

City of Richmond – POINT MOLATE COMMUNITY ADVISORY COMMITTEE

Multi-Purpose Room
440 CIVIC CENTER PLAZA

MINUTES

MONDAY, August 15, 2011, 6:30 PM

1. CALL TO ORDER

Garrett called the meeting to order at 6:36 p.m.

2. ROLL CALL

Present: Committee Members Beyaert, Clark, Garrett, Gilbert (6:39pm), Glendening, Ham, Hanna, Hite, Kortz, Martinez (6:41), Rosing, Smith, C., Smith, N., Soto, Stello, Sundance and Whitty.
Absent: Committee Members Gordon, Helvarg, Hite
Staff Present: Gayle McLaughlin, Mayor; Marilyn Langlois, Community Advocate, Mayor's Office; Craig K. Murray, Staff Liaison/Development Project Manager II, Community & Economic Development Department/Redevelopment

3. WELCOME AND MEETING PROCEDURES

Garrett welcomed audience, explained meeting procedures, and discussed the Speaker Card process.

4. AGENDA REVIEW AND ADOPTION

Garrett reviewed Agenda items and suggested to move item 12b to follow item 7b. Beyaert suggested friendly amendment that Committee receive item 8a City Staff Report as part of 7b and continue July minutes to August meeting. Stello then moved to accept the agenda amended as recommended by Chair Garrett. C. Smith seconded. Passed unanimously.

5. ANNOUNCEMENTS THROUGH THE CHAIR

Garrett announced resignations that were received from Committee Member Jon Gordon from the Clean Up and Restoration Sub Committee and from the PMCAC itself and from Committee Member Toni Hanna from the Clean Up and Restoration Sub Committee. Soto announced that on Saturday October 8, 2011, 10am-5pm, there will be the North Shoreline Festival at Pt Pinole Park as sponsored by the North Richmond Shoreline Open Space Alliance.

6. OPEN FORUM

Don Gosney, Richmond resident – commented on the meetings and that they are public, and speakers choice of meeting venue, trouble recording meeting due to the room and side conversations, and placement of Agenda on web.

7. PRESENTATIONS, DISCUSSIONS & ACTION ITEMS

A. Establish Day, Time for tour of certain Pt Molate grounds and facilities (20 min.)

Murray presented information on Pt Molate Tours and Committee discussed possible dates. Murray to forward survey to Committee for consideration of two tour dates.

B. Tentative Order for adoption of Site Cleanup Requirements – CA Regional Water Quality Control Board (40 Min.)

George Leyva and Alec Naugle of the State Regional Water Quality Control Board attended meeting to provide information based on Committee and audience questions to the draft Tentative Clean-Up Order. Leyva presented the Tentative Order (Order) as found in the Agenda packet and Order states the problem and requests that the City provide a plan on how to work with it. Leyva can help guide your consultants on the scope of work.

Plan is due in February, 2012. Committee presented questions:

1. Glendening questioned what type of EIR is used to satisfy the Order & the Cortese list. Leyva indicated in 2008 an exemption was issued but later for Pt Molate Water Board indicated that yes it is a military site but only small amount of TCE existed on site even though it was not on the Cortese list and subsequently asked consultant putting EIR together to list what other needed mitigations and to include the Order as part of the project. Leyva indicated that the water board did wait for EIR for this project & used it to satisfy the CEQA requirement and clarified that a separate environmental report is not needed for the Order.
2. Glendening asked if this is why it took so long for the revised Tentative Order to be issued. Leyva indicated yes, that the order needed to be written and provided to the attorneys who had changes that needed to be incorporated and that along with the other necessary steps saw the order going out on July 26.
3. Glendening indicated that written comments due by Sept.9 doesn't give much time for review of the order and that the PMCAC will not have an opportunity for another public meeting prior to the current comment due date. Leyva indicated that it is a very simple order, however if the city needs more time, that could be discussed with the water board. Leyva indicated that and February is a reasonable time considering that you need to have a plan in place before you can consider doing any work. He also stated that if they don't get the city's plan in early spring, you can't start doing any work during the summer with the optimum period of time to do any significant digging which would put it into the following year. Leyva also stated that it has been a long time coming to get Pt. Molate cleaned up.
4. Soto asked about Site 1 on page 3 , number 11 Site A Landfill monitoring as clean-up order and expressed that he thought the cleanup order with relation to this site was highly inadequate. Leyva advised that in June 2005 the Navy proposed a ROD to cover the site with an impermeable surface and monitor at the bottom. He described process and site dates back to 1940's and tests and recent 5-year review of ROD shows it is still relatively clean, and is clean enough that it is not causing a toxic effect to the environment or to human health. Analyzing on semi-quarterly basis, and just finished a 5 year review of the site to determine if the remedy in the ROD is adequate and that this review is done every 5 years. ROD under CERCLA is legal document that it is authorized to clean-up. Leyva indicated that the contaminants could be removed but the powers that be back in 2005 determined that the remedy put forward in the ROD was the way to go, and also indicated that expenses involved with digging out the site and hauling away contaminants were a consideration. Further there is a deed restriction that prevents anyone from doing anything to the cap or damaging the cap.
5. Garrett inquired to Water Board letter to US Navy regarding cap in December, 2007 that monitoring is of questionable quality. Leyva explained that Navy installed an additional well and that concern was petroleum at site and need to have well that would screen across the water table as it should be. Leyva is comfortable that monitoring is adequate, and did not see any floating product when the well was dug.
6. Whitty questioned amount of time of monitoring. Bill Carson indicated quarterly on the land fill. Leyva confirmed that monitoring would be indefinite period of time, but that the long term monitoring schedule could be looked at to reduce the number of times reporting to reduce costs.
7. Beyaert had three inquiries including:
8. 1) changes to the new Order. Leyva discussed previously and discussion from Upstream to break out Site 3, 4 remediation and how reports will be submitted. There was a report that was received from Upstream that had been in the previous order – a monitoring proposal. That report was taken out of the current order, but the water board has the monitoring report previously submitted, although it has not yet been approved.
2) With uncertainty of development, how are cleanup standards accommodated? Leyva indicated saturated zone clean up criteria with primarily Site 3 and described Navy dig out of the treatment ponds only to 10 feet. The Navy's assumption being that no one would touch the site and thus it would be ok to leave it, and didn't ask how clean is ok to leave as is. The order asks the City what concentrations will be o.k. on zone that hasn't been touched and deal with mobile product - if it's something that's going to migrate to Bay. Glendening asked if this was to be site wide? Whitty indicated answer can be found on Page 4 B on top of Order. Leyva wanted a decision document but it won't be now that is flowing oil.
Beyaert
9. 3) With amount of funds flowing on other items, apparently Site 3 seems to be needing to start from scratch without any groundwater or soil having been to be cleaned up yet. Leyva confirmed a lot of consultant work on site performed but need to decide how much to clean it up to and it doesn't help on what

concentration can be left behind and therefore Water Board wants a decision document. Leyva indicated working hard not to retread old steps.

10. Whitty inquired in regards to how much clean up with Site 2 and 4 to residential use standards. Leyva stated that under the EIR submitted, if there's a residential area has to be cleaned up to residential standards and referred to use map for residential, however noting that Navy for the most part cleaned up to industrial standards for which the concentration levels are very high. Leyva indicated that it is up to City and tell Water Board that clean up will meet residential standard and can be found in the FS-RAP. Whitty asked when will Water Board be told. Leyva indicated that February 3 is date.
11. Glendening inquired about clean up goals and items in EIR are flexible and don't want to see clean-up that will restrict for future land use opportunities. Leyva indicated if proposed used and cleanup not in EIR then City will need to amend the EIR, but doesn't prevent Water Board from issuing Order to clean it up.
12. Whitty reviewed development options and questioned if level of clean-up is there because in the CEQA document. Leyva says order doesn't say have to put Residential here, but how are you going to clean up. Leyva has certified environmental project. If there is a change in design, it doesn't have a lot of effect on the order except that you'd request different clean up.
13. Beyaert questioned 5c inconsistent with Alt. D residential and why in FEIR Navy allowed to clean up to different standard. Leyva indicated it was Navy that determine use level sensitivity for cleanup and Navy cleanup, but the water board couldn't force them to clean up to residential standards just commercial/industrial.
14. Garrett indicated that Water Board has used an EIR with low validity and suggest rolling back time tables about an additional four months for PMCAC and public review. Leyva indicated that current Order still shows clean up two years out. Alec Naugle pointed out that Order only requires clean-up plans commensurate with the redevelopment, but all the water board knows about the redevelopment is what the EIR said, and that they are relying upon the submittal of a cleanup plan to provide the water board with the detail associated for proposed uses including residential. Garrett inquired how a cleanup plan can be developed by February 3, 2012 without knowing what kind of development is contemplated. Naugle responded that they had been advised that the cleanup plan can be done in time, and what the plan has in it meets the multi-family residential level, i.e., that it meets the development outlined in Alternate D (for IR Site 3). Bill Carson provided information about IR Site 3. Leyva indicated 1995, 1997 and 2003 attempts made to clean up and that we are now in 2011 and asked how much more time is needed to "dig this Up" specifically referring to Site 3. Mayor indicated points raised by Committee members are valid and main use, a Casino Use, has been rejected by Council. Mayor indicated an extreme change has occurred since 1997 and can time be extended for clean up for use and for safety of those visiting the site and if there would be any problem in providing a four month extension, and that having time to make comments would be important. Leyva indicated that Water Board has provided additional time and that is something that they will just have to decide on whether it's reasonable and that they can be included in comments to be provided by Sept. 9th, and they will consider it. Naugle indicated that would consider that and hearing that uses presented in EIR are not the uses contemplated and that it does present a problem and doesn't know who will figure that out perhaps the City. Leyva indicated that if the city would put together a set of comments that if the time schedule for the order was pushed out it may delay digging by an entire year.
15. Garrett indicated that published 2008 and rescinded in 2009 and inquired why now sudden rush and only three week comment period without knowing what use will be. Leyva accept that and please put in writing.
16. Soto inquired about hotel placement would be temporary standards and therefore not residential. Leyva confirmed hotel is commercial.
17. Soto inquired about fault lines and treatment area threats. Leyva indicated that seismic analysis has not been done. Leyva indicated want extraction trench taken out as it was put in in 1991 as a stop gap measure with the full intention that a full cleanup plan for Site 3 would be developed. Leyva also stated there has been some geologic assumptions and don't expect seismic failure there. Bill Carson of Terraphase responded that extraction trench failure that far from seismic area would not be seen but would see things such as power failure and if so there would be catastrophic events in entire Bay Area. The proposed plan IR Site 3 meets multi-family residential and with cost estimates from Navy and if you want to go beyond that in clean up then there is not the amount of money the Navy has provided. Leyva expressed concern

- about some oil escaping the southern end of the trench, but has noted that in the past 3 years oil has been detected, and that the trench is not good enough going forward.
18. Soto inquired about chemical process. Leyva and Carson responded.
 19. Whitty inquired on TO on a CEQA document based on EIR that has changed and if a developer submitted a new plan that did not match cleanup proposed under existing TO, would TO need to be done again?. Leyva indicated don't get involved in Land Use decisions. Naugle indicated that clean up plan needs to be redone if wanted residential and said commercial. Leyva confirmed plan needs to be redone but not the TO.
 20. Clark expressed concern that if site is cleaned up to certain standard, it sets a precedent that is what the land use must be limited to, and expressed concern about the cost associated with going back and doing additional cleanup for another use. Leyva indicated that it behooves the city to decide now what they plan on having for use and that the cleanup plan would then need to be adjusted, but not the TO itself.
 21. C.Smith suggested to clean up to higher standard now. Leyva agreed that plan needs to be adjusted if this is case. Naugle indicated that it is whatever is negotiated to that level and monies that are available. Carson indicated that it is a FS-RAP and what is standard and beyond and could go back to re-do RAP to look at variety of alternatives and recommend one. Leyva indicated that the FS-RAP is a City document and if City wanted to clean up to an example such as a school then City has to decide if it wants to come up with additional funding and City needs to go through that process.
 22. Glendening indicated that Water Board should put information in Order that there are some unknowns about the EIR and not just one project highlighted. Leyva indicated whole idea of EIR and Water Board should know sooner than later.
 23. Garrett summarized and wrapped up documents with EIR and assumptions in Order and a need for time. Leyva indicated that as long as stay in bounds of clean up within the EIR. Naugle indicated in 2008 Order was remanded because of a technical exemption because it was not a Cortese site and indicated what the Water Board could have used and confirmed that there is no project and Water Board is not writing a plan. Naugle provided likely scenarios to get to what is required for Order and three years ago didn't know information in FS-RAP. Leyva recommended to identify what areas you want cleaned up for what uses the city thinks that may be undertaken and proceed with the FS-RAP based on those assumptions.
 24. Soto inquired if a motion would be in order at this time for a formal request for an extension of time. Beyaert indicated that the Sub Committee will be asking for more time.
 25. Rosing thanked Water Board for their work here and indicated that we don't know what will happen on that property in the future and with a few more months to ensure process due to long nature of its reuse. Leyva asked for those comments to be put in writing, and management has to decide.
 26. Leyva asked if Order is too complicated the way it was written. Garrett responded that there are many documents to be reviewed in relation to it by September 9. Leyva indicated that he did want comments by September 9th, so that he has adequate time to put together a written response, and Order won't be heard until October 12 but may receive comments by October 1 but may not be able to address them but could address verbally to Board so technically there is more time. There is opportunity at the board meeting itself to put in any changes.

C. Presentation of General Plan timelines, and current LUD for Change Area 13; Point Molate and the San Pablo Peninsula (10 Min.)

Written information was provided by the City of Richmond Planning Department. Soto advised Committee as a Planning Commissioner that Commission envisioned that there would not be enough time so commencing September 1 that additional time may be provided to submit something on proposed land uses to Planning Commission. Beyaert indicated that Reuse Plan was adopted in 1997 and what is there to discuss. Soto and Garrett indicated that there is a lot to discuss and recommend that this item be put over to future meeting along with item 8a. No objections.

8. STAFF REPORTS

A. DISCUSSION ON ADMINISTRATIVE EXPENDITURE/REMEDATION BY CITY/UPSTREAM

9. CONSENT CALENDAR

1. Minutes of July 18, 2011 were discussed with Soto proposing change on an item and Garrett suggested to carry minutes over to next meeting. Whitty moved item, Soto seconded and approved unanimously.

10. FUTURE AGENDA ITEMS

Beyaert commented that he would like to hear from Upstream on their new development plan. Soto indicated that he would like discussion on what community would like to see there. N. Smith asked if the City Attorney's Office could present information on the legal status of Upstream. Ham presented that a draft of the PMCAC By Laws should be ready by next meeting.

11. CITY COUNCIL LIAISON REPORTS

- a. Report by Mayor McLaughlin that Developer Upstream has provided correspondence to the City and that this correspondence is currently being reviewed by City Attorney's Office and outside legal counsel. Mayor indicated that as soon as information is available that she will forward that to this Committee.

12. CHAIR AND SUB-COMMITTEE REPORTS

- a. By-Laws: Ham indicated that the By Laws are in rough draft and currently in the Sub Committee process. Ham indicated that he would like to run the draft copy through the City Attorney's Office.
- b. Clean Up and Restoration: Glendening reported that she is Chair and Beyaert is Vice Chair and that communication via emails on Tentative Order and Committee met today and have many questions. Beyaert motioned Sub Committee comments to Committee that correspondence to City include not having sufficient time to review the proposed TO and all the background documents and that given the limited time available, recommend the city make the following comments on the proposed TO:
- c. The first item deals with the land ownership around the NFD property with a note to correct the property owned on the northern side is owned by Chevron, the second deals with the amount of time that filling has occurred in the past with a note to correct the time period to 105 years, the third is a suggestion to move Task 1 Saturated Zone Cleanup Criteria to become a sub-task under Task 3 for IR Site 3, the fourth is a recommendation that the City review the compliance dates carefully to ensure they are feasible, and the fifth recommends that all sites be cleaned up to residential standards with the exception of Site 1 which has a deed restriction prohibiting residential, and the sixth item is related to Item 5c on page 2 of the TO, recommend revising the last sentence recommended cleanup up to industrial use to be changed recommending cleanup to residential use, with the exception of Site 1, recognizing that alternative D in the EIR has residential uses as does the Reuse Plan.
- d. Garrett asked for clarification on whether the six items constituted the cleanup and reuse subcommittees report or a motion. Beyaert indicated that it was a motion under agenda item 7b. Glendening added a clarification for the third of the six items that the cleanup criteria would be applicable site wide if needed so comment three would not need to be included.
- e. Garrett proposed substitute motion to reject TO based on its current time schedule and it be extended with adequate dates for comments to be provided upon advice of the PMCAC to the City and to the Water Board with time frame extensions to be provided by the cleanup and restoration sub-committee. Soto seconded. Beyaert indicated bad idea to delay TO/Clean Up and potential contamination to Bay. General comments on whether or not there is currently contamination occurring. Monitoring reports are available. General comments on clean up standard consensus and concerns if any possibility of getting additional funding from the Navy and likelihood of resolution of all items within 90 days. Call to Vote. PMCAC in favor with exceptions of voting No: Beyaert, Whitty & Sundance.
- f. Finance: Ham reported no action.

- g. Legal: N.Smith reported that she is Chair and indicated that Sub Committee has two issues: 1) Status of LDA, question if it is in effect and does it expire this Thursday; 2) On the Insurance Policy, question of what does it actually cover and noted Sub Committee hasn't received it yet.

13. Adjournment

Soto moved to adjourn meeting at 8:48pm. Sundance seconded. Passed unanimously.

14. SCHEDULED MEETINGS

Committee Meeting –

Friday, August 26, 2011, 3:00 p.m., Point Molate, Bldg.123, 2100 Western Drive

Monday, September 12, 2011, 1:00 p.m., Point Molate, Bldg.123, 2100 Western Drive

Monday, September 19, 2011, 6:30 p.m., Multi-Purpose Room, 440 Civic Center Plaza.

Minutes respectfully submitted by:



Craig K. Murray, PMCAC Staff Liaison