BRISBANE CITY COUNCIL
SUMMARY MINUTES

SPECIAL MEETING TO DISCUSS THE BAYLANDS
THURSDAY, MARCH 22, 2018
BRISBANE CITY HALL, 50 PARK PLACE, BRISBANE

8 P.M. CALL TO ORDER – PLEDGE OF ALLEGIANCE

Mayor Conway called the meeting to order at 8:08 p.m. and led the flag salute.

ROLL CALL

Councilmembers present:	Mayor Conway, Council members Cunningham, Davis, Lentz, O'Connell
Councilmembers absent:	None
Staff present:	City Manager Holstine, City Engineer Breault, Police Chief Macias, City Clerk Padilla, City Attorney Roush, Administrative Services Director Schillinger, Community Development Director Swiecki

ADOPTION OF AGENDA

CM Lentz made a motion, seconded by CM O'Connell, to adopt the agenda. The motion was approved 5-0.

City Attorney Roush indicated there was no reportable action during closed session.

OLD BUSINESS

A. Council will re-commence its deliberations concerning the Brisbane Baylands Planning Applications (Baylands Concept Plans, Brisbane Baylands Specific Plan Case SP-01-06, General Plan Amendment Cases GP-01-06/GP-01-10) and related Final Environmental Impact Report (SCH##2006022136). Universal Paragon Corporation, applicant; Owners: various; APN: various.

Mayor Conway asked staff to provide a history of how the Council got to its current position of considering some amount of residential development.

Thomas McMorrow of law firm Manatt, Phelps, and Phillips, consultants to the City, outlined

the history behind the 2017 draft legislation regarding development of the Baylands.

Mayor Conway welcomed public comment from the audience.

Dana Dillworth, Brisbane resident, stated she attended a town hall meeting of Senator Jerry Hill and Assembly Member Mullin held that same evening and both acknowledged the importance of local control to their constituents. Senator Hill stated an interest in reducing the cost of housing to local jurisdictions.

Clara Johnson, Brisbane resident, said the City or its consultants needed to explain the details of the contamination on the Baylands to the State legislators' staff. She said the nature and extent of contamination in OU-2 has not been clearly investigated. She said volatile organic compounds (VOCs) are important in OU-1 and OU-2 isn't well documented. She asked where the 2,200 housing units would go.

Mr. McMorrow agreed that OU-2 was understudied.

CM Davis asked Mr. McMorrow to address the ad hoc subcommittee's discussions with Senator Hill.

Mr. McMorrow stated Council member Davis and Mayor Conway met with Senator Hill multiple times to explain in detail the status of the contamination, including known and unknown contaminants. The discussion extended to recent and planned infill residential development in Brisbane. The Senator listened to the Council members throughout the course of the discussion. The Senator and other State legislators have stated that the contamination issues would be handled by the Department of Toxic Substances Control or the Regional Water Quality Control Board.

CM Davis asked Mr. McMorrow whether the legislators who authored the draft legislation would change their stance if they heard additional information from the City on the contamination and other concerns of residents.

Mr. McMorrow stated he did not believe the legislators would change their stance.

Beth Grossman, Brisbane resident, asked if UPC was party to the City's meetings with the State legislators.

Mr. McMorrow stated UPC was not a part of those conversations at the City's request. He stated that a majority of State legislators have the impression that local jurisdictions are a primary cause behind the housing crisis, and the goal was to avoid being in the local control fights on the basis of a reasonable compromise put to the voters.

Ms. Grossman stated that to reach that compromise, the General Plan would have to be amended, which Council members have stated would go to a vote of the public. She asked what would happen if the voters rejected such a General Plan amendment.

Mr. McMorrow stated in that case the City would be a target again for Sacramento.

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CM Davis asked if another bill similar to what was previously threatened would be introduced.

Mr. McMorrow said it would be an invitation for a bill that would impact Brisbane and probably other cities as well.

Ms. Grossman commented that the Planning Commission's recommendation has been mistaken for the community prepared plan in news reports and asked that plans be clearly referred to in all discussions.

Lori Liu, Brisbane resident, stated when she was Mayor in 2017 she also met with Senator Hill and the Planning Commission's recommendation was one of the items of discussion. Senator Hill interpreted that recommendation as the view of the City and the Council, which was not the case as the Council had not yet began reviewing the Environmental Impact Report (EIR). She stated if the voters did not approved the housing it would be a signal to the legislator.

Mr. McMorrow stated the Planning Commission recommendation was the first thing raised by Senator Hill in his discussions with the City, and the City clarified that did not reflect the decision of the Council.

Deb Horen, Brisbane resident, said there was a statewide outcry over attacks on local control by the State, including newly proposed Senate Bill 927. She did not agree with Mr. McMorrow that a bill could be reintroduced. She asked if the Council needed to change the General Plan first prior to asking for a vote.

City Attorney Roush said based on the Council's past discussions, the Council would adopt a General Plan amendment but it would not be effective until the voters approved it. He noted that matter was not yet before the Council.

CM Davis asked staff to provide input on Senate Bill 827.

Mr. McMorrow stated Senate Bill 827 is opposed by the Sierra Club and he expects other organizations to as well. He thought it started a debate on transit-oriented housing development that will continue over years. He thought it would not be adopted as drafted, but incentives to build housing around transit would continue to be a focus.

Clara Johnson, Brisbane resident, said the suggested compromise of 1,800-2,200 units and a residential-level of contamination couldn't be guaranteed. She suggested the Council consider requiring that the State hold Brisbane harmless for liability resulting from injury and death due to long-term exposure. She asked how the State would control DTSC in order to achieve the residential level of remediation. She did not think that standard could be met at Schlage Lock.

City Attorney Roush stated the City could request that the State do that in legislation, but advised it may not be likely without other things being conceded.

Mr. McMorrow stated he could not address from a scientific standpoint whether the residential remediation level could be achieved on the site. He stated that requirement was accepted as part of the compromise to be voted on by the public.

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Mayor Conway asked for the staff report on the Keyser Marston economic analysis.

Administrative Services Director Schillinger turned the presentation over to Debbie Kern of Keyser Marston Associates.

Mayor Conway announced a brief break to allow for the presentation to be loaded.

Mayor Conway called the meeting back to order and Ms. Kern began the staff presentation. (Note: The presentation is available here on the City's website.) She emphasized that Keyser Marston's study was intended to analyze the impact to the City's revenues and operations. She emphasized it was not an assessment of the viability of the project from a private development perspective.

CM O'Connell asked Ms. Kern to clarify if the types of special assessment districts that could bring taxes up 2% would include any of the initial horizontal costs of construction.

Ms. Kern stated they would not. It would cover costs after build out. Often developers want to put a Mello-Roos bond on a property to cover infrastructure costs. Cities can then add on a Mello-Roos for services tax on top of the Mello-Roos bond. This project would also likely have a CFD for horizontal costs (infrastructure). A homeowner's association dues would be on top of those other taxes. She noted it would be very expensive for future homeowners on their property tax bills.

CM O'Connell asked if the closure of the Golden State lumber yard was included in the analysis of impacts to City revenues.

Ms. Kern said that was not, as it was assumed it would be relocated within the City.

Mayor Conway stated that Kinder Morgan, Golden State Lumber, and Recology were all assumed to remain in the City.

CM Lentz asked if cities could negotiate a payment from the developer in the development agreement to offset City costs until buildout occurs.

Ms. Kern said that was an option for the City.

Mayor Conway opened the floor to public comment.

James Christie, Brisbane resident, said the proposed compromise with the legislators was reasonable and he encouraged the Council to bring it to the voters in November. He said many of his neighbors, some of which who choose not to attend Council members, are fine with residential development on the property if it allows local control. He said the Parkside Plan process set a good precedent for how to involve the community in envisioning what new development will look like.

Mea Christie, Brisbane resident, said beyond the concerns with safety and environmental quality, the City should be happy with what is developed in the Baylands. She asked that a community

visioning process be implemented for the Baylands.

Mark Roest, San Mateo resident, said a monorail could be developed on the Baylands to transport people to Caltrain and to BART in Daly City inexpensively. He said improvements in construction materials and techniques would help bring down this cost.

Dana Dillworth, Brisbane resident, said she was not in compromise mode. She said during the process it had been promised things would be studied equally. She didn't see any analysis of income from solar or that the renewable energy plan could be viable through a municipal utility district and transmission line fees. She said the hotel tax was not studied. She asked about the water wheeling agreement, where Baylands residents would pay higher water costs than other Bay Area residents. She asked that the cost of residential development include liability costs. She says if an EIR is certified that studies up to 4,400 units, 4,400 units would be proposed. She said this happened at Schlage Lock.

Barbara Ebel, Brisbane resident, said society seemed to have no standards for where residential would be built. She did not believe people would want to live there if they were fully informed. She said the developer paid $440,000 to lobbyists, $10,000 to Assembly Member Mullin, and millions to media campaigns. She said she studied the proposed residential units from a jobs-housing perspective and found Alternative #1 would provide 45% of its housing needs, Alternative #2 would provide 36%, Alternative 3 would provide 32%, and Alternative 4 would provide 33%. All scenarios worsen the jobs-housing balance. She asked how the City will be financially responsible and to the Bay Area at large as they are being pressured to.

Deb Horen, Brisbane resident, thanked the Council for their service. She said she was worried that by passing on these costs to future residents, the housing would not be affordable. An option that would likely be unpopular would be to tax all residents more, which she did not necessarily support. She worried that important components like water supply, solar energy generation revenues, parks and recreation, long-term liability, and jobs-housing ratios should be included in the analysis.

Michele Salmon, Brisbane resident, asked if the cost of City services analyzed in the study took into account the challenging circumstances of this specific site which is nearly 100% landfill, and the impacts to underground utilities associated with land settlement. She requested deed restrictions in perpetuity for any housing entitlements that covers all conditions regarding reasonable costs. She said the only reason the property is not a superfund site is because the owner agreed to remediate the site when they acquired it. She said Stofford Chemicals wasn't mentioned as a superfund site in the EIR. She said she went to a presentation by Vanessa Garcia of the Seven Mile House, who said that former rail yard employees told her the railcars were buried if they couldn't be fixed. She said they didn't know what was underground and it was irresponsible for the State legislators to bully the City into building housing when the City was trying to do the right thing. She said UPC wanted the housing entitlements so that when High Speed Rail takes the land by eminent domain it will get a bigger payout of taxpayer dollars. She said the State legislators were rolling over for developers and the City should stand up to the State and make sure any deal covers all problems.

Beth Grossman, Brisbane resident, read from her prepared statement. (Note: Ms. Grossman's statement is attached to these minutes).

Corey Smith, San Francisco Housing Action Coalition, said the analysis seemed to indicate a 4,400 unit proposal would result in more revenue tot eh City. He said the City should have the power to determine land use policies. He said Senate Bill 827 would raise height limits and decrease parking requirements around housing near transit. He said the "Yes in My Backyard" YIMBY movement had started to compile positive stories about developing more housing on Twitter.

Paul Bouscal, Brisbane resident, said over the past 30 years only a few community members have attended meetings, but a lot of people have contributed to this effort on Commissions, committees including the committee that reviewed the EIR. He said it was important to remember that mitigation measures would be done when feasible and traffic circulation would be a big deal if the 101 interchange is not built. He said the cleanup was supposed to be done when the property was purchased. Brisbane was at risk if contaminated soil is moved through other communities. He suggested building a conveyor belt to move contaminated soil on OU-1 and OU-2 to the landfill to reduce the cost and truck trips. He said the City should be careful with the distinction between open space and open area in the project description. He said 2,200 homes would triple the City's population. High speed rail was not addressed in the draft EIR and the State needed to address that. He said residential development would pay taxes to the Bayshore School District, not Brisbane's school districts. He said the City needed to think seriously about how to draw visitors to the Baylands and suggested housing be built at the Cow Palace site in Daly City. He suggested widening the channel on Visitacion Creek and developing floating structures among the swales to allow for wetland restoration on old industrial sites to adapt to sea level rise and earthquakes. He said High Speed Rail needed to state their intentions.

CM O'Connell stated High Speed Rail intended to conduct an EIR that would consider multiple options for the rail yard location that would be released in December 2018.
Barbara Ebel, Brisbane resident, said she was unhappy that the Keyser Marston analysis appeared to rely on the developer's numbers. She said open space maintenance costs were not accounted for in the analysis which could be substantial. She said the hotels and solar energy generation revenue were also missing. She asked if they assumed the development would be zero net energy. She said in her personal experience she moved to San Francisco at 18 and they rented a room that cost 65% of her income in rent. She said she had also lived in a basement apartment. Housing in the Bay Area was never easy even in the 1990's housing boom in San Francisco. She was concerned with leaving millennials an eroded democracy which was a bigger problem than housing cycles.

Lori Liu, Brisbane resident, said the threat from Sacramento was real as explained by Mr. McMorrow. If the City doesn't approve housing the risk of losing local control is significant. If the Council approves housing but housing is rejected by the voters, it puts the City in danger of having the developer's proposal forced on the City without the environmental controls and negotiating power for community benefits. She said she trusted the Council and thanked them for their service and patience. She suggested that the Council approve a housing allocation that provides net revenue to the City, a minimum of 1,800 to 2,200 units. She encouraged the Council

to ensure it's economically viable for the developer, because it doesn't make practical sense to approve a development that can't get built. She asked that whatever level of residential is approved is enough to support local retail like grocery stories and pharmacies which would be an amenity to all residents and encourage walkability. She asked the Council to create a responsible compromise, to the residents and to the developer and to the larger Bay Area community. She encouraged the Council to consider the available tools to ensure revenues for the City.

Dana Dillworth, Brisbane resident, said she had seen maps of potential locations for the High Speed Rail maintenance yard. The rail yard on the west side of the property would level Ice House Hill. The rail yard on the east side of the property on the landfill wouldn't cut through Ice House Hill. She said Ice House Hill must be considered an important environmental feature. She said the Council must not forget the VOCs that off-gas from the property when discussing the issue with the State legislators. She asked the Council to ask the State legislators how close housing should be built to toxic burners.

Mark Roest, San Mateo resident, suggested the builder be required to certify completion of cleanup. He said the core City power is to protect the health of citizens. He said full remediation to health standards should be required regardless of cost. He suggested new construction materials could reduce the cost of development. He said instead of taxing new residents, the new commercial, biotech, and office development should be taxed.

CM O'Connell moved to extend the meeting to 11 p.m. CM Lentz seconded the motion and it was approved 5-0.

Michelle Salmon, Brisbane resident, said UPC was entitled to build 1,500 units at Executive Park and have not yet done so. She thought their track record showed they wanted to secure entitlements to increase their property value but not actually build housing. She was distressed that the public would pay for taking property that was valued for residential development. She said just compensation for toxic landfill was very different than land that had been entitled for housing. She compared the situation to the Northeast Ridge which had vested tentative rights. She said mankind cannot continue to develop the way it has been. She was concerned with the jobs-housing imbalance shown in the alternatives in the financial analysis. She said people shouldn't live on toxic land.

Mayor Conway stated the Council and staff understood how toxic the land was, and have explained in minute detail to State legislators the nature of the contaminants including VOCs. The State has stated that they will rely on the regulatory agencies responsible for overseeing remediation. He said the Council has to move forward. If residents vote down a General Plan amendment, the City knows what the outcome will be with the State.

CM O'Connell acknowledged the public comment regarding the nature of the Baylands. Many of the issues brought up by the public would need to be addressed at the specific plan level when a project is actually proposed and after safeguards are put in regarding how the project will be built and other things that can't be determined right now. The Council used the information presented regarding worst case scenarios for financing and liabilities. She understood the concerns and said if the City was on the forefront, it could actually make a difference and set the performance

standards needed to be viable as an fiscally and environmentally conscious City. She moved that staff bring back performance standards and companion policies for 1,800-2,200 housing units in OU-1, and up to 4 million square feet of commercial that addresses all of the Council and community's concerns.

City Attorney Roush stated that a General Plan amendment would be the appropriate vehicle for staff to respond to CM O'Connell's request, that if adopted could be presented to the community for a vote.

CM O'Connell asked if the Council could designate in what area the residential units would be permitted. She stated OU-1, north of the proposed Geneva extension, would be the preferred location for housing if remediated to residential standards.

City Attorney Roush said the General Plan amendment would take into account land use and density and locations of such land uses.

Director Swiecki confirmed the City Attorney's direction.

CM Cunningham seconded CM O'Connell's motion and said all Council members care very much about the safety of everyone moving forward and are aware of the contamination of the land.

CM Lentz thanked the public for their comments and said he agreed with many of them. He said it is very important to maintain local control. He wanted the community to be engaged and work together to address affordable housing, zero carbon, and developing smart transportation infrastructure. He said the economic analysis is a starting point for exploring a range of mechanism to ensure public infrastructure is adequately maintained, beyond streets but also the remediation monitoring in perpetuity for future residents. He wanted the project to deliver a surplus to the City. He supported CM O'Connell's recommendation.

CM Davis said the City's situation was not ideal. She reiterated how hard the Council worked to educate State legislators, specifically the conversations she and Mayor Conway had with Senator Hill. She was disappointed the legislators did not agree with the community's concerns regarding the toxicity of the land. She said the housing crisis unfortunately has overpowered many of the arguments the City is making and is a stronger motivator than many of the safety concerns. State legislators have full confidence in the State's regulatory agencies. She said the City had to make a strategic choice regarding what choice is best in the long term for their community. She hated it and felt frustrated by their position after running against housing in the Baylands. She was not willing to bankrupt the City for a fight that the City couldn't win. She wanted their community to remain intact and moving forward as a team was important. She said all concerns must be addressed in the process. She encouraged the community to contact her to share all of their concerns. She supported CM O'Connell's recommendation.

Lori Liu, Brisbane resident, asked why 4 million square feet of commercial was recommended.

CM O'Connell stated she felt the 4 million square feet of commercial was more reasonable than

the other alternatives. She said that may leave room for negotiation with the developer and more could be analyzed at the specific plan level.

The motion was approved 5-0.

MAYOR/COUNCIL MATTERS

A. City Council Schedule Concerning the Baylands Deliberations Process

The City Manager indicated that staff would follow up with the Council regarding future scheduling.

WRITTEN COMMUNICATION

A. Acknowledge receipt of written communications regarding the Brisbane Baylands Project

Mayor Conway acknowledged correspondence received since the last meeting which was in the public record.

ADJOURNMENT

CM Lentz motioned and CM Davis seconded to adjourn the meeting. The motion was approved 5-0 and the meeting adjourned at 10:56 p.m.

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Ingrid Padilla, City Clerk

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List of Unanswered Questions from the Community
March 22, 2018

Dear Honorable City Council and City Manager Holstine,

On May 11, 2017, I read this collection of "unanswered questions" at a City Council meeting and submitted them for the public record. I assembled these questions from members of our Brisbane Community. These are far from a comprehensive list of questions. One year has passed and these questions remain largely unanswered. Unfortunately, the primary focus of our community decision-making process has become politicized and monopolized by UPC Staff bringing in affordable housing advocates and most currently by the State Legislature Jerry Hill Bill that unfairly threatens our City's autonomy and development decision making. Our community has repeatedly called for specific studies of each of these critical issues before a decision about any development on the Baylands is possible.

Most importantly, I would like to emphasize that under no circumstances should the General Plan be changed. The General Plan is a detailed, well thought-out document that represents countless hours of community input, committee and Council deliberations and staff time. Please do not change it to accommodate the developer or pressures from the legislature or other cities. The developer was well aware that our General Plan did not allow housing on this toxic Super Fund Site when they purchased it. The only reason it is not currently on the Super Fund list is that our General Plan stated that there would be no housing. This is our town and we must maintain the decision making power about what we choose to do with the Baylands. The General Plan protects our rights as a City. Our City needs to be able do the right thing to protect the general public from the effects of building, living and working on extremely toxic lands.

Finally, at the last City Council meeting on March 22, we listened to our hired lobbyist, Tom, explain the threat of the "Hill Bill" to our City. I am perplexed as to why the City Council feels it is necessary to make a decision now about housing when the Hill Bill went down. As I understand it, this is Jerry Hill's last year in Congress. Why do we need to make this decision now from a position of fear when there is no actual bill? Can we ask that the State Legislature attempt to answer the questions below and then make a good decision together? This decision and the potential environmental and health risks are their responsibilities too.

Thank you for your consideration,
Beth Grossman

List of Unanswered Questions below:

LIST OF UNANSWERED QUESTIONS from Community Members interviewed by Beth Grossman Submitted to the City Council May 11, 2017 (Edited and revised March 22, 2018.)

1. REMEDIATION
What are the actual plans for remediation of the toxins? Is it truly safe for housing? Would we be willing to raise our children in housing on that land? Who is going to pay for the remediation? Who determines the standard of the remediation? Who will regulate that?

2. AFFORDABLE HOUSING
Is there going to be truly affordable housing? What are the plans for size and price? What income levels will be able to afford them?

Lennar advertisements on BART list Bayview "affordable" housing starting at $600,000 per 600 sq. foot unit plus HOA.

Please visit the India Basin development to get a realistic idea of what this "affordable housing" is on or near toxic sites. After over a year, many of them remain unsold and vacant.

3. ECONOMIC BENEFIT
What is the economic benefit for Brisbane if we have to maintain roads, police, fire, school and public works?

4. ECONOMIC ASSESSMENT OF THE ALTERNATIVE PLAN
Why haven't we done an economic assessment of the Alternative Plan for Alternative Energy recommended by the Planning Commission?

5. LIABILITY
What is the liability in perpetuity for the City of Brisbane for future health problems or affects of earthquakes or sea level rise on the development?

6. HEALTH AND SAFETY
What were the results of the review done by Dr. Lee? Are they available to the public?

What can we learn from the affordable housing toxic debacle at Midway Village?
Here is an article that is a forecast of what housing on the Baylands could look like. Midway Village, Daly City is just across from the Baylands proposed housing site, across Bayshore near Cow Palace. http://www.sfgate.com/health/article/Daly-City-housing-complex-haunted-by-toxic-past-3170203.php

7. WATER
Where is the water going to come from? How can we approve housing without a plan or agreement in place?

How does the City-prepared WSA (water supply assessment) meet CEQA requirements when there is no reliable water source?

Why does the EIR say that the proposed OID agreement does not require the construction of any new facilities when SFPUC says it does?

8. TRAFFIC
How are we going to deal with the traffic and the impact of all this development on our ability to get in and out of Brisbane? What mass transit is proposed?

Can we require that the Geneva interchange be completed as a pre-condition?

9. NOISE
How are we going to deal with the noise from the pile driving that will go on for year after year?

How can we consider placing people in homes that are assaulted on three sides by noise levels in excess of 65dba (from Bayshore Blvd, from the CalTrain, and from Hwy 101?) Will they also be shaken by the vibration of the CalTrain?

10. TANK FARM
What about the Tank Farm? Is there an evacuation plan in the event of earthquake or fire? We need to deal with this regardless of the development on the Baylands.

How close can we build housing to the Tank Farm and toxic burners?

11. SOIL RECYCLING
What is in the dirt that is being “recycled” and piled higher on a daily basis? Was a request made for the truck manifest for the UPC owned soils processing business? Is there any soil from Bayview Hunters Point?
Is the soils manifest available to the public? Has the soil been tested by an independent company, not affiliated with UPC?

12. SURROUNDING AREA DEVELOPMENT
How is the Baylands development being coordinated with all the Candlestick/Hunters Point/India Basin/Bayview and San Francisco development just north of Recology?

13. HIGH SPEED RAIL?
How does the High Speed Rail fit into this picture? If the Baylands are re-zoned to permit housing, why would the State Legislature want tax payers to have to pay an exorbitant price for the Baylands in the event of eminent domain?

14. EARTHQUAKES, SEA LEVEL RISE, PILE DRIVING, LIQUIFACTION, FAILURE OF THE CAP

How will the fuel leaking from the tank farm effect the health of the site and people working there?

How will 20 years of pile driving affect those already leaking pipelines?

How will the cap be repaired in the eventuality it fails?

Since the sides and bottom of the landfill are not sealed against bay water intrusion, what impact will sea level rise have?

Liquefaction will result from an earthquake. Will all the leachate bubble to the top?

How many hazards are too many?