

**MINUTES OF A REGULAR MEETING OF THE
COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE
OF THE CITY AND COUNTY OF SAN FRANCISCO HELD ON THE
15th DAY OF OCTOBER 2013**

The members of the Commission on Community Investment and Infrastructure of the City and County of San Francisco met in a regular meeting at City Hall, 1 Dr. Carlton B. Goodlett Place, Room 416, in the City of San Francisco, California, at 1:00 p. m. on the 15th day of October 2013, at the place and date duly established for holding of such a meeting.

REGULAR MEETING AGENDA

1. Recognition of a Quorum

Meeting was called to order at 1:11 p.m. Roll call was taken.

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

All members of the Commission were present.

2. Announcements

A. The next regularly scheduled Commission meeting will be held on Tuesday, November 5, 2013 at 1:00 pm (City Hall, Room 416).

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

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

C. Announcement of Time Allotment for Public Comments

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

4. Matters of Unfinished Business – None.

5. Matters of New Business:

CONSENT AGENDA

- a) Approval of Minutes: Regular Meeting of September 3, 2013
- b) Approval of Minutes: Special Meeting of September 17, 2013

PUBLIC COMMENT – None.

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

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

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

ADOPTION: IT WAS VOTED BY 5 COMMISSIONERS AND UNANIMOUSLY CARRIED THAT THE MINUTES FOR THE REGULAR MEETING OF SEPTEMBER 3, 2013, BE ADOPTED.

Commissioner Ellington motioned to move Item 5(b) and Commissioner Singh seconded that motion.

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

Commissioner Ellington – yes
Commissioner Mondejar – yes
Vice-Chair Rosales – abstained because of absence
Commissioner Singh – yes
Chair Johnson – yes

ADOPTION: IT WAS VOTED BY 4 COMMISSIONERS WITH ONE ABSTENTION THAT THE MINUTES FOR THE SPECIAL MEETING OF SEPTEMBER 17, 2013, BE ADOPTED.

10. Closed Session:

Chair Johnson announced that the Closed Session Item 10 would be taken next and out of order. Ms. Johnson stated that public comment would be taken and then audience members not connected to Item 10 would be asked to leave the room. When the regular session was convened, audience members would be able to return.

- a) Pursuant to Government Code §54957.6 to confer with its designated representatives, but take no action, regarding negotiations with 1) the International Federation of Professional and Technical Engineers (IFPTE) Local 21 representing the Engineers and Architects bargaining unit, the Management/Supervisory bargaining unit, and the Professional/ Technical bargaining unit; and 2) the Service Employees International Union (SEIU) Local 1021 representing a miscellaneous employees bargaining unit. OCII negotiators: Tiffany Bohee, Leo Levenson, Carol Isen, Vitus Leung, April Ward.

PUBLIC COMMENT – None.

REGULAR AGENDA

- c) Adopting environmental review findings pursuant to the California Environmental Quality Act, and conditionally approving combined Basic Conceptual and Schematic Designs for Block 49, a 60 unit affordable housing project on Parcel A pursuant to the Hunters Point Shipyard Phase 1 Development and Disposition Agreement; Hunters Point Shipyard Redevelopment Project Area. (Discussion and Action) (Resolution No. 50-2013)

Presenters: Tiffany Bohee, Executive Director; Amabel Akwa-Asare, Assistant Project Manager, Hunters Point Shipyard; Craig Adelman, Vice President, AMCAL; Shaman Walton, Executive Director, Young Community Developers (YCD); Kevin Wilcock, Principal, David Baker Architects

PUBLIC COMMENT

Speakers: Francisco Da Costa, Director, EJA; Dorris Vincent, Bayview Hunters Point (BVHP) resident; Ace Washington; community leader; Dr. Espinola Jackson, advocate and BVHP resident; Dr. Veronica Hunnicutt, Chair, CAC, Hunters Point Shipyard

Mr. Da Costa announced that he was perhaps the only person to attend all 40+ meetings linked to the Disposition and Development Agreement (DDA) and was concerned because as part of the DDA, Lennar had promised rental units but now that had been reversed. Mr. Da Costa stated that he was happy about the demise of the former Redevelopment Agency but had concerns regarding the successor agency. Mr. Da Costa called it “despicable” that community members were made to wait in the hallway so that the Commission could take Item 10 out of order to handle some union work issues. He stated that nothing good would ever come of Parcel A because the two hills there with the remains of the first people had been desecrated, that CEQA issues had not been addressed and spoke about the high asbestos readings in that area. Mr. Da Costa felt that residents in the neighborhood were being negatively impacted without any warnings and stated that quality of life issues needed to be addressed. He felt that the buildings being planned were not appropriate for that area.

Ms. Vincent stated that she had been living in BVHP for 52 years and had been a homeowner for 43 years. She stated that she appreciated the team presentation and the fact that the team had listened to the concerns of the community and she urged the Commission to approve both Resolutions 50-2013 and 51-2013.

Mr. Washington stated that he would continue to document all OCII meetings; spoke about the preservation of the African-American community in San Francisco and stated that he hoped the black community could be a part of whatever was being built in the City.

Dr. Jackson stated that she was not there to oppose the item and commended the work of the consultants on this project. Dr. Jackson stated that she was a certificate holder and asked who would be able to afford the “affordable housing” because it was not affordable to many of the residents of BVHP, whose income was below \$15,000/year. Dr. Jackson expressed concern over the fact that the Certificates of Preference as well as Section 8 vouchers would expire soon. Dr. Jackson reminded the Commission about the lawsuit that was filed against the environmental impact report, which was still in place, and meant that nothing could be built at the Hunters Point Shipyard as of yet.

Dr. Hunnicutt stated that on behalf of the CAC, she urged approval of the combined basic conceptual and schematic designs for Block 49 and wanted this noted on the record. Community input on the designs had been received at a recent event, which yielded positive results. She stated that they were looking forward to the initiation and completion of the Block 49 project, which would add value to the rest of the Shipyard development.

Chair Johnson asked the community to reserve all questions and comments regarding the replacement housing obligation and the Certificate of Preference Program for the discussion coming up later in the meeting. Ms. Johnson asked Commissioners to limit upcoming discussion to the Block 49 project.

Commissioner Ellington thanked the team for the community process undertaken and for partnering with YCD and asked that the process continue throughout the entire phase of the project. Mr. Ellington inquired about mitigating the wind and what the plan would be for the impact of wind.

Mr. Wilcock responded that the current circulation was open fresh air corridors and a bridge-way, which would offer a greener project in terms of when those corridors were enclosed as well as the impact of mechanical and/or electrical ventilation, which was a burden on the development in energy use. He stated that they had done a number of projects with open circulation and had not had any issues with them. However, he indicated that if it did become an issue, they had talked about introducing baffles, basically windscreens, as part of the railing system, to baffle the wind between the two buildings, which would be a minor fix and would not require a change in design.

Commissioner Singh inquired as to whether there would be a children's play area there and how big that would be.

Mr. Wilcock responded in the affirmative, that a creative play area, but not a true play structure per se, would be located in the main courtyard on the upper level and would be approximately 200-500 sq. ft. in size. He added this area would be designated for children as well as provide seating for families doing laundry on the first floor. Mr. Wilcock added that there would be a pocket park adjacent to this as well.

Ms. Akwa-Asare added that Block 49 was part of a bigger development and that there was a network of small parks in the area as well as a formal playground at Innis Court, located two blocks down the street, which would contain play structures.

Vice-Chair Rosales noted that in the 5th WHEREAS clause in the resolution, it stated that the first phase of the DDA, authorized in December 2013, obligated Lennar to construct certain necessary infrastructure and also that 10.5% of those units would be affordable. She inquired about whether that meant it was to be inclusionary housing; whether the requirement had changed or not for each amendment up until the 6th amendment; whether they had gone from for sale to for rent.

Ms. Akwa-Asare responded that originally the requirement was to provide 15% of all units at an affordable level of either 50% or 80% AMI and they would all be inclusionary in the market rate development.

Executive Director Bohee clarified that this meant inclusionary "for-sale", so "for-sale" 50% AMI.

Ms. Akwa-Asare responded that the overall requirement to provide 15% affordable units had not changed. She clarified that what the 6th amendment did was to allow for all the 50% AMI units to now be located on Block 49 and not be inclusionary units throughout the market rate development. The overall unit count had not changed.

Chair Johnson added that part of the reasoning in consideration of the 6th amendment to the DDA had to do with the construction schedule and how they would be able to get the affordable units. She explained that as the Phase I project was being built out, they would be able to secure the units sooner if they placed them all on one block. In addition, financing would become easier for the developer and their pro forma, if the affordable units were grouped together. However, Ms. Johnson added, the moderate income or workforce housing units were still inclusionary throughout the project.

Vice-Chair Rosales' last question was responded to in the affirmative.

Chair Johnson expressed concern about the resolution and reference to potential quality of life or discomfort issues experienced by the residents in the design process. She pointed out that once completed, the project would be transferred to Mayor's Office of Housing (MOH) and inquired about where the residents and/or building management would go in order to get an amended design. Ms. Johnson inquired about whether the MOH had a separate process for amending their designs and implementing the development, because the OCII was independent in terms of being able to approve schematic designs, development and contractors' agreements, whereas the MOH worked within the City family through Planning Department, etc. to get anything accomplished.

Ms. Akwa-Asare responded that residents would go to building management and building management would go to the OCII and the Commission would work with MOH to address any concerns. MOH would own the property at that point in time because all affordable housing sites would be transferred to MOH upon completion so both agencies would be working together.

Chair Johnson questioned whether that part of the resolution was truly effective and stated that she was not comfortable having such wording in the resolution because it would set up the OCII to be in a position where it would be powerless to act upon issues. She suggested conducting an immediate evaluation to determine whether or not the design would have any quality of life issues and if so, fix them now rather than waiting for the building management to have to go through MOH, which would then require a city process to implement a fix. Ms. Johnson inquired about whether the OCII would have any power to impose any further requirements on the architects or designers once the project was transferred to the MOH.

Ms. Akwa-Asare responded that they had had discussions with the design team, who believed that there would not be any issues concerning quality of life or discomfort of the residents based on their experience with similar developments. However, since no full study had been conducted, they would want to have the ability to still require minor adjustments should the issue arise.

Executive Director Bohee added that regardless of who owns the property or the improvements built on the property, there was a land-use jurisdiction, which meant that the redevelopment plan, the design for development as well as any conditions imposed pursuant to those transactions and land-use documents, would still be in effect. She explained that a process would have to be created between MOH, as the underlying fee-owner, and the OCII, or any entity that continued to have land-use jurisdiction over the shipyard, to address these issues.

Vice-Chair Rosales inquired whether the OCII had an MOU with the MOH.

Executive Director Bohee responded in the negative, that the MOU was in progress and would be the subject for future consideration.

Chair Johnson clarified that the MOU would only describe activities relating to the transfer of properties and future development with the MOH, but would not detail what the MOH would be required to do once they owned the project. Ms. Johnson suggested they remove the wording and if an issue were to arise, the building management could go to the MOH and work with them as they would do with any other MOH-owned project to improve the condition for residents.

Craig Adelman stated that he appreciated the comment and furthermore, as owner and operator of the building, regardless of the resolution, the MOH or OCII, they would correct the situation if it became an issue, because they would want ensure a high quality of life within any complex that they owned and operated and within any housing built for residents. Regardless of the concern, he felt it was an issue that would police itself because of developer pride of ownership and the communities they created.

Chair Johnson acknowledged that this was rental property and that people could move out if they were not happy there and then someone else would move in until they became aware of the wind issue and then they would move out. Ms. Johnson reiterated that they should either strike number one from the conditions in the Resolution on page 3 or change it to read that “in case building residents raise concerns, etc., the building owner/operator shall notify MOH and an alternative design shall be developed and implemented” (substituting MOH for OCII).

Executive Director Bohee returned to Vice-Chair Rosales’ question about whether this issue could be resolved by the OCII delegating it to the MOH through the MOU, and stated that the answer was affirmative. She stated that changing the resolution might not be necessary because they could handle this type of follow-up through the MOU.

Commissioner Ellington stated that he would not feel comfortable striking the entire clause from the resolution; however, he suggested rewording it to include the OCII and the Housing Successor Agency.

Chair Johnson approved that and stated that the resolution would be reworded to read that “In a case where building residents raise concerns about uncomfortable conditions (e.g. wind tunnel effect) as a result of the open air corridors, building owner/operator shall notify OCII and the Housing Successor Agency and an alternative design to mitigate such effects shall be developed and implemented.” and then the MOU with MOH would cover that transfer of actions.

Chair Johnson inquired about the parking decision to provide only one car share spot. Ms. Johnson stated that 60 spots for bike parking was sufficient for 60 units but indicated that SFMTA and DPW handled on-street bike parking and on-street car-share and felt that they needed more on-street bike parking and should designate on-street car-share spaces if there was not going to be a significant amount of parking within the buildings.

Ms. Akwa-Asare responded that including a car-share in new developments was a new planning code requirement which the design team had to follow and had accomplished by including one car-share spot. She added that there would probably be more spots throughout the development, either on the street or in buildings, but that for now, there would be only one for Block 49. Commissioner Ellington motioned to move Item 5(c) with the suggested amendments and Commissioner Mondejar seconded that motion.

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

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

ADOPTION: IT WAS VOTED BY 5 COMMISSIONERS AND UNANIMOUSLY CARRIED THAT RESOLUTION NO. 50-2013, ADOPTING ENVIRONMENTAL REVIEW FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND CONDITIONALLY APPROVING COMBINED BASIC CONCEPTUAL AND SCHEMATIC DESIGNS FOR BLOCK 49, A 60 UNIT AFFORDABLE HOUSING PROJECT ON PARCEL A PURSUANT TO THE HUNTERS POINT SHIPYARD PHASE 1 DEVELOPMENT AND DISPOSITION AGREEMENT; HUNTERS POINT SHIPYARD REDEVELOPMENT PROJECT AREA, BE ADOPTED.

- d) Authorizing the Submission to the California Department of Finance of a Request for a Final and Conclusive Determination that Senate Bill No. 2113 (2000) established an Enforceable Obligation regarding the funding and development of affordable replacement housing units. (Discussion and Action) (Resolution No. 51-2013)

Presenters: Tiffany Bohee, Executive Director; Jim Morales, Deputy Director

PUBLIC COMMENT

Speakers: Francisco Da Costa; Director, EJA; Dr. Espinola Jackson, Advocate and BVHP resident; Ace Washington

Mr. Da Costa reminded the Commission that there were thousands of Japanese-, Italian-, and African-Americans who were adversely impacted by the former San Francisco Redevelopment Agency and that, as a result, people were harmed and displaced. He added that there was now a great deal of market rate housing and the affordable housing was being built on contaminated sites. Mr. Da Costa stated that with the time constraints and the costs involved with fulfilling this obligation, it would be impossible to build the thousands of affordable housing units needed. However, he promised to hold the Commissioners responsible for fulfilling this obligation.

Dr. Jackson stated that she had been living in Hunters Point since 1948 and was aware of the conditions there. Dr. Jackson stated that this presentation reminded her of a report that she had recently heard from Olson Lee about the units being considered under the HOPE program. She was concerned about the discussion on tax increment, because that would mean property taxes for her community. Dr. Jackson stated that she was not sure of the accuracy of the historical information given during the presentation and wanted to know what units had been destroyed and where. Dr. Jackson reminded the Commission that the Shipyard was a Superfund site, not a brownfield site, as Michael Cohen had previously incorrectly stated, and because of that, no homeowner today in Hunters Point was able to get insurance because they could not dig in the ground to create a garden or anything else. Dr. Jackson asked everyone to check the history and the facts on this issue.

Mr. Washington stated that he had been living in the Western Addition since the late 1940's and also questioned the facts stated in the presentation given.

Chair Johnson restated that the resolution was to approve the request for the Final and Conclusive Determination from the Department of Finance (DOF) on the replacement housing obligations. Ms. Johnson pointed out that SB 2113 stated that the replacement housing obligation was in effect until January 1, 2014 or the date of its fulfillment, whichever was earlier, which would not be January 1, 2014. She inquired about where the tax increment was supposed to come from to build the housing obligations and where would the projects be built, given the fact that redevelopment project areas no longer existed except for the enforceable obligations, which were the major project areas still under the OCII's purview.

Mr. Morales responded that the source of the tax increment would be limited to those redevelopment plans that were amended by the Board of Supervisors prior to dissolution; specifically, Yerba Buena Center, Rincon Point South Beach, Western Addition A2, and the Golden Gateway, which would be the most significant for property tax revenues. He responded that the housing could be built anywhere in the City. Under the replacement housing obligation of one-for-one replacement, the community redevelopment law allowed for the housing to be built anywhere within the jurisdiction of the former agency.

Chair Johnson stated that since the documents did not indicate affordability levels with regard to low and moderate income, she inquired about whether those levels were pegged to anything, where the AMI levels originated from that stated that very low income indicated a certain amount, and who had made those decisions. Ms. Johnson stated that she was asking these questions because half of the funds would have to be for very low income, which meant that the other half would be for moderate income and stated that there was a crisis going on currently with workforce and moderate income housing.

Mr. Morales responded that the housing had to meet the community redevelopment law standards for affordable housing, which were generally under 120% of median income. He added that SB 2113 had an additional requirement that 50% of the housing completed had to be available to and occupied by very low income households, which were 50% of median income. Mr. Morales explained that the current level for 50% of median income for a three-person household in San Francisco was \$50,000/year, which was the income level for a household of three to qualify for very low income housing and 50% of the units funded had to be at that level. He added that the community redevelopment law, HUD and the Department of Housing and Community Development had issued the guidelines for what constituted very low, low and moderate income. He stated that they had followed and were required to follow the standards set by state law. Mr. Morales added that if there was a retained housing obligation to replace some or all of the 5,800 units, each project would come before the OCII for approval because it was a retained obligation of the successor agency. In that way the OCII would review the RFP going out which would identify the income levels targeted in the proposed project and then after the selection of the developer and the request for funding set forth before the Commission, there would be another opportunity to determine what the appropriate income levels would be. Mr. Morales stated that there would be time to determine what the mix of income levels should be for the new projects.

Chair Johnson pointed out that the retained housing obligations that she had seen as lined up against units already built usually did not line up one-to-one and inquired about why every affordable unit was not a replacement unit and whether the replacement housing obligation really would be for the OCII or for the City and County of San Francisco (CCSF) and, if so, whether it would overlap with HOPE San Francisco.

Mr. Morales responded that those were separate obligations and that historically the obligation of a redevelopment agency was not the obligation of the city/county in which it was located. He added that the replacement housing obligation historically was separate from production obligations so that funding for replacement housing obligations could not be used to fund new units required as part of an inclusionary or production goal. Mr. Morales explained that in general they were still operating under those guidelines until further clarification by the state. In terms of lining up the numbers, Mr. Morales responded that regarding the Replacement Housing Obligation (RHO), there was a little variation but that it had been substantially the same from SB2113 until the present in terms of the number of units needed to be replaced. The legislature indicated that approximately 7,000 units had been destroyed and not replaced; HCD certified 6,700 units. Mr. Morales explained that over time the formula for determining when a unit constituted a RHO had changed depending upon the amount of funding going into a project or particular unit, but this had not resulted in major changes in the number of units. He stated that the RHO was separate from other housing obligations so, for example, Mission Bay had a production goal for affordable housing, which would be separate from any units funded by replacement housing funds. He added that there could be a project in which half the units were going to fulfill the production obligation, which might be included in the contract or other enforceable obligations, and the rest would be replacement units for those destroyed long ago. Mr. Morales stated that in reviewing the project, the OCII would determine that mix, but staff would already have the recommendation in place about which units should be considered replacement and which units should be considered new housing for production goals.

Chair Johnson stated that technically all that seemed reasonable, but as an ongoing dynamic requirement the distinction did not make sense.

Mr. Morales acknowledged that point but stated that they would start with the premise that they needed to establish the RHO and get the means to build the units. He indicated that how the units were ultimately categorized or evaluated in terms of the numerous housing obligations would be discussed, debated and determined in the future.

Chair Johnson inquired about whether, for today, the final and conclusive determination would have anything to do with the formulas used to determine which units would be considered for replacement and which would not.

Mr. Morales responded in the affirmative, that indirectly it would because they needed to be clear about the formula and he did not think it could be changed because that would make it subject to abuse, overstatement or understatement of the number of units that would be subject to the obligation. He added that the formula should be definitive.

Chair Johnson inquired as to whether it was an actual formula.

Executive Director Bohee responded that the formula was based on funding and the dollars in the contractual requirements. Ms. Bohee used the Richardson apartments off Hayes Street as a real-life example, which was a 100% replacement housing project. She added that in other cases, for example, in the first phase of Hunters View, some were actual replacement units for the 37 families that were relocated from a different section of Hunters View and some would be new affordable units counted as replacement housing units.

Chair Johnson clarified then that when they had affordable requirements as inclusionary affordable requirements, those may not be SB2113 replacement because they may be funded by the developer as part of a funding requirement.

Executive Director Bohee responded in the affirmative.

Vice-Chair Rosales stated that she understood that SB 2113 was enacted in the year 2000 and that, at that time, the baseline for replacement units was determined to be 6,709 and inquired about why it had taken 13 years to build only 900 units so far.

Mr. Morales responded that SB 2113 was based upon the expiration of the plans for the various project areas. He explained that in 2000, the plans were still active and still had other housing and non-housing obligations, so the increment had already been committed for the completion of the project area as it was originally proposed. The RHO funding was not to be available until after the plans had expired in 2009. In addition, he explained that the State needed to certify the units, which took some time, and the Board of Supervisors had to amend the various redevelopment plans that were about to expire in order to extend the tax increment authority. Mr. Morales indicated that all that took time and the first funding under SB 2113 did not become available until 2006.

Chair Johnson added that because RHO was different than the inclusionary requirement, they could not count those units against that obligation, even though they had built a number of projects in Mission Bay and other places.

Mr. Morales clarified that these replacement units were not directly tied to the persons who were displaced. He explained that persons originally displaced, particularly in the 60's and 70's, received certain relocation benefits. The community redevelopment law never required that the replacement units go directly to displaced persons; rather, it was in addition to the other benefits or rights that were extended to displaced persons and was meant as a way to restore and provide for the diverse economic community that existed prior to redevelopment activities. Mr. Morales explained that the purpose of the RHO was to create the housing and not necessarily to place those displaced into that housing. There were other efforts designed to provide the displaced persons with access to housing, but the RHO was separate.

Chair Johnson added that the cost of building the 5,600 units would be \$1.5 billion. Ms. Johnson stated that this should be thought of as a retained obligation of the OCII and that, with the final and conclusive determination, the OCII would have the power to continue working toward fulfilling that goal. She added that there were other considerations, such as the availability of land in the CCSF density requirements by the Planning Department in terms of height and other restrictions, etc., which would limit the total amount of units that could be built anyway.

Vice-Chair Rosales stated that if land was a constraint in the City and if there were those who would like to join the 815,000 people now living in San Francisco, perhaps they should consider different strategies other than building since there was much market-rate development currently underway taking up the available land. Ms. Rosales inquired as to whether they could consider using the money to purchase existing real estate entering the market as a market participant, like any commercial or residential landlord would do.

Mr. Morales responded in the affirmative. He explained that historically the former San Francisco Redevelopment Agency favored new construction of units but that the community redevelopment law allowed for agencies to buy units and place restrictions on their affordability, which would

fulfill a RHO. He added that this had not been done to date but it could be considered an option, although it would be expensive for the OCII to compete in the open market for market-rate units.

Vice-Chair Rosales inquired as to whether the OCII or the Board of Supervisors had eminent domain authority.

Mr. Morales responded that the OCII did not have it any more, that this was an unexplored area and that it would not be assumed that the City or the OCII would exercise eminent domain.

Executive Director Bohee interjected that they could look at a combination of strategies for a future discussion, how much that would cost on a per unit basis and what that would mean for site acquisition throughout the City.

Commissioner Mondejar requested clarification on the 6,700 units initially and the 5,800 units currently and inquired: whether 5,800 was the number of low and moderate income units which they would be building now; whether they were requesting funding for 80 low and moderate income units for the Hugo Hotel.

Mr. Morales responded that those would be the units that would have to be built to fulfill that obligation. To the second question, he responded that this was the funding being requested to complete that project.

Vice-Chair Rosales motioned to move Item 5(d) and Commissioner Ellington seconded that motion.

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

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

ADOPTION: IT WAS VOTED BY 5 COMMISSIONERS AND UNANIMOUSLY CARRIED THAT RESOLUTION NO. 51-2013, AUTHORIZING THE SUBMISSION TO THE CALIFORNIA DEPARTMENT OF FINANCE OF A REQUEST FOR A FINAL AND CONCLUSIVE DETERMINATION THAT SENATE BILL NO. 2113 (2000) ESTABLISHED AN ENFORCEABLE OBLIGATION REGARDING THE FUNDING AND DEVELOPMENT OF AFFORDABLE REPLACEMENT HOUSING UNITS, BE ADOPTED.

- e) Update on the Certificate of Preference Program. (Discussion)

Presenters: Tiffany Bohee, Executive Director; Brian Chu, Director of the Mayor's Office of Housing and Community Development (MOHCD)

PUBLIC COMMENT

Speakers: Francisco Da Costa, Director, EJA; Dr. Espinola Jackson, Advocate; Ace Washington, community leader; Dorris Vincent, BVHP resident

Mr. Da Costa spoke about Liola King in the Western Addition, who lost her home and her business due to the former Redevelopment Agency. He spoke about a Buffalo soldier who died an indigent at the age of 97 and lost his assets to the Redevelopment Agency. Mr. Da Costa stated that the black community in East Bay raised the money for his funeral and to ship his body to Mississippi. Mr. Da Costa stated that he felt an apology was due to those people harmed by redevelopment. He spoke about Ross Murkurimi who called for a hearing on the Certificate Program when he was supervisor of District 5 and it was discovered that some of the certificates had been lost by City employees. Mr. Da Costa felt that if someone in the City lost certificates, then they should go to jail and was asking the mayor to impose penalties on city employees who lose certificates and adversely impact San Francisco residents.

Dr. Jackson stated that some people, including the Mayor of San Francisco, were not aware of the difference between wartime housing and public housing that was torn down. She stated that all the temporary housing that was built for blacks in BVHP was torn down by redevelopment. Dr. Jackson stated that people in BVHP would not be eligible to buy any new housing, because of their low income, and because they have no credit, and pay cash for everything. Dr. Jackson reminded the Commission that the people who were given Section 8 certificates to leave areas such as Valencia Gardens, Geneva Towers, Hunters Point, Sunnydale, Hayes Valley, Bernal Heights, while the public housing was being built, were then not able to return.

Mr. Washington requested that the OCII hold a seminar to invite historians to talk about the real development of the City of San Francisco. He spoke about a time when advocates had to threaten to sue redevelopment to get the master list of certificate holders because the City was not willing to divulge that information. Mr. Washington spoke about community reform.

Ms. Vincent stated that there were some adjustments that needed to be made. First, she wanted to go on record as stating that she was anti-lottery because it was an unnecessary gamble. Ms. Vincent then stated that if there had to be a lottery, the Certificate program should be structured so that certificate holders get first space, then residents of the 92124 zip code, then San Francisco residents and then the rest of the Bay Area. She stated that if an AMI is done for the entire city, it would not benefit the 94124 residents because those residents did not make enough money to be eligible.

Commissioner Singh inquired about: how many people had been displaced from the Western Addition; whether there was a complete list of what areas people had been displaced from; what would happen after 2016, which was the deadline for certificate holders to file their claim; when would certificate holders be provided with homes because these people had been trying to find homes for many years.

Mr. Chu responded that he did not have all the actual numbers for each site but could make that available to the Commission. He stated that in total there were 5,893 site occupancy records for both the Western Addition and BVHP.

Executive Director Bohee stated that data in a previous SB 2113 presentation indicated that the number of displaced in the Western Addition was 3,209, but Yerba Buena had a slightly higher amount to create Moscone and the Yerba Buena Center. Ms. Bohee stated that they would be able to verify that information for Commissioner Singh.

To Commissioner Singh's next question, Mr. Chu responded that the programs for both areas would expire in January 2016. He stated that after January 2016, as per the current rules, the certificate would have no special power and would be put into the lottery like that of any other

San Francisco resident. In fact, he added, some certificate holders would have less power because currently a certificate holder could live and work outside of San Francisco and still exercise that certificate. After 2016, those people would be competing with all the people who were already in San Francisco, so would probably have no opportunity to compete.

Chair Johnson responded that certificate holders had preference for affordable housing depending on the project, so most of the affordable housing projects had some sort of system for getting people into those units. Generally, it was a lottery system; however, sometimes it wasn't and in Block 7, for example, in Mission Bay South, which was just approved, the system was set up on a first come/first serve basis. Ms. Johnson clarified that the question was more about how the implementation worked because the system was not centralized and was confusing to everyone. She felt that there was need for more outreach information about what projects existed in which the Certificate of Preference was part of the eligibility system because currently if certificate holders did not respond, the system just moved to the next applicant. She explained that some developers ran their own lotteries; others just took people as they come forward and checked where they were on the list of priority eligibility; others delegated the lotteries to MOH. Barring requiring that the system become centralized, Ms. Johnson stated that it needed to be clearer that the Certificate of Preference was included in the priority eligibility of most affordable housing developments and to always make sure that it was exercised.

Mr. Chu added that he oversaw the below market rate rental and ownership programs for MOHCD and because they were centralized with their agency, no lottery could occur without the presence of MOHCD. He explained that they oversaw and pulled the numbers for all the rental and ownership units for the below market rate program. For the 100% affordable units, he stated that TNDC and CCDC ran their own lotteries and MOHCD worked with their staff to make sure that they incorporated the Certificate of Preference program into their lotteries and he stated that there was success for new developments. There were always new re-rentals that came up, like the one-offs, which had traditionally used a first come/first serve mechanism, and in which the Certificate of Preference program could not meaningfully be incorporated. Mr. Chu stated that they started doing a lottery instead of first come/first serve for that reason. He added that the developers did not prefer the lottery because it took more time but it was felt that this was the best way to achieve a higher degree of equity. Mr. Chu agreed with Chair Johnson that they needed to do a better outreach job to inform certificate holders of housing opportunities.

Chair Johnson added that there were things that could be changed about how the actual implementation worked and how the Certificate of Preference actually became someone's apartment or home. However, she explained that before those changes could be made, the best thing to do would be to educate people on how the system worked, such as describing what the different categories of housing development were in terms of the Certificate of Preference program. Then certificate holders would have to take the initiative to let authorities know that they had a certificate and were looking for a home and then could be informed as to how they could use it.

Executive Director Bohee responded to Commissioner Singh's question on the program expiration and stated that the current expiration for both kinds of certificate holders was 2016 for the Western Addition and Hunters Point. However, she added, that the 2008 resolution of the former San Francisco Redevelopment Agency included two five-year extension options, so that in terms of the OCII's purview, it could exercise those options to extend the program beyond 2016.

Mr. Chu added that they had certified an additional 91 people since April of 2102 and placed 19 of them.

Chair Johnson added that this also involved how the MOU with MOH would work with this program because MOH was now administering the program. She added that OCII could suggest changes and MOH could decide whether or not they wanted to act upon those suggestions.

Vice-Chair Rosales stated that her understanding was that a person only received a certificate if deemed to have been displaced and inquired as to: what happened if someone were to show up presently; what the different Certificate of Preference programs were in the City and County of San Francisco; how the Certificate of Preference program interfaced with the inclusionary housing program and all the other programs; why a lottery was being used. Ms. Rosales stated that one way to streamline the system and make it less confusing would be to establish what the universe of certificate holders actually was through public media and public awareness campaigns in which all certificate holders or potential certificate holders could register themselves. Then that list would be prioritized based on who was displaced and when. If they were displaced or anyone related to them was displaced from the Western Addition or the Yerba Buena Center, they would be put at the top of the list.

Mr. Chu responded that most commonly what happened currently was that the grown child of the head of household would appear, because many of the older heads of households were deceased by now, stating that they believed they were eligible for a Certificate of Preference because they had lived at different places on various streets. If they had an address, the agency checked the address and the site occupancy records and in the best case scenario, the person would be listed there. However, sometimes the family name was the same but that individual was not listed there. In that scenario, they would check school records to verify that this person had been a resident at that location.

To the second question, Mr. Chu responded that first preference went to the certificate holder, which meant that in any lottery, they would go to the top of the list. For the below market rate programs, the next preference was people who lived or worked in San Francisco and then everyone else. To the third question, Mr. Chu responded that a certificate holder could apply to the agency's inclusionary housing programs but there were certain developer agreements that had very specific methods of getting people in, that were different from a lottery and, in those cases, the developer agreements would trump the usual lottery system.

As to why they used a lottery, Mr. Chu responded that MOHCD had developed the lottery system for the city projects because it was felt that it would be the best way of satisfying general policy equity desires as well as fair housing requirements and ensure that they were not giving undue preference to one group who might be more closely related, for example, to a non-profit developer. He explained that maintaining equity in the first come/first serve system was more challenging because whoever had word of mouth would be more likely to get into that unit. Mr. Chu explained that the lottery seemed fairer for everyone because it gave the MOHCD the ability to put out the information to the universe of certificate holders with a deadline for all applications.

To Vice-Chair Rosales' statement about the confusion of the system, Mr. Chu responded that he did not see the system as being so very confusing because in the end, everyone had to actually apply for the housing as a prerequisite and all certificate holders would always be at the top of the list, so they would be prioritized.

Vice-Chair Rosales stated that what was happening was that the MOHCD was relying on people to come in and tell the city of their interest instead of the MOHCD telling certificate holders that there was an opportunity for them. In essence, a certificate holder had to keep showing up for the lotteries, etc. instead of MOHCD informing the certificate holder that there was an opportunity coming open for them. Ms. Rosales inquired as to why the agency could not just simply call the certificate holder.

Mr. Chu responded that the person would still have to submit an application for that particular opportunity because each one had different eligibility rules.

Vice Chair Rosales referred to the San Francisco local business program, which was started as a business preference program in which the business was certified by the City one time and then it was incumbent upon the business to let the City know that circumstances had changed that would lead the City to conclude that the business was no longer certified. Thereinafter the City conducted a review every three years, information was sent out and if the address was no longer on file, the certification would be revoked. Ms. Rosales stated that this led to a dual responsibility between the City and the business person to keep in contact with each other because of the mutual benefit between them.

Chair Johnson clarified that the Certificate of Preference program was not a method of providing replacement housing; but rather, more of an opportunity. Ms. Johnson stated that the reason Vice-Chair Rosales' plan would not work was because the Certificate of Preference program was a numbers game. There were not enough units to support all the affordable housing requirements that the City had, so the compromise was to be explicit so that a certificate holder would always go to the top of the list, but each project must be individually competitive.

Vice-Chair Rosales inquired as to why they could not employ the right of first refusal method if someone was qualified, so that the certificate holder was on the list and the first time they were called, they were there.

Chair Johnson responded because it was not an equal line since everyone on that list had not been certified and that particular unit might not be available to everyone.

Mr. Chu explained that the other issue was that the total number of people in the line could theoretically be the entire mailing list of 665 individuals and they wouldn't even know if all those people were interested in those units. Mr. Chu indicated that out of the 665 people on the mailing list, the highest number of applicants for any one unit was 37.

Vice-Chair Rosales inquired as to whether that could be because the list was outdated.

Mr. Chu responded that the mailing list in question was the most updated one. He added that the individuals that apply usually had different desires for the different units and the reason they had the application process was because they would not be able to go through the entire list of 665 people for every opening that came up.

Commissioner Mondejar requested clarification on whether the certificate holder had to apply every time they were interested in a unit, either rental or home ownership, and inquired whether the certificate holder could be denied every time because he/she made too much or too little money, until the certificate expires.

Mr. Chu responded in the affirmative.

Commissioner Ellington stated that it seemed to him that the questions being posed by the Commissioners were fairly reasonable and inquired if there had been any assessment or analysis of the lottery system.

Mr. Chu responded that an assessment would be possible and used as an example an individual who clearly indicated that they were interested in every one bedroom rental. He stated that it might be possible for certificate holders to send in a generic application form which could be used as a proxy for every unit that satisfied the requirements of the certificate holder for the next 20 times.

Vice-Chair Rosales expanded on that thought and added that in that way the certificate holder would only have to confirm that the information submitted was correct when the time came. She explained that current search engines guide users to be specific about certain options, such as location and pricing and then the search engine matches the interest of the individual searching with the inventory available.

Chair Johnson countered, however, that for any given project when dealing with a large number of people who are all interested in a one-bedroom unit, there would still need to be some sort of randomness to the selection process.

Mr. Chu responded that because of the relatively small number of certificate holders there would always be enough space for those individuals. He indicated that this change might be possible in the future for the below market rate program, which MOHCD had more control over, because they were moving to an online interface, being developed by Salesforce. However, it would be more difficult with the 100% affordable, because right now every affordable housing developer had their own application process, which they would most likely want to keep, so there would need to be discussions with the developers.

Vice-Chair Rosales inquired as to why the Certificate of Preference program was put into the hands of the developers in the first place for them to make decisions about.

Chair Johnson responded that on the 100% affordable projects, each developer generally had numerous sources of financing to be able to build their projects and each one had different rules of how to get people into the units. She explained that developers believed it was safer for them to have their own process of maintaining correct levels of affordability.

Vice-Chair Rosales inquired whether that meant safer than the MOHCD.

Chair Johnson responded in the affirmative, to make sure that they complied with their requirements for their funding.

Mr. Chu added that this was as opposed to the inclusionary requirement which was the same for everyone and which was easier for the MOHCD to mandate.

Vice-Chair Rosales referred to the newly passed Housing Trust Fund, Proposition B, wherein first responders were prioritized in terms of affordable housing and inquired whether those monies were also available for the MOHCD programs.

Mr. Chu responded in the affirmative. He added that the Housing Trust Fund would supplement down-payment assistance programs in case the original bond source for the initial down-payment revolving fund ran out.

Commissioner Mondejar inquired about: whether the MOHCD had a list of how many people in each area were displaced and issued certificates; whether their list included the 6,500 people that Mr. Morales referred to in his presentation; who the original certificate was issued to; whether the original certificate holders received an actual physical document as a certificate and what happened when a descendant or former occupant came forth who did not have the certificate; what he meant by “use once, you lose the opportunity”; whether notices were issued when open units became available; whether the certificate could be used for a market rate unit.

To the first two questions, Mr. Chu responded that those were two different things. He clarified that MOHCD had a list of every displacement address, which was the first list they checked when a person declared they had lived at an address. He added that they also had a database compiled by the agency containing the original 5,893 households that were on the site occupancy records which should contain all the descendants and other individuals that were listed at that time. He explained that they checked both the list and the database.

Executive Director Bohee responded that there were approximately 3,200 units destroyed in Yerba Buena; 3,200 in the Western Addition and about 1,300 in the former Golden Gateway, which created the Embarcadero Centers, and that those numbers were certified by the state. She added that they had records of certificate holders who were formerly in the database and then went through the third party process to re-verify the address information as well as the fact that those people truly had been displaced either as heads of households or occupants.

To the question regarding the certificate itself, Mr. Chu responded that initially applicants were issued an actual document, and then after verification that they had actually lived there, they were issued their own certificate. To the “use once” question, Mr. Chu responded that once the certificate holder was successful and able to move into the rental unit, the certificate could not be used again for rental. The certificate could, however, be used again to successfully move into an ownership unit. Regarding the notices, Mr. Chu responded in the affirmative, that MOHCD provided names to the developers who then sent out the notices to all potential certificate holders. To the question regarding the type of unit, Mr. Chu responded that the certificate could be used for a unit in which there was some sort of link to MOHCD, so it would be 100% affordable, below market rate but it could be as high as 90% AMI if below market rate ownership.

Executive Director Bohee responded that in addition to OCII contracts in Mission Bay and Hunters Point, there was affirmative marketing, regardless of whether units were 100% affordable or just market rate, so in those cases when it was open to the public, some of those units could be market rate. Ms. Bohee added that currently OCII has 1800 units under construction in all project areas, two of which are 100% affordable, one in Transbay and one in Mission Bay. She added that all of those units would be subject to the first priority preference of certificate holders and that first preference would remain, regardless of whether it was MOHCD implementing the program, administering the inclusionary or the 100% developments. Commissioner Mondejar requested clarification and inquired about whether a certificate holder would be able to apply for a market rate unit, and whether that holder would be able to go up the line because they have a Certificate of Preference.

Executive Director Bohee responded in the affirmative as long as the certificate holder met the income and financing requirements. She added that there was some preference given to certificate holders in all OCII projects.

Chair Johnson thanked Mr. Chu for his presentation and stated that they would be following up with him on their ideas.

6. Public Comment on Non-agenda Items

Speakers: Francisco Da Costa, Director-EJA; Dr. Espinola Jackson; Ace Washington, community leader

Mr. Da Costa stated that in review a number of things were missing or ignored, such as the University of Art Academy, which converted thousands of rental units and which impacted San Francisco residents. He stated that in Hunters Point, the developers were tearing down the spacious 2- and 3-bedroom units to build high density units, which would only result in decreased quality of life and stated that the MOHCD should do something about that. Mr. Da Costa indicated that progressive housing was being built all over Europe but not here in San Francisco and that only the rich were allowed to have a high quality of life.

Dr. Jackson expressed concern that there was not one City department with a certified state or federal compliance officer and stated that because of that nothing could get done with regard to construction. She pointed out that some developers were not following HUD guidelines because compliance officers were not certified. She asked the Commission to look into this situation.

Mr. Washington noticed that there were two workshops coming up on long-range properties and requested that the OCII hold a workshop in the Western Addition to talk to the community and experience the problems going on there. Mr. Washington also spoke about community reform and stated that he would not give Mayor Ed Lee high grades for performance so far.

7. Report of the Chair

Chair Johnson had no report.

8. Report of the Executive Director

- a) Informational memorandum: Update on the status of Hunters Point Shipyard local contracting and construction workforce hiring; Hunters Point Shipyard Project Area.
- b) Update on potential impact of federal government shutdown on OCII obligations.

Executive Director Bohee reported that there was a memo outlining the status to date of local contracting and hiring at Hunters Point Shipyard and issues regarding employment of local businesses and residents on these construction projects. She added that the developer, contractor, and OCII staff were present for questions. Ms. Bohee added that she could provide a written update on other matters.

9. Commissioners' Questions and Matters

Commissioner Ellington requested that the items on the Executive Director's Report be moved to the next meeting.

Vice-Chair Rosales stated that she also had questions about those items and would like them moved to the next meeting.

Chair Johnson stated that they would move Item 8 (a) to the next meeting.

11. Adjournment

The meeting was adjourned by Chair Johnson at 5:12 p.m.

Respectfully submitted,

A handwritten signature in blue ink that reads "Natasha Jones".

Natasha Jones
Interim Commission Secretary

ADOPTED: