

From: [Jay](#)
To: [Lara Weisiger](#)
Subject: [EXTERNAL] Correspondence re Item 5C 5/2/23
Date: Monday, May 1, 2023 3:43:55 PM
Attachments: [Concerns regarding the ongoing misuse of The Legislative Agenda.docx](#)

Good afternoon, Lara.

I would appreciate it if you could include the attached correspondence regarding tomorrow evening's Council agenda Item 5C.

Thank you.

Jay Garfinkle

May 1, 2023

Re: Agenda Item 5C May 1, 2023

Honorable Mayor and Members of the City Council of Alameda

The Legislative Agenda is one of those quaint elements of our city government that doesn't exist anywhere in our vast collection of documents – neither in the Charter, the Municipal Code, nor elsewhere. Yet the Council reviews and revises this agenda every two years even though it appears that there are not any guidelines or rules as to how the Agenda is to be used.

The staff report for Item 5C says: “By adopting a Legislative Agenda, City staff and the Mayor and City Council are able to react quickly to most legislative issues as they arise.”

While this sounds nice, the unfortunate thing about this “...ability to react quickly...” is seldom, if ever, required. Rather, it simply facilitates the undermining of the concept of openness of government. It allows the City staff, the mayor, and other members of the City Council to express to various other governmental agencies “official” opinions, preferences, and recommendations on behalf of the citizens of Alameda without first subjecting these “official” opinions to public scrutiny, let alone first gaining public approval for the specific message that they would be sharing externally.

The fact is that among the several hundred bills considered by the members of our State Legislature annually, there are precious few, if any, that might benefit from an urgent, let alone precipitous, participation of the government of the City of Alameda. Virtually every bill considered by the Legislature travels a several month journey through both Houses which frequently involves incorporation of amendments, some of which may change the entire context, stated purpose, and/or potential effect of the bills as originally submitted.

Consider this. Back in 2021 with Measure Z which he had supported, having been soundly trounced by the Citizens of Alameda whom he represented, at least nominally, then Assemblyperson Rob Bonta drafted and submitted AB1322 which he had designed to do what Measure Z had failed to accomplish – the assassination of our Charter Article 26, aka Measure A. Subsequently, when he was appointed California Attorney General, his AB1322 was repurposed briefly and then disappeared entirely from the Legislative Calendar.

Had the Mayor, City Manager, or any other pro-Measure Z member of the Council or Staff chosen to do so, they could have expressed Alameda's “official” support for AB1322 even though the Citizens whom they are supposedly tasked with representing, would, in all likelihood, have overwhelmingly opposed any such expression of support for the bill had the mayor, or whomever, first made the public aware of her/their intended communications with the legislative staff in Sacramento.

As it happened, AB1322 died. But it could just as easily have survived and been repurposed as a bill that would have made State Highway 61 a toll road. And Alameda would have been on record as “officially” supporting it as a consequence of the sub rosa communications sent by one or more members of our City Government. State Highway 61, by the way, includes Doolittle Drive, part of Otis Drive, part of Broadway, most of Encinal Avenue, part of Central Avenue, and the entire length of Webster Street including the tubes and into Oakland. Toll roads - all facilitated by the misapplication of the City’s Legislative Agenda.

If you, the members of our Alameda City Council, are unalterably determined to repeatedly update this Legislative Agenda which in fact, serves no real purpose other than to undermine what little openness of our city government we have remaining, then in no uncertain terms, I implore you to, at the very least, establish rules for how it is to be used by the members of the Council including the mayor and by members of the city staff.

As it exists now, without any guidelines or restrictions on its application, it is simply an anti-open government weapon, available to be used by any member of our city government, for the purpose of supporting or opposing any issue they may seek to influence.

Jay Garfinkle