MINUTES OF A REGULAR MEETING OF THE
COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE
OF THE CITY AND COUNTY OF SAN FRANCISCO HELD ON THE
7th DAY OF MAY 2013

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 7th day of May 2013, 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 1:00 p.m. Roll call was taken.

   Commissioner Ellington – present
   Commissioner Mondejar - present
   Vice-Chair Mara Rosales – present
   Commissioner Singh – present
   Chair Christine Johnson - present

   Announcements

   Secretary Jones read announcements regarding the following:

   A. The next regularly scheduled Commission meeting will be held on Tuesday, May 21, 2013 at 1:00 p.m. at City Hall, Room 416, San Francisco, CA.
   B. Announcement of Prohibition of Sound Producing Electronic Devices during the Meeting
   C. Announcement of Time Allotment for Public Comments

2. Report on actions taken at previous Closed Session meeting, if any – None.

3. Matters of Unfinished Business – None.

5. Matters of New Business:

CONSENT AGENDA

ALL MATTERS LISTED HEREUNDER CONSTITUTE A CONSENT AGENDA, ARE CONSIDERED TO BE ROUTINE BY THE COMMISSION, AND WILL BE ACTED UPON BY A SINGLE VOTE OF THE COMMISSION. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS UNLESS A MEMBER OF THE COMMISSION OR THE PUBLIC SO REQUESTS, IN WHICH EVENT THE MATTER SHALL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED AS A SEPARATE ITEM:
REGULAR AGENDA

STAFF WILL RECOMMEND CONTINUANCE OF ITEMS 5 (a) and 5 (b) RELATED TO MISSION BAY SOUTH BLOCK 1 TO THE MAY 21, 2013 COMMISSION MEETING

a) Adopting findings pursuant to the California Environmental Quality Act and approving the proposed Redevelopment Plan Amendment for the Mission Bay South Redevelopment Project Area to allow a mixture of hotel, residential, and retail use on Block 1; Recommending adoption of the proposed Redevelopment Plan Amendment by the Board of Supervisors; and submitting the Agency’s recommendation, including the proposed Redevelopment Plan Amendment, to the Board of Supervisors; Mission Bay South Redevelopment Project Area. (Discussion and Action) (Resolution No. 15-2013)

b) Adopting findings pursuant to the California Environmental Quality Act and authorizing a Third Amendment to the Mission Bay South Owner Participation Agreement with FOCIL-MB, LLC, a Delaware limited liability company, to allow a mixture of hotel, residential, and retail use on Block 1; Mission Bay South Redevelopment Project Area. (Discussion and Action) (Resolution No. 16-2013)

Presenters: Tiffany Bohee, Executive Director

PUBLIC COMMENT

Speakers: Ace Washington

Mr. Washington had no comment.

Vice-Chair Rosales motioned to continue Items 5a) and 5b) and Commissioner Ellington seconded that motion.

Secretary Jones called for a voice vote on Items 5a) and b).

Commissioner Ellington - yes
Mondejar – yes
Rosales – yes
Singh – yes
Johnson - yes

ADOPTION: IT WAS VOTED BY 5 COMMISSIONERS AND UNANIMOUSLY CARRIED THAT CONTINUANCE OF ITEMS 5 (a) and 5 (b) AND RESOLUTIONS NOS. 15-2013 AND 16-2013, RELATED TO MISSION BAY SOUTH BLOCK 1, TO THE MAY 21, 2013 COMMISSION MEETING, BE ADOPTED.

c) Approving a Budget for the period July 1, 2013 through June 30, 2014, and authorizing the Executive Director to submit the Budget to the Mayor’s Office and the Board of Supervisors (Discussion and Action) (Resolution No. 17-2013)
Presenters: Tiffany Bohee, Executive Director; Leo Levenson, Deputy Director-Finance and Administration; Sally Oerth, Deputy Director

PUBLIC COMMENT

Speakers: Terry Collins, President, KPOO Radio; Ace Washington; Dr. Espinola Jackson, Bayview Hunters Point; Robert Woods, Black Leadership Council of San Francisco

Mr. Collins stated that he had submitted a budget to the Commission and asked the Commission to accept the budget so that KPOO Radio can continue broadcasting Commission meetings.

Mr. Washington stated that he would like the Commissioners to come to the Western Addition to see conditions in the community there. He spoke about the budget and community reform.

Dr. Jackson stated that she was surprised to find out that there are only 40 state and federal certified compliance officers in California and she wanted the Commission to find out who is state certified, who can make decisions and do the job correctly.

Mr. Woods stated that the discussion about positions sounded like cronyism because the positions are being given to friends and family. He stated that the community does not know about these positions being available because decisions are being made in the dark.

Commissioner Ellington inquired about the one-time assessor corrections for Mission Bay and asked for more detail on this. Mr. Ellington also inquired about the definition of non-material versus material items mentioned in the budget.

Mr. Levenson stated that the Mission Bay developer had been monitoring the tax increment coming in and reported by the Controller and over the past two years they had expected more money coming in because of the amount of development going on there. Staff hired a consultant to figure out which parcels had been identified as Mission Bay parcels and it was discovered that due to the assessor’s error, neither the increment nor the increase assessments had been going to the Agency because they were not coded as Mission Bay. This error was brought to the attention of the Controller and Assessor, who researched this and acknowledged that the error was made and have agreed that this is an obligation due to the Mission Bay project. However, they are still working on the exact amount. Staff has estimated the amount at $31 million based on the developer’s projection and they hope to see distribution of a first amount by June 1 and a second amount by year end. To the second question, Mr. Levenson responded that this referred to when they might need to adjust payment to a certain department; for example, if the tax increment report deems that the amount is $27 million rather than $31 million and they need to adjust the $31 million to $27 million. In this instance, that change does not materially change the work that the Commission will do next year even though it may change the dollar amount of the budget.

Executive Director Bohee added that in theory this could go the other way as well. The city might want the Commission to increase its work program and raise the ceiling on the budget; however, this is a not-to-exceed amount. Ms. Bohee added that this is the first budget of the year and doing it this way allows the staff to be nimble with the process of all the reviews and controls that they have to deal with. She stated that if it happens that more property tax comes in and if the city agrees, the staff would come to the Commission and the Board for a supplemental.
Commissioner Singh inquired about the $70,000 for Oversight Board-related expenses and inquired about how much was budgeted for KPOO radio. Mr. Singh further inquired about the dollar amount for Project Management and Administration in the budget.

Mr. Levenson responded that this was the amount available for the range of expenses that may be incurred by the Commission and the Oversight Board. He further responded that the total amount of $11.9 million was related to Table 2 for Project Management and Administration, which includes all of the allocable costs for staff, direct administrative cost allowance and retiree health and debt management.

Vice-Chair Rosales inquired whether the positions listed are budgeted rather than filled positions. Ms. Rosales also inquired about the budget classifications.

Mr. Levenson responded affirmative to the first and stated that all positions listed with an “R” referred to “Redevelopment Agency”. He stated that several of the positions are city positions but are full-time dedicated to the Commission whereas other positions are not full-time dedicated to the Commission but do support the Commission.

Executive Director Bohee responded that the “R” positions are unique to the Redevelopment Agency; however, bargaining is still ongoing. Ms. Bohee explained that an amendment was approved by the Board so all the “R” classes have a city match and other further determinations on class matches will come through negotiated bargaining agreements.

Mr. Levenson pointed out that salary ranges are the normal ranges for those positions but there are certain special cases where pay would be outside those ranges.

Vice-Chair Rosales pointed out the position of General Counsel was not listed and inquired as to why. Ms. Rosales inquired about what the process would be to create a position for General Counsel and if it might require a supplemental appropriation, if this position exceeded the scope of the current budget. Ms. Rosales also asked if all the deputy director positions are filled.

Executive Director Bohee referred to the memorandum of agreement that allows for the City Attorney to provide legal counsel as long as there is no conflict of interest and stated that there are other outside legal services that are incorporated into the budget.

Mr. Levenson stated that, if within the overall scope of this budget, they could take some of the money listed for legal services and move it to a direct hire General Counsel position dedicated just to the Commission. Mr. Levenson stated that they are currently using the support of the HR services of the City for hiring and bargaining and a new process would need to be created for this position hire if it was desired. Mr. Levenson responded that a supplemental appropriation might be needed, as long as there was a source for that supplemental income. Mr. Levenson responded that all the deputy director positions are filled by himself, Sally Oerth, and Jim Morales.

Chair Johnson inquired about how affordable housing developer fees will be reallocated within the budget process in the future; what is the process of matching up the sources with the uses; whether they would need a supplemental budget if a project comes up in this fiscal year. Ms. Johnson commented that in terms of how the budget is structured, it is not clear how the money for larger buckets such as affordable housing and replacement housing is going through the budget process, and it needs to be made clearer. Ms. Johnson inquired as to why administrative cost allowance, planning and other reviews cannot be attached to enforceable obligations and asked if they are
considered as other projects. Ms. Johnson commented on positions, stating that due to the dissolution, many things got put on hold including raises, promotions and moving from one job to another and inquired as to whether that potential movement is included in the breakdown of staff requirements in the budget.

Ms. Oerth responded that to the extent that any of those developer fees were known in advance of preparing the budget, they would include them in the budget. Ms. Oerth explained that if something came up during the fiscal year and they wanted to accept and extend those funds within that fiscal year, they would have to come back to the Commission for a supplemental. She added that if funds are coming in but are not to be used within the fiscal year, they would not be able to spend them until incorporated into a new budget. Ms. Oerth explained that funds coming in from a project area would go to the same project. Some fees come in under an owner-participation agreement, such as the Rincon Point South Beach project with no affordable housing obligations remaining, and they would be used to support other affordable housing, in particular the replacement housing obligation, which is the greatest need. Regarding the supplemental budget, Ms. Oerth responded that it depends on which sources are being used. If fund balances are being used and they have the authority to use those funds, and they are already allocated to projects in the pipeline, there is no need for a supplemental budget. However, she explained, if there was a need to issue SB2113-issued bonds, for instance, which is not incorporated into this budget, they would need to come back to the Commission. Ms. Oerth indicated that every project is sourced by multiple sources and there is likely fund balance and new money for any particular project. She added that right now the process remains unclear for staff also as they are waiting to hear from the state to find out what fund balances they can keep and they will keep the Commissioners apprised as they find out more.

Regarding enforceable obligations, Mr. Levenson responded that they probably could be attached and that this might actually increase some reimbursements of costs from developers and reduce their need for property tax. He explained that they decided they needed to add this to the budget, but were not sure how much revenue they would be able to get for it, so they included it as if they could not get any revenue for it. To the extent that staff is able to promote within the positions here, and overall within the salary and benefit budget, there is sufficient budget to do everything they need to do next year and a reasonable allowance for what they might anticipate in labor negotiations. Mr. Levenson explained that the Executive Director has the flexibility under prior practice to create new positions or adjust position classifications within the overall salary budget.

Executive Director Bohee added that this position budget does not close the door to what might happen as a result of bargaining.

Chair Johnson stated that she was sure they will see this item again due to anticipated changes and thanked staff for the overview of all the things that the Commission is working on now as well as what is coming up in the future. Ms. Johnson stated that they have an annual budget but also have a semiannual ROPS process and inquired whether the 13-14B ROPS would impact the process for the fiscal year budget; in other words, whether it could be possible that items in the ROPS might require a material change in the budget so that they would be looking at a fiscal year budget in the middle of the year. Ms. Johnson also inquired about whether there are any other major expenditures that need to be programmed, other than real estate projects, such as broadcasting costs.

Mr. Levenson explained that if they were to have more money available and could increase the budget, they would have to come back to the Commission, but added that by August they should be aware of that kind of change. He explained that if the ROPS constrains them and makes them spend less, they do not have to ask to reduce the budget as an amendment, but rather would simply have to make sure to not over-spend. Mr. Levenson suggested that staff provide Commissioners with status
reports as to how things are going against the budget on a six and nine-month basis. He responded that they have two restricted reserves: restricted developer reserves and restricted tax increment reserves, which are part Mission Bay and part affordable housing fees at Transbay. He added that these reserves will not be ready to be spent within this fiscal year until properly planned for. So they reserve the money and spend it in the following year. He added that if there was a need to spend some of these funds in the same fiscal year, they would have to come back to the Commission to do that.

Commissioner Ellington motioned to move Item 5c.

Vice-Chair Rosales stated that she would second the motion but only if the record reflects that the Commission will consider the General Counsel position.

Mr. Levenson reminded them that there is budget for legal services which would be sufficient for a legal counsel position without having to amend the budget for it.

Vice-Chair Rosales asked if previously there had always been a General Counsel position for the Agency.

Executive Director Bohee responded in the affirmative. She explained that at the time of dissolution, there was a General Counsel and 5 other staff attorneys but those were all dissolved. When the City was serving as successor agency, per the charter, the city attorney served as General Counsel for city departments. It has since been determined that successor agencies are separate legal entities and the Commission has entered into a memorandum of agreement with the City Attorney to serve as legal counsel. However, she added that the potential for the Commission to have their own General Counsel is still out there.

Commissioner Mondejar asked if the Commission has the authority to bring back the position of separate General Counsel for the Commission.

City Attorney Bryan responded that it would require a language change to the resolution.

Chair Johnson suggested that they amend the motion to have staff add the General Counsel position to the budget as well as administrative development positions.

Commissioner Ellington stated that he preferred it to read as a directive to staff to give authority to the Executive Director to hire who she wants.

Vice-Chair Rosales opposed that statement because General Counsel is a Commission appointment and this was confirmed by Chair Johnson.

Commissioner Mondejar stated that she would feel more comfortable if it was added to the list of positions in the budget.

Chair Johnson restated that it would be better if this position was added to the resolution rather than the budget.

Commissioner Singh stated that he was not satisfied with the answer from Mr. Levenson about the administrative amount of $70,000 and wanted it adjusted or taken off the budget.
Mr. Levenson responded that this amount has not yet been split up and is just a line item at this point. He added that adjusting it or removing it would require more policy direction from the Commission and deferred to the Executive Director.

Executive Director Bohee responded that they used historical spending to complete this part of the budget and doubled the amount to cover all Commission and Oversight Board expenses as well. She explained that there is a budget contingency of $200,000 in administrative costs which will allow for any disallowances from the state or other expenditures that may come up, so there is no need to adjust the $70,000 amount.

Commissioner Mondejar asked for an explanation on when and how the restricted tax increment reserve is used.

Mr. Levenson responded that there was a projection on the tax increment that is likely to come in including the restricted tax increment for Mission Bay, which is entirely pledged for Mission Bay. He explained that the project managers have also submitted a spending plan for next year and the tax increment is likely to be spent. As per the developer agreements, Mission Bay affordable housing gets 20% of the tax increment and it does not look like it will be spent next year. However, they wanted to show the restrictions of those funds because they cannot show more sources than uses and they will come back with future year budgets to show how that money is being spent.

Chair Johnson discussed added wording to the resolution with regard to the General Counsel position, which reads as “whereas the OCII Commission directs the Executive Director to include a General Counsel position in the Administration and Development Positions Section of the proposed FY 2013-14 Budget”.

Vice-Chair Rosales seconded the motion of Item 5(c) with this added language.

Chair Johnson inquired about materiality and material change to the budget after it goes to the Mayor’s Office but pointed out that the current resolution does not mention any specific percentage to the change. Ms. Johnson inquired why there was no specific percentage amount indicated when previously there was.

Mr. Levenson stated that is was up to the will of the Commission if they wanted to add a percentage of up to 5%. He clarified that there was no specific amount in previous budgets, but that the word “material” was used.

Executive Director Bohee responded that 5% could be quite a large amount so they added the word “material” change instead of a specific amount.

Secretary Jones called for a voice vote on Item 5(c) with the added language to the resolution.

Commissioner Ellington - yes
Mondejar – yes
Rosales – yes
Singh – yes
Johnson - yes

ADOPTION: IT WAS VOTED BY 5 COMMISSIONERS AND UNANIMOUSLY CARRIED THAT RESOLUTION NO. 17-2013, APPROVING A BUDGET FOR THE PERIOD JULY 1, 2013
THROUGH JUNE 30, 2014, AND AUTHORIZING THE EXECUTIVE DIRECTOR TO SUBMIT THE BUDGET TO THE MAYOR’S OFFICE AND THE BOARD OF SUPERVISORS, BE ADOPTED.

6. Public Comment on Non-agenda Items

Speakers: Dr. Espinola Jackson, Bayview Hunters Point (BVHP); Robert Woods, Black Leadership Council of San Francisco

Dr. Jackson asked about whether the tax increment for the Bayview Hunters Point is being enforced. Dr. Jackson also expressed concern about building heights in San Francisco that will be voted on in November, specifically whether the building at 8 Washington Street is to be 136’. She reminded the Commission that in 1970 San Francisco voted that no buildings would be over 60’ but at that same time BVHP would be exempt from that limit. Dr. Jackson stated that the developers just want to build buildings and make money and are not concerned with the people of San Francisco or the danger from earthquakes.

Mr. Woods expressed concern about rumors that Lennar will be the developer at the new basketball stadium because Lennar was already the developer for four major projects in San Francisco. Mr. Woods stated that he thought another developer should be chosen for the new stadium project and that the community should be a part of the selection process.

7. Report of the Chair

Chair Johnson stated that she had no report but deferred to Executive Director Bohee to respond to the public question about where the BVHP tax increment goes, since it is not an enforceable obligation.

Ms. Bohee responded that the tax increment goes to any outstanding debt service for previous bonds that were issued for BVHP and that there are some that are part of the fund balances that are being used for housing projects that are considered enforceable obligations. Ms. Bohee added that any tax increment not being used for enforceable obligation gets redistributed to the City for taxing distribution, of which the City and County of San Francisco is the largest shareholder of that distribution, then the school district, City College, and then BART. Ms. Bohee indicated that there were bond proceeds in the amount of $785,000 issued for plaza improvements for the Bayview Opera House which will be used after appropriate approvals are received.

8. Report of the Executive Director

Executive Director Bohee reported that she will continue to update the Commission on the outcomes of the state reviews and any other changes that may come up during the budget reviews with the Mayor’s Budget office prior to submission of the actual budget. Ms. Bohee stated that she will provide a report at the May 21 meeting on this topic.

9. Commissioners’ Questions and Matters

Vice-Chair Rosales inquired about having the opportunity to ask questions of the public when they come before the Commission with continuing problems, in particular BVHP where the community seems to be very unhappy with the developer. Ms. Rosales stated that she felt at a loss not being
able to interact with the public during the meetings because people take time to come to the meetings to share some concern and she felt they needed to be answered.

Executive Director Bohee responded that all members of the public can state their concerns before the Commission as well as submit written materials at any time and staff can meet with the community to gather information and then update the Commission on that project and its implementation.

Chair Johnson stated that she supports community workshops and open hearing sessions as long as they are directed discussion on specific items that are of concern about the project. Ms. Johnson stated that in this way discussions with the public remain constructive and meaningful and directed to areas that the Commission can actually do something about.

Commissioner Mondejar inquired about how Commissioners can obtain more historical background on certain items, such as the Certificate of Preference program, affordable housing, and SB2113. Ms. Mondejar inquired about the outreach process involving the public on Mission Bay projects and suggested that the Commission consider that instead of meetings always being driven by projects and developers.

Chair Johnson stated that there is still a large backlog of items the Commission needs to get through and indicated that the agendas are set the week before the meetings. Ms. Johnson stated that she makes note of everything requested by Commissioners during every meeting, puts them on a list, and then they see what else they can fit in during future meetings. Ms. Johnson suggested that Commissioners simply ask for things to be on the agenda. As far as outreach, she felt they could do a better job. However, she stated that there are those community members who will be at every meeting and then there are those who come only when the agendas are applicable to them and impact their daily lives.

Commissioner Singh expressed his concern about the public coming to the meetings and stated that the public should come to find out what the Commission is doing.

10. **Closed Session:** – None.

11. **Adjournment**

   The meeting was adjourned by Chair Johnson at 3:00 p.m.

Respectfully submitted,

   [Signature]

Natasha Jones
Interim Commission Secretary

ADOPTED: