

**BEFORE THE OPEN GOVERNMENT COMMISSION
OF THE CITY OF ALAMEDA**

In Re The Complaint of

Paul Foreman

Paul Foreman,

Complainant

The City of Alameda,

Respondent

Case No. 21-01

DECISION OF THE

OPEN GOVERNMENT COMMISSION

OF THE CITY OF ALAMEDA

The above entitled matter came on for hearing and a decision by the Open Government Commission of the City of Alameda under the Sunshine Ordinance of the City of Alameda, Section 2-93.2 (b), Alameda Municipal Code. (All further references to Section numbers are to the Alameda Municipal Code.)

Facts

In response to a written request from community members to rename Jackson Park, the Recreation and Parks Commission (“the Commission”) discussed the legacy of President Andrew Jackson and the policy and process for renaming Jackson Park at a noticed meeting on May 10, 2018. At its subsequent meeting on June 14, 2018, the Commission discussed the historical background of Jackson Park and the process and criteria for renaming a City park. The Commission did not take action on the renaming request and instead requested the item return for further discussion at a later date. The meeting notices for the Commission meetings were

timely posted and included consideration of the renaming of the Park on the agendas. *See* Exhibits 1 and 2 for agendas and supporting documents.

Soon thereafter, community members organized an online petition to rename Jackson Park and in 2020 submitted over 1,253 signatures in support of renaming the Park.

At its July 9, 2020 meeting, the Commission reviewed the requirements and process to rename a City park and considered whether to rename the Park. The Commission received ten public comments during the meeting and over 49 written comments from members of the community regarding renaming the Park. After considering this input, the Commission unanimously voted to recommend to the City Council that Jackson Park be renamed. The Commission also requested that the Chair and Vice-Chair facilitate a park naming committee appointed by Director Amy Wooldridge to represent a diverse cross-section of the Alameda community, including representation from youth and from the Park neighbors, and to provide input to Director Wooldridge and the Commission regarding a new name for the Park. The Commission also committed to recommend a new Park name to the City Council by December 31, 2020. The Commission's July 9, 2020 meeting notice was timely posted and included consideration of the renaming of the Park on the agenda. *See* Exhibit 3 for the agenda and supporting documents.

On December 10, 2020, the Commission considered renaming the Park at a noticed, public meeting. Agenda item 6-B included consideration of a recommendation to re-name the Park formerly known as Jackson Park. The staff report for the meeting described the park renaming process in detail and included the recommendation of the Jackson Park Renaming Committee ("the Renaming Committee"). Staff reported that the Renaming Committee had met weekly from September through December to establish its name selection criteria, community

outreach plan, and recommendation. The Alameda Recreation and Park Department (“the Department”) conducted extensive marketing to solicit public input, resulting in outreach to over 100 cultural groups, community groups, and local programs and businesses throughout the City, including students at Alameda and Encinal High Schools. In addition, the Department published a press release in October, posted flyers at City parks and locations in the City’s two main business districts, and conducted online polling. As a result of this outreach, the Department gathered over 150 name suggestions from the community before the Renaming Committee made its recommendation to the Commission. Further, members of the public were invited to offer public comment at the Commission meeting. After considering this input, the Commission voted unanimously to recommend renaming the Park as Chochenyo Park. The agenda and supporting documents for the December 10 item are attached as Exhibit 4.

On January 19, 2021, the City Council considered the Commission’s recommendation to rename the Park as Chochenyo Park at a noticed meeting. The Commission presented its recommendation to the City Council, including the process of the community-led park renaming committee. Members of the public were again invited to provide comments. After considering this input, the City Council voted 4 to 1 to accept the Commission’s recommendation and to rename the Park as Chochenyo Park. The meeting notice for the City Council meeting was timely posted and included consideration of the renaming of the Park on the agenda. *See* Exhibit 5 for the agenda and supporting documents.

On February 2, 2021, Paul Foreman filed a Sunshine Ordinance Complaint (“the Complaint”) against the Alameda City Council and the Commission alleging that the Commission violated the Sunshine Ordinance by taking formal action to establish the Renaming Committee and then, along with Department staff, failing to notice meetings of the Renaming

Committee. The Complaint contends that the Renaming Committee was a “policy body” under the Sunshine Ordinance and a “legislative body” under the Brown Act and that the Commission should therefore have provided formal public notice of its meetings. However, the Complaint does not seek to undo the recommendation of the Renaming Committee, which was subsequently considered and acted upon by both the Commission and the City Council at properly noticed meetings. Instead, the Complaint requests that the Open Government Commission (the “OGC”) require all city bodies to designate committees created by formal action of the originating body as “policy bodies,” except for those bodies that include less than a quorum of the originating body. In addition, the Complaint requests that the OGC recommend amendments to the Sunshine Ordinance regarding “policy bodies.” A copy of the Complaint is attached as Exhibit 6.

Procedure

Under the Sunshine Ordinance, when an official complaint has been filed, the Open Government Commission, created under the Sunshine Ordinance, hears the complaint and renders a formal written decision. The complainant and the City shall appear at a hearing. During the hearing, the Open Government Commission considers the evidence and the arguments of the parties before making its decision. Section 2-93.2 (b). The Open Government Commission conducted the hearing on March 1, 2021 and considered the evidence and arguments of Mr. Foreman and the City. Vice Chair Rasheed Shabazz and Commissioner Carmen Reid recused themselves based on conflicts of interest.

Discussion and Decision

The complainant’s and the City’s arguments in this case both address the definition of “legislative body” in the Brown Act, the definition of “policy body” in the Sunshine Ordinance

and the term “ad hoc committee” in the Sunshine Ordinance. Both parties presented case citations to support their interpretations of these terms. The OGC finds that the questions presented by the complainant regarding the interpretation of the above-referenced terms are not properly before the OGC because it requires legal analysis which is outside the scope of the OGC.

The OGC further finds that the remedies sought by the complainant are beyond the authority of the OGC.

The OGC further finds that the Complaint was untimely under 2-93.2.a of the Ordinance which requires a complaint to be filed no more than fifteen (15) days after an alleged violation of the Sunshine Ordinance. The Renaming Committee started meeting in September 2020 while the Complaint was not filed until February 2, 2021.

Finally, the OGC finds that the Commission substantially complied with the Sunshine Ordinance and the Brown Act and any violations of such were cured by subsequent noticed meetings. The OGC finds that there was substantial compliance based on various factors, including that the meetings of the Renaming Committee were a matter of public record, members of the public could have participated if they desired to do so, and the Department provided multiple opportunities for the public to provide input into the renaming process. Any potential violation of the Sunshine Ordinance or the Brown Act was cured by the consideration of the Renaming Committee’s recommendations at two noticed, public meetings of the Commission and the City Council. The Sunshine Ordinance recognizes that a body can cure a violation by placing the challenged action on a subsequent meeting agenda. Sunshine Ordinance, § 2-93.3. The same is true under the Brown Act. Gov. Code § 54960.1.

For all of the above reasons, the complaint is determined to be unfounded.

Dated: March 15, 2021

DocuSigned by:

Ruben Tilos

Ruben Tilos, Chair

DocuSigned by:

Serena Chen

Serena Chen, Member

DocuSigned by:

Krystal LoPilato

Krystal LoPilato, Member



City of Alameda

Meeting Agenda

Recreation and Park Commission

Thursday, May 10, 2018

7:00 PM

City Hall, 2263 Santa Clara Avenue, Council
Chambers, 3rd Floor, Alameda, CA 94501
Meetings held the second Thursday of each
month at 7:00 p.m.

1 ROLL CALL

2 APPROVAL OF MINUTES

- 2-A** 2018-5562 Approve Minutes of April 12, 2018 Recreation and Park Commission
Regular Meeting (5 minutes)

Attachments: 2018-04-12 RPC Minutes

3 WRITTEN AND ORAL COMMUNICATIONS

5 REPORT FROM RECREATION AND PARK DIRECTOR

6 REPORTS FORM COMMISSIONERS

7 UNFINISHED BUSINESS

- 7-A** 2018-5567 Review City Facility Naming Policy and Discuss Process for Renaming
Jackson Park (20 minutes)

Attachments: Exhibit 1 - 2016 Revised Policy for Naming City Property
Facilities

8 NEW BUSINESS

- 8-A** 2018-5556 Status Report on the Alameda Point Gym Restroom Project (10 minutes)

- 8-B** 2018-5555 Receive Report on ActiveNet (10 minutes)

- 8-C** 2018-5557 Presentation of the Mastick Senior Center 2017 Annual Report. (20 minutes)

Attachments: Mastick Senior Center Annual Report 2017
Presentation

- 8-D** 2018-5554 Review and Comment on the Concept Design for the Waterfront Park at Alameda Landing
(30 minutes)

Attachments: Exhibit 1 - Alameda Landing Waterfront Park Conceptual Design

9 **ITEMS FOR NEXT AGENDA - Next Meeting is June 14, 2018**

11 **ADJOURNMENT**

****NOTES****

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- Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection in the Alameda Recreation and Parks Department, 2226 Santa Clara Avenue, during normal business hours.

- **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE:** Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City of Alameda exist to conduct the citizen of Alameda's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.
- **FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION:** the address is 2263 Santa Clara Avenue, Room 380, Alameda, CA, 94501; phone number is 510-747-4800; fax number is 510-865-4048, e-mail address is lweisiger@alamedaca.gov and contact is Lara Weisiger, City Clerk.
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City of Alameda

California

POLICY FOR NAMING CITY PROPERTY, FACILITIES AND STREETS

INTRODUCTION:

It is the City of Alameda's goal to establish a uniform policy to name City facilities and portions thereof, including but not limited to: Parks and Park facilities, Golf Complex, Alameda Municipal Power & ~~Telecom~~ facilities, Libraries, Housing Authority facilities, fire stations, City Hall, Police Department facilities, parking lots, ferry terminals, City streets and entryways to the City.

PURPOSE:

The purpose of this policy is to honor persons, organizations, places and/or events in the history of the City by naming City facilities after them. This process acknowledges and memorializes ~~a specific person or event~~ those honored and enhances the value and heritage of the City.

PROCEDURES:

A) Responsibility of Boards and Commissions

Boards and Commissions represent the community, and they have direct responsibility for various City facilities as prescribed in the City Charter and Alameda Municipal Code. It shall be the responsibility of the following Boards and Commissions to review the list of street and facility names annually and provide additions or deletions to the Historical Advisory Board. The Boards and Commissions most closely related to these facilities will, upon request from the City Council, make recommendations for potential names and the City Council will grant final approval.

Recreation Commission - City Parks, Swim Centers, Boat Ramps, and Associated Facilities

Golf Commission - Golf Complex and Associated Facilities

Public Utilities Board - Alameda Municipal Power & ~~Telecom~~ Facilities

Library Board - Libraries

Housing Commission - Housing Authority Facilities*

Planning Board - Streets and all other City facilities not listed above

*The Housing Authority of the City of Alameda is a separate legal entity from the City of Alameda. As such, the Authority Board will take action in lieu of the City Council in naming Housing Authority facilities.

B) Process for Naming City Property or Facility

Groups from within the community and individuals may make a recommendation to the Board or Commission at the time consideration is given to naming a facility and may initiate such action. The Board or Commission will then forward their recommendation to the City Council. If a facility does not have a connection to a Board or Commission, the Planning Board will be the body that recommends a name to the City Council.

The City Council will consider a recommendation from a Board or Commission and make the final decision to name a City property or facility at a public meeting in order to receive comments in an open forum.

C) Process for Naming City Streets

The Historical Advisory Board ~~will continue to~~ shall maintain the List of Street and Facility Names, including available names and those that have been used. Additions or deletions to the list shall be recommended by the appropriate board or commission based on written documentation of the historic importance of the name in Alameda history and as outlined in this policy. Only names that appear on the List of Street and Facility Names shall be utilized for the naming of new streets or renaming of existing streets. The Planning Board shall approve names for new streets.

CRITERIA: In selecting the name for a City property, facility or street, the following criteria shall be used:

1. A name that reflects the location of the facility by geographic area;
2. A name that reflects the history of a facility such as the family name of the builder, developer or person who may have donated the land when the individual has been deceased a minimum of three years;
3. A name that recognizes a significant contributor to the advancement of the City, such as a former Mayor, Councilmember, Board or Commission Member, officers or employees of the City, or member of the community when the individual has been deceased a minimum of three years;
4. A name that recognizes the donor of a significant gift of land or funds for a City facility.
5. A name that is listed on the List of Street and Facility Names of the City of Alameda.

6. Only one name shall be used for each property or facility and all its various components.
7. Corporate Address Designations, as follows:

A corporate address designation may be approved for a street in those instances where the corporate campus which the street serves is larger than one acre encompassing at least two buildings in a commercial area Criteria for the use of a corporate street name are:

- a. The Planning Board shall review specific street names making street name recommendations to the City Council. The City Council will make the final decision to approve the use of a particular street name ensuring that it is appropriate and that it would not compromise the City's ability to provide swift emergency response.
- b. The roadway to be named must be developed as a street. The street to be named must be full radius return and be acceptable as a street under City design standards for sidewalks curbs and intersection configuration.
- c. The street to be named must be located in an area of the City designated in the General Plan as Community Commercial Office Business Park Mixed Use or General Industry on corporate property greater than one acre in size with two or more corporate buildings on site.
- d. The name to be used must be distinct from all other street names used in the City of Alameda to eliminate possible confusion during an emergency response.
- e. The only buildings to be addressed from the named street which is under the full control of said corporation shall be those which are owned or leased long term and are used for the operation of the corporation for which the street is named. In general buildings shall be addressed from the street which they face main entrance. All addressing must be approved by the City's Building Official.
- f. To aid in emergency response the type and location of all street signs used on the street shall meet City standards and specifications. All street signs shall be installed and maintained by the property owner of record.
- g. In the event of the disappearance of the corporation for which the street is named the street name shall remain in force until such time as the new property owner of record takes all necessary actions to rename the street subject to the approval of the Planning Board and City Council. All costs associated with renaming such a street shall be borne by the

new property owner of record including the payment of all appropriate processing fees under the Master Fee Resolution.

- h. The street to be named shall otherwise comply with the City's street naming regulations as set out in AMC Section 13-25 and this Street Naming Policy.

NAMING STREETS:

General Considerations for Naming Streets:

1. Priority shall be given to utilizing street names that represent persons, places or events associated with the historical development of the City of Alameda.
2. Where feasible and appropriate, historic street names shall be chosen which directly relate to that portion of the City in which the street to be named is located.
3. Consistency in naming shall be maintained within a Subdivision Tract, Planned Development, or other development or geographic area where street names themes currently exist, are planned or are discernible.
4. Street names shall remain the same across intersecting streets and throughout the length of the street.
5. The use of the same name but different suffices for adjacent streets shall be avoided, with the exception of a small court or cul-de-sac adjacent to a main road. For example, Brighton Court off Brighton Road.
6. A street name shall not intersect another street name at more than one location. The use of circle or loop as a suffix is not encouraged except under limited, specific design situations.
7. Similarly spelled or pronounced street names shall be avoided within the City.
8. The number of letters in the street name, including suffix, shall not exceed twenty (20) characters and spaces in conformance with the 911 Emergency Communication Center system.

Designation:

1. In general, street names should include a suffix, such as those following, to clearly indicate that it is part of the vehicular circulation system and to minimize the possibility of confusion with development or project place names. Names lacking such suffices or ending in such words as Harbor, Isle, or Point are not encouraged, except to retain the continuity of established naming schemes. Names utilizing terms from other languages such as Embarcadero, Camino, Via and other non-typical names shall be considered individually for

appropriateness, merit, and general conformance to this policy.

2. Cul-de-sac or short dead-end streets
 - a. Court
 - b. Place
 - c. Terrace
 - d. Square
3. Short connecting streets generally less than 1,000 feet in length.
 - a. Lane
4. Curvilinear streets, generally through or connecting and of higher capacity.
 - a. Drive
 - b. Way
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5. Street running diagonally to an established grid system
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6. Generally north-south grid streets.
 - a. Street
7. Generally east-west streets.
 - a. Avenue

D) Renaming City Property, Facilities and Streets

Should the City contemplate renaming a City property or facility, a comprehensive study shall be conducted to determine how the existing name was conceived, including an assessment of the impacts to the original honoree on renaming the facility, and the impact on the adjacent neighborhoods should the property be renamed. The appropriate Board or Commission shall review the study prior to making a recommendation to the City Council. At that time, it will be at the discretion of the City Council whether or not to rename a City property or facility.

Any change to an existing street name, which would affect the addressing of any existing business or residence, shall require City Council in addition to Planning Board approval.



City of Alameda

Meeting Agenda

Recreation and Park Commission

Thursday, June 14, 2018

7:00 PM

City Hall, 2263 Santa Clara Avenue, Council
Chambers, 3rd Floor, Alameda, CA 94501
Meetings held the second Thursday of each
month at 7:00 p.m.

1 ROLL CALL

2 APPROVAL OF MINUTES

- 2-A 2018-5645 Approve Minutes of May 10, 2018 Recreation and Park Commission
Regular Meeting
(5 minutes)

Attachments: 2018-05-10 RPC Minutes

3 WRITTEN AND ORAL COMMUNICATIONS

4 REPORT FROM RECREATION AND PARK DIRECTOR

5 REPORTS FROM COMMISSIONERS

6 UNFINISHED BUSINESS

- 6-A 2018-5667 Receive City Attorney Report on Recreation and Park Commission Votes
Between April 2017 and April 2018 (20 minutes)

Attachments: Staff Report and Exhibit

- 6-B 2018-5615 Review and Discuss City Facility Naming Policy and Criteria for Naming City
Facilities (45 minutes)

Attachments: Exhibit 1: Policy for Naming City Property Facilities.pdf
Exhibit 2: City Approved Names List

- 6-C 2018-5662 Review City Facility Naming Policy and Discuss Process for Renaming
Jackson Park (20 minutes)

- 6-D 2018-5663 Update Report on Jean Sweeney Open Space Park (15 minutes)

Attachments: Exhibit 1 - Construction Photos

7 NEW BUSINESS

- 7-A** 2018-5666 Review and Comment on the Design for the Alameda Shipways Park (30 minutes)

Attachments: Exhibit 1 - Alameda Shipways Park Plan

8 ITEMS FOR NEXT AGENDA

9 ADJOURNMENT

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Designation:

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OFFICIAL NAMING LIST FOR CITY FACILITIES AND STREETS

I. AVAILABLE NAMES

1. Early Inhabitants/Owners/Founders

Maitre

2. Early Settlers

Doane
Pancoast
Peck

3. BFI Families

Lemas
Titlow

4. A. Families/Businesses

Boehmer
Fassking (hotel)
Krauth (editor)
Liese
Mazzine (hardware)
Murtz
Musso (garbage collection)
Schuetzen (parks)
Steinmeltz (local stores)
Strom (electric)
Traube
Trenor
Zunino

B. Industries

Barnes & Tibbetts
Borax
Dickie Brothers

5. Landowners/Tracts

Jenks and Mead
Sather
Teutonia Park
Vischer

6. Landmarks/Nostalgia

Bolsa de Encinal
Meetz (Horse Car Line)
Watermelon Excursion

A. World War II era songs

Red Sails (in the sunset)

B. Historic Street Names no Longer in Use

Locust

C. Former East Housing Street Names

Oceana – may be used for Housing Authority project at Catellus
Vernalis

D. Historical NAS Street Names

Arizona
El Toro
Guam
Ingersoll
Perimeter

E. Names of the Alaska Packer's Star Fleet (full names of ships shall be used))

George Skolfield
Llewellyn J. Morse
Bohemia
Indiana
Tacoma
Himalaya
La Escocesa
Star of Alaska
Star of Bengal
Star of India

Star of Chile
Star of England
Star of France
Star of Holland
Star of Italy
Star of Greenland
Star of Iceland
Star of Peru
Star of Russia
Star of Scotland
Star of Lapland
Star of Finland
Star of Zealand
Star of Poland
Star of Falkland
Star of Shetland

7. Streamers/Ferries

Contra Costa
Newark
Oakland
Thoroughfare
Transit

8. Aquatic

A. Beaches/Baths

Schubtzer Park
Terrace Baths

B. Swimmers

Nell Schmidt

9. Women

Mabel Tennant (maternity home)
Kate Van Orden (Alameda Hospital)

10. Architects

Morgan
Newsom

Slacombe
Werner, Carl

11. Builders & Designers

Arada, Thomas
Bamman, Fred
Benseman, George
Bones, J.W.
Delanoy & Randlett
Haulman, Royal
Kopf, Ben
Leboyd, William G.
Murdock, Hamilton
Strang Brothers

12. Civic Leaders

(Father Wilfred) Hodgkin
(Andy) Pagano
(Jessica) Persoff
(Cal) Santare

13. Native Fauna/Flora

Bittern
Grebe
Murre
Clapper Rail
Stilt

14. Aircrafts and Ships

A. Navy Ships

B. Naval Ship types

Battleship
Carrier
Cruiser
Submarine

C. Aircrafts – Commercial

China Clipper

D. Aircraft Carriers

15. Writers with Alameda Association

II. USED NAMES

Alaska Packers
Anderson, Paul
Annapolis
Ansel (electric)
Appizzato, Ralph J. (civic leader)
Arkansas (navy related)
Austin (historic street names no longer in use)
Avocet (native shorebird)
Bainbridge (Navy Related)
Barber's Point
Barker (furniture)
Bartlett
Bertero (families/businesses)
Bird
Bosshard (Board of Education, City Clerk)
Brower (Early Settlers)
Bruzzone (Prominent in 1860's)
Bryant (historic street names no longer in use)
Cerruti
Challen, Alice (prominent physician)
Chicago (Navy related)
Chipman (early inhabitants)
Cimarron (Navy related)
Cleveland (Navy related)
Cohen (R.R.)
Cole, Mark T. (builders/designers)
Coral Sea (aircraft carrier)
Cormorant (native shorebird)
Cornelius, A.W. (builders/designers)
Corpus Christi (Navy related)
Costanoan (local Native American tribe)
Cotati (Navy Related)

Kate Creedon (Alameda Hospital)
Curllew (native shorebird)
Davey, Robert J., Jr. (Police Officer killed in line of duty)
Decatur (Navy related)
DeCelle, Robert II (Alamedan killed in Viet Nam)
DiGiorgio (BFI family)
Dodge (NAS commander at time of base closure)
Dolphin (former NAS street name)
Dow (pump works)
Dowitcher (native shorebird)
Dowling, Sid (builders/designers)
Drum
Dufour, William (builders/designers)
Dunlin (native shorebird)
Egret (native shorebird)
El Capitan (streamers/ferry)
Ellen Craig (Historic Steamer/Ferry)
Ellis
Emeric (early settlers)
Enterprise (aircraft carrier)
Essex (Navy related)
Evans
Fallon (Navy related)
Ferry
Fitch (early landowner)
Flint
Fletcher, Mary
Fulton (historical NAS street name)
Gilman, Leo & Ralph (swimmers)
Glenview (historical NAS street name)
Gompers (Navy related)
Gonsalves, Robert (Alamedan killed WW II)
Greenwald (families/businesses)
Gresham (Police Officer killed in line of duty, reserved for Alameda Point)
Haile (early settlers)
Hamilton (architects)
Hancock
Hatfield (architect)
Hays
Hecker
Hercules (gas engines)
Heron (native shorebird)
Hillery (native Alamedan murdered performing her duties as a USDA
Compliance officer)
Hollister (Navy related)

Holtz
Hope
Hornet (Aircraft Carrier)
Jouett (historical NAS street name)
Kansas City (Navy related)
Killdeer (native shorebird)
Kingfisher (native shorebird)
Kinkaid (historical NAS street name)
Kirk
Kiska (Navy related)
Kollman
Lawrence
Lemoore (Navy related)
Lexington (Navy related)
Lina (historic street names no longer in use)
London, Jack (writers with Alameda association)
Mall
Mallard (native shorebird)
Mars (Navy related)
Matson (industries)
McMurty
Memphis (historical NAS street name)
Midway (aircraft carrier)
Miramar (Navy related)
Monarch (iron works)
Monterey (Navy related)
Moonlight (Serenade -- WWII era song)
Moore (Navy related)
Mosley
Mount Hood (Navy related)
Mulvany (historic property owner of NAS property)
Nakayama, Minoru (Alamedan killed in WWII)
Navy
Neptune Gardens (beaches/baths)
Nevada (Navy related)
Newport (Navy related)
Nimitz (aircraft carrier)
Norfolk (historic NAS street name)
Ohlone (local Native American tribe)
Ohio (Navy related)
Oriskany (Navy related)
Pan Am
Pearl Harbor
Pelican (native shorebird)
Pensacola (Navy related)

Percy (architects)
Pioneer
Pine (historic street names no longer in use)
Pickrell, J.W. (builders/designers)
Plover (native shorebird)
Pomeroy (Industries)
Pyro (Navy related)
Railroad (former name of Lincoln) (historic street name no longer in use)
Rainbow (WWII era song)
Ranger (BFI)
Red Jacket (streamers/ferries)
Red Line (transit related)
Roanoake (Navy related)
Rosefield (Skippy Peanut Butter)
Ross
Roth, Conrad (builders & designers)
Sacramento (Navy related)
San Diego (Navy related)
Sanderling (native shorebird)
Sandpiper (native shorebird)
San Pedro (Navy related)
Santa Rosa (Navy related)
Schooner
Schroeder (water) (families/businesses)
Sea Horse (navy related)
Seagull (native shorebird)
Seaplane Lagoon (navy related)
Seattle (Navy related)
Seebeck (families/businesses)
Serenade (Moonlight Serenade - WWII era song)
Sharon
Singleton (Navy related)
Siegfried (artist)
Spalding (editor, owner, Times-Star)
Stardust(Melody - WWII era song)
Stevenson, Robert Louis (writers with Alameda association)
Sunrise
Sweeney, Neil Patrick (Civic leader)
Sweet
Swift (native shorebird)
Teal (native shorebird)
Tern (native shorebird)
Texas (Navy related)
Todd (Todd Shipyard/Main Street)
Tower (Navy related)

Trident (name of room at NAS Officer's Club)
Tripoli (navy related)
Tucker (families/businesses)
Tuttle (architect)
Vernalis (navy related)
Volberg (West End business)
Washoe (Historic Ferry)
Water Works (History/nostalgia)
Weiss
Whimbrel (native shorebird)
Wichita (Navy related)
Willet (native shorebird)
Winant (BFI Oyster Farmer)
Wright, George Alexander (architect)

Revised: 21 April 2003

G:\hab\lists\streetna



City of Alameda

Meeting Agenda

Recreation and Park Commission

Thursday, July 9, 2020

7:00 PM

City Hall, 2263 Santa Clara Avenue, Council
Chambers, 3rd Floor, Alameda, CA 94501
Meetings are held the second Thursday of each
month at 7:00 p.m.

Due to Governor Executive Order N-29-20, Commissioners can attend the meeting via teleconference.

The City will allow public participation via Zoom. Please register here:
https://zoom.us/webinar/register/WN_InvF7cFGRD6luTj8S21mKQ

Members of the public can also watch the meeting via livestream (http://alameda.granicus.com/MediaPlayer.php?camera_id=3) and address the Commission during the meeting via Zoom. Comments submitted prior to the meeting will be included in the meeting record, but will not be read.

Any requests for reasonable accommodations from individuals with disabilities should be made by contacting the City Clerk's office (clerk@alamedaca.gov or 510-747-4800). City Hall will NOT be open to the public during the meeting.

1 ROLL CALL

2 APPROVAL OF MINUTES

- 2-A 2020-8127 Approve Minutes of June 11, 2020 Recreation and Park Commission Regular Meeting

Attachments: 2020-6-11 RPC Minutes

3 WRITTEN AND ORAL COMMUNICATIONS:

Anyone may address the board on a topic not on the agenda under this item by submitting a speaker's slip, subject to the 3-minute time limit.

4 REPORT FROM RECREATION AND PARK DIRECTOR

5 REPORTS FROM COMMISSIONERS

6 AGENDA ITEMS

- **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE:** Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City of Alameda exist to conduct the citizen of Alameda's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.
- **FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION:** the address is 2263 Santa Clara Avenue, Room 380, Alameda, CA, 94501; phone number is 510-747-4800; fax number is 510-865-4048, e-mail address is lweisiger@alamedaca.gov and contact is Lara Weisiger, City Clerk.
- In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals.

City of Alameda Park and Recreation Facilities Name List

PEOPLE

Alice Hackett – one of the first African American families to settle in Alameda

Joseph Knowland -- journalist and publisher (Oakland Tribune)

Mary Rudge -- Poet laureate and peace activist

Nielson Tam -- educator, activist, community leader

Mabel Tatum -- housing activist, community leader

Shirley Temple – actress, diplomat

Mark Twain's Garden

Wilda Mae Turner – pitcher for World Amateur Alameda softball team

Nell Schmidt – first woman to swim across San Francisco Bay

Amelia Earhart Park

Jim Morrison Park – The Doors lead singer

Phyllis Diller – comedian

Kate Sessions – American botanist, horticulturist and landscape architect

Rachel Carson – American marine biologist, author and conservationist

Colonel Charles Young – first African American U.S. Army Colonel and first black U.S. national park superintendent

Joseph Leonard – architect and developer who built hundreds of Alameda homes

Vickie Smith – AUSD employee who implemented program to enroll and support homeless students and founded the Coalition of Alamedans for Racial Equality

Modessa Henderson – advocated to change discriminatory housing policies in Alameda

Lorraine Lilley – fought for fair and affordable housing

Dr. Alice Challen – long-time Alameda medical practitioner and founding member of Alameda Girls Club

GENERIC

Friendship

Unity

Peace

Serenity

Blessings

Island

Kindness

CULTURAL

Bohol Circle

Ohlone

Cochenyo
Miwok

HISTORICAL

Mole (Alameda Mole was Central Pacific's ferry pier)
Bowman's Point (West End area's original name)
Neptune
Runway
Hangar

NATURAL FEATURES AND ANIMALS

Harbor Seal Cove
Least Tern Territory
Sunset View
Hummingbird
Spring Center
Sunshine Meadow
Peregrine
Tern's Rest
Bay View
Plover
Night Heron
Snowy Egret
Oak Forest
Poplar

MARITIME AND AQUATIC

Alaska Packers'
China Clipper
Ferry Watch
Shipways
Tidal Canal
Waterview
Marina Shore
Anchor
China Clipper
Hornet
Seaplane
Cleat Hitch

From: [Jennifer Taggart](#)
To: [Amy Wooldridge](#)
Subject: [EXTERNAL] please rename Jackson Park
Date: Friday, July 3, 2020 7:19:39 PM

Hi,

I live in Alameda near Jackson Park and was dismayed to find out it was named after Andrew Jackson! As we know from history class, Andrew Jackson was responsible for the Trail of Tears. Why should Alameda name a park after him? Please rename Jackson Park!

-Jennifer Taggart

Amy Wooldridge

From: bigheathermac@yahoo.com
Sent: Thursday, July 9, 2020 9:56 AM
To: Amy Wooldridge
Subject: [EXTERNAL] Rename Jackson Park

Dear Director Wooldridge,

At a time when we feel like there is so little control, it is nice to know that a small town like Alameda can take simple steps to make things right. Please help us be a better town.

Please ensure that Commission members vote to rename Jackson Park on Thursday. The park's namesake, Andrew Jackson, was a racist slaveowner and is responsible for the deaths of thousands of Native Americans. This is not the kind of legacy that we Alamedans want to uphold. Please take this opportunity to stand for justice and rename the park as swiftly as possible..

Sincerely,

Heather M Fine, Alameda Resident, Grand Street.

From: [Deborah James](#)
To: [Amy Wooldridge](#)
Subject: [EXTERNAL] Jackson Park
Date: Monday, July 6, 2020 12:11:25 PM

Andrew Jackson was a notorious racist. The park should be renamed.

<https://www.history.com/topics/native-american-history/trail-of-tears>

Deborah James

From: [Iris DeMello](#)
To: [Amy Wooldridge](#)
Subject: [EXTERNAL] Please rename Jackson Park
Date: Friday, July 3, 2020 5:11:45 PM

Amy Wooldridge

From: Larissa Kosits <kositsl@icloud.com>
Sent: Monday, July 6, 2020 12:36 PM
To: Amy Wooldridge
Subject: [EXTERNAL] Rename Jackson Park

Thank you for taking the time to consider this petition and this request of citizens in the city of Alameda.

I don't really think there's any reason for anything to be named after this particular person. Whatever was once thought redeeming about Jackson, clearly history has shown that in balance it is not. Let us move on.

Please rename the park! Thank you.

Larissa D Kosits
8 Cerruti Ct
Alameda.

Amy Wooldridge

From: The Mannings <maryandjim.manning@gmail.com>
Sent: Thursday, July 2, 2020 4:28 PM
To: jacksonparkwatch@googlegroups.com
Cc: Amy Wooldridge
Subject: [EXTERNAL] Re: Recreation and Parks Commission - Jackson Park agenda item

Amy

I cast my vote for Hackett Park, honoring the whole family.

Jackson Park was established shortly after the Hackett family established their residence in Alameda. Renaming Jackson Park as Hackett Park would retain the park's historical significance, and be historically appropriate.

Also, the sound of the names is similar. The change from Jackson Park to Hackett Park would be easy to remember, giving the new name a better chance of being adopted and used.

Mary Manning

1167 Park Avenue

On Jul 2, 2020, at 12:58 PM, bmathieson via jacksonparkwatch <jacksonparkwatch@googlegroups.com> wrote:

Sent from AOL Mobile Mail
Get the new AOL app: mail.mobile.aol.com

On Thursday, July 2, 2020, Amy Wooldridge <AWooldridge@alamedaca.gov> wrote:

Hello Jackson Park neighbor,

This is to inform you that there is an agenda item on the 7/9 Recreation and Parks Commission meeting (agenda attached) to rename Jackson Park. Information is in the agenda if you would like to register and participate in the Zoom webinar for public comment on the item or you can email me in advance of the meeting and it will be included.

Thank you.

Amy

Amy Wooldridge

Recreation and Parks Director, City of Alameda

(510) 747-7570

Amy Wooldridge

From: Ezra Denney <ezradenney@gmail.com>
Sent: Monday, July 6, 2020 1:52 PM
To: Amy Wooldridge
Subject: [EXTERNAL] Rename Jackson Park

Good afternoon,

I write today to urge the Alameda Parks and Recreation Commission to vote to change the name of Jackson Park. I urge the Commission to adopt a clear timeline for the renaming process, and to communicate that to the public.

It's time to remove this senseless tribute to an awful, racist man, and to move forward with a new park with a community approved name that represents the Alameda that says "Everyone Belongs Here."

Thank you,

Ezra Denney

Amy Wooldridge

From: Charlotte McGoldrick <mcgoldrick.charlotte@gmail.com>
Sent: Monday, July 6, 2020 10:27 PM
To: Amy Wooldridge
Subject: [EXTERNAL] Renaming Jackson Park

Hello,

I live on Park Ave right in front of Jackson Park. I'm writing in strong support of renaming the park. Please do the right thing. It's long overdue to rename spaces honoring people who owned slaves and committed genocide.

Thank you,
Charlotte McGoldrick
94501

Amy Wooldridge

From: Rosemary Jordan <luxembourg4ever@gmail.com>
Sent: Monday, July 6, 2020 9:36 PM
To: Amy Wooldridge
Subject: [EXTERNAL] Changing The Name of Jackson Park Is a Public Health & Social Justice Priority

Hi there!

I've signed the petition but now I'd like to personally reach out and let you know how important it is that we remove the name of Andrew Jackson from our park here in Alameda.

As a public health professional, a mom and a person who studies history, I am appalled that we would continue to maintain a park here in the town where "Everyone Belongs Here" with the name of someone who brought such harm on so many. It's long past time to initiate a serious and comprehensive process to rename it.

In a time when we are understanding more fully the trauma of white supremacy that must be repaired for our country to live out its core values - and a time when we must embrace outdoor spaces as the central way that we can achieve expression, socialization and fitness, we must elevate the focus on healthy parks in our community. It's a public health and social justice priority necessary for the well-being of every citizen.

I study the impact of COVID-19 on our lives in my professional life. For years to come, parks will be THE main way that Alamedans experience our full humanity. The name Andrew Jackson is wholly and completely incongruous with this mission.

I am also learning the history of white supremacy in our City and understanding that we must engage a Truth and Reconciliation process to reckon with our history. We can move that process forward through the intentional acts that each of us take to signal seriousness, intention and engagement when evidence of racist history is presented to us.

I'm willing and able to participate in a healing process for our community to retire the name Jackson Park and embrace a new name that we can all be proud of.

Thank you,
Rosemary Jordan

Amy Wooldridge

From: Rachel Lee <rlee1819@gmail.com>
Sent: Monday, July 6, 2020 5:21 PM
To: Amy Wooldridge
Subject: [EXTERNAL] Rename Jackson Park

Dear Recreation and Parks Commissioners,

Here in Alameda, we say "Everyone Belongs Here." This is one of the things I love about this city. I feel like our parks and buildings should reflect this ethos, and yet Jackson Park sticks out as a glaring exception. Andrew Jackson wasn't really an Everyone Belongs Here kind of guy. Jackson contributed to slavery and to the murder and disenfranchisement of Native Americans. These are not things that should be honored with a park.

It is long past time, so I more than encourage, I demand the following of the Commission:

1. Dename Jackson Park
2. Adopt a timeline to rename Jackson Park, and
3. Develop a memorial for the communities oppressed by Andrew Jackson

Thank you,
Rachel Lee
City of Alameda resident

Amy Wooldridge

From: gaylon parsons <gaylon.parsons@gmail.com>
Sent: Tuesday, July 7, 2020 11:32 AM
To: Amy Wooldridge
Subject: [EXTERNAL] Renaming Jackson Park - with a timeline

Dear Ms. Wooldridge and commissioners,

I am writing to strongly urge the commission to commit to renaming Jackson Park, with a timeline for completion and a commitment to honor the people harmed by Andrew Jackson.

I've often wondered why in 1909, the year the NAACP was founded and when Ida B. Wells delivered her famous speech, "Lynching, Our National Crime," our city chose to honor Jackson. It was just a couple of years after Oklahoma joined Arkansas and Texas in installing Jim Crow laws that restricted non-whites, Black and indigenous people alike, to second-class citizen status. The Crazy Snake Rebellion was a March 1909 incident between the Creek (who Jackson had terrorized as he had the Cherokee) and white settlers. It must have been a terrifying year to be non-white in the United States. And here in Alameda, our white government chose to honor Andrew Jackson. That was an error we ought to correct now, and with a sense of urgency.

While Justice Park is not on the list of names, I do think it has a nice ring to it. Should you all choose a different subset of names for the community to engage with, however, please take care with any names of indigenous people. I don't know that they would appreciate a city-owned park with their name on it.

Thank you for your attention to this matter, and for your service.

Sincerely,
Gaylon Parsons

--
Gaylon Parsons

Amy Wooldridge

From: Kat Fuentes <kf63kat@gmail.com>
Sent: Wednesday, July 8, 2020 9:31 AM
To: Amy Wooldridge
Subject: [EXTERNAL] renamejacksonpark

Kathalina Fuentes

Amy Wooldridge

From: Leah Francis <leahfrancis12@gmail.com>
Sent: Tuesday, July 7, 2020 11:15 PM
To: Amy Wooldridge
Subject: [EXTERNAL] Rename Jackson Park!

To whom it may concern,

It is an embarrassment to have a park named after a man who held enslaved people captive and is responsible for the genocide of thousands of indigenous people. Alameda County is a diverse community with a rich history and many notable figures who are more deserving of having a park named after them. Please rename the park so that it better serves the people it was built for.

Regards,

Leah Francis

Amy Wooldridge

From: Violet Daar <violetdaar@yahoo.com>
Sent: Wednesday, July 8, 2020 1:41 AM
To: Amy Wooldridge
Subject: [EXTERNAL] Rename Jackson Park

To the Alameda Parks and Recreation Commission:

My name is Violet Daar and I have been a resident of Alameda for about 20 years. I grew up spending sunny days with friends in Jackson Park and I have so many fond memories at this spot. However, it has come to my attention that this park is named after Andrew Jackson, a man who enslaved hundreds of Africans and forced “resettlement” — as well as other dangerous policies — onto indigenous people. I do not want this public space, nor any other space in my town to honor the blatant oppression of African and Indigenous peoples. Every part of our community should be working to directly fight against such racism.

Rename Jackson Park. It’s the least you all could do for the anti-racist movement.

Sincerely,
Violet Daar

Amy Wooldridge

From: Amelia Eichel <ameliaeichel@gmail.com>
Sent: Tuesday, July 7, 2020 5:23 PM
To: Amy Wooldridge
Subject: [EXTERNAL] Please rename Jackson Park

Dear Director Wooldridge,

I have lived in Alameda my whole life and graduated from Alameda High in 2016. "Jackson Park" was a phrase I repeated often throughout my life. I wasn't aware of the history attached to the man who I was inherently honoring by saying his name so often, and now that I am aware of Andrew Jackson's legacy, I don't see any reason why we should have a park named after him.

A name, especially a park name, is indicative of a city's culture, history, and what kind of values the city stands for. I see a huge opportunity in renaming Jackson Park to something like Justice Park, which establishes a better standard for what it takes to be the namesake of a park in Alameda.

Thank you for your work on the Recreation and Parks Commission, and I am glad that Renaming Jackson Park has been reauthorized. Seeing as so many more people are now privy to Jackson's racist legacy, it is important that the park be renamed as swiftly as possible this time around.

Sincerely,
Mia Eichel

Amy Wooldridge

From: gary cates <glcbfd1967@gmail.com>
Sent: Tuesday, July 7, 2020 4:50 PM
To: Amy Wooldridge
Subject: [EXTERNAL] Re: Recreation and Parks Commission - Jackson Park agenda item

Hi Amy, It is the opinion of my wife and I that the Park name should be changed to represent those members of the Ohlone people who inhabited this region centuries before the white man's arrival. It seems to be the civil thing to do. Gary and Mary Ann Cates, 1250 Park Ave

From: Amy Wooldridge <AWooldridge@alamedaca.gov>
Date: Thursday, July 2, 2020 at 12:38 PM
Subject: Recreation and Parks Commission - Jackson Park agenda item

Hello Jackson Park neighbor,

This is to inform you that there is an agenda item on the 7/9 Recreation and Parks Commission meeting (agenda attached) to rename Jackson Park. Information is in the agenda if you would like to register and participate in the Zoom webinar for public comment on the item or you can email me in advance of the meeting and it will be included.

Thank you.
Amy

Amy Wooldridge
Recreation and Parks Director, City of Alameda
(510) 747-7570
awooldridge@alamedaca.gov
www.alamedaca.gov/recreation
Find us on Facebook at PlayARPD

Amy Wooldridge

From: JVF <jvonfurst@yahoo.com>
Sent: Thursday, July 9, 2020 10:11 AM
To: Amy Wooldridge
Subject: [EXTERNAL] renaming the park

I'm in favor of renaming Jackson Park.

The choice of name should not be 'justice' since that is a fluid concept that can mean different things to different people. Do you really want to be forced to let Neo-nazis use the park for a rally since you have a triggering name? [I was around for the Skokie/Nazi March years ago (https://en.wikipedia.org/wiki/National_Socialist_Party_of_America_v._Village_of_Skokie) these groups look for opportunities like this.]

My personal choice is to name it after Isabel Clark who funded the bench and (now gone) "My Dumb Friends fountain. Hopefully, you will add her name to the ballot of names to be chosen.
<http://womenoutwest.blogspot.com/2015/05/isabelle-clark-percy-artist-and-co.html>

Amy Wooldridge

From: bigheathermac@yahoo.com
Sent: Thursday, July 9, 2020 9:56 AM
To: Amy Wooldridge
Subject: [EXTERNAL] Rename Jackson Park

Dear Director Wooldridge,

At a time when we feel like there is so little control, it is nice to know that a small town like Alameda can take simple steps to make things right. Please help us be a better town.

Please ensure that Commission members vote to rename Jackson Park on Thursday. The park's namesake, Andrew Jackson, was a racist slaveowner and is responsible for the deaths of thousands of Native Americans. This is not the kind of legacy that we Alamedans want to uphold. Please take this opportunity to stand for justice and rename the park as swiftly as possible..

Sincerely,

Heather M Fine, Alameda Resident, Grand Street.

Amy Wooldridge

From: Regan Chagal <regan@reganchagal.com>
Sent: Thursday, July 9, 2020 8:54 AM
To: Amy Wooldridge
Subject: [EXTERNAL] Renaming Jackson Park

Dear Director Wooldridge,

As a resident of Alameda, I'm writing to you to ensure that Commission members vote to rename Jackson Park on Thursday. The park's namesake, Andrew Jackson, was a racist slaveowner and is responsible for the deaths of thousands of Native Americans. This is not the kind of legacy that we Alamedans want to uphold. Please take this opportunity to stand for justice and rename the park as swiftly as possible.

Sincerely,

Regan Chagal

--

—
Regan Chagal // she/her // regan@reganchagal.com // 215.317.3100

Amy Wooldridge

From: Dan Wood <dan@gigliwood.com>
Sent: Thursday, July 9, 2020 8:34 AM
To: Amy Wooldridge
Subject: [EXTERNAL] jackson park needs a new name

Dear Ms. Wooldridge and members of the commission:

I am writing to you in favor of the proposal to find a new name for Jackson Park in Alameda.

Our parks, our streets, our schools should be named after people in history we love, honor, and revere. The legacy of Andrew Jackson – his slaveholding and advocacy for slavery, the Trail of Tears, and his presidency — should of course still be taught in the classroom. But for people like me who want to relax alone or with family and (after the Pandemic) with friends, we should not have to be reminded of our society's reverence for an abhorrent man.

Society has many problems, big and small, and renaming a park won't be enough to destroy the legacy of slavery and racism in this country, but it's a step we can take in our city that shows that we are on the path to making things right after being wrong for so many, many years.

Regards,
Dan Wood
Alameda

Amy Wooldridge

From: rosiegonce . <rosiecarmen@gmail.com>
Sent: Thursday, July 9, 2020 6:26 AM
To: Amy Wooldridge
Subject: [EXTERNAL] Renaming Jackson Park

In regards to changing the name of Jackson Park to something not racist:

As an Alameda resident and a mother who walks her one year old son to this park several times a week, I wanted to voice my strong support of the name change.

Alameda should absolutely do everything it can to show the Black Community that we stand against racism in any and all forms.

Sincerely,
Rosie Gonce

Amy Wooldridge

From: Robert Matthews <revbobmat@icloud.com>
Sent: Thursday, July 9, 2020 5:54 AM
To: Amy Wooldridge
Subject: [EXTERNAL] "Jackson" Park

*Dear Director Wooldridge,
Please ensure that Commission members vote to rename Jackson Park on Thursday.
The park's namesake, Andrew Jackson, was a racist slaveowner and is responsible for
the deaths of thousands of Native Americans. This is not the kind of legacy that we
Alamedans want to uphold.*

*Please take this opportunity to stand for justice and rename the park as swiftly as
possible.*

*Sincerely,
Rev. Bob Matthews
460 Cola Ballena #B
Alameda CA 94501*

Sent from my iPhone

Amy Wooldridge

From: Robert Matthews <revbobmat@icloud.com>
Sent: Thursday, July 9, 2020 5:54 AM
To: Amy Wooldridge
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possible.*

*Sincerely,
Rev. Bob Matthews
460 Cola Ballena #B
Alameda CA 94501*

Sent from my iPhone

Amy Wooldridge

From: bmathieson@aol.com
Sent: Wednesday, July 8, 2020 5:14 PM
To: Amy Wooldridge; jacksonparkwatch@googlegroups.com
Subject: [EXTERNAL] Recreation and Park Commission - Jackson Park PUBLIC COMMENT FOR MEETING

Alameda Recreation and Park Commission
Alameda, California

Subject: July 9, 2020, Meeting -- Agenda Item 6-A

Honorable Commissioners:

My family and I heartily endorse the renaming of Jackson Park. Our preference is that the park be allowed to revert to its original name, "Alameda Park." The park was known by that name from its founding in 1894 until 1909. In that year, with the opening of Alameda's three newest parks all named for American presidents, Alameda Park was renamed for an American president for consistency. The subject park was Alameda's first public park, and it is fitting that the park be named for the city that it has served well for 126 years.

For the citywide renaming project, including the selection of a replacement name for Jackson Park, I caution against naming any City facility for any human being. We all have our foibles, including some that may remain hidden until discovered posthumously during thorough historical research. To avoid future surprises and the need for re-renaming, I suggest that City facilities be named for geographic locations, local animals, or other non-human objects or entities that represent Alameda's rich history.

Thank you for your careful consideration.

Sincerely,

Betsy Mathieson
1185 Park Avenue
Alameda

-----Original Message-----

From: Amy Wooldridge <AWooldridge@alamedaca.gov>
Sent: Thu, Jul 2, 2020 12:38 pm
Subject: Recreation and Parks Commission - Jackson Park agenda item

Hello Jackson Park neighbor,

This is to inform you that there is an agenda item on the 7/9 Recreation and Parks Commission meeting (agenda attached) to rename Jackson Park. Information is in the agenda if you would like to register and participate in the Zoom webinar for public comment on the item or you can email me in advance of the meeting and it will be included.

Thank you.
Amy

Amy Wooldridge
Recreation and Parks Director, City of Alameda
(510) 747-7570
awooldridge@alamedaca.gov
www.alamedaca.gov/recreation
Find us on Facebook at PlayARPD

Amy Wooldridge

From: Kjerste Lee <kjerstelee@gmail.com>
Sent: Thursday, July 9, 2020 10:29 AM
To: jacksonparkwatch@googlegroups.com
Cc: Amy Wooldridge
Subject: [EXTERNAL] Re: Recreation and Park Commission - Jackson Park PUBLIC COMMENT FOR MEETING

+1 from the Lees on Betsy's letter. All excellent points, we agree wholeheartedly.

Kjerste

On Jul 9, 2020, at 10:10 AM, Toni Grimm <tonigrimlin@sbcglobal.net> wrote:

I agree with Betsy Mathieson. Good points!

Toni Grimm
1220 Park Ave.

On Wednesday, July 8, 2020, 06:58:46 PM PDT, Ray And Kaye <rayandkaye@comcast.net> wrote:

I agree. That was my first thought. Go back to original.
Won't be able to attend webinar since I will have family stopping by.
Kaye

Sent from my iPhone

On Jul 8, 2020, at 5:14 PM, bmathieson via jacksonparkwatch <jacksonparkwatch@googlegroups.com> wrote:

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Alameda, California

Subject: July 9, 2020, Meeting -- Agenda Item 6-A

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Amy Wooldridge
Recreation and Parks Director, City of Alameda
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Find us on Facebook at PlayARPD

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To view this discussion on the web visit <https://groups.google.com/d/msgid/jacksonparkwatch/1464171353.4033867.1594253641941%40mail.yahoo.com>.

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<https://groups.google.com/d/msgid/jacksonparkwatch/16805056.4029233.1594314622907%40mail.yahoo.com>.

Amy Wooldridge

From: Toni Grimm <tonigrimlin@sbcglobal.net>
Sent: Thursday, July 9, 2020 10:10 AM
To: jacksonparkwatch@googlegroups.com
Cc: Amy Wooldridge
Subject: [EXTERNAL] Re: Recreation and Park Commission - Jackson Park PUBLIC COMMENT FOR MEETING

I agree with Betsy Mathieson. Good points!

Toni Grimm
1220 Park Ave.

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Kaye

Sent from my iPhone

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Alameda, California

Subject: July 9, 2020, Meeting -- Agenda Item 6-A

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1185 Park Avenue
Alameda

-----Original Message-----

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Sent: Thu, Jul 2, 2020 12:38 pm

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Thank you.

Amy

Amy Wooldridge

Recreation and Parks Director, City of Alameda

(510) 747-7570

awooldridge@alamedaca.gov

www.alamedaca.gov/recreation

Find us on Facebook at PlayARPD

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Amy Wooldridge

From: Bronwyn Harris <bronwynharrisauthor@gmail.com>
Sent: Thursday, July 9, 2020 10:42 AM
To: Amy Wooldridge; City Clerk
Subject: [EXTERNAL] Renaming Jackson Park

Dear Recreation and Park Committee,

When Rasheed Shabazz brought up the idea to rename Haight School a few years ago, I am ashamed to admit that I didn't care much, because it didn't affect me personally. I didn't mind renaming it, but I also had no understanding of the deep pain that comes from a racist person being honored, simply because I have not been affected by this kind of racism.

I'd like to tell you how that changed for me, and apologize for not seeing it sooner. This leads to why I strongly believe we need to rename Jackson Park.

My little nephew is biracial. When I was explaining the reason for the school name change to my parents, I brought up the cruel and racist remarks that I had learned Governor Haight made about Black and Chinese people in California. We heard a snuffle from the door -- my nephew had been listening at the door and started crying. We asked what was wrong and he said, "He's talking about me! I'm Chinese, and he said these things about me! He shouldn't have a school named after him!"

Fortunately, due to the efforts of Mr. Shabazz and others, I was able to say, "They took the name away!" That made him smile and say, "Good, because if you're racist you shouldn't get things named after you."

It's that simple. A five-year-old figured it out, so we can too.

Andrew Jackson was not only racist, he owned and enslaved other humans and orchestrated genocide. It is far past time to stop honoring him.

I have come to this too late because I didn't see the pain caused. We have a chance to remedy this, however, and it is past time.

I strongly urge the board to remove the Jackson Park name and adopt a clear timeline and transparent process for renaming the park.

I realize that these are symbolic gestures and that systemic change is what we really need. However, removing any honor given to slavers is a good start and a way to show who we aspire to be: a community where everyone truly belongs.

Bronwyn Harris

Author of *Literally Unbelievable: Stories from an East Oakland Classroom*
www.bronwynharrisauthor.com

Amy Wooldridge

From: Adeline R. <arickard981@gmail.com>
Sent: Thursday, July 9, 2020 11:24 AM
To: Amy Wooldridge
Subject: [EXTERNAL] Renaming Jackson Park

Dear Director Wooldridge,

I am sitting in Jackson Park right now, which is right next to my house and a place I visit often to read a book or meet with friends. I love this park—I love watching the people running by with their dogs and the little kids learning to ride their bike for the first time. People of all backgrounds and origins come here to have peace and sun, however this is not something that it's namesake would've supported. Andrew Jackson was racist, and his policies led to the death of thousands of Native Americans.

I agree that his life should be remembered in history class and that he has accomplishments that should be honored—but his legacy does not align with the values of this park. Names mean so much. It means something that Jackson's name is imprinted on parks and street signs and that those he killed are forgotten. This park deserves a new name that reflects all those who come to enjoy a sunny afternoon, not a man whose actions were unconstitutional (he acted against a Supreme Court order). We should honor someone we can proudly tell our kids about—instead of a man whose actions we want to ignore.

Thank you,
Adeline Rickard

Amy Wooldridge

From: Laura Cutrona <laura.m.cutrona@gmail.com>
Sent: Thursday, July 9, 2020 11:16 AM
To: Amy Wooldridge
Subject: [EXTERNAL] Rename Jackson Park

Dear Director Wooldridge,

As an Alameda resident, I ask that you ensure that Commission members vote to rename Jackson Park at today's meeting. The park's namesake, Andrew Jackson, was a racist slave owner and is responsible for the deaths of thousands of Native Americans - this is not the kind of legacy that we want to celebrate.

This vote is an opportunity to stand for justice and rename the park. Across the country, parks and monuments are being renamed. If we Alamedans seek to be leaders, this is an opportunity to take swift action and demonstrate that we stand for justice.

Sincerely,

Laura Cutrona

Amy Wooldridge

From: Lara Weisiger
Sent: Thursday, July 9, 2020 11:04 AM
To: Amy Wooldridge
Subject: FW: [EXTERNAL] Comment for Parks Commission: Rename Jackson Park

From: Grover Wehman-Brown [mailto:groverwehman@gmail.com]
Sent: Thursday, July 09, 2020 7:23 AM
To: City Clerk <CLERK@alamedaca.gov>
Subject: [EXTERNAL] Comment for Parks Commission: Rename Jackson Park

Dear Commissioners,

I am writing to ask the commission to vote in favor of renaming Jackson Park, because leaving our collective spaces and institutions named after leaders that enslaved other humans and led the displacement and ultimately the death of thousands of Indigenous people uses our shared funds and public space to honor a legacy of racism & violence.

I also support the proposal by commissioner Aimee Barnes to establish a public community renaming process, research the histories of the namesake of all parks, and add a policy that no park be named after a known enslaver. I would ask that added to that list be no person known to advocate for racial segregation.

Thank you,

Grover Wehman-Brown

Amy Wooldridge

From: mark linde <mrkemlylinde@att.net>
Sent: Thursday, July 9, 2020 10:57 AM
To: Amy Wooldridge
Subject: [EXTERNAL] Jackson park name change
Attachments: image0.png; ATT00001.txt

You have a member posting on social media about her vote and posting information, that is an illegal bias under the brown act. Her vote needs to be excused.



Amy Wooldridge

From: J. Marlow Schmauder <mschmauder@gmail.com>
Sent: Thursday, July 9, 2020 12:26 PM
To: Amy Wooldridge
Subject: [EXTERNAL] Please rename Jackson Park

Dear Director Wooldridge,

Please ensure that Commission members vote to rename Jackson Park on Thursday. The park's namesake, Andrew Jackson, was a racist slaveowner who was responsible for the deaths of thousands of Native Americans. This is not the kind of legacy that we Alamedans want to uphold, nor honor in any way. Please take this opportunity to stand for justice and rename the park as swiftly as possible.

Sincerely,

J. Marlow Schmauder

Amy Wooldridge

From: Josh Geyer <joshm.geyer@gmail.com>
Sent: Thursday, July 9, 2020 12:39 PM
To: Amy Wooldridge
Subject: [EXTERNAL] Rename Jackson Park

Director Wooldridge,

I am writing today to express the strongest support for renaming Alameda's Jackson Park. As I'm sure you know, Andrew Jackson was a monstrous person a perpetrator of genocide against native people in order to force them off their lands and expand plantation slavery. He also personally enslaved hundreds of people. In the aftermath of multiple waves of protest against police violence and white supremacy (including the righteous felling of many monuments to racist historical figures), it should be clear to anyone who's been paying attention that maintaining Jackson's name on a public facility communicates a de facto endorsement of Jackson's views and actions. Indeed, this is the reason to name things after people in the first place.

Jackson's views and actions could not be farther from the ethos of Alameda--at least, the ethos of welcome, inclusion, and social justice I and many other Alamedans embrace. There will never be a better time than right now to finally after 111 years remove this symbol of white supremacy from our public sphere and replace it with a name that communicates our true feelings of welcome and fraternity for all people. Please urge the parks and recreation commission to vote today to adopt the following three steps: 1) IMMEDIATELY remove Andrew Jackson's name from our park; 2) adopt a community process--including a timeline--for renaming the park; and 3) develop a monument to be placed in the park honoring peoples who experienced racist enslavement and forced displacement at the hands of Jackson and recognizing Alameda's own history of exclusion and displacement.

People--including me--often shake their heads in despair and bewilderment during periods of upheaval and uncertainty, wondering what they can possibly do to make a difference amongst all the chaos and suffering. This is an example of something we all can do, together, that will actually improve our community and align our public spaces with our shared values. The Commission can and should act on this item without delay.

Thank you,
Josh Geyer

Amy Wooldridge

From: Patty Pforte <patricia.pforte@gmail.com>
Sent: Thursday, July 9, 2020 12:34 PM
To: Amy Wooldridge
Subject: [EXTERNAL] Renaming Jackson Park

Hello,

My name is Patty Pforte and I have lived in Alameda since April 2013.

I support local businesses and care deeply for the community that I garner so much joy, peace, calm, and love from.

I am writing to demand that Jackson Park be renamed to celebrate one of the (probably many) QTBIPOC historic members of the Alameda community. Our parks truly matter, they are where we all go to commune with nature and each other. We cannot allow Jackson's history of enslaving and indigenous abuse to be our history, present, and future. We are better than this and we must live by a creed to protect, support, and show up for QTBIPOC people, and ensure that their experiences, stories, histories are around us, and not just those who did harm to their ancestors.

We must evaluate all of our named streets, buildings, monuments and I demand that the evaluation takes into account how many QTBIPOC people are represented in each. In order to heal from the trauma of indigenous genocide, 400 years of enslavement and racism, we must rectify and transform our local community.

I hope this email finds you well and I look forward to supporting these changes as they come about.

Kind regards,

Patty Pforte
Lincoln Avenue Resident

Patty Pforte

Amy Wooldridge

From: Erin Reichert <erinmreichert@yahoo.com>
Sent: Thursday, July 9, 2020 1:03 PM
To: Amy Wooldridge
Subject: [EXTERNAL] Rename Jackson Park

*Dear Director Wooldridge,
Please ensure that Commission members vote to rename Jackson Park on Thursday. The park's namesake, Andrew Jackson, was a racist slaveowner and is responsible for the deaths of thousands of Native Americans. This is not the kind of legacy that we Alamedans want to uphold. Please take this opportunity to stand for justice and rename the park as swiftly as possible.*

Thank you,
Erin Reichert

Amy Wooldridge

From: Zac Bowling <zac@zacbowling.com>
Sent: Thursday, July 9, 2020 1:01 PM
To: Amy Wooldridge; City Clerk
Subject: [EXTERNAL] Public comment on item 6-A for the parks commission

Honeral members,

I want to voice my support for renaming Jackson Park. Jackson was a racist, slave owner, and he is responsible for the trail of tears. There is no place in Alameda that we should honor this man.

Unity Park or Island Park are great names for something generic. Hackett Park would be great too. Plover Park would be a great way to remind people of the endangered Western Snowy Plover population that lives on our beaches that is suffering habitat loss.

Zac Bowling

Amy Wooldridge

From: Savanna Cheer <savanna.cheer@gmail.com>
Sent: Thursday, July 9, 2020 1:47 PM
To: Amy Wooldridge
Cc: City Clerk
Subject: [EXTERNAL] Public Comment for Agenda item 6-A for the commission meeting 7/9

Dear Director Wooldridge,

Please let the Commission members know that, as an Alameda resident, I would like them to vote to rename Jackson Park at tonight's Commission meeting. The park's namesake, Andrew Jackson, was a racist slave owner and is responsible for the deaths of thousands of Native Americans. This is not the kind of legacy that we Alamedans want to uphold. Please take this opportunity to stand for justice and rename the park as swiftly as possible.

Sincerely,
Savanna Cheer

Amy Wooldridge

From: Karen Larsen <alakml@aol.com>
Sent: Thursday, July 9, 2020 2:31 PM
To: jacksonparkwatch@googlegroups.com
Cc: Amy Wooldridge
Subject: [EXTERNAL] Re: Recreation and Park Commission - Jackson Park PUBLIC COMMENT FOR MEETING

I think it is an excellent suggestion. Thank you Betsy.

Karen.

Sent from my iPad

On Jul 8, 2020, at 5:14 PM, bmathieson via jacksonparkwatch <jacksonparkwatch@googlegroups.com> wrote:

Alameda Recreation and Park Commission
Alameda, California

Subject: July 9, 2020, Meeting -- Agenda Item 6-A

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Thank you for your careful consideration.

Sincerely,

Betsy Mathieson
1185 Park Avenue
Alameda

-----Original Message-----

From: Amy Wooldridge <AWooldridge@alamedaca.gov>
Sent: Thu, Jul 2, 2020 12:38 pm
Subject: Recreation and Parks Commission - Jackson Park agenda item

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Thank you.
Amy

Amy Wooldridge
Recreation and Parks Director, City of Alameda
(510) 747-7570
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<https://groups.google.com/d/msgid/jacksonparkwatch/1464171353.4033867.1594253641941%40mail.yahoo.com>.

Amy Wooldridge

From: María D. Domínguez <mariaddominguez@gmail.com>
Sent: Thursday, July 9, 2020 2:30 PM
To: Amy Wooldridge
Subject: [EXTERNAL] In support of renaming Andrew Jackson Park

Dear Director Wooldridge:

I have been a resident of Alameda, California for almost 7 years, and a lifelong resident of the East Bay. My family and I have always enjoyed spending time in Alameda's parks.

I am writing in support of renaming Alameda's Jackson Park. The park's namesake, Andrew Jackson, was a racist slaveowner who profited from the human trafficking of Black Americans, and a genocidal imperialist responsible for the deaths of thousands of Native Americans.

Andrew Jackson has a dishonorable legacy. To name an Alameda park after someone so dishonorable sends a message that the lives of Black Americans and Native Americans do not matter. It also sends a message that Alamedans are willing to look the other way when confronted with the opportunity to chip away racist decisions. This is certainly out of line with Alameda's value of inclusivity and unofficial motto that, "Everyone Belongs Here."

I invite all of you to leave a different legacy for the younger generations of Alamedans, one that we can all be proud of as we continue to engage in antiracist solidarity. Please take this opportunity to stand for justice and rename the park as swiftly as possible. Justice delayed is justice denied.

Thank you for your consideration.

Sincerely,

María D. Domínguez, Esq.
Alameda, CA 94501
Pronoun/Pronombre: She/Ella

Black Lives Matter! ¡Las Vidas Negras Importan!

Amy Wooldridge

From: Kevis Brownson <kevis.brownson@gmail.com>
Sent: Thursday, July 9, 2020 2:21 PM
To: Amy Wooldridge
Subject: [EXTERNAL] Rename Jackson Park - Item 6A 7/9 agenda

For distribution-

Honorable commissioners:

I write this short email to strongly encourage you to vote to rename Jackson Park. Andrew Jackson has no real connection with Alameda, and it is right and just that as a community we pick an appropriate name for this beautiful park, one that does not bring pain to indigenous peoples.

I walk there nearly every day and it would be a joy to see a new name on this park.

Thank you for your consideration,
Kevis Brownson
Everett Street

Amy Wooldridge

From: Amy LaThanh <amy@lathanh.com>
Sent: Thursday, July 9, 2020 4:10 PM
To: Amy Wooldridge
Subject: [EXTERNAL] Jackson Park renaming comment

Hi Amy,

I wanted to say ahead of the meeting tonight that I am supportive of renaming Jackson Park after Mary Jackson, a brilliant black woman who made getting the United States to space a reality. This would allow us to keep a lot of the same signage so it does not become cost prohibitive while still honoring someone who deserves a lot more credit.

Coming in second place would be Alameda Park, as a nod to its historic roots.

Thank you and looking forward to tonight's meeting.

Cheers,
Amy

Amy Wooldridge

From: Jason Toupes <alamedacomedyworks@gmail.com>
Sent: Thursday, July 9, 2020 4:45 PM
To: Amy Wooldridge
Subject: [EXTERNAL] Jackson Park idea

Hello,

I've been a resident here in Alameda for over a decade. I also own and operate Alameda Comedy Works at Faction Brewing. I would love to see Jackson Park renamed for one the great pioneers in womens comedy: Phyllis Diller. Once we get out of the pandemic I would love to produce a comedy show in the park for all ages

Thanks
Jason Toupes

Amy Wooldridge

From: Kristin W <kriswel383@gmail.com>
Sent: Thursday, July 9, 2020 5:21 PM
To: Amy Wooldridge
Subject: [EXTERNAL] Rename Jackson Park

Dear Director Wooldridge,

As you know, Jackson Park's namesake represents murder, theft and slavery. Andrew Jackson was a human trafficker who owned hundreds of slaves and drove Indian residents away from their homes resulting in the deaths of thousands.

As a mom of 3 kids, I'm embarrassed by Jackson park's name. How can we bring our kids there? This name does not represent our city and it's residents.

In keeping with Alameda's slogan of "Everyone belongs here", let's align our actions to our values and quickly work to rename Jackson Park to honor a person or persons more deserving and representative of diversity and inclusion.

We ask that Alameda Parks and Recreation Department commit to:

- Change the name of Jackson Park
- Provide, and commit to, a timeline for the park's name change And -Engage the community in proposing and selecting the park's new name

In addition, we ask that ARPD commit to research other Alameda park names and work to change all that continue to perpetuate racism and white supremacy.

Sincerely,
Kristin Welch



City of Alameda

Meeting Agenda

Recreation and Park Commission

Thursday, December 10, 2020

7:00 PM

City Hall, 2263 Santa Clara Avenue, Council
Chambers, 3rd Floor, Alameda, CA 94501
Meetings are held the second Thursday of each
month at 7:00 p.m.

REVISED AGENDA TO ADD ITEM 6-B PRESENTATION AND PUBLIC COMMENTS

Due to Governor Executive Order N-29-20, Recreation and Park Commissioners can attend the meeting via teleconference.

The City allows public participation via Zoom. For information to assist with Zoom participation, please click: <https://www.alamedaca.gov/zoom>

For Zoom meeting registration, please go to:

https://alamedaca-gov.zoom.us/webinar/register/WN_aYUe2dkCRtmrBv71ciqDwQ

For Telephone Participants:

Zoom Phone Number: 669-900-9128

Zoom Meeting ID: 865 8230 4476

Members of the public can also watch the meeting via livestream

(http://alameda.granicus.com/MediaPlayer.php?camera_id=3) and address the Commission during the meeting via Zoom. Comments submitted prior to the meeting will be included in the meeting record, but will not be read.

Any requests for reasonable accommodations should be made by contacting the Recreation and Park office (arpd@alamedaca.gov or 510-747-7529). City Hall will NOT be open to the public during the meeting.

1 ROLL CALL

2 APPROVAL OF MINUTES

- 2-A 2020-8547 Approve Minutes of November 12, 2020 Recreation and Park Commission Regular Meeting

Attachments: 2020-11-12 RPC Minutes

3 WRITTEN AND ORAL COMMUNICATIONS:

Anyone may address the board on a topic not on the agenda under this item by submitting a speaker's slip, subject to the 3-minute time limit.

4 REPORT FROM RECREATION AND PARK DIRECTOR**5 REPORTS FROM COMMISSIONERS****6 AGENDA ITEMS**

6-A 2020-8555 Introduce Matt Nowlen, Parks Manager

6-B 2020-8546 Recommend a Name for the Park Formerly Known as Jackson Park

Attachments: Information on Top 10 Names and Final 4 Recommended by the Renaming Committee
6-B Presentation
6-B Public Comment

7 ITEMS FOR NEXT AGENDA - Next meeting is January 14, 2021**8 ADJOURNMENT********NOTES******

- Translators or sign language interpreters will be available upon request. Please contact the Recreation and Parks Executive Assistant at (510) 747-7529 or (510) 522-7538 (TDD number) at least 72 hours prior to the meeting to request a translator or interpreter.
- Equipment for the hearing impaired is available for public use. For assistance, please contact the Recreation and Parks Executive Assistant.
- Minutes of the meeting are available in enlarged print.
- Audiotapes of the meeting are available upon request.
- Please contact the Recreation and Parks Executive Assistant at (510) 747-7529 or (510) 522-7538 (TDD number) at least 48 hours prior to the meeting to request agenda materials in an alternative format, or any other reasonable accommodation that may be necessary to participate in and enjoy the benefits of the meeting.
- Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection in the Alameda Recreation and Parks Department, 2226 Santa Clara Avenue, during normal business hours.
- Sign up to receive agendas here: <https://alameda.legistar.com/Calendar.aspx>

- **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE:** Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City of Alameda exist to conduct the citizen of Alameda's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.
- **FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION:** the address is 2263 Santa Clara Avenue, Room 380, Alameda, CA, 94501; phone number is 510-747-4800; fax number is 510-865-4048, e-mail address is lweisiger@alamedaca.gov and contact is Lara Weisiger, City Clerk.
- In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals.

Renaming Jackson Park

Top 10 Names Background and References with Final 4 Name Recommendations to the Recreation and Parks Commission listed first.

December 2020

OHLONE

The Ohlone people are a group of approximately 50 villages and family groups who lived on the land that is now known as the San Francisco Bay Area before the Spanish invasion with at least eight dialects spoken. The Confederated Villages of Lisjan is one of a number of Ohlone tribes. The unceded territory of the Lisjan Ohlone people includes the City of Alameda. The name Ohlone originated in the 1960s and 1970s when people organized and renamed themselves Ohlone, inspired by the Black Power and American Indian Movements. There are thousands of Ohlone people living in the East Bay, however, the Ohlone are not recognized by the federal government and subsequently do not have access to the rights, services and protections of federal Indian law managed by the Bureau of Indian Affairs.

Reference:

<https://soqoreate-landtrust.org/lisjan-history-and-territory>

CHOCHENYO

Chochenyo is the Ohlone language spoken by the Lisjan. The Lisjan Ohlone people lived on the land that is now known as the San Francisco East Bay and their unceded territory includes the City of Alameda.

MABEL TATUM

Mabel Tatum is a hidden hero in Alameda's history. Her story reveals many aspects of Alameda's hidden history: WWII housing projects on the Naval Base, fraudulent land deals, the Naval Base's role in the Vietnam War, and the tent-in at Franklin Park led by Tatum and other Estuary Project residents.

A little back story: In 1963, the Alameda Housing Authority (AHA) tried to kick residents out of the Estuary Project, a temporary housing project within the Alameda Naval Air Station. They offered no relocation program to the tenants even though State Housing Authority Law required that they do so. In early 1964, the Alameda branch of the NAACP formed the Citizen's Committee for Low-Income Housing "for the purpose of securing adequate low-cost housing for the tenants of Estuary." Mabel Tatum was their president.

After the committee's formation, the AHA began intimidating and harassing residents by removing mailboxes, garbage disposal units, and laundry services and closing down the nearby store. Their tactics worked: 400 families left the project, leaving only 100 to fight for their right to housing.

Led by Mrs. Mabel Tatum, President of the organization, the Citizen's Committee for Low-Income Housing staged a three-day school boycott and sit-in at the AHA office which resulted in a one-year delay in demolition.

In Winter 1965, a private company purchased the Estuary Project land by fronting as a fake church in order to get around the original Navy contract with the AHA that said the land could not be sold to a profit-making organization.

In June 1966, the Alameda Fire Department flooded the lawn at Franklin Park to try to dissuade families from the Estuary Project from pitching tents there in protest of the impending eviction of 18 families from the Estuary project. Mabel Tatum led a 200 person march through the surrounding, upper-middle class, white neighborhood. The Estuary project was hidden within Alameda's Naval Air Base, so many Alameda residents didn't know the project was there before the protest.

Here's a quote from Mrs. Mabel Tatum's speech titled What Kind of Country is This?

"Now I can't get a house no sooner than you can and my husband's in Vietnam...A beautiful world isn't it. Salute the flag. Justice for all. What kind of country is this we are fightin' for? What kind of a country is this, you can't even exercise your own rights to live where you want to live? What kind 'of country this is that we as a group of people can't protect our own rights whether it's legal or illegal? It's gotten to the point now where we've got to throw the legal part aside. I'm not sayin' out and grabbin' somebody and knockin' 'em down. You don't have to do it that way. You can do it systematically and win that way."

Source: <https://libraries.ucsd.edu/farmworkermovement/ufwarchives/sncc/15-July%201966.pdf>

JUSTICE

The definition is **the quality of being just, impartial, or fair**. It represents the law, righteousness, and correctness in the world. It stems from the latin word, *justus*, which means right or law. The first known use of the word was in 12th century England. It was also the Merriam-Webster Dictionary 2018 Word of the Year as it represents social, criminal, and economic reform in the world.

Fred Korematsu

Fred Korematsu was a Japanese American from Oakland who fought against the internment of his people in the west coast after the bombing of Pearl Harbor. He refused to be interned, went into hiding but was found, and arrested. He fought the internment in court was sent to Topaz, Utah, where he lived in a horse stall with a single light bulb for illumination.

After he appealed and was released he continued to fight racism in Utah, and in 1983 he went to court again to have his name cleared. In 1998 President Bill Clinton awarded him the Presidential Medal of Freedom.

Peace

Peace is an idea of unity, harmony and therefore a lack of hostility and violence. It can also mean a lack of war, like “peacetime,” or it can be a mindset one has. With peace, people can work to improve the quality of life for themselves and others.

With the history of Alameda Naval Air Station so prominent in this city’s legacy, perhaps peace would call to mind what those soldiers fought for.

ALAMEDA

The word “Alameda” in Spanish means “grove of trees,” or “tree-lined avenue” which is a very apt description of the park.

When this became the first park in Alameda, it was referred to as Alameda Park.

MARY RUDGE

Mary Rudge (1925-2014) grew up in Texas and Oklahoma. She was the single parent of 7 children and advocated for children and social change. She travelled the world sharing poetry and became Alameda’s Poet Laureate. She wrote “Jack London’s Neighborhood,” and several other works. She also started Alameda’s poetry contest.

Yoshiko Uchida

Born: Alameda, 1922; Died: Berkeley, 1992 ([NYT obit](#), [wikipedia](#))

Quick summary:

- Author and illustrator of children's books
- Interned with her family and other Japanese Americans during WWII (at Tanforan Racetrack and then Topaz)
- Taught schoolchildren during and after the war
- Numerous books focused on her experiences as a Japanese American; sought to help children view those different from themselves with humanity and to counter/resist Asian or Japanese American stereotypes

Biography:

Uchida was an author and illustrator, mostly children's and young adult (YA) books, and most of which were related to her experiences as a Japanese American before and during World War II, including her experience in a US concentration camp during the war. She also wrote several collections of Japanese folk tales, after receiving a Ford Foundation research fellowship in 1952 that allowed her to travel to Japan.

In the midst of graduating with honors from UC Berkeley, she and her mother and sister were forcibly removed from their home to Tanforan Racetrack Relocation Center, due to President Roosevelt's Executive Order 9066. Her father, interned elsewhere initially, was reunited with his family before they were all relocated to Topaz Relocation Camp in Utah.

Yoshiko Uchida taught schoolchildren in the concentration camp, and did so after her release as well, earning a Masters in Education from Smith College.

She published over 40 written works, including:

[Journey to Topaz](#) (fiction; children)

[A Jar of Dreams](#) (fiction; children)

[The Bracelet](#) (fiction; children)

[The Dancing Kettle and Other Japanese Folk Tales](#) (folk tales; children)

[Picture Bride](#) (fiction; adult)

[Desert Exile: The Uprooting of a Japanese American Family](#) (non-fiction; adult)

Selected scholarship:

Harada, Violet H. "Caught Between Two Worlds: Themes of Family, Community, and Ethnic Identity in Yoshiko Uchida's Works for Children." *Children's Literature in Education* 29, no. 1 (March 1998): 19-30. ([linked](#))

Tang, Edward. "Teach Your Children Well: The Postwar Tales of Yoshiko Uchida." In *From Confinement to Containment : Japanese/American Arts During the Early Cold War*, 159-200. Philadelphia: Temple University Press, 2019. ([linked](#))

Archives:

[University of Oregon](#)

[UC Berkeley](#)

NIELSEN TAM

Nielsen Tam was a Chinese American administrator and helped many vulnerable communities in Alameda. The Alameda Unified School District's (AUSD) administrative building is named after him, the "Niel Tam Educational Center", family members still alive and involved in Alameda. He worked for AUSD for 38 years as a special education teacher, Vice Principal and Principal. After retirement, Neil was on the School Board and in 2013 served as President.

Neil was a trailblazer championing diversity, equity and access in the school district. He served on the boards of Girls Inc., Boys and Girls Club, Alameda Point Collaborative, Alameda Family Services, and the Alameda Food Bank. Neil was founder of the Multi-cultural Community Center and Organization of Alameda Asians. He received many awards and was honored with lifetime achievement awards from the City and County of Alameda. Neil also volunteered throughout the community and dedicated his life to public education, community services and support of all those in need.

Niel Tam received his undergraduate degree in Occupational Therapy from San Jose State University and was the first in his family to enter a Master's program. His parents were both immigrants from China, and his father died when he was 5 years old, so he was the youngest of four sons raised by a single mother. He earned a Master's Degree in Special Education from San Francisco State University and a Master's Degree in School Administration from St. Mary's College.

In 1970, he chose to work with the Alameda Unified School District after being offered positions in San Jose and Napa. He had done his student teaching in Alameda.

Niel worked in the area of special education for 28 years. He had classes at 11 of the schools ranging from elementary to middle and high school. He was the first to teach a preschool class that partnered with the local Head Start program. During the four years that he held that position, he was awarded a number of honors recognizing the innovation and creativity to start and fund the project.

He was a pioneer and champion of a program to mainstream Special Ed students into the classroom, working closely with the administration and teachers at school sites to ensure the program's success. His goal, though, was to move into administration as a school principal. But ... there were barriers to overcome in crossing from Special Education to regular education as well as the challenge of diversity within the City and School District.

He was persistent and became a trailblazer in the district championing diversity, equity, and access. It ultimately took him 16 years of perseverance and hard work to succeed. During the 16 years, he was both in Special Education and also served as an Administrative Designee or Vice Principal at the same time. In 1997, he finally became Principal of Miller School, serving the Coast Guard community and the West End of Alameda. He stayed in the position for 9 years. He also was in charge of the Woodstock Child Development Center ultimately raising the funds to keep the facility going and raising the awareness necessary to value and embrace the program. He was able to successfully secure funds from foundations, the county, and other private sources to create enrichment programs for the school which had experienced a high level of turnover in administrators over the years. He made a commitment to stay at the school for more than just a few years, and make a difference.

In 2006, he became Principal of Washington School (now Maya Lin) and served for two years before retiring. At Washington he created support programs for immigrant families who were not English speakers. He also provided support to the students and families through other programs.

At each of those schools, he built teams of teachers who would ultimately improve test scores by 25 percent, created enrichment programs to help students be successful, and built partnerships with other school communities. To name a few of his achievements—he raised \$350,000 for the playground at Miller School, after the School District was unable to provide funds, partnered with the Golden State Warriors to add the basketball court at Washington School, and created a bridge program with East and West end schools.

When he retired from AUSD, after 38 years, he immediately ran for the Alameda Unified District School Board and was successfully elected in a landslide victory. He ran for a second term in 2012 and was reelected. In 2013, he was President of the School Board where he continued to champion for Alameda's children and families and for equity in the schools.

His community leadership was recognized by the San Francisco Foundation's Koshland Civic Unity Award in 2002—a five-year program to support the West End of Alameda. He was a Coro Northern California Community Leadership Fellow in 2006. He served on the Boards of Girls, Inc., Boys and Girls Club, Alameda Point Collaborative, Alameda Family Services, and the Alameda Food Bank to name a few. He was also appointed to the Alameda City Traffic and Disabilities Commissions. He was a founder of the Multi-Cultural Community Center and Organization of Alameda Asians.

He was honored by the Asian Pacific Islander Democratic Caucus with a State Assembly Proclamation and Commendation for his civic volunteerism and his commitment to diversity, mentorship, and leadership in the Asian community in 2015. He received a Lifetime Achievement Award from the Alameda City Social Services Human Relations Board in 2015. He received an Alameda County Commendation and Lifetime Achievement Award in 2015.

Throughout his civic and community activities, he made volunteerism a priority. He coached and refereed boys' soccer for nine years, was President of the Alameda Soccer League, and donated his time throughout Alameda. He touched the lives of many as a mentor, colleague, leader, and someone everyone could count on. He was a master in Reiki, taught Tai Chi classes, tutored children, and worked tirelessly to help children and families receive the quality education that he believed everyone deserved. He served as a leader on church committees with the Buena Vista United Methodist Church, and was also a role model for everyone.

Niel Tam passed away in May of 2015. He had dedicated his life to public education, community service, and support of all those in need.

- 1) 39 years at AUSD
- 2) 12 years principal low income communities
- 3) Boards - Girls Inc., Alameda family services, Alameda Point Collaborative, Alameda Multi Cultural Center, Organization of Alameda Asians, and more.
- 4) Coro Fellow, Koshland - SF Foundation grantee,

Information provided by Chris Tam, son of Niel Tam

These resources support information gathered by Chris both in the interview and in his email.

Passages: Nielsen Tam, 1945-2015-[LINK](#)

AUSD Board of Education Trustee Nielsen Tam Dies at Age 69-[LINK](#)

District Set to Name Headquarters for Tam - [LINK](#)

Park Naming Committee Final Report

ANI MUSTAPHA



ANDREA MCCOY HARVEY



ZOE BERTON



Creating Our Future

November 14, 2020 - April 30, 2021

Creating Our Future brought the Park Naming Committee together for Adams Park's former known as "backyard". This vibrant community Cultural Works and the City of Alameda Recreation and Parks Department.

The committee was composed of a diverse group of community members who were invited to provide their input on this important installation to the park's signage and signage in this important moment of change, the work of six different members of the committee.

Stephan Bruce, ANI Mustapha, Andrea McCoy Harvey, Ashli Rahn, Tiffany Conway

The committee was composed of a diverse group of community members who were invited to provide their input on this important installation to the park's signage and signage in this important moment of change, the work of six different members of the committee.

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Who We Are

- Rachel Brockl - Director of the Litigation Center & Law Professor at Golden Gate University, School of Law. Lived in Alameda nearly 40 years. Race and Justice Task Force at GGU.
- Jessica Santone - Assistant Professor of Art History & Visual Studies at Cal State East Bay. Council for Racial & Social Justice at CSUEB. Teaches about monuments/public art and the history of race in American art.
- Raquel Williams - Senior and leader at Alameda High School. Community activities - BSU President, Vice-President Youth Activist of Alameda, City's Racism Subcommittee, AHS Diversity Commissioner

Purpose

- Summarize the Committee's process
- Present the following names nominated by the Committee to the ARPD Commission:
 - Ohlone Park
 - Chochenyo Park
 - Mabel Tatum Park
 - Justice Park
- Provide rationale and support for the final name selection

The Beginning

Rasheed Shabazz wrote a letter to the 2018 Parks Commission, and received pushback, so he created a petition, and made public comment at a Commission meeting. Soon after, the Rename Jackson Park group was formed.



To: Alameda Recreation and Parks Commission, City Council
Rename Jackson Park

Campaign created by
Rename Jackson Park



Rename Andrew Jackson's name from Alameda's first park.

Why is this important?

Make Alameda's public spaces inclusive.

Over the past five years, a renewed effort to eliminate and remove monuments to white supremacists in public space has taken place throughout these United States and the world. In addition to monuments to the Confederacy, other symbols of colonialism, slavery, and genocide have been removed or come under increased scrutiny.

In January 2018, parents at Alameda's Haight Elementary School petitioned to rename their school after learning the school's namesake, Henry H. Haight held bigoted, racist, and xenophobic views. Haight was considered a "strict Jacksonian Democrat" in the 1840s.

Alameda's first park, Jackson Park, should be renamed due to Andrew Jackson's oppression of African and Indigenous or Native American peoples. Specifically,

Jackson enslaved hundreds of African people in captivity at the Hermitage. In addition to being a slaveowner, he earned the nickname "Indian Killer" for his participation in the murder of indigenous people. As President, he advocated for the forced resettlement of indigenous people in the Southeast, commonly called the "Trail of Tears."

So why does Alameda have a park named after Andrew Jackson?

1,261 of 2,000 signatures

Sign the petition

First Name *
Last Name *
Email *
Zip *
Phone Number

By providing your mobile number you consent to receive text alerts and text communications from ColorDC, its affiliates and its affiliated entities concerning news and action opportunities. Message and data rates may apply. You can unsubscribe at any time by texting STOP to 225628.

By taking action, you will also receive specific communications from ColorDCExchange.

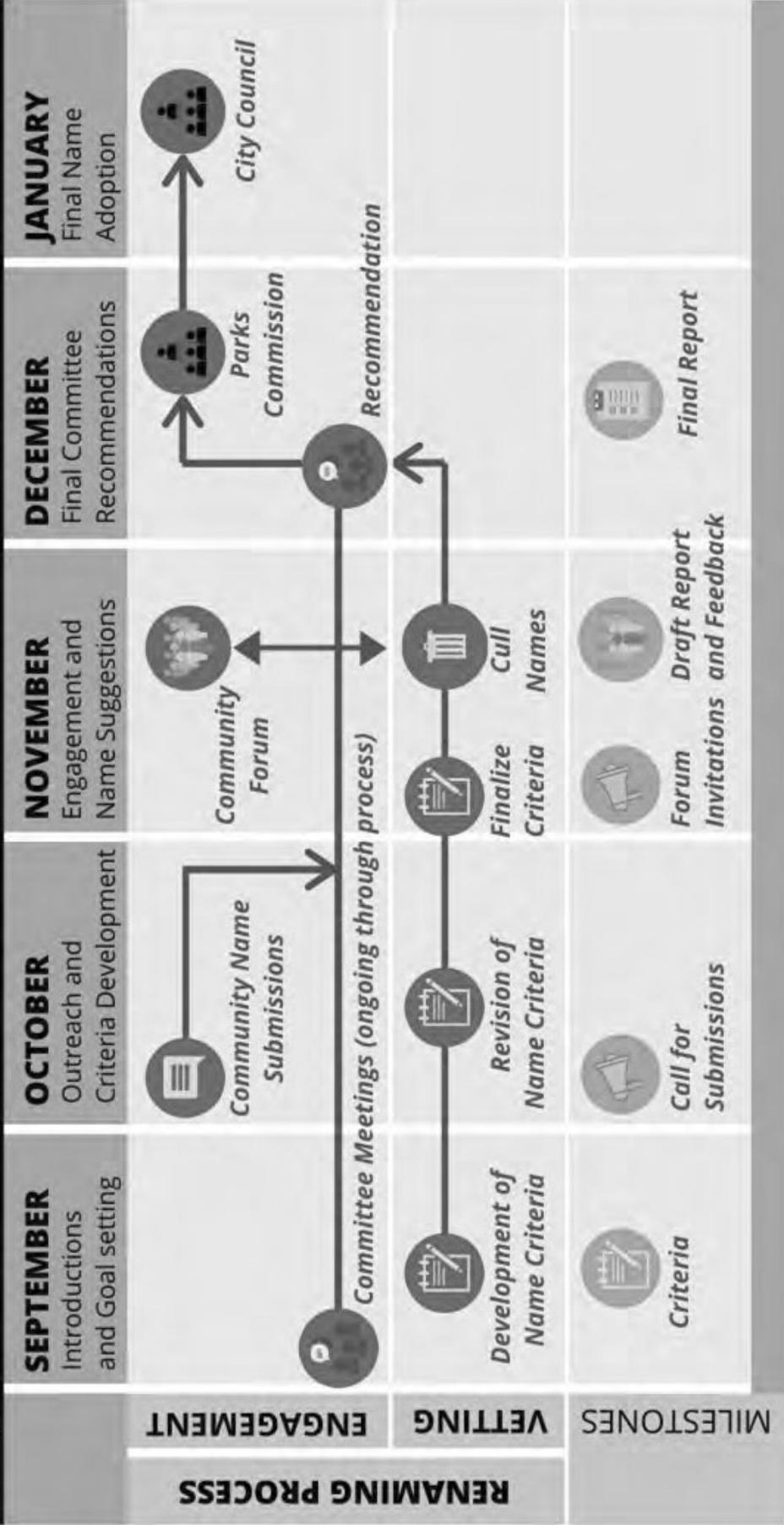
LAST SIGNED BY:

- Sara M. | week ago
- Lestie V. | week ago
- Jennifer R. | 4 weeks ago
- Emma R. | 1 month ago
- Francis M. | 1 month ago



PARK RENAMING COMMITTEE PROCESS

The Park formerly known as Jackson Park, Alameda, CA



Planning chart designed by Rasheed Shabazz

Introductions & Goal Setting

- Park Naming Committee was formed by ARPD and made up of carefully selected Alameda residents and Commissioners
- Met weekly every Wednesday, September-December
- Defined goals, including equity, inclusion, and transparency throughout the process
- Established criteria for the new name (see right)
- Split into subcommittees: Community Outreach and Vetting

Naming Criteria

We are seeking a park name that reflects inclusion, diversity, and equity of the entire community of Alameda, and which represents social justice, human rights, and/or anti-racism. If a person's name is submitted, they must be deceased. Submitted park names should be related to Alameda and/or the greater SF Bay Area.



Park Naming Committee meeting on Zoom

Outreach to the Community



- Conducted marketing, with outreach to over 100 cultural groups, community groups on social media, and local programs, with the goal of reaching across the entire city, particularly those from groups historically marginalized or excluded from civic processes
- Created the *Give us a Sign* project and flyer
- Posted additional flyers in high traffic areas
- Contacted local businesses
- Gave educational presentations about the park name, including at Alameda & Encinal High Schools
- Gathered over 150 name suggestions from the community

Criteria Development & Vetting

- Divided names collected by Outreach into three types:
 - People & Cultural Groups
 - Places/Historical Names
 - Principles
- Used established criteria to create a scoring grid, with names evaluated by:
 - Contributions to Alameda / Bay Area
 - Diversity, Equity, & Inclusion
 - Social Justice, Human rights, & Anti-racism
- Researched and scrutinized each name against these criteria and compiled team members' scores
- Presented the highest scoring names in each category to full committee for final vetting and selection of top 10 names

TOP NAMES		Scores		Individual Rankings					Submission Frequency Sources			
Name Idea	Rank	Total	Autoremitted	Sub-Total	Jessica	Jim	Roschel	Rasheed	ARPD 2019 EJP	Park Ave	ARPD 2020	
PEOPLE												
Fred Korematsu	1	16	12	4	X	X	X	X	0	2	0	
Mabel Tanan	3	14	12	2	X	X	X	X	1	0	0	
Ohlone	1	16	12	4	X	X	X	X	6	8	2	
Chochoyayo	3	14	11	3	X	X	X	X	6	1	1	
Nielsen Tam	5	13	11	2	-	X	X	X	2	0	0	
Ida	-	10	10	0	-	-	-	-	0	0	0	
Mary Rudge	5	13	10	3	X	X	X	X	2	0	0	
PLACES												
Alameda	1	9	6	3	X	X	X	X	1*	1	24	
Park Ave	2	8	6	2	X	X	X	X	0	0	1	
Magnolia	3	7	5	2	X	X	X	X	0	0	1	
Poplar	5	5	5	0	X	X	X	X	0	0	0	
Dumb Friends	-	5	5	0	X	X	X	X	0	1	0	
PRINCIPLES												
Justice	1	11	8	3	X	X	X	X	0	2	0	
Liberty	5	6	6	0	-	-	-	-	0	2	0	
Peace	2	8	6	2	X	X	X	X	1	0	0	
Unity	2	8	6	2	X	X	X	X	1	0	0	
Diversity	4	7	5	2	X	X	X	X	0	1	0	
Humanism	5	5	5	0	X	X	X	X	0	1	0	
Sister Cities Peace	5	5	5	0	X	X	X	X	0	0	0	
People												
1. Fred Korematsu												
1. Ohlone												
3. Chochoyayo												
3. Mabel Tanan												
5. Mary Rudge												
5. Nielsen Tam												
Places												
1. Alameda												
2. Park Ave												
3. Magnolia												
Principles												
1. Justice												
2. Peace												
2. Unity												
4. Diversity												
5. Liberty												

Vetting chart designed by Rasheed Shabazz

Engagement & Name Suggestions: Community Forum

People & Cultural Groups

Ohlone
Chochenyo
Fred Korematsu
Yoshiko Uchida
Mabel Tatum
Mary Rudge
Nielsen Tam

Principles

Peace
Justice

Places/Historical

Alameda

- Researched top 10 names list and prepared a presentation on the park's history and our naming process for a Community Forum on November 23
- Reached out to the Confederated Villages of Lisjan Ohlone and the Sogorea Te Land Trust to seek permission to consider the names Ohlone and Chochenyo, to solicit their feedback on these names, and to invite their participation in the Forum
- Conducted public polling during the Forum on Zoom and in an internet poll on the ARPD website during the last week of November

Evaluation & Final Committee Recommendations

Final Names

Ohlone*
Chochenyo
Mabel Tatum
Justice

** Ohlone is not the name preferred by representatives of the Confederated Villages of Lisjan Ohlone*

- Evaluated diversity, equity, and inclusion in the process, including lack of equitable representation during the Forum and in the public opinion poll in November
- Weighed the impact of each potential name on our community as a whole
- Made a determination of final name selection through a consensus decision making process, and based on:
 - best fit with all of our criteria,
 - specific park location,
 - critical analysis of community feedback, and
 - best opportunity for education to the community
- Continued consultation with the Language Carrier for the Confederated Villages of Lisjan Ohlone

Why not “Alameda Park”?

- **Even as Alameda Park was a popular choice** amongst some in the community, it does not, on closer evaluation, fit our criteria.
- We want this park to represent all different cultures and backgrounds who live here and not only represent the documented history of colonizers.

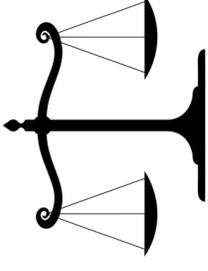
Here are the Reasons for the Rejection of Alameda Park

- The historical context **represents a period in time when colonization and segregation** were Alameda’s realities.
 - Due to **redlining in Alameda**, the East End has historical contexts of people of color being denied access of living there.
- Alameda Park came from Alfred A. Cohen, an English immigrant who developed this land into the Alameda Park semi-private garden for residents in 1867 which **demonstrates Alameda’s history of colonization of indigenous lands** and it not being open to all people.
- There is **no available documentation** that this was the officially adopted name of the park. It was referred to in that way in 1895.
- The education component desired would **highlight the negative historic stories of Alameda** and would restrict growth as a community as we would be stuck in the past.



1041— 841 A quiet spot in the park, Alameda, California.

Justice Park



The definition is **the quality of being just, impartial, or fair**. It represents the law, righteousness, and correctness in the world. It was also the **Merriam-Webster Dictionary 2018 Word of the Year** as it represents social, criminal, and economic reform in the world.

This name **fits our criteria** because it represents fairness and is used to demonstrate progress in society. This value is one to represent respecting others and equality. It is one that has been connected to multiple social movements and is able to evolve with the world as justice grows with our diverse community.

The name gives us the opportunity to create a **specific memorial** about Alameda history and has the ability to **honor multiple movements and activities**.

The movement of renaming Jackson Park **sparked after national attention from the murder of George Floyd and Breonna Taylor** ignited people to change their public spaces named after problematic people. This name would end up being a **representer of social change and would invite movements such as BLM and LGBTQ+ to take action at the park as a sign of justice**.

Mabel Tatum Park

Mabel Tatum was a **powerful advocate of housing rights** for low-income Alamedans, including Black Alamedans, in the 1960s. She was president of the Citizens Committee for Low-Income Housing, formed in 1964 by the Alameda chapter of the NAACP. In 1966, she led the Occupation of Franklin Park, staged a 3-day sit-in at the AHA office, and organized a school boycott, to protest evictions from Estuary housing project at the Naval Air Base with her neighbors. Her courage in these fights inspires us today; as a military wife during the Vietnam war, she risked a lot in her challenge to the city.

The name would present an excellent **opportunity for education about the history of housing justice and racial justice in Alameda**, including the park's original formation as semi-private property and the subsequent history of redlining and other forms of housing discrimination that continue to the present.

Mabel Tatum Park would be second park named after a Black woman in Alameda. While Jackson is often remembered for his role in the forced removal of Native Americans, it should be noted that he did so to expand the plantation economy and was an enslaver himself; naming the park after an important Black American from our community would be a repudiation of his racism.



Photo credit: Bancroft Library

Chochenyo Park



The Chochenyo Ohlone people were the original inhabitants and caretakers of the unceded territory that includes the place presently named Alameda. Chochenyo also refers to one of the languages spoken by the people of the Confederated Villages of Lisjan Ohlone, a group not formally recognized by the federal government. The Committee process arrived at two Indigenous names, Ohlone and Chochenyo, but **Chochenyo is preferred by members of the Confederated Villages of Lisjan Ohlone as it is more specific to the people who lived in this place.** Naming the park this way honors them, respects their interest in this name, and recognizes their continued impact in the East Bay.

Chochenyo Park presents an **opportunity for education**, both about an inclusive history of the original peoples of this place and about the history of Andrew Jackson's involvement in the genocide of Indigenous peoples and theft of their land. This name is a **gesture towards redressing the harm of the former name.**

Finally, the committee hopes that this name will begin a process of bringing a land acknowledgment to City Council for approval and including the Lisjan Ohlone in community decisions.

Next Steps

- The Commission will discuss the Committee's proposed names – Chochoyeno, Mabel Tatum, and Justice – and make a recommendation to City Council on January 19, 2021
- Park Naming Committee (or a subset of this committee) will help to develop educational signage for the new park name

RECREATION AND PARK COMMISSION

AGENDA 12-10-2020

ITEM 6-B

RECOMMEND A NAME FOR THE PARK
FORMERLY KNOWN AS JACKSON PARK

PUBLIC COMMENTS

**Written Communication for Item 6-B
Recommend a Name for the Park Formerly Known as Jackson Park**

Subject: Renaming Jackson Park information

Hello Commissioners,

Below is an email from Deja Gould, Language Carrier of the Confederated Villages of Lisjan Tribe here in the East Bay. This is further clarification that we will include in the presentation on Renaming Jackson Park but I'm forwarding it to you in advance as written comment.

Thank you so much! I'm happy we could talk earlier the Tribes preference would lean towards Chochenyo. With Ohlone being an umbrella term used for many Ohlone Tribes, Chochenyo seems appropriate as it is the language that is spoke by our people in the East Bay.

As far as meeting times I will try to get back to you tomorrow with a more solid date and time we would be able to meet. Thank you again! I hope to talk soon.

'Uni (Respectfully),
Deja Gould, Language Carrier
Confederated Villages of Lisjan Tribe

Amy Wooldridge
Recreation and Parks Director
2226 Santa Clara Avenue, Alameda, CA 94501
(510) 747-7570
awooldridge@alamedaca.gov
www.alamedaca.gov/recreation

Thoughts on the Naming of a Park

The two emails reproduced here are from a recent digital conversation with Rasheed Shabazz about the original name and current renaming of the former “Jackson Park.” He initiated the exchange by reaching out to me (on Sept 29) with questions about the name “Alameda Park.” I have also been following online commentary concerning this name. Since some comments make reference to the *Park Avenue Heritage Area* (1988) and *Alameda at Play* (2001), my history of the park system commissioned by the Alameda Recreation and Park Department, I felt compelled to provide some clarification.

I asked my correspondent if he would consent to posting our exchange online, but his conditions were such that I decided to go ahead and post my emails alone. Thus his emails—his half of the dialogue—are not included here. My texts are pasted into this document exactly as written, with the following exceptions: greetings and signoffs are deleted; one instance in which I quote my correspondent is redacted [*like this*]; and typos have been corrected. Graphic changes have also been made to fonts, line spacing, and paragraph formatting for readability and consistency. The attached black-and-white Sanborn maps (1897 and 1948) have headings not found in the original transmission. The 1987 Sanborn maps have been omitted because they are redundant; the park names on those maps are the same as those on the 1948 maps. Examples of full-color Sanborn maps (including the 1897 Alameda maps) are available online.

Anyone interested in this issue should check out the recording of the community forum held on November 23, which can be accessed on the ARPD website. I post this document not as an advocate for the “Alameda Park” name, which will become clear as you read on, but as a historian offering his perspective.

—Woody Minor

29 November 2020

6 October 2020

I went through my old files on Jackson Park and came up with some items that may help clarify the naming history. Let me begin by recounting a bit of the historical backdrop.

As you know from the history in *Alameda at Play*, the park's name derived from the 1867 Alameda Park tract, which in turn derived its name from Alameda Park, opened by the San Francisco & Alameda Railroad in 1865. This was the city's first resort, giving birth to a dynamic and long-lasting tradition. It was also the first major development in the vicinity of the main train station, at Park and Lincoln, and as such marked the beginning of the modern city, that is, the post-gold rush, rail-oriented, suburban city. Park Street derived its name from the resort as did Park Avenue.

The resort included a hotel north of Central Avenue and 60 wooded acres south of Central to the bay. The hotel became an insane asylum in 1867 and burned in 1871; its redeveloped site is not discernible today. The wooded acreage was subdivided by railroad directors in 1867 as the Alameda Park tract, which included an oval green for the use of the homeowners. The tract was renamed Alameda Park Homestead in 1874 under new owners. When the oval became a city-owned park, perpetuating the original layout and name, the new public park preserved an important piece of Alameda's earliest rail-era rebirth.

That said, let me note some items I came across wherein the name "Alameda Park" seems to have been applied formally to (or identified with) the new public park, as it came into being in the years 1889-1894, to wit:

[1] Ordinance No. 109 [17 June 1889] - "Determining that certain land in the City of Alameda, known as Alameda Park, is necessary for a public park, and directing that proceedings be instituted to condemn the same."

[2] “Alameda Park: Our Trustees Seem to Favor Its Improvement” [*Alameda Argus*, **16 Aug 1889**]. “At the close of the meeting of the Board of City Trustees, Monday evening, Trustee Hammond desired some information as to the program of gaining title to Alameda Park ... Mr Hammond thought that ‘if we are to beautify Alameda Park, we ought to get at it.’”

[3] Ordinance No. 165 [25 May 1891] - “Defining width and location of roadways of Park Avenue around Alameda Park.”

[4] “Alameda Park: Further Legal Action Necessary to Secure It” [*Alameda Argus*, **8 March 1893**]. “While Alameda has become noted for its beautiful homes and park-like appearance, it has never had a park which it could call its own and point to with the finger of pride.”

[5] “To Improve the Park: Plans Adopted for the Desirable Improvement” [*Alameda Argus*, **2 Dec 1893**] - “The Board of Trustees met last night to consider ... several plans for the beautification of Alameda Park ...”

[6] “Now Has a Park: City Attorney’s Good News to the Trustees: Review of the Litigation Concerning Alameda Park” [*Alameda Argus*, **12 June 1894**] - “In the action City of Alameda vs. EB Mastick, Trustee, et al., judgment has been rendered in favor the city condemning Alameda Park for public use, as a public park, without damages.”

I hope this information proves helpful in the city’s deliberations. While it is true that prior to 1909 Alameda Park was sometimes referred to informally in newspaper articles as “the city park” or simply “the park,” since there was no other, it seems evident from the record that the private park’s historic name morphed naturally into the public park’s official name. I for one would like to see the park’s name revert to “Alameda Park,” invoking not only the origins of the park but of the entire resort tradition and of the modern city itself.

12 November 2020

I intended to write sooner but the complexity of the issues gave me pause, leading to a fair amount of reflection, and then I got caught up in the national election. 😊 Since the “Creating Our Future” event is happening this weekend, I want to get this to you without further delay. As before, please forward this email to ARPD staff et al in the loop.

I would like to start with the “Alameda Park” name and then move on to broader issues. I was startled by your assertion, in your last email, that [redacted]. How can you be so sure? Have you followed every path to its source? I persist in seeing the original naming process as somewhat shrouded, though the likelihood is “Alameda Park” was the first official name.

The most compelling piece of new evidence for the “Alameda Park” name was so obvious that I failed to see it. I’m referring to the nomenclature found in the local Sanborn maps. As you know, these maps were prepared by the Sanborn-Perris Map Co of New York under contract with municipalities for fire insurance purposes. The survey crews worked closely with local officials, property owners, businesses, and organizations to ensure accuracy. In addition to meticulously measured footprints of structures, the maps include precise names for business, churches, and public facilities like schools, libraries, and parks. The maps are authoritative sources for urban historians tracking the evolution of the built environment and its nomenclature.

The 1897 Alameda Sanborn—the oldest edition in the Library of Congress collection—clearly identifies the park as “Alameda Park.” Since Sanborn maps do not include tract names or “unofficial” popular names in their labeling of buildings and places, this would indicate that the official name at the outset was “Alameda Park.” Occasionally surveyors missed something or failed to update a name. Thus, as you can see in the attached maps, the park is identified as “Alameda Park” on both sheets in 1897 and as “Jackson Park” on one sheet in 1948. The name as it appears on the 1897

map cannot be an anachronism, however, since that first map was the baseline for all that followed. The most recent maps (1987) are also included to show how the maps look in color, with the colors referring to structural systems. The 1897 and 1948 maps included here are black-and-white pdfs of the original color maps.

Moving on to the current process of renaming the park, I believe the complexity of the issue calls for a nuanced, multi-layered approach. As you noted in your last email, interpretive plaques would be helpful. Whatever the name ends up being, I see three narratives at work, each warranting an interpretive plaque. (The other day I took a walk in the park and noted that the three east-facing sides of the bandstand would make ideal backdrops for three standing plaques mounted on posts.) These narratives are informed by intensive research over the past several years as I have delved into the “deep history” of Alameda, trying to grasp its natural and human dimensions over many millennia.

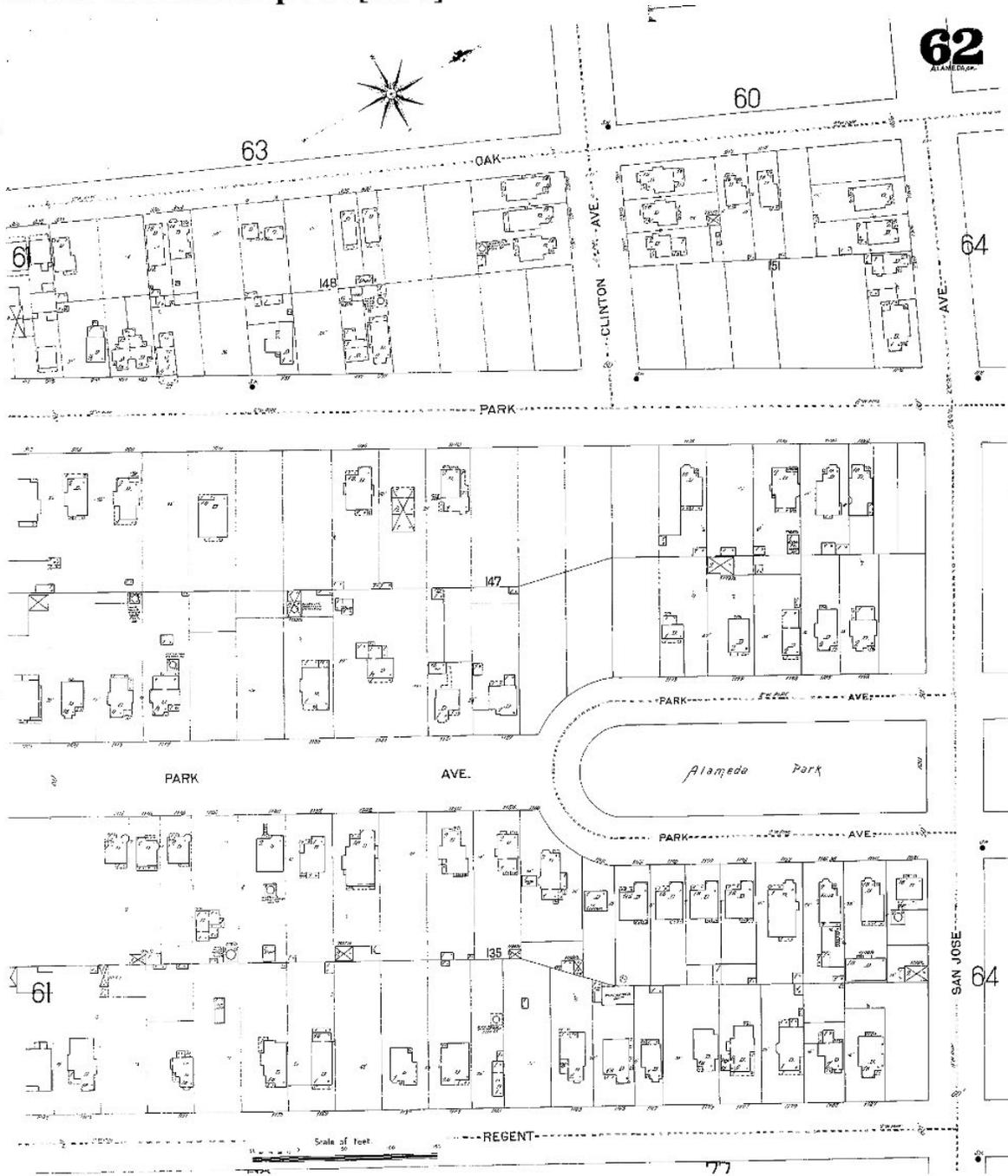
[1] The ancestral Diaspora out of Africa some 100,000 years ago into Europe, Asia, and the Americas, the likely settlement of California some 15,000 years ago at the close of the last Ice Age, and the likely continuous habitation of the place we now call Alameda for at least 7,500 years by the descendents of the original migrants and by later migrants. The natural history of the place since the last Ice Age could be summarized, e.g., the establishment of the oak forest and the creation of the peninsula as sea levels rose. It was a fine place for people to live, quite beautiful, with food and freshwater at hand.

[2] The counter-narrative out of Africa, addressing the brutal irony of slavers regarding the human homeland as a hunting ground for people brought to America against their will and treated as property. And the other counter-narrative in America, wherein the ancient inhabitants, the First People, were killed by germs and guns and then corralled, their land appropriated. Andrew Jackson’s military and political career is embedded in this narrative. In California, it began decades earlier with the Spanish.

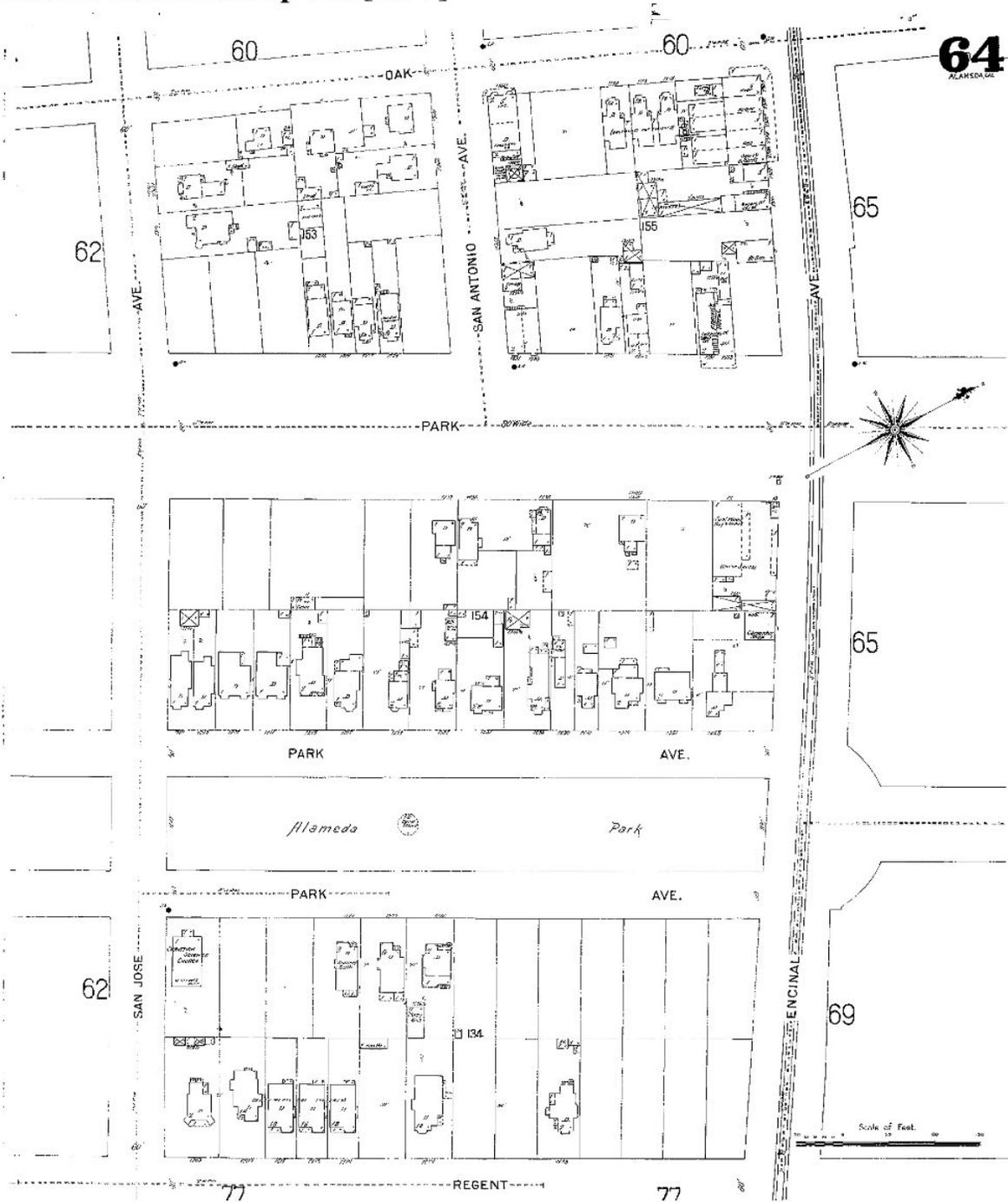
[3] Finally, the place called Alameda—the modern city—from its settlement during the gold rush to the advent of rail and the consequent creation of the Alameda Park resort and the Alameda Park tract. How did the public park come into being, how was it named, and why was it renamed to honor Jackson? The local narrative provides an important balance to the global, national, and regional narratives, returning the plaque-reader to a particular place in time—perhaps with a better understanding of a California city whose history accounts for roughly one percent of the total time people have lived here.

I always thought it a shame the park commissioners renamed the park back in 1909. They should have left it alone. To have the name revert to “Alameda Park” at this point makes sense from the perspective of the third narrative. In the context of the first and second narratives, however, other names come to mind. I wonder if there’s one out there that might resonate with all three narratives.

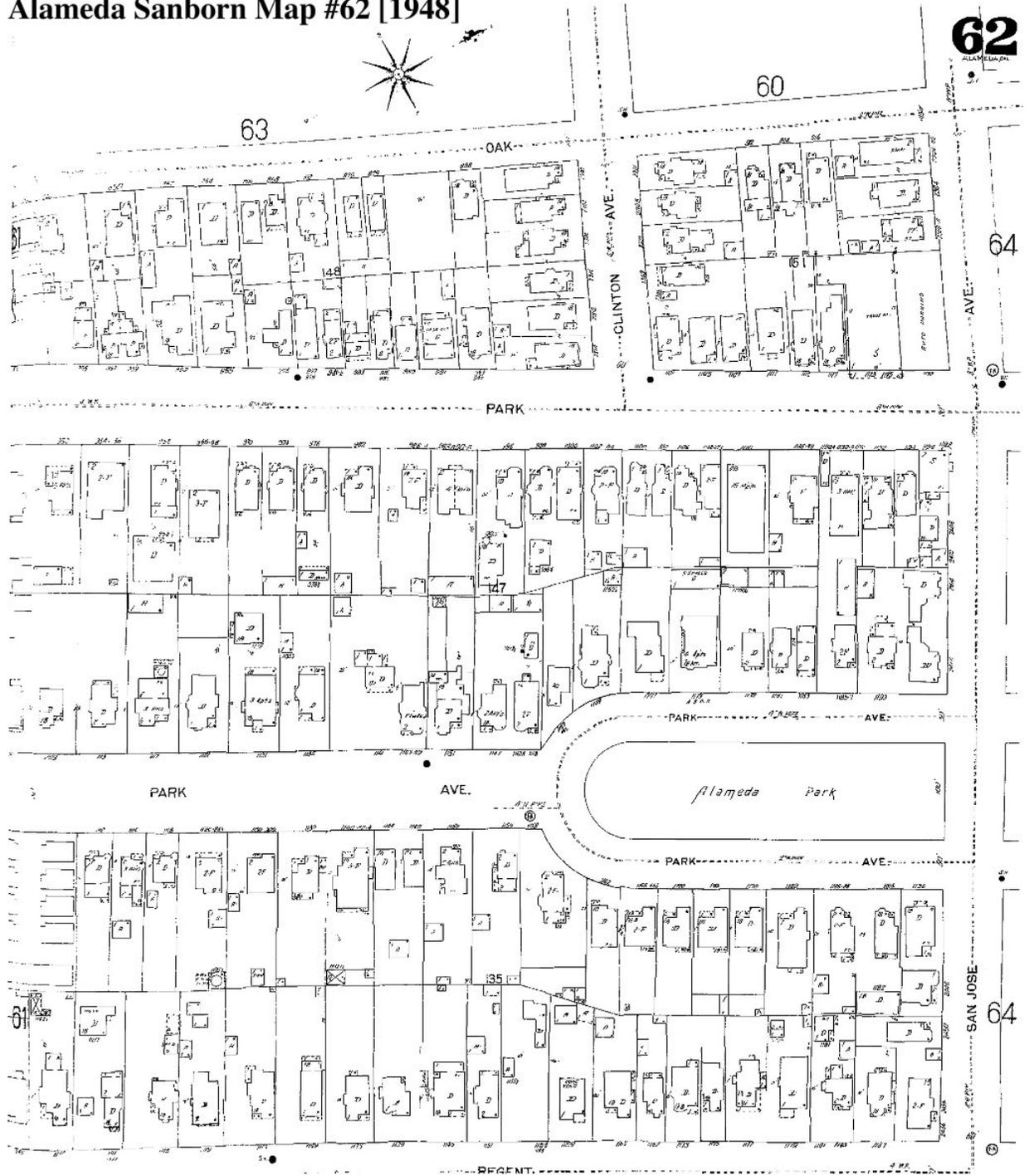
Alameda Sanborn Map #62 [1897]



Alameda Sanborn Map #64 [1897]



Alameda Sanborn Map #62 [1948]



Alameda Sanborn Map #64 [1948]



64
 ALAMEDA, CALIF.
 NEW SHEET
 SEPT. 1939
 R.

**Written Communication for Item 6-B
Recommend a Name for the Park Formerly Known as Jackson Park**

Honorable Commissioners:

I applaud the work of the Renaming Committee for the park formerly known as Jackson Park (“FKA Jackson Park”). The collaboration and resulting work product are worthy of a citywide effort.

A few years ago I participated in a march from the former Haight School to City Hall, urging the school district to rename the school because of Mr. Haight’s racism. After that successful effort, I learned that numerous city streets, parks, and other facilities would be renamed for the same reason.

Jackson Park moved to the head of the list. Renaming the park seemed a simple task because, unlike the other streets and facilities on the list, Jackson Park had a perfectly good previous name—Alameda Park.

Alameda Park was established as part of the surrounding residential subdivision in 1867. It began to be used for public concerts, for which a bandstand was constructed in 1890. The park became Alameda’s first public park in 1895. The 1897 Sanborn Fire Insurance Map shows Alameda Park during its early years as a City park. Unfortunately, Alameda Park was renamed for Andrew Jackson in 1909.

Many of my neighbors and I advocate returning the park to its original name. The symbolism of yanking away the name of Andrew Jackson and reverting to the original name is powerful.

The Committee’s short list of ten potential park names is a wonderful resource worthy of consideration for use on any of the streets and facilities that need new names or, in the case of some new parks, initial names. None of the names, other than the original name Alameda Park, is uniquely suited to FKA Jackson Park. Any of the proposed names could be used interchangeably anywhere in the city.

I urge the Commission to simply undo the mistake made in 1909 and return the name Alameda Park to Alameda’s first public park.

Thank you.

Sincerely,

Betsy Mathieson
1185 Park Avenue
Alameda

Written Communication for Item 6-B

Recommend a Name for the Park Formerly Known as Jackson Park

Subject: [EXTERNAL] Renaming Jackson Park

To whom it may concern,

I have lived overlooking the park for nearly 25 years and thoroughly enjoy looking out of my windows at the park every day. I am delighted to see the park in all seasons and the thousands of people who regularly enjoy spending time there. Dog walkers, people with kids, and others who picnic, spread a blanket to enjoy the sunshine and trees. Countless activities, from Frisbee, eating, chatting, napping, exercising, reading, practicing their instruments, playing games, workouts, meetings, and since the pandemic we now have dance classes, and lots of socially distanced groups meeting. To be truthful, none of these activities are likely to change due to the park name. However, I am saddened to hear that the original historic name "Alameda Park" is not in the final list.

The first park in Alameda with the sole purpose of being a beautiful area to gather and walk around enjoying the trees and open space. For over 100 years people have been doing exactly that! The name Alameda Park is a recognition of the history of this park and non-political. I vote for the name Alameda Park.

Sincerely,
Alanda Orozco
(1207 Park Ave)

Written Communication for Item 6-B
Recommend a Name for the Park Formerly Known as Jackson Park

From: Cybelle Kelley-Whitley
Sent: Friday, December 4, 2020 6:38 PM
To: Amy Wooldridge
Subject: [EXTERNAL] The park formerly known as Jackson

Hi Amy,

I would like to once again submit Alameda Park for consideration as the new name of the park formerly known as Jackson. I know that 3 other names are being considered. This is surprising, because aside from Ohlone, the other names were not at the top of the polls that were presented during the Zoom meeting. I think bringing back the original name is the most appropriate way to honor the history of our first park.

Thank you.

Cybelle Kelley-Whitley

**Written Communication for Item 6-B
Recommend a Name for the Park Formerly Known as Jackson Park**

From: Shannon Whitley
Sent: Sunday, December 6, 2020 8:04 AM
To: Amy Wooldridge
Subject: [EXTERNAL] Jackson Park Renaming Process

Greetings Ms. Wooldridge and Commissioners,

There are many fine choices amongst the group of names to be considered for the park. I humbly ask that we continue to include one of the most popular names on the list, Alameda Park.

As a community member who lives on Park Ave., I've been closely following the renaming process for the park. I appreciate the efforts that have been made to gather feedback and to represent the views of people across the city.

There is one part of the renaming process that I have found confusing. I observed that "Alameda Park" was consistently one of the top choices in discussions and polls. Alameda Park is the first choice of Woody Minor, a Bay Area historian, who asserts that Alameda Park is the original name of the park. Renaming the park to its original name seems to be the best way to honor the history of the park and our city.

As a footnote, I believe the park was originally named by A.A. Cohen. His family had some holdings in Jamaica that included slave labor, however, he was four years old when the Crown outlawed slavery and therefore he was never a slave owner himself.

Thank you,

Shannon Whitley
Park Ave. Resident

Written Communication for Item 6-B
Recommend a Name for the Park Formerly Known as Jackson Park

> On Dec 10, 2020, at 12:29 PM, Ezra Denney wrote:

>

>

> Commissioners,

>

> I write today to express my support for the name Mabel Tatum Park to replace the Park named after a slave owner. I do not need to remind the commission about the bio of Ms. Tatum, but I feel her work for Alameda's Black and low-income residents, especially in regard to housing resonates today. Honoring Ms. Tatum will allow us to educate the City on the many obstacles our Black community has faced, and continues to face.

>

> I am reminded of the words of Commissioner Barnes in her editorial of July 8, 2020: "What we choose to elevate, through monuments or the honor of naming, shows what we value."

>

> It's time for Alameda to show that we value the struggle and activism of our Black and Brown communities. It's time for Alameda to show that we are true to our motto "Everyone Belongs Here." It's time to give Mabel Tatum the honor she deserves.

>

> Thank you,

>

> Ezra Denney

**Written Communication for Item 6-B
Recommend a Name for the Park Formerly Known as Jackson Park**

On Dec 10, 2020, at 12:48 PM, Laura Gamble wrote:

Hi Director Wooldridge,

I was hoping to pass the below letter along to the commissioners as I am unable to attend tonight's meeting.

Thank you for your time and consideration -

Alameda Recreation and Parks Commissioners,

Thank you for voting to rename this Jackson Park. Removing monuments to white supremacy in our community is long overdue.

While I think that the four options that the renaming committee has presented are great choices, I believe that both Ohlone and Chochenyo offer something that the other options do not - these both hone in on the spirit of truth and reconciliation. A necessary process for the nation, and for Alameda, to embark on as urgently as possible.

And while this is outside the scope of a rename, I hope this commission will eventually take this one step further and work towards a memorial in this park to honor the indigenous people harmed by Andrew Jackson.

Thank you for your consideration.

Laura Gamble

Written Communication for Item 6-B Recommend a Name for the Park Formerly Known as Jackson Park

On Dec 10, 2020, at 2:20 PM, Helen Simpson wrote:

>

> Ms. Wooldridge.

>

> I understand that The Recreation and Parks Commission will hear the issue and made a recommendation to City Council for the final action of renaming Jackson Park at the December 10th meeting. On the staff's report, it lists four finalists, Ohlone, Chochenyo, Mabel Tatum and Justice.

>

> The staff report also states 625 responded to a survey which included 10 names on the survey. I note that the survey was conducted from November 23rd through 27th, the week of Thanksgiving when people were preparing for the holiday. The survey should be open for more than 5 days. What about the individuals that do not go on social media or are on ARPD's email list? With conducting a survey, it should be done where all the residence of Alameda have access to the voting. Only 625 out of an estimated 80,000 residence participated in the survey? That should be a red flag. The 625 that participated in the survey is a little over half the people (1,200) whom signed the petition to remove the name "Jackson Park." Why does this have to be done during the holidays?

>

> Can the committee for renaming Jackson Park reveal how many votes for each of the 10 names on the survey and how the 4 names made the list? It also indicates a large majority of respondents were older, white residents. Can the committee also reveal the complete list of this too? How many voters did not answer the question about age or race?

>

> The staff report indicates that the park was named after President Andrew Jackson in 1909, when, in fact, the first name of the park was Alameda Park, which in Spanish means "grove of trees" which fits the park. Attached are copies of the maps.

>

> On the finalists is Mabel Tatum, which in a newspaper clipping from 19966, the speech she made in the first sentence was: "To hell with the Alameda Police Department . . ." and her first paragraph ends with "So, I say heck with the Alameda Police Department." I find it interesting that the staff report omits this paragraph. It is apparent that Mabel Tatum had an issue with the Alameda Police Department, but the commission is recommending the park be named after her. Attached is the newspaper article from 1966.

>

> It is also costing \$10,000.00 from the Park and Rec. Department's general fund, with an additional \$4,000 for an educational sign. \$14,000 for two signs sounds excessive. What about all the maps that need to re-printed? Has the commission tried to have someone sponsor the signage so the \$14,000 of the general fund can be used for improving the parks?

>

> I am opposed to the commission voting on re-naming Jackson Park. This should have more community voices other than the 625 that responded to one survey over the Thanksgiving week. The City should either keep Jackson Park as is or go back to the original name "Alameda Park."

>

> Helen Simpson

Written Communication for Item 6-B
Recommend a Name for the Park Formerly Known as Jackson Park

> On Dec 10, 2020, at 2:19 PM, PS wrote:

>

> Hello,

>

> My name is Pamela Shepherd and as residents of Alameda, my family and I would like Andrew Jackson Park renamed to Ohlone Park.

> This land was taken by force from the Ohlone Tribe. I'd like to start healing the wounds by renaming this park and offering a sincere, heartfelt apology to our Ohlone people.

>

> Thank You,

> Pamela Shepherd

Written Communication for Item 6-B
Recommend a Name for the Park Formerly Known as Jackson Park

Dec 10, 2020, at 2:44 PM, Jerome Szymczak wrote:

>

>

> Mabel Tatum Park gets my vote! A great tribute to a local and too-long- unsung hero!

Jerome Szymczak

Written Communication for Item 6-B
Recommend a Name for the Park Formerly Known as Jackson Park

On Dec 10, 2020, at 4:10 PM, Rob Halford wrote:

>

>

> Dear Ms. Wooldridge and Commissioners,

>

> As a resident of Alameda, I'd like to provide my support for the Ohlone Park choice for the renaming decision. In my view this is a fitting way to pay homage to the original inhabitants of the island. Further, naming after an individual is always going to be subject to future discovery of human imperfections, as evidenced by the previous name, and should be avoided in my view.

>

> Last, I hope that you will take some time in the meeting to review the results of the poll, and how the final options were determined.

>

> Thank you.

>

> Rob Halford

**Written Communication for Item 6-B
Recommend a Name for the Park Formerly Known as Jackson Park**

On Dec 10, 2020, at 3:47 PM, Katherine Cameron wrote:

Hi. I submitted Truth, but Justice works very well too. Here's my reasoning:

Why not a Native American tribal name? I find it sad that all over the USA, you find parks, cities, counties, states and sports teams named after Native American tribes that were almost annihilated by the very people adopting these names, and stealing the land. It is a kind of sentimentality- following- brutality that I find particularly repugnant. Therefore, I do not support following this pattern on our island, thinking we have somehow honored the Ohlone by naming a park after them. Better to find a few remaining tribal members and see what we can do to REALLY help and honor them. I am guessing we are NOT about to give them back the park itself, or our houses, or other land on our island. Truly, we who are not Ohlone are settlers. We are occupiers. Let's not gloss over that by naming a park after the people from whom we stole.

Why not a name of an individual who made a contribution? I think naming a park after one particular individual is unwise. Unless the park land was donated by a particular person, it just gives rise to "why not this other person" kind of thinking. Instead, let's make the park name ASPIRATIONAL - about values we all share.

It is because JUSTICE PARK is about all of us, about what we aspire to, and what others have died for, that I think it brings us together, and unites us. In this spirit, I vote for Justice Park among the choices.

Katherine Cameron
2716 Bayview Drive
Alameda CA 94501
510-814-6593

Written Communication for Item 6-B
Recommend a Name for the Park Formerly Known as Jackson Park

On Dec 10, 2020, at 3:41 PM, Ryan LaLonde wrote:

Hello Alameda City Recreation and Parks Commission,

I know tonight you are receiving the final four options for the renaming of Jackson Park. All four names are quite amazing and different nuances. But I do love the juxtaposition of renaming the park in honor of the our first people's and reclaiming the horrible history that Jackson had on Native Americans in the United States. As a decedent of an Eastern Cherokee woman who died on the trail of tears and someone who has worked in the Native American sphere for many years - renaming this ill named park for the Ohlone People would be so fitting. I would go one step further and ask that Ohlone elders have the chance to weigh-in on a name they think maybe more fitting.

I organized the Ann Arbor Pow Wow for over 4 years, and as an Alameda resident - I can see organizing a small gathering every year in the park to teach and watch Native culture and customs. I hope you choose this name and then hand over the respected task to tribal leaders to bless or change the name.

Thank you.

Ryan LaLonde
2945 Marina Dr.
Alameda, CA



City of Alameda

Meeting Agenda

City Council

Tuesday, January 19, 2021

7:00 PM

City Hall, 2263 Santa Clara Avenue, Council Chambers, 3rd Floor, Alameda CA 94501

The closed session agenda was revised January 11, 2021 at 3:00 p.m. to add Item 3-D; January 12, 2021 at 4:00 p.m. to withdraw Item 3-C and change the time to 6:00 p.m. and January 12, 2021 at 5:15 p.m. to add Item 3-E and change the time to 5:45 p.m.

Due to Governor Executive Order N-29-20, Councilmembers can attend the meeting via teleconference. The City allows public participation via Zoom.

*For information to assist with Zoom participation, please click:
<https://www.alamedaca.gov/zoom>*

*For Zoom meeting registration, please click:
https://alamedaca-gov.zoom.us/webinar/register/WN_n1aqfPTxRbu5t67c6CXg0A*

*For Telephone Participants:
Zoom Phone Number: 669-900-9128
Zoom Meeting ID: 850 5723 3488*

Any requests for reasonable accommodations should be made by contacting the City Clerk's office: clerk@alamedaca.gov or 510-747-4800.

City Hall will be NOT be open to the public during the meeting.

The Council may take action on any item listed in the agenda.

REVISED SPECIAL CITY COUNCIL MEETING - CLOSED SESSION - 5:45 P.M.

- 1 Roll Call - City Council
- 2 Public Comment on Closed Session Items - Anyone wishing to address the Council on closed session items may speak for 3 minutes per item
- 3 Adjournment to Closed Session to consider:
 - 3-A 2021-555 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Pursuant to Government Code § 54956.9)
CASE NAME: City of Alameda v. Union Pacific (Sweeney)
COURT: Superior Court of the State of California, County of Alameda

CASE NUMBERS: RG18921261

- 3-B** 2021-561 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Pursuant to Government Code § 54956.9)
CASE NAME: Friends of Crab Cove v. Vella et al.
COURT: Superior Court of the State of California, County of Alameda
CASE NUMBERS: RG18933140
COURT: First District Court of Appeal
CASE NUMBERS: A159140 and A159608
- 3-C** 2021-551 WITHDRAWN - CONFERENCE WITH REAL PROPERTY
NEGOTIATORS (Pursuant to Government Code Section 54956.8)
PROPERTY: Encinal Terminals, Located at 1521 Buena Vista Avenue
(APN 072-0382-001,-002, and 72-0383-03), Alameda, CA
CITY NEGOTIATORS: Gerry Beaudin, Assistant City Manager,
Andrew Thomas, Planning and Building Director and Nanette Mocanu,
Assistant Community Development Director
NEGOTIATING PARTIES: City of Alameda and North Waterfront Cove,
LLC
UNDER NEGOTIATION: Price and terms - WILL NOT BE HEARD
- 3-D** 2021-570 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Requests for the City to participate as amicus in pending litigations:
(Pursuant to Government Code § 54956.9)
Case Name: Apartment Association of Los Angeles County, Inc. v.
City of Los Angeles et al.
Court: The United States Court of Appeals for the Ninth Circuit
Case Number: 20-56251
- 3-E** 2021-578 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Pursuant to Government Code § 54956.9)
CASE NAME: Abdul Nevarez and Priscilla Nevarez v. City of Alameda
COURT: United States District Court, Northern District of California
CASE NUMBER: 20-cv-8302

4 Announcement of Action Taken in Closed Session, if any

2021-611 January 19, 2021 Closed Session Announcement

Attachments: Announcement

5 Adjournment - City Council

REGULAR CITY COUNCIL MEETING - 7:00 P.M.

Pledge of Allegiance

- 1 Roll Call - City Council**
- 2 Agenda Changes**
- 3 Proclamations, Special Orders of the Day and Announcements - Limited to 15 minutes**
- 3-A** [2021-554](#) Proclamation in Recognition of Alameda Rotary's 100th Anniversary. (City Manager 2110)
Attachments: [Proclamation](#)
- 4 Oral Communications, Non-Agenda (Public Comment) - A limited number of speakers may address the Council regarding any matter not on the agenda; limited to 15 minutes; additional public comment addressed under Section 8**
- 5 Consent Calendar - Items are routine and will be approved by one motion unless removal is requested by the Council or the public**
- 5-A** [2021-556](#) Minutes of the Special and Regular City Council Meetings Held on December 15, 2021. (City Clerk)
- 5-B** [2021-557](#) Bills for Ratification. (Finance)
Attachments: [Bills for Ratification](#)
- 5-C** [2021-8245](#) Recommendation to Authorize the City Manager to Negotiate and Execute a Purchase Agreement, or in the Alternative a Lease Agreement, for a New Security Camera System from ICU Technologies for the Police Administration Building and Off-Site Property Storage Facilities in an Amount Not to Exceed \$274,075.97. (Police 3116)
Attachments: [Exhibit 1 - Purchase/Lease Proposal](#)
[Exhibit 2 - Scope of Work](#)
[Exhibit 3 - ICU Technologies GSA Contract Information](#)
- 5-D** [2021-511](#) Recommendation to Authorize the City Manager to Execute a Fourth Amendment to the Agreement with Nute Engineering for Engineering Design Services for Cyclic Sewer Rehabilitation Project, Phase 18, in an Amount Not to Exceed \$411,500 for an Aggregate Amount Not to Exceed \$1,556,321. (Public Works 602)
Attachments: [Exhibit 1 - Original Agreement](#)
[Exhibit 2 - First Amendment](#)
[Exhibit 3 - Second Amendment](#)
[Exhibit 4 - Third Amendment](#)
[Exhibit 5 - Fourth Amendment](#)

- 5-E** 2021-515 Recommendation to Authorize the City Manager to Execute a Third Amendment to the Agreement with NBS for Administrative Services for Special Financing Districts in an Amount Not to Exceed \$80,319 for an Aggregate Amount Not to Exceed \$146,158. (Public Works 279)
- Attachments:** Exhibit 1 - Original Contract
 Exhibit 2 - First Amendment
 Exhibit 3 - Second Amendment
 Exhibit 4 - Third Amendment
- 5-F** 2021-501 Recommendation to Expand the City's Sick Leave Benefit Authorizing Use of Parental Leave and Increasing the Sick Leave Cap for Protected Leave to Care for a Family Member to 480 Hours. (Human Resources 2510)
- 5-G** 2021-502 Adoption of Resolution Amending the City of Alameda's Employer/Employee Relations Resolution and Superseding the Following Resolutions: 7476, 7477, 7684 and 14894. (Human Resources 2510)
- Attachments:** Exhibit 1 - Resolution No. 7476
 Exhibit 2 - Resolution No. 7477
 Exhibit 3 - Resolution No. 7684
 Exhibit 4 - Resolution No. 14894
 Resolution
- 5-H** 2021-8562 Adoption of Resolution Amending the Alameda City Employees' Association (ACEA) Salary Schedule to Add the Classification of Police Records Specialist and Reclassifying the Four Intermediate Clerks in the Police Records Division to Police Records Specialist, Effective January 19, 2021. (Human Resources 2510)
- Attachments:** Exhibit 1 - ACEA Salary Schedule
 Exhibit 2 - Police Records Specialist Specification
 Exhibit 2 REVISED - Police Records Specialist
 Specification
 Resolution
- 5-I** 2021-8564 Adoption of Resolution Approving Tentative Map Tract 8534 and Density Bonus Application PLN19-0448 to Subdivide a 1.29-Acre Property into Twelve Lots Located at 2607 to 2619 Santa Clara Avenue and 1514 to 1518 Broadway. (Planning, Building and Transportation 481001)
- Attachments:** Exhibit 1 - Density Bonus Application
 Exhibit 2 - Tentative Map Tract 8534
 Resolution

- 5-J** 2021-8565 Recommendation to Authorize the City Manager to Execute an Agreement with Landscape Structures Inc. in an Amount Not to Exceed \$285,862 for Construction of the Bayport Park Playground Project; and
Adoption of Resolution Amending the Fiscal Year 2020-21 Capital Budget for the Playground Replacement Project (91621) by Appropriating an Additional \$150,000: (1) a Donation from the Alameda Friends of the Parks Foundation in the Amount of \$10,000, and (2) Fund Balance of the Bayport Park Municipal Services District 03-1 in the Amount of \$140,000. (Recreation 278)
- Attachments:** Exhibit 1 - Agreement
 Exhibit 2 - Bayport Park Playground Design
 Resolution
- 5-K** 2021-505 Adoption of Resolution Amending Resolution No. 15728 Setting the 2021 Regular City Council Meeting Dates. (City Clerk 2210)
- Attachments:** Resolution
- 5-L** 2021-552 Final Passage of Ordinance Authorizing the City Manager to Execute Lease Amendments for Rent Relief Programs to Rock Wall Winery and St. George Spirits through the Loan Conversion Assistance Program for Rent Relief in Response to the Covid-19 Pandemic. (Community Development 858)
- Attachments:** Lease Amendment - Rock Wall Winery
 Lease Amendment - St. George Spirits
- 5-M** 2021-553 Final Passage of Ordinance Amending the Zoning Map Designation for the Property at 2350 Fifth Street (APN 74-1356-23) from M-X, Mixed Use to R-4, Neighborhood Residential District to Facilitate Residential Use of the Property, as Recommended by the City Planning Board. (Planning, Building and Transportation 481005)
- 6** **Regular Agenda Items**
- 6-A** 2021-504 Recommendation to Rename Former Jackson Park to Chochenyo Park. (Recreation 280)
- Attachments:** Exhibit 1 - Top 10 Names for Renaming Jackson Park
 Exhibit 2 - Data from Community Forum and Survey
 Exhibit 3 - 2016 Policy for Naming City Facilities
 Presentation
 Presentation - REVISED
 Correspondence - Updated 1/19
- 6-B** 2021-8337 Introduction of Ordinance Amending the Alameda Municipal Code by

Amending Article XV (Rent Control, Limitations on Evictions and Relocation Payments to Certain Displaced Tenants) to Adopt and Incorporate Provisions Concerning Capital Improvement Plans (CIP) for Rental Units in the City of Alameda. (Community Development 265)

Attachments: [Exhibit 1 - Existing CIP Policy](#)
[Exhibit 2 - CIP Table](#)
[Ordinance](#)
[Presentation](#)
[Correspondence - Updated 1-19](#)

6-C [2021-8379](#) Adoption of Resolution Requiring a Project Stabilization Agreement for Certain Construction Projects. (City Manager) [Continued from January 19, 2021; Public Comment Closed]

Attachments: [Resolution](#)
[Presentation](#)
[Correspondence](#)
[Correspondence from Mayor - Mission Bay PLA](#)

7 **City Manager Communications - Communications from City Manager**

8 **Oral Communications, Non-Agenda (Public Comment) - Speakers may address the Council regarding any matter not on the agenda**

9 **Council Referrals - Matters placed on the agenda by a Councilmember may be acted upon or scheduled as a future agenda item**

9-A [2021-508](#) Consider Establishing a New Methodology by which the Number of Housing Units are Calculated for Parcels Zoned C-2-PD (Central Business District with Planned Development Overlay). (Councilmember Daysog) [Not heard on January 5 or 19, 2021]

Attachments: [Presentation](#)
[Correspondence](#)

9-B [2021-522](#) Consider Directing Staff to Provide a Police Department Staffing and Crime Update. (Councilmember Herrera Spencer) [Not heard on January 19, 2021]

Attachments: [Correspondence - Updated 1/19](#)

10 **Council Communications - Councilmembers can address any matter not on the agenda, including reporting on conferences or meetings**

11 **Adjournment - City Council**

- Please contact the City Clerk at 510-747-4800 or clerk@alamedaca.gov at least 48 hours prior to the meeting to any reasonable accommodation that may be necessary to participate in and enjoy the benefits of the meeting.
- Meeting Rules of Order are available at:
<https://www.alamedaca.gov/Departments/City-Clerk/Key-Documents#section-2>
- Translators and sign language interpreters will be available on request. Please contact the City Clerk at 510-747-4800 at least 72 hours prior to the meeting to request a translator or interpreter.
- Equipment for the hearing impaired is available for public use. For assistance, please contact the City Clerk at 510-747-4800 either prior to, or at, the Council meeting.
- Accessible seating for persons with disabilities, including those using wheelchairs, is available.
- Minutes of the meeting available in enlarged print.
- The meeting will be broadcast live on the City's website:
<https://www.alamedaca.gov/GOVERNMENT/Agendas-Minutes-Announcements>
- Documents related to this agenda are available for public inspection and copying at of the Office of the City Clerk, 2263 Santa Clara Avenue, Room 380, during normal business hours.
- Sign up to receive agendas here: <https://alameda.legistar.com/Calendar.aspx>
- **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE:** Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City of Alameda exist to conduct the citizen of Alameda's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.
- **FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION:** the address is 2263 Santa Clara Avenue, Room 380, Alameda, CA, 94501; phone number is 510-747-4800; fax number is 510-865-4048, e-mail address is lweisiger@alamedaca.gov and contact is Lara Weisiger, City Clerk.
- In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals.

Renaming Jackson Park

Top 10 Names Background and References with Final 4 Name Recommendations to the Recreation and Parks Commission listed first.

December 2020

OHLONE

The Ohlone people are a group of approximately 50 villages and family groups who lived on the land that is now known as the San Francisco Bay Area before the Spanish invasion with at least eight dialects spoken. The Confederated Villages of Lisjan is one of a number of Ohlone tribes. The unceded territory of the Lisjan Ohlone people includes the City of Alameda. The name Ohlone originated in the 1960s and 1970s when people organized and renamed themselves Ohlone, inspired by the Black Power and American Indian Movements. There are thousands of Ohlone people living in the East Bay, however, the Ohlone are not recognized by the federal government and subsequently do not have access to the rights, services and protections of federal Indian law managed by the Bureau of Indian Affairs.

Reference:

<https://soqoreate-landtrust.org/lisjan-history-and-territory>

CHOCHENYO

Chochenyo is the Ohlone language spoken by the Lisjan. The Lisjan Ohlone people lived on the land that is now known as the San Francisco East Bay and their unceded territory includes the City of Alameda.

MABEL TATUM

Mabel Tatum is a hidden hero in Alameda's history. Her story reveals many aspects of Alameda's hidden history: WWII housing projects on the Naval Base, fraudulent land deals, the Naval Base's role in the Vietnam War, and the tent-in at Franklin Park led by Tatum and other Estuary Project residents.

A little back story: In 1963, the Alameda Housing Authority (AHA) tried to kick residents out of the Estuary Project, a temporary housing project within the Alameda Naval Air Station. They offered no relocation program to the tenants even though State Housing Authority Law required that they do so. In early 1964, the Alameda branch of the NAACP formed the Citizen's Committee for Low-Income Housing "for the purpose of securing adequate low-cost housing for the tenants of Estuary." Mabel Tatum was their president.

After the committee's formation, the AHA began intimidating and harassing residents by removing mailboxes, garbage disposal units, and laundry services and closing down the nearby store. Their tactics worked: 400 families left the project, leaving only 100 to fight for their right to housing.

Led by Mrs. Mabel Tatum, President of the organization, the Citizen's Committee for Low-Income Housing staged a three-day school boycott and sit-in at the AHA office which resulted in a one-year delay in demolition.

In Winter 1965, a private company purchased the Estuary Project land by fronting as a fake church in order to get around the original Navy contract with the AHA that said the land could not be sold to a profit-making organization.

In June 1966, the Alameda Fire Department flooded the lawn at Franklin Park to try to dissuade families from the Estuary Project from pitching tents there in protest of the impending eviction of 18 families from the Estuary project. Mabel Tatum led a 200 person march through the surrounding, upper-middle class, white neighborhood. The Estuary project was hidden within Alameda's Naval Air Base, so many Alameda residents didn't know the project was there before the protest.

Here's a quote from Mrs. Mabel Tatum's speech titled What Kind of Country is This?

"Now I can't get a house no sooner than you can and my husband's in Vietnam...A beautiful world isn't it. Salute the flag. Justice for all. What kind of country is this we are fightin' for? What kind of a country is this, you can't even exercise your own rights to live where you want to live? What kind 'of country this is that we as a group of people can't protect our own rights whether it's legal or illegal? It's gotten to the point now where we've got to throw the legal part aside. I'm not sayin' out and grabbin' somebody and knockin' 'em down. You don't have to do it that way. You can do it systematically and win that way."

Source: <https://libraries.ucsd.edu/farmworkermovement/ufwarchives/sncc/15-July%201966.pdf>

JUSTICE

The definition is **the quality of being just, impartial, or fair**. It represents the law, righteousness, and correctness in the world. It stems from the latin word, *justus*, which means right or law. The first known use of the word was in 12th century England. It was also the Merriam-Webster Dictionary 2018 Word of the Year as it represents social, criminal, and economic reform in the world.

Fred Korematsu

Fred Korematsu was a Japanese American from Oakland who fought against the internment of his people in the west coast after the bombing of Pearl Harbor. He refused to be interned, went into hiding but was found, and arrested. He fought the internment in court was sent to Topaz, Utah, where he lived in a horse stall with a single light bulb for illumination.

After he appealed and was released he continued to fight racism in Utah, and in 1983 he went to court again to have his name cleared. In 1998 President Bill Clinton awarded him the Presidential Medal of Freedom.

Peace

Peace is an idea of unity, harmony and therefore a lack of hostility and violence. It can also mean a lack of war, like “peacetime,” or it can be a mindset one has. With peace, people can work to improve the quality of life for themselves and others.

With the history of Alameda Naval Air Station so prominent in this city’s legacy, perhaps peace would call to mind what those soldiers fought for.

ALAMEDA

The word “Alameda” in Spanish means “grove of trees,” or “tree-lined avenue” which is a very apt description of the park.

When this became the first park in Alameda, it was referred to as Alameda Park.

MARY RUDGE

Mary Rudge (1925-2014) grew up in Texas and Oklahoma. She was the single parent of 7 children and advocated for children and social change. She travelled the world sharing poetry and became Alameda’s Poet Laureate. She wrote “Jack London’s Neighborhood,” and several other works. She also started Alameda’s poetry contest.

Yoshiko Uchida

Born: Alameda, 1922; Died: Berkeley, 1992 ([NYT obit](#), [wikipedia](#))

Quick summary:

- Author and illustrator of children's books
- Interned with her family and other Japanese Americans during WWII (at Tanforan Racetrack and then Topaz)
- Taught schoolchildren during and after the war
- Numerous books focused on her experiences as a Japanese American; sought to help children view those different from themselves with humanity and to counter/resist Asian or Japanese American stereotypes

Biography:

Uchida was an author and illustrator, mostly children's and young adult (YA) books, and most of which were related to her experiences as a Japanese American before and during World War II, including her experience in a US concentration camp during the war. She also wrote several collections of Japanese folk tales, after receiving a Ford Foundation research fellowship in 1952 that allowed her to travel to Japan.

In the midst of graduating with honors from UC Berkeley, she and her mother and sister were forcibly removed from their home to Tanforan Racetrack Relocation Center, due to President Roosevelt's Executive Order 9066. Her father, interned elsewhere initially, was reunited with his family before they were all relocated to Topaz Relocation Camp in Utah.

Yoshiko Uchida taught schoolchildren in the concentration camp, and did so after her release as well, earning a Masters in Education from Smith College.

She published over 40 written works, including:

[Journey to Topaz](#) (fiction; children)

[A Jar of Dreams](#) (fiction; children)

[The Bracelet](#) (fiction; children)

[The Dancing Kettle and Other Japanese Folk Tales](#) (folk tales; children)

[Picture Bride](#) (fiction; adult)

[Desert Exile: The Uprooting of a Japanese American Family](#) (non-fiction; adult)

Selected scholarship:

Harada, Violet H. "Caught Between Two Worlds: Themes of Family, Community, and Ethnic Identity in Yoshiko Uchida's Works for Children." *Children's Literature in Education* 29, no. 1 (March 1998): 19-30. ([linked](#))

Tang, Edward. "Teach Your Children Well: The Postwar Tales of Yoshiko Uchida." In *From Confinement to Containment : Japanese/American Arts During the Early Cold War*, 159-200. Philadelphia: Temple University Press, 2019. ([linked](#))

Archives:

[University of Oregon](#)

[UC Berkeley](#)

NIELSEN TAM

Nielsen Tam was a Chinese American administrator and helped many vulnerable communities in Alameda. The Alameda Unified School District's (AUSD) administrative building is named after him, the "Niel Tam Educational Center", family members still alive and involved in Alameda. He worked for AUSD for 38 years as a special education teacher, Vice Principal and Principal. After retirement, Neil was on the School Board and in 2013 served as President.

Neil was a trailblazer championing diversity, equity and access in the school district. He served on the boards of Girls Inc., Boys and Girls Club, Alameda Point Collaborative, Alameda Family Services, and the Alameda Food Bank. Neil was founder of the Multi-cultural Community Center and Organization of Alameda Asians. He received many awards and was honored with lifetime achievement awards from the City and County of Alameda. Neil also volunteered throughout the community and dedicated his life to public education, community services and support of all those in need.

Niel Tam received his undergraduate degree in Occupational Therapy from San Jose State University and was the first in his family to enter a Master's program. His parents were both immigrants from China, and his father died when he was 5 years old, so he was the youngest of four sons raised by a single mother. He earned a Master's Degree in Special Education from San Francisco State University and a Master's Degree in School Administration from St. Mary's College.

In 1970, he chose to work with the Alameda Unified School District after being offered positions in San Jose and Napa. He had done his student teaching in Alameda.

Niel worked in the area of special education for 28 years. He had classes at 11 of the schools ranging from elementary to middle and high school. He was the first to teach a preschool class that partnered with the local Head Start program. During the four years that he held that position, he was awarded a number of honors recognizing the innovation and creativity to start and fund the project.

He was a pioneer and champion of a program to mainstream Special Ed students into the classroom, working closely with the administration and teachers at school sites to ensure the program's success. His goal, though, was to move into administration as a school principal. But ... there were barriers to overcome in crossing from Special Education to regular education as well as the challenge of diversity within the City and School District.

He was persistent and became a trailblazer in the district championing diversity, equity, and access. It ultimately took him 16 years of perseverance and hard work to succeed. During the 16 years, he was both in Special Education and also served as an Administrative Designee or Vice Principal at the same time. In 1997, he finally became Principal of Miller School, serving the Coast Guard community and the West End of Alameda. He stayed in the position for 9 years. He also was in charge of the Woodstock Child Development Center ultimately raising the funds to keep the facility going and raising the awareness necessary to value and embrace the program. He was able to successfully secure funds from foundations, the county, and other private sources to create enrichment programs for the school which had experienced a high level of turnover in administrators over the years. He made a commitment to stay at the school for more than just a few years, and make a difference.

In 2006, he became Principal of Washington School (now Maya Lin) and served for two years before retiring. At Washington he created support programs for immigrant families who were not English speakers. He also provided support to the students and families through other programs.

At each of those schools, he built teams of teachers who would ultimately improve test scores by 25 percent, created enrichment programs to help students be successful, and built partnerships with other school communities. To name a few of his achievements--he raised \$350,000 for the playground at Miller School, after the School District was unable to provide funds, partnered with the Golden State Warriors to add the basketball court at Washington School, and created a bridge program with East and West end schools.

When he retired from AUSD, after 38 years, he immediately ran for the Alameda Unified District School Board and was successfully elected in a landslide victory. He ran for a second term in 2012 and was reelected. In 2013, he was President of the School Board where he continued to champion for Alameda's children and families and for equity in the schools.

His community leadership was recognized by the San Francisco Foundation's Koshland Civic Unity Award in 2002—a five-year program to support the West End of Alameda. He was a Coro Northern California Community Leadership Fellow in 2006. He served on the Boards of Girls, Inc., Boys and Girls Club, Alameda Point Collaborative, Alameda Family Services, and the Alameda Food Bank to name a few. He was also appointed to the Alameda City Traffic and Disabilities Commissions. He was a founder of the Multi-Cultural Community Center and Organization of Alameda Asians.

He was honored by the Asian Pacific Islander Democratic Caucus with a State Assembly Proclamation and Commendation for his civic volunteerism and his commitment to diversity, mentorship, and leadership in the Asian community in 2015. He received a Lifetime Achievement Award from the Alameda City Social Services Human Relations Board in 2015. He received an Alameda County Commendation and Lifetime Achievement Award in 2015.

Throughout his civic and community activities, he made volunteerism a priority. He coached and refereed boys' soccer for nine years, was President of the Alameda Soccer League, and donated his time throughout Alameda. He touched the lives of many as a mentor, colleague, leader, and someone everyone could count on. He was a master in Reiki, taught Tai Chi classes, tutored children, and worked tirelessly to help children and families receive the quality education that he believed everyone deserved. He served as a leader on church committees with the Buena Vista United Methodist Church, and was also a role model for everyone.

Niel Tam passed away in May of 2015. He had dedicated his life to public education, community service, and support of all those in need.

- 1) 39 years at AUSD
- 2) 12 years principal low income communities
- 3) Boards - Girls Inc., Alameda family services, Alameda Point Collaborative, Alameda Multi Cultural Center, Organization of Alameda Asians, and more.
- 4) Coro Fellow, Koshland - SF Foundation grantee,

Information provided by Chris Tam, son of Niel Tam

These resources support information gathered by Chris both in the interview and in his email.

Passages: Nielsen Tam, 1945-2015-[LINK](#)

AUSD Board of Education Trustee Nielsen Tam Dies at Age 69-[LINK](#)

District Set to Name Headquarters for Tam - [LINK](#)

Poll Results from Community Forum on Renaming Jackson Park

11/23/2020

Poll #1 of 27 respondents*Which name stood out to you?*

Ohlone	56%	15
Alameda	41%	11
Chochenyo	41%	11
Mabel Tatum	22%	6
Nielsen Tam	7%	2
Justice	7%	2
Peace	7%	2
Fred Korematsu	0%	0
Yoshiko Uchida	0%	0
Mary Rudge	0%	0

Poll #2 of 25 respondents*What name represents the kind of place you want Alameda to be?*

Ohlone	44%	11
Alameda	41%	10
Chochenyo	36%	9
Justice	20%	5
Fred Korematsu	16%	4
Peace	12%	3
Mabel Tatum	8%	2
Yoshiko Uchida	8%	2
Mary Rudge	4%	1
Nielsen Tam	4%	1

Demographics of 23 respondents

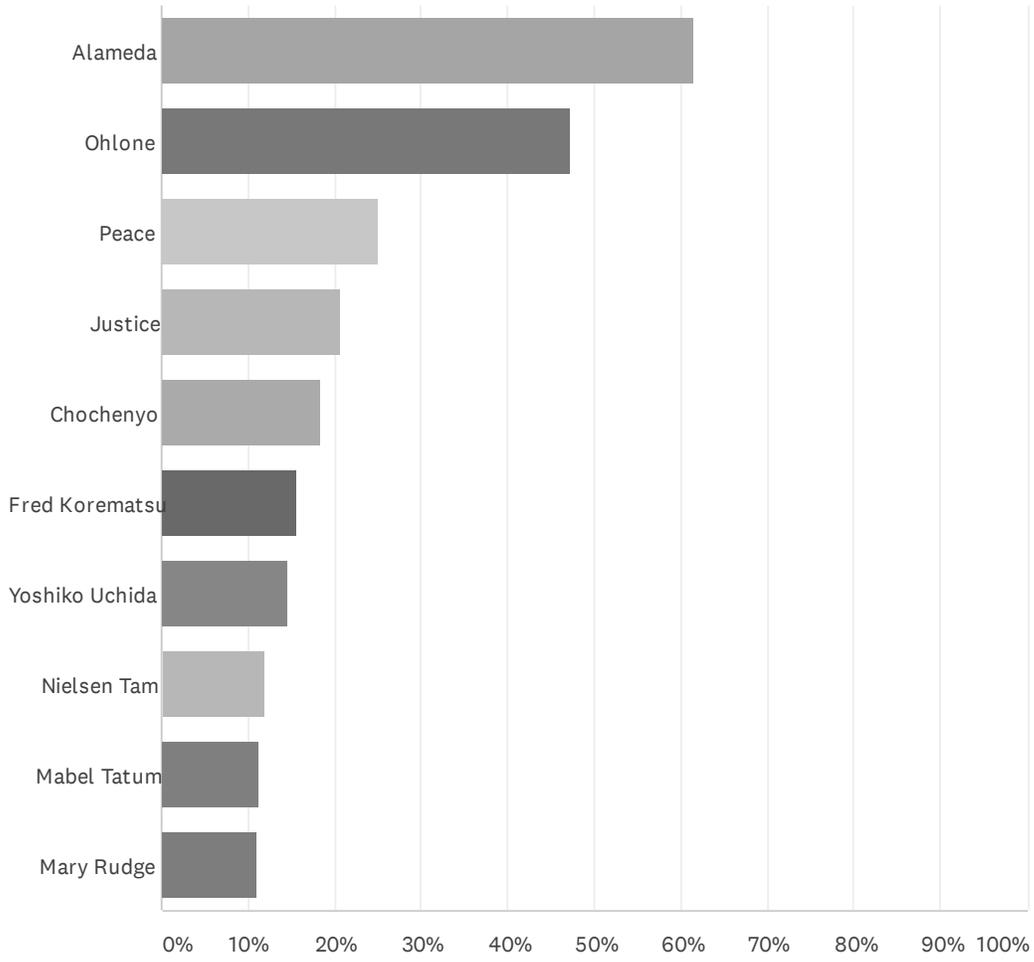
Black or African American	13%	3
Native America	13%	3
Asian or Pacific Islander	17%	4
Hispanic or Latino	9%	2
White	48%	11
Under 18	0%	0
19-49	35%	8
Over 50	65%	15
West Alameda	38%	9
East Alameda	35%	8
Bay Farm Island/Haror Bay	17%	4
Not an Alameda resident	9%	2

rename Jackson Park Poll

Community Survey conducted 11/23 to 11/27/2020

Q1 Please choose your top 5 choices of park names (Names are listed in no particular order)

Answered: 625 Skipped: 0



Kenilworth Jackson Park Poll

ANSWER CHOICES	RESPONSES	
Alameda	61.44%	384
Ohlone	47.20%	295
Peace	25.12%	157
Justice	20.80%	130
Chochenyo	18.40%	115
Fred Korematsu	15.68%	98
Yoshiko Uchida	14.56%	91
Nielsen Tam	12.00%	75
Mabel Tatum	11.36%	71
Mary Rudge	11.04%	69
Total Respondents: 625		

Q2 Any Additional Feedback

Answered: 185 Skipped: 440

Rename Jackson Park Poll

#	RESPONSES	DATE
1	5 choices? Why 5 and not in any order of priority.	11/27/2020 9:47 PM
2	I think that naming it after a person can lead to trouble later on. My first choice is Ohlone and it's a fine tribute to the natives whose land we live on.	11/27/2020 9:40 PM
3	Why vote for 5? Ask to vote for ONE name And Alameda Park is the true original name of the Park. Parks and Rec shouldn't fall into the politics of renaming a park, especially this one that already has a name and it's Alameda Park	11/27/2020 9:14 PM
4	Why 5 picks..trying to elevate the less popular?	11/27/2020 9:11 PM
5	All great individuals. I am not sure this park needs to be identified with a single individual.	11/27/2020 9:07 PM
6	Naming this park Ohlone would be one of the only public recognitions in Alameda of the people to whom this land belonged/should belong.	11/27/2020 9:03 PM
7	I think there should be something in the park that references that it used to be Jackson Park and why it was changed. I believe it's important to remember these things, instead of just erasing history.	11/27/2020 8:23 PM
8	PEACE is my first choice	11/27/2020 7:14 PM
9	This is a waste of taxpayer dollars	11/27/2020 7:11 PM
10	I like Ohlone best	11/27/2020 6:10 PM
11	"Alameda Park" is just too generic and confusing. And naming it for specific people has backfired so many times, let's not repeat that. So "Ohlone" it is for me.	11/27/2020 5:17 PM
12	Should have remained Jackson Park. Since the Parks department succumbed to political pressure, name it Alameda Park. And why would you need to know our race? I am multi-racial and offended that the city is asking the race of individuals. We are all one, ALAMEDANS	11/27/2020 5:03 PM
13	Let's not name it after one individual. Either original name Alameda or to honor original Ohlone.	11/27/2020 4:36 PM
14	No individual names, knowledge of these individuals only apply to a small percentage of residents. Keep the name as general as you can, ie: Alameda Park.	11/27/2020 3:10 PM
15	Go back to the original name.	11/27/2020 1:51 PM
16	Boaty McBoatface Park	11/27/2020 1:42 PM
17	thanks for the opportunity to select	11/27/2020 11:49 AM
18	I personally don't know any of the people associated with the newname suggestions.	11/27/2020 10:17 AM
19	Alameda Park in Alameda would be confusing, I think.	11/27/2020 10:12 AM
20	The kids call it Crackson because of all the druggies who hang out there.	11/27/2020 9:54 AM
21	I did not know names were being solicited, I like the name of Alameda native and ex-Senator, Don Perata	11/27/2020 9:53 AM
22	Na	11/27/2020 9:50 AM
23	Don't care for any of the choices.	11/27/2020 9:39 AM
24	I like keeping it generic. Public opinions change over time. There was a time people thought Jackson was a good guy. Keeping it generic will avoid ever having to rename it again. No one can complain about Peace, Justice, or Alameda :)	11/27/2020 9:32 AM
25	N/A	11/27/2020 9:30 AM
26	Please name the park after the native peoples who inhabited Alameda.	11/27/2020 9:19 AM
27	Change it back to its original name Alameda Park!	11/27/2020 8:59 AM
28	Thanks for all of your work on this important project. Great mtg, too. I've lived here all of my life (65yrs).	11/27/2020 8:43 AM
29	I would have chosen Ohlone or Chochenyo however it is unclear to me from this form whether	11/27/2020 8:32 AM

Rename Jackson Park Poll

or not members of these indigenous communities have been consulted on whether or not they would want this park to bear those names. More context would help this survey greatly.

30	What a waste of time, money and energy. Wasn't the park named after Jackson Brown? I like him. Just take down the sign and refer to it as the park on Park Avenue. And do the same with other "offensively-named" parks.	11/27/2020 8:26 AM
31	Niel Tam Park would be so great. I know the school district offices are named for him but he was and actually still is through his sons an inspiration for taking care of community	11/27/2020 8:21 AM
32	I chose my top three instead.	11/27/2020 7:44 AM
33	Why five name choices? Rigged?	11/27/2020 7:39 AM
34	Please honor the native people. They are written out of history, let's retain the story of the stewards of this land who cared for our beloved Alameda for thousands of years before we all called this place home.	11/27/2020 7:16 AM
35	Ohlone were the original inhabitants of Alameda. It would show them some respect that they didn't get previously.	11/27/2020 5:00 AM
36	Keep the park as Jackson Park	11/27/2020 12:23 AM
37	Return it to the original name.	11/26/2020 11:08 PM
38	Renaming the park is stupid.	11/26/2020 10:52 PM
39	Excellent nominations, all. Will there be a re-dedication ceremony and will that be announced?	11/26/2020 10:31 PM
40	Park should be named after a woman or a person of color not an abstract concept	11/26/2020 4:43 PM
41	We could save a lot of reprinting costs if we simply named it in honor of Curtis '50 cent' Jackson.	11/26/2020 3:12 PM
42	I don't think you should have five choices. I think they should be numbered first choice second choice for choice. It makes for a clear choice of people wishes.	11/26/2020 3:04 PM
43	I don't think parks should be named after people and ideals. Parks are about enjoying trees, flowers, grass, nature. Streets and buildings are good ways to honor people and ideals.	11/26/2020 2:33 PM
44	Alameda Park was the original name , let's just make it easy	11/26/2020 1:58 PM
45	Than you for making the change.	11/26/2020 1:43 PM
46	There are very few (if any?) public places, streets, or schools in Alameda named after the Native peoples of California. I hope that ARPD can help change that by honoring the first people of Alameda by choosing a native name.	11/26/2020 1:34 PM
47	Can you also get rid of the drug dealing that has been going on there for years?	11/26/2020 12:19 PM
48	Jackson Park	11/26/2020 12:00 PM
49	Chadwick Boseman	11/26/2020 9:52 AM
50	the directions said to name it after a person who has died and there are choices that don't fit that description	11/26/2020 9:50 AM
51	N/a	11/26/2020 9:46 AM
52	or "Peace" if there's weighted voting...!	11/26/2020 9:33 AM
53	Niel Tam or Fred Korematsu top choices. Honoring contributions of prominent Asian American recognizing history, embracing change, and tackling challenges to equity	11/26/2020 9:28 AM
54	Thanks for doing this!	11/26/2020 9:28 AM
55	Don't get too woke about it. Something that stands the test of time please	11/26/2020 9:03 AM
56	Consider the friction aspect of pronouncing a name. This isn't about an intellectual exercise. It's a park. Keep it simple and obvious.	11/26/2020 8:44 AM
57	I prioritize these three.	11/26/2020 8:03 AM

Rename Jackson Park Poll

58	We need more Asian representation in this city. Especially with all the Anti Asian sentiments.	11/26/2020 7:24 AM
59	I prefer to rename it Alameda Park. Naming parks after real people has been shown to be problematic. It would be good if the City would make this park more welcoming with flower gardens and better walking paths. It's nice to have a "green" park with no ball fields, tennis courts, play structures, etc so one can stroll or picnic without the additional noise and visual distractions. Flower beds and plantings that change seasonally would be a great addition.	11/26/2020 7:10 AM
60	It would have been nice to see a small bio on the people listed, it would make it easier to see why they would be worthy to have a park named after them. I thought of a name not listed but it was one of my favorite parks as a child growing up in San Pedro, Ca. I nominate the name Friendship Park.	11/26/2020 7:05 AM
61	RIP Ryan McDaniels, name it after him, he died at Emma Hood pool at AHS.	11/26/2020 2:15 AM
62	Alameda Park was the original name and I strongly think we should return to that name.	11/26/2020 1:43 AM
63	5 feels too many to choose. I feel good about the choices above.	11/25/2020 11:29 PM
64	I've been here 17 years and don't know who any of those people for park names are. perhaps it will help keep their names in reverence. My first pick; I like Heritage Park! Park Park is cute but no one else will think so... If it was originally Alameda Park that makes sense.	11/25/2020 10:45 PM
65	Who are those other people?	11/25/2020 10:21 PM
66	Good names	11/25/2020 10:02 PM
67	It should stay "Jackson Park"	11/25/2020 9:56 PM
68	Learn from the mistake of naming a park after a person! The original name was Alameda Park, and so it should be it's current name. It's in Alameda's history, stop changing our history!	11/25/2020 9:38 PM
69	a paragraph about the individuals/ names would have helped. Most people have some hidden past that can come out & become objectionable in the future to others, so naming it after individuals defeats the purpose. Naming it after a native tribe originally from the area or simple acts like peace, justice, Freedom is better.	11/25/2020 9:00 PM
70	There are no parks in Alameda other than Littlejohn celebrating black people. No MLK no Malcolm x no Rosa Parks in fact Rosa Park Park would be awesome.	11/25/2020 8:58 PM
71	Someone of significance in ALAMEDA's history should be recognized by naming this park after them!	11/25/2020 8:54 PM
72	More Local Names	11/25/2020 8:50 PM
73	Ohlone honors that this land belonged to them. Nielsen Tam was an asset to AUSD and the children he helped	11/25/2020 8:27 PM
74	It should be Ohlone,	11/25/2020 8:19 PM
75	Originally named Alameda Park would be historically correct	11/25/2020 7:57 PM
76	Chochenyo or Ohlone are my top choices. We don't have public land in Alameda that pay respect to the first peoples who lived here.	11/25/2020 7:32 PM
77	you should give a sentence about each person like on a ballot. Example: Ohlone are the indigenous people of Alameda and the coastal bay area.	11/25/2020 7:00 PM
78	It is their park	11/25/2020 6:57 PM
79	I think it's a mistake to name parks after individuals. Stick to community values and we can honor local individuals that lived that value. Or local artists can share pieces which are expressions of that value.	11/25/2020 6:24 PM
80	I am wondering if anyone has reached out to the local Indigenous community for input. I believe the Muwekma Ohlone Tribe is the contemporary tribe associated with the San Francisco Bay Area	11/25/2020 5:58 PM
81	Native American tribute please!	11/25/2020 5:57 PM
82	I don't see Jackson Park!	11/25/2020 5:38 PM

Rename Jackson Park Poll

83	Keep it simple (and original)	11/25/2020 5:23 PM
84	no	11/25/2020 5:18 PM
85	Non of the above. Name it Jackson Park	11/25/2020 5:03 PM
86	I like "First Park".	11/25/2020 4:56 PM
87	Please name the park a generic name so in 50 years it will not have to be named again. Or leave it at Jackson and have no history attached to it	11/25/2020 4:52 PM
88	Something easy to pronounce would be good.	11/25/2020 4:35 PM
89	Top choice is Ohlone. They were here first, right?	11/25/2020 4:09 PM
90	Martin Luther King Park is cool also.	11/25/2020 4:05 PM
91	I am afraid the most by votes will go to peace, Alameda, or justice. I hope that we just won't go with the highest vote gettter. In my opinion, the reason to rename parks and streets is to honor individuals of color I've been ignored over the years. I was offended by the choice of love for the new name of the previous haight school. It should've been there for a person of color. Not a silly play on words.	11/25/2020 3:52 PM
92	Make sure the Ohlone didn't do some genocide of some other culture to get the island though!	11/25/2020 3:51 PM
93	Thank you for your work; this effort is keenly appreciated.	11/25/2020 3:45 PM
94	stop naming them after people if we are just going to change them. pick the street and name it that or something and leave Godfrey alone!	11/25/2020 3:27 PM
95	We need a Parky McParkface option!	11/25/2020 3:23 PM
96	Ohlone is a good option to recognize and bring attention to the land we live on	11/25/2020 3:13 PM
97	It's the original name of the park, it should be named what it was always known as Alameda Park. Since the 1890s! Don't use a person's name, we know how that ends up...	11/25/2020 2:52 PM
98	Change the attribution to a different Jackson to save money, or choose a non person name so we can be done with this	11/25/2020 2:15 PM
99	I think it would be preferable to use a hyphenated name that recognizes Alameda and one of the Native American identifications such as Alameda-Chochonyo or Alameda-Ohlone Park.	11/25/2020 2:14 PM
100	Bring back its original name. It is history which Alameda is full of!	11/25/2020 2:07 PM
101	Cabral Greens! I wish my man made it to the ballot. Great citizen	11/25/2020 2:00 PM
102	I'd prefer the name of the park being kept Jackson Park. Until recently I never even knew it was named after Andrew Jackson. I still think of it as Jackson park and don't like the concept of renaming long time place names. Who it was named after means nothing to me today. Jackson is a common name used on streets, etc. If they want to name it after a black person, the first name reference could instead be Jesse or Michael, so it could still be called Jackson Park.	11/25/2020 1:29 PM
103	With all the recent racial issues NOTHING should be named after a person. I don't care for any of the other listed.	11/25/2020 12:45 PM
104	Let's give it a name that everyone can relate to!	11/25/2020 12:01 PM
105	I think naming it Alameda park continues the racist under tones the name already represents. In my opinion, Ohlone is the best option as it changes the name entirely to Indigenous people. There are no parks in Alameda with Indigenous names. We are on Indigenous land.	11/25/2020 11:56 AM
106	Bill Del Porto. Huge supporter of boys and girls club. Hard working Alameda Soccer and youth baseball.	11/25/2020 11:50 AM
107	I am surprised there are names of people, given how that can be problematic, and not sure how these people relate to the context of the park. Thanks for this effort!	11/25/2020 11:50 AM
108	Don't name for people, name for place, much less political	11/25/2020 11:42 AM
109	Janet Jackson Park, Ms. Jackson if you're nasty.	11/25/2020 11:39 AM

Rename Jackson Park Poll

110	jim morrison park	11/25/2020 11:33 AM
111	Alameda Park was the original name of the park and is represented as such at least as far back as 1908	11/25/2020 11:32 AM
112	Parks shouldn't be named after people because there are always reasons to be offended stock to place names	11/25/2020 11:31 AM
113	If it is named for a person that person is fallible. Two generations from now someone will want to change it again.	11/25/2020 11:28 AM
114	The first park in Alameda should be renamed to it's original name. Alameda Park is the best option.	11/25/2020 10:29 AM
115	Sounds like we have enough great names to rename anything problematic!	11/25/2020 10:24 AM
116	I like the names of notable people with ties to Alameda. Of the list I only knew of Korematsu, but I've now looked up the others to learn more. It's interesting to read their stories. While I think it's also worthwhile to commemorate the area's Ohlone history, I wish it were possible to use people's names or at least more specific references to do so. It looks like Chochenyo may be able to accomplish this, by at least referring to a more specific group of Ohlone. Thanks to the city staff and community members involved in running this process. I have appreciated being able to sign petitions, follow along online, look at the signage in person as my limited time has allowed.	11/25/2020 10:20 AM
117	Alameda is Ohlone land. It would be great to rename the park Ohlone Park (or Chochenyo) as a land acknowledgement to the area's original inhabitants.	11/25/2020 10:20 AM
118	Does anyone have background information on these choices? The connection to Alameda, if any. Is it here somewhere and I'm missing it? If it's not here, please add. I don't know all these names. It's my understanding original name of park was Alameda Park. That should be added. It's also my understanding that you need permission from the Ohlone tribe. Has that been granted? Is someone looking into that? Please alphabetized names otherwise appears they are in your favorite order. Thank you!	11/25/2020 10:01 AM
119	Naming a park after a value requires us have shares meaning of those values. Otherwise, they often ring hollow in name and people can get moralistic when a behavior seems doesn't match into their personal belief of concepts like "justice" and "peace". However, we can model "justice" by giving the name from the language of the common land ancestors.	11/25/2020 9:54 AM
120	No need to be reactionary and change names to placate a vocal minority	11/25/2020 9:52 AM
121	Go back to the original name. People are highly flawed even the best of people and could be controversial in the future. Unless someone has had direct impact on a park (as in the case of Jean Seeney) stop naming things after people.	11/25/2020 9:45 AM
122	Ohlone Park would be too confusing as there is already an Ohlone St with an unnamed grassy park at the end of the street!	11/25/2020 9:42 AM
123	Alameda Park is the only name I vote for because it's the original name of the park when it first opened in the 1890s. It's part of Alameda's history!	11/25/2020 9:16 AM
124	Stop naming parks after people.	11/25/2020 8:14 AM
125	We need to do more to honor the Chochenyo people that we're forced off this beautiful land.	11/25/2020 8:07 AM
126	Thanks	11/25/2020 8:05 AM
127	I would rather have a park that wasn't named after a specific person. And would like to honor the history of native people.	11/25/2020 7:53 AM
128	Alameda park was the original name	11/25/2020 7:12 AM
129	Would be nice to have information on each name on the list.	11/25/2020 6:38 AM
130	I'm glad that it won't be named after Jackson anymore. I'd really prefer that the park NOT be named after a specific person.	11/24/2020 11:34 PM
131	Original name should be used. Alameda Park. Back to its roots.	11/24/2020 11:18 PM
132	Please don't name it after a person...in the future something may be found out about their	11/24/2020 11:18 PM

Renaming Jackson Park Poll

	history. Alameda was the original name of the park - to us a logical choice	
133	Inclusive (it's everybodys park) while also maintaining historical accuracy.	11/24/2020 11:06 PM
134	Alameda means treelined so that is our favorite name Alameda Park	11/24/2020 10:14 PM
135	N/a	11/24/2020 10:10 PM
136	Why not give information on the Origin and background of the names so people can make informed choices.	11/24/2020 10:10 PM
137	Thank you!	11/24/2020 10:09 PM
138	Democracy Park? I'm in favor of not naming parks after specific people any longer.	11/24/2020 10:06 PM
139	I would love for the original name, Alameda Park, be restored to this historic park.	11/24/2020 10:04 PM
140	This is an historic park. I would like to honor its history by restoring its original name. Naming the park for the city makes it very clear that everyone belongs in the park.	11/24/2020 9:50 PM
141	We should revert to the original name.	11/24/2020 9:24 PM
142	Sorry, I'm sure the people are very worthy, but if I wait to fill this out until i go look them all up, I'll never get back to it. #lifeWithToddlers	11/24/2020 9:17 PM
143	This original name of the park is the best choice.	11/24/2020 9:16 PM
144	My top choice would be to name it one of the Native American names.	11/24/2020 9:12 PM
145	Thank you	11/24/2020 9:12 PM
146	If we use native American name will we seek permission from them?	11/24/2020 8:58 PM
147	If Ohlone or Chochenyo win, please consult the name with the Sogorea Te' Land Trust. They're an Indigenous-woman led organization of Ohlone people; if you're going to use the name of their tribe then you need to consult them.	11/24/2020 8:31 PM
148	Justice is the most important word in our history, and our language.	11/24/2020 8:22 PM
149	Please don't name it Alameda Park, I swear to god I will call it anything else	11/24/2020 7:56 PM
150	There is no one who loved Alameda more than Mary Rudge, who worked for peace in our world and offered creative endeavor to all our children, youth and adults. When you look at the list of 76 names in the Alameda Island Theme Poems: 2004,2005,and 2006 (one of the poetry books she edited as Poet Laureate of Alameda for 12 years), you appreciate the cultural multiplicity of our island home and the peace it speaks out of that blending, even in times of stress, as of now.	11/24/2020 6:43 PM
151	Park of Alameda	11/24/2020 6:40 PM
152	Stay away from naming it after a person. Someone somewhere will eventually find something wrong with that person.	11/24/2020 6:38 PM
153	This is dumb. Just name it a generic Jackson. Spend the money to combat crime	11/24/2020 5:35 PM
154	Dear God. What awful choices, so go back to the original	11/24/2020 5:20 PM
155	Leave it Jackson. He is a war hero, driving the British from New Orleans in the War of 1812. He was a Southerner, he held slaves. To judge him by modern standards will make just about everyone born before 1900 suspect in some way...	11/24/2020 5:17 PM
156	forget about people...stick with neutral history..	11/24/2020 5:09 PM
157	The two-named options feel a little heavy in the mouth, and I think most people would shorten to the last name only. I voted on merit and tiebreaker went to ease on the tongue. Weird way to put it I know. But I think if we want folks to use the new name it has to have a semi natural mouthfeel and "sound like a park" or we will get an Alameda Towne Centre level of adoption.	11/24/2020 5:00 PM
158	Why not go back to the name the park had (Alameda Park) before it was renamed Jackson Park? People/group names are problematic - if not now, probably a few years later.	11/24/2020 4:56 PM
159	Excited.	11/24/2020 4:31 PM

Alameda Jackson Park Poll

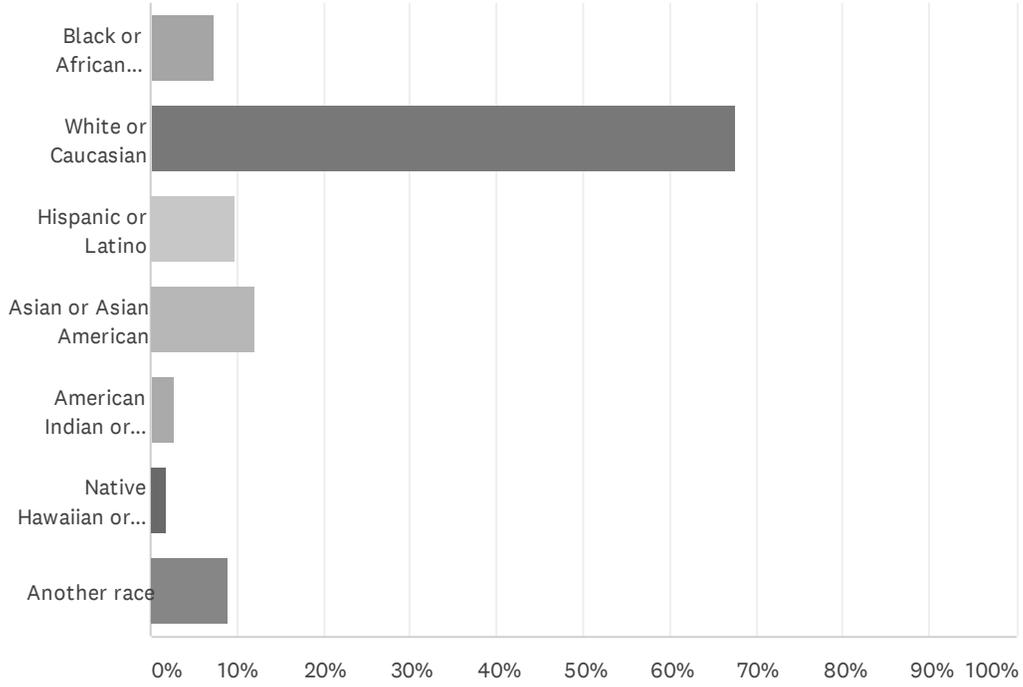
160	The Muwekma Ohlone Tribe has a website at www.muwekma.org and a facebook presence, I would love to know their thoughts on naming the park after their tribe. They have been mistakenly referred to as not living anymore, but they are still here and living in the Bay Area. Please contact them and ask them to be involved.	11/24/2020 4:28 PM
161	Alameda Park is dumb and a copout - don't do it	11/24/2020 4:14 PM
162	Prefer Ohlone or Chochenyo	11/24/2020 4:03 PM
163	This was the original name of this park as shown on maps as far back as 1867.	11/24/2020 4:02 PM
164	Bring the marble statue with the names of alameda military's deceased from entrance to bay farm with flag. Place it after updating and name park alameda veterans memorial park	11/24/2020 3:58 PM
165	Still need criteria first before renaming parks. How do we know any of these human candidates or not flood in someday they would be judged harshly in the future.	11/24/2020 3:46 PM
166	None	11/24/2020 3:40 PM
167	it should be Barbara Lee or Kamala harris park	11/24/2020 2:49 PM
168	Alameda is the original name of the Park from the late 1880s - it should be named Alameda Park as it always was.	11/24/2020 2:48 PM
169	This park was developed for the Alameda Park Homestead development from the 1870's and named Alameda Park originally, that original name was taken/renamed due to short-sightedness due to political motives and the park should be returned to it's former name or a Native American name that has a connection to the lands of Alameda. Other names that have no connection to this site should be considered for other sites & monuments.	11/24/2020 2:36 PM
170	No	11/24/2020 2:34 PM
171	I am not thrilled with any of these choices. I would prefer a larger list suggested by Alameda residents with some explanation of why we would name an Alameda park after this person.	11/24/2020 2:34 PM
172	hard call. Chochenyo is good but I may prefer Yoshiko Uchida.	11/24/2020 2:31 PM
173	I generally like the principles, but I also think naming after the native inhabitants would be great!	11/24/2020 2:27 PM
174	Thank you!	11/24/2020 2:19 PM
175	I am inspired by the stories of Yoshiko Uchida and Mabel Tatum - both women of color who led, in different ways, in the fight against discrimination.	11/24/2020 2:16 PM
176	Nick Cabral	11/24/2020 2:05 PM
177	Mary Rudge did Poetry Slam Readings open Mic @ that location & was a big advocate for Peace & the homeless & mentally ill that would frequent that park & invited them to pull up a chair & listen to the music & partake in the festivities. My Vote is Rudge Park in her honor	11/24/2020 2:05 PM
178	Add "General Robert E. Lee" as an option	11/24/2020 2:01 PM
179	Could only select one!	11/24/2020 1:48 PM
180	It will always be Jackson Park to me.	11/24/2020 1:34 PM
181	Leave it Jackson park as we've always know it! Don't let THESE people take away everything! Please!!	11/24/2020 1:31 PM
182	I think many of the the names are worthy of recognition around alameda. I think it's fitting that Neal Tam has an education building named after him, I would like to see sustainable housing named after Mabel Tatum, a library or school would be excellent choices for Yoshiko Uchida and Mary Rudge. Peace Park and Justice Park seem to generic to me and so they lack the restorative justice quality that I am looking for. Returning the name to Alameda- while I understand the argument and the meaning or the name, papers over alameda prior decision to name the park after Jackson, I think we can do more than restore I think we can build back better. I think naming the Alameda first Park after its first people and giving them recognition of their continue value and presence is very meaningful for all of Alameda. I especially like chochenyo because it both references the specific people but also the language. Giving voice to are past, present, and future.	11/24/2020 1:25 PM

Renaming Jackson Park Poll

183	During the renaming of Love School the Ohlone pretty clearly asked not to use their name as they were not getting the land back. This logic applies here and should be removed from the survey.	11/24/2020 1:03 PM
184	MARY RUDGE PEACE PARK	11/24/2020 11:54 AM
185	Mary Rudge Peace Park would commemorate Alameda's First Poet Laureate, artist, teacher, and lifetime peace and justice advocate.	11/24/2020 11:32 AM

Q3 Please indicate your race/ethnicity

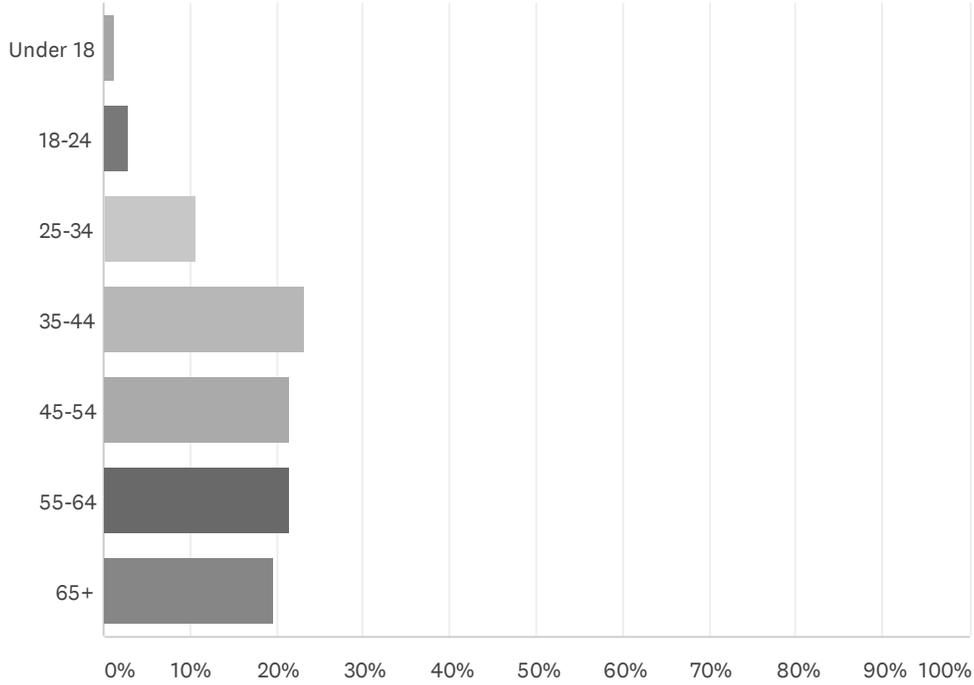
Answered: 547 Skipped: 78



ANSWER CHOICES	RESPONSES	
Black or African American	7.31%	40
White or Caucasian	67.64%	370
Hispanic or Latino	9.87%	54
Asian or Asian American	12.07%	66
American Indian or Alaska Native	2.74%	15
Native Hawaiian or other Pacific Islander	1.83%	10
Another race	8.96%	49
Total Respondents: 547		

Q4 Please indicate your age

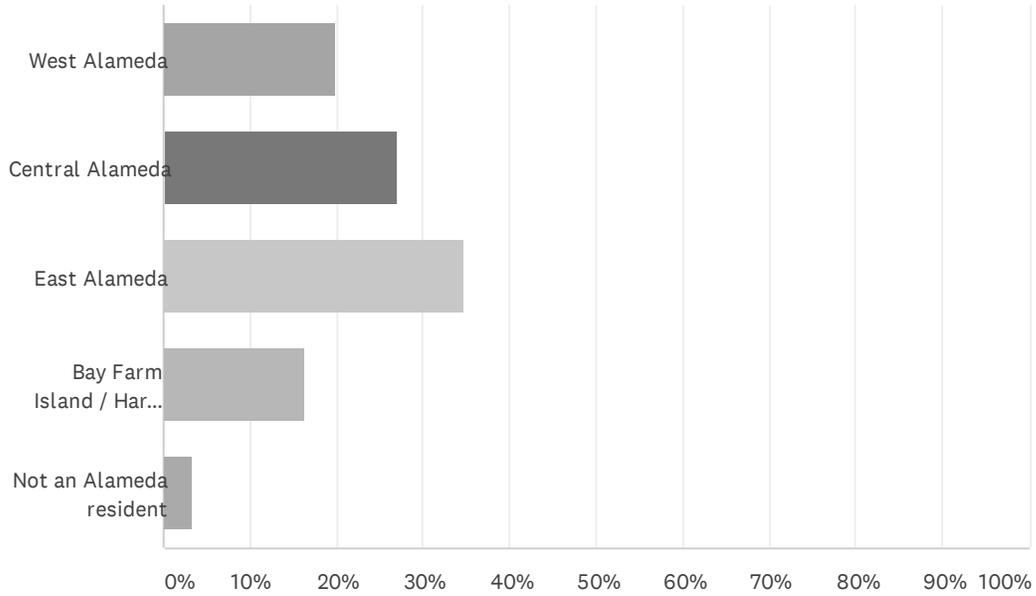
Answered: 564 Skipped: 61



ANSWER CHOICES	RESPONSES	
Under 18	1.24%	7
18-24	2.84%	16
25-34	10.64%	60
35-44	23.23%	131
45-54	21.63%	122
55-64	21.63%	122
65+	19.68%	111
Total Respondents: 564		

Q5 Where do you live?

Answered: 583 Skipped: 42



ANSWER CHOICES	RESPONSES	
West Alameda	19.90%	116
Central Alameda	26.93%	157
East Alameda	34.82%	203
Bay Farm Island / Harbor Bay	16.30%	95
Not an Alameda resident	3.26%	19
Total Respondents: 583		

City of Alameda
California

**POLICY FOR NAMING CITY PROPERTY, FACILITIES
AND STREETS**

INTRODUCTION:

It is the City of Alameda's goal to establish a uniform policy to name City facilities and portions thereof, including but not limited to: Parks and Park facilities, Golf Complex, Alameda Municipal Power & ~~Telecom~~ facilities, Libraries, Housing Authority facilities, fire stations, City Hall, Police Department facilities, parking lots, ferry terminals, City streets and entryways to the City.

PURPOSE:

The purpose of this policy is to honor persons, organizations, places and/or events in the history of the City by naming City facilities after them. This process acknowledges and memorializes ~~a specific person or event~~ those honored and enhances the value and heritage of the City.

PROCEDURES:

A) Responsibility of Boards and Commissions

Boards and Commissions represent the community, and they have direct responsibility for various City facilities as prescribed in the City Charter and Alameda Municipal Code. It shall be the responsibility of the following Boards and Commissions to review the list of street and facility names annually and provide additions or deletions to the Historical Advisory Board. The Boards and Commissions most closely related to these facilities will, upon request from the City Council, make recommendations for potential names and the City Council will grant final approval.

Recreation Commission - City Parks, Swim Centers, Boat Ramps, and Associated Facilities

Golf Commission - Golf Complex and Associated Facilities

Public Utilities Board - Alameda Municipal Power & ~~Telecom~~ Facilities

Library Board - Libraries

Housing Commission - Housing Authority Facilities*

Planning Board - Streets and all other City facilities not listed above

*The Housing Authority of the City of Alameda is a separate legal entity from the City of Alameda. As such, the Authority Board will take action in lieu of the City Council in naming Housing Authority facilities.

B) Process for Naming City Property or Facility

Groups from within the community and individuals may make a recommendation to the Board or Commission at the time consideration is given to naming a facility and may initiate such action. The Board or Commission will then forward their recommendation to the City Council. If a facility does not have a connection to a Board or Commission, the Planning Board will be the body that recommends a name to the City Council.

The City Council will consider a recommendation from a Board or Commission and make the final decision to name a City property or facility at a public meeting in order to receive comments in an open forum.

C) Process for Naming City Streets

The Historical Advisory Board ~~will continue to~~ shall maintain the List of Street and Facility Names, including available names and those that have been used. Additions or deletions to the list shall be recommended by the appropriate board or commission based on written documentation of the historic importance of the name in Alameda history and as outlined in this policy. Only names that appear on the List of Street and Facility Names shall be utilized for the naming of new streets or renaming of existing streets. The Planning Board shall approve names for new streets.

CRITERIA: In selecting the name for a City property, facility or street, the following criteria shall be used:

1. A name that reflects the location of the facility by geographic area;
2. A name that reflects the history of a facility such as the family name of the builder, developer or person who may have donated the land when the individual has been deceased a minimum of three years;
3. A name that recognizes a significant contributor to the advancement of the City, such as a former Mayor, Councilmember, Board or Commission Member, officers or employees of the City, or member of the community when the individual has been deceased a minimum of three years;
4. A name that recognizes the donor of a significant gift of land or funds for a City facility.
5. A name that is listed on the List of Street and Facility Names of the City of Alameda.

6. Only one name shall be used for each property or facility and all its various components.
7. Corporate Address Designations, as follows:

A corporate address designation may be approved for a street in those instances where the corporate campus which the street serves is larger than one acre encompassing at least two buildings in a commercial area. Criteria for the use of a corporate street name are:

- a. The Planning Board shall review specific street names making street name recommendations to the City Council. The City Council will make the final decision to approve the use of a particular street name ensuring that it is appropriate and that it would not compromise the City's ability to provide swift emergency response.
- b. The roadway to be named must be developed as a street. The street to be named must be full radius return and be acceptable as a street under City design standards for sidewalks curbs and intersection configuration.
- c. The street to be named must be located in an area of the City designated in the General Plan as Community Commercial Office Business Park Mixed Use or General Industry on corporate property greater than one acre in size with two or more corporate buildings on site.
- d. The name to be used must be distinct from all other street names used in the City of Alameda to eliminate possible confusion during an emergency response.
- e. The only buildings to be addressed from the named street which is under the full control of said corporation shall be those which are owned or leased long term and are used for the operation of the corporation for which the street is named. In general buildings shall be addressed from the street which they face main entrance. All addressing must be approved by the City's Building Official.
- f. To aid in emergency response the type and location of all street signs used on the street shall meet City standards and specifications. All street signs shall be installed and maintained by the property owner of record.
- g. In the event of the disappearance of the corporation for which the street is named the street name shall remain in force until such time as the new property owner of record takes all necessary actions to rename the street subject to the approval of the Planning Board and City Council. All costs associated with renaming such a street shall be borne by the

new property owner of record including the payment of all appropriate processing fees under the Master Fee Resolution.

- h. The street to be named shall otherwise comply with the City's street naming regulations as set out in AMC Section 13-25 and this Street Naming Policy.

NAMING STREETS:

General Considerations for Naming Streets:

1. Priority shall be given to utilizing street names that represent persons, places or events associated with the historical development of the City of Alameda.
2. Where feasible and appropriate, historic street names shall be chosen which directly relate to that portion of the City in which the street to be named is located.
3. Consistency in naming shall be maintained within a Subdivision Tract, Planned Development, or other development or geographic area where street names themes currently exist, are planned or are discernible.
4. Street names shall remain the same across intersecting streets and throughout the length of the street.
5. The use of the same name but different suffices for adjacent streets shall be avoided, with the exception of a small court or cul-de-sac adjacent to a main road. For example, Brighton Court off Brighton Road.
6. A street name shall not intersect another street name at more than one location. The use of circle or loop as a suffix is not encouraged except under limited, specific design situations.
7. Similarly spelled or pronounced street names shall be avoided within the City.
8. The number of letters in the street name, including suffix, shall not exceed twenty (20) characters and spaces in conformance with the 911 Emergency Communication Center system.

Designation:

1. In general, street names should include a suffix, such as those following, to clearly indicate that it is part of the vehicular circulation system and to minimize the possibility of confusion with development or project place names. Names lacking such suffices or ending in such words as Harbor, Isle, or Point are not encouraged, except to retain the continuity of established naming schemes. Names utilizing terms from other languages such as Embarcadero, Camino, Via and other non-typical names shall be considered individually for

appropriateness, merit, and general conformance to this policy.

2. Cul-de-sac or short dead-end streets
 - a. Court
 - b. Place
 - c. Terrace
 - d. Square
3. Short connecting streets generally less than 1,000 feet in length.
 - a. Lane
4. Curvilinear streets, generally through or connecting and of higher capacity.
 - a. Drive
 - b. Way
 - c. Parkway
 - d. Boulevard
5. Street running diagonally to an established grid system
 - a. Road
 - b. Way
6. Generally north-south grid streets.
 - a. Street
7. Generally east-west streets.
 - a. Avenue

D) Renaming City Property, Facilities and Streets

Should the City contemplate renaming a City property or facility, a comprehensive study shall be conducted to determine how the existing name was conceived, including an assessment of the impacts to the original honoree on renaming the facility, and the impact on the adjacent neighborhoods should the property be renamed. The appropriate Board or Commission shall review the study prior to making a recommendation to the City Council. At that time, it will be at the discretion of the City Council whether or not to rename a City property or facility.

Any change to an existing street name, which would affect the addressing of any existing business or residence, shall require City Council in addition to Planning Board approval.

Purpose of this Presentation

- 1) Provide Background on the Park History and Renaming
- 1) Process of the Community-Led Park Renaming Committee
- 1) Information on the Proposed name, Chochenyo Park

Who We Are: The Park Naming Committee

Community Members Serving on the

Committee:

- Amelia “Mia” Eichel
- AJ Bustos
- Jessica Santone (presenter)
- Jim Manning
- Katherine Castro
- Philly Jones
- Rachel Brockl (presenter)
- Raquel Williams (presenter)
- Rasheed Shabazz

Representatives from ARPD on the Committee:

- Amy Woolridge, Recreation and Parks Director
- Adrienne Alexander, Recreation and Parks Commission Chair
- Eric Robbins, Recreation and Parks Commission Vice Chair

Complete biographies on Committee members and additional information on the Committee’s process including meeting minutes, survey data, outreach, and more are available at

<https://www.alamedaca.gov/Shortcut-Content/Events-Activities/Rename-Jackson-Park>

Background: Park History



1041 - 841 A quiet spot in the park, Alameda, California.

"The desire of the Playground Commission in bestowing the names of presidents on the parks is to inspire the school children with the achievements and deeds of these illustrious men."

F.N. Delaney, president of the Parks and Playground Commission to the City Council, Oakland Tribune, 1909

Source: <https://renamejacksonpark.wordpress.com>

Learn more about the park's history from the presentation by Rasheed Shabazz during the Nov. 14, 2020 Creating Our Future Opening Reception: <https://youtu.be/hWvpVR0gTSE?t=132>.

Colonization of the unceded territory of the Ohlone people began in the late 1700s; Spain 'gifted' a vast track of the coastal East Bay to Luis Peralta, whose family ownership continued under Mexican rule. Part of his son's land, Encinal de San Antonio, was purchased in 1851 and named **Alameda in 1853**.

Colonization continued with the purchase of a land tract by Alfred A. Cohen, an English immigrant and financier, who developed this land into Alameda Park Hotel and later the Alameda Park housing subdivision. This included a u-shaped garden created in 1867, which was co-owned by the Alameda Park residents whose property adjoined it. Demand for maintenance of the garden led to transfer of the land to the city in the 1890s and **establishment of the city's first public park**, known popularly as Alameda Park (no documentation confirms the name was officially adopted). The park was landscaped in line with the City Beautiful movement, which used European design as moralism.

President Andrew Jackson was the 7th president (1829-1837); he was an advocate for slavery and enslaved about 300 people himself. He was a proponent for slavery's expansion into Western states which included banning the sharing of anti-slavery rhetoric. He also **signed into law and helped implement the 1830 Indian Removal Act**, which aimed to expand land available to enslavers, and resulted in the forced relocation and genocide of people from the Indigenous tribes and nations, commonly known as the **"Trail of Tears"**.

Background: De - Naming Jackson Park

In 1909, the park was officially named Jackson Park, in honor of Andrew Jackson. The name stood for 111 years, through periods when surrounding blocks were subject to redlining that excluded people of color from property ownership, and periods of public debate on park traffic, structures, and policing that were exclusionary and shaped who could enjoy the park and how.

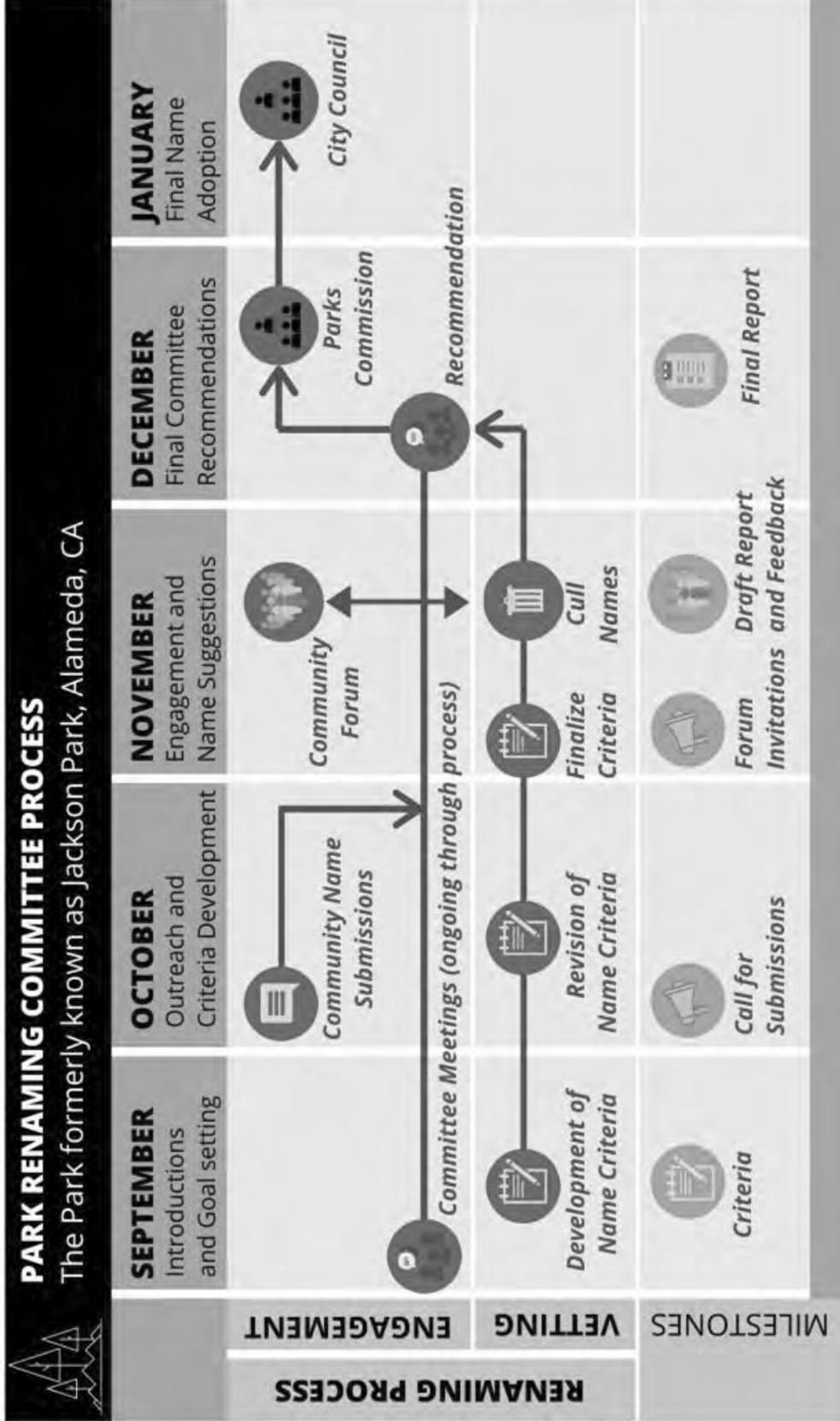
In 2018, efforts to de-name the park began with public comment by Rasheed Shabazz to the Recreation and Parks Commission. A community group formed, the Committee to Rename Jackson Park, and brought forward a petition to rename the park, signed by over 1,000 Alameda residents. This group led public education about the park history and Andrew Jackson's discriminatory legacy.

In 2020, the police murders of George Floyd, Breonna Taylor, and others sparked renewed national attention to still-standing monuments of America's racist past and prompted new calls for the removal of them. In July 2020 the Recreation and Parks Commission and City Council each voted to dename Jackson Park and directed staff to establish a diverse committee that represented all Alameda perspectives, including from the park neighborhood and youth to recommend a new name. **The sign was removed and the committee selection began.**

Park Renaming Committee Goals

- 1) Recommend names for the park formerly known as Jackson Park to the Commission.
- 2) Recommend ideas to revise the existing Naming Policy and ways we can make the naming process more inclusive.
- 3) To educate the community on why we are renaming the park





Planning chart designed by Rasheed Shabazz

Additional documents related to the committee process can be found here: <https://www.alamedaca.gov/Shortcut-Content/Events-Activities/Rename-Jackson-Park>

Naming Process: Goal Setting & Initial Outreach

- **The Park Naming Committee**, made up of a carefully selected group of Alameda residents met weekly from September to December 2020.
- Defined goals, including equity, inclusion, and transparency throughout the process.
- Established criteria for the new name:

We are seeking a park name that reflects inclusion, diversity, and equity of the entire community of Alameda, and which represents social justice, human rights, and/or anti-racism. If a person's name is submitted, they must be deceased. Submitted park names should be related to Alameda and/or the greater SF Bay

- **Outreach Subcommittee** conducted focused outreach to over 100 community groups, cultural groups, and local programs, with aim to reach across the entire city, particularly folks historically marginalized or excluded from civic processes.
- Created the *Give us a Sign* project and flyer; posted flyers in parks, business districts and high traffic areas.
- Gave educational presentations about the park name, including at Alameda & Encinal High Schools.
- Gathered over 150 name suggestions from the community.



Park Naming Committee meeting on Zoom



Naming Process: Vetting Names & Community Forum

- **Vetting Subcommittee** sorted collected names into categories:
 - People & Cultural Groups
 - Places/Historical Names
 - Principles
- Used established criteria to score and evaluate names by:
 - Contributions to Alameda / Bay Area
 - Diversity, Equity, & Inclusion
 - Social Justice, Human Rights, & Anti-Racism
- Researched and scrutinized each name against these criteria and compiled team members' scores.
- Presented the highest scoring names in each category to the full committee for final selection of top 10 names.

Places/Historical

Alameda

Principles

Justice
Peace

People & Cultural Groups

Chochenyo
Fred Korematsu
Mabel Tatum
Mary Rudge
Nielsen Tam
Ohlone
Yoshiko Uchida

Naming Process: Evaluation & Final Recommendation

- Scrutinized community feedback alongside our research findings.
- Evaluated diversity, equity, and inclusion in the process, including lack of equitable representation during the Forum and in the public survey in November.
- Weighed the impact of each potential name on our community as a whole.

- Selected final name recommendation through a consensus decision making process based on:
 - best fit with all of our criteria,
 - specific park location,
 - critical analysis of all community feedback, and
 - best opportunity for education to the community.
- Continued consultation with the Language Carrier for the Confederated Villages of Lisjan.

	Community Forum 11.23.20	SurveyMonkey 11.24-29.20
	Which name stood out to you? (n=27)	Please choose your top 5 choices of park names (n=625)
Ohlone	15	295
Alameda	11	384
Chochenyo	11	115
Mabel Tatum	6	71
Peace	2	157
Justice	2	130
Nielsen Tam	2	75
Fred Korematsu	0	98
Yoshiko Uchida	0	91
Mary Rudge	0	69

Final Names proposed to Recreation and Parks Commission

Ohlone*
Chochenyo
Mabel Tatum
Justice

* Chochenyo is the name preferred by representatives of the Confederated Villages of Lisjan

Background: History of the Land and the Ohlone People

The Ohlone people are a group of approximately 50 villages and family groups who lived on the land that is now known as the San Francisco Bay Area before the Spanish invasion. The unceded territory of the Lisjan Ohlone people includes the City of Alameda. The name Ohlone became popular in the 1960s and 1970s when people organized for Indigenous rights, inspired by the Black Power and American Indian Movements.

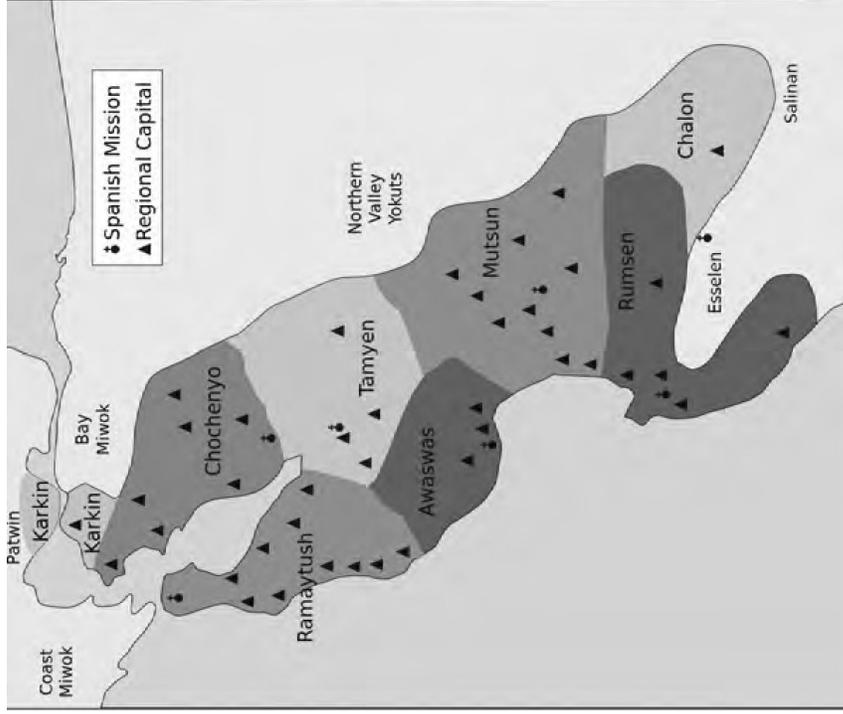
Prior to Spanish invasion in the late 1700s, the Ohlone people thrived in this area by hunting, fishing, gathering, and farming. Spanish soldiers and missionaries brought disease, drastic change in diet, food shortages, harsh lifestyle changes, unsanitary living conditions, forced assimilation, and death to Native communities. In the 1800s, Lisjan Ohlone survivors faced extermination policies of the United States that aimed to eliminate California Natives entirely; most Lisjan families survived by isolating themselves and concealing their identities. Cultural and spiritual traditions were forced into dormancy or secrecy, and much knowledge perished with the passing of generations. (<https://sogoreate-landtrust.org/lisjan-history-and-territory/>)

Today, there are small segments of the Ohlone people that still live in the Bay Area and continue to fight to keep their culture alive. Most of the tribes continue to preserve and revitalize their cultural history through education, restoration of their native languages, and the practice of cultural storytelling. (theculturetrip.com)



Source: Image from the Santa Cruz Museum of Natural History; www.santacruzmuseum.org/first-peoples-of-california-virtual-exhibit/

About the Proposed Name: Chochenyo Park



Source: <https://native-land.ca/maps/territories/chochenyo/>

Chochochenyo refers to one of the eight Ohlone languages spoken by the people who were the original inhabitants and caretakers of the unceded territory that includes the place presently named Alameda. While there are no living first-language Chochochenyo speakers, the language has been revived and is still spoken by the local Ohlone tribes, including the Confederated Villages of Lisjan, a group not formally recognized by the federal government.

The Chochochenyo language database contains 1,000 - 2,000 basic words. In the 20th century, this language has been taught in language lessons, tribal language workshops, California tribe conferences, and at educational institutions. (06.04.2004 - Conferences focus on saving native languages (berkeley.edu))

The Committee process arrived at two Indigenous names, Ohlone and Chochochenyo, but **Chochochenyo is preferred by members of the Confederated Villages of Lisjan as it is more specific to the people who lived in this place.** Naming the park this way honors them, respects their interests, and recognizes their continued impact in the East Bay.

Support for the Proposed Name Chochenyo Park

- **A tribally supported decision:**
 - The Confederated Villages of Lisjan generously granted the City of Alameda permission to use this name.
 - The Committee hopes that this name will begin a process of developing a relationship with the Ohlone Tribe, bringing a land acknowledgment to City Council for approval and including them in community decisions.



- **A community supported decision:**
 - Ohlone received the most support during the Community Forum polling, when respondents had historical context about the park and name choices.
 - The two names (Ohlone and Chochenyo) together received 410 votes in our online survey, which asked for top five name choices (625 respondents; 1485 total votes).
 - The Recreation and Parks Commission unanimously voted to recommend the name.
 - Reflects the diversity, equity, and inclusion as outlined in the park naming criteria determined by the Committee.

- **An ethical decision:**
 - Chochenyo Park presents an opportunity for education about an inclusive history of the original peoples of this place.
 - A repudiation of Andrew Jackson, his enslavement of African-Americans, and his involvement in the genocide of Indigenous peoples and theft of their land. This name is a gesture towards redressing the harm of the former name.

From: [Nadya T](#)
To: [City Clerk](#)
Cc: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] Item 6-A: Choose Chochenyo Park (Option 1)
Date: Tuesday, January 19, 2021 7:29:04 PM

Dear Councilmembers,

My name is Nadya and I am a resident of Alameda. I am writing to ask that you please vote for Option 1 on item 6-A on the 1/19//2021 agenda. Rename Former Jackson Park to Chochenyo Park per the recommendation of the Recreation & Parks Commission

Renaming Jackson Park to Chochenyo Park presents an opportunity for education about an inclusive history of the original peoples of this place. This new name offers a clear repudiation of Andrew Jackson, his enslavement of African-Americans, and his involvement in the genocide of Indigenous peoples and theft of their land. This name is a gesture towards redressing the harm of the former name.

Thank you,

Nadya

From: [Mike Van Dine](#)
To: [City Clerk](#)
Subject: [EXTERNAL] ITEM 6-A File #2021-504
Date: Tuesday, January 19, 2021 7:10:05 PM

Good Evening Council members and thanks for an opportunity to address this item.

I'd like to begin by making reference to the Sunshine Ordinance and the definition of a policy body as "Any committee or body, created by the initiative of a policy body as a whole". It is indisputable that the Park and Recreation Commission is a policy body. On July 9, its action of appointing a sub-committee of two Commission Members to establish a citizen's committee renders that citizens committee a body "created" by the Commission, regardless of the fact that the committee members were appointed by the sub-committee.

A similar process was used by City Council in directing the City Manager to appoint a Citizens committee on police reform. It is clear to me that in both instances the strategy behind this approach is designed to avoid the requirements of both our Sunshine Ordinance and the Brown Act requiring public notice of and participation in meetings of these two citizens committees. I do not think that these laws were intended to allow local government bodies to avoid transparency requirements by the simple means of delegating the appointment of committee members to a third party.

For these reasons, I hope you will consider taking a pause at this time and reopening the process of the renaming of the park to recognize the citizens committee as a policy body subject to the transparency requirements of our sunshine Ordinance and the Brown Act. If you fail to do so your action will be challenged under the process provided in our Sunshine Ordinance and/or Brown Act.

Mike Van Dine

From: [Conchita Perales](#)
To: [City Clerk](#)
Subject: [EXTERNAL] Item 6-A File# 2021-504
Date: Tuesday, January 19, 2021 6:58:46 PM

The renaming of the park process was not transparent!

The City Council's decision to re-name Jackson Park in itself rights the wrongs of honoring Andrew Jackson in the first place. And the majority of the Rec & Park Commissioners agreed that simply reversing the Park to its original name made sense to them when they first considered it.

But the members of the the park-renaming sub-committee never wanted to rename the park "Alameda". They determined that they were going to choose any names for the Park on their own for their own reasons.

So why did the committee ask the public their favorite names from their list of 10? And why did they choose to ignore the public's favorite name "Alameda Park"? The sub-committee stated that the poll which included a question asking the voter's ethnicity showed that too many white people had participated. Amazingly, this whole process that was supposed to emphasize "inclusion" was excluding the white voters of the poll.

This unfortunate situation of trying to erase the popular choice of Alameda caused the sub-committee and even one commissioner to attempt to create a tortured accounting of Alameda Park's history including claims that it was never actually named Alameda Park despite it's appearance on maps and city ordinances as early as 1867 and as late as 1908.

And even worse members of the sub-committee and one commissioner felt the need to state the name Alameda itself was an unacceptable word because it was a Spanish word and the Spaniards removed the Ohlone Indians from the Bay Area.. Yes, Alameda, the name of our City was unacceptable to the subcommittee.

The fact is, the City of Alameda was born in the Gold Rush not during the Spanish occupation. Alameda Park itself was fully developed and designed in the Victorian era which is a main tap root of the City and an asset of our community. We should celebrate the original roots of our City and not fall victim to the attempted shaming by a few committee members. The park already had a name, it was Alameda Park!

As for the name Chochenyo, it is also an important part of our history. At the far Western shore of our City is a federal Wildlife refuge that eventually will be restored to it's natural state. This area could and should be named Chochenyo as it represents the way the land existed when they first migrated to this area.

From: [Victoria Felix](#)
To: [City Clerk](#)
Subject: [EXTERNAL] Park name
Date: Tuesday, January 19, 2021 6:56:01 PM

Hello,

Please approve the renaming of the Jackson Park to Chochenyo Park.
As a member of the Pit River Nation/Ajumawi band from Northern California, we join in agreement on the honoring of our fellow indigenous members.

This will show honor to native people and begin the reconciliation and healing process.

Thank you,

Lisa Gali

From: mcgavin_ted@comcast.net
To: [Marilyn Ezzy Ashcraft](#); [Malia Vella](#); [John Knox White](#); [Tony Daysog](#); [Trish Spencer](#)
c: [Manager Manager](#); [City Clerk](#)
Subject: [EXTERNAL] Alameda City Council Meeting 01/19/2021; Agenda Item #6-A
Date: Tuesday, January 19, 2021 6:47:29 PM

Dear Members of the City Council:

I am concerned about what I see as the lack of transparency in the selection process for the renaming of Jackson Park.

California's Brown Act and the City of Alameda's own Article VIII (Sunshine Ordinance) guarantee the public's right to attend and participate in meetings of local legislative bodies, boards, commissions, and committees.

However, even though the City already has a Recreation and Parks Commission, it was decided to convene two "subcommittees" (which I understand are not covered by the Brown Act and the Sunshine Ordinance) to give input to the decision-making process.

As the process unfolded, Exhibit 2 to this Agenda Item describes two polling efforts:

- A one-day Community Forum, 27 votes, winner 'Ohlone' followed closely by 'Alameda' and
- A four-day Community Survey, 625 votes, winner 'Alameda'

I thought the comments on the Community Survey (pages 5-15 in Exhibit 2) reflected a good cross-section of Alameda opinions on the subject. However many of the complaints were directed at the Community Survey methodology and the short time the poll was open.

Then I heard that it had been decided to rename Jackson Park to Chochenyo Park – not a big winner in either poll. When I later learned that it was suggested that the subcommittees decide the name rather than an open and inclusive process, this made me concerned that the subcommittees were just being used as a tactic to circumvent the Brown Act and the Sunshine Ordinance.

I respectfully request that the Council table Agenda Item 6-A at this time and revisit the renaming process so that it takes place in a Board, Committee, or Commission for transparency and that the opinions of more Alamedans can be included. I think it's only fair.

Respectfully,

Ted McGavin

mcgavin_ted@comcast.net

From: [K Welch](#)
To: [City Clerk](#)
c: [John Knox White](#); [Marilyn Ezzy Ashcraft](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] Rename Former Jackson Park to Chochenyo Park
Date: Tuesday, January 19, 2021 6:00:54 PM

Dear Councilmembers,

My name is Kristin Welch and I am a resident of Alameda. I am writing to ask that you please vote Yes on item 6-A and vote to rename former Jackson Park to be Chochenyo Park per the recommendation of the Alameda Recreation and Parks Commission.

Renaming former Jackson Park to be Chochenyo Park provides an opportunity for parents like me to teach my children about an inclusive history of indigineous peoples, specifically the Chochenyo division of the Ohlone Tribe. At the same time, it will send a clear message of repudiation of slave owner Andrew Jackson and his genocidal involvement and theft of Indigenous peoples' land. It is time for Alamedans to face our history and to remove racist symbols from our city's public places.

Thank you,
Kristin Welch
Alameda Resident

From: [HOYT FAY](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); tspencer@alamedaca.go
Subject: [EXTERNAL] Rename Jackson Park to Chochenyo Park
Date: Tuesday, January 19, 2021 5:19:10 PM

Dear Councilmembers,

My name is Hoyt Fay and I am a resident of Alameda. I am writing to ask that you please vote for Option 1 on item 6-A on the 1/19/2021 agenda.

Just yesterday an armed white male resident of Alameda with a rifle approached peaceful marchers honoring Dr. Martin Luther King Jr.'s legacy and told them to leave. We clearly need to address historical and current harms that are happening in our city. Please rename Jackson Park to Chochenyo Park to honor our city's commitment to eradicating white supremacy, promoting inclusive education, and moving forward in justice and healing.

Rename Former Jackson Park to Chochenyo Park per the recommendation of the Recreation & Parks Commission.

Renaming Jackson Park to Chochenyo Park presents an opportunity for education about an inclusive history of the original peoples of this land. This new name offers a clear repudiation of Andrew Jackson, his enslavement of African-Americans, and his involvement in the genocide of Indigenous peoples and theft of their land. This name is a gesture towards redressing the harm of the former name.

Thank you,

Hoyt Fay

Alameda Resident

Get [Outlook for iOS](#)

From: [Savanna Cheer](#)
To: [Tony Daysog](#); [Trish Spencer](#); [Marilyn Ezzy Ashcraft](#); [Malia Vella](#); [John Knox White](#)
c: [Manager Manager](#); [City Clerk](#); [Lara Weisiger](#)
Subject: [EXTERNAL] Public Comment on item 6-A for the 1/19 meeting
Date: Tuesday, January 19, 2021 5:08:12 PM

Hello,

I would like to voice my support for adopting the name Chochenyo Park for the park formerly known as Jackson Park. Please vote to adopt that name as a minimum first step towards rematriation and honoring the stolen land that we all live on. Alameda has the opportunity, with this renaming, to adopt a principled and respectful process towards naming public spaces. I'm looking forward to our city examining all public spaces in Alameda to see what opportunities we have to address the wrongdoings of the past.

Thank you,
Savanna Cheer

From: [Erin Ransburg](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); tspencer@alamedaca.gov
Subject: [EXTERNAL] Rename Jackson Park to Chochenyo Park
Date: Tuesday, January 19, 2021 5:06:23 PM

Dear Councilmembers,

My name is Erin Ransburg and I am a resident of Alameda. I am writing to ask that you please vote for Option 1 on item 6-A on the 1/19/2021 agenda.

Just yesterday an armed white male resident of Alameda with a rifle approached peaceful marchers honoring Dr. Martin Luther King Jr.'s legacy and told them to leave. We clearly need to address historical and current harms that are happening in our city. Please rename Jackson Park to Chochenyo Park to honor our city's commitment to eradicating white supremacy, promoting inclusive education, and moving forward in justice and healing.

Rename Former Jackson Park to Chochenyo Park per the recommendation of the Recreation & Parks Commission.

Renaming Jackson Park to Chochenyo Park presents an opportunity for education about an inclusive history of the original peoples of this land. This new name offers a clear repudiation of Andrew Jackson, his enslavement of African-Americans, and his involvement in the genocide of Indigenous peoples and theft of their land. This name is a gesture towards redressing the harm of the former name.

Thank you,

Erin Ransburg

Alameda Resident

From: [David Greene](#)
To: [Marilyn Ezzy Ashcraft](#); [Tony Daysog](#); [Malia Vella](#); [John Knox White](#); [Jim Oddie](#); [City Clerk](#); [Andrew Thomas](#); [Manager Manager](#); [Trish Spencer](#)
Subject: [EXTERNAL] Jackson Park Proposed Renaming
Date: Tuesday, January 19, 2021 5:05:58 PM

City council is to reflect the desires of the community. If this can't even be done on such a simple and non-consequential matter as a park name, then why even have a community?

No change of the name is desired. However, if change is imminent, "Alameda Park" as per polling is the name that should be applied.

Hoping to retain a thread of hope in council members and citizen representation,
Dave Greene
Alameda Resident

From: [Amy Wooldridge](#)
To: [Lara Weisiger](#)
Subject: FW: [EXTERNAL] Agenda item 6-A Renaming Jackson Park
Date: Tuesday, January 19, 2021 4:53:06 PM

Amy Wooldridge
Recreation and Parks Director
2226 Santa Clara Avenue, Alameda, CA 94501
(510) 747-7570
awooldridge@alamedaca.gov
www.alamedaca.gov/recreation

From: The Mannings [mailto:maryandjim.manning@gmail.com]
Sent: Tuesday, January 19, 2021 3:20 PM
To: Marilyn Ezzy Ashcraft <MEzzyAshcraft@alamedaca.gov>; John Knox White <JknoxWhite@alamedaca.gov>; Malia Vella <MVella@alamedaca.gov>; tdaysog@alamedaca.com; Trish Spencer <tspencer@alamedaca.gov>
Subject: [EXTERNAL] Agenda item 6-A Renaming Jackson Park

Dear Council members,

I am in favor of the Park Commission recommendation of Chochenyo Park as the new name.

I am not in favor of the joint name Alameda Chochenyo Park. I feel it is a dilution, not a compromise. Reverse the words. Say "Chochenyo Alameda Park," and I think you will see what I mean.

If the Council insists on a joint name, it should be Chochenyo Alameda Park.

Thank you for your consideration in this matter.

Mary Manning
1167 Park Ave, Alameda, CA 94501

From: ps4man@comcast.net
To: [Lara Weisiger](#)
Subject: [EXTERNAL] FW: Item 6A on Jan 19 Agenda Please place in correspondence file for this item.
Date: Tuesday, January 19, 2021 4:48:47 PM
ttac me t : [We sent you safe versions of your files.msg](#)
[Epstein v Hollywood Entertainment Dist II Business Improvement Dist.pdf](#)
[Californians Aware v Joint LaborManagement Benefits Committee.pdf](#)
[International Longshoremens and Warehousemens Union v Los Angeles Export Termina.pdf](#)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

From: ps4man@comcast.net <ps4man@comcast.net>
Sent: Tuesday, January 19, 2021 4:46 PM
To: Marilyn Ashcraft <mezzyashcraft@alamedaca.gov>; Malia Vella <mvella@alamedaca.gov>; John Knox White <jknoxwhite@alamedaca.gov>; 'tony_daysog@alum.berkeley.edu' <tony_daysog@alum.berkeley.edu>; 'tspencer@alamedaca.gov' <tspencer@alamedaca.gov>
Cc: 'Eric Levitt' <elevitt@alamedaca.gov>; 'yshen@alamedacityattorney.org' <yshen@alamedacityattorney.org>
Subject: Item 6A on Jan 19 Agenda

Dear Mayor Ashcraft and Council Members:

It has been brought to my attention that there may be public comment on Item 6A that asserts that the park naming citizens committee has violated our Sunshine Ordinance and the Brown Act by failing to follow the transparency requirements of notice and public participation applicable to “policy bodies” as defined by the Ordinance. There are multiple definitions of the term in Sec. 2-91.1 (d) of the Ordinance, the pertinent one here being Sub-sec (d) (4) which defines it as “any committee or body, created by the initiative of a policy body as a whole;”.

The Park and Recreation Commission is a policy body. On July 9, its action of appointing a sub-committee of two Commission Members to establish a citizen’s committee renders that citizens committee a body “created” by the Commission, regardless of the fact that the committee members were appointed by the sub-committee.

A similar process was used by City Council in directing the City Manager to appoint a Citizens committee on police reform. In both instances these actions were designed to avoid the requirements of both our Sunshine Ordinance and the Brown Act requiring public notice and participation in meetings of these two citizens committees. I do not think that these laws were intended to allow local government bodies to avoid transparency requirements by the simple means of delegating the appointment of committee members to a third party.

As an aid to you and the City Attorney, I attach the cases which I think clearly support this view. Unless the City Attorney can convince me otherwise I will likely challenge these actions pursuant to the sunshine Ordinance and/or Brown Act.

Paul S Foreman

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87 Cal.App.4th 862
Court of Appeal, Second District, Division 3,
California.

Aaron EPSTEIN, Plaintiff and Appellant,
v.
HOLLYWOOD ENTERTAINMENT
DISTRICT II BUSINESS
IMPROVEMENT DISTRICT, et al.,
Defendants and Respondents.

No. B134256.

March 8, 2001.

Review Denied June 13, 2001.

Synopsis

Owner of property zoned for business purposes within business improvement district (BID) brought action to establish that non-profit corporation that administered funds raised through city's assessments on businesses within the district was subject to Brown Act's open meetings requirements. The Superior Court, Los Angeles County, Super. Ct. No. BC207337, Ricardo A. Torres, J., denied owner's motion for preliminary injunction, and he appealed. The Court of Appeal, Croskey, J., held that corporation was a "legislative body" subject to Brown Act's open meetings requirements.

Reversed and remanded.

Attorneys and Law Firms

****858 *863** Moskowitz, Brestoff, Winston & Blinderman, Dennis A. Winston and Barbara S. Blinderman, Los Angeles, for Plaintiff and Appellant.

***864** Sheppard, Mullin, Richter & Hampton, Costa Mesa, and Andre J. Cronthall, Los Angeles, for Defendants and Respondents Hollywood Entertainment District II Business Improvement District and Hollywood Entertainment District Property Owners Association.

James K. Hahn, City Attorney, Patricia V. Tubert, Senior Assistant City Attorney and Kenneth Cirlin, Assistant City Attorney ****859** for Defendant and Respondent City of Los Angeles.

Opinion

CROSKEY, J.

The Hollywood Entertainment District II Business Improvement District (BID II) is a special assessment district in the City of Los Angeles (City). The Hollywood Entertainment District Property Owners Association (the POA), a 26 United States Code section 501(c)(6) non-profit corporation, administers the funds City raises through assessments on businesses within BID II's boundaries.¹ The money is used to contract for such things as security patrols, maintenance, street and alley cleaning, and a newsletter.

Aaron Epstein (plaintiff), who owns property zoned for business purposes within BID II, sued defendants to establish that the POA was required to comply with the Ralph M. Brown Act (the Brown Act or the Act) (Gov.Code, § 54950 et seq.)² by holding noticed, open meetings and posting its agenda in advance. His motion for a preliminary injunction was denied after the superior court concluded that the Brown Act did not apply because (1) the POA had not been created by City, and (2) the POA had pre-existed the creation of BID II by at least two years.

Plaintiff filed timely notice of appeal. We reverse. The facts of this case come within the parameters of our holding in *International Longshoremen's & Warehousemen's Union v. Los Angeles Export Terminal, Inc.* (1999) 69 Cal.App.4th 287, 81 Cal.Rptr.2d 456 (*International Longshoremen's*), because City "played a role in bringing" the POA "into existence." The POA was not simply a pre-existing corporation which just "happened" to be available to administer the funds for BID II. Instead, the record indicates that the POA was formed and structured in such a way as to take over administrative functions that normally would be handled by City.

***865 FACTUAL AND PROCEDURAL BACKGROUND³**

The Property and Business Improvement District Law of 1994 (Sts. & Hy.Code, §§ 36600 et seq.) authorizes cities to establish property and business improvement districts (BIDs) in order to levy assessments on real property for certain purposes. Those purposes include acquiring, constructing, installing, or maintaining improvements

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(Sts. & Hy.Code, § 36606), which include such things as parks, street changes, ramps, sidewalks and pedestrian malls. (Sts. & Hy.Code, § 36610, subs. (f), (i), and (k).) A prerequisite to the creation of such a BID is a petition filed by property owners who will pay more than 50 percent of the total amount of assessments to be levied. (Sts. & Hy.Code, § 36621, subd. (a).)

On September 3, 1996, City adopted ordinance No. 171273 (the first Ordinance) to create the Hollywood Entertainment District Business Improvement District (BID I). The first Ordinance incorporated by reference a "Management District Plan" which contained information required by Streets and Highways Code section 36622.⁴ The Management District Plan included a "Proposed Annual Program" which included security, maintenance, marketing, streetscape and administration components. It also included a section on "Governance," which provided, in relevant part, "The Property and Business Improvement District programs will be governed by a non-profit association. Following is a partial ****860** summary of the management and operation of the *proposed* association." (Italics added.) The section on Governance made it clear that the non-profit association, which would govern BID I, was not yet in existence.⁵

Articles of incorporation of the Hollywood Property Owners Association (the POA), the non-profit association that did take over governance of BID I, were filed with the California Secretary of State on September 25, 1996. These articles of incorporation were dated September 5, 1996. The POA was a nonprofit mutual benefit corporation, whose specific and primary purpose was "to develop and restore the public areas of the historic core of Hollywood, California, in order to make it a more attractive and popular destination for tourists, shoppers, businesspeople and persons interested in culture and the arts."

***866** On August 18, 1998, City adopted ordinance No. 172190 (the second Ordinance) to create Hollywood Entertainment District II Business Improvement District (BID II). The second Ordinance incorporated by reference a "Management District Plan" which contained information required by Streets and Highways Code section 36622. The Management District Plan for BID II, which was entitled "Hollywood Entertainment District Property Business Improvement District Phase II," included a copy of the petition used to form BID II, which referred to BID II as an "extension" of BID I. In fact, a comparison of the map of the proposed boundaries of BID II with the map of the proposed boundaries of BID I shows that BID II simply added approximately another 10 blocks down Hollywood Boulevard to the approximately five blocks down the length of the boulevard already

covered by BID I.

The Management District Plan for BID II also included a "Program and Budget," which included security, maintenance, marketing and promotion, and administration components. It also included a section on "Governance," which provided, in relevant part, "The Property and Business Improvement District programs will be governed by the Hollywood Entertainment District Property Owners Association, a 501(c)(6) non-profit corporation *which was formed in 1996 to govern Phase I*. Following is a summary of the management and operation of the Association *as it relates to Phase II*." (Italics added.) In addition, unlike the Management District Plan for BID I, the Management District Plan for BID II included the "Amended and Restated Bylaws" of the POA which were quite detailed. And, although the POA was to manage and operate the BID, City, by law, retained the power to "modify the improvements and activities to be funded with the revenue derived from the levy of assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications." (Sts. & Hy.Code, § 36642.)

The POA's monthly meetings were not open to the public, much to the distress of plaintiff, who owns property subject to assessment in favor of BID II. Furthermore, according to plaintiff, the POA's by-laws allow it to do other things that would be prohibited by the Brown Act if it were applicable to the POA. For example, the by-laws allow meetings to take place anywhere, not solely within the POA's jurisdiction, and to take place without posting notice 72 hours in advance.

Accordingly, on March 18, 1999, plaintiff filed a complaint for declaratory and injunctive relief against defendants, seeking, among other things, a declaration that the Brown Act does apply to the POA and that, in fact, the POA's meetings are required to be open and noticed as required by the ***867** Brown Act, and that any contracts let by the POA must comply with ****861** the competitive bidding requirements of City's charter. He moved for a preliminary injunction, which the superior court denied on the ground that because the POA was not created by City, and because it pre-existed the creation of BID II by at least two years, the Brown Act did not apply. The order denying the motion was filed on June 11, 1999, and on August 4, 1999, plaintiff filed notice of appeal.

CONTENTIONS ON APPEAL

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Plaintiff contends that the trial court erred by concluding that the POA was not a legislative body under the Brown Act. He further contends that because the POA is a legislative body within the meaning of the Act, and can only exercise the powers that City could delegate to it, it cannot enter into contracts without complying with the City Charter's requirement of competitive bidding. Finally, he contends the trial court erred by denying him injunctive relief against the POA. Defendants dispute these contentions.

DISCUSSION**1. Public Policy Favors Conducting the Public's Business in Open Meetings**

It is clearly the public policy of this State that the proceedings of public agencies, and the conduct of the public's business, shall take place at open meetings, and that the deliberative process by which decisions related to the public's business are made shall be conducted in full view of the public. This policy is expressed in (1) the Bagley-Keene Open Meeting Act (§§ 11120 et seq.), which applies to certain enumerated "state bodies" (§§ 11121, 11121.2), (2) the Grunsky Burton Open Meeting Act (§§ 9027-9032), which applies to state agencies provided for in Article IV of the California Constitution, and (3) the Ralph M. Brown Act (§§ 54950 et seq.), which applies to districts or other local agencies, including cities. Under these various laws related to open meetings, a wide variety of even the most arcane entities must give notice of their meetings, and make such meetings open to the public.⁶

***868 2. The Purpose Behind the Brown Act**

The Brown Act, the open meeting law applicable here, is intended to ensure the public's right to attend the meetings of public agencies. (*Freedom Newspapers, Inc. v. Orange County Employees Retirement System* (1993) 6 Cal.4th 821, 825, 25 Cal.Rptr.2d 148, 863 P.2d 218; *International Longshoremen's, supra*, 69 Cal.App.4th at p. 293, 81 Cal.Rptr.2d 456.)⁷ To achieve this aim, the **862 Act requires, inter alia, that an agenda be posted at least 72 hours before a regular meeting and forbids action on any item not on that agenda. (§ 54954.2, subd. (a);

International Longshoremen's, supra, 69 Cal.App.4th at p. 293, 81 Cal.Rptr.2d 456.) The Act thus serves to facilitate public participation in all phases of local government decisionmaking and to curb misuse of the democratic process by secret legislation of public bodies. (*International Longshoremen's, supra*, 69 Cal.App.4th at p. 293, 81 Cal.Rptr.2d 456.)

The Brown Act specifically dictates that "[a]ll meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter." (§ 54953, subd. (a), italics added.) The term "legislative body" has numerous definitions, grouped together in section 54952. The definition that arguably may apply to the POA is found in subdivision (c)(1)(A) of section 54952. This portion of the Brown Act states, in relevant part: "As used in this chapter, 'legislative body' means: [¶] ... [¶] (c)(1) A board, commission, committee, or other multimember body that governs a private corporation or entity that ...: [¶] (A) Is created by the elected legislative body in order to exercise authority which may lawfully be delegated by the elected governing body to a private corporation or entity." (§ 54952, subd. (c)(1)(A), italics added.) Thus, the question before us here, as a matter of law, is whether the POA's board of *869 directors is a legislative body within the meaning of this subdivision because the POA was created by City in order to exercise delegated governmental authority.

In answering this question, we are mindful, as we noted in *International Longshoremen's*, that the Brown Act is a remedial statute that must be construed liberally so as to accomplish its purpose. (*International Longshoremen's, supra*, 69 Cal.App.4th at p. 294, 81 Cal.Rptr.2d 456; see *People ex rel. Lungren v. Superior Court* (1996) 14 Cal.4th 294, 313, 58 Cal.Rptr.2d 855, 926 P.2d 1042 ["civil statutes for the protection of the public are, generally, broadly construed in favor of that protective purpose. [Citations.]]")

3. The POA's Board of Directors Is a Legislative Body Within The Meaning of the Brown Act**a. The City Can Be Said to Have "Created" the POA Within the Meaning of the Brown Act**

Here, just as in *International Longshoremen's*, the pivotal issue is whether City, an elected legislative body,

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“created” the POA in order to exercise authority that City could lawfully delegate. Therefore, we discuss in some detail the facts of *International Longshoremen’s*.

In the *International Longshoremen’s* case, the Los Angeles Export Terminal, Inc. (LAXT) was a private, for-profit corporation organized to design, construct and operate a facility for the export of coal. The facility would be on land leased from the Harbor Department of the City of Los Angeles, and the Harbor Department was to be a fifteen-percent shareholder in LAXT. The shareholders’ agreement by which LAXT was set up gave the Harbor Department the right to appoint three of LAXT’s 19 board members, plus veto power over the coal facility project. The lease of the Harbor Department’s land was also something that had to be, and was, approved by the City Council.

Thereafter, LAXT’s board of directors authorized LAXT to enter into a terminal operating agreement with Pacific Carbon Services Corporation (PCS). This decision was made at a meeting that did not comply with the requirements of the Brown Act. The *International Longshoremen’s & **863 Warehousemen’s Union (ILWU)* sued to nullify the agreement with PCS, and for an injunction, contending that LAXT was required to comply with the Brown Act.

The trial court agreed with the union, nullified the PCS agreement, and enjoined LAXT from making decisions without complying with the Brown ***870** Act. It reached this result because it concluded that LAXT’s board of directors was a legislative body within the meaning of the Brown Act. LAXT appealed, and argued, among other things, that it had not been created by the City Council (a legislative body), but only by the Harbor Commission (an appointed body), and hence the Brown Act, by its terms, did not apply.

We disagreed. Although section 54952, subdivision (c)(1)(A), did not, and does not, define what is meant by the term “created by,” we relied on the ordinary definition of “to create,” which is “to bring into existence.” (*International Longshoremen’s, supra*, 69 Cal.App.4th at p. 295, 81 Cal.Rptr.2d 456, quoting Webster’s New Internat. Dict. (3d ed.1986) p. 532.) We concluded that the “City Council was involved in bringing LAXT into existence,” because (1) it had the ultimate authority to overturn the Harbor Commission’s actions, and (2) it could have disaffirmed any steps the Harbor Commission took to become part of LAXT. (69 Cal.App.4th at p. 296, 81 Cal.Rptr.2d 451.) We also concluded that LAXT had been created to exercise governmental authority, to wit, the development and improvement of a city harbor (§ 37386), and that the City Council had delegated its

governmental authority as to this aspect of the City’s harbor to LAXT. (69 Cal.App.4th at pp. 297–299, 81 Cal.Rptr.2d 451.) Therefore, the Brown Act applied to LAXT’s meetings. (*Id.* at pp. 299–300, 81 Cal.Rptr.2d 451.)

Here, as discussed in more detail below, we conclude that City was “involved in bringing into existence” the POA to exercise delegated governmental authority, that City also retained the authority to overturn the POA’s actions, and that it could have removed, and can still remove, the POA as the entity managing the BID.

1. *The City “Was Involved in Bringing the POA into Existence” to Exercise Some Governmental Authority Over BID I, and BID II Was Just an Extension of BID I*

In the case here, the issue is whether the POA is a private corporation or entity that was *created* by City, the elected legislative body, to exercise some authority that City could lawfully delegate to a private corporation or entity. We conclude that here, just as in *International Longshoremen’s*, the private entity, the POA, was “created” by City to exercise governmental authority over BID I, authority that City otherwise could exercise.

The POA was, in fact, “created” by City, because City “played a role in bringing” the POA “into existence.” (*International Longshoremen’s, supra*, 69 Cal.App.4th at p. 295, 81 Cal.Rptr.2d 456.) City specifically provided in the first Ordinance that BID I *would* be governed by a non-profit association, and even set forth a partial summary of the management and operation of such proposed ***871** association. Within days of the adoption of the first Ordinance, the POA’s articles of incorporation were prepared, and less than a month later, were filed with the Secretary of State. The POA’s sole purpose was to “develop and restore the *public* areas of the historic core of Hollywood.” And it was the POA that did, in fact, take over governance of BID I. Obviously, when City adopted the first Ordinance creating BID I that called for the creation of a non-profit association to govern the BID I programs, the City “played a role in bringing the POA into existence.”

Defendants, however, would prefer that we ignore the POA’s history vis-à-vis BID I, and concentrate instead on the POA’s relationship to BID II. This is because the POA’s existence preceded the creation of BID II. Defendants would have us look at the POA as simply a “preexisting corporation” that just “happened” to be available to administer the funds for BID II, apparently in

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reliance on footnote 5 of *International Longshoremen's*. In that footnote, we opined that if LAXT, the private corporation in question there, had been a “preexisting” entity “which simply entered into a contractual arrangement” to exercise authority that the government entity could have exercised, then the private entity “would not have been a creation of the City Council” and the private entity’s board of directors would not be subject to the Brown Act. (*International Longshoremen's*, *supra*, 69 Cal.App.4th at p. 300, fn. 5, 81 Cal.Rptr.2d 456.)

There is no reason to ignore the history behind the POA, and, in fact, because the issue is the “creation” of the entity whose governing board now wields governmental authority, we *must* look at the circumstances surrounding the POA’s birth. The record shows that the POA was formed and structured for the sole purpose of taking over City’s administrative functions as to BID I. Therefore, under the Brown Act, as interpreted by us in *International Longshoremen's and Warehousemen's Union v. Los Angeles Export Terminal, Inc.*, *supra*, 69 Cal.App.4th 287, 81 Cal.Rptr.2d 456, the POA’s board of directors, vis-à-vis BID I, was subject to the Brown Act, because the board was a legislative body within the meaning of section 54952 subdivision(c)(1)(A).

Thereafter, the boundaries of BID I were extended, the new BID was called BID II, and the POA simply continued to administer the assessments collected from property owners in the enlarged District. Obviously, the fact that the POA was already in existence and ready to take over City’s legislative functions vis-à-vis BID II cannot change the result we would have reached if this case had been presented after BID I was created and before BID II had come into existence. And the connection between BID I and BID II rationally cannot be ignored in any determination of when and *872 how the POA was “created.” City itself, in the Management District Plan for BID II, explicitly recognized that the POA “was formed in 1996 to govern Phase I,” that the POA also would govern “Phase II,” and that BID II was just an “extension” of BID I.

Under these circumstances, we would improperly elevate form over substance if we were to treat the POA as a “pre-existing” private entity with which City just “happened” to decide to do business when it turned governance of BID II over to the POA. To turn a blind eye to such a subterfuge would allow City (and, potentially, other elected legislative bodies in the future) to circumvent the requirements of the Brown Act, a statutory scheme designed to protect the public’s interest in open government. This we will not do. (*Plumbing, etc., Employers Council v. Quillin* (1976) 64 Cal.App.3d 215,

220, 134 Cal.Rptr. 332 [court will not place form above substance if doing so defeats the objective of a statute]; *People v. Jackson* (1937) 24 Cal.App.2d 182, 192, 74 P.2d 1085, *disapproved on another ground*, *People v. Ashley* (1954) 42 Cal.2d 246, 262, 267 P.2d 271 [“It should be and is an established principle of the law that the substance and not the mere form of transactions constitutes the proper test for determining their real character. If this were not true it would be comparatively simple to circumvent by sham the provisions of statutes framed for the protection of the public. This the law does not permit. (Citations.)”]; see also Civ.Code, § 3528 [“The law respects form less than substance.”]; *People v. Reese* (1934) 136 Cal.App. 657, 672, 29 P.2d 450, *disapproved on another ground*, *People v. Ashley* (1954) 42 Cal.2d 246, 262, 267 P.2d 271 [“The evidence tends to prove, and the jury had the right to find, that the real intention of the defendants was to place upon the market and sell shares of stock in a corporation, and that the form of the certificates issued by them was a subterfuge adopted in order to defeat the purposes of the Corporate Securities Act. The operation of the law may not thus be circumvented.”].)

****865** In order to avoid the conclusion that the Brown Act applies, the defendants characterize our treatment of the POA as a legislative body within the meaning of the Brown Act as being “contrary to the evidence produced in the trial court and unfair to the businessmen trying to improve their local community.” They contend that there is no evidence that City ever “handled” the administrative functions of any BID, and that, to the contrary, the BIDs and the POA were structured by the local property owners themselves from the outset to be administered by a nonprofit organization formed by the owners themselves.

This contention, however, misses the point. The fact that local property owners who wanted City to create a BID were involved in the structuring of *873 the BID, and structuring of the POA to run the BID, does not mean that City did not “play a role in bringing” the POA “into existence.” A BID cannot be created by private individuals. Private individuals do not have the power to authorize tax assessments, or to create tax liens. Thus, a public entity *must* be involved in the creation of any BID, no matter how, when, or by whom the idea and future structuring of the BID-to-be was initiated and pursued. Here, as already noted, the POA was formed for the purpose of administering the BID. Thus, by giving the BID the necessary legal standing as a BID, and by providing that the BID would, in fact, be administered by a POA yet to be formed, City clearly was involved in bringing into existence the POA. An operative BID was the *raison d’être* for the POA; by giving the BID the legal breath of life, the City breathed life into the POA as well.

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2. City Retained the Authority to Overturn the POA's Actions

Furthermore, just as in *International Longshoremen's, supra*, 69 Cal.App.4th at page 296, 81 Cal.Rptr.2d 456, City, the elected legislative body with ultimate accountability to the voters, retained plenary decisionmaking authority over the BID's activities. (Sts. & Hy.Code § 36642.) Street and Highways Code section 36642 provides, in relevant part, that a city council "may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications."

This retention of power over the POA is not only provided for by section 36642, but it is required by well-established law, which provides that a public body may only delegate the performance of its administrative functions to a private entity if it retains ultimate control over administration so that it may safeguard the public interest. (*International Longshoremen's, supra*, 69 Cal.App.4th at pp. 297–298, 81 Cal.Rptr.2d 456 and cases cited there.) And a nonprofit corporation to which such administrative functions are delegated *must comply with the same laws and regulations as the public entity that is delegating its authority.* (*International Longshoremen's, supra*, 69 Cal.App.4th at p. 300, 81 Cal.Rptr.2d 456; 81 Op.Atty.Gen. 281 (1998) [when a community redevelopment agency used a nonprofit corporation to administer its housing activities, the nonprofit corporation was required to comply with the same laws applicable to the redevelopment agency itself, such as open meeting laws and public bidding and prevailing wage statutes].)

*b. There Is No Legal Reason to Exempt the POA from The Operation of the Brown Act**1. The "Unfairness" and "Interference with Business" Argument*

As noted above, City and the BID contend that our decision that the POA must comply with the same laws as would City, for example, the Brown Act, *874 is somehow unfair to businesspeople, and interferes with

private businesses' ability to improve their areas of operation. Needless to say, if local businesspeople want to form property **866 owners' associations to try to improve their local community, they are free to do so. They may hold their meetings in secret, by invitation only, or may invite the general public, limited only by whatever laws, if any, are applicable to such groups. However, participation in such purely private, purely voluntary organizations differs dramatically from participation in a BID. For example, membership in a private business owners' organization is voluntary, and, presumably, membership can be terminated at will. In contrast, "membership" in a BID may be involuntary for a majority of the property owners within the BID. (Sts. & Hy.Code, § 36621, subd. (a) [the only prerequisite to the creation of such a BID is not a petition filed by a *majority* of the property owners in the proposed district, but a petition filed by property owners who will *pay* more than 50 percent of the total amount of assessments to be levied].) And, once the BID is created, "membership" lasts for at least five years, and cannot be voluntarily terminated by individual members. (Sts. & Hy.Code, §§ 36622, subd. (h), 36630.)

Given these differences, defendants' pleas that the result we reach here is somehow "unfair" to businesspeople are simply not persuasive. When an individual business owner's money can be taken without his or her individual consent, when it can be taken through use of the government's power to tax and assess, and when it can be used to benefit others' property through the provision of services (whether or not such services include such traditional municipal services as street and sidewalk improvements), it is clearly not "unfair" for such individual business owners to expect to have an opportunity to participate in the decision-making process by which one benefit or another is actually conferred. Nor is it unfair for us, given the language of the Brown Act and the rules of interpretation related to it, to validate that expectation.

2. The "Supplemental Services" Argument

Defendants also point to the "supplemental" nature of the services provided by this BID, as though this somehow obviates any need to comply with the Brown Act. Such an argument makes no sense. First, what is "supplemental" can become quite subjective. There is nothing to stop a city from proclaiming that *any* traditional municipal services, other than the most critical things such as fire and police protection, are "supplemental." Thus, street sweeping, the trimming of

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street trees, and even the purchase of new library books could be characterized as “supplemental” services. Shall we *875 interpret the Brown Act on a case-by-case basis, based on each public entity’s own characterization of the topic as being one of “supplemental,” versus basic, services? Shall the Brown Act apply if the legislative body is making decisions about the purchase of police cars, but not if it is deciding whether to buy new library books or to cut back the street tree maintenance program? To ask such questions is to answer them.

Second, focussing on the “supplemental” nature of the *services* is backwards it is not the *kinds of services*, so much as the *nature of the source of funding* to be used for them, which is relevant to the issue on appeal. Are traditional legislative bodies exempt from the Brown Act merely because they act to disperse “bonus” federal funding for special, supplemental programs and services? If a private benefactor donates \$10 million to a city to spend on “supplemental” services and programs, may the city council meet informally and secretly to decide upon the proper allocation of such funds? The obvious answer to both these questions is “No.” This is so because the funds involved constitute public money. The funds do not belong to the individual council members, they belong to the public, and the public has a right to participate in any decisions about how public funds should be expended. Very simply, the Brown Act contains no exemptions **867 for decisions about expenditures of *public funds* for “supplemental services.”

3. The “Advisory Committee” Argument

Defendants also argue that the existence of “advisory committees” somehow obviates the need for application of the Brown Act’s rules to actions taken by the POA vis-à-vis the BID. Just as there is no exemption in the Brown Act for actions on “supplemental services” taken by statutorily-defined legislative bodies, so, too, there is no exemption for actions taken by bodies such as the POA which were “previewed” by an advisory committee.

True, Streets and Highways Code section 36631, subdivision (b) provides that advisory committees “shall” comply with the Brown Act. But, contrary to the arguments of the BBID and the POA, that section does *not* also specify that any other entities involved in a BID are *exempt* from the Brown Act. When section 36631 is read in context with the Property and Business Improvement District Law of 1994 as a whole, it is apparent that the Legislature assumed the advisory committee would be making reports and

recommendations about the BID to a city council (Sts. & Hy.Code, §§ 36631, subd. (a); 36633, 36640), which *itself* would then be taking legislative action to carry out the assessments, levies, boundary changes and improvements and activities to be funded. (See, e.g., Sts. & Hy.Code, §§ 36632, 36634, 36635, 36641, 36642, 36651.)

*876 Thus, the Legislature specified that an advisory committee’s meetings about its intended reports and recommendations vis-à-vis a BID are subject to the Brown Act, and did not so specifically state that the Brown Act applies to a city council’s meetings to actually carry out, modify, or disapprove such recommendations. Is this persuasive evidence that the Legislature intended to exempt city councils from the Brown Act when they make decisions about BIDs? Of course not. Likewise, the Legislature’s failure to *expressly* specify that a nonprofit corporation to whom a city has delegated its administrative functions vis-à-vis a BID must comply with the Brown Act is no evidence that the Legislature intended to *exempt* such a nonprofit corporation from open meeting requirements.

4. The “We Said We Didn’t ‘Create’ the POA, So You Can’t Decide We Did” Argument

Defendants urge that because City itself concluded that it did not “create” the POA, we are somehow bound by such a conclusion. Defendants characterize this determination as a finding of fact to which we must defer, citing *McCarthy v. City of Manhattan Beach* (1953) 41 Cal.2d 879, 890, 264 P.2d 932 and *Consaul v. City of San Diego* (1992) 6 Cal.App.4th 1781, 1792, 8 Cal.Rptr.2d 762. Not so. The issue of whether City was involved in bringing the POA into existence, in other words, whether City “created” it within the meaning of section 54952, subdivision (c)(1)(A), is, ultimately, a question of law.

CONCLUSION

The POA’s status as an entity originally “created” to take over City’s legislative functions was not somehow negated, annulled, or dissipated simply because its role subsequently was expanded by the geographic expansion of the area over which it exercised such functions. Nor do any of the reasons advanced by defendants justify exempting the POA from the same application of the

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Brown Act as would apply to City's legislative body. We therefore conclude that the POA is a legislative body within the meaning of the Brown Act, that its actions must be taken in compliance with that Act, and that the trial erred by denying plaintiff's motion for a preliminary injunction.

or is not bound to follow City's laws related to competitive bidding, the trial court should be guided by our conclusion that the POA is a legislative body within the meaning of the Brown Act, and that the Brown Act does apply to actions taken by the POA in its administration of the BID. Plaintiff shall recover his costs on appeal.

DISPOSITION

The order denying plaintiff's request for a preliminary injunction is reversed and **868 remanded. The trial court is directed to enter a preliminary injunction in favor of plaintiff in accordance with the views expressed *877 herein. In connection with any arguments that the POA is

KLEIN, P.J., and ALDRICH, J., concur.

All Citations

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Footnotes

- 1 BID II, City and POA may be referred to collectively as defendants in this opinion.
- 2 All further statutory references will be to the Government Code, except as otherwise noted.
- 3 We recite facts taken from the Clerk's Transcript.
- 4 For example, section 36622 requires a map showing each parcel of property within the district, the proposed district name, the improvements and activities proposed for each year of operation, the proposed amount to be spent to accomplish the activities and improvements each year, and the source of funding.
- 5 Section 36622 does *not* require the management district plan to contain information on governance or management. However, a city council may require the management district plan to contain other items not specifically required by the state law. (§ 36622, subd. (l).)
- 6 See, e.g., Business and Professions Code section 3325 [meetings of the Hearing Aid Dispensers Advisory Commission must be noticed and open]; Business and Professions Code section 7315 [meetings of the State Board of Barbering and Cosmetology must be noticed and open]; Government Code section 8790.7 [meetings of the California Collider Commission must be noticed and open]; Harbors and Navigation Code section 1153 [meetings of the Board of Pilot Commissioners must be noticed and open]; Harbors and Navigation Code section 1202 [meetings for the purpose of investigating pilotage rates shall be noticed and open]; Health and Safety Code section 1179.3, subd. (b) [meetings of the Rural Health Policy Council for comments on projects in rural areas of California must be noticed and open]; Insurance Code section 10089.7, subd. (j) [meetings of the governing board and advisory panel of the California Earthquake Authority must be noticed and open]; Public Resources Code section 33509 [meetings of the governing board of the Coachella Valley Mountain Conservancy must be noticed and open]; Education Code section 51871.4, subd. (g) [meetings of the Commission on Technology in Learning must be noticed and open].
- 7 The Brown Act's statement of intent provides: "In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. [¶] The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created." (§ 54950.)

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200 Cal.App.4th 972
Court of Appeal, Second District, Division 5,
California.

CALIFORNIANS AWARE et al., Plaintiffs
and Appellants,

v.

JOINT LABOR/MANAGEMENT
BENEFITS COMMITTEE et al.,
Defendants and Respondents.

No. B227558.

Nov. 10, 2011.

As Modified on Denial of Rehearing Nov. 28, 2011.

Synopsis

Background: Political advocacy group brought action against joint labor/management benefits committee (JLMBC) of community college district for declaratory, injunctive, and writ relief challenging committee's failure to follow Ralph M. Brown Act open meeting procedures. The Superior Court, Los Angeles County, No. BS124856, David P. Yaffe, J., denied petition. Advocacy group appealed.

Holdings: The Court of Appeal, Mosk, J., held that:

Brown Act did not apply to JLMBC, and

JLMBC's meetings with unions were within exemption from Brown Act.

Affirmed.

Attorneys and Law Firms

**767 Law Offices of Kelly A. Aviles, La Verne, Kelly A. Aviles; Dennis A. Winston, Los Angeles; Joseph T. Francke, Carmichael, for Plaintiffs and Appellants Californians Aware and Richard P. McKee.

Atkinson, Andelson, Loya, Ruud & Romo, Cerritos, Warren S. Kinsler and Joshua E. Morrison for Defendants and Respondents Joint Labor/Management Benefits

Committee and Los Angeles Community College District.

MOSK, J.

***974 INTRODUCTION**

Plaintiffs, petitioners, and appellants Californians Aware and Richard P. McKee (McKee) filed a verified petition for writ of mandate, an injunction, and declaratory relief against defendants, respondents, and respondents in this appeal the Los Angeles Community College District (District) and the Joint Labor/Management Benefits Committee (JLMBC) alleging that the JLMBC failed to comply with the public notice and open meeting requirements of the Ralph M. Brown Act (Brown Act). (Gov.Code, § 54950 et seq.¹) The trial court in denying the petition found that the JLMBC was not subject to the Brown Act because the JLMBC was formed to further the District's collective bargaining with the unions representing the District's employees and thus was exempt from the Brown Act under section 3549.1, subdivision (a), which is part of the Educational Employment Relations Act (EERA) (§ 3540 et seq.²). Petitioners appeal. We affirm.

BACKGROUND³

In or about 2002, the District entered into a "Master Benefits Agreement" (Agreement) with unions representing its employees⁴ concerning hospital-medical, **768 dental, vision group coverage, group life insurance coverage, and the District's employee assistance program. The unions are referred to in the Agreement as the "Exclusive Representatives" of the employees. Pursuant to the Agreement, the District was to convene, and the Exclusive Representatives were to participate in, the JLMBC. The JLMBC's purpose was to "contain the costs of the District's Health Benefits Program while maintaining and, when feasible, improving the quality of the benefits available to employees."

*975 Prior to adoption of the Agreement, the District's six bargaining units each had a separate article in their collective bargaining agreements that addressed health benefits. Those articles were inconsistent, resulting in

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coverage disparities. One of the Agreement's purposes was to ensure common benefits throughout the District. Under the Agreement, the District's health benefits program consisted of "group benefit plans recommended by the Joint Labor/Management Benefits Committee and approved by the Board under which eligible District employees (and their eligible dependents) receive hospital, medical, dental, and vision care coverage. The purpose of the Health Benefits Program is to provide quality health care to the District's employees, retirees, and their eligible dependents and survivors."

The JLMBC was composed of "one voting and one non-voting District Member" (District Members); six "Employee Members," one from each of the Exclusive Representatives; and the "Chair" who was to be nominated by the president of the Los Angeles College Faculty Guild and confirmed by a simple majority of the regular voting members. Each Exclusive Representative could appoint nonvoting members in proportion to the size of each bargaining unit. The JLMBC had authority to:

"1. review the District's Health Benefits Program and effect any changes to the program it deems necessary to contain costs while maintaining the quality of the benefits available to employees (this includes, but is not limited to, the authority to substitute other plans for the District's existing health benefits plans);

"2. recommend the selection, replacement, and evaluation of benefits consultants;

"3. recommend the selection, replacement, and evaluation of benefit plan providers;

"4. review and make recommendations regarding communications to faculty and staff regarding the health benefits program and their use of health care services under it;

"5. review and make recommendations regarding benefit booklets, descriptive literature, and enrollment forms;

"6. study recurring enrollee concerns and complaints and make recommendations for their resolution;

"7. participate in an annual review of the District's administration of the Health Benefits Program;

*976 "8. review and make recommendations about the District's health benefits budget; and

"9. if health care legislation that necessitates modification of the District's Health Benefits Program is enacted

before the termination of this agreement, assess the effects of such legislation and make recommendations to the District and the Exclusive **769 Representatives about appropriate action to take."

Any action taken by the JLMBC required approval by the affirmative vote of the voting District Member and all but one of the voting Employee Members at a meeting at which a quorum was present. The Agreement provided that a quorum consisted of the voting District Member and any five voting Employee Members. The JLMBC had to submit any proposed changes to the board of trustees (presumably the District's board of trustees) (Board) for its consideration. In order to continue to provide quality health care to the District's employees, retirees, and eligible dependents at a reasonable and sustainable cost, the JLMBC annually had to report to the Board on its actions and activities to mitigate increases to the cost of the health benefits program.

In 2002, the District adopted board rule 101702.10, which provided, "The District shall convene a Joint Labor/Management Benefits Committee (JLMBC) as prescribed by the Master Agreement between the District and the exclusive representatives of its employees. The role, composition, and authority of the Committee are specified in Section IV of the Master Agreement. Section IV of that Agreement (as it now reads or as it may be revised by the parties from time to time) is, by this reference, incorporated herein as if set forth in full."

McKee, on behalf of himself and Californians Aware, submitted a letter to the Board and the JLMBC asserting that the JLMBC was a "legislative body" of the District, which had been holding meetings that did not conform to the public notice and open meeting requirements of the Brown Act. McKee demanded that the District publicly acknowledge in a letter to him that the JLMBC was a "legislative body" under the Brown Act and that all future JLMBC meetings would comply with the Brown Act. Dr. Susan Aminoff, the Chair of the JLMBC, responded that the JLMBC was not a "Brown Act committee."

Petitioners filed their verified petition for writ of mandate, an injunction, and declaratory relief for the JLMBC's alleged violations of the Brown Act. In their petition, petitioners alleged, among other things, that a controversy existed between petitioners and the JLMBC concerning "(1) the legal rights of members of the public to proper and timely notice of the business to be *977 transacted by the JLMBC and to an opportunity to provide input to the JLMBC prior to or during the JLMBC's discussion of that business; and (2) the ministerial duties imposed upon the JLMBC by the Brown Act." The petition sought a declaration that the JLMBC is a "legislative body" under

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the Brown Act and a peremptory writ of mandate ordering the JLMBC to comply with the Brown Act's requirements. Petitioners filed a motion for "Peremptory Writ of Mandate and for Declaratory Relief."

The trial court denied petitioners' petition for writ of mandate. In its order denying the petition, the trial court referred to the California Attorney General's publicly issued opinion that the JLMBC is not required to comply with the Brown Act. The trial court stated that the petition implicated two statutory schemes—the Brown Act and the EERA. According to the trial court, the purpose of the Brown Act, an open meeting law, is to require local entities to conduct their business in public, and the purpose of the EERA is to require public school districts, including community college districts, to recognize and bargain collectively with labor unions representing school district employees. The trial court noted that there is a "tension" between the open meeting **770 requirements of the Brown Act and the closed-door collective bargaining provided by the EERA. The trial court opined that the Legislature resolved that tension with section 3549.1, subdivision (a), which provides that meetings and negotiations between management and labor are not subject to the Brown Act.

The trial court rejected petitioners' attempt to distinguish meetings conducted by the JLMBC from labor-management negotiations and observed that the District and its employees' unions had agreed to divide their negotiations into subgroups, one of which was the "particularly complex" subject of health benefits. The trial court said that the parties created the JLMBC, "to filter out the changes that are to be brought to the negotiating table by requiring some degree of consensus by both labor and management members of the JLMBC in order to submit a change to the board of trustees for its consideration." The trial court concluded, "The activities of the JLMBC are part of the collective bargaining process and the intent of the legislature is that those activities are not to be done in public."

DISCUSSION

Petitioners contend that the trial court erred in denying their petition for writ of mandate. The trial court properly ruled that the JLMBC is not subject to the provisions of the Brown Act.

***978 A. Standard of Review**

" "In reviewing the trial court's ruling on a writ of mandate (Code Civ. Proc., § 1085), the appellate court is ordinarily confined to an inquiry as to whether the findings and judgment of the trial court are supported by substantial evidence. [Citation.] However, the appellate court may make its own determination when the case involves resolution of questions of law where the facts are undisputed. [Citation.]" [Citation.]" (*Caloca v. County of San Diego* (1999) 72 Cal.App.4th 1209, 1217 [85 Cal.Rptr.2d 660].)" (*Zubarau v. City of Palmdale* (2011) 192 Cal.App.4th 289, 301, 121 Cal.Rptr.3d 172; *International Longshoremen's and Warehousemen's Union v. Los Angeles Export Terminal, Inc.* (1999) 69 Cal.App.4th 287, 293, 81 Cal.Rptr.2d 456 (*International Longshoremen's*) [applicability of Brown Act to undisputed facts is subject to de novo review].) Here, because the facts are undisputed, we make our own determination as to the interpretation and application of the Brown Act and the EERA.

B. Relevant Statutes**1. The Brown Act**

Section 54953, subdivision (a) sets forth the Brown Act's general requirement that local agencies must hold their meetings open to the public. Section 54953, subdivision (a) provides, "All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter."⁵ As relevant here, section 54952, subdivision (b) of the Brown Act defines a "legislative body" as "[a] commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body." A commission, committee, board, or other body of a local agency is "created by" charter, ordinance, resolution or other formal action of a legislative body if the legislative body " 'played a role' in bringing ... 'into existence' " the **771 commission, committee, board, or other body. (*Epstein v. Hollywood Entertainment District II Bus. Improvement Dist.* (2001) 87 Cal.App.4th 862, 864, 104 Cal.Rptr.2d 857 (*Epstein*), quoting *International Longshoremen's, supra*, 69

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Cal.App.4th at p. 295, 81 Cal.Rptr.2d 456; see also *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal.App.4th 354, 358–363, 36 Cal.Rptr.3d 47.)

***979 2. The EERA**

Section 3549.1 of the EERA provides in relevant part, “All the proceedings set forth in subdivisions (a) to (d), inclusive, are exempt from the provisions of ... the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), unless the parties mutually agree otherwise: [¶] (a) Any meeting and negotiating discussion between a public school employer and a recognized or certified employee organization.”

Section 3540.1, subdivision (h) provides in pertinent part, “ ‘Meeting and negotiating’ means meeting, conferring, negotiating, and discussing by the exclusive representative and the public school employer in a good faith effort to reach agreement on matters within the scope of representation....” Section 3540.1, subdivision (k) provides as applicable here, “ ‘Public school employer’ or ‘employer’ means the governing board of a school district, a school district....”

C. Application of Statutes

Petitioners contend that the JLMBC is a “legislative body” subject to the public notice and open meeting requirements of the Brown Act because the District played a role in bringing it “into existence” by entering into the Agreement and by adopting board rule 101702.10. The Brown Act exemption in section 3549.1 of the EERA does not apply to the JLMBC, petitioners contend, because the JLMBC is not a “public school employer” that may engage in “meeting and negotiating,” as it is neither the District itself nor a governing board of the District.

The Attorney General issued a formal opinion that the JLMBC is not required to comply with the Brown Act. (92 Ops.Cal.Atty.Gen. 102, 107 (2009).) Citing section 3549.1 and its prior opinion at 61 Ops.Cal.Atty.Gen. 1, 8, 9 (1978) [“that the Legislature ... did not intend to require bargaining committees to negotiate in public is clearly exemplified in section 3549.1....”], the Attorney General stated that it is well-settled that labor-management negotiations conducted pursuant to the EERA between a

public school employer and a recognized or certified employee organization are not subject to the Brown Act. (92 Ops.Cal.Atty.Gen., *supra*, at p. 105.) The Attorney General added, “Health benefits are matters of employee health, safety, and training, which fall squarely within the recognized scope of collective bargaining. [Fn. omitted.] The JLMBC formation springs directly from collective bargaining between an employer and the exclusive bargaining representatives of the employer’s workforce. With its ongoing responsibility to monitor the employees’ health benefits, the JLMBC plays a continuing role in the collective bargaining process with respect to a mandatory subject of bargaining.” (*Id.* at p. 106.)

980** The Attorney General further stated, “To ‘create’ means, among other things, ‘to bring into existence,’ or ‘to produce or bring about by a course of action or behavior.’ [Fn. omitted.] The JLMBC was brought into existence through the process of collective bargaining memorialized in the Master Agreement. Having established the JLMBC, the Master Agreement *772** conferred upon the District the complementary obligation to cause the JLMBC to assemble, which the District discharged through the adoption of Rule 101702.10. [¶] Because the JLMBC was created through the process of collective bargaining as memorialized in the Master Agreement, it does not come within the definition of a legislative body under section 54952. [Fn. omitted.]” (92 Ops.Cal.Atty.Gen., *supra*, at pp. 106–107.)

We agree with the Attorney General and respondents that the JLMBC was created as part of, and for the purpose of furthering, the collective bargaining process under the EERA and, as such, is not subject to the provisions of the Brown Act. (92 Ops.Cal.Atty.Gen., *supra*, at pp. 105–107.) In this matter, we view the Attorney General’s opinion as a significant authority. As the court in *Freedom Newspapers, Inc. v. Orange County Employees Retirement System* (1993) 6 Cal.4th 821, 829, 25 Cal.Rptr.2d 148, 863 P.2d 218 said, “While the Attorney General’s views do not bind us (*Unger v. Superior Court* (1980) 102 Cal.App.3d 681, 688 [162 Cal.Rptr. 611]), they are entitled to considerable weight (*Meyer v. Board of Trustees* (1961) 195 Cal.App.2d 420, 431 [15 Cal.Rptr. 717]). This is especially true here since the Attorney General regularly advises many local agencies about the meaning of the Brown Act and publishes a manual designed to assist local governmental agencies in complying with the Act’s open meeting requirements. (See, e.g., *Open Meeting Laws* (Cal.Atty.Gen., 1989).)” (See also *Shapiro v. Board of Directors* (2005) 134 Cal.App.4th 170, 183, fn. 17, 35 Cal.Rptr.3d 826 [quoting *Freedom Newspapers, Inc. v. Orange County Employees Retirement System, supra*, 6 Cal.4th at p. 829, 25 Cal.Rptr.2d 148, 863 P.2d 218 and

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stating, “[a]n opinion of the Attorney General “is not a mere ‘advisory’ opinion, but a statement which, although not binding on the judiciary, must be ‘regarded as having a quasi judicial character and [is] entitled to great respect,’ and given great weight by the courts. [Citations.]” ‘ [Citation.]’”.)

Petitioners’ contention that the Brown Act exemption in section 3549.1 does not apply to the JLMBC because the JLMBC is not a “public school employer” that may engage in “meeting and negotiating” as it is neither the District itself nor a governing board of the District is incorrect. The JLMBC is a means for the District and its employees’ exclusive representatives to meet and negotiate. Under the Agreement, the JLMBC includes one voting District Member and one nonvoting District Member. Section 3543.3 plainly permits the District, a “public school employer,” such representation when “meeting and negotiating” with its employees’ exclusive representatives. Section 3543.3 provides, “A public school employer *or such representatives* *981 *as it may designate* who may, but need not be, subject to either certification requirements or requirements for classified employees set forth in the Education Code, *shall meet and negotiate* with and only with representatives of employee organizations selected as exclusive representatives of appropriate units upon request with regard to matters within the scope of representation.” (Italics added.) The District Members on the JLMBC clearly are such representatives—school districts act through agents or representatives.

Petitioners rely on *International Longshoremen’s, supra*, 69 Cal.App.4th 287, 81 Cal.Rptr.2d 456, *Epstein, supra*, 87 Cal.App.4th 862, 104 Cal.Rptr.2d 857, and *Frazer v. Dixon Unified School District* (1993) 18 Cal.App.4th 781, 22 Cal.Rptr.2d 641 (*Frazer*) for the proposition that the JLMBC is a “legislative body” because the District participated in its creation. **773 *International Longshoremen’s, supra*, 69 Cal.App.4th at pages 290 through 291, 81 Cal.Rptr.2d 456 concerned the Los Angeles City Council’s approval of an agreement between its harbor department and 34 foreign and domestic companies to form a private, for-profit corporation that would design, construct, and operate a facility for the export of coal. *Epstein, supra*, 87 Cal.App.4th at page 864, 104 Cal.Rptr.2d 857 dealt with the City of Los Angeles’s formation of a nonprofit corporation to

administer funds that the city raised through assessments on businesses in a special assessment district within the city—that is, to take over administrative functions that the city normally would handle. *Frazer, supra*, 18 Cal.App.4th at pages 785 through 786, and 792, 22 Cal.Rptr.2d 641 involved the formation, pursuant to a school board policy, of hearing and review committees to advise the school superintendant and school district on a challenged change in school curriculum. None of these cases involved a mechanism, such as the one here, which was established as part of the collective bargaining process and therefore subject to a statutory Brown Act exemption.

Finally, petitioners contend that even if the JLMBC is deemed a “public school employer” within the meaning of section 3549.1, the JLMBC is subject to the open meeting and public participation requirements in section 3547.⁶ Petitioners’ argument fails. Section 3547 is part of the EERA and not the Brown Act. Petitioners’ writ petition concerned the JLMBC’s alleged lack of *982 compliance with the Brown Act and not the JLMBC’s alleged lack of compliance with section 3547 of the EERA. Accordingly, petitioners have forfeited this issue.⁷ (*Tutti Mangia Italian Grill, Inc. v. American Textile Maintenance Co.* (2011) 197 Cal.App.4th 733, 740, 128 Cal.Rptr.3d 551.)

DISPOSITION

The judgment is affirmed. No costs are awarded.

We concur: ARMSTRONG, Acting P.J., and KRIEGLER, J.

All Citations

200 Cal.App.4th 972, 133 Cal.Rptr.3d 766, 192 L.R.R.M. (BNA) 2436, 274 Ed. Law Rep. 247, 11 Cal. Daily Op. Serv. 13,783

Footnotes

¹ All statutory citations are to the Government Code unless otherwise noted.

² The EERA sometimes used to be referred to as the Rodda Act. (*Sonoma County Bd. Of Education v. Public Employment Relations Bd.* (1980) 102 Cal.App.3d 689, 692, 163 Cal.Rptr. 464; 3 Witkin, *Summary of Cal. Law* (10th ed. 2005) Agency and

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Employment, § 587, p. 700.)

3 The factual background is taken from the pleadings before the trial court.

4 The Los Angeles College Faculty Guild, AFT Local 1521; the AFT College Staff Guild, Los Angeles, AFT Local 1512A; the Los Angeles City and County School Employees Union, SEIU (Service Employees International Union) Local 99; the Los Angeles/Orange Counties Building and Construction Trades Council; the Supervisory Employees Union, SEIU Local 347; and the Public, Professional and Medical Employees Union of the California Teamsters, Local 911.

5 Section 54954.2 provides for notice.

6 Section 3547 provides:

“(a) All initial proposals of exclusive representatives and of public school employers, which relate to matters within the scope of representation, shall be presented at a public meeting of the public school employer and thereafter shall be public records.

“(b) Meeting and negotiating shall not take place on any proposal until a reasonable time has elapsed after the submission of the proposal to enable the public to become informed and the public has the opportunity to express itself regarding the proposal at a meeting of the public school employer.

“(c) After the public has had the opportunity to express itself, the public school employer shall, at a meeting which is open to the public, adopt its initial proposal.

“(d) New subjects of meeting and negotiating arising after the presentation of initial proposals shall be made public within 24 hours. If a vote is taken on such subject by the public school employer, the vote thereon by each member voting shall also be made public within 24 hours.

“(e) The board may adopt regulations for the purpose of implementing this section, which are consistent with the intent of the section; namely that the public be informed of the issues that are being negotiated upon and have full opportunity to express their views on the issues to the public school employer, and to know of the positions of their elected representatives.”

7 Citing California Code of Regulations, title 8, section 32602, respondents argue that any claimed violation of section 3547 is within the exclusive jurisdiction of the Public Employment Relations Board and that therefore petitioners have not exhausted their administrative remedies. Because petitioners forfeited their claim that respondents violated section 3547, we do not reach this issue.

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69 Cal.App.4th 287
Court of Appeal, Second District, Division 3,
California.

**INTERNATIONAL LONGSHOREMEN’S
AND WAREHOUSEMEN’S UNION et al.,
Plaintiffs and Respondents,**

v.

**LOS ANGELES EXPORT TERMINAL,
INC., Defendant and Appellant.**

No. B112263.

Jan. 14, 1999.

As Modified on Denial of Rehearing Feb. 10, 1999.

Review Denied April 14, 1999.

Synopsis

After board of directors of private corporation that developed and operated coal export facility entered into terminal operating agreement with proposed operator, union filed petition for writ of mandate, seeking to nullify agreement as well as injunctive relief requiring board to conduct its meetings publicly in accordance with the Ralph M. Brown Act. The Superior Court, Los Angeles County, No. BC145559, Robert H. O’Brien, J., ruled that board was subject to the Brown Act, denied corporation’s posttrial motions to vacate judgment and for new trial, and awarded attorney fees to union as the prevailing party. Corporation appealed. The Court of Appeal, Klein, P.J., held that: (1) corporation’s board of directors was a “legislative body” within meaning of the Brown Act; (2) trial court properly denied corporation’s posttrial motions; (3) award of attorney fees to union in the amount of \$60,660, based on reasonable market value rather than on fees actually incurred, was proper; and (4) union was entitled to reasonable attorney fees on appeal.

Affirmed.

Attorneys and Law Firms

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***290** Leonard, Carder, Nathan, Zuckerman, Ross, Chin &

Remar, Robert Remar, Beth A. Ross, and Arthur A. Krantz, San Francisco, for Plaintiffs and Respondents.

Opinion

KLEIN, P.J.

Defendant and appellant Los Angeles Export Terminal, Inc. (LAXT) appeals a judgment and postjudgment order in favor of plaintiffs and respondents International Longshoremen’s and Warehousemen’s Union (ILWU), three of its affiliated locals, ILWU Local 13, ILWU Local 63 and ILWU Local 94, and three individuals, James Spinosa, John Vlaic and Mike Freese, each of whom is an officer or agent of one of the local affiliates (collectively, ILWU).

The essential issue presented is whether LAXT’s board of directors is subject to the open meeting requirements of the Ralph M. Brown Act (the Brown Act or the Act) (Gov.Code, § 54950 et seq.).¹

For the reasons discussed below, we conclude LAXT, a private corporation in which the Harbor Department of the City of Los Angeles (the Harbor Department) is a shareholder, is subject to the Brown Act. The judgment and postjudgment order are affirmed.

FACTUAL AND PROCEDURAL BACKGROUND

In 1981, the Board of Harbor Commissioners, which is entrusted by sections 138 and 139 of the Los Angeles City Charter (City Charter) with power and authority over the Harbor Department and the Port of Los Angeles, adopted Resolution 4531. Said resolution approved in concept the development of a major coal terminal on Terminal Island and set forth a series of steps to expedite related environmental studies and review. The Port commissioned a feasibility study which was to determine the viability of the project.

Thereafter, 28 private companies based in Japan, six domestic companies and the Harbor Department negotiated and reached agreement on a complex contractual arrangement known as the Shareholders’ Agreement. Under the agreement, LAXT would be formed as a private, for profit corporation to design,

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construct and operate a dry bulk handling facility for the export of coal on land leased from the Harbor Department. LAXT was to be capitalized with \$120 million. The Harbor Department, as a 15 percent shareholder, *291 would contribute \$18 million and would be entitled to nominate three of the 19 LAXT board members.

Pursuant to a Charter provision requiring the Los Angeles City Council (City Council) to approve contracts with a payment commitment **459 extending beyond three years, the Shareholders' Agreement was submitted to the City Council for its consideration.

On February 23, 1993, the City Council adopted Ordinance No. 168614, stating: "The Shareholders' Agreement is hereby approved and the Mayor of Los Angeles, or the President of the Board of Harbor Commissioners or the Executive Director of the Harbor Department is hereby authorized to execute said agreement."

On March 31, 1993, articles of incorporation were filed with the Secretary of State by a Los Angeles deputy city attorney.

The corporate entities and the Harbor Department entered into the Shareholders' Agreement on April 12, 1993.

The Shareholders' Agreement contained, inter alia, a condition that the project would not go forward unless the parties unanimously approved the terms of the lease between LAXT and the Harbor Department. The Board of Harbor Commissioners approved the lease on June 14, 1993.

The lease specified a term of 35 years, including a 10-year option. Under the City Charter, leases having a duration exceeding five years require City Council approval. Because of the lease's duration, it was submitted to the City Council, which approved it on July 27, 1993.

The lease then was executed by LAXT and "THE CITY OF LOS ANGELES, by its Board of Harbor Commissioners," effective August 30, 1993.

LAXT's organization, shareholder funding, election of directors, project design and construction then proceeded. On November 16, 1995, LAXT's board of directors authorized LAXT to enter into a Terminal Operating Agreement with Pacific Carbon Services Corporation (PCS).

1. Proceedings.

Following LAXT's approval of the Terminal Operating Agreement with PCS, ILWU initiated this action on March 4, 1996 by filing a petition for writ of mandate which sought to nullify said agreement as well as injunctive *292 relief. ILWU alleged PCS was a "non-union" or "anti-union" employer which would employ workers at LAXT and its facilities "at substandard wages and under substandard terms and conditions of employment that will severely harm the prevailing standards in the Port of Los Angeles." ILWU alleged LAXT's board of directors was a legislative body within the meaning of the Brown Act and therefore was required to conduct its meetings publicly.

ILWU sought an injunction requiring LAXT's board of directors to conduct its future affairs in accordance with the Brown Act, and a judicial determination that the PCS agreement was null and void because LAXT's board of directors had approved the PCS agreement without complying with the procedural requirements of the Brown Act calling for open public meetings. ILWU also sought an award of attorney fees pursuant to section 54960.5 of the Act.

2. Trial court's ruling.

The matter was tried on briefs, declarations and exhibits. After hearing arguments by counsel, the trial court ruled LAXT's board of directors is a "legislative body" subject to the Brown Act.

The statement of decision provides in relevant part: The construction and operation of the port facility herein would be a pure governmental function, but for the City's arrangement with LAXT. The construction and operation of a port facility is a properly and lawfully delegable activity of the City in that such activity constitutes the performance of administrative functions. (*County of Los Angeles v. Nesvig* (1965) 231 Cal.App.2d 603, 616, 41 Cal.Rptr. 918.) The City's actions in forming LAXT "amount to the creation of LAXT by the City's elected legislative body, the Los Angeles City Council." LAXT is a private entity created by the elected legislative body of a local agency in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation or entity, within the meaning of section 54952, subdivision (c)(1). Therefore, the Brown Act applies to the LAXT board of directors. On February

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2, 1996, ILWU made a proper demand that LAXT comply with the Brown Act. "All actions taken by the **460 LAXT [b]oard of [d]irectors within the 90 days preceding [ILWU's] demand, November 4, 1995 through February 2, 1996, are null and void, ..." (§ 54960.1, subd. (a).)

Judgment was entered on March 7, 1997.

3. Postjudgment proceedings.

On April 25, 1997, the trial court denied LAXT's motion to vacate the judgment and enter a judgment of dismissal, as well as LAXT's motion for *293 a new trial. In addition, pursuant to section 54960.5, the trial court awarded attorney fees to ILWU, as the prevailing party, in the sum of \$60,660.

This appeal followed.

CONTENTIONS

LAXT contends the trial court erred: in determining the LAXT board of directors is a legislative body subject to the Brown Act; in denying LAXT's posttrial motions to vacate the judgment and for a new trial; in awarding attorney fees to ILWU and in the amount awarded.

DISCUSSION

1. Standard of review.

The central issue is the applicability of the Brown Act, specifically, whether LAXT's board of directors is a legislative body within the meaning of section 54952, subdivision (c)(1)(A), so as to be subject to the Act. As an appellate court, "we 'conduct independent review of the trial court's determination of questions of law.' [Citation.] Interpretation of a statute is a question of law. [Citations.] Further, application of the interpreted statute to undisputed facts is also subject to our independent determination. [Citation.]" (*Harbor Fumigation, Inc. v.*

County of San Diego Air Pollution Control Dist. (1996) 43 Cal.App.4th 854, 859, 50 Cal.Rptr.2d 874.)

2. The Brown Act's purpose, scope and broad construction.

The Brown Act (§ 54950 et seq.), adopted in 1953, is intended to ensure the public's right to attend the meetings of public agencies. (*Freedom Newspapers, Inc. v. Orange County Employees Retirement System* (1993) 6 Cal.4th 821, 825, 25 Cal.Rptr.2d 148, 863 P.2d 218.) To achieve this aim, the Act requires, inter alia, that an agenda be posted at least 72 hours before a regular meeting and forbids action on any item not on that agenda. (§ 54954.2, subd. (a); *Cohan v. City of Thousand Oaks* (1994) 30 Cal.App.4th 547, 555, 35 Cal.Rptr.2d 782.) The Act thus serves to facilitate public participation in all phases of local government decisionmaking and to curb misuse of the democratic process by secret legislation of public bodies. (*Cohan, supra*, 30 Cal.App.4th at p. 555, 35 Cal.Rptr.2d 782.)

The Act's statement of intent provides: "In enacting this chapter, the Legislature finds and declares that the public commissions, boards and *294 councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. [¶] The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created." (§ 54950; Stats.1953, ch. 1588, p. 3270, § 1.)

The Brown Act dictates that "[a]ll meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter." (§ 54953, subd. (a).)

The term "legislative body" has numerous definitions, grouped together in section 54952. The question before us *de novo* is whether LAXT's board of directors is a legislative body within the meaning of subdivision (c)(1)(A) of section 54952. This provision states in relevant part: "As used in this chapter, 'legislative body' means: [¶] ... [¶] (c)(1) A board, commission, committee, or other multimember body that governs a private

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corporation or entity that ...: [¶] (A) Is created by the elected legislative body in ****461** order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation or entity.” (§ 54952, subd. (c)(1)(A).)

In determining whether LAXT's board of directors is a legislative body within the meaning of the Brown Act, we are mindful that as a remedial statute, the Brown Act should be construed liberally in favor of openness so as to accomplish its purpose and suppress the mischief at which it is directed. (*San Diego Union v. City Council* (1983) 146 Cal.App.3d 947, 955, 196 Cal.Rptr. 45 [construing open-meeting requirements].) This is consistent with the rule that “civil statutes for the protection of the public are, generally, broadly construed in favor of that protective purpose. [Citations.]” (*People ex rel. Lungren v. Superior Court* (1996) 14 Cal.4th 294, 313, 58 Cal.Rptr.2d 855, 926 P.2d 1042.)

3. *LAXT's board of directors is a legislative body within the meaning of the Brown Act.*

As indicated, section 54952, subdivision (c)(1)(A), defines a legislative body as “A board, commission, committee, or other multimember body that governs a private corporation or entity that ...: [¶] (A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation or entity.”

***295** There is no question that LAXT's board of directors is a multimember body that governs a private corporation or entity. The dispute concerns the remaining elements of section 54952, subdivision (c)(1)(A). LAXT contends the trial court erred in concluding LAXT's board of directors is a legislative body within the meaning of the statute because: (1) LAXT was not created by an *elected legislative body*, the City Council, but rather, by an appointed body, the Board of Harbor Commissioners; (2) LAXT was not created to exercise any governmental authority; and (3) LAXT was not granted any authority which could be delegated by the City Council. The arguments are unpersuasive.

a. *LAXT was created by an elected legislative body, namely, the Los Angeles City Council.*

To be subject to the Brown Act, the private corporation

must be “created by the elected legislative body.” (§ 54952, subd. (c)(1)(A).)

The City Charter vests the Harbor Commission, an *appointed* body, with power and authority over the operation and development of the Port of Los Angeles. (L.A. Charter §§ 138, 139.) LAXT asserts it was the Harbor Commission, not the City Council, which created LAXT, and the acts of the Harbor Commission in creating LAXT cannot be attributed to the City Council without disregarding the explicit allocations of power under the Charter.

Section 54952, subdivision (c)(1)(A), does not define what is meant by the term “created by.” The ordinary definition of “to create” is “to bring into existence.” (Webster's New Internat. Dict. (3d ed.1986) p. 532.) Here, the City Council, as well as the Harbor Commission, played a role in bringing LAXT into existence.

Specifically, on February 23, 1993, the City Council adopted Ordinance No. 168614, stating: “The Shareholders' Agreement is hereby approved and the Mayor of Los Angeles, or the President of the Board of Harbor Commissioners or the Executive Director of the Harbor Department is hereby authorized to execute said agreement.”

Following this formal action by the City Council, on March 31, 1993, articles of incorporation were filed by a deputy city attorney with the ***296** Secretary of State, and the corporate entities and the Harbor Department entered into the Shareholders' Agreement on April 12, 1993.

Thus, the City Council was involved in bringing LAXT into existence. The contention LAXT was entirely a creature of the Board of Harbor Commissioners is without merit.

Of particular significance is a provision of the City Charter expressly authorizing the City Council to review any matter originally considered by the Board of Harbor Commissioners, effectively usurping the Commission's ****462** role. Section 32.3 of the Charter provides in relevant part: “Notwithstanding any other provisions of this Charter, actions of commissions and boards shall become final at the expiration of the next five (5) meeting days of the City Council during which the Council has convened in regular session, unless City Council acts within that time by two-thirds vote to bring such commission or board action before it for consideration and for whatever action, if any, it deems appropriate, ... If the Council asserts such jurisdiction, said commission or board will immediately transmit such action to the City

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Clerk for review by the Council and the particular action of the board or commission shall not be deemed final and approved.... *If the Council asserts such jurisdiction over the action, it shall have the same authority to act on the matter as that originally held by the board or commission, but it must then act and make a final decision on the matter before the expiration of the next twenty-one (21) calendar days from voting to bring the matter before it, or the action of the commission or board shall become final.*" (Italics added.)

Thus, the City Council, an elected legislative body with ultimate accountability to the voters, retains plenary decision-making authority over Harbor Department affairs and has jurisdiction to overturn any decision of the appointed Board of Harbor Commissioners. Here, by adopting an ordinance which approved the Shareholders' Agreement to form LAXT, as well as by acquiescing in the Board of Harbor Commissioners' activity in establishing LAXT, the City Council was involved in bringing LAXT into existence. Without the express or implied approval of the City Council, LAXT could not have been created. Accordingly, LAXT was created by an elected legislative body within the meaning of the statute, and the trial court properly so found.

Nonetheless, in an attempt to characterize LAXT as entirely a creature of the Board of Harbor Commissioners, LAXT emphasizes the Shareholders' Agreement was submitted to the City Council for its approval *only because* *297 section 390 of the City Charter required that contracts with a payment commitment extending for a period longer than three years be approved and authorized by ordinance of the City of Los Angeles. LAXT also stresses the 35-year lease between LAXT and the Harbor Department was submitted to the City Council for its approval *only because* section 140(e) of the City Charter required City Council approval for leases having a duration exceeding five years. These arguments are unpersuasive. Irrespective of the length of the payment commitment or the duration of the lease, the City's elected legislative body, namely, the City Council, inherently was involved in the creation of LAXT. Even assuming the payment commitment would have extended for less than three years, or the lease extended for less than five years, the City Council would have been involved in LAXT's creation.

As explained, under section 32.3 of the Charter the City Council is vested with the power to assert jurisdiction over any matter before the Board of Harbor Commissioners and the Council then has the same authority to act on the matter as was originally held by that board. Obviously, if the City Council is in agreement with the action taken by the Board of Harbor

Commissioners, there is no need for the Council to usurp that board's role. In such a situation, the City Council, with full knowledge of the Harbor Commissioners' action and with the power to disaffirm the action, simply can acquiesce and thereby ratify the action taken by the Board of Harbor Commissioners. It is only when the City Council disagrees with the action taken by the Board of Harbor Commissioners that there is a need for the City Council to intervene.

Therefore, LAXT's attempt to depict itself as purely a creature of the appointed Board of Harbor Commissioners is unavailing. Irrespective of the level of the City Council's active involvement in the creation of LAXT, in view of the City Council's ultimate authority to overturn an action of the Harbor Commission, the trial court properly found LAXT was created by the City's *elected legislative body*. (§ 54952, subd. (c)(1)(A).)

****463 b.** *LAXT was created to exercise governmental authority.*

Section 54952, subdivision (c)(1)(A) requires the private entity be created by the elected legislative body "in order to exercise authority" which may be delegated. LAXT contends it was not created to exercise any governmental authority. The argument is not persuasive.

By way of background, a public body may delegate the performance of administrative functions to a private entity if it retains ultimate control over *298 administration so that it may safeguard the public interest. (*County of Los Angeles v. Nesvig, supra*, 231 Cal.App.2d at p. 616, 41 Cal.Rptr. 918.) Case law delineates the permissible scope of delegation of governmental authority. For example, *Irwin v. City of Manhattan Beach* (1966) 65 Cal.2d 13, 23, 51 Cal.Rptr. 881, 415 P.2d 769, upheld a city's grant of authority to private parties to build and operate an overpass as a lawful delegation. *County of Los Angeles v. Nesvig, supra*, 231 Cal.App.2d at page 617, 41 Cal.Rptr. 918, upheld the County of Los Angeles's contract with a private company to operate the Music Center as a lawful delegation of governmental authority. *Haggerty v. City of Oakland* (1958) 161 Cal.App.2d 407, 415-417, 326 P.2d 957, upheld the Oakland Board of Port Commissioners' lease of a port facility to a private company as a lawful delegation. In contrast, *Egan v. San Francisco* (1913) 165 Cal. 576, 583-584, 133 P. 294, invalidated a contract between San Francisco and a private corporation formed to build an opera house on public land, where the city had not retained sufficient control over operation of the opera house for the delegation to be valid.³

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Here, Tay Yoshitani, who served as LAXT's president and as an LAXT director representing the Harbor Department, acknowledged in a letter to a taxpayers' organization: "*All major facilities at the Port of Los Angeles are totally built and paid for by the port and subsequently leased to a tenant with the exception of LAXT.* In other words, the port typically assumes 'all of the risk' of building a major marine facility. In the case of LAXT, the port structured the project so that other parties besides the City [of Los Angeles] assumed the bulk of the risk." (Italics added.)

Thus, LAXT's own president recognized the Board of Harbor Commissioners had delegated to LAXT its own authority to construct and operate a port facility. This is consistent with Government Code section 37386, which provides: "A city may lease such tide and submerged lands and uplands for: [¶] (a) Industrial uses. [¶] (b) Improvement and development of city harbors. [¶] (c) Construction and maintenance of wharves, docks, piers, or bulkhead piers. [¶] (d) *Other public uses* consistent with the requirements of commerce or navigation in city harbors." (Italics added; see also Gov.Code § 37385; Civ.Code, § 718.) Here, the City created LAXT to develop a coal facility on land leased from the Harbor Department, instead of developing the facility directly.

Accordingly, LAXT's contention it was not created to exercise any governmental authority must be rejected.

***299 c.** *The delegation to LAXT was effected by the City Council.*

To be subject to the Brown Act, the private corporation must be created to exercise governmental authority "that may lawfully be delegated by the elected governing body to a private corporation or entity." (§ 54952, subd. (c)(1)(A).) LAXT asserts the authority which was delegated to it was delegated by the Board of Harbor Commissioners, not by the City Council. LAXT contends only the Board of Harbor Commissioners had the authority to delegate the authority at issue herein, i.e., to construct and operate a port facility.

The contention fails. LAXT is correct insofar as sections 138 and 139 of the City Charter vest the Board of Harbor Commissioners with power and authority over the Port of Los Angeles. However, the Board of Harbor Commissioners was powerless to delegate any authority to LAXT without the express or implied approval of the City Council. As indicated, the City Council retains

****464** the power to assert jurisdiction over any action and has the same authority to act as that originally held by the Board of Harbor Commissioners, including the power to disapprove any decision of that board. (L.A. Charter § 32.3.) Thus, the delegation of authority to LAXT could not have occurred without, at a minimum, the implied approval of the City Council.

Therefore, the trial court properly found the delegation of authority to LAXT was effected by the City Council as the duly elected legislative body, so as to bring LAXT within the Brown Act.⁴

***300 d.** *Conclusion re applicability of Brown Act to LAXT's board of directors.*

The trial court properly held LAXT's board of directors is subject to the Brown Act because it is a legislative body within the meaning of section 54952(c)(1)(A). This interpretation is informed by the broad purpose of the Brown Act to ensure the people's business is conducted openly. Under LAXT's constrained reading of the Brown Act, the statute's mandate may be avoided by delegating municipal authority to construct and operate a port facility to a private corporation. While there is no indication LAXT was structured in an attempt to avoid the Brown Act, LAXT's narrow reading of the statute would permit that to occur. Surely that is not what the Legislature intended.⁵

4. *Trial court properly denied LAXT's posttrial motions.*

Based on the above contentions, LAXT argues the trial court should have granted its motion to vacate the judgment and enter a judgment of dismissal, as well as its motion for new trial. This contention necessarily fails in view of our rejection of LAXT's underlying contentions.

In addition, LAXT asserts the trial court abused its discretion in denying the motion for new trial based on newly discovered evidence after trial. The newly discovered evidence showed that one of the three directors who had been nominated by the City Council in accordance with the Shareholders' Agreement had resigned, leaving only two city nominees sitting among 17 directors. Further, due to the subsequent issuance of new shares, the Harbor Department's stake in LAXT has decreased to 13.6 percent, and because the Shareholders'

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Agreement allocates one nomination for each five percent share, the City Council would not be able to nominate a third director. LAXT argues this new evidence demonstrates LAXT is a ****465** private corporation engaged in commerce, not an instrumentality of government.

The argument is unavailing. The issue here is whether LAXT's board of directors amounts to a "legislative body" within the meaning of ***301** section 54952, subdivision (c)(1)(A). The dilution of the Harbor Department's stake in LAXT does not alter the conclusion that LAXT's board is a legislative body within the meaning of the statute.

Therefore, we reject LAXT's contention the trial court abused its discretion in denying the motion for new trial.

5. Award of attorney fees to ILWU was proper.

LAXT contends the trial court erred in making an award of attorney fees to ILWU and in the amount awarded. Its arguments are unpersuasive.

a. LAXT's board of directors is a "legislative body" within the meaning of section 54960.5.

Section 54960.5, which was the basis for the trial court's award of attorney fees and costs, states in relevant part: "A court may award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to Section 54960 or 54960.1 where it is found that a *legislative body* of the local agency has violated this chapter." (Italics added.)

The Brown Act violation herein was committed by the board of directors of LAXT, not by the City Council. Obviously, LAXT's board of directors is *not* a "legislative body" within the ordinary definition of the term. Therefore, the question arises whether LAXT's board is subject to the attorney fees provision of section 54960.5.

Admittedly, the statutory scheme is not a model of drafting. Nonetheless, it would appear the extensive definition of "legislative body" set forth in section 54952 applies to the use of that term in section 54960.5. It is a fundamental principle of statutory interpretation that statutes are not construed in isolation, but rather, with reference to the entire scheme of law of which they are

part so that the whole may be harmonized and retain effectiveness. (*Brown v. Superior Court* (1984) 37 Cal.3d 477, 484, 208 Cal.Rptr. 724, 691 P.2d 272; *People v. Ledesma* (1997) 16 Cal.4th 90, 95, 65 Cal.Rptr.2d 610, 939 P.2d 1310.) Further, it is internally inconsistent to suggest that a governing board subject to the open meeting requirements of the Brown Act pursuant to the definition of "legislative body" contained in section 54952 is exempt from the Act's attorney fees provision on the ground it is not a "legislative body" within section 54960.5.

Accordingly, we conclude LAXT's board of directors is a legislative body subject to the attorney fees provision of section 54960.5 of the Act.

**302 b. Award of attorney fees was within trial court's discretion.*

LAXT argues the trial court abused its discretion in awarding any attorney fees to ILWU due to the lack of any benefit to the general public. (*Common Cause v. Stirling* (1983) 147 Cal.App.3d 518, 524, 195 Cal.Rptr. 163.) LAXT argues ILWU's purpose in bringing this litigation was to advance the union's parochial goal of preserving the level of the prevailing wage and voiding the approval by LAXT of a contract with a nonunion employer.

By way of background, a trial court is not required to award attorney fees "to a prevailing plaintiff in every Brown Act violation. A court must still thoughtfully exercise its power under section 54960.5 examining all the circumstances of a given case to determine whether awarding fees under the statute would be unjust with the burden of showing such inequity resting on the defendant." (*Common Cause v. Stirling* (1981) 119 Cal.App.3d 658, 665, 174 Cal.Rptr. 200.) Considerations which the trial court should weigh in exercising its discretion include "the necessity for the lawsuit, lack of injury to the public, the likelihood the problem would have been solved by other means and the likelihood of recurrence of the unlawful act in the absence of the lawsuit." (*Ibid.*)

****466** The public benefit from ILWU's action was sufficient to support an award of attorney fees. As discussed, LAXT asserted it was a private entity beyond the reach of the Brown Act, and it continues to adhere to that position. Therefore, had ILWU not brought this action, LAXT would have engaged in recurring violations of the Brown Act, to the detriment of the public generally.

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Clearly, the outcome of the lawsuit was not exclusively for the benefit of ILWU.

Accordingly, we reject LAXT's contention an award of attorney fees to ILWU is unjust.

c. Trial court did not err in basing the attorney fees award on market rates.

LAXT contends the \$60,660 attorney fees award to ILWU is excessive. The record reflects ILWU paid its attorneys an hourly rate of \$125 per hour and later, \$140 per hour. However, in moving for attorney fees, ILWU requested reasonable attorney fees based on market rates, which ranged from \$125 per hour to \$275 per hour for the attorneys who worked on this matter. LAXT contends the trial court erred in awarding fees in excess of those actually charged by ILWU's counsel. The argument fails.

***303** In *Serrano v. Unruh* (1982) 32 Cal.3d 621, 642, 186 Cal.Rptr. 754, 652 P.2d 985, which involved a claim for attorney fees under Code of Civil Procedure 1021.5, the private attorney general statute, our Supreme Court cited with approval the view of the First Circuit, which earlier held: " 'We do not think ... that compensating a public interest organization ... on the same basis as a private practitioner results in ... a windfall.... Indeed, we are concerned that compensation at a lesser rate would result in a windfall to the defendants.' (*Palmigiano v. Garrahy* (1st Cir.1980) 616 F.2d 598, 602, cert. den....)" *Serrano* concluded "[s]ervices compensable under section 1021.5 are computed from their reasonable market value. The trial court was entitled to use the prevailing billing rates of comparable private attorneys as the 'touchstone' for determination of that value. Cost figures bore no reasonable relevance to calculation of the 'touchstone' figure. [Fn. omitted.]" (*Id.*, at p. 643, 186 Cal.Rptr. 754, 652 P.2d 985.)

The private attorney general statute is analogous to the Brown Act's attorney fees provision in that both authorize compensation for private actions which serve to vindicate important rights affecting the public interest. (*Serrano, supra*, 32 Cal.3d at p. 632, 186 Cal.Rptr. 754, 652 P.2d 985; *Common Cause, supra*, 147 Cal.App.3d at p. 524, 195 Cal.Rptr. 163.) In *Common Cause*, a case involving attorney fees under the Brown Act, the court was guided, inter alia, by decisions involving fees under the private attorney general theory. (*Common Cause, supra*, 147 Cal.App.3d at p. 522, 195 Cal.Rptr. 163, citing *Marini v. Municipal Court* (1979) 99 Cal.App.3d 829, 160 Cal.Rptr. 465 and *Woodland Hills Residents Assn., Inc. v. City*

Council (1979) 23 Cal.3d 917, 154 Cal.Rptr. 503, 593 P.2d 200.) Therefore, the rationale for basing an award of attorney fees on reasonable market value is equally applicable to section 54960.5. Accordingly, the trial court was not required to base the attorney fees award on the fees actually incurred by ILWU.

6. ILWU is entitled to reasonable attorney fees on appeal.

In the respondent brief, ILWU requests reasonable attorney fees incurred in the defense of this appeal.

The issue presented is whether section 54960.5 authorizes an award of attorney fees at the appellate level. The statute provides a court may award attorney fees and costs "to the plaintiff" or "to a defendant." (§ 54960.5.) The statute does not use the terms "appellant" or "respondent." Nonetheless, we conclude section 54960.5 authorizes compensation for all hours reasonably spent, including those necessary to defend the judgment on appeal.

In *Serrano*, defendants contended no fees were recoverable for defending the fee award on appeal because the appeal did not independently meet the ***304** requirements of Code of Civil Procedure section 1021.5. (*Serrano, supra*, 32 Cal.3d at p. 637, 186 Cal.Rptr. 754, 652 P.2d 985.) *Serrano* disagreed, reasoning a contrary rule "would permit the fee to vary ****467** with the nature of the opposition." (*Id.*, at p. 638, 186 Cal.Rptr. 754, 652 P.2d 985.) A defendant " 'cannot litigate tenaciously and then be heard to complain about the time necessarily spent by the plaintiff in response.' [Citation.]" (*Ibid.*) Therefore, *Serrano* held that "absent circumstances rendering the award unjust, fees recoverable under section 1021.5 ordinarily include compensation for all hours reasonably spent, including those necessary to establish and defend the fee claim." (*Id.*, at p. 639, 186 Cal.Rptr. 754, 652 P.2d 985.)

By a parity of reasoning, we conclude ILWU is entitled under section 54960.5 to recover reasonable attorney fees incurred in defending this appeal.⁶

DISPOSITION

International Longshoremen's and Warehousemen's Union v...., 69 Cal.App.4th 287...

81 Cal.Rptr.2d 456, 99 Daily Journal D.A.R. 537, 1999 Daily Journal D.A.R. 1389

The judgment and postjudgment order are affirmed. ILWU shall recover costs and reasonable attorney fees on appeal.

CROSKEY and ALDRICH, JJ., concur.

All Citations

69 Cal.App.4th 287, 81 Cal.Rptr.2d 456, 99 Daily Journal D.A.R. 537, 1999 Daily Journal D.A.R. 1389

Footnotes

- 1 All further statutory references are to the Government Code, unless otherwise indicated.
- 2 Although LAXT contends it was created by the collective action of all of its shareholders rather than by any governmental entity, absent this approval by the City Council authorizing the Harbor Department to enter into the Shareholders' Agreement, LAXT could not have been created.
- 3 There is no contention here there was an excessive delegation of public authority to LAXT.
- 4 In support of LAXT's contention the City Council lacked power to delegate authority held by the Board of Harbor Commissioners, LAXT invokes section 32.1(a) of the City Charter, which states in relevant part: "Notwithstanding the powers, duties and functions of the several departments, boards or bureaus of the City government as set forth in this Charter, the Mayor, subject to the approval of the Council by ordinance, adopted by a two-thirds vote of the whole of the Council, may transfer any such powers, duties or functions from one department, board or bureau to another, or consolidate the same in one or more of the departments, boards or bureaus created by this Charter or in a new department, board or bureau created by ordinance.... *The power of the Mayor and Council so to act as provided in this section shall not extend to the Harbor Department, Department of Airport, the Department of Water and Power, the City Employees' Retirement System or the Department of Pensions.*" (Italics added.) LAXT's reliance on City Charter section 32.1(a) is misplaced. Section 32.1(a) empowers the Mayor and City Council to transfer powers, duties and functions from one department to another and specifies the power of the Mayor and Council so to act does not extend to the Harbor Department, among others. However, there is no issue here as to a transfer by the Mayor or Council of the powers of the Harbor Department to another municipal department. Further, nothing in section 32.1(a) negates the power of the City Council under section 32.3 to revisit any action taken by the Board of Harbor Commissioners. Thus, in allowing the delegation by the Harbor Department to LAXT to proceed, the City Council acted within its power by effectively ratifying the delegation.
- 5 We emphasize our holding is a narrow one. LAXT's board of directors is subject to the Brown Act pursuant to section 54952, subdivision (c)(1)(A), because, inter alia, LAXT was created by an *elected legislative body*, i.e., the Los Angeles City Council. Had LAXT been a *preexisting* corporation which simply entered into a contractual arrangement with the Harbor Department to develop the coal facility, LAXT would not have been a creation of the City Council and LAXT's board of directors would not be subject to the Brown Act pursuant to section 54952, subdivision (c)(1)(A).
- 6 If our interpretation of various aspects of the Brown Act is not what the Legislature intended, the statutory scheme could use clarification. (See *Malibu Committee for Incorporation v. Board of Supervisors* (1990) 222 Cal.App.3d 397, 410, 271 Cal.Rptr. 505, review den.; *Mir v. Charter Suburban Hospital* (1994) 27 Cal.App.4th 1471, 1487, fn. 7, 33 Cal.Rptr.2d 243, review den.; *Las Tunas Beach Geologic Hazard Abatement Dist. v. Superior Court* (1995) 38 Cal.App.4th 1002, 1016, fn. 10, 45 Cal.Rptr.2d 529, review den.; *United Farm Workers of America v. Agricultural Labor Relations Bd.* (1995) 41 Cal.App.4th 303, 321, 48 Cal.Rptr.2d 696, review den.; *Denny's, Inc. v. City of Agoura Hills* (1997) 56 Cal.App.4th 1312, 1329, fn. 9, 66 Cal.Rptr.2d 382.)

End of Document

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From: [Rasheed El Shabazz](#)
To: [City Clerk; Amy Wooldridge](#)
c: [Marilyn Ezzy Ashcraft](#)
Subject: [EXTERNAL] Embrace Chochenyo Park
Date: Tuesday, January 19, 2021 2:34:25 PM

Dear Mayor and People of Alameda,

My name is Rasheed Shabazz. I live on the Ohlone land of Huichin, as a resident of a political entity called Alameda.

I am part of the [Rename Jackson Park](#) group and was invited to participate in the Park Renaming Committee to rename TPFKAJP.

Tonight on item 6A, I urge you to Rename Jackson Park to Chochenyo Park. In 2018, I proposed renaming the park to “Justice Park” as a response to the 111-year injustice of honoring Andrew Jackson, an enslaver of Black people and “Indian Killer” responsible for the Trail of Tears.

The effort to rename Jackson Park has:

- **Educated Alamedans about Andrew Jackson:** Through this process, Alamedans learned about [our first park’s namesake](#). Many residents were oblivious to Andrew Jackson’s history, including a former Park Commissioner. Considering yesterday’s [1776 Commission Report](#), facing history is as important as ever.
- **Engaged Black Artists in Public Art:** Once the ‘monument’ came down, the City partnered with Rhythmix to produce the beautiful “[Creating our Future](#)” exhibit, which created the beautiful artwork attached. If you missed it, [we shared a history of the park and the effort to rename Jackson Park](#). More timely, the experiences of these Black artists with Alameda was enlightening.
- **Challenged Local Historical Mythology:** This experience has also uncovered some local mythology. Jim Morrison. Primary sources strongly suggest the City may not have adopted a name for the park prior to 1909. “Alameda Park” was certainly a hotel and resort, but may not have been the official name adopted by the City. My recent [Alameda Sun](#) column lays this out. See the [primary sources](#) for yourself. I hope this leads to a wider conversation about historical narratives about Alameda’s history and who is viewed as an authority of local history.
-

Honored Our Past and Present: Amid a time of death and grief due to the pandemics, Alamedans submitted park name suggestions of abolitionists, human rights leaders, local civic leaders, and principles like Truth and reconciliation. I hope the list(s) can be utilized to lift up local history to tell the stories of people, beyond the dominant narratives that center architectural preservation and “City of Beaches and Homes” narrative and omit people like Mabel Tatum.

- **Initiated a New Relationship with the Ohlone:** Finally, last week, Rename Jackson Park hosted a Community Dialogue with the Confederated Villages of Lisjan (Ohlone). I never learned local Indigenous history as an Alameda student and hope this wealth of knowledge can be incorporated into the local curriculum.

Honoring Chochenyo Park and establishing a relationship with our Indigenous relatives symbolizes Justice and is a positive step towards healing.

I also strongly urge you to develop educational/interpretive signage at the park which can explain the origins of the land, the park name(s), and why the park was renamed. I've shared a draft with the Park Renaming Committee.

In the event I am unable to attend tonight, my prepared remarks to City Council

Rasheed Shabazz

Nearly three years ago we started a petition to Rename Jackson Park. At the time, parents had just started the effort to rename Haight Elementary School. Alameda was really beginning to grapple with the overt white nationalism centered at the White House and growing instances of antiblackness, antisemitism, and white supremacy here. I committed myself to pointing out the constant contradictions of condemning white supremacy elsewhere while the legacies of white supremacy in the housing market and the physical landscape remain.

At the time, we proposed renaming Jackson Park to Justice Park. I wrote in the Alameda Sun, “Of course renaming Jackson Park ... will not liberate the Africans he enslaved at the Hermitage, return land to the Native Americans forcibly resettled in the “Trail of Tears,” or resurrect those he murdered. However, honoring those he dishonored would be a symbolic move towards justice.” I proposed erecting a memorial to those Black and Indigenous peoples oppressed by Andrew Jackson,

AND, recognizing the historic exclusion of Indigenous, Japanese, and African American people from Alameda. Andrew Jackson's legacy of enslaving African peoples, his attack on Negro Fort, and ultimately his actions of Indian Removal to make room for white settlers and slaveholders demonstrate the connections between the enslavement of African people and the dispossession of Indigenous peoples.

The Park Renaming Committee could have simply chosen a name from a preexisting list of possible park names, but instead, solicited community members for input. Since racism/white supremacy was the reason we are renaming the park, we developed criteria to evaluate proposed names. We then used that criteria along with feedback from a community forum, an online poll, and various other informal conversations to narrow the list down to four names to present to the Commission. During this process, we also reached out to local Indigenous peoples to inform them that their name came up and include their input in the process. Ultimately, the Commission unanimously chose to recommend the name "Chochenyo."

Changing Andrew Jackson Park to Chochenyo Park is a symbolic step in repairing the harm of colonization and land theft personified in the legacy of "Old Hickory." As Committee member Raquel Williams of the Youth Activists of Alameda said, "Each [proposed] name is a learning opportunity." Justice Park invited us to consider the most recent iteration of the Black Freedom Movement and efforts to abolish police terrorism by acknowledging Alameda's history of racist exclusion and expulsion. (A number of the petition signatories are displaced and former Alameda residents). Mabel Tatum Park invited us to remember the efforts of Black Women advocating for Housing as a Human Right and recognize the ongoing struggle to end residential segregation and inequality, including in Alameda. Finally, Chochenyo Park invites us to acknowledge the Indigenous Peoples whose unceded land we live on. We have an opportunity to learn more about our Lisjan-Ohlone relatives and the place they call Huichin.

Chochenyo Park is a recognition of Indigenous people that is specific to the entity we now call "Alameda." Renaming Jackson Park to Chochenyo Park is an opportunity for the City and its inhabitants to form new relationships with Huichin and the people who belong to it. Choose Chochenyo.

Sincerely,

Rasheed Shabazz



<https://laurendo.wordpress.com/2021/01/12/this-is-alameda/>

From: [Austin Tam](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] ***Please rename Former Jackson Park to Chochenyo Park***
Date: Tuesday, January 19, 2021 2:28:25 PM

TO clerk@alamedaca.gov

CC [Marilyn Ezzy Ashcraft](mailto:Marilyn.Ezzy.Ashcraft@alamedaca.gov) , [John Knox White](mailto:John.Knox.White@alamedaca.gov) , [Malia Vella](mailto:Malia.Vella@alamedaca.gov) , [Tony Daysog](mailto:Tony.Daysog@alamedaca.gov) , [Trish Spencer](mailto:Trish.Spencer@alamedaca.gov) .

RE: MP AT

Subject: Suggestion: Rename Former Jackson Park to Chochenyo Park

Dear Councilmembers,

My name is Austin Tam and I am a resident of Alameda . I am writing to ask that you please vote for Option 1 on item 6-A on the 1/19//2021 agenda. Rename Former Jackson Park to Chochenyo Park per the recommendation of the Recreation & Parks Commission

Renaming Jackson Park to Chochenyo Park presents an opportunity for education about an inclusive history of the original peoples of this place. This new name offers a clear repudiation of Andrew Jackson, his enslavement of African-Americans, and his involvement in the genocide of Indigenous peoples and theft of their land. This name is a gesture towards redressing the harm of the former name.

Thank you,

Austin Tam

Alameda Resident

From: [Helen Simpson](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] Jackson Park - January 19, 2021 - Item 6A
Date: Tuesday, January 19, 2021 2:25:51 PM

Dear Mayor and Council Members.

I am opposed to the City Council voting to re-name Jackson Park to Chochenyo. The residents of Alameda should have more involvement on the naming of the park, other than the 625 that responded to one survey over the Thanksgiving week. On January 19, 2021, the Council Members should vote on extending the renaming of the park to hear more from the community; vote to keep the name Jackson Park or vote on naming the park its original name "Alameda Park" grove of trees.

On December 10, 2020, I watched, via Zoom, the Recreation and Parks Commission voted on renaming Jackson Park to Chochenyo Park. I was confused and concerned on how the commission voted on the name of Chochenyo Park. First, the list from the sub-committee submitted to the commission, only contained four names of the finalists, which were (1) Ohlone, (2) Chochenyo, (3) Mabel Tatum and (4) Justice and the name the commission voted on is Chochenyo. When, in fact, the list should have been: (1) Alameda, (2) Ohlone, (3) Peace and (4) Justice. Two of the four names voted on by the residence of Alameda (625 of approximately 80,000) made the final four list.

There was a petition signed to re-name Jackson Park. The petition received a little over 1,200 signatures, which approximately 175 of the signatures were from outside of Alameda, and some of the votes were from outside of California.

There was a five-day survey conducted by the Rec & Parks from November 23rd through November 27th, the week of Thanksgiving, when people were preparing for the holiday. There were 625 individuals whom participate in the survey. Only 625 individuals, out of an estimated 80,000 residence, participated in the survey. That should be a red flag. The 625 that participated in the survey is a little over half the people (1,200) whom signed the petition to remove the name "Jackson Park."

Out of the 625 votes, the number one choice, at 61.44% 384 votes, to rename

Jackson Park to Alameda Park. Chochenyo was voted as the fifth choice at 18.60% with 115 votes. Chochenyo Park should not have been on the sub-committee's top 4 names. During the meeting, the sub-committee indicated that "Alameda Park" did not meet its criteria and, therefore, it was removed from the list, even though it was the most popular through the voting by residence of Alameda.

It is interesting to see in the poll voted by 625 residents was to name the park "Alameda Park" and yet that is not what is being considered. If a poll is conducted, shouldn't that information have more weight than what is being considered? Thank you for your consideration.

Helen Simpson

From: [Lorin Laiacona Salem](#)
To: [City Clerk](#)
Subject: [EXTERNAL] Support for Chochenyo Park
Date: Tuesday, January 19, 2021 2:07:26 PM

I am writing in support of renaming the former Jackson Park to be Chochenyo Park. The Recreation & Parks Commission did excellent work in picking and recommending this name. I think it is an excellent choice.

Thank you,
Lorin Salem
Alameda Resident

From: [Zac Bowling](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] Public comment for Item 6-A: In support of renaming Jackson Park to Chochenyo Park.
Date: Tuesday, January 19, 2021 1:06:38 PM

Dear mayor and councilmembers,

I writing to ask you to accept the commission's recommendation and support the renaming of the park formed called Jackson Park to Chochenyo Park.

Let's work to continue to shed Alameda of all of its past honers and monuments to racists including like we did with Henry Haight and now Andrew Jackson. Let's work to remove the racist separatist John C. Calhoon from the list of street names, and rename Godfrey Park away from our former mayor, Milton Godfrey, who publicly worked to try to prevent African Americans from living in Alameda in the 1940s.

Thank you,

Zac Bowling
Alameda Resident

From: [meresa](#)
To: [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#); [City Clerk](#); [Marilyn Ezzy Ashcraft](#)
Subject: [EXTERNAL] Item 6-A
Date: Tuesday, January 19, 2021 12:08:21 PM

Dear Councilmembers,

My name is Meresa and I am a resident of Alameda. I am writing to ask that you please vote for Option 1 on item 6-A on the 1/19//2021 agenda. Rename Former Jackson Park to Chochenyo Park per the recommendation of the Recreation & Parks Commission

Renaming Jackson Park to Chochenyo Park presents an opportunity for education about an inclusive history of the original peoples of this place. This new name offers a clear repudiation of Andrew Jackson, his enslavement of African-Americans, and his involvement in the genocide of Indigenous peoples and theft of their land. This name is a gesture towards redressing the harm of the former name.

Thank you,

Meresa Connors-Walters

From: [Jennifer Rakowski](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] Chochenyo Park
Date: Tuesday, January 19, 2021 11:17:11 AM

I want to voice my strong support for the renaming of the park, Chochenyo Park.

I want to publicly thank the City Council members who voted unanimously to de-name the park. I am appreciative of APRD and all the community advisory members for a thoughtful selection process. Alameda residents got the chance to submit over 150 name ideas for the park, myself included. The City collaborated with Rhythmix Cultural Works on Creating Our Future, a public art installation at the sight of the old sign, bringing art into public space when it is so desperately needed. The de-naming of the park was in large part responsible for inspiring the Alameda Week of Remembrance for lives lost to Covid 19 centered around the memorial tree in the park last October. I think the city has crafted a thoughtful and transparent renaming process that has enriched my life and deepens my feeling of connection to city parks and land.

I could not be happier with the name Chochenyo Park to honor the voice and the language of the Indigenous Ohlone people of Lisjan. As a white person, it has encouraged me to dig deeper into my own family history in the forced removal of indigenous people from their homeland. Justice requires honest reckoning with our own complacency.

Honoring voice and language also provides a important counter note to the bench honoring "dumb friends" The bench reference is to the muteness of animals but uses historical terminology that has also shaped people's prejudices of other people.

I believe Chochenyo Park, a park centuries in the making, has found new vitality and meaning. By affirming this name, we are encouraging healing and equity. With this name we can celebrate a park that is welcoming and enriching for all.

Sincerely,

Jennifer Rakowski

From: [Lilianna Cordero](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] 6-A Vote, Chochenyo Park
Date: Tuesday, January 19, 2021 10:25:52 AM

Dear Councilmembers,

My name is Lilianna Cordero and Alameda is my hometown. I continue to follow the activities of our council and know that tonight, you will be voting to finally rename Jackson Park. From the current list of the top ten choices, I would ask you to vote for Chochenyo Park. Naming this space in honor of the language of the Lisjan Ohlone peoples acknowledges both the fact that our city is occupied land and the linguistic erasure that occupation has exacerbated.

I am sure you all feel the truth: that this is a challenging time for our city, and our nation. In my heart, I try to hold onto hope. When I was a young girl scout, I had the honor of performing the flag ceremony at the inauguration of our city's first female mayor. In that moment, I felt change under my feet; and to me, that feeling of change, of progress, is my feeling of "home."

I know you all work so hard to make Alameda a place where everyone feels heard and welcomed. Thank you for giving this and all our local matters the due attention and care they deserve.

Kind regards,
Lily

--
Lilianna Cordero
Educator | Historian | Editor
lily.e.cordero@gmail.com

From: [Erin Odenweller](#)
To: [City Clerk](#)
c: [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Marilyn Ezzy Ashcraft](#); [Trish Spencer](#)
Subject: [EXTERNAL] Rename it! Jackson Park -> Chochenyo Park
Date: Tuesday, January 19, 2021 9:52:30 AM

Dear Councilmembers,

My name is Erin Odenweller, and I am a resident living near the former Jackson Park. I am writing to ask that you please vote for Option 1 on item 6-A on the 1/19/2021 agenda. Rename Former Jackson Park to Chochenyo Park per the recommendation of the Recreation & Parks Commission

Renaming Jackson Park to Chochenyo Park presents an opportunity for education about an inclusive history of the original peoples of this place. This new name offers a clear repudiation of Andrew Jackson, his enslavement of African-Americans, and his involvement in the genocide of Indigenous peoples and theft of their land. This name is a gesture towards redressing the harm of the former name, which we are overdue in making.

Thank you,

Erin Odenweller

An Alameda Resident for whom this is their closest park

From: [Ginger Lua](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] Vote for Chochenyo Park on 6-A
Date: Tuesday, January 19, 2021 9:38:00 AM

Dear Councilmembers,

My name is Ginger Kwan and I am a resident of Alameda. I am writing to ask that you please vote to rename former Jackson Park to Chochenyo Park. Among the list of top 10 names, Chochenyo is an excellent choice to honor the Lisjan Ohlone peoples whose land we continue to occupy. While there are some other good names on the list - I am also partial to Mabel Tatum - I think there is significant value in choosing to honor the true owners of this land in the first renaming of a public space in Alameda during this time of necessary growth and change. There are a number of other public spaces and streets in Alameda that should be considered for renaming in the near future that we can use to commemorate other significant people in the history of this land. Now is the time to choose to acknowledge the land we occupy in this city.

I encourage you all to vote for Chochenyo Park at tonight's meeting.

Thank you,

Ginger

From: [johnsen cyndy](#)
To: [City Clerk](#)
c: [Amy Wooldridge](#); [Marilyn Ezzy Ashcraft](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#); [John Knox White](#)
Subject: [EXTERNAL] Item 6-A: Chochenyo Park
Date: Tuesday, January 19, 2021 9:05:59 AM

RE: Item 6-A, Chochenyo Park

Dear Councilmembers,

Chochenyo is a lovely name. Thank you for your consideration and to the committee that worked so thoughtfully on this project -- well done!

Sincerely,

Cyndy Johnsen

From: [Isabel Sullivan](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] Rename Former Jackson Park to Chochenyo Park
Date: Monday, January 18, 2021 7:30:26 PM

Dear Councilmembers,

My name is Isabel Sullivan and I am a resident of Alameda. I am writing to ask that you please vote for Option 1 on item 6-A on the 1/19/2021 agenda. Rename Former Jackson Park to Chochenyo Park per the recommendation of the Recreation & Parks Commission

Renaming Jackson Park to Chochenyo Park presents an opportunity for education about an inclusive history of the original peoples of this place. This new name offers a clear repudiation of Andrew Jackson, his enslavement of African-Americans, and his involvement in the genocide of Indigenous peoples and theft of their land. It is our responsibility in Alameda to remove racist symbols from our public spaces. Renaming the park Chochenyo Park is a gesture towards redressing the harm of the former name.

Thank you,

Isabel Sullivan

From: [Andy Murdock](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] In Support of the Renaming of Jackson Park to Chochenyo Park
Date: Monday, January 18, 2021 3:06:03 PM

Dear Councilmembers,

My name is Andy Murdock and I am a resident of Alameda and frequent user of the former Jackson Park with my family. I am writing to ask that you please support the recommendation of the Recreation & Parks Commission to rename the former Jackson Park to Chochenyo Park (item 6-A on the January 19, 2021 agenda).

As part of the renaming process, I wrote in to recommend that the City should consider a Native American name, since that important part of Alameda's history is poorly represented in our city's place names. Chochenyo is a wonderful choice. With Andrew Jackson's record of grievous harm to Indigenous peoples and theft of their land, this name would be a strong symbolic rejection of his actions and worldview.

As a resident of Calhoun St., a name with its own historical baggage, I hope this is a first step in updating Alameda's place names to honor the spirit of the city we live in today. I'm all in favor of honoring our past, but times change, and who we choose to honor is a reflection of who we are and who we want to be.

My daughter, who is 10, was thrilled to learn of the coming name change and it proved to be a great educational opportunity to discuss American history. She's not old enough to vote, but she also sends a big thumbs up for the name "Chochenyo Park."

Thank you for your consideration,

Andy Murdock
2814 Calhoun St.,
Alameda, CA 94501
andymurdock@gmail.com
[@andy_murdock](#)

From: [Ezra Denney](#)
To: [Marilyn Ezzy Ashcraft](#); [Malia Vella](#); [City Clerk](#); [John Knox White](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] Chochenyo Park
Date: Monday, January 18, 2021 1:58:22 PM

Hello,

I write to urge the council to approve the recommendation of the Recreation & Parks Commission to rename Jackson Park Chochenyo Park.

We have an opportunity to take a small restorative step in recognizing that we live on stolen land. Honoring the Ohlone first nation with a park that recognizes whose land it is built upon is almost literally the least we can do.

There is a beautiful irony in removing the name of the oppressor responsible for so much tragedy among first nation communities, and replacing it with a symbol acknowledging those he sought to oppress.

Let this park be an educational opportunity for all Islanders to learn about the Ohlone, and the land we took from them.

Please, demonstrate that everyone belongs here, and hatred has no place on our Island by approving the new name of the park.

Thank you,

Ezra Denney

From: [Drew Dara-Abrams](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] Rename former Jackson Park to Chochenyo Park
Date: Monday, January 18, 2021 1:20:04 PM

Dear Mayor, Vice Mayor, and Councilmembers,

I'm writing in as an Alameda resident to encourage you to adopt Chochenyo Park as the new name for the park formerly known as Jackson Park.

My kids and I often walk past the park on our way to and from Park St. It's a pleasant place. The former name was less than pleasant. As a city we pick who and what we remember, and Andrew Jackson does not seem either locally relevant or the most appropriate example of qualities we'd like to honor in 2021.

It's been encouraging to see this community engagement process proceed over the past few years and months. We've only had time to participate occasionally, dialing into a few phone calls led by the ever-intrepid Rasheed Shabazz, completing ARPD surveys, having a look at the new displays and signage, and filling out some of the made-for-kids coloring sheets. We've appreciated being able to join in occasionally and to also see a much more thorough process happen with the Park Renaming Committee.

The depth and breath of this overall engagement process is a very positive sign. It's great to even see stakeholders reaching out to modern-day representatives of Ohlone groups. That's a sign that not only is there value in the actual name that's attached to a place like this park, there's also value in having these opportunities to reconsider their names. There's certainly a place for disagreement within this overall process, and I appreciate seeing that this overall process has provided positive ways to channel constructive debate.

Thanks to the volunteers and city staffers who have been supporting this process. Please now take the final step of approving their recommendation of Chochenyo Park.

Sincerely,
Drew Dara-Abrams
Calhoun St.

From: [Rosemary Jordan](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] Please Rename Former Jackson Park to Chochenyo Park
Date: Monday, January 18, 2021 8:55:26 AM

Council Members

My name is Rosemary Jordan and I am a long-time resident, public health professional and park enthusiast here in Alameda. I am writing to ask that you please vote for Option 1 on item 6-A on the 1/1//2021 agenda. This action would rename Former Jackson Park to Chochenyo Park per the recommendation of the Recreation & Parks Commission

Renaming Jackson Park to Chochenyo Park presents an opportunity for learning and for healing. As a public health professional, I've studied the harm that hundreds of years of white supremacy have caused and I believe it is our collective responsibility to act to address this harm and promote well-being. In the specific case of Andrew Jackson, it is acknowledged by historians that he literally constructed bridle reins from the strips of skin of deceased indigenous people - other acts are so appalling that I cannot write them. This is not even close - this guy was awful and there is zero reason we should continue to celebrate him with his name on a prime spot of public recreation.

Renaming this park is a public health imperative - taking on a bolder and more comprehensive Truth and Reconciliation project is something I'd like to see local electeds take seriously and champion going forward.

Thank you,

Rosemary C. Jordan

Alameda Resident

From: [Laura Gamble](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#)
Subject: [EXTERNAL] Rename Former Jackson Park to Chochenyo Park
Date: Sunday, January 17, 2021 4:28:52 PM

Hello Alameda City Councilmembers,

I would like to urge you to vote for Option 1 on item 6-A on the 1/19/2021 agenda. Please rename the former Jackson Park to Chochenyo Park per the recommendation of the Recreation & Parks Commission.

Alameda must remove monuments to white supremacists within our community if we believe that "Everyone belongs here" or that "Black lives matter."

In the summer of 2020 the City Council in a small town in North Carolina called Asheville voted unanimously in favor of reparations for black residents - the city apologized "for its participation in and sanctioning of slavery, as well as other historical injustices perpetrated against Black people." The intent is to build generational wealth for black people, "who have been hurt by income, educational and health care disparities."

This step was shocking to me because this small town is where the most bigoted members of my family reside. They don't acknowledge my existence because I was raised Jewish. If Asheville can take this step, can't Alameda change the name of a park honoring a white supremacist.

Removing monuments to white supremacy is the first step towards a more inclusive Alameda. While I hope that the council moves us towards a more progressive town with this vote, I hope that this change - honoring the indigenous residents of this island - brings about more meaningful, tangible change, like Asheville. I urge the city council to explore establishing a memorial Andrew Jackson's countless victims and take accountability for the decades of damage done by the choice to honor this man - this "Indian Killer" with no connection to Alameda.

Thank you for your time & consideration.

Laura Gamble

From: [Josh Geyer](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] Adopt the name Chochenyo Park
Date: Sunday, January 17, 2021 3:56:28 PM

Dear Councilmembers,

I am a resident of Alameda and I am writing to ask that you please vote for Option 1 on item 6-A on the 1/1//2021 agenda. This will rename the park formerly known as Jackson Park to Chochenyo Park, per the recommendation of the Recreation & Parks Commission. The [Park Renaming Committee](#) spent countless hours developing a transparent and community engaged process in order to identify new names and educate community members on why the park must be renamed, leading to the Recreation and Parks Commission voting unanimously to accept the committee's recommendation.

Renaming Jackson Park to Chochenyo Park presents an opportunity for education about an inclusive history of the original peoples of the East Bay and Alameda specifically. This new name offers a clear repudiation of Andrew Jackson, his enslavement of African-Americans, and his involvement in the genocide and forced removal of Indigenous peoples from their ancestral lands by the U.S. government. While those material harms remain for the descendants of those people who endured Jackson's violence, this name acknowledges the harm of Jackson himself and the park's former name while honoring the Indigenous people who are native to this part of the country.

Further, I support the assessment and redress of the ongoing harms of the names of other Alameda public facilities. It's encouraging that people--particularly white people--have started to become aware that honoring historical figures with legacies of racial prejudice or outright oppression cause continual harm to members of our community and that this is at odds with our image of ourselves as an inclusive, "progressive" community. I hope that moving forward Council will be proactive in creating policies and processes that will facilitate this process for other city facilities, including streets named after Jackson, John C. Calhoun, and other notable racists. The fact that changing a street name is more complex than renaming a park doesn't make the harm caused by those names any less important.

Thank you,

Josh Geyer

From: [Kristan LaVietes](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] Renaming the Park Formerly Known as Jackson Park to Chochenyo Park
Date: Sunday, January 17, 2021 3:51:49 PM

My name is Kristan LaVietes, and I am a resident of Alameda. I am writing in support of the Alameda Recreation & Parks Commission's recommendation to rename the park formerly known as Jackson Park to Chochenyo Park. I hope you will all vote in favor of the Commission's recommendation at Tuesday's (Jan. 19, 2021) City Council meeting.

Alameda has a reputation around the Bay Area as being an especially unwelcoming place to the Black people, Indigenous people, and People of Color who call this island Home and who visit. That reputation has been earned over and over again.

Changing the name of a park in a prominent location from one that honors an enslaver, to one that instead honors the first people to settle on this land, their way of life, and the harm they endured here in history is the right thing to do. And it is one of many steps Alameda must continue taking to change its reputation and its reality, and to confront some of the painful experiences that have earned it the dishonor of being known as--of, in fact, *being--*a city antithetical to a genuine sense of belonging.

I applaud the Recreation & Parks Commission's highly visible and lengthy campaign to involve the community in this renaming effort, and I look forward to visiting Chochenyo Park with my family.

Thank you,
Kristan LaVietes
3273 Adams St.
Alameda
310/430.2568
kristan.lavietes@gmail.com

From: [gaylon parsons](#)
To: [City Clerk](#)
Subject: [EXTERNAL] Item 6-A, vote yes for Chochenyo Park
Date: Sunday, January 17, 2021 3:47:56 PM

Dear mayor and city council,

I writing to ask you to accept the unanimous recommendation of the parks commission to adopt Chochenyo Park as the new name of the park formerly named Jackson Park. Please vote yes on Item 6-A.

No place name is permanent, and the selected name communicates to the community that we understand: 1) Andrew Jackson was a slaver and "Indian Killer," and we should not honor him with a park name, 2) the history of our island and region did not begin during the settler era, and 3) the Ohlone are still here. With this name, Alameda takes the first step toward being in right relationship with them.

Thank you,
Gaylon Parsons
Alameda resident

From: [Dorinda von Stroheim](#)
To: [City Clerk](#)
Subject: [EXTERNAL] Chochenyo Park
Date: Thursday, January 14, 2021 5:12:24 PM

Dear City Council,

On January 16th please choose to rename the former Jackson Park to Chochenyo Park. Jackson Park was named after President Andrew Jackson who was a slave holder and was responsible for the forced relocation and death of thousands of Native Americans. Parks are important public spaces, their names have impact, and should represent the values of the community. Officially name the park 'Chochenyo' after the Ohlone people that inhabited and cared for our local lands.

Thank you,

Dorinda von Stroheim

Alameda Resident

From: [Meg Gudgeirsson](#)
To: [City Clerk](#)
Subject: [EXTERNAL] Renaming Jackson Park
Date: Thursday, January 14, 2021 1:40:44 PM

Hello,

I am emailing in support of renaming Jackson Park to Chochenyo Park.

Thank you,
Meg Gudgeirsson
1827 Stanton St.
Alameda

From: [John Carnwath](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] Chochenyo Park
Date: Wednesday, January 13, 2021 10:55:22 PM

Dear Council Members,

I am an Alameda resident, writing to express my support for changing the name of Jackson Park to Chochenyo Park as recommended by the Recreation and Parks Commission. The indigenous history of the land that is now the City of Alameda is all but invisible in the built environment and cultural life of the city. This year, as in previous years, I searched in vain for programs or events in Alameda to honor Indigenous Peoples' day and educate my children about the history and culture of the Ohlone peoples who lived (and continue to live) on this land.

I would even go one step further and ask you to consider rematriating this ancestral Ohlone land by turning ownership of the park over to [Sogorea Te' Land Trust](#). This would make a strong statement in support of our indigenous communities, and position Alameda as a leader in redressing the injustices of our past - injustices that each of us continues to benefit from every day that we wake up in our beautiful bayside city, on land that was forcibly taken from its original occupants.

Thank you.

Sincerely,

John Carnwath
1223 Post St
Alameda, CA 94501
415 696 4416

From: [Stephanie Green](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] Rename Former Jackson Park to Chochenyo Park
Date: Wednesday, January 13, 2021 8:04:20 PM

Dear Councilmembers,

My name is Stephanie Green and I am a resident of Alameda. I am writing to ask that you please vote for Option 1 on item 6-A on the 1/19/2021 agenda. Rename Former Jackson Park to Chochenyo Park per the recommendation of the Recreation & Parks Commission.

Renaming Jackson Park to Chochenyo Park presents an opportunity for education about an inclusive history of the original peoples of this place. This new name offers a clear repudiation of Andrew Jackson, his enslavement of African-Americans, and his involvement in the genocide of Indigenous peoples and theft of their land. This name is a gesture towards redressing the harm of the former name.

Thank you,
Stephanie Green
Alameda Resident

From: [Amy Wooldridge](#)
To: [Lara Weisiger](#)
Subject: FW: [EXTERNAL] Jackson Park Rename
Date: Wednesday, January 13, 2021 2:03:51 PM

Public comment below for Item 6-A

Amy Wooldridge
Recreation and Parks Director
2226 Santa Clara Avenue, Alameda, CA 94501
(510) 747-7570
awooldridge@alamedaca.gov
www.alamedaca.gov/recreation

From: Laura Meith [mailto:lmeith@gmail.com]
Sent: Tuesday, January 12, 2021 4:11 PM
To: Amy Wooldridge <AWooldridge@alamedaca.gov>
Subject: [EXTERNAL] Jackson Park Rename

Ms. Wooldridge,

We have lived on Park Avenue, mid park for over 14 years. I am pleased to see Jackson Park's name removed however, ANY person's name could be affiliated with something not preferable as no human, especially over the course of time, has been perfect. I would love to see it returned to his original name, Alameda Park. It's the oldest park in Alameda and a special one with its greenery and manicured lawn for a proper frolic or pleasant picnic. I'm pleased to see that the playground is not there which is NOT what our park needs at all. We are surrounded by playgrounds less than one mile from here, we don't need another one. Isn't it nice to have a park for all people and not just what's easiest for kids.

Thank you for your time and consideration,
Laura
1226 Park Avenue

Laura Meith
Real Estate Professional, in training
No Excuse Mom, Alameda

(415) 812-5345

From: [Amy Wooldridge](#)
To: [Lara Weisiger](#)
Subject: FW: [EXTERNAL] Re: Chochenyo name for Park
Date: Wednesday, January 13, 2021 2:01:53 PM

Please see public comment below for Item 6-A. Ms. Deetz requested in a separate email that this be included under public comment.

Amy Wooldridge
Recreation and Parks Director
2226 Santa Clara Avenue, Alameda, CA 94501
(510) 747-7570
awooldridge@alamedaca.gov
www.alamedaca.gov/recreation

From: nanette deetz [mailto:nanettedeetz@comcast.net]
Sent: Tuesday, January 12, 2021 4:31 PM
To: Amy Wooldridge <AWooldridge@alamedaca.gov>
Subject: [EXTERNAL] Re: Chochenyo name for Park

Hello Amy Wooldridge,

Osiyo doguado (Cherokee= Hello, how are you?)

Nanette Alameda tsinsila (Cherokee= My name is Nanette and I live in Alameda).

I am thrilled that the Parks and Recreation Dept. decided on Chochenyo as a replacement name for Jackson Park. I am Tsalagi or Cherokee and have always thought it should be changed.

Currently I am the Vice President, host and coordinator for the Alameda Island Poets, and a journalist with Indian Country Today and Native News Online. Corrina Gould of the Lisjan band of Ohlone is a good friend of mine, and I have been supporting her for many years.

I am a published poet in numerous anthologies, and have written a poem entitled, "Alameda Night Song" in honor of the Chochenyo Ohlone. If there is a ceremony or any other virtual event, or publication I would love to read or have my poem included. In 2019 I was honored with a Lifetime Achievement Award at the 17th Annual Berkeley Poetry Festival by the City Council of Berkeley.

Please let me know if you would like a copy of the poem, and if there is some way I can be included with my poem.

Wado donadagohvi (Tsalagi or Cherokee Thank you. Until we speak again)

Nanette Deetz

VP Alameda Island Poets
journalist
(510) 995-8698 land line

From: [Serge Wilson](#)
To: [City Clerk](#)
c: [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] Jackson Park renaming
Date: Wednesday, January 13, 2021 9:03:06 AM

Hi

I've been living here 10+ years and have been a Bay Area resident for over 50 years.

Having a park named after Andrew Jackson was offensive, and it was a good move to get rid of that name.

Chochenyo Park is a fine replacement - it has local roots, and it's good to remember that there were people who lived here before colonization and ethnic cleansing.

It's not too terribly complicated. Bad name out, suitable name in. After the name change is done, life goes on for everyone (see Love Elementary).

Thank you and good luck

Serge

From: [Madeline Adams](#)
To: [City Clerk](#)
c: [John Knox White](#); [Marilyn Ezzy Ashcraft](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] Rename Former Jackson Park to Chochenyo Park
Date: Tuesday, January 12, 2021 2:15:57 PM

Dear Councilmembers,

My name is Madeline Sherwood and I am a resident of Alameda. My husband and two daughters have lived in Alameda for the past 5 years and I've voted in every local election since we had an Alameda address. I appreciate how so many Alameda residents care so much about our community.

I am writing to ask that you please vote for Option 1 on item 6-A on the 1/1//2021 agenda. Rename Former Jackson Park to Chochenyo Park per the recommendation of the Recreation & Parks Commission.

As our country experiences massive upheaval starting this summer I started to learn more about the indigenous tribes that lived in the Bay Area many many years before any of us came to call it home. I think it would be a beautiful thing to recognize the people that first came here and recognized its beauty and created a community here.

Renaming Jackson Park to Chochenyo Park presents an opportunity for education about an inclusive history of the original peoples of this place. This new name offers a clear repudiation of Andrew Jackson, his enslavement of African-Americans, and his involvement in the genocide of Indigenous peoples and theft of their land. This name is a gesture towards redressing the harm of the former name.

Thank you,
Madeline Sherwood

From: [MollyA Mills](#)
To: [City Clerk](#)
c: [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)
Subject: [EXTERNAL] Rename Former Jackson Park to Chochenyo Park
Date: Tuesday, January 12, 2021 11:57:46 AM

Dear Councilmembers,

My name is Molly Mills and I am a resident of Alameda I am writing to ask that you please vote for Option 1 on item 6-A on the 1/1//2021 agenda. Rename Former Jackson Park to Chochenyo Park per the recommendation of the Recreation & Parks Commission

Renaming Jackson Park to Chochenyo Park presents an opportunity for education about an inclusive history of the original peoples of this place. This new name offers a clear repudiation of Andrew Jackson, his enslavement of African-Americans, and his involvement in the genocide of Indigenous peoples and theft of their land. This name is a gesture towards redressing the harm of the former name.

Thank you,

Molly Mills

Sent from my iPad

From: [Amy Wooldridge](#)
To: [Lara Weisiger](#)
Subject: FW: [EXTERNAL] Re: Park name
Date: Tuesday, January 12, 2021 11:34:52 AM

Two public comments below for Item 6-A

Amy Wooldridge
Recreation and Parks Director
2226 Santa Clara Avenue, Alameda, CA 94501
(510) 747-7570
awooldridge@alamedaca.gov
www.alamedaca.gov/recreation

From: Gary Cates [mailto:glcbfd1967@gmail.com]
Sent: Tuesday, January 12, 2021 11:23 AM
To: jacksonparkwatch@googlegroups.com
Cc: Amy Wooldridge <AWooldridge@alamedaca.gov>
Subject: [EXTERNAL] Re: Park name

Chochencho is a wonderful choice. Gary and Mary Ann Cates.

Sent from my iPhone

> On Jan 12, 2021, at 9:03 AM, Kaye Fitzsimons <rayandkaye@comcast.net> wrote:
>
> Dear Amy Wooldridge,
> I Reside on Park Ave. Of the names suggested for a new name for the park, I am in favor of Chochenyo. It represents the first residents of our area for the first park in Alameda.
> Kaye Fitzsimons
>
> Sent from my iPhone
>
> --
> You received this message because you are subscribed to the Google Groups "jacksonparkwatch" group.
> To unsubscribe from this group and stop receiving emails from it, send an email to jacksonparkwatch+unsubscribe@googlegroups.com.
> To view this discussion on the web visit <https://groups.google.com/d/msgid/jacksonparkwatch/BCB2CD38-A61A-4707-92EB-6AF7B77C263E@comcast.net>.

From: [Philip James](#)
To: [City Clerk](#)
Subject: [EXTERNAL] Communication in support of Item 6-A on January 19 Agenda
Date: Sunday, January 10, 2021 12:47:09 PM

Hello. My name is Philip James and I am a resident of Alameda. I am writing in support of Item 6-A on the January 19, 2021 City Council Agenda, the Renaming of Former Jackson Park Chochenyo Park.

As someone who lived on Park Ave, across from the Former Jackson Park, for many years, now is the time to make sure that this piece of Alameda represents who we want to be as Alamedans. I urge the City Council to vote in favor of the renaming.

Thank you for your time,
Philip James

City of Alameda



OPEN GOVERNMENT COMMISSION
2263 Santa Clara Avenue, Suite 380
Alameda, CA 94501
(510) 747-4800

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission: City Council and Recreation and Park Commission

Name of individual contacted at Department or Commission: City Council, City Manager Levitt & City Attorney Shen

- Alleged violation of public records access.
- Alleged violation of public meeting. Date of meeting: Council Meeting of Jan. 19, 2021, Recreation and Park Commission meeting of July 9, 2020 and all meetings of the Jackson Park Renaming Committee

Sunshine Ordinance Section: Sec. 2-91 et. sec. with specific reference 2-91.1, 2-91.3, 2-91.4, 2-91.5, 2-91.6, 2-91.9, 2-91.15, 2-91.16. Brown Act Sec. 54952(b) which is incorporated by reference into the Sunshine Ordinance in Sections. 2-90, 2-91.1(d) and 2-91.3

Please describe alleged violation.

The Jackson Park Renaming Committee ("Renaming Committee") was created by the Recreation and Park Commission ("Commission"), thereby meeting the definition of a "policy body" under the Sunshine Ordinance and a "legislative body" under the Brown Act, but failed to adhere to the open meeting, public access, and other requirements of said bodies. The Commission (Alameda Mun. Code 2-12) as a whole created the Committee by way of a motion (Alameda Mun. Code 2-12.3(b)) that directed a sub-committee of the Commission to appoint members of the Renaming Committee. That the sub-committee of the Commission was less than a quorum of the Commission does not avoid the conclusion that the Renaming Committee was created by the Commission and that it was a "policy body" under the Sunshine Ordinance or a "legislative body" under the Brown Act. On Jan. 19 City Council continued this violation of the Sunshine Ordinance

and Brown Act by presenting and accepting the report of the Renaming Committee which contained the fruits of meetings of said committee conducted in violation of said laws.

Also, the provision of the ad hoc exception to the definition of a policy body in Sec. 2-91.1(d)(6) is a continuing violation of Sec. 54952 (b) of the Brown Act that specifically includes temporary committees as subject to the Act and Sec. 2-91.3 of the Sunshine Ordinance that provides that, "In case of inconsistent requirements under the Brown Act and this article, the requirement which would result in greater or more expedited public access shall apply."

Complainant does not seek to undo or void the work of the Commission, the Renaming Committee, or the City Council's subsequent approvals thereof, but instead seeks a cure and correct recommendation from the Commission that would require all City policy bodies to in the future designate all committees created by a policy body acting as a whole, as a policy body, excepting those consisting solely of less than a quorum of the originating body. The recommendation should also include modification of the Sunshine Ordinance as follows:

1. Repealing the ad hoc committee exception in Sec. 2-91.1 (d) (6), or any other exception not contained in the Brown Act.
2. Amending Sec. 2-91.1 (d)(3) to add "formal action" to the list of originating policy body actions that create policy bodies
3. Adding to Sec. 2-91.1 a definition of the word "created" to mean "played a role in"
4. Adding to Sec. 2-91.1 a definition of the word "formal action" to include the passage of a motion
5. Such other cure and correction as the Commission deems appropriate

A complaint must be filed no more than fifteen (15) days after an alleged violation of the Sunshine Ordinance.

Name: Paul S Foreman

Address: 1437 Morton Street, Apt. H

Telephone No: 510-455-1315

E-mail Address: ps4man@comcast.net

Date: Feb. 2, 2021

Signature



City of Alameda

Meeting Agenda

City Council

Tuesday, January 19, 2021

7:00 PM

City Hall, 2263 Santa Clara Avenue, Council Chambers, 3rd Floor, Alameda CA 94501

The closed session agenda was revised January 11, 2021 at 3:00 p.m. to add Item 3-D; January 12, 2021 at 4:00 p.m. to withdraw Item 3-C and change the time to 6:00 p.m. and January 12, 2021 at 5:15 p.m. to add Item 3-E and change the time to 5:45 p.m.

Due to Governor Executive Order N-29-20, Councilmembers can attend the meeting via teleconference. The City allows public participation via Zoom.

For information to assist with Zoom participation, please click:

******[.alamedaca.gov/zoom](https://www.alamedaca.gov/zoom)*

For Zoom meeting registration, please click:

******alamedaca-gov.zoom.us/webinar/register/WN_n1aqfPTxRbu5t67c6CXg0A*

For Telephone Participants:

Zoom Phone Number: 669-900-9128

Zoom Meeting ID: 850 5723 3488

Any requests for reasonable accommodations should be made by contacting the City Clerk's office: clerk@alamedaca.gov or 510-747-4800.

City Hall will be NOT be open to the public during the meeting.

The Council may take action on any item listed in the agenda.

REVISED SPECIAL CITY COUNCIL MEETING - CLOSED SESSION - 5:45 P.M.

- 1 Roll Call - City Council
- 2 Public Comment on Closed Session Items - Anyone wishing to address the Council on closed session items may speak for 3 minutes per item
- 3 Adjournment to Closed Session to consider:
 - 3-A 2021-555 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Pursuant to Government Code § 54956.9)
CASE NAME: City of Alameda v. Union Pacific (Sweeney)
COURT: Superior Court of the State of California, County of Alameda

CASE NUMBERS: RG18921261

- 3-B** 2021-561 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Pursuant to Government Code § 54956.9)
CASE NAME: Friends of Crab Cove v. Vella et al.
COURT: Superior Court of the State of California, County of Alameda
CASE NUMBERS: RG18933140
COURT: First District Court of Appeal
CASE NUMBERS: A159140 and A159608
- 3-C** 2021-551 WITHDRAWN - CONFERENCE WITH REAL PROPERTY
NEGOTIATORS (Pursuant to Government Code Section 54956.8)
PROPERTY: Encinal Terminals, Located at 1521 Buena Vista Avenue
(APN 072-0382-001,-002, and 72-0383-03), Alameda, CA
CITY NEGOTIATORS: Gerry Beaudin, Assistant City Manager,
Andrew Thomas, Planning and Building Director and Nanette Mocanu,
Assistant Community Development Director
NEGOTIATING PARTIES: City of Alameda and North Waterfront Cove,
LLC
UNDER NEGOTIATION: Price and terms - WILL NOT BE HEARD
- 3-D** 2021-570 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Requests for the City to participate as amicus in pending litigations:
(Pursuant to Government Code § 54956.9)
Case Name: Apartment Association of Los Angeles County, Inc. v.
City of Los Angeles et al.
Court: The United States Court of Appeals for the Ninth Circuit
Case Number: 20-56251
- 3-E** 2021-578 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Pursuant to Government Code § 54956.9)
CASE NAME: Abdul Nevarez and Priscilla Nevarez v. City of Alameda
COURT: United States District Court, Northern District of California
CASE NUMBER: 20-cv-8302

4 Announcement of Action Taken in Closed Session, if any

2021-611 January 19, 2021 Closed Session Announcement

Attachments: Announcement

5 Adjournment - City Council

REGULAR CITY COUNCIL MEETING - 7:00 P.M.

Pledge of Allegiance

1 Roll Call - City Council**2 Agenda Changes****3 Proclamations, Special Orders of the Day and Announcements - Limited to 15 minutes**

3-A [2021-554](#) Proclamation in Recognition of Alameda Rotary's 100th Anniversary. (City Manager 2110)

Attachments: [Proclamation](#)

4 Oral Communications, Non-Agenda (Public Comment) - A limited number of speakers may address the Council regarding any matter not on the agenda; limited to 15 minutes; additional public comment addressed under Section 8**5 Consent Calendar - Items are routine and will be approved by one motion unless removal is requested by the Council or the public**

5-A [2021-556](#) Minutes of the Special and Regular City Council Meetings Held on December 15, 2021. (City Clerk)

5-B [2021-557](#) Bills for Ratification. (Finance)

Attachments: [Bills for Ratification](#)

5-C [2021-8245](#) Recommendation to Authorize the City Manager to Negotiate and Execute a Purchase Agreement, or in the Alternative a Lease Agreement, for a New Security Camera System from ICU Technologies for the Police Administration Building and Off-Site Property Storage Facilities in an Amount Not to Exceed \$274,075.97. (Police 3116)

Attachments: [Exhibit 1 - Purchase/Lease Proposal](#)

[Exhibit 2 - Scope of Work](#)

[Exhibit 3 - ICU Technologies GSA Contract Information](#)

5-D [2021-511](#) Recommendation to Authorize the City Manager to Execute a Fourth Amendment to the Agreement with Nute Engineering for Engineering Design Services for Cyclic Sewer Rehabilitation Project, Phase 18, in an Amount Not to Exceed \$411,500 for an Aggregate Amount Not to Exceed \$1,556,321. (Public Works 602)

Attachments: [Exhibit 1 - Original Agreement](#)

[Exhibit 2 - First Amendment](#)

[Exhibit 3 - Second Amendment](#)

[Exhibit 4 - Third Amendment](#)

[Exhibit 5 - Fourth Amendment](#)

- 5-E** 2021-515 Recommendation to Authorize the City Manager to Execute a Third Amendment to the Agreement with NBS for Administrative Services for Special Financing Districts in an Amount Not to Exceed \$80,319 for an Aggregate Amount Not to Exceed \$146,158. (Public Works 279)
- Attachments:** Exhibit 1 - Original Contract
 Exhibit 2 - First Amendment
 Exhibit 3 - Second Amendment
 Exhibit 4 - Third Amendment
- 5-F** 2021-501 Recommendation to Expand the City's Sick Leave Benefit Authorizing Use of Parental Leave and Increasing the Sick Leave Cap for Protected Leave to Care for a Family Member to 480 Hours. (Human Resources 2510)
- 5-G** 2021-502 Adoption of Resolution Amending the City of Alameda's Employer/Employee Relations Resolution and Superseding the Following Resolutions: 7476, 7477, 7684 and 14894. (Human Resources 2510)
- Attachments:** Exhibit 1 - Resolution No. 7476
 Exhibit 2 - Resolution No. 7477
 Exhibit 3 - Resolution No. 7684
 Exhibit 4 - Resolution No. 14894
 Resolution
- 5-H** 2021-8562 Adoption of Resolution Amending the Alameda City Employees' Association (ACEA) Salary Schedule to Add the Classification of Police Records Specialist and Reclassifying the Four Intermediate Clerks in the Police Records Division to Police Records Specialist, Effective January 19, 2021. (Human Resources 2510)
- Attachments:** Exhibit 1 - ACEA Salary Schedule
 Exhibit 2 - Police Records Specialist Specification
 Exhibit 2 REVISED - Police Records Specialist
 Specification
 Resolution
- 5-I** 2021-8564 Adoption of Resolution Approving Tentative Map Tract 8534 and Density Bonus Application PLN19-0448 to Subdivide a 1.29-Acre Property into Twelve Lots Located at 2607 to 2619 Santa Clara Avenue and 1514 to 1518 Broadway. (Planning, Building and Transportation 481001)
- Attachments:** Exhibit 1 - Density Bonus Application
 Exhibit 2 - Tentative Map Tract 8534
 Resolution

- 5-J** 2021-8565 Recommendation to Authorize the City Manager to Execute an Agreement with Landscape Structures Inc. in an Amount Not to Exceed \$285,862 for Construction of the Bayport Park Playground Project; and
Adoption of Resolution Amending the Fiscal Year 2020-21 Capital Budget for the Playground Replacement Project (91621) by Appropriating an Additional \$150,000: (1) a Donation from the Alameda Friends of the Parks Foundation in the Amount of \$10,000, and (2) Fund Balance of the Bayport Park Municipal Services District 03-1 in the Amount of \$140,000. (Recreation 278)
- Attachments:** Exhibit 1 - Agreement
 Exhibit 2 - Bayport Park Playground Design
 Resolution
- 5-K** 2021-505 Adoption of Resolution Amending Resolution No. 15728 Setting the 2021 Regular City Council Meeting Dates. (City Clerk 2210)
- Attachments:** Resolution
- 5-L** 2021-552 Final Passage of Ordinance Authorizing the City Manager to Execute Lease Amendments for Rent Relief Programs to Rock Wall Winery and St. George Spirits through the Loan Conversion Assistance Program for Rent Relief in Response to the Covid-19 Pandemic. (Community Development 858)
- Attachments:** Lease Amendment - Rock Wall Winery
 Lease Amendment - St. George Spirits
- 5-M** 2021-553 Final Passage of Ordinance Amending the Zoning Map Designation for the Property at 2350 Fifth Street (APN 74-1356-23) from M-X, Mixed Use to R-4, Neighborhood Residential District to Facilitate Residential Use of the Property, as Recommended by the City Planning Board. (Planning, Building and Transportation 481005)
- 6** **Regular Agenda Items**
- 6-A** 2021-504 Recommendation to Rename Former Jackson Park to Chochenyo Park. (Recreation 280)
- Attachments:** Exhibit 1 - Top 10 Names for Renaming Jackson Park
 Exhibit 2 - Data from Community Forum and Survey
 Exhibit 3 - 2016 Policy for Naming City Facilities
 Presentation
 Presentation - REVISED
 Correspondence - Updated 1/19
- 6-B** 2021-8337 Introduction of Ordinance Amending the Alameda Municipal Code by

Amending Article XV (Rent Control, Limitations on Evictions and Relocation Payments to Certain Displaced Tenants) to Adopt and Incorporate Provisions Concerning Capital Improvement Plans (CIP) for Rental Units in the City of Alameda. (Community Development 265)

Attachments: [Exhibit 1 - Existing CIP Policy](#)
[Exhibit 2 - CIP Table](#)
[Ordinance](#)
[Presentation](#)
[Correspondence - Updated 1-19](#)

- 6-C** [2021-8379](#) Adoption of Resolution Requiring a Project Stabilization Agreement for Certain Construction Projects. (City Manager) [Continued from January 19, 2021; Public Comment Closed]

Attachments: [Resolution](#)
[Presentation](#)
[Correspondence](#)
[Correspondence from Mayor - Mission Bay PLA](#)

7 City Manager Communications - Communications from City Manager

8 Oral Communications, Non-Agenda (Public Comment) - Speakers may address the Council regarding any matter not on the agenda

9 Council Referrals - Matters placed on the agenda by a Councilmember may be acted upon or scheduled as a future agenda item

- 9-A** [2021-508](#) Consider Establishing a New Methodology by which the Number of Housing Units are Calculated for Parcels Zoned C-2-PD (Central Business District with Planned Development Overlay). (Councilmember Daysog) [Not heard on January 5 or 19, 2021]

Attachments: [Presentation](#)
[Correspondence](#)

- 9-B** [2021-522](#) Consider Directing Staff to Provide a Police Department Staffing and Crime Update. (Councilmember Herrera Spencer) [Not heard on January 19, 2021]

Attachments: [Correspondence - Updated 1/19](#)

10 Council Communications - Councilmembers can address any matter not on the agenda, including reporting on conferences or meetings

11 Adjournment - City Council

- Please contact the City Clerk at 510-747-4800 or clerk@alamedaca.gov at least 48 hours prior to the meeting to any reasonable accommodation that may be necessary to participate in and enjoy the benefits of the meeting.
- Meeting Rules of Order are available at:
*****alamedaca.gov/Departments/City-Clerk/Key-Documents#section-2
- Translators and sign language interpreters will be available on request. Please contact the City Clerk at 510-747-4800 at least 72 hours prior to the meeting to request a translator or interpreter.
- Equipment for the hearing impaired is available for public use. For assistance, please contact the City Clerk at 510-747-4800 either prior to, or at, the Council meeting.
- Accessible seating for persons with disabilities, including those using wheelchairs, is available.
- Minutes of the meeting available in enlarged print.
- The meeting will be broadcast live on the City's website:
*****alamedaca.gov/GOVERNMENT/Agendas-Minutes-Announcements
- Documents related to this agenda are available for public inspection and copying at of the Office of the City Clerk, 2263 Santa Clara Avenue, Room 380, during normal business hours.
- Sign up to receive agendas here: <https://alameda.legistar.com/Calendar.aspx>
- **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE:** Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City of Alameda exist to conduct the citizen of Alameda's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.
- **FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION:** the address is 2263 Santa Clara Avenue, Room 380, Alameda, CA, 94501; phone number is 510-747-4800; fax number is 510-865-4048, e-mail address is lweisiger@alamedaca.gov and contact is Lara Weisiger, City Clerk.
- In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals.



**ALAMEDA RECREATION AND PARK COMMISSION
MINUTES FOR REGULAR MEETING**

DATE: Thursday, July 9, 2020
TIME: 7:04 p.m. Called to Order
PLACE: City Hall Council Chambers

**A video recording of the meeting may be viewed at <https://alameda.legistar.com/Calendar.aspx>
The following are action minutes in keeping with the Sunshine Ordinance 2-91.17.**

ROLL CALL

Present: (via teleconference) Chair Alexander, Vice Chair Robbins, Commissioner Limoges
Commissioner Barnes and Commissioner Navarro
Staff: (via teleconference) Alameda Recreation and Park Department (ARPD) Director Amy Wooldridge

APPROVAL OF MINUTES

Chair Alexander moved to accept the minutes of June 11, 2020 Regular Meeting as presented.
M/S Commissioner Limoges / Commissioner Barnes. All present in favor with 5 ayes via roll call vote.

WRITTEN AND ORAL COMMUNICATIONS

- Written Communication: None
- Oral Communication:
Speaker Betsy Mathieson: Thanked ARPD Director Wooldridge and the Commission for deferred maintenance work at Jackson Park. Enjoying the re-paved walkways, new picnic table and benches.

REPORTS FROM THE RECREATION AND PARK DIRECTOR

ARPD Director Amy Wooldridge gave the report. (See Exhibit 1)

REPORTS FROM COMMISSIONERS

- Vice Chair Robbins: Has now visited all the City of Alameda Parks and commented on how clean and manicured the parks are. Suggested a computerized reservation program and rental signage at the tennis courts.
- Commissioner Limoges: Noticed a lot of trash along Shoreline at the beach. Response from Director Wooldridge: Working with East Bay Regional Park Department, (EBRPD), which oversees the beaches and shoreline, and potential volunteer groups to help with clean-up. Looking forward to seeing the Krusi Park Recreation Center completed.
- Chair Alexander: Commended the Alameda citizens as she is seeing lots of masks and social distancing. Had a lesson in Pickleball. Handball courts are consistently full. Krusi Recreation Center looks nice, was able to look inside and it looks beautiful. Complimented Franklin Camp Park staff for a job well done.
- Commissioner Navarro: ARPD Camps are doing a great job with masks and social distancing and the kids look like they are having fun. Diversity, Equity and Inclusion subcommittee met to discuss what can be done to put into practice with Parks and possibly citywide. Hopefully will have something concrete in 4 to 6 months.

- Commissioner Barnes: Have been to most City of Alameda Parks and commented that they all look great. Heard public feedback of relief and thanks for the ARPD Camps. Great Diversity, Equity and Inclusion meeting on starting the process for policy to create a policy and action plan to implement into practice with concrete plans and objectives. Plan to obtain data, demographic info and community input. Will work with a consultant to assist process, possibly from the Government Alliance on Race and Equity.

NEW BUSINESS

6-A Review and Recommend Whether to Rename Jackson Park

ARPD Director Amy Wooldridge gave presentation which included the history of the park and Andrew Jackson and the requirements and process options of renaming Jackson Park.

Public Comments

- Zac Bowling: In support of renaming of Jackson Park
- Rasheed Shabaaz: Two years ago came before the Commission to call for the renaming of Jackson Park. Spoke on the 2020 death of George Floyd and how it brought awareness to the public. In support of renaming Jackson Park, likes Justice Park, encouraged to add a memorial dedicated to those who were impacted by Andrew Jackson and were excluded from Alameda to explain why the park was renamed and that a new name should be selected by the end of the year. If there is no justice, there is no peace.
- Ezra Denney: Heartened to hear about the previous discussion on a diversity and inclusion policy for the parks. Supports renaming Jackson Park to show Alameda's community of Color how we welcome them and how everyone belongs here.
- Josh Geyer: Supports renaming Jackson Park to create a city where people feel truly welcome and to put up a monument that speaks to why the park was renamed and the impacts of Jackson's actions and belief systems while he was alive.
- Laura Gamble: Supports the renaming Jackson Park as it will signal that Alameda has the ability to move forward to a more just and fair future in a swift manner.
- Seth Marbin: Supports the renaming of Jackson Park and encouraged to remove the sign immediately.
- Lean Deleon, Alameda resident: Supports the renaming of Jackson Park as we are in a political movement to the right side of history.
- Rosemary Jordan: Supports the renaming of Jackson Park. Systemic racism is tearing our county apart and parks are places we can heal. It is urgent to remove any symbols and names that add trauma.
- Seraphi Allkind Sigma: Supports the renaming of Jackson Park, encourages a quick timeline and that Black voices, especially the youth, are listened to in the process of renaming the park.
- Betsy Mathieson: Jackson Park "Dumb Friends" bench is 100 years old this year and hoping for a celebration. Wants to discourage the Commission from naming the Park after Jim Morrison, a musician who was a student at Alameda High.

Motion to Change the name of Jackson Park

M/S Vice Chair Robbins / Chair Alexander. All in favor with 5 ayes via roll call vote.

Motion to Recommend to Council to Remove Jackson Park sign as soon as possible.
M/S Vice Chair Robbins / Commissioner Navarro. All in favor with 5 ayes via roll call vote.

Motion to establish a subcommittee of Chair Alexander and Commissioner Robbins with City Staff to facilitate a diverse community committee which can include, residents living near the park, local historians and other interested community members to rename Jackson Park.
M/S Chair Alexander / Commissioner Barnes. All in favor with 5 ayes via roll call vote.

Motion that the Commission make a name recommendation on Jackson Park to the City Council by December 31, 2020.
M/S Commissioner Navarro / Vice Chair Robbins. All in favor with 5 ayes via roll call vote.

6-B Update on Active Transportation Plan Draft Recommendations

Rochelle Wheeler, City of Alameda Senior Transportation Planner, gave presentation and answered questions about the Transportation Plan, second phase which includes the plan's purpose and vision for bike, walk and roll, initial community input, pedestrian street map, bicycle network and draft goals for safety, community, connectivity and comfort, equity and mode shift.

ITEMS FOR NEXT AGENDA: City Aquatics Center Conceptual Design, name Alameda Marina Park and De-Pave Park Vision Plan

SET NEXT MEETING DATE: Commission agreed to have an additional Regular meeting for Thursday, August 13, 2020 due to the numerous items.

ADJOURNMENT

M/S Commissioner Limoges / Commissioner Navarro
Motion carried by the following voice vote: All in favor with a 5 – 0.
Chair Alexander adjourned the meeting at 9:32 PM

EXHIBIT 1

7/09/2020 ARPD Director's Report – Presented by Recreation and Park Director Amy Wooldridge

Mastick Senior Center

- Mastick developed a partnership with the Kiwanis Club and they will provide a one-way Pen Pal program sending cards/notes to Leisure Club participants. Gift bags were delivered to participants before the July 4th holiday and greeting cards have been sent as well.
- New computers for the Mastick Computer lab are being installed.
- Renewal membership registration forms (approximately 3,300) are being mailed out.
- Monthly email blasts continue with updates and services. Zoom opportunities are being added and looking toward a curbside book pick-up, along with other opportunities.
- We continue to make wellness calls.
- The lunch program is growing and serving an average 30 - 35 people per day.
- Working on improving the front entry walkway for current ADA compliance.

Parks Maintenance

- Received \$150,000 from the Community Development Block Grant program for improvements at Woodstock Park. Projects include converting remaining playground safety surfacing to poured in place, adding a shaded picnic area, painting the exterior of the recreation center and replacing all windows.
- Focused work on Bay Farm parks at Tillman and Leydecker as well as tree pruning along Shoreline Park
- Hired a new Gardener, Andrew Quintana who previously worked with the City of Berkeley. We're excited to have him join the team!

Recreation Services

- Working on options for fall after school programming. Waiting for additional guidelines from Alameda County Health Department and staff is participating in weekly discussions with the school district.
- Tiny Tots – We opened registration for our Tiny Tots programs but final configuration of those programs is pending guidance from the Health Department.
- Alameda Fourth of July Shines On decoration contest – There were 35 entries and staff decided to give participation awards to all registrants rather than doing a judging processes. We are offering \$20 gift certificates to a variety of Alameda businesses.
- Park Ambassador Program – Staff are coordinating ways to implement a park ambassador program that serves as a positive educational outreach program in the parks during COVID-19. We will re-hire lifeguards and other part-time staff who will be easily identifiable in parks and will have extra masks to hand out as they let people know to wear masks, keep social distance and remain off the closed equipment. They will not be enforcing rules, simply educating the public in a friendly way.
- New youth camps – ARPD added several outdoor fitness and athletic camps per County guidelines began this week. These include both contract camps through ARPD and other organizations renting city park space for camps and following our guidelines.

- Kudos and deep appreciation to the many ARPD staff who are working so well under these trying times. Several compliments have been received about staff from the public.

ARPD Projects

- Krusi Park Recreation Center – the building is complete and site work (asphalt and other work) is continuing through July. Purchasing fixtures and installing the fire alarm. Anticipate completion before the school year starts.
- De-Pave Park – Vision Plan process is going well and a draft sketch plan was received well by the stakeholders this past week. Once completed, it will come to the Commission for review and comment.
- Starting work on a Diversity, Equity and Inclusion Policy and Action Plan.
- Bayport Park playground – The public input meeting for the Bayport Park playground design was cancelled due to the shelter in place. Staff will instead host an online survey and a Zoom neighborhood meeting for public input on the design. We will do our best to construct the playground so that it is completed close to when playgrounds may be opened. The design will come to the Commission for review and comment.

From: ps4man@comcast.net
To: [Lara Weisiger](#)
Subject: [EXTERNAL] FW: Item 6A on Jan 19 Agenda
Date: Tuesday, February 2, 2021 2:53:14 PM
Attachment: [We sent you safe versions of your files.msg](#)
[Epstein v Hollywood Entertainment Dist II Business Improvement Dist.pdf](#)
[Californians Aware v Joint LaborManagement Benefits Committee.pdf](#)
[International Longshoremens and Warehousemens Union v Los Angeles Export Termina.pdf](#)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

Please file this to my Sunshine Ordinance Complaint v. City Council and the Recreation and Park Commission.

From: ps4man@comcast.net <ps4man@comcast.net>
Sent: Tuesday, January 19, 2021 4:46 PM
To: Marilyn Ashcraft <mezzyashcraft@alamedaca.gov>; Malia Vella <mvella@alamedaca.gov>; John Knox White <jknoxwhite@alamedaca.gov>; 'tony_daysog@alum.berkeley.edu' <tony_daysog@alum.berkeley.edu>; 'tspencer@alamedaca.gov' <tspencer@alamedaca.gov>
Cc: 'Eric Levitt' <elevitt@alamedaca.gov>; 'yshen@alamedacityattorney.org' <yshen@alamedacityattorney.org>
Subject: Item 6A on Jan 19 Agenda

Dear Mayor Ashcraft and Council Members:

It has been brought to my attention that there may be public comment on Item 6A that asserts that the park naming citizens committee has violated our Sunshine Ordinance and the Brown Act by failing to follow the transparency requirements of notice and public participation applicable to “policy bodies” as defined by the Ordinance. There are multiple definitions of the term in Sec. 2-91.1 (d) of the Ordinance, the pertinent one here being Sub-sec (d) (4) which defines it as “any committee or body, created by the initiative of a policy body as a whole;”.

The Park and Recreation Commission is a policy body. On July 9, its action of appointing a sub-committee of two Commission Members to establish a citizen’s committee renders that citizens committee a body “created” by the Commission, regardless of the fact that the committee members were appointed by the sub-committee.

A similar process was used by City Council in directing the City Manager to appoint a Citizens committee on police reform. In both instances these actions were designed to avoid the requirements of both our Sunshine Ordinance and the Brown Act requiring public notice and participation in meetings of these two citizens committees. I do not think that these laws were intended to allow local government bodies to avoid transparency requirements by the simple means of delegating the appointment of committee members to a third party.

As an aid to you and the City Attorney, I attach the cases which I think clearly support this view. Unless the City Attorney can convince me otherwise I will likely challenge these actions pursuant to the sunshine Ordinance and/or Brown Act.

Paul S Foreman

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87 Cal.App.4th 862
Court of Appeal, Second District, Division 3,
California.

Aaron EPSTEIN, Plaintiff and Appellant,
v.
HOLLYWOOD ENTERTAINMENT
DISTRICT II BUSINESS
IMPROVEMENT DISTRICT, et al.,
Defendants and Respondents.

No. B134256.

March 8, 2001.

Review Denied June 13, 2001.

Synopsis

Owner of property zoned for business purposes within business improvement district (BID) brought action to establish that non-profit corporation that administered funds raised through city's assessments on businesses within the district was subject to Brown Act's open meetings requirements. The Superior Court, Los Angeles County, Super. Ct. No. BC207337, Ricardo A. Torres, J., denied owner's motion for preliminary injunction, and he appealed. The Court of Appeal, Croskey, J., held that corporation was a "legislative body" subject to Brown Act's open meetings requirements.

Reversed and remanded.

Attorneys and Law Firms

****858 *863** Moskowitz, Brestoff, Winston & Blinderman, Dennis A. Winston and Barbara S. Blinderman, Los Angeles, for Plaintiff and Appellant.

***864** Sheppard, Mullin, Richter & Hampton, Costa Mesa, and Andre J. Cronthall, Los Angeles, for Defendants and Respondents Hollywood Entertainment District II Business Improvement District and Hollywood Entertainment District Property Owners Association.

James K. Hahn, City Attorney, Patricia V. Tubert, Senior Assistant City Attorney and Kenneth Cirlin, Assistant City Attorney ****859** for Defendant and Respondent City of Los Angeles.

Opinion

CROSKEY, J.

The Hollywood Entertainment District II Business Improvement District (BID II) is a special assessment district in the City of Los Angeles (City). The Hollywood Entertainment District Property Owners Association (the POA), a 26 United States Code section 501(c)(6) non-profit corporation, administers the funds City raises through assessments on businesses within BID II's boundaries.¹ The money is used to contract for such things as security patrols, maintenance, street and alley cleaning, and a newsletter.

Aaron Epstein (plaintiff), who owns property zoned for business purposes within BID II, sued defendants to establish that the POA was required to comply with the Ralph M. Brown Act (the Brown Act or the Act) (Gov.Code, § 54950 et seq.)² by holding noticed, open meetings and posting its agenda in advance. His motion for a preliminary injunction was denied after the superior court concluded that the Brown Act did not apply because (1) the POA had not been created by City, and (2) the POA had pre-existed the creation of BID II by at least two years.

Plaintiff filed timely notice of appeal. We reverse. The facts of this case come within the parameters of our holding in *International Longshoremen's & Warehousemen's Union v. Los Angeles Export Terminal, Inc.* (1999) 69 Cal.App.4th 287, 81 Cal.Rptr.2d 456 (*International Longshoremen's*), because City "played a role in bringing" the POA "into existence." The POA was not simply a pre-existing corporation which just "happened" to be available to administer the funds for BID II. Instead, the record indicates that the POA was formed and structured in such a way as to take over administrative functions that normally would be handled by City.

***865 FACTUAL AND PROCEDURAL BACKGROUND³**

The Property and Business Improvement District Law of 1994 (Sts. & Hy.Code, §§ 36600 et seq.) authorizes cities to establish property and business improvement districts (BIDs) in order to levy assessments on real property for certain purposes. Those purposes include acquiring, constructing, installing, or maintaining improvements

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(Sts. & Hy.Code, § 36606), which include such things as parks, street changes, ramps, sidewalks and pedestrian malls. (Sts. & Hy.Code, § 36610, subs. (f), (i), and (k).) A prerequisite to the creation of such a BID is a petition filed by property owners who will pay more than 50 percent of the total amount of assessments to be levied. (Sts. & Hy.Code, § 36621, subd. (a).)

On September 3, 1996, City adopted ordinance No. 171273 (the first Ordinance) to create the Hollywood Entertainment District Business Improvement District (BID I). The first Ordinance incorporated by reference a "Management District Plan" which contained information required by Streets and Highways Code section 36622.⁴ The Management District Plan included a "Proposed Annual Program" which included security, maintenance, marketing, streetscape and administration components. It also included a section on "Governance," which provided, in relevant part, "The Property and Business Improvement District programs will be governed by a non-profit association. Following is a partial ****860** summary of the management and operation of the *proposed* association." (Italics added.) The section on Governance made it clear that the non-profit association, which would govern BID I, was not yet in existence.⁵

Articles of incorporation of the Hollywood Property Owners Association (the POA), the non-profit association that did take over governance of BID I, were filed with the California Secretary of State on September 25, 1996. These articles of incorporation were dated September 5, 1996. The POA was a nonprofit mutual benefit corporation, whose specific and primary purpose was "to develop and restore the public areas of the historic core of Hollywood, California, in order to make it a more attractive and popular destination for tourists, shoppers, businesspeople and persons interested in culture and the arts."

***866** On August 18, 1998, City adopted ordinance No. 172190 (the second Ordinance) to create Hollywood Entertainment District II Business Improvement District (BID II). The second Ordinance incorporated by reference a "Management District Plan" which contained information required by Streets and Highways Code section 36622. The Management District Plan for BID II, which was entitled "Hollywood Entertainment District Property Business Improvement District Phase II," included a copy of the petition used to form BID II, which referred to BID II as an "extension" of BID I. In fact, a comparison of the map of the proposed boundaries of BID II with the map of the proposed boundaries of BID I shows that BID II simply added approximately another 10 blocks down Hollywood Boulevard to the approximately five blocks down the length of the boulevard already

covered by BID I.

The Management District Plan for BID II also included a "Program and Budget," which included security, maintenance, marketing and promotion, and administration components. It also included a section on "Governance," which provided, in relevant part, "The Property and Business Improvement District programs will be governed by the Hollywood Entertainment District Property Owners Association, a 501(c)(6) non-profit corporation *which was formed in 1996 to govern Phase I*. Following is a summary of the management and operation of the Association *as it relates to Phase II*." (Italics added.) In addition, unlike the Management District Plan for BID I, the Management District Plan for BID II included the "Amended and Restated Bylaws" of the POA which were quite detailed. And, although the POA was to manage and operate the BID, City, by law, retained the power to "modify the improvements and activities to be funded with the revenue derived from the levy of assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications." (Sts. & Hy.Code, § 36642.)

The POA's monthly meetings were not open to the public, much to the distress of plaintiff, who owns property subject to assessment in favor of BID II. Furthermore, according to plaintiff, the POA's by-laws allow it to do other things that would be prohibited by the Brown Act if it were applicable to the POA. For example, the by-laws allow meetings to take place anywhere, not solely within the POA's jurisdiction, and to take place without posting notice 72 hours in advance.

Accordingly, on March 18, 1999, plaintiff filed a complaint for declaratory and injunctive relief against defendants, seeking, among other things, a declaration that the Brown Act does apply to the POA and that, in fact, the POA's meetings are required to be open and noticed as required by the ***867** Brown Act, and that any contracts let by the POA must comply with ****861** the competitive bidding requirements of City's charter. He moved for a preliminary injunction, which the superior court denied on the ground that because the POA was not created by City, and because it pre-existed the creation of BID II by at least two years, the Brown Act did not apply. The order denying the motion was filed on June 11, 1999, and on August 4, 1999, plaintiff filed notice of appeal.

CONTENTIONS ON APPEAL

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Plaintiff contends that the trial court erred by concluding that the POA was not a legislative body under the Brown Act. He further contends that because the POA is a legislative body within the meaning of the Act, and can only exercise the powers that City could delegate to it, it cannot enter into contracts without complying with the City Charter's requirement of competitive bidding. Finally, he contends the trial court erred by denying him injunctive relief against the POA. Defendants dispute these contentions.

DISCUSSION**1. Public Policy Favors Conducting the Public's Business in Open Meetings**

It is clearly the public policy of this State that the proceedings of public agencies, and the conduct of the public's business, shall take place at open meetings, and that the deliberative process by which decisions related to the public's business are made shall be conducted in full view of the public. This policy is expressed in (1) the Bagley-Keene Open Meeting Act (§§ 11120 et seq.), which applies to certain enumerated "state bodies" (§§ 11121, 11121.2), (2) the Grunsky Burton Open Meeting Act (§§ 9027-9032), which applies to state agencies provided for in Article IV of the California Constitution, and (3) the Ralph M. Brown Act (§§ 54950 et seq.), which applies to districts or other local agencies, including cities. Under these various laws related to open meetings, a wide variety of even the most arcane entities must give notice of their meetings, and make such meetings open to the public.⁶

***868 2. The Purpose Behind the Brown Act**

The Brown Act, the open meeting law applicable here, is intended to ensure the public's right to attend the meetings of public agencies. (*Freedom Newspapers, Inc. v. Orange County Employees Retirement System* (1993) 6 Cal.4th 821, 825, 25 Cal.Rptr.2d 148, 863 P.2d 218; *International Longshoremen's, supra*, 69 Cal.App.4th at p. 293, 81 Cal.Rptr.2d 456.)⁷ To achieve this aim, the **862 Act requires, inter alia, that an agenda be posted at least 72 hours before a regular meeting and forbids action on any item not on that agenda. (§ 54954.2, subd. (a);

International Longshoremen's, supra, 69 Cal.App.4th at p. 293, 81 Cal.Rptr.2d 456.) The Act thus serves to facilitate public participation in all phases of local government decisionmaking and to curb misuse of the democratic process by secret legislation of public bodies. (*International Longshoremen's, supra*, 69 Cal.App.4th at p. 293, 81 Cal.Rptr.2d 456.)

The Brown Act specifically dictates that "[a]ll meetings of the *legislative body* of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter." (§ 54953, subd. (a), italics added.) The term "legislative body" has numerous definitions, grouped together in section 54952. The definition that arguably may apply to the POA is found in subdivision (c)(1)(A) of section 54952. This portion of the Brown Act states, in relevant part: "As used in this chapter, 'legislative body' means: [¶] ... [¶] (c)(1) A board, commission, committee, or other multimember body that governs a private corporation or entity that ...: [¶] (A) Is *created* by the elected legislative body in order to exercise authority which may lawfully be delegated by the elected governing body to a private corporation or entity." (§ 54952, subd. (c)(1)(A), italics added.) Thus, the question before us here, as a matter of law, is whether the POA's board of *869 directors is a legislative body within the meaning of this subdivision because the POA was created by City in order to exercise delegated governmental authority.

In answering this question, we are mindful, as we noted in *International Longshoremen's*, that the Brown Act is a remedial statute that must be construed liberally so as to accomplish its purpose. (*International Longshoremen's, supra*, 69 Cal.App.4th at p. 294, 81 Cal.Rptr.2d 456; see *People ex rel. Lungren v. Superior Court* (1996) 14 Cal.4th 294, 313, 58 Cal.Rptr.2d 855, 926 P.2d 1042 ["civil statutes for the protection of the public are, generally, broadly construed in favor of that protective purpose. [Citations.]]")

3. The POA's Board of Directors Is a Legislative Body Within The Meaning of the Brown Act**a. The City Can Be Said to Have "Created" the POA Within the Meaning of the Brown Act**

Here, just as in *International Longshoremen's*, the pivotal issue is whether City, an elected legislative body,

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“created” the POA in order to exercise authority that City could lawfully delegate. Therefore, we discuss in some detail the facts of *International Longshoremen’s*.

In the *International Longshoremen’s* case, the Los Angeles Export Terminal, Inc. (LAXT) was a private, for-profit corporation organized to design, construct and operate a facility for the export of coal. The facility would be on land leased from the Harbor Department of the City of Los Angeles, and the Harbor Department was to be a fifteen-percent shareholder in LAXT. The shareholders’ agreement by which LAXT was set up gave the Harbor Department the right to appoint three of LAXT’s 19 board members, plus veto power over the coal facility project. The lease of the Harbor Department’s land was also something that had to be, and was, approved by the City Council.

Thereafter, LAXT’s board of directors authorized LAXT to enter into a terminal operating agreement with Pacific Carbon Services Corporation (PCS). This decision was made at a meeting that did not comply with the requirements of the Brown Act. The *International Longshoremen’s & **863 Warehousemen’s Union (ILWU)* sued to nullify the agreement with PCS, and for an injunction, contending that LAXT was required to comply with the Brown Act.

The trial court agreed with the union, nullified the PCS agreement, and enjoined LAXT from making decisions without complying with the Brown ***870** Act. It reached this result because it concluded that LAXT’s board of directors was a legislative body within the meaning of the Brown Act. LAXT appealed, and argued, among other things, that it had not been created by the City Council (a legislative body), but only by the Harbor Commission (an appointed body), and hence the Brown Act, by its terms, did not apply.

We disagreed. Although section 54952, subdivision (c)(1)(A), did not, and does not, define what is meant by the term “created by,” we relied on the ordinary definition of “to create,” which is “to bring into existence.” (*International Longshoremen’s, supra*, 69 Cal.App.4th at p. 295, 81 Cal.Rptr.2d 456, quoting Webster’s New Internat. Dict. (3d ed.1986) p. 532.) We concluded that the “City Council was involved in bringing LAXT into existence,” because (1) it had the ultimate authority to overturn the Harbor Commission’s actions, and (2) it could have disaffirmed any steps the Harbor Commission took to become part of LAXT. (69 Cal.App.4th at p. 296, 81 Cal.Rptr.2d 451.) We also concluded that LAXT had been created to exercise governmental authority, to wit, the development and improvement of a city harbor (§ 37386), and that the City Council had delegated its

governmental authority as to this aspect of the City’s harbor to LAXT. (69 Cal.App.4th at pp. 297–299, 81 Cal.Rptr.2d 451.) Therefore, the Brown Act applied to LAXT’s meetings. (*Id.* at pp. 299–300, 81 Cal.Rptr.2d 451.)

Here, as discussed in more detail below, we conclude that City was “involved in bringing into existence” the POA to exercise delegated governmental authority, that City also retained the authority to overturn the POA’s actions, and that it could have removed, and can still remove, the POA as the entity managing the BID.

1. *The City “Was Involved in Bringing the POA into Existence” to Exercise Some Governmental Authority Over BID I, and BID II Was Just an Extension of BID I*

In the case here, the issue is whether the POA is a private corporation or entity that was *created* by City, the elected legislative body, to exercise some authority that City could lawfully delegate to a private corporation or entity. We conclude that here, just as in *International Longshoremen’s*, the private entity, the POA, was “created” by City to exercise governmental authority over BID I, authority that City otherwise could exercise.

The POA was, in fact, “created” by City, because City “played a role in bringing” the POA “into existence.” (*International Longshoremen’s, supra*, 69 Cal.App.4th at p. 295, 81 Cal.Rptr.2d 456.) City specifically provided in the first Ordinance that BID I *would* be governed by a non-profit association, and even set forth a partial summary of the management and operation of such proposed ***871** association. Within days of the adoption of the first Ordinance, the POA’s articles of incorporation were prepared, and less than a month later, were filed with the Secretary of State. The POA’s sole purpose was to “develop and restore the *public* areas of the historic core of Hollywood.” And it was the POA that did, in fact, take over governance of BID I. Obviously, when City adopted the first Ordinance creating BID I that called for the creation of a non-profit association to govern the BID I programs, the City “played a role in bringing the POA into existence.”

Defendants, however, would prefer that we ignore the POA’s history vis-à-vis BID I, and concentrate instead on the POA’s relationship to BID II. This is because the POA’s existence preceded the creation of BID II. Defendants would have us look at the POA as simply a “preexisting corporation” that just “happened” to be available to administer the funds for BID II, apparently in

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reliance on footnote 5 of *International Longshoremen's*. In that footnote, we opined that if LAXT, the private corporation in question there, had been a “preexisting” entity “which simply entered into a contractual arrangement” to exercise authority that the government entity could have exercised, then the private entity “would not have been a creation of the City Council” and the private entity’s board of directors would not be subject to the Brown Act. (*International Longshoremen's*, *supra*, 69 Cal.App.4th at p. 300, fn. 5, 81 Cal.Rptr.2d 456.)

There is no reason to ignore the history behind the POA, and, in fact, because the issue is the “creation” of the entity whose governing board now wields governmental authority, we *must* look at the circumstances surrounding the POA’s birth. The record shows that the POA was formed and structured for the sole purpose of taking over City’s administrative functions as to BID I. Therefore, under the Brown Act, as interpreted by us in *International Longshoremen's and Warehousemen's Union v. Los Angeles Export Terminal, Inc.*, *supra*, 69 Cal.App.4th 287, 81 Cal.Rptr.2d 456, the POA’s board of directors, vis-à-vis BID I, was subject to the Brown Act, because the board was a legislative body within the meaning of section 54952 subdivision(c)(1)(A).

Thereafter, the boundaries of BID I were extended, the new BID was called BID II, and the POA simply continued to administer the assessments collected from property owners in the enlarged District. Obviously, the fact that the POA was already in existence and ready to take over City’s legislative functions vis-à-vis BID II cannot change the result we would have reached if this case had been presented after BID I was created and before BID II had come into existence. And the connection between BID I and BID II rationally cannot be ignored in any determination of when and *872 how the POA was “created.” City itself, in the Management District Plan for BID II, explicitly recognized that the POA “was formed in 1996 to govern Phase I,” that the POA also would govern “Phase II,” and that BID II was just an “extension” of BID I.

Under these circumstances, we would improperly elevate form over substance if we were to treat the POA as a “pre-existing” private entity with which City just “happened” to decide to do business when it turned governance of BID II over to the POA. To turn a blind eye to such a subterfuge would allow City (and, potentially, other elected legislative bodies in the future) to circumvent the requirements of the Brown Act, a statutory scheme designed to protect the public’s interest in open government. This we will not do. (*Plumbing, etc., Employers Council v. Quillin* (1976) 64 Cal.App.3d 215,

220, 134 Cal.Rptr. 332 [court will not place form above substance if doing so defeats the objective of a statute]; *People v. Jackson* (1937) 24 Cal.App.2d 182, 192, 74 P.2d 1085, *disapproved on another ground*, *People v. Ashley* (1954) 42 Cal.2d 246, 262, 267 P.2d 271 [“It should be and is an established principle of the law that the substance and not the mere form of transactions constitutes the proper test for determining their real character. If this were not true it would be comparatively simple to circumvent by sham the provisions of statutes framed for the protection of the public. This the law does not permit. (Citations.)”]; see also Civ.Code, § 3528 [“The law respects form less than substance.”]; *People v. Reese* (1934) 136 Cal.App. 657, 672, 29 P.2d 450, *disapproved on another ground*, *People v. Ashley* (1954) 42 Cal.2d 246, 262, 267 P.2d 271 [“The evidence tends to prove, and the jury had the right to find, that the real intention of the defendants was to place upon the market and sell shares of stock in a corporation, and that the form of the certificates issued by them was a subterfuge adopted in order to defeat the purposes of the Corporate Securities Act. The operation of the law may not thus be circumvented.”].)

****865** In order to avoid the conclusion that the Brown Act applies, the defendants characterize our treatment of the POA as a legislative body within the meaning of the Brown Act as being “contrary to the evidence produced in the trial court and unfair to the businessmen trying to improve their local community.” They contend that there is no evidence that City ever “handled” the administrative functions of any BID, and that, to the contrary, the BIDs and the POA were structured by the local property owners themselves from the outset to be administered by a nonprofit organization formed by the owners themselves.

This contention, however, misses the point. The fact that local property owners who wanted City to create a BID were involved in the structuring of *873 the BID, and structuring of the POA to run the BID, does not mean that City did not “play a role in bringing” the POA “into existence.” A BID cannot be created by private individuals. Private individuals do not have the power to authorize tax assessments, or to create tax liens. Thus, a public entity *must* be involved in the creation of any BID, no matter how, when, or by whom the idea and future structuring of the BID-to-be was initiated and pursued. Here, as already noted, the POA was formed for the purpose of administering the BID. Thus, by giving the BID the necessary legal standing as a BID, and by providing that the BID would, in fact, be administered by a POA yet to be formed, City clearly was involved in bringing into existence the POA. An operative BID was the *raison d’être* for the POA; by giving the BID the legal breath of life, the City breathed life into the POA as well.

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2. City Retained the Authority to Overturn the POA's Actions

Furthermore, just as in *International Longshoremen's, supra*, 69 Cal.App.4th at page 296, 81 Cal.Rptr.2d 456, City, the elected legislative body with ultimate accountability to the voters, retained plenary decisionmaking authority over the BID's activities. (Sts. & Hy.Code § 36642.) Street and Highways Code section 36642 provides, in relevant part, that a city council "may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications."

This retention of power over the POA is not only provided for by section 36642, but it is required by well-established law, which provides that a public body may only delegate the performance of its administrative functions to a private entity if it retains ultimate control over administration so that it may safeguard the public interest. (*International Longshoremen's, supra*, 69 Cal.App.4th at pp. 297–298, 81 Cal.Rptr.2d 456 and cases cited there.) And a nonprofit corporation to which such administrative functions are delegated *must comply with the same laws and regulations as the public entity that is delegating its authority.* (*International Longshoremen's, supra*, 69 Cal.App.4th at p. 300, 81 Cal.Rptr.2d 456; 81 Op.Atty.Gen. 281 (1998) [when a community redevelopment agency used a nonprofit corporation to administer its housing activities, the nonprofit corporation was required to comply with the same laws applicable to the redevelopment agency itself, such as open meeting laws and public bidding and prevailing wage statutes].)

*b. There Is No Legal Reason to Exempt the POA from The Operation of the Brown Act**1. The "Unfairness" and "Interference with Business" Argument*

As noted above, City and the BID contend that our decision that the POA must comply with the same laws as would City, for example, the Brown Act, *874 is somehow unfair to businesspeople, and interferes with

private businesses' ability to improve their areas of operation. Needless to say, if local businesspeople want to form property **866 owners' associations to try to improve their local community, they are free to do so. They may hold their meetings in secret, by invitation only, or may invite the general public, limited only by whatever laws, if any, are applicable to such groups. However, participation in such purely private, purely voluntary organizations differs dramatically from participation in a BID. For example, membership in a private business owners' organization is voluntary, and, presumably, membership can be terminated at will. In contrast, "membership" in a BID may be involuntary for a majority of the property owners within the BID. (Sts. & Hy.Code, § 36621, subd. (a) [the only prerequisite to the creation of such a BID is not a petition filed by a *majority* of the property owners in the proposed district, but a petition filed by property owners who will *pay* more than 50 percent of the total amount of assessments to be levied].) And, once the BID is created, "membership" lasts for at least five years, and cannot be voluntarily terminated by individual members. (Sts. & Hy.Code, §§ 36622, subd. (h), 36630.)

Given these differences, defendants' pleas that the result we reach here is somehow "unfair" to businesspeople are simply not persuasive. When an individual business owner's money can be taken without his or her individual consent, when it can be taken through use of the government's power to tax and assess, and when it can be used to benefit others' property through the provision of services (whether or not such services include such traditional municipal services as street and sidewalk improvements), it is clearly not "unfair" for such individual business owners to expect to have an opportunity to participate in the decision-making process by which one benefit or another is actually conferred. Nor is it unfair for us, given the language of the Brown Act and the rules of interpretation related to it, to validate that expectation.

2. The "Supplemental Services" Argument

Defendants also point to the "supplemental" nature of the services provided by this BID, as though this somehow obviates any need to comply with the Brown Act. Such an argument makes no sense. First, what is "supplemental" can become quite subjective. There is nothing to stop a city from proclaiming that *any* traditional municipal services, other than the most critical things such as fire and police protection, are "supplemental." Thus, street sweeping, the trimming of

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street trees, and even the purchase of new library books could be characterized as “supplemental” services. Shall we *875 interpret the Brown Act on a case-by-case basis, based on each public entity’s own characterization of the topic as being one of “supplemental,” versus basic, services? Shall the Brown Act apply if the legislative body is making decisions about the purchase of police cars, but not if it is deciding whether to buy new library books or to cut back the street tree maintenance program? To ask such questions is to answer them.

Second, focussing on the “supplemental” nature of the *services* is backwards it is not the *kinds of services*, so much as the *nature of the source of funding* to be used for them, which is relevant to the issue on appeal. Are traditional legislative bodies exempt from the Brown Act merely because they act to disperse “bonus” federal funding for special, supplemental programs and services? If a private benefactor donates \$10 million to a city to spend on “supplemental” services and programs, may the city council meet informally and secretly to decide upon the proper allocation of such funds? The obvious answer to both these questions is “No.” This is so because the funds involved constitute public money. The funds do not belong to the individual council members, they belong to the public, and the public has a right to participate in any decisions about how public funds should be expended. Very simply, the Brown Act contains no exemptions **867 for decisions about expenditures of *public funds* for “supplemental services.”

3. The “Advisory Committee” Argument

Defendants also argue that the existence of “advisory committees” somehow obviates the need for application of the Brown Act’s rules to actions taken by the POA vis-à-vis the BID. Just as there is no exemption in the Brown Act for actions on “supplemental services” taken by statutorily-defined legislative bodies, so, too, there is no exemption for actions taken by bodies such as the POA which were “previewed” by an advisory committee.

True, Streets and Highways Code section 36631, subdivision (b) provides that advisory committees “*shall*” comply with the Brown Act. But, contrary to the arguments of the BBID and the POA, that section does *not* also specify that any other entities involved in a BID are *exempt* from the Brown Act. When section 36631 is read in context with the Property and Business Improvement District Law of 1994 as a whole, it is apparent that the Legislature assumed the advisory committee would be making reports and

recommendations about the BID to a city council (Sts. & Hy.Code, §§ 36631, subd. (a); 36633, 36640), which *itself* would then be taking legislative action to carry out the assessments, levies, boundary changes and improvements and activities to be funded. (See, e.g., Sts. & Hy.Code, §§ 36632, 36634, 36635, 36641, 36642, 36651.)

*876 Thus, the Legislature specified that an advisory committee’s meetings about its intended reports and recommendations vis-à-vis a BID are subject to the Brown Act, and did not so specifically state that the Brown Act applies to a city council’s meetings to actually carry out, modify, or disapprove such recommendations. Is this persuasive evidence that the Legislature intended to exempt city councils from the Brown Act when they make decisions about BIDs? Of course not. Likewise, the Legislature’s failure to *expressly* specify that a nonprofit corporation to whom a city has delegated its administrative functions vis-à-vis a BID must comply with the Brown Act is no evidence that the Legislature intended to *exempt* such a nonprofit corporation from open meeting requirements.

4. The “We Said We Didn’t ‘Create’ the POA, So You Can’t Decide We Did” Argument

Defendants urge that because City itself concluded that it did not “create” the POA, we are somehow bound by such a conclusion. Defendants characterize this determination as a finding of fact to which we must defer, citing *McCarthy v. City of Manhattan Beach* (1953) 41 Cal.2d 879, 890, 264 P.2d 932 and *Consaul v. City of San Diego* (1992) 6 Cal.App.4th 1781, 1792, 8 Cal.Rptr.2d 762. Not so. The issue of whether City was involved in bringing the POA into existence, in other words, whether City “created” it within the meaning of section 54952, subdivision (c)(1)(A), is, ultimately, a question of law.

CONCLUSION

The POA’s status as an entity originally “created” to take over City’s legislative functions was not somehow negated, annulled, or dissipated simply because its role subsequently was expanded by the geographic expansion of the area over which it exercised such functions. Nor do any of the reasons advanced by defendants justify exempting the POA from the same application of the

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Brown Act as would apply to City's legislative body. We therefore conclude that the POA is a legislative body within the meaning of the Brown Act, that its actions must be taken in compliance with that Act, and that the trial erred by denying plaintiff's motion for a preliminary injunction.

or is not bound to follow City's laws related to competitive bidding, the trial court should be guided by our conclusion that the POA is a legislative body within the meaning of the Brown Act, and that the Brown Act does apply to actions taken by the POA in its administration of the BID. Plaintiff shall recover his costs on appeal.

DISPOSITION

The order denying plaintiff's request for a preliminary injunction is reversed and **868 remanded. The trial court is directed to enter a preliminary injunction in favor of plaintiff in accordance with the views expressed *877 herein. In connection with any arguments that the POA is

KLEIN, P.J., and ALDRICH, J., concur.

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Footnotes

- 1 BID II, City and POA may be referred to collectively as defendants in this opinion.
- 2 All further statutory references will be to the Government Code, except as otherwise noted.
- 3 We recite facts taken from the Clerk's Transcript.
- 4 For example, section 36622 requires a map showing each parcel of property within the district, the proposed district name, the improvements and activities proposed for each year of operation, the proposed amount to be spent to accomplish the activities and improvements each year, and the source of funding.
- 5 Section 36622 does *not* require the management district plan to contain information on governance or management. However, a city council may require the management district plan to contain other items not specifically required by the state law. (§ 36622, subd. (l).)
- 6 See, e.g., Business and Professions Code section 3325 [meetings of the Hearing Aid Dispensers Advisory Commission must be noticed and open]; Business and Professions Code section 7315 [meetings of the State Board of Barbering and Cosmetology must be noticed and open]; Government Code section 8790.7 [meetings of the California Collider Commission must be noticed and open]; Harbors and Navigation Code section 1153 [meetings of the Board of Pilot Commissioners must be noticed and open]; Harbors and Navigation Code section 1202 [meetings for the purpose of investigating pilotage rates shall be noticed and open]; Health and Safety Code section 1179.3, subd. (b) [meetings of the Rural Health Policy Council for comments on projects in rural areas of California must be noticed and open]; Insurance Code section 10089.7, subd. (j) [meetings of the governing board and advisory panel of the California Earthquake Authority must be noticed and open]; Public Resources Code section 33509 [meetings of the governing board of the Coachella Valley Mountain Conservancy must be noticed and open]; Education Code section 51871.4, subd. (g) [meetings of the Commission on Technology in Learning must be noticed and open].
- 7 The Brown Act's statement of intent provides: "In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. [¶] The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created." (§ 54950.)

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Court of Appeal, Second District, Division 5,
California.

CALIFORNIANS AWARE et al., Plaintiffs
and Appellants,
v.
JOINT LABOR/MANAGEMENT
BENEFITS COMMITTEE et al.,
Defendants and Respondents.

No. B227558.

Nov. 10, 2011.

As Modified on Denial of Rehearing Nov. 28, 2011.

Synopsis

Background: Political advocacy group brought action against joint labor/management benefits committee (JLMBC) of community college district for declaratory, injunctive, and writ relief challenging committee's failure to follow Ralph M. Brown Act open meeting procedures. The Superior Court, Los Angeles County, No. BS124856, David P. Yaffe, J., denied petition. Advocacy group appealed.

Holdings: The Court of Appeal, Mosk, J., held that:

Brown Act did not apply to JLMBC, and

JLMBC's meetings with unions were within exemption from Brown Act.

Affirmed.

Attorneys and Law Firms

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Committee and Los Angeles Community College District.

MOSK, J.

***974 INTRODUCTION**

Plaintiffs, petitioners, and appellants Californians Aware and Richard P. McKee (McKee) filed a verified petition for writ of mandate, an injunction, and declaratory relief against defendants, respondents, and respondents in this appeal the Los Angeles Community College District (District) and the Joint Labor/Management Benefits Committee (JLMBC) alleging that the JLMBC failed to comply with the public notice and open meeting requirements of the Ralph M. Brown Act (Brown Act). (Gov.Code, § 54950 et seq.¹) The trial court in denying the petition found that the JLMBC was not subject to the Brown Act because the JLMBC was formed to further the District's collective bargaining with the unions representing the District's employees and thus was exempt from the Brown Act under section 3549.1, subdivision (a), which is part of the Educational Employment Relations Act (EERA) (§ 3540 et seq.²). Petitioners appeal. We affirm.

BACKGROUND³

In or about 2002, the District entered into a "Master Benefits Agreement" (Agreement) with unions representing its employees⁴ concerning hospital-medical, **768 dental, vision group coverage, group life insurance coverage, and the District's employee assistance program. The unions are referred to in the Agreement as the "Exclusive Representatives" of the employees. Pursuant to the Agreement, the District was to convene, and the Exclusive Representatives were to participate in, the JLMBC. The JLMBC's purpose was to "contain the costs of the District's Health Benefits Program while maintaining and, when feasible, improving the quality of the benefits available to employees."

*975 Prior to adoption of the Agreement, the District's six bargaining units each had a separate article in their collective bargaining agreements that addressed health benefits. Those articles were inconsistent, resulting in

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coverage disparities. One of the Agreement's purposes was to ensure common benefits throughout the District. Under the Agreement, the District's health benefits program consisted of "group benefit plans recommended by the Joint Labor/Management Benefits Committee and approved by the Board under which eligible District employees (and their eligible dependents) receive hospital, medical, dental, and vision care coverage. The purpose of the Health Benefits Program is to provide quality health care to the District's employees, retirees, and their eligible dependents and survivors."

The JLMBC was composed of "one voting and one non-voting District Member" (District Members); six "Employee Members," one from each of the Exclusive Representatives; and the "Chair" who was to be nominated by the president of the Los Angeles College Faculty Guild and confirmed by a simple majority of the regular voting members. Each Exclusive Representative could appoint nonvoting members in proportion to the size of each bargaining unit. The JLMBC had authority to:

"1. review the District's Health Benefits Program and effect any changes to the program it deems necessary to contain costs while maintaining the quality of the benefits available to employees (this includes, but is not limited to, the authority to substitute other plans for the District's existing health benefits plans);

"2. recommend the selection, replacement, and evaluation of benefits consultants;

"3. recommend the selection, replacement, and evaluation of benefit plan providers;

"4. review and make recommendations regarding communications to faculty and staff regarding the health benefits program and their use of health care services under it;

"5. review and make recommendations regarding benefit booklets, descriptive literature, and enrollment forms;

"6. study recurring enrollee concerns and complaints and make recommendations for their resolution;

"7. participate in an annual review of the District's administration of the Health Benefits Program;

*976 "8. review and make recommendations about the District's health benefits budget; and

"9. if health care legislation that necessitates modification of the District's Health Benefits Program is enacted

before the termination of this agreement, assess the effects of such legislation and make recommendations to the District and the Exclusive **769 Representatives about appropriate action to take."

Any action taken by the JLMBC required approval by the affirmative vote of the voting District Member and all but one of the voting Employee Members at a meeting at which a quorum was present. The Agreement provided that a quorum consisted of the voting District Member and any five voting Employee Members. The JLMBC had to submit any proposed changes to the board of trustees (presumably the District's board of trustees) (Board) for its consideration. In order to continue to provide quality health care to the District's employees, retirees, and eligible dependents at a reasonable and sustainable cost, the JLMBC annually had to report to the Board on its actions and activities to mitigate increases to the cost of the health benefits program.

In 2002, the District adopted board rule 101702.10, which provided, "The District shall convene a Joint Labor/Management Benefits Committee (JLMBC) as prescribed by the Master Agreement between the District and the exclusive representatives of its employees. The role, composition, and authority of the Committee are specified in Section IV of the Master Agreement. Section IV of that Agreement (as it now reads or as it may be revised by the parties from time to time) is, by this reference, incorporated herein as if set forth in full."

McKee, on behalf of himself and Californians Aware, submitted a letter to the Board and the JLMBC asserting that the JLMBC was a "legislative body" of the District, which had been holding meetings that did not conform to the public notice and open meeting requirements of the Brown Act. McKee demanded that the District publicly acknowledge in a letter to him that the JLMBC was a "legislative body" under the Brown Act and that all future JLMBC meetings would comply with the Brown Act. Dr. Susan Aminoff, the Chair of the JLMBC, responded that the JLMBC was not a "Brown Act committee."

Petitioners filed their verified petition for writ of mandate, an injunction, and declaratory relief for the JLMBC's alleged violations of the Brown Act. In their petition, petitioners alleged, among other things, that a controversy existed between petitioners and the JLMBC concerning "(1) the legal rights of members of the public to proper and timely notice of the business to be *977 transacted by the JLMBC and to an opportunity to provide input to the JLMBC prior to or during the JLMBC's discussion of that business; and (2) the ministerial duties imposed upon the JLMBC by the Brown Act." The petition sought a declaration that the JLMBC is a "legislative body" under

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the Brown Act and a peremptory writ of mandate ordering the JLMBC to comply with the Brown Act's requirements. Petitioners filed a motion for "Peremptory Writ of Mandate and for Declaratory Relief."

The trial court denied petitioners' petition for writ of mandate. In its order denying the petition, the trial court referred to the California Attorney General's publicly issued opinion that the JLMBC is not required to comply with the Brown Act. The trial court stated that the petition implicated two statutory schemes—the Brown Act and the EERA. According to the trial court, the purpose of the Brown Act, an open meeting law, is to require local entities to conduct their business in public, and the purpose of the EERA is to require public school districts, including community college districts, to recognize and bargain collectively with labor unions representing school district employees. The trial court noted that there is a "tension" between the open meeting **770 requirements of the Brown Act and the closed-door collective bargaining provided by the EERA. The trial court opined that the Legislature resolved that tension with section 3549.1, subdivision (a), which provides that meetings and negotiations between management and labor are not subject to the Brown Act.

The trial court rejected petitioners' attempt to distinguish meetings conducted by the JLMBC from labor-management negotiations and observed that the District and its employees' unions had agreed to divide their negotiations into subgroups, one of which was the "particularly complex" subject of health benefits. The trial court said that the parties created the JLMBC, "to filter out the changes that are to be brought to the negotiating table by requiring some degree of consensus by both labor and management members of the JLMBC in order to submit a change to the board of trustees for its consideration." The trial court concluded, "The activities of the JLMBC are part of the collective bargaining process and the intent of the legislature is that those activities are not to be done in public."

DISCUSSION

Petitioners contend that the trial court erred in denying their petition for writ of mandate. The trial court properly ruled that the JLMBC is not subject to the provisions of the Brown Act.

***978 A. Standard of Review**

" "In reviewing the trial court's ruling on a writ of mandate (Code Civ. Proc., § 1085), the appellate court is ordinarily confined to an inquiry as to whether the findings and judgment of the trial court are supported by substantial evidence. [Citation.] However, the appellate court may make its own determination when the case involves resolution of questions of law where the facts are undisputed. [Citation.]" [Citation.]" (*Caloca v. County of San Diego* (1999) 72 Cal.App.4th 1209, 1217 [85 Cal.Rptr.2d 660].)" (*Zubarau v. City of Palmdale* (2011) 192 Cal.App.4th 289, 301, 121 Cal.Rptr.3d 172; *International Longshoremen's and Warehousemen's Union v. Los Angeles Export Terminal, Inc.* (1999) 69 Cal.App.4th 287, 293, 81 Cal.Rptr.2d 456 (*International Longshoremen's*) [applicability of Brown Act to undisputed facts is subject to de novo review].) Here, because the facts are undisputed, we make our own determination as to the interpretation and application of the Brown Act and the EERA.

B. Relevant Statutes**1. The Brown Act**

Section 54953, subdivision (a) sets forth the Brown Act's general requirement that local agencies must hold their meetings open to the public. Section 54953, subdivision (a) provides, "All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter."⁵ As relevant here, section 54952, subdivision (b) of the Brown Act defines a "legislative body" as "[a] commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body." A commission, committee, board, or other body of a local agency is "created by" charter, ordinance, resolution or other formal action of a legislative body if the legislative body " 'played a role' in bringing ... 'into existence' " the **771 commission, committee, board, or other body. (*Epstein v. Hollywood Entertainment District II Bus. Improvement Dist.* (2001) 87 Cal.App.4th 862, 864, 104 Cal.Rptr.2d 857 (*Epstein*), quoting *International Longshoremen's, supra*, 69

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Cal.App.4th at p. 295, 81 Cal.Rptr.2d 456; see also *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal.App.4th 354, 358–363, 36 Cal.Rptr.3d 47.)

***979 2. The EERA**

Section 3549.1 of the EERA provides in relevant part, “All the proceedings set forth in subdivisions (a) to (d), inclusive, are exempt from the provisions of ... the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), unless the parties mutually agree otherwise: [¶] (a) Any meeting and negotiating discussion between a public school employer and a recognized or certified employee organization.”

Section 3540.1, subdivision (h) provides in pertinent part, “ ‘Meeting and negotiating’ means meeting, conferring, negotiating, and discussing by the exclusive representative and the public school employer in a good faith effort to reach agreement on matters within the scope of representation....” Section 3540.1, subdivision (k) provides as applicable here, “ ‘Public school employer’ or ‘employer’ means the governing board of a school district, a school district....”

C. Application of Statutes

Petitioners contend that the JLMBC is a “legislative body” subject to the public notice and open meeting requirements of the Brown Act because the District played a role in bringing it “into existence” by entering into the Agreement and by adopting board rule 101702.10. The Brown Act exemption in section 3549.1 of the EERA does not apply to the JLMBC, petitioners contend, because the JLMBC is not a “public school employer” that may engage in “meeting and negotiating,” as it is neither the District itself nor a governing board of the District.

The Attorney General issued a formal opinion that the JLMBC is not required to comply with the Brown Act. (92 Ops.Cal.Atty.Gen. 102, 107 (2009).) Citing section 3549.1 and its prior opinion at 61 Ops.Cal.Atty.Gen. 1, 8, 9 (1978) [“that the Legislature ... did not intend to require bargaining committees to negotiate in public is clearly exemplified in section 3549.1....”], the Attorney General stated that it is well-settled that labor-management negotiations conducted pursuant to the EERA between a

public school employer and a recognized or certified employee organization are not subject to the Brown Act. (92 Ops.Cal.Atty.Gen., *supra*, at p. 105.) The Attorney General added, “Health benefits are matters of employee health, safety, and training, which fall squarely within the recognized scope of collective bargaining. [Fn. omitted.] The JLMBC formation springs directly from collective bargaining between an employer and the exclusive bargaining representatives of the employer’s workforce. With its ongoing responsibility to monitor the employees’ health benefits, the JLMBC plays a continuing role in the collective bargaining process with respect to a mandatory subject of bargaining.” (*Id.* at p. 106.)

980** The Attorney General further stated, “To ‘create’ means, among other things, ‘to bring into existence,’ or ‘to produce or bring about by a course of action or behavior.’ [Fn. omitted.] The JLMBC was brought into existence through the process of collective bargaining memorialized in the Master Agreement. Having established the JLMBC, the Master Agreement *772** conferred upon the District the complementary obligation to cause the JLMBC to assemble, which the District discharged through the adoption of Rule 101702.10. [¶] Because the JLMBC was created through the process of collective bargaining as memorialized in the Master Agreement, it does not come within the definition of a legislative body under section 54952. [Fn. omitted.]” (92 Ops.Cal.Atty.Gen., *supra*, at pp. 106–107.)

We agree with the Attorney General and respondents that the JLMBC was created as part of, and for the purpose of furthering, the collective bargaining process under the EERA and, as such, is not subject to the provisions of the Brown Act. (92 Ops.Cal.Atty.Gen., *supra*, at pp. 105–107.) In this matter, we view the Attorney General’s opinion as a significant authority. As the court in *Freedom Newspapers, Inc. v. Orange County Employees Retirement System* (1993) 6 Cal.4th 821, 829, 25 Cal.Rptr.2d 148, 863 P.2d 218 said, “While the Attorney General’s views do not bind us (*Unger v. Superior Court* (1980) 102 Cal.App.3d 681, 688 [162 Cal.Rptr. 611]), they are entitled to considerable weight (*Meyer v. Board of Trustees* (1961) 195 Cal.App.2d 420, 431 [15 Cal.Rptr. 717]). This is especially true here since the Attorney General regularly advises many local agencies about the meaning of the Brown Act and publishes a manual designed to assist local governmental agencies in complying with the Act’s open meeting requirements. (See, e.g., *Open Meeting Laws* (Cal.Atty.Gen., 1989).)” (See also *Shapiro v. Board of Directors* (2005) 134 Cal.App.4th 170, 183, fn. 17, 35 Cal.Rptr.3d 826 [quoting *Freedom Newspapers, Inc. v. Orange County Employees Retirement System, supra*, 6 Cal.4th at p. 829, 25 Cal.Rptr.2d 148, 863 P.2d 218 and

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stating, “[a]n opinion of the Attorney General “is not a mere ‘advisory’ opinion, but a statement which, although not binding on the judiciary, must be ‘regarded as having a quasi judicial character and [is] entitled to great respect,’ and given great weight by the courts. [Citations.]” ‘ [Citation.]’”.)

Petitioners’ contention that the Brown Act exemption in section 3549.1 does not apply to the JLMBC because the JLMBC is not a “public school employer” that may engage in “meeting and negotiating” as it is neither the District itself nor a governing board of the District is incorrect. The JLMBC is a means for the District and its employees’ exclusive representatives to meet and negotiate. Under the Agreement, the JLMBC includes one voting District Member and one nonvoting District Member. Section 3543.3 plainly permits the District, a “public school employer,” such representation when “meeting and negotiating” with its employees’ exclusive representatives. Section 3543.3 provides, “A public school employer *or such representatives* *981 *as it may designate* who may, but need not be, subject to either certification requirements or requirements for classified employees set forth in the Education Code, *shall meet and negotiate* with and only with representatives of employee organizations selected as exclusive representatives of appropriate units upon request with regard to matters within the scope of representation.” (Italics added.) The District Members on the JLMBC clearly are such representatives—school districts act through agents or representatives.

Petitioners rely on *International Longshoremen’s, supra*, 69 Cal.App.4th 287, 81 Cal.Rptr.2d 456, *Epstein, supra*, 87 Cal.App.4th 862, 104 Cal.Rptr.2d 857, and *Frazer v. Dixon Unified School District* (1993) 18 Cal.App.4th 781, 22 Cal.Rptr.2d 641 (*Frazer*) for the proposition that the JLMBC is a “legislative body” because the District participated in its creation. **773 *International Longshoremen’s, supra*, 69 Cal.App.4th at pages 290 through 291, 81 Cal.Rptr.2d 456 concerned the Los Angeles City Council’s approval of an agreement between its harbor department and 34 foreign and domestic companies to form a private, for-profit corporation that would design, construct, and operate a facility for the export of coal. *Epstein, supra*, 87 Cal.App.4th at page 864, 104 Cal.Rptr.2d 857 dealt with the City of Los Angeles’s formation of a nonprofit corporation to

administer funds that the city raised through assessments on businesses in a special assessment district within the city—that is, to take over administrative functions that the city normally would handle. *Frazer, supra*, 18 Cal.App.4th at pages 785 through 786, and 792, 22 Cal.Rptr.2d 641 involved the formation, pursuant to a school board policy, of hearing and review committees to advise the school superintendant and school district on a challenged change in school curriculum. None of these cases involved a mechanism, such as the one here, which was established as part of the collective bargaining process and therefore subject to a statutory Brown Act exemption.

Finally, petitioners contend that even if the JLMBC is deemed a “public school employer” within the meaning of section 3549.1, the JLMBC is subject to the open meeting and public participation requirements in section 3547.⁶ Petitioners’ argument fails. Section 3547 is part of the EERA and not the Brown Act. Petitioners’ writ petition concerned the JLMBC’s alleged lack of *982 compliance with the Brown Act and not the JLMBC’s alleged lack of compliance with section 3547 of the EERA. Accordingly, petitioners have forfeited this issue.⁷ (*Tutti Mangia Italian Grill, Inc. v. American Textile Maintenance Co.* (2011) 197 Cal.App.4th 733, 740, 128 Cal.Rptr.3d 551.)

DISPOSITION

The judgment is affirmed. No costs are awarded.

We concur: ARMSTRONG, Acting P.J., and KRIEGLER, J.

All Citations

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Footnotes

¹ All statutory citations are to the Government Code unless otherwise noted.

² The EERA sometimes used to be referred to as the Rodda Act. (*Sonoma County Bd. Of Education v. Public Employment Relations Bd.* (1980) 102 Cal.App.3d 689, 692, 163 Cal.Rptr. 464; 3 Witkin, *Summary of Cal. Law* (10th ed. 2005) Agency and

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Employment, § 587, p. 700.)

3 The factual background is taken from the pleadings before the trial court.

4 The Los Angeles College Faculty Guild, AFT Local 1521; the AFT College Staff Guild, Los Angeles, AFT Local 1512A; the Los Angeles City and County School Employees Union, SEIU (Service Employees International Union) Local 99; the Los Angeles/Orange Counties Building and Construction Trades Council; the Supervisory Employees Union, SEIU Local 347; and the Public, Professional and Medical Employees Union of the California Teamsters, Local 911.

5 Section 54954.2 provides for notice.

6 Section 3547 provides:

“(a) All initial proposals of exclusive representatives and of public school employers, which relate to matters within the scope of representation, shall be presented at a public meeting of the public school employer and thereafter shall be public records.

“(b) Meeting and negotiating shall not take place on any proposal until a reasonable time has elapsed after the submission of the proposal to enable the public to become informed and the public has the opportunity to express itself regarding the proposal at a meeting of the public school employer.

“(c) After the public has had the opportunity to express itself, the public school employer shall, at a meeting which is open to the public, adopt its initial proposal.

“(d) New subjects of meeting and negotiating arising after the presentation of initial proposals shall be made public within 24 hours. If a vote is taken on such subject by the public school employer, the vote thereon by each member voting shall also be made public within 24 hours.

“(e) The board may adopt regulations for the purpose of implementing this section, which are consistent with the intent of the section; namely that the public be informed of the issues that are being negotiated upon and have full opportunity to express their views on the issues to the public school employer, and to know of the positions of their elected representatives.”

7 Citing California Code of Regulations, title 8, section 32602, respondents argue that any claimed violation of section 3547 is within the exclusive jurisdiction of the Public Employment Relations Board and that therefore petitioners have not exhausted their administrative remedies. Because petitioners forfeited their claim that respondents violated section 3547, we do not reach this issue.

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69 Cal.App.4th 287
Court of Appeal, Second District, Division 3,
California.

**INTERNATIONAL LONGSHOREMEN’S
AND WAREHOUSEMEN’S UNION et al.,
Plaintiffs and Respondents,**

v.

**LOS ANGELES EXPORT TERMINAL,
INC., Defendant and Appellant.**

No. B112263.

Jan. 14, 1999.

As Modified on Denial of Rehearing Feb. 10, 1999.

Review Denied April 14, 1999.

Synopsis

After board of directors of private corporation that developed and operated coal export facility entered into terminal operating agreement with proposed operator, union filed petition for writ of mandate, seeking to nullify agreement as well as injunctive relief requiring board to conduct its meetings publicly in accordance with the Ralph M. Brown Act. The Superior Court, Los Angeles County, No. BC145559, Robert H. O’Brien, J., ruled that board was subject to the Brown Act, denied corporation’s posttrial motions to vacate judgment and for new trial, and awarded attorney fees to union as the prevailing party. Corporation appealed. The Court of Appeal, Klein, P.J., held that: (1) corporation’s board of directors was a “legislative body” within meaning of the Brown Act; (2) trial court properly denied corporation’s posttrial motions; (3) award of attorney fees to union in the amount of \$60,660, based on reasonable market value rather than on fees actually incurred, was proper; and (4) union was entitled to reasonable attorney fees on appeal.

Affirmed.

Attorneys and Law Firms

****458 *289** Jones, Day, Reavis & Pogue, Gerald W. Palmer, Erich R. Luschei and Erin E. Nolan, Los Angeles, for Defendant and Appellant.

***290** Leonard, Carder, Nathan, Zuckerman, Ross, Chin &

Remar, Robert Remar, Beth A. Ross, and Arthur A. Krantz, San Francisco, for Plaintiffs and Respondents.

Opinion

KLEIN, P.J.

Defendant and appellant Los Angeles Export Terminal, Inc. (LAXT) appeals a judgment and postjudgment order in favor of plaintiffs and respondents International Longshoremen’s and Warehousemen’s Union (ILWU), three of its affiliated locals, ILWU Local 13, ILWU Local 63 and ILWU Local 94, and three individuals, James Spinosa, John Vlaic and Mike Freese, each of whom is an officer or agent of one of the local affiliates (collectively, ILWU).

The essential issue presented is whether LAXT’s board of directors is subject to the open meeting requirements of the Ralph M. Brown Act (the Brown Act or the Act) (Gov.Code, § 54950 et seq.).¹

For the reasons discussed below, we conclude LAXT, a private corporation in which the Harbor Department of the City of Los Angeles (the Harbor Department) is a shareholder, is subject to the Brown Act. The judgment and postjudgment order are affirmed.

FACTUAL AND PROCEDURAL BACKGROUND

In 1981, the Board of Harbor Commissioners, which is entrusted by sections 138 and 139 of the Los Angeles City Charter (City Charter) with power and authority over the Harbor Department and the Port of Los Angeles, adopted Resolution 4531. Said resolution approved in concept the development of a major coal terminal on Terminal Island and set forth a series of steps to expedite related environmental studies and review. The Port commissioned a feasibility study which was to determine the viability of the project.

Thereafter, 28 private companies based in Japan, six domestic companies and the Harbor Department negotiated and reached agreement on a complex contractual arrangement known as the Shareholders’ Agreement. Under the agreement, LAXT would be formed as a private, for profit corporation to design,

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construct and operate a dry bulk handling facility for the export of coal on land leased from the Harbor Department. LAXT was to be capitalized with \$120 million. The Harbor Department, as a 15 percent shareholder, *291 would contribute \$18 million and would be entitled to nominate three of the 19 LAXT board members.

Pursuant to a Charter provision requiring the Los Angeles City Council (City Council) to approve contracts with a payment commitment **459 extending beyond three years, the Shareholders' Agreement was submitted to the City Council for its consideration.

On February 23, 1993, the City Council adopted Ordinance No. 168614, stating: "The Shareholders' Agreement is hereby approved and the Mayor of Los Angeles, or the President of the Board of Harbor Commissioners or the Executive Director of the Harbor Department is hereby authorized to execute said agreement."

On March 31, 1993, articles of incorporation were filed with the Secretary of State by a Los Angeles deputy city attorney.

The corporate entities and the Harbor Department entered into the Shareholders' Agreement on April 12, 1993.

The Shareholders' Agreement contained, inter alia, a condition that the project would not go forward unless the parties unanimously approved the terms of the lease between LAXT and the Harbor Department. The Board of Harbor Commissioners approved the lease on June 14, 1993.

The lease specified a term of 35 years, including a 10-year option. Under the City Charter, leases having a duration exceeding five years require City Council approval. Because of the lease's duration, it was submitted to the City Council, which approved it on July 27, 1993.

The lease then was executed by LAXT and "THE CITY OF LOS ANGELES, by its Board of Harbor Commissioners," effective August 30, 1993.

LAXT's organization, shareholder funding, election of directors, project design and construction then proceeded. On November 16, 1995, LAXT's board of directors authorized LAXT to enter into a Terminal Operating Agreement with Pacific Carbon Services Corporation (PCS).

1. Proceedings.

Following LAXT's approval of the Terminal Operating Agreement with PCS, ILWU initiated this action on March 4, 1996 by filing a petition for writ of mandate which sought to nullify said agreement as well as injunctive *292 relief. ILWU alleged PCS was a "non-union" or "anti-union" employer which would employ workers at LAXT and its facilities "at substandard wages and under substandard terms and conditions of employment that will severely harm the prevailing standards in the Port of Los Angeles." ILWU alleged LAXT's board of directors was a legislative body within the meaning of the Brown Act and therefore was required to conduct its meetings publicly.

ILWU sought an injunction requiring LAXT's board of directors to conduct its future affairs in accordance with the Brown Act, and a judicial determination that the PCS agreement was null and void because LAXT's board of directors had approved the PCS agreement without complying with the procedural requirements of the Brown Act calling for open public meetings. ILWU also sought an award of attorney fees pursuant to section 54960.5 of the Act.

2. Trial court's ruling.

The matter was tried on briefs, declarations and exhibits. After hearing arguments by counsel, the trial court ruled LAXT's board of directors is a "legislative body" subject to the Brown Act.

The statement of decision provides in relevant part: The construction and operation of the port facility herein would be a pure governmental function, but for the City's arrangement with LAXT. The construction and operation of a port facility is a properly and lawfully delegable activity of the City in that such activity constitutes the performance of administrative functions. (*County of Los Angeles v. Nesvig* (1965) 231 Cal.App.2d 603, 616, 41 Cal.Rptr. 918.) The City's actions in forming LAXT "amount to the creation of LAXT by the City's elected legislative body, the Los Angeles City Council." LAXT is a private entity created by the elected legislative body of a local agency in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation or entity, within the meaning of section 54952, subdivision (c)(1). Therefore, the Brown Act applies to the LAXT board of directors. On February

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2, 1996, ILWU made a proper demand that LAXT comply with the Brown Act. "All actions taken by the **460 LAXT [b]oard of [d]irectors within the 90 days preceding [ILWU's] demand, November 4, 1995 through February 2, 1996, are null and void, ..." (§ 54960.1, subd. (a).)

Judgment was entered on March 7, 1997.

3. Postjudgment proceedings.

On April 25, 1997, the trial court denied LAXT's motion to vacate the judgment and enter a judgment of dismissal, as well as LAXT's motion for *293 a new trial. In addition, pursuant to section 54960.5, the trial court awarded attorney fees to ILWU, as the prevailing party, in the sum of \$60,660.

This appeal followed.

CONTENTIONS

LAXT contends the trial court erred: in determining the LAXT board of directors is a legislative body subject to the Brown Act; in denying LAXT's posttrial motions to vacate the judgment and for a new trial; in awarding attorney fees to ILWU and in the amount awarded.

DISCUSSION

1. Standard of review.

The central issue is the applicability of the Brown Act, specifically, whether LAXT's board of directors is a legislative body within the meaning of section 54952, subdivision (c)(1)(A), so as to be subject to the Act. As an appellate court, "we 'conduct independent review of the trial court's determination of questions of law.' [Citation.] Interpretation of a statute is a question of law. [Citations.] Further, application of the interpreted statute to undisputed facts is also subject to our independent determination. [Citation.]" (*Harbor Fumigation, Inc. v.*

County of San Diego Air Pollution Control Dist. (1996) 43 Cal.App.4th 854, 859, 50 Cal.Rptr.2d 874.)

2. The Brown Act's purpose, scope and broad construction.

The Brown Act (§ 54950 et seq.), adopted in 1953, is intended to ensure the public's right to attend the meetings of public agencies. (*Freedom Newspapers, Inc. v. Orange County Employees Retirement System* (1993) 6 Cal.4th 821, 825, 25 Cal.Rptr.2d 148, 863 P.2d 218.) To achieve this aim, the Act requires, inter alia, that an agenda be posted at least 72 hours before a regular meeting and forbids action on any item not on that agenda. (§ 54954.2, subd. (a); *Cohan v. City of Thousand Oaks* (1994) 30 Cal.App.4th 547, 555, 35 Cal.Rptr.2d 782.) The Act thus serves to facilitate public participation in all phases of local government decisionmaking and to curb misuse of the democratic process by secret legislation of public bodies. (*Cohan, supra*, 30 Cal.App.4th at p. 555, 35 Cal.Rptr.2d 782.)

The Act's statement of intent provides: "In enacting this chapter, the Legislature finds and declares that the public commissions, boards and *294 councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. [¶] The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created." (§ 54950; Stats.1953, ch. 1588, p. 3270, § 1.)

The Brown Act dictates that "[a]ll meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter." (§ 54953, subd. (a).)

The term "legislative body" has numerous definitions, grouped together in section 54952. The question before us *de novo* is whether LAXT's board of directors is a legislative body within the meaning of subdivision (c)(1)(A) of section 54952. This provision states in relevant part: "As used in this chapter, 'legislative body' means: [¶] ... [¶] (c)(1) A board, commission, committee, or other multimember body that governs a private

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corporation or entity that ...: [¶] (A) Is created by the elected legislative body in ****461** order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation or entity.” (§ 54952, subd. (c)(1)(A).)

In determining whether LAXT's board of directors is a legislative body within the meaning of the Brown Act, we are mindful that as a remedial statute, the Brown Act should be construed liberally in favor of openness so as to accomplish its purpose and suppress the mischief at which it is directed. (*San Diego Union v. City Council* (1983) 146 Cal.App.3d 947, 955, 196 Cal.Rptr. 45 [construing open-meeting requirements].) This is consistent with the rule that “civil statutes for the protection of the public are, generally, broadly construed in favor of that protective purpose. [Citations.]” (*People ex rel. Lungren v. Superior Court* (1996) 14 Cal.4th 294, 313, 58 Cal.Rptr.2d 855, 926 P.2d 1042.)

3. *LAXT's board of directors is a legislative body within the meaning of the Brown Act.*

As indicated, section 54952, subdivision (c)(1)(A), defines a legislative body as “A board, commission, committee, or other multimember body that governs a private corporation or entity that ...: [¶] (A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation or entity.”

***295** There is no question that LAXT's board of directors is a multimember body that governs a private corporation or entity. The dispute concerns the remaining elements of section 54952, subdivision (c)(1)(A). LAXT contends the trial court erred in concluding LAXT's board of directors is a legislative body within the meaning of the statute because: (1) LAXT was not created by an *elected legislative body*, the City Council, but rather, by an appointed body, the Board of Harbor Commissioners; (2) LAXT was not created to exercise any governmental authority; and (3) LAXT was not granted any authority which could be delegated by the City Council. The arguments are unpersuasive.

a. *LAXT was created by an elected legislative body, namely, the Los Angeles City Council.*

To be subject to the Brown Act, the private corporation

must be “created by the elected legislative body.” (§ 54952, subd. (c)(1)(A).)

The City Charter vests the Harbor Commission, an *appointed* body, with power and authority over the operation and development of the Port of Los Angeles. (L.A. Charter §§ 138, 139.) LAXT asserts it was the Harbor Commission, not the City Council, which created LAXT, and the acts of the Harbor Commission in creating LAXT cannot be attributed to the City Council without disregarding the explicit allocations of power under the Charter.

Section 54952, subdivision (c)(1)(A), does not define what is meant by the term “created by.” The ordinary definition of “to create” is “to bring into existence.” (Webster's New Internat. Dict. (3d ed.1986) p. 532.) Here, the City Council, as well as the Harbor Commission, played a role in bringing LAXT into existence.

Specifically, on February 23, 1993, the City Council adopted Ordinance No. 168614, stating: “The Shareholders' Agreement is hereby approved and the Mayor of Los Angeles, or the President of the Board of Harbor Commissioners or the Executive Director of the Harbor Department is hereby authorized to execute said agreement.”

Following this formal action by the City Council, on March 31, 1993, articles of incorporation were filed by a deputy city attorney with the ***296** Secretary of State, and the corporate entities and the Harbor Department entered into the Shareholders' Agreement on April 12, 1993.

Thus, the City Council was involved in bringing LAXT into existence. The contention LAXT was entirely a creature of the Board of Harbor Commissioners is without merit.

Of particular significance is a provision of the City Charter expressly authorizing the City Council to review any matter originally considered by the Board of Harbor Commissioners, effectively usurping the Commission's ****462** role. Section 32.3 of the Charter provides in relevant part: “Notwithstanding any other provisions of this Charter, actions of commissions and boards shall become final at the expiration of the next five (5) meeting days of the City Council during which the Council has convened in regular session, unless City Council acts within that time by two-thirds vote to bring such commission or board action before it for consideration and for whatever action, if any, it deems appropriate, ... If the Council asserts such jurisdiction, said commission or board will immediately transmit such action to the City

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Clerk for review by the Council and the particular action of the board or commission shall not be deemed final and approved.... *If the Council asserts such jurisdiction over the action, it shall have the same authority to act on the matter as that originally held by the board or commission, but it must then act and make a final decision on the matter before the expiration of the next twenty-one (21) calendar days from voting to bring the matter before it, or the action of the commission or board shall become final.*" (Italics added.)

Thus, the City Council, an elected legislative body with ultimate accountability to the voters, retains plenary decision-making authority over Harbor Department affairs and has jurisdiction to overturn any decision of the appointed Board of Harbor Commissioners. Here, by adopting an ordinance which approved the Shareholders' Agreement to form LAXT, as well as by acquiescing in the Board of Harbor Commissioners' activity in establishing LAXT, the City Council was involved in bringing LAXT into existence. Without the express or implied approval of the City Council, LAXT could not have been created. Accordingly, LAXT was created by an elected legislative body within the meaning of the statute, and the trial court properly so found.

Nonetheless, in an attempt to characterize LAXT as entirely a creature of the Board of Harbor Commissioners, LAXT emphasizes the Shareholders' Agreement was submitted to the City Council for its approval *only because* *297 section 390 of the City Charter required that contracts with a payment commitment extending for a period longer than three years be approved and authorized by ordinance of the City of Los Angeles. LAXT also stresses the 35-year lease between LAXT and the Harbor Department was submitted to the City Council for its approval *only because* section 140(e) of the City Charter required City Council approval for leases having a duration exceeding five years. These arguments are unpersuasive. Irrespective of the length of the payment commitment or the duration of the lease, the City's elected legislative body, namely, the City Council, inherently was involved in the creation of LAXT. Even assuming the payment commitment would have extended for less than three years, or the lease extended for less than five years, the City Council would have been involved in LAXT's creation.

As explained, under section 32.3 of the Charter the City Council is vested with the power to assert jurisdiction over any matter before the Board of Harbor Commissioners and the Council then has the same authority to act on the matter as was originally held by that board. Obviously, if the City Council is in agreement with the action taken by the Board of Harbor

Commissioners, there is no need for the Council to usurp that board's role. In such a situation, the City Council, with full knowledge of the Harbor Commissioners' action and with the power to disaffirm the action, simply can acquiesce and thereby ratify the action taken by the Board of Harbor Commissioners. It is only when the City Council disagrees with the action taken by the Board of Harbor Commissioners that there is a need for the City Council to intervene.

Therefore, LAXT's attempt to depict itself as purely a creature of the appointed Board of Harbor Commissioners is unavailing. Irrespective of the level of the City Council's active involvement in the creation of LAXT, in view of the City Council's ultimate authority to overturn an action of the Harbor Commission, the trial court properly found LAXT was created by the City's *elected legislative body*. (§ 54952, subd. (c)(1)(A).)

****463 b.** *LAXT was created to exercise governmental authority.*

Section 54952, subdivision (c)(1)(A) requires the private entity be created by the elected legislative body "in order to exercise authority" which may be delegated. LAXT contends it was not created to exercise any governmental authority. The argument is not persuasive.

By way of background, a public body may delegate the performance of administrative functions to a private entity if it retains ultimate control over *298 administration so that it may safeguard the public interest. (*County of Los Angeles v. Nesvig, supra*, 231 Cal.App.2d at p. 616, 41 Cal.Rptr. 918.) Case law delineates the permissible scope of delegation of governmental authority. For example, *Irwin v. City of Manhattan Beach* (1966) 65 Cal.2d 13, 23, 51 Cal.Rptr. 881, 415 P.2d 769, upheld a city's grant of authority to private parties to build and operate an overpass as a lawful delegation. *County of Los Angeles v. Nesvig, supra*, 231 Cal.App.2d at page 617, 41 Cal.Rptr. 918, upheld the County of Los Angeles's contract with a private company to operate the Music Center as a lawful delegation of governmental authority. *Haggerty v. City of Oakland* (1958) 161 Cal.App.2d 407, 415-417, 326 P.2d 957, upheld the Oakland Board of Port Commissioners' lease of a port facility to a private company as a lawful delegation. In contrast, *Egan v. San Francisco* (1913) 165 Cal. 576, 583-584, 133 P. 294, invalidated a contract between San Francisco and a private corporation formed to build an opera house on public land, where the city had not retained sufficient control over operation of the opera house for the delegation to be valid.³

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Here, Tay Yoshitani, who served as LAXT's president and as an LAXT director representing the Harbor Department, acknowledged in a letter to a taxpayers' organization: "*All major facilities at the Port of Los Angeles are totally built and paid for by the port and subsequently leased to a tenant with the exception of LAXT.* In other words, the port typically assumes 'all of the risk' of building a major marine facility. In the case of LAXT, the port structured the project so that other parties besides the City [of Los Angeles] assumed the bulk of the risk." (Italics added.)

Thus, LAXT's own president recognized the Board of Harbor Commissioners had delegated to LAXT its own authority to construct and operate a port facility. This is consistent with Government Code section 37386, which provides: "A city may lease such tide and submerged lands and uplands for: [¶] (a) Industrial uses. [¶] (b) Improvement and development of city harbors. [¶] (c) Construction and maintenance of wharves, docks, piers, or bulkhead piers. [¶] (d) *Other public uses* consistent with the requirements of commerce or navigation in city harbors." (Italics added; see also Gov.Code § 37385; Civ.Code, § 718.) Here, the City created LAXT to develop a coal facility on land leased from the Harbor Department, instead of developing the facility directly.

Accordingly, LAXT's contention it was not created to exercise any governmental authority must be rejected.

***299 c.** *The delegation to LAXT was effected by the City Council.*

To be subject to the Brown Act, the private corporation must be created to exercise governmental authority "that may lawfully be delegated by the elected governing body to a private corporation or entity." (§ 54952, subd. (c)(1)(A).) LAXT asserts the authority which was delegated to it was delegated by the Board of Harbor Commissioners, not by the City Council. LAXT contends only the Board of Harbor Commissioners had the authority to delegate the authority at issue herein, i.e., to construct and operate a port facility.

The contention fails. LAXT is correct insofar as sections 138 and 139 of the City Charter vest the Board of Harbor Commissioners with power and authority over the Port of Los Angeles. However, the Board of Harbor Commissioners was powerless to delegate any authority to LAXT without the express or implied approval of the City Council. As indicated, the City Council retains

****464** the power to assert jurisdiction over any action and has the same authority to act as that originally held by the Board of Harbor Commissioners, including the power to disapprove any decision of that board. (L.A. Charter § 32.3.) Thus, the delegation of authority to LAXT could not have occurred without, at a minimum, the implied approval of the City Council.

Therefore, the trial court properly found the delegation of authority to LAXT was effected by the City Council as the duly elected legislative body, so as to bring LAXT within the Brown Act.⁴

***300 d.** *Conclusion re applicability of Brown Act to LAXT's board of directors.*

The trial court properly held LAXT's board of directors is subject to the Brown Act because it is a legislative body within the meaning of section 54952(c)(1)(A). This interpretation is informed by the broad purpose of the Brown Act to ensure the people's business is conducted openly. Under LAXT's constrained reading of the Brown Act, the statute's mandate may be avoided by delegating municipal authority to construct and operate a port facility to a private corporation. While there is no indication LAXT was structured in an attempt to avoid the Brown Act, LAXT's narrow reading of the statute would permit that to occur. Surely that is not what the Legislature intended.⁵

4. *Trial court properly denied LAXT's posttrial motions.*

Based on the above contentions, LAXT argues the trial court should have granted its motion to vacate the judgment and enter a judgment of dismissal, as well as its motion for new trial. This contention necessarily fails in view of our rejection of LAXT's underlying contentions.

In addition, LAXT asserts the trial court abused its discretion in denying the motion for new trial based on newly discovered evidence after trial. The newly discovered evidence showed that one of the three directors who had been nominated by the City Council in accordance with the Shareholders' Agreement had resigned, leaving only two city nominees sitting among 17 directors. Further, due to the subsequent issuance of new shares, the Harbor Department's stake in LAXT has decreased to 13.6 percent, and because the Shareholders'

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Agreement allocates one nomination for each five percent share, the City Council would not be able to nominate a third director. LAXT argues this new evidence demonstrates LAXT is a ****465** private corporation engaged in commerce, not an instrumentality of government.

The argument is unavailing. The issue here is whether LAXT's board of directors amounts to a "legislative body" within the meaning of ***301** section 54952, subdivision (c)(1)(A). The dilution of the Harbor Department's stake in LAXT does not alter the conclusion that LAXT's board is a legislative body within the meaning of the statute.

Therefore, we reject LAXT's contention the trial court abused its discretion in denying the motion for new trial.

5. Award of attorney fees to ILWU was proper.

LAXT contends the trial court erred in making an award of attorney fees to ILWU and in the amount awarded. Its arguments are unpersuasive.

a. LAXT's board of directors is a "legislative body" within the meaning of section 54960.5.

Section 54960.5, which was the basis for the trial court's award of attorney fees and costs, states in relevant part: "A court may award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to Section 54960 or 54960.1 where it is found that a *legislative body* of the local agency has violated this chapter." (Italics added.)

The Brown Act violation herein was committed by the board of directors of LAXT, not by the City Council. Obviously, LAXT's board of directors is *not* a "legislative body" within the ordinary definition of the term. Therefore, the question arises whether LAXT's board is subject to the attorney fees provision of section 54960.5.

Admittedly, the statutory scheme is not a model of drafting. Nonetheless, it would appear the extensive definition of "legislative body" set forth in section 54952 applies to the use of that term in section 54960.5. It is a fundamental principle of statutory interpretation that statutes are not construed in isolation, but rather, with reference to the entire scheme of law of which they are

part so that the whole may be harmonized and retain effectiveness. (*Brown v. Superior Court* (1984) 37 Cal.3d 477, 484, 208 Cal.Rptr. 724, 691 P.2d 272; *People v. Ledesma* (1997) 16 Cal.4th 90, 95, 65 Cal.Rptr.2d 610, 939 P.2d 1310.) Further, it is internally inconsistent to suggest that a governing board subject to the open meeting requirements of the Brown Act pursuant to the definition of "legislative body" contained in section 54952 is exempt from the Act's attorney fees provision on the ground it is not a "legislative body" within section 54960.5.

Accordingly, we conclude LAXT's board of directors is a legislative body subject to the attorney fees provision of section 54960.5 of the Act.

**302 b. Award of attorney fees was within trial court's discretion.*

LAXT argues the trial court abused its discretion in awarding any attorney fees to ILWU due to the lack of any benefit to the general public. (*Common Cause v. Stirling* (1983) 147 Cal.App.3d 518, 524, 195 Cal.Rptr. 163.) LAXT argues ILWU's purpose in bringing this litigation was to advance the union's parochial goal of preserving the level of the prevailing wage and voiding the approval by LAXT of a contract with a nonunion employer.

By way of background, a trial court is not required to award attorney fees "to a prevailing plaintiff in every Brown Act violation. A court must still thoughtfully exercise its power under section 54960.5 examining all the circumstances of a given case to determine whether awarding fees under the statute would be unjust with the burden of showing such inequity resting on the defendant." (*Common Cause v. Stirling* (1981) 119 Cal.App.3d 658, 665, 174 Cal.Rptr. 200.) Considerations which the trial court should weigh in exercising its discretion include "the necessity for the lawsuit, lack of injury to the public, the likelihood the problem would have been solved by other means and the likelihood of recurrence of the unlawful act in the absence of the lawsuit." (*Ibid.*)

****466** The public benefit from ILWU's action was sufficient to support an award of attorney fees. As discussed, LAXT asserted it was a private entity beyond the reach of the Brown Act, and it continues to adhere to that position. Therefore, had ILWU not brought this action, LAXT would have engaged in recurring violations of the Brown Act, to the detriment of the public generally.

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Clearly, the outcome of the lawsuit was not exclusively for the benefit of ILWU.

Accordingly, we reject LAXT's contention an award of attorney fees to ILWU is unjust.

c. Trial court did not err in basing the attorney fees award on market rates.

LAXT contends the \$60,660 attorney fees award to ILWU is excessive. The record reflects ILWU paid its attorneys an hourly rate of \$125 per hour and later, \$140 per hour. However, in moving for attorney fees, ILWU requested reasonable attorney fees based on market rates, which ranged from \$125 per hour to \$275 per hour for the attorneys who worked on this matter. LAXT contends the trial court erred in awarding fees in excess of those actually charged by ILWU's counsel. The argument fails.

***303** In *Serrano v. Unruh* (1982) 32 Cal.3d 621, 642, 186 Cal.Rptr. 754, 652 P.2d 985, which involved a claim for attorney fees under Code of Civil Procedure 1021.5, the private attorney general statute, our Supreme Court cited with approval the view of the First Circuit, which earlier held: " 'We do not think ... that compensating a public interest organization ... on the same basis as a private practitioner results in ... a windfall.... Indeed, we are concerned that compensation at a lesser rate would result in a windfall to the defendants.' (*Palmigiano v. Garrahy* (1st Cir.1980) 616 F.2d 598, 602, cert. den....)" *Serrano* concluded "[s]ervices compensable under section 1021.5 are computed from their reasonable market value. The trial court was entitled to use the prevailing billing rates of comparable private attorneys as the 'touchstone' for determination of that value. Cost figures bore no reasonable relevance to calculation of the 'touchstone' figure. [Fn. omitted.]" (*Id.*, at p. 643, 186 Cal.Rptr. 754, 652 P.2d 985.)

The private attorney general statute is analogous to the Brown Act's attorney fees provision in that both authorize compensation for private actions which serve to vindicate important rights affecting the public interest. (*Serrano, supra*, 32 Cal.3d at p. 632, 186 Cal.Rptr. 754, 652 P.2d 985; *Common Cause, supra*, 147 Cal.App.3d at p. 524, 195 Cal.Rptr. 163.) In *Common Cause*, a case involving attorney fees under the Brown Act, the court was guided, inter alia, by decisions involving fees under the private attorney general theory. (*Common Cause, supra*, 147 Cal.App.3d at p. 522, 195 Cal.Rptr. 163, citing *Marini v. Municipal Court* (1979) 99 Cal.App.3d 829, 160 Cal.Rptr. 465 and *Woodland Hills Residents Assn., Inc. v. City*

Council (1979) 23 Cal.3d 917, 154 Cal.Rptr. 503, 593 P.2d 200.) Therefore, the rationale for basing an award of attorney fees on reasonable market value is equally applicable to section 54960.5. Accordingly, the trial court was not required to base the attorney fees award on the fees actually incurred by ILWU.

6. ILWU is entitled to reasonable attorney fees on appeal.

In the respondent brief, ILWU requests reasonable attorney fees incurred in the defense of this appeal.

The issue presented is whether section 54960.5 authorizes an award of attorney fees at the appellate level. The statute provides a court may award attorney fees and costs "to the plaintiff" or "to a defendant." (§ 54960.5.) The statute does not use the terms "appellant" or "respondent." Nonetheless, we conclude section 54960.5 authorizes compensation for all hours reasonably spent, including those necessary to defend the judgment on appeal.

In *Serrano*, defendants contended no fees were recoverable for defending the fee award on appeal because the appeal did not independently meet the ***304** requirements of Code of Civil Procedure section 1021.5. (*Serrano, supra*, 32 Cal.3d at p. 637, 186 Cal.Rptr. 754, 652 P.2d 985.) *Serrano* disagreed, reasoning a contrary rule "would permit the fee to vary ****467** with the nature of the opposition." (*Id.*, at p. 638, 186 Cal.Rptr. 754, 652 P.2d 985.) A defendant " 'cannot litigate tenaciously and then be heard to complain about the time necessarily spent by the plaintiff in response.' [Citation.]" (*Ibid.*) Therefore, *Serrano* held that "absent circumstances rendering the award unjust, fees recoverable under section 1021.5 ordinarily include compensation for all hours reasonably spent, including those necessary to establish and defend the fee claim." (*Id.*, at p. 639, 186 Cal.Rptr. 754, 652 P.2d 985.)

By a parity of reasoning, we conclude ILWU is entitled under section 54960.5 to recover reasonable attorney fees incurred in defending this appeal.⁶

DISPOSITION

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The judgment and postjudgment order are affirmed. ILWU shall recover costs and reasonable attorney fees on appeal.

CROSKEY and ALDRICH, JJ., concur.

All Citations

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Footnotes

- 1 All further statutory references are to the Government Code, unless otherwise indicated.
- 2 Although LAXT contends it was created by the collective action of all of its shareholders rather than by any governmental entity, absent this approval by the City Council authorizing the Harbor Department to enter into the Shareholders' Agreement, LAXT could not have been created.
- 3 There is no contention here there was an excessive delegation of public authority to LAXT.
- 4 In support of LAXT's contention the City Council lacked power to delegate authority held by the Board of Harbor Commissioners, LAXT invokes section 32.1(a) of the City Charter, which states in relevant part: "Notwithstanding the powers, duties and functions of the several departments, boards or bureaus of the City government as set forth in this Charter, the Mayor, subject to the approval of the Council by ordinance, adopted by a two-thirds vote of the whole of the Council, may transfer any such powers, duties or functions from one department, board or bureau to another, or consolidate the same in one or more of the departments, boards or bureaus created by this Charter or in a new department, board or bureau created by ordinance.... *The power of the Mayor and Council so to act as provided in this section shall not extend to the Harbor Department, Department of Airport, the Department of Water and Power, the City Employees' Retirement System or the Department of Pensions.*" (Italics added.) LAXT's reliance on City Charter section 32.1(a) is misplaced. Section 32.1(a) empowers the Mayor and City Council to transfer powers, duties and functions from one department to another and specifies the power of the Mayor and Council so to act does not extend to the Harbor Department, among others. However, there is no issue here as to a transfer by the Mayor or Council of the powers of the Harbor Department to another municipal department. Further, nothing in section 32.1(a) negates the power of the City Council under section 32.3 to revisit any action taken by the Board of Harbor Commissioners. Thus, in allowing the delegation by the Harbor Department to LAXT to proceed, the City Council acted within its power by effectively ratifying the delegation.
- 5 We emphasize our holding is a narrow one. LAXT's board of directors is subject to the Brown Act pursuant to section 54952, subdivision (c)(1)(A), because, inter alia, LAXT was created by an *elected legislative body*, i.e., the Los Angeles City Council. Had LAXT been a *preexisting* corporation which simply entered into a contractual arrangement with the Harbor Department to develop the coal facility, LAXT would not have been a creation of the City Council and LAXT's board of directors would not be subject to the Brown Act pursuant to section 54952, subdivision (c)(1)(A).
- 6 If our interpretation of various aspects of the Brown Act is not what the Legislature intended, the statutory scheme could use clarification. (See *Malibu Committee for Incorporation v. Board of Supervisors* (1990) 222 Cal.App.3d 397, 410, 271 Cal.Rptr. 505, review den.; *Mir v. Charter Suburban Hospital* (1994) 27 Cal.App.4th 1471, 1487, fn. 7, 33 Cal.Rptr.2d 243, review den.; *Las Tunas Beach Geologic Hazard Abatement Dist. v. Superior Court* (1995) 38 Cal.App.4th 1002, 1016, fn. 10, 45 Cal.Rptr.2d 529, review den.; *United Farm Workers of America v. Agricultural Labor Relations Bd.* (1995) 41 Cal.App.4th 303, 321, 48 Cal.Rptr.2d 696, review den.; *Denny's, Inc. v. City of Agoura Hills* (1997) 56 Cal.App.4th 1312, 1329, fn. 9, 66 Cal.Rptr.2d 382.)

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From: ps4man@comcast.net
To: [Lara Weisiger](mailto:Lara>Weisiger)
Subject: [EXTERNAL] FW: Item 6-A Jan 19 Council Agenda
Date: Tuesday, February 2, 2021 2:54:09 PM

Please file this to my Sunshine Ordinance Complaint v. City Council and the Recreation and Park Commission.

From: ps4man@comcast.net <ps4man@comcast.net>
Sent: Friday, January 22, 2021 9:44 AM
To: 'Eric Levitt' <elevitt@alamedaca.gov>; 'Yibin Shen' <yshen@alamedacityattorney.org>
Subject: Item 6-A Jan 19 Council Agenda

Eric and Yben,

I want to further clarify my position on the proper definition of policy body. I am aware that Sec. 2-91.1 (d) (6) exempts an ad hoc committee from the definition of a policy body and probably forms the basis of your determination that the Jackson Park Renaming Committee is not a policy body. It is my position that the ad hoc exemption is in violation of Section 94952 (b) of the Brown Act which expressly includes temporary committees within the definition of a legislative body. This makes it internally inconsistent with Sec. 2-91.1 (d) which states that “policy body” has the same meaning as “legislative body” as defined in Section 94952 and with Sec. 2-91.3 which states that “In case of inconsistent requirements under the Brown Act and this article, the requirement which would result in greater or more expedited public access shall apply.”

Again, I am very open to dialogue with both of you to attempt to avoid a complaint if it can be accomplished within the next week.

Paul

From: ps4man@comcast.net
To: [Lara Weisiger](mailto:Lara>Weisiger)
Subject: [EXTERNAL] FW: Item 6-A Jan 19 Council Agenda
Date: Tuesday, February 2, 2021 2:54:58 PM

Please file this to my Sunshine Ordinance Complaint v. City Council and the Recreation and Park Commission.

From: ps4man@comcast.net <ps4man@comcast.net>
Sent: Friday, January 22, 2021 9:46 AM
To: 'Eric Levitt' <elevitt@alamedaca.gov>; 'Yibin Shen' <yshen@alamedacityattorney.org>
Subject: FW: Item 6-A Jan 19 Council Agenda

Correction of typo. The Brown act Section is 54952.

From: ps4man@comcast.net <ps4man@comcast.net>
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Paul

From: ps4man@comcast.net
To: [Lara Weisiger](mailto:Lara>Weisiger)
Subject: [EXTERNAL] FW: Item 6-A Jan 19 Council Agenda
Date: Tuesday, February 2, 2021 2:55:38 PM

Please file this to my Sunshine Ordinance Complaint v. City Council and the Recreation and Park Commission.

From: ps4man@comcast.net <ps4man@comcast.net>
Sent: Tuesday, January 26, 2021 4:38 PM
To: 'Eric Levitt' <elevitt@alamedaca.gov>; 'Yibin Shen' <yshen@alamedacityattorney.org>
Subject: Item 6-A Jan 19 Council Agenda

Dear Eric and Yibin,

I have located yet another case which I think is very analogous to the present dispute. It is Frazer vs. Dixon Unified School District, 18 Cal.App.4th 781 (1993). In that case parents disputed the District's approval of a new elementary reading curriculum. The District had a written Board policy for such disputes that did not include a citizen committee. The Board directed the superintendent to conduct a review of the parent's complaints pursuant to said policy. The Superintendent determined to establish and appoint members to two temporary committees to contain both staff and citizens, one to review the curriculum and one to hear arguments for and against it. Both committees met in secret.

The appellants claimed that these committees were "advisory committees" subject to the Brown Act and that their closed meetings violated the Act. The District argued that the creation of the committees was not "formal action" and that the committees were not "created" by the board because the Superintendent chose the members. The Court held as follows:

"The issue under section 54952.3 is whether the Board "created" the advisory committee by some type of "formal action." We think the focus of our inquiry should first be on the authority under which the advisory committee was created. In this case, we believe that authority originates with the Board and not, as respondents imply, with the Superintendent. The next question is whether creation of the Committee pursuant to a standing policy is sufficient to constitute "formal action" within the meaning of section 54952.3. We believe that it is. The Brown Act applies to a wide variety of boards, councils, commissions, committees and other multimember "legislative" bodies that govern California's cities, counties, school districts, and other local public agencies. (See §§ 54951, 54951.1, 54952, 54952.2, 54952.5.) Section 54952.3 clearly contemplates that many of these bodies will establish "advisory committees" to assist with "examination of facts and data," and that the mechanisms by which such advisory bodies are created will be equally varied. We must give that section a broad construction to prevent evasion. (Joiner v. City of Sebastopol, supra, 125 Cal.App.3d at p. 805, fn. 5, 178 Cal.Rptr. 299.)

We believe that adoption of a formal, written policy calling for appointment of a committee to advise the Superintendent and, in turn, the Board (with whom rests the final decision), whenever there is a request for reconsideration of "controversial reading matter" is sufficiently similar to the types of

“formal action” listed in section 54952.3. Accordingly, allegations that the Review and Hearing Committee were created pursuant to Board Policy 7138 were sufficient to bring those advisory bodies within the coverage of the Brown Act, and allegations that members of the public (appellants) were excluded from the meetings of these bodies were sufficient to state a cause of action for violation of section 54953.15.”

It is important to note that the definition of advisory committees as legislative bodies in sec. 54952.3 of the version of the Act reviewed by the Dixon court was:

“As used in this chapter “legislative body” also includes any advisory commission, advisory committee or advisory body of a local agency, created by charter, ordinance, resolution, or by any similar formal action of a legislative body or member of a legislative body of a local agency.”

The current definition of advisory committees as legislative bodies is found in sec. 54952 (b) and states that “legislative bodies” includes:

“A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body.”

Thus, the current definition of “legislative body” is even more expansive than the definition addressed by the Dixon court by explicitly including temporary bodies.

The facts concerning the establishment of the Jackson Park Renaming Committee present an even stronger case that it is a legislative body than those presented in Dixon. As in Dixon, the City has a written policy for renaming City property which does not require the creation of a temporary committee. However in Dixon there was no specific direction in the District policy or by the Board that the superintendent form temporary committees. In the instant case, on July 9, 2020, there was a formal motion adopted by the Recreation and Parks Commission directing a sub-committee “to facilitate a diverse community committee which can include, residents living near the park, local historians and other interested community members to rename Jackson Park.”

I hasten to advise you that I see the same analogy to Dixon in the action of City Council in creating the Police Reform and Racial Justice Committees which will soon be presented to Council. I also repeat my previous advice that I am not seeking a redo of the efforts of these volunteer citizens committees, but I am seeking appropriate documentation from the City that it will cease and desist from the above described process of attempting to shield temporary committees from the Brown Act.

The documentation needs to include the amendment of the Sunshine Ordinance Section 2-91.1 (d) (3) & (4) to define the word “created” to cover the formal action of any policy body that plays a part in bringing another committee or body into existence. Also needed is the amendment of Sec. 2-91.1 (d) (6) to delete the exclusion of an ad hoc committee from the definition of a “policy body”(just added in February of 2020), as such exclusion conflicts with Sec. 54952 (b) of the Brown Act which includes temporary committees within the definition of legislative bodies.

Paul