MINUTES

BERKELEY CITY COUNCIL SPECIAL MEETING TUESDAY, JANUARY 29, 2013

6:00 P.M.

Council Chambers – 2134 Martin Luther King Jr. Way

Preliminary Matters

Roll Call: 6:00 p.m.

Present: Councilmembers Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak

and Mayor Bates.

Absent: Councilmembers Anderson and Arreguin.

Councilmember Anderson present at 6:01 p.m. Councilmember Arreguin present at 6:09 p.m.

Public Comment - Limited to items on this agenda only - 0 speakers.

CLOSED SESSION:

The City Council will convene in closed session to meet concerning the following:

1. PUBLIC EMPLOYEE APPOINTMENT PURSUANT TO GOVERNMENT CODE SECTION 54957:

a. Title of position to be filled: City Clerk

Action: No reportable action taken.

2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(b)(1):

Initiation of litigation - one case

a. The City Council will consider whether to initiate a lawsuit against 1080 Delaware LLC and any other appropriate parties, including First-Citizens Bank and Trust Company, based on their failure to comply with the inclusionary housing requirements of the Use Permit and Regulatory Agreement governing the project at 1800 San Pablo Avenue.

Action: M/S/C (Bates/Maio) to authorize the City Attorney to file suit against 1080 Delaware LLC and other appropriate parties.

Vote: All Ayes.

3. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a):

a. Rollie French v. Arntz Builders, City of Berkeley, et al. (Alameda County Superior Court No.2002-043461)

consolidated with:

- i. Helix Electric v. Arntz Builders, et al. (Alameda County Superior Court No. 2002-061480);
- ii. Thyssenkrupp Elevator Corp. v. Arntz Builders, et al. (Alameda County Superior Court No.2002-071479);
- iii. F.W. Spencer & Son, Inc. v. Arntz Builders, et al. (Alameda County Superior Court No. RG03082302);
- iv. Bay Systems Integrators, Inc. v. Helix Electric, Inc., et al. (Alameda County Superior Court No. RG03089440); and
- v. Arntz Builders, Inc. v. City of Berkeley, et al. (Alameda County Superior Court No. RG 03095394).)

Action: M/S/C (Bates/Moore) to seek a rehearing in the Court of Appeal and then seek review in the Supreme Court if necessary.

Vote: All Ayes.

OPEN SESSION:

Public Reports of actions taken pursuant to Government Code section 54957.1.

Adjournment

Adjourned at 6:57 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of January 29, 2013.

Mark Numainville, CMC, Acting City Clerk