate the reasons for declining the space.

Commissioner Scott stated that she was impressed in how Related had tried to fulfill this obligation and that she was satisfied with their answers.

Vice-Chair Bustos recalled the heated discussion over this the previous December and that OCII had given Related another 90 days for them to move forward in good faith effort to fulfill the obligation. He commended Related on all the great work they had been doing in the City and noted that the retail vacancy rate in the City was very high. Therefore, Mr. Bustos contended that perhaps this was really a broader question for OCII regarding the current situation in the City. OCII had a responsibility - when they built housing - to provide affordable services to residents, esp. food providers. Mr. Bustos suggested returning to joint meetings with the Planning Commission to foresee issues like this one coming up.

Chair Mondejar thanked Related for their efforts in this matter. As a follow-up to Commissioner Rosales' comment, she inquired about what it would take to get a grocer to say yes regarding the reconfiguration of the layout. She indicated that she appreciated the list of all the grocers who were contacted with the reasons for their decline. However, Ms. Mondejar questioned the effectiveness of the listing agent that Related had used and pointed out that RJ's Market was a grocery which had been in the area for over 20 years, a small grocer, family-owned and they had not been approached. She inquired about why RJ's had not been approached. Ms. Mondejar reported that she had spoken with RJ's owner, who indicated that they wanted to see the space and were looking for more opportunity to expand. RJ mentioned to her that their sales had increased due to the fact that Woodlands was so expensive. She also mentioned another small grocery store on Howard and Sixth, which was minority owned and in the neighborhood. Ms. Mondejar inquired about what Related was doing to find a solution to the retail problem in the City.

Mr. Witte responded that they could not do anything more regarding the parking and added that they had also been denied the ability to provide valet parking in this area. He responded that he was not aware of the stores that Commissioner Mondejar had mentioned, but the space sizes here were different.

Commissioner Rosales stated that the vote by the CAC had been 4/4. One group of 4 was in favor of the developer, but Ms. Rosales inquired about what the thoughts were of the other four CAC members.

Mr. Hart responded that Ms. Johnson, who was present at the meeting, had voted against terminating the obligation and Mr. Hartman, also present, voted for terminating it. Some of the primary reasons that came up were that they did not want to let this potential space go because they needed the grocery and others felt that there was more that could be done to find a potential grocer as far as more outreach.

Commissioner Rosales read from the aforementioned memo that stated that “the lead developer may seek approval to terminate its obligations...which approval shall not be unreasonably conditioned”. So if they wanted to place a condition on their action, she inquired about whether it could be that they would terminate the obligation for a grocery space under the condition of further good faith efforts on the part of Related to find a food and beverage provider, which would be neighborhood serving, affordable, with quick-serve and with some grocery-like components.

Mr. Morales responded that they needed to take that sentence in the context of the entire provision, which was to find a grocer, in commercially reasonable terms which were acceptable to the developer, all with respect to a grocer and not any other type of use. He explained that conditioning the developer’s use of space on a different type of use with different factors might raise some questions and it came down to the definition of the reasonableness of trying to find a grocer and whether or not any conditions delaying the release of the termination were reasonable in that context. Mr. Morales stated that this was a factual matter but he felt that it would have to relate to finding a grocer and not for any other use.

Chair Mondejar clarified that they could allow the termination of the obligation with a condition that the developer continued to find a grocery use.

Mr. Morales stated that this would just be delaying the action for the termination of the obligation and would constitute the same motion as last December and whether there was a reasonable basis for the delay. He explained that the question here really was whether it was reasonable to delay the termination of the obligation based on everything that has happened over the past two years. They needed to look at the context of the entire obligation and the reference to the developer’s discretion that there was an acceptable grocer tenant based on commercially reasonable terms.

Chair Mondejar inquired about what OCII’s jurisdiction would be to determine the type of business that might be retained for that space if the grocer requirement were terminated.

Mr. Morales responded that there were already zoning requirements for this type of question. They could request a response from the developer regarding what use for that space had been decided by the developer which also included zoning requirements. He stated that what Commissioner Rosales had proposed for a new use was not within the original context of the obligation and the condition in reference was not imposed in that contract and that this would be considered a new obligation.

Chair Mondejar insisted that Related was relying on Whole Foods as a potential grocer but Whole Foods rejected their offer.

Vice-Chair Bustos stated that this was a great source of frustration for the Commission as well as for the community. He recalled an earlier issue with Lennar, where the issue had been resolved with the condition that the developer “do the right thing” because they wanted to continue working in the City as a developer, so they needed to do the right thing. Mr. Bustos moved that they approve the motion

but that they follow up with conversations with other potential grocers and the hope that Related understand the need in that space.

Commissioner Scott stated that OCII needed to take some of the responsibility for this and they needed to join the Planning Commission as well to revisit this problem. She seconded the motion.

Commissioner Singh inquired about what other uses this space could provide if not a grocer.

Mr. Shum responded that the focus would be on food and beverage concepts for a facility that is active during the evening and weekends, rather than a bank or other just daily commercial use.

Commissioner Rosales stated that she would vote against the motion because there were many questions involved in this matter. She stated that there were other issues here as well, such as the TB Terminal and Planning, among others. Ms. Rosales suggested that perhaps they could continue with a public/private conversation regarding this issue because she recalled that the grocery concept was offered to OCII by Related and they thought it was a great idea. She recalled that she had voted for Related over other developers because of the grocery concept. Ms. Rosales stated that she needed to have an understanding about what was available to OCII before they voted on the motion.

Vice-Chair Bustos clarified that Commissioner Rosales wanted more time with this issue to discuss with other City partners.

Mr. Morales responded that scheduling a joint meeting with the Planning Commission was appropriate and a good idea. However, delaying this matter pending the outcome of a meeting with a third party was of concern because this contract was between OCII and Related and the outcome of the meetings with Planning were out of their control and perhaps not reasonable. He explained that bringing in a third party was questionable because third-party decisions were not part of this contract.

Commissioner Rosales stated that they should at least find out what the result of the TB Terminal was before meeting with the Planning Commission in terms of the TB Terminal leasing practices as well as finding out about whether Planning would be able to do anything with OCII.

Chair Mondejar again pointed out that the CAC had voted 4/4 and they needed to listen to the community. She felt that OCII needed to provide a grocer to compete with Woodlands with some affordable retail. Ms. Mondejar suggested continuing the motion for perhaps 30 days to look at what other efforts could be taken, like meeting with Planning and conversations with other grocers, among others efforts.

Mr. Morales reminded Commissioners that they were working under a contractual provision which laid out the standard of OCII to release this obligation and whatever action was taken must be within this provision which maintained that they could only delay or deny this termination if it was reasonable.

Chair Mondejar inquired about whether continuation for 30 days was or was not reasonable.

Mr. Morales responded that the developer had requested termination of this obligation a year ago, had provided status reports, was present at an update meeting in December and had offered more outreach and good faith efforts, among others. He questioned whether a further delay would be

reasonable since within the last year OCII could have engaged the Planning Committee or sought out other grocers.

Executive Director Sesay added that information from the City regarding the retail situation in San Francisco was available and also that the Transbay Joint Powers Authority was temporarily closed but reported that they had leased up about 50% of the Terminal retail. Ms. Sesay added that they probably would not be able to rely on them for more information until they were open which might take a long time.

Mr. Witte wanted to make a personal comment because it had not been said but implied by OCII that Related had not been really trying as hard as they could and he took exception to that. Mr. Witte also responded to a statement by Vice-Chair Bustos. Mr. Witte stated that he had been working in providing affordable housing in San Francisco (SF) for a long time and that no other developer provided affordable projects on the scale of Related and added that 27% of their residents were affordable. He mentioned that he had also been a SF Commissioner. Mr. Witte stressed that they did want to have a grocer in that space; however, it was not Related's fault that the TB terminal was closed; there was nothing they could do about that. He discussed some of the history that Related has had with the City on other construction issues. They were long-term owners in SF and would continue to be in SF for a long time and they did not want to be seen as irresponsible. They were good long-term partners and were a stakeholder in the community and understood the issues that were being raised.

Chair Mondejar apologized to Mr. Witte if he felt that way but stated that she was still trying to find a way to keep the promise made to the community to fulfill the obligation to get a grocer in that space. She stated that there was a motion with no condition.

Vice-Chair Bustos stated that the condition was on OCII to figure out how to make this work in the area.

Chair Mondejar stated that they had to vote on this motion before another motion on the issue could be raised.

Vice-Chair Bustos clarified the current motion they would be voting on.

Vice-Chair Bustos motioned to move Item 4(a) and Commissioner Scott seconded that motion.

Secretary Cruz called for a voice vote on Item 4(a).

Commissioner Rosales – no

Commissioner Scott - yes

Commissioner Singh - yes

Vice-Chair Bustos - yes

Chair Mondejar – no

ADOPTION: IT WAS VOTED BY FIVE COMMISSIONERS WITH THREE AYES AND TWO NAYS THAT RESOLUTION 04-2019, FINDING, PURSUANT TO SECTION 9.07 OF THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH TRANSBAY 8 URBAN HOUSING, LLC, THAT THE DEVELOPER HAS MADE GOOD FAITH EFFORTS, BUT HAS BEEN UNSUCCESSFUL, IN LEASING AN APPROXIMATELY 12,400 SQUARE-FOOT GROCERY STORE AT TRANSBAY

BLOCK 8 (450 FOLSOM STREET); AND APPROVING THE TERMINATION OF THE DEVELOPER'S OBLIGATION UNDER SECTION 9.07; NORTH BLOCK OF FOLSOM STREET BETWEEN FIRST STREET AND FREMONT STREET; TRANSBAY REDEVELOPMENT PROJECT AREA, BE ADOPTED.

5. Matters of New Business:

CONSENT AGENDA

- a) Approval of Minutes: Regular Meeting of February 19, 2019

PUBLIC COMMENT - None

Vice-Chair Bustos motioned to move Item 5(a) and Commissioner Singh seconded that motion.

Secretary Cruz called for a voice vote on Item 5(a).

Commissioner Rosales – yes
Commissioner Scott - yes
Commissioner Singh - yes
Vice-Chair Bustos - yes
Chair Mondejar – yes

ADOPTION: IT WAS VOTED BY FIVE COMMISSIONERS THAT APPROVAL OF MINUTES FOR REGULAR MEETING OF FEBRUARY 19, 2019, BE ADOPTED.

REGULAR AGENDA

- b) Authorizing a Personal Services Contract with BLX Group, LLC, a Delaware Limited Liability Company, for arbitrage rebate consulting services in an amount not-to-exceed \$116,390 (Discussion and Action)(Resolution 05-2019)

Presenters: Nadia Sesay, Executive Director; John Daigle, Senior Financial Analyst

PUBLIC COMMENT - None

Vice-Chair Bustos motioned to move Item 5(b) and Commissioner Singh seconded that motion.

Secretary Cruz called for a voice vote on Item 5(b).

Commissioner Rosales – yes
Commissioner Scott - yes
Commissioner Singh - yes
Vice-Chair Bustos - yes
Chair Mondejar – yes

ADOPTION: IT WAS VOTED BY FIVE COMMISSIONERS THAT RESOLUTION NO. 05-2019, AUTHORIZING A PERSONAL SERVICES CONTRACT WITH BLX GROUP, LLC, A DELAWARE LIMITED LIABILITY COMPANY, FOR ARBITRAGE REBATE CONSULTING SERVICES IN AN AMOUNT NOT-TO-EXCEED \$116,390, BE ADOPTED.

6. Public Comment on Non-Agenda Items

Speaker: Michael Lacina, Chair, Fillmore Heritage Resident's Voices Committee; Ace Washington, community activist

Mr. Lacina indicated that the homeowners association felt it was necessary to form this Committee to address the commercial parcel located at 1330 Fillmore, formerly known as Yoshi's. He reported that there had been numerous public and private meetings regarding sale and use of this parcel and now members wanted to have a voice in this process. The homeowners were tied to the parcel by proximity as well as financially and emotionally. Mr. Lacina reported that they were significantly impacted by the brutal shooting and killing on March 23 and the injury suffered by innocent bystanders. He explained that this incident affected the entire neighborhood and now they questioned the City's concern regarding the area. They were aware of the history of the community, and some residents had purchased lifetime memberships in the now closed jazz heritage museum. As permanent stakeholders, they continued to invest and live in the community; however, they felt left out of the decisions being taken in the area. Mr. Lacina stated that OCII was legally bound and responsible for this parcel. What the Committee was requesting was a co-equal voice in the parcel and wanted a financially-viable experienced operator to uphold the reciprocal easement.

Mr. Washington dedicated this meeting to Marvin Gaye, who died in the month of April. He commended the efforts of the homeowners association and stated that he also wanted to know what was going on in the Fillmore. He suggested they go to Governor Newsom to speak with him about the situation. Mr. Washington pointed out that he had been on this case since 1995.

7. Report of the Chair

Chair Mondejar announced that she had no report.

8. Report of the Executive Director

- a) Notice of intent to issue a Request for Proposals seeking to engage a consultant to provide site office management, outreach, and administrative support to the Hunters Point Shipyard Citizens Advisory Committee and the Office of Community Investment and Infrastructure; Hunters Point Shipyard Redevelopment Project Area and Bayview Hunters Point Redevelopment Project Area (Discussion)

Presenters: Executive Director Nadia Sesay; Lila Hussain, Project Manager, Hunters Point Shipyard/Candlestick Phase II

Executive Director Sesay announced that this was a request to issue an RFP regarding a site office created in 1995 and their contract expired later this year.

PUBLIC COMMENT – None

Chair Mondejar inquired about the amount and term of the contract.

Ms. Hussain responded that this was a three-year contract and the previous amount was for \$1 million. They were waiting to see what the proposers came up with. She explained that the last contract was in 2016 and Michael J. Fox and Willie B. Kennedy were among the CAC Shipyard administrators.

Executive Director Nadia Sesay provided an update on the clean-up status at the Shipyard. She reported that Parcel A-1 had received a clean bill of health from the Department of Public Health (DPH) except for the deck marker that had been found. She reported that earlier this year they had completed that scan and had released a report. Last year they started on A-2 and to date they had released four progress reports and had not found anything other than naturally-occurring Potassium

40. Ms. Sesay reported that they would issue a final report in the next few weeks and then staff would arrange for them to come before OCII to give another update on Phase I of the project. In addition Ms. Sesay reported that residents had requested dust swipes of their residences and the DPH had conducted 225 swipes in Parcel A with no significant results and that a report would be released soon. She added that the Phase II final work plan had still not been released because of a disagreement between the Navy and EPA on the approach of the methodology being proposed.

Executive Director Sesay provided an update on Candlestick Point. In the fall of 2017 she recalled there had been a tour of the retail mall. She reported that Five Point was now proposing to convert a portion of their retail entitlement to retail space consisting of 750,000 sq. ft. of office and 170,000 sq. ft. of retail. What was new about this was that they were advancing 579 units of housing in the outfield. They had been working with Planning and doing a bit of outreach. Ms. Sesay reported that at some point Five Point would come before OCII to present on the plans.

9. Commissioners' Questions and Matters

Commissioner Singh announced that he would be leaving OCII and going to the Human Services Commission. Mr. Singh summarized his history of City service as a Commissioner and stated that he had been with OCII since 1995. He would be back for one more meeting.

Commissioner Rosales requested that by the next meeting they meet with the Planning Department to understand OCII's current jurisdiction as well as OCII's concurrent jurisdiction with Planning regarding regulation of uses in TB.

Chair Mondejar stated that she would like to get an update from Related regarding use for the space now that they had been released from their obligation.

10. Closed Session - None

11. Adjournment

Chair Mondejar wanted to close the meeting in honor of the late Public Defender Jeff Adachi.

Commissioner Rosales stated that as a former Deputy City Attorney, she had had many friends in the Public Defender's office and she counted Mr. Adachi as a friend and considered him to be a fearless leader.

Chair Mondejar stated that Mr. Adachi was a friend of the Filipino-American community and would be missed.

Commissioner Scott stated that during her years working as an intercity missionary from the 60's to the 80's working with youth, Mr. Adachi was always visible and served the City.

Vice-Chair Bustos stated that Mr. Adachi was a fearless fighter for all that was right and would be sorely missed.

Commissioner Scott motioned to adjourn and Commissioner Rosales seconded that motion.

Chair Mondejar adjourned the meeting at 3:21 p.m.

Respectfully submitted,


Jaimie Cruz
Commission Secretary