BRISBANE CITY COUNCIL
SUMMARY MINUTES

SPECIAL MEETING TO DISCUSS THE BAYLANDS
MONDAY, JULY 24, 2017
BRISBANE CITY HALL, 50 PARK PLACE, BRISBANE

7:30 P.M. CALL TO ORDER – PLEDGE OF ALLEGIANCE

Mayor Liu called the meeting to order at 7:34 p.m. and led the flag salute.

ROLL CALL

Councilmembers present:	Conway, Davis, Lentz, O'Connell, and Mayor Liu
Councilmembers absent:	None
Staff present:	City Manager Holstine, City Clerk Padilla, Director Schillinger, Director Swiecki, City Engineer Breault, City Attorney Roush

ADOPTION OF AGENDA

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

OLD BUSINESS

A. A. 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.

1. Response to Council Data Requests and Questions

CM Lentz reported that the Baylands Subcommittee had received a report from the City's interns and asked staff to confirm the role of the interns in addressing the Council's questions.

City Manager Holstine stated that the interns had researched some questions posed by the Council, which were included in the Council's packet after being vetted by staff and Metis Consulting. He commended their work and presentation to the subcommittee.

CM O'Connell asked what temporary employee lodging in the Baylands would look like, as posed by CM Conway in his written questions.

CM Conway clarified that his request was whether employers could provide employee dormitories for workers only, not their families, who would stay there during the work week and return home at the end of the week.

CM Lentz said the Council's questions provide an indicator of the things that are important to them.

CM Davis asked CM Conway if he was envisioning housing for workers of companies on the site, or if he was thinking of housing for workers constructing the development?

CM Conway said it could be for workers who work on-site, and potentially could be leveraged to collect transient occupancy tax.

Director Swiecki stated the criteria would be for temporary residents as opposed to temporary workers.

CM Lentz asked CM Conway if he had any examples of that type of housing.

CM Conway said it was a new model.

CM O'Connell said it was similar to police officers or fire fighters spending the night at the Department if they have an overnight shift.

CM Davis said she wanted to investigate that further.

CM Conway said once the Council establishes land use, then they can delve more into the detailed questions and answers. He said some questions would only be delved into if it was necessary.

CM Davis said discussing other land uses would be more effective if they know where the community is at in terms of housing, as that would inform the rest of the plan. She said she wanted to put it on the November election ballot. She said she was happy to discuss land use at this evening's meeting.

CM Lentz said housing is the biggest issue in addition to site remediation. He said the Council hadn't fleshed out its vision and he wanted to develop a foundation first. He said many people outside of Brisbane were interested in the decisions made and the site is very unique.

CM Conway said he respected the people's right to vote on major land issues in Brisbane. He initiated the resolution for a vote on the quarry in 1999 which was a binding vote. He wanted a vote on the Baylands, but he wasn't sure what they would be voting on now. He wanted to establish a land use plan first so they had something to take to the ballot.

CM Davis said to get clarification on next steps they needed the community's pulse on whether they want housing or not. The Council could come up with their ideal plan and put it on the ballot and people could reject it for certain aspects. She said the issue of whether the Baylands was appropriate for housing was a significant issue to get voter feedback on.

CM Lentz said before they have a plan they have to understand their shared values and vision.

CM Conway said he had a vision, and other Council members had a vision as well.

CM Lentz said the Council was very concerned with traffic congestion associated with Baylands development and development in San Francisco. He said they needed to determine how to deal with that. He said getting people out of their cars would reduce traffic.

CM Conway said they needed to start with land use first.

CM Lentz agreed.

CM O'Connell said they should discuss housing. The Council needed to decide whether to start with the Planning Commission recommendation, draft a plan they are comfortable with based on their vision, and put that to the voters. She said the ballot measure should be more robust than housing or no housing, but the Council's discussion should start with that. She preferred to start with the Planning Commission plan, and refine General Plan amendments to implement that vision which would then go to the voters. She said if they don't have buy in or agreement from the developer, then the rest of the process is moot.

CM Lentz said the developer has already stated opposition to the Planning Commission recommendation. He asked if they were going to talk about housing or not.

CM O'Connell said they should not rush to put the issue on the ballot in November. She said the Council should start with the recommendation from the consultants as to which "box" they want to start at. She said the Council owed it to the public to be leaders and state their feelings.

CM Conway said he agreed with CM O'Connell, except he thought they should start with the developer's proposal.

Mayor Liu agreed that the issue was not ready to be put on the ballot in November. The Council needed to be leaders in addition to being responsible to the voters. She preferred taking several scenarios to the voters as an advisory vote. She said everyone's voices were important.

CM Davis said she was fine fleshing out the ballot measure more, but was concerned about complicating the issue. If they wanted the voters to give them a vision and direction, the ballot language has to be very clear so the Council can identify what components the voters actually want. She doesn't want to receive results that are difficult to interpret.

CM Lentz suggested reviewing the questions and answers in the agenda report to illuminate their concerns and help make up their minds. He said if they have a vision for the site, they can work any issues out with a development agreement.

CM Conway said reviewing the data will not change his mind on land use at this point.

CM Davis said deciding on the housing issue was the starting point.

The City Attorney stated that discussing the preferred land use mix was not on the agenda. He suggested if the Council did not want to review the questions in depth that they keep to the agreed upon schedule to discuss land use on August 7 to allow the public opportunity to comment.

CM Davis asked if the Council could state their positions on housing.

The City Attorney said various elements of the land use plan have been before the Council. The Council could indicate its preference toward one or the other or a combination as part of the Council vision. That was part of the agenda materials previously and is associated with the agenda item tonight. The members of the public here tonight could comment on that vision. However, he said discussing in particular the developer's plan or the Planning Commission's recommendation must be adequately and clearly noticed and described on the agenda so the public is properly notified.

CM Conway said the agenda item language references the Baylands planning application and he didn't see why their discussion couldn't move forward.

The City Attorney said the discussion of the ballot issue was merely a discussion and staff would bring back more specific language and information on the issue at an upcoming meeting for formal review.

CM Conway said in that case there was nothing more to discuss that evening.

The City Attorney stated the agenda item pertained to staff's answers to Council's questions. He said the August 7 meeting has been dedicated to land use discussion.

CM Lentz suggested reviewing the questions as previously suggested.

CM Conway said he read all of the material and discussed it separately with staff and had no additional questions.

Mayor Liu welcomed public comment.

Tony Verreos, Brisbane resident, asked if any of the questions addressed whether there should be housing on the Baylands.

CM Davis said they would not ask staff that question.

Mayor Liu said many questions and responses were related to housing. She stated the Council would review Attachment 1 to the agenda report containing the Council's questions and staff's answers. She asked if there were any questions on those answers.

CM Lentz asked if the square footage shown for Sierra Point included the proposed hotel.

Director Swiecki replied it did not.

CM Lentz asked for the total buildable square footage of the Baylands.

Director Swiecki replied it was about 540 upland acres, excluding Ice House Hill and Lagoon.

CM Lentz asked if the Council felt Sierra Point was overbuilt or if the square footage was appropriate.

CM Davis said she could not answer that question until August 7.

CM O'Connell asked if Caltrain and Muni were currently at capacity.

Mr. Zola said they were close to capacity.

CM O'Connell asked if staff knew what specific distance to the train tracks necessitated off-hour pile driving.

City Engineer Breault stated piles within the Caltrain right-of-way required off-hours driving.

CM O'Connell asked how many piers associated with the specific plan proposal were located within the Caltrain right-of-way.

City Engineer Breault stated some piles would need to be in the Caltrain right-of-way which would trigger off-hour driving requirements. He believed the right-of-way width was about 100 feet.

CM Lentz asked how techniques to shorten pile driving duration reduced the noise.

Mr. Zola said the noise impact comes from hammering. Pre-drilling the hole makes it simpler to get the pile down.

CM Lentz asked if the City Council could require pre-drilling of piers.

Mr. Zola said the mitigation measure could be expanded to require quieting techniques. He said it depended on the extent of buildings and infrastructure and their location and phasing.

CM Lentz asked about how distance might mitigate noise to residences.

MR. Zola said due to the way the noise travels in Brisbane, distance could not be relied on as a means to mitigate noise. A pile driving plan could be prepared as part of the noise mitigation, establishing how and where it would be done, what times of day, etc.

CM O'Connell asked for clarification on the square footage of nonresidential development approved in adjacent cities listed on page 7, paragraph two.

Mr. Zola said it was just short of 18 million square feet.

CM Lentz said with 22 projects in the vicinity totaling about 40,000 units, and 18 million square feet of nonresidential development, not all cumulative impacts can be reduced to a level of insignificance. He said that was difficult when trying to plan appropriately and reduce impacts of a project.

Mr. Zola said every feasible mitigation measure available would not reduce the cumulative impacts of 40,000 units and 18 million square feet and 2,000 hotel rooms to less than significant.

CM Lentz asked if the City was liable for any future hazardous events. He asked if the City could embed requirements for releasing liability into a development agreement or conditions of approval.

The City Attorney stated the answer to that question was provided on pages 76-77 of Attachment 1.

CM O'Connell asked about cancer studies on landfills. She found it interesting that the increased risk of cancer was in excess of 3.5% and higher for specific cancers.

CM Lentz said he had read information that risks are not increased if there is Title 27 closure and the contaminated area is remediated properly. He asked for clarification.

Mr. Zola said Dr. Mearns wrote that response and he would take that question back to her.

CM Davis said the reports they were given were dense. She wanted examples of unregulated fills where housing was developed, and corresponding asthma, cancer, birth weight data for those places compared to national averages.

Mr. Zola said staff could come back with simple conclusions from those reports. He stated in the first paragraph under question 12, the 3.5% increased cancer risk refers to populations adjacent to incinerators.

CM Davis said she was looking for developments that have been around for a long time with years of data compared to national averages.

Mr. Zola understood CM Davis' request. He said the technology to close a landfill 20-30 years ago is different than the technology used today.

CM O'Connell asked if the rail side of the Baylands was constructed with rubble from the 1906 earthquake.

Mr. Zola said some areas were filled with that rubble.

CM Lentz said the Marina District was built in the early 1900's with completely different building standards than today.

Mr. Zola said the current California Building Code was considerably different than the standards that applied during that time.

CM Lentz asked if current building standards would reduce the significance of liquefaction causing damage.

Mr. Zola said the EIR's map of liquefaction hazards is based on general geotlocai conditions that lead to liquefaction- sandy soils, high water table, etc. Some of the testimony heard from UPC's

sub consultants was related to the landfill specifically. The California Building Code required building design to be based on site-specific soil conditions to avoid building failure due to liquefaction.

Mr. Lentz asked if they move forward with non-residential development, would they have to back up scientifically why residential wouldn't be allowed?

Mr. Zola said the Sustainability Framework suggests that the City retain a third-party consultant to represent the City in reviewing and commenting on the remediation process. If the City does not agree with the outcome of that process, the City would negotiate with the developer and the regulatory agencies. If there was still no agreement and the City was concerned the approval was not protecting health, that's where the City would need to come up with scientific evidence via the third party consultant as to why it wasn't. The City retains land use authority throughout the regulatory process remediation and landfill closure.

CM O'Connell said if an industrial use was already chosen for the site it wouldn't be an issue, the regulatory agency would say it met the threshold for industrial use. Then if the Council felt it wasn't remediated to that land use standard, that's when it would speak up.

CM Lentz said if the developer puts forth the proposal for housing and the lead agency said the remediation plan met the standards required, the third-party consultant could request more stringent standard backed up with science. He asked if the City could require a higher remediation standard to be used.

Mr. Zola said the Council could not mandate a higher standard. The Sustainability Framework outlines the potential process. The question is whether the outcome of the process protected public health and would the land use approved by the City be safe based on the regulatory review process and agency approval and the City's third party independent review of the process. To reject the outcome of the regulatory review process, the City would need to negotiate a solution.

CM Lentz specified he was asking about housing specifically and if Council could mandate what standard the land was remediated to.

Mr. Zola said the Council would come to a conclusion whether the outcome of the regulatory review process protected public health. If they had scientific reasoning to say it did not protect public health, then the Council would not be obligated to approve the land use.

The City Attorney said if the Council approved a particular land use and through the remediation process it was determined the site could not be remediated to the point where it was safe for public health for the land use, and that decision was based on a scientifically based determination, the Council would have the discretion to proceed with another land use that would not be detrimental to public health.

CM O'Connell asked about providing buyers and sellers with long term buyouts of environmental liabilities. She asked if when the landowner purchased the property they purchased the long term environmental liabilities.

Mr. Zola said staff and the City could not answer for what the landowner understood it was buying into at that time.

CM O'Connell said the Regional Water Quality Control Board (RWQCB) had a WDRS and asked when the last WDRS was filed on the City's landfill.

City Engineer Breault said staff would get back on that.

CM Davis said she wanted to get a comparison of the amount of time it would take to drive to certain places from town, such as the freeway, during peak times at buildout.

Mr. Zola said they would have to measure not only delay at intersections but the change in speed on the roadway lengths between intersections which would be a several week effort. He suggested looking at each route and adding additional delay at intersections.

CM Davis said if the Council did not foresee a buildout with housing, it may not be a good use of time to go back and do that work. However she wanted to understand if housing was incorporated how potentially a reduced number of units might make a difference in the grand scheme of things.

Mayor Liu asked if the data looks at the surrounding projected development in adjacent cities.

Mr. Zola confirmed it did. He said if Council gave staff some sample routes, staff could do a rough estimate of change in vehicle speeds.

CM Davis said the route may change if new infrastructure was built, so it may not make sense to calculate the routes that would be used now. She wanted a sense of how it could impact residents.

Mr. Zola stated the optimal route taken today may not be the same route taken in the future.

Mayor Liu said the residential component could decrease traffic by reducing the driving distance for people commuting into the City. She asked if there was data that would consider the congestion reduction from including residential.

Mr. Zola said they could compare levels of development with and without housing. The traffic reduction is based on traffic generation from a mixed use project with housing as opposed to a project without housing.

CM Davis said it was assumed there would be less traffic regionally because new residents would take transit. She said it was hard to say what the regional traffic impact would be because they don't know if the Bay Area is going to continue to grow the way it has and they can't predict future factors that would influence traffic. It was the local Brisbane area that would be impacted by traffic.

CM Lentz asked if they have a third-party to oversee to make sure any necessary repairs to the landfill cap are properly done when required.

Mr. Zola said responsibility for the preparation of the remedial action plan and Title 27 closure plans is with the applicant. The City's role would be to independently review what's going back and forth between the developer and the regulatory agencies.

CM Lentz asked if best practices may change 20 years from now and that the most up to date techniques would be used.

Mr. Zola said that was correct.

CM O'Connell said the BBCAG has been that third-party group between DTSC and the developer on the Schlage Lock site. While they can make input, they have no regulatory authority, similar to the City in the Baylands. The enforcement would come down to the regulatory agency.

CM Lentz asked if the third-party consultant reviewed the repair plans for the landfill cap and it wasn't to the letter of the law, the City could have legal action to enforce that.

The City Attorney stated it was difficult to imagine the regulatory agency would not follow the letter of the law, but in that case the City would have recourse to ensure the applicable standards were employed.

CM Davis said she was interested in the Big League Dreams model A community member liked that idea. She also liked the idea of an outdoor synthetic snowboarding arena. She asked if they wanted to do something more recreational at the Baylands that would attract people from out of town who would then stay at a hotel. She asked staff to look into that.

City Manager Holstine said staff could look into other examples.

CM Davis asked if the pile driving decibel level provided at 1600 feet away was with quiet or normal pile driving.

Mr. Zola said the decibel level provided reflected normal pile driving. Staff could come back with the decibel reduction for quiet pile driving.

CM O'Connell asked what was meant by "later" site development phases- after the homes or the Geneva overpass were built?

Mr. Zola said it was based on the proposed specific plan, so after the first increments of development.

CM O'Connell asked if the developer sponsored plan proposed to build homes first and high rise office or hotels later?

Mr. Zola said questions on the developer's phasing plan should be discussed with the developer.

CM O'Connell stated the answer provided an assumption of what would come first.

Mr. Zola said it was an assumption based on the EIR and discussion regarding phasing at the

Planning Commission.

CM O'Connell said they should consider the effects of later phases of development.

Mr. Zola said the Planning Commission has recommended that phasing be laid out in a more specific manner based on a series of performance standards so each increment of development would have appropriate infrastructure and amenities.

CM Davis asked if staff could address what UPC has planned on Industrial Way in the vicinity of the former Stofford Chemical site at 200 Industrial Way.

Mayor Liu announced a five minute break.

The Council reconvened.

CM Lentz asked for more information about unbundled parking.

Mr. Zola said unbundled parking was a strategy whereby parking spaces in a housing development were purchased or leased separately from the housing unit.

CM Lentz asked how the City would ensure that the proper infrastructure is done in accordance with development.

Mr. Zola said it would be through performance standards in the specific plan as a phasing tool. Basic standards include meeting fire flow at all locations, sewer standards, adequate street drainage, and others. Phasing would thus be based on infrastructure provision of those infrastructure milestones. It could also be based on provision of open space dedication, habitat restoration, or other benefits. This is more responsive to changing market realities.

CM Lentz asked if performance standards were based on density.

Mr. Zola said it was related to the amount of development proposed.

CM Lentz asked if Council allow some housing on the Baylands, could the Council require only shared parking for residential units?

Mr. Zola said no parking at a residential or commercial area does not preclude people from driving there. It was a matter of finding a balance and robust transit to meet the entire transportation need for access on and off the site which would be a different system that currently available. Unbundling parking is different than having no parking at all.

CM Lentz asked if a bus and bike share network in proximity to the transit station would make not having a car okay. He said to reduce the carbon footprint they could eliminate residential parking with a transit package to support that decision.

Mr. Zola said the City had land use authority but did not have authority over transit agencies. A robust, 24-hour transit service with very short headways throughout the day would be required. A lot of development intensity would also be required to support that level of transit.

CM Lentz said there should be attention paid to transit oriented commercial uses. He asked why the multi-modal study prepared by San Francisco for the Caltrain station did not support moving the station south.

Mr. Zola said different modes have different objectives and design constraints, both short term and long term. The logical package for everything may not work when you look at individual piece of a system and how those improvements would be phased.

CM Lentz asked how to work with San Francisco to come up with a transportation plan that isn't only benefitting San Francisco.

CM Conway said San Francisco wouldn't listen to Brisbane. The bi-county priority development area (PDA) did not obligate San Francisco to consider Brisbane in its development plans. They can only do the best they can to cooperate.

CM Davis said the reason to have a multi-modal station is if there would be high density housing near the station. It has to serve a population.

CM Lentz said what that population is, he wasn't sure.

CM Davis said they had to ensure there was a threshold population where it made sense to have a multi-modal station.

CM Davis said the Council should wrap up at 10:30 p.m. to ensure they evaluated information appropriately. Questions remaining after 10:30 pm should be brought back at another time.

Director Swiecki stated currently, as stated in the agenda report response to Council questions, San Francisco abandoned the idea of moving the station north for technical reasons. The iteration they are currently considering would move part of the station south.

CM Lentz stated he wants whatever was developed in the Baylands to be walkable. He said a public-private partnership with the station would make sense. He asked for an example of transit oriented development public-private partnership.

Mr. Zola said it often comes down to land use. He said in California, often transit oriented development works in traditional downtown areas with existing dense levels of developmental round it. He said major retail users adjacent to transit stations were transit riders.

CM Lentz asked if the Council could ask for a shuttle to serve other parts of Brisbane.

Mr. Zola confirmed.

CM Lentz asked if they could apply standards designated by Title 24 in the future through a development agreement.

Director Swiecki said typically the City had to do a study reviewed by the State Energy Commission to impose a higher standard of energy conservation than the State Code. Brisbane

did that with the most recent Code adoption cycle in 2016 by piggybacking on a study performed by the City of San Mateo.

CM Lentz asked for confirmation that multi-story buildings could be zero net energy.

Mr. Zola confirmed.

CM Lentz asked for a review of the UC Davis West Village project funded through public-private partnerships, a mixed-use, 85% zero net energy project.

Mr. Zola said he would have to bring that information back.

CM Conway said there were 50 pages of questions left.

CM Lentz said he spent hours putting his questions together.

CM Conway asked who CM Lentz was asking his questions for.

CM Lentz said he was asking for people in the audience and on TV. He didn't want alternative facts to be disseminated about whether things were feasible.

CM Conway said the Council would set the land use.

CM Lentz said the Council had to know the facts.

CM Conway said the hour was getting late. He wants the Council's discussion on August 7 to be focused on land use.

Mayor Liu stated the Council should be asking questions but should limit comments.

CM Davis said additional questions could be submitted to staff if they weren't all addressed at the night's meeting. She said it may be more accessible to the public that way because they could read it.

CM Lentz said he wanted to understand how the project would impact the City and their community's connection to the rest of the planet. He said the sustainability framework was intended to address the bigger issues to make the world a better place and it had not been used in the Council's review. He said the Council seemed to not be talking to each other.

Mayor Liu said tonight was intended for clarifying questions.

CM Lentz said his questions were in writing and he was satisfied with the staff's answers. He said he wanted the audience watching at home to understand where he was coming from and wanted the City to do the right thing and provide the City with information. If that forum was not comfortable to the Council, he accepted that.

CM Davis said it seemed less about the questions and more about making sure people and the Council understood things that were important to him. She understood why he was doing that but

thought it was premature ahead of the August 7 meeting. She said it was difficult for the Council members to communicate their land use vision at this point in time.

CM Lentz said it didn't mean they couldn't discuss the content of the questions.

CM O'Connell asked if the landfill goes right up to the current lagoon shoreline.

City Engineer Breault stated it was short of the riprap in an irregular pattern and a map could be provided.

CM O'Connell asked if when the dirt is moved from the landfill side to the rail side, would it be tested? She asked if staff has additional information about the developer's plan to import soil fill.

Mr. Zola said two concepts had been addressed- moving soils east to west, or selling soils from the east side and importing soils to the west side. The EIR is based on the former. Beyond that is up to the developer.

CM O'Connell asked why vacuum tube technology would not be considered when the remedial action plans were prepared.

Mr. Zola said Recology would have to be able to accept the waste via the vacuum tubes. He added that in answer to question #54 on page 39 had reversed the information related to the funding of the Bayshore and Jefferson School Districts versus the Brisbane School District.

CM O'Connell asked if charter schools were private or public schools.

Mr. Zola said he would have to come back with that.

CM O'Connell noted a typo on page 48, second paragraph, last line, that should read "specific plan." She clarified her question 6 on page 55, stating she had wanted to know whether the developer could choose not to build the commercial portion, not just due to lack of funds. She clarified her question 22 on page 61, addressed information on how sea water and chemicals could combine to increase the corrosive impact on infrastructure underground and requested additional information at a later time. She asked if Golden State Lumber had agreed to move.

Director Swiecki stated staff conversed with Golden State Lumber throughout the planning process and they understood the City's process and were interested in relocating within the plan area.

CM O'Connell asked if the Bay Conservation and Development Commission (BCDC) had been contacted about the shoreline change from the riprap to the gradient softening of the lagoon front?

Mr. Zola said BCDC had not been approached by the City on that regard but may have been by the developer.

Mayor Liu asked what would happen in the event of a drought at the Oakdale Irrigation District

(OID).

Mr. Zola said OID has indicated there is adequate supply for multiple dry years based on what they have diverted from the river in the past. In a catastrophic drought, it would be similar to the most recent drought where the various users would share the available water supply

Mayor Liu asked about the legality of the threat by San Francisco of annexing the Baylands.

The City Attorney said current State law requires the property owner to seek detachment through the San Mateo Local Agency Formation Commission and the City would need to agree to that.

Mayor Liu asked for a copy of the Countywide sea level rise vulnerability analysis and asked for more information on the report's assessment of the Baylands site.

Mr. Zola said they would come back with that.

Mayor Liu asked for clarification of the impact of MTC's inclusion of 4,400 housing units in the Plan Bay Area 2040 on Baylands planning and transportation funding for projects in Brisbane.

Mr. Zola said the basic rule is that transportation improvement funding is to be consistent with the Sustainable Communities Strategy and Regional Transportation Plan.

Mayor Liu asked if MTC had purview over funding Brisbane projects outside of the Baylands.

City Engineer Breault said MTC was the main conduit through which federal and state transportation dollars flowed. A significant amount of those dollars are discretionary. The MTC Board sets the requirements for funding projects.

Mayor Liu asked if the City approves a project without housing, is there any legal basis for the regional welfare doctrine may apply, as suggested by some housing advocates?

The City Attorney said he would be surprised if a legal challenge did not include that concept. If the Council approves a project that doesn't include housing, it would need to include adequate findings to indicate the Council had considered the regional impacts and found those impacts were mitigated by other projects so it was not necessary for the City to approve housing on this site.

Mayor Liu asked for a brief description of those lawsuits cited on page 71-72 of Attachment 1 to the agenda report and if they had any legal bearing on the Baylands project.

The City Attorney said he did not have information on the lawsuits' current status. He understood the various holders of water rights predating 1914 sued the State when those rights could not be exercised during the recent statewide drought.

Mayor Liu said another case discussed on page 48 was litigation file by the Oakdale Water Alliance over the OID and there was a recent trial decision there. The staff report said it had not legal bearing on the proceedings for the Baylands.

The City attorney said the trial court's decision addressed whether an EIR should have been required over a Negative Declaration. Whether a Negative Declaration or EIR was required for the Baylands water source would be based on the nature of the water request.

Mayor Liu asked for more information about the Vineyard Area Citizens case and what the difference was between a planning-level decision versus what would be required later with respect to water supply.

The City Attorney said it addressed where in the planning process the Council must consider whether there was adequate water supply to serve the development in question. In the cited case, the development was farther down the line when there had to be a more definitive availability of the water. The City feels the EIR identifies a water source and the matters to be negotiated in order for that to occur. Under the Vineyard standard, the Baylands project is not so far along that the lack of agreements in place does not render the EIR inadequate.

Mayor Liu asked if the details depended on the volume of water needed which in turn requires a land use determination to be made, which cannot be done at this point.

The City Attorney confirmed.

CM Davis asked what the timeline would be for the rest of the questions that weren't able to be answered at tonight's meeting.

Director Swiecki said some questions could be addressed in the August 7 meeting mail out. Other questions, such as the traffic delay, were more complicated. Staff would try to give a timeline in the August 7 agenda report.

CM O'Connell asked if staff had tallied community questions and if those questions would be answered or if the Council's questions were the definitive list.

Director Swiecki stated the June 17th meeting had an attachment that listed both Council and community questions. Staff believed Council would use that list to triage and focus on providing answers. Many questions covered in the agenda packet materials were from that master list. Staff is trying to triage and prioritize the Council's identified questions.

CM O'Connell asked for that list to be provided to Council for the public's information.

CM Davis asked if they were supposed to discuss the One Planet report.

Mayor Liu stated it was not at the agenda. She wanted to get to public comment.

CM Conway moved to extend the meeting. CM Davis seconded the motion and it was approved 5-0.

Mayor Liu opened public comment.

Anja Miller, Brisbane resident, said that the developer did not have to agree with the Council's

plan. The developer agreed to the cleanup when they purchased the property. She said a vote would only be required if a General Plan amendment was proposed. If the Council's plan is consistent with the existing General Plan, they would be working with the existing blueprint. She said the Countywide sea level rise vulnerability assessment only included the Caltrain station and Highway 101 and no Brisbane-specific areas were studied in detail. She then read from her written statement. [Note: Mrs. Miller's statement is attached to these minutes.]

Ray Miller, Brisbane resident, read from his written statement. [Note: Mr. Miller's statement is attached to these minutes.]

Tony Verreos, Brisbane resident, agreed with Mr. and Mrs. Miller's statements. He thanked CM Davis and CM Conway for being prepared to make a land use decision. He said if the Council made a decision before November 7, it could impact the election. CM Davis' suggestion regarding a ballot measure on November 7 would give the citizens an opportunity to say yes or no to housing, the developer plan, or the community plan. The majority of people who intend to vote are clear on those three issues. He said 35 or more form letters were posted on the City's website in an effort to influence the City Council's opinion by people living outside of town in favor of housing. He read some letters aloud [Note: all correspondence received on the Baylands is available to read on the City's website.] He said the State and region would experience droughts repeatedly in the future. He said the architect Eichler designed homes to be affordable that now sell for millions. He grew up in an Eichler-designed development in Visitacion Valley, that is still more affordable than homes in Brisbane today but crime made them undesirable.

Jonathan Scharfman stated his concerns were addressed with earlier comments.

Barbara Ebel, Brisbane resident, supported Mr. and Mrs. Miller's comments. She said she had asked UPC's sub consultant to provide data on how high rise buildings could be zero net energy and requested staff follow up as she hadn't heard back. She said housing in the Baylands would not reduce traffic local impacts. Housing was a central issue but shouldn't be the lynchpin of the Council's decision. UPC advocates were going door to door in town and were likely not giving both sides of the story. The support for housing shown in the survey is likely because the population doesn't have the full story and doesn't know housing isn't permitted there. Her principle issues for Baylands development were safety and carbon reduction. She does not believe the toxins could be mitigated long term to an acceptable level. She said the Planning Commission recommendation had the lowest carbon footprint. She said eliminating parking requirements may not be realistic for families, retail, and handicapped individuals. She said the Council shouldn't be concerned with what the developer wants.

MAYOR/COUNCIL MATTERS

A. City Council Schedule Concerning the Baylands Deliberations Process

No changes were made to the existing schedule.

CM Lentz shared his disappointment that One Planet Living authored a report for UPC.

WRITTEN COMMUNICATION

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

Mayor Liu acknowledged correspondence received since the last meeting that was in the public record.

ADJOURNMENT

CM Conway motioned and CM Davis seconded to adjourn the meeting. The motion was approved 5-0 and the meeting adjourned at 11:09 p.m.

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Ingrid Padilla, City Clerk

Statement by Anja Miller, July 24, 2017

First of all, I think your staff needs to provide an explanation of why the City's website was down all weekend. This deprived the public of a proper amount of time between your meetings, taking place within one-half business day in between, to read your agenda documents and prepare necessary comments. Was the disruption possibly connected with the installation of the new "City app" you authorized last Thursday?

Second, it is my understanding that you decision-makers were only asked to make a list of your personal questions on the Baylands and that a list of all the questions asked during public testimony at the Planning Commission's and your legal hearings would be prepared and answered separately. To the Mayor's credit she has included some issues that "some residents have asserted," but you owe it to your voters to consider the complete oral and written questions in the legal record, the answers in the FEIR notwithstanding.

Third, it is not clear who is responsible for the answers to your questions on today's agenda. Your Baylands Subcommittee meeting last week heard the City's two summer interns spend 2 hours answering 4 questions. I believe the author of each and every answer should be identified to remove any doubt of the writer's competence.

A widely held perception among your constituents is that you are not listening to us and that what we say has no influence on your predetermined personal opinions. Our City's history is replete with examples of what can happen when our elected representatives don't listen and pay attention. Yes, the task before you is a daunting one, but please try to put aside your personal preferences and help us all retain some sort of viability for our continued life here in Brisbane.

CONCERNS ABOUT UPC SPONSORED ONE PLANET LIVING REPORT ON BAYLANDS DEVELOPMENT SCENARIOS

Ray Miller, Former Mayor
July 24, 2017

The UPC sponsored One Planet Living Report on Baylands Development scenarios raises a number of concerns:

1. For the One Planet Living team to accept a paid consultant role at this early stage of the decision-making process undermines their role as an objective third party evaluator. The City's Sustainability Framework presumed that One Planet Living would make a judgment on the ultimately approved plan and then provide continuous monitoring to insure that the target indicators were being met. By taking a position at this early stage, One Planet Living has become an advocate rather than a reviewer. In my view both One Planet Living and UPC have made a serious mistake.

2. In his foreword the Director of One Planet Living makes clear the major objective they have for the Baylands: "maximising the number of homes" (p. 3). In fact, their baseline for housing units is the developer's proposal of 4,500 units. They then look at options with 6,800 units and 9,150 units, finally settling on their optimum, 7,500 units (pp.19 & 27).

3. Clearly One Planet Living has no concern for Brisbane retaining its small town character. Since Brisbane has about 2,000 housing units now, their considered housing options would increase our housing stock about 340%, 375%, or 460%.

4. So what reasons did they give for their focus on housing? One, there is a regional housing shortage. Two, Brisbane has no independent reason for existing, it really

should be "treated as part of San Francisco" (p. 17). Three, the more housing, the less traffic congestion and green house gas emissions.

5. The third reason did not seem plausible to me so I looked for some support for this conclusion. I could only find two. One, their approach to development involves much fewer parking spaces (50%) so that there would be fewer cars (p. 27). Their optimum option that includes 7,500 units of housing presumes a 50% reduction in green house gas emissions and a 70% reduction in household transportation costs. How is that accomplished? The only explanation that I could find was on p. 43. "In the case of a One Planet Community where a resident can walk and cycle to fulfill all their daily needs their expenditure on transport can fall by close to 70% saving over $250 per week."

6. Finally, the Report barely mentions the toxic remediation needs of the site. It's included in their land and nature principle, not human health. They mention long time monitoring of open space but not of the remediation program. They also accept the landowner's dubious argument that the City is responsible for allowing as much development as the developer claims will be necessary to pay for the remediation of the toxic contamination. In fact, that is one of the reasons (they) OPL downgrade the renewable energy alternative and by implication the recommendation of the Planning Commission. However, it was my understanding that the landowner is legally responsible for financing the remediation plan whether or not there is any development.