

BEFORE THE OPEN GOVERNMENT COMMISSION
OF THE CITY OF ALAMEDA

In re:
The Complaint of Serena Chen

Serena Chen,
Complainant

The City of Alameda,
Respondent

Case No. 18-02

DECISION OF THE
OPEN GOVERNMENT
COMMISSION OF THE CITY OF
ALAMEDA

Originally, the above entitled matter came on for hearing 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, at which time the Commission rendered a decision to sustain the complaint. (All further references to Section numbers are to the Alameda Municipal Code.) At the request of the City Attorney's Office, the Commission held a special meeting on December 17, 2018 to consider a memorandum from the City Attorney's Office and to provide the parties an opportunity to respond.

Facts

In compliance with the Sunshine Ordinance, the City Clerk on October 4, 2018 published the agenda and supporting materials for the City Council's meeting on October 16, 2018. In relevant part, the title for Agenda item 6-G provided that there

would be a public hearing to consider the introduction of an ordinance to amend the Municipal Code in a number of respects concerning cannabis businesses, for example, by adding cannabis retail businesses as conditionally permitted uses in certain zoning districts, by adding two "delivery-only" Cannabis Retail Businesses as a conditionally permitted use in the C-M, Commercial-Manufacturing Zoning District, eliminating the dispersion requirements for "delivery-only" cannabis businesses. The agenda is attached as Exhibit 1.

The City Council conducted a public hearing on these items on October 16, 2018. During the public hearing, Council resolved to include in the amendments a modification to the amendment allowing two "delivery-only" dispensaries, such that these cannabis businesses would be required to offer delivery of cannabis ("delivery required") and would also be open to the public, in recognition that the State and local requirements for either ("delivery-only" versus "delivery required") would be the same. Following the close of the public hearing the City Council introduced on first reading an ordinance amending various sections of the Municipal Code concerning cannabis businesses, including that two "delivery required" dispensaries, which would be open to public, be allowed. In response to a question about whether the ordinance could be introduced that evening with the inclusion of the two "delivery required" dispensaries as conditionally permitted uses, the City Attorney advised yes.

On October 30, 2018, Serena Chen timely filed a Sunshine Ordinance Complaint against the Alameda City Council concerning an alleged violation of a public meeting on October 16, 2018, citing a violation of Section 2-91.5, Agenda Requirements. The complaint states the City Council voted to add two additional

cannabis dispensary permits without prior notification. More specifically, the complaint states nowhere in the agenda title or text of the staff report concerning cannabis businesses was there any mention that the number of "full-service marijuana dispensaries" would be increased.

The complaint cites to Section 2-90.1 of the Municipal Code that provides that one of the goals of the Sunshine Ordinance is to ensure that Alameda residents have the opportunity to address the Council prior to a decision being made. The complaint also cites to Section 2-91.5 of the Municipal Code that provides agenda items are to be contain a meaningful description of each item of business to be transacted and that the description of such items be sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information about the item. A copy of the complaint is attached as Exhibit 2.

In response to the complaint, the City Attorney's Office emailed Ms. Chen that the ordinance addressed in her complaint was not final ("are being amended"), but would be on the Council's November 7, 2018 agenda for "second reading". She was invited to attend and be heard concerning the ordinance amendments, or to submit comments in writing if she could not attend, in addition to being furnished with materials to do so. A copy of the Council's November 7, 2018 agenda is attached as Exhibit 3.

On November 7, 2018, Ms. Chen appeared, as did other members of the public, at the City Council meeting to address the Council concerning the amendments, in addition to emailing written comments prior to the meeting.

After discussion, Council adopted the ordinance as presented in the November 7 agenda.

On November 14, 2018, the Commission conducted a hearing on the complaint. After hearing from the complainant and the City, the Commission sustained the complaint and, as provided in the Penalty section of the Sunshine Ordinance, ordered that the Ordinances in question were null and void.

Thereafter, the City Attorney's Office provided a legal memorandum to the Commission that set forth in more detail why there had not been a violation of the Sunshine Ordinance but, assuming there was a violation, that the Commission did not have the legal authority to render Ordinances adopted by the City Council as null and void. Rather, if the Commission continued to conclude that there had been a violation of the Sunshine Ordinance, it should recommend to the City Council that Ordinances be considered for re-introduction following a public hearing and that the adopted Ordinances be repealed.

At the request of the City Attorney's Office, the complaint was returned to the Commission on December 17, 2018 for further consideration in light of the City Attorney's memorandum.

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 Commission conducted the hearing on November 14, 2018 and considered the evidence and arguments of Ms. Chen and the City. The Commission conducted a further hearing on the complaint for the limited purpose of providing the parties an opportunity to respond to the legal memorandum

Discussion

One of the goals of the Sunshine Ordinance is that residents have the opportunity to address the City Council prior to decisions being made. Section 2-90.1, AMC. Here, the agenda description was meaningful in that it apprised members of the public that there would be an increase in the number of dispensaries that would offer delivery services. Moreover, Ms. Chen had, and took, the opportunity on November 7, 2018, to address the City Council about her concerns about the amendments to the cannabis ordinances prior to the City Council making a final decision on the amendments. Accordingly, the Commission finds no violation of Section 2-90.1, AMC.

Concerning the agenda title on October 16, 2018, the title included numerous proposed changes to the cannabis ordinances including the possibility of cannabis retail businesses being conditionally permitted in certain zoning districts, increasing the number of cannabis retail businesses and eliminating the dispersion requirements for certain cannabis businesses. Given the scope of these revisions, a person of average intelligence and education who had concerns about the number or types of cannabis businesses that the Council would consider would

have attended the meeting on October 16 or sought more information. More specifically as to Ms. Chen's complaint, the agenda description was meaningful as it apprised members of the public that there would be an increase in the number of dispensaries that would offer delivery services, and the City Council's action or discussion fell squarely within the ambit of that brief, concise description. In addition, Ms. Chen was offered the opportunity to and did attend the Council meeting on November 7, where she was given an opportunity to provide her concerns, and did do so, about allowing full-service cannabis businesses before the Council took final action on the ordinance amendments. Accordingly, there was no violation of Section 2-91.5, AMC.

Decision

There was no violation of Section 2-90.1 or Section 2-91.5 of the Alameda Municipal Code as set forth in Ms. Chen's complaint of October 30, 2018. The complaint, therefore, is determined to be unfounded.

Signatures are on the following page.

Dated: December 17, 2018

Heather Little, Chair

Paul Foreman, Member

Mike Henneberry, Member

Irene Deiter, Member

Bryan Schwartz, Member



City of Alameda

Meeting Agenda

City Council

Tuesday, October 16, 2018

7:00 PM

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

REVISED on 10/8/2018 at 4:30 p.m. to correct the title of Item 6-D.

SPECIAL MEETING - CLOSED SESSION - 5:00 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 2018-6030 PUBLIC EMPLOYEE APPOINTMENT/HIRING
(45 minutes) Pursuant to Government Code § 54957
Title/description of positions to be filled: Acting/Interim City Attorney and City Attorney
 - 3-B 2018-6031 PUBLIC EMPLOYEE APPOINTMENT/HIRING
(10 minutes) Pursuant to Government Code § 54957
Title/description of positions to be filled: City Manager
 - 3-C 2018-6029 CONFERENCE WITH LABOR NEGOTIATORS (Government Code
(20 minutes) section 54957.6)
CITY NEGOTIATORS: David L. Rudat, Interim City Manager, Elizabeth D. Warmerdam, Assistant City Manager and Nancy Bronstein, Human Resources Director
EMPLOYEE ORGANIZATIONS: International Brotherhood of Electrical Workers, Local 1245 (IBEW), Electric Utility Professional Association of Alameda (EUPA), Alameda City Employees Association (ACEA), Alameda Police Officers Association Non-Sworn Unit (PANS), and Alameda Management and Confidential Employees Association (MCEA)
UNDER NEGOTIATION: Salaries and Terms of Employment
 - 3-D 2018-6074 CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Government
(20 minutes) Code section 54956.8)
PROPERTY: Northwest Territories, Alameda Point
CITY NEGOTIATOR: David L. Rudat, Interim City Manager
POTENTIAL TENANT: East Bay Regional Park District

ISSUE UNDER NEGOTIATION: Real Property Negotiations Price and
Terms of Payment

- 4 **Announcement of Action Taken in Closed Session, if any**
 2018-6108 October 16, 2018 Closed Session Announcement
 Attachments: Announcement

5 **Adjournment - City Council**

SPECIAL CITY COUNCIL MEETING - 6:45 P.M.

Pledge of Allegiance

- 1 **Roll Call - City Council**
- 2 **Proclamations**
- 2-A 2018-5259 Proclamation Declaring October, 2018 as Childhood Lead Poisoning
 (5 minutes) Prevention Week and Code Enforcement Officer Appreciation Week.
 (City Manager 2110)
- 2-B 2018-6075 Proclamation Declaring October 2018 as Filipino American History
 (5 minutes) Month. (City Manager 2110)
- 2-C 2018-5261 Proclamation Declaring October 21-27, 2018 as Friends of the
 (5 minutes) Alameda Free Library Appreciation Week. (City Manager 2110)
- 3 **Adjournment - City Council**

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

- 1 **Roll Call - City Council**
- 2 **Agenda Changes**
- 3 **Proclamations, Special Orders of the Day and Announcements - Limited to 15 minutes**
- 3-A 2018-5695 Proclamation Declaring October 2018 as Italian American History
 (5 minutes) Month. (City Manager 2110)
- 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** 2018-6077 Minutes of the Special and Regular City Council Meetings Held on September 18, 2018. (City Clerk)
- 5-B** 2018-6078 Bills for Ratification. (Finance)
Attachments: Bills for Ratification
- 5-C** 2018-5975 Recommendation to Receive a Report on the Continuation of the Art in City Hall Program. (City Manager 2110)
Attachments: Exhibit 1 - 2019 Guidelines
- 5-D** 2018-5986 Recommendation to Approve the Request for Qualifications (RFQ) to Reuse the Alameda Carnegie Building. (Economic Development 227)
Attachments: Exhibit 1 - 2007 Master Plan Report
 Exhibit 2 - Draft RFQ
- 5-E** 2018-5984 Recommendation to Award a Contract to Oregon Romtec Inc. in the Amount of \$970,613 for the Krusi Park Recreation Center Replacement Project. (Recreation and Park 280)
Attachments: Exhibit 1 - Contract
 Correspondence
- 5-F** 2018-5994 Recommendation to Authorize the Interim City Manager to Execute a Second Amendment to the Agreement with Nute Engineering, to Extend the Term One Year and Increase Compensation in an Amount Not to Exceed \$394,390 for a Total Agreement Compensation Not to Exceed \$727,459 for Engineering Design Services for Cyclic Sewer Rehabilitation Project, Phase 16. (Public Works 602)
Attachments: Exhibit 1 - Original Agreement
 Exhibit 2 - First Amendment
 Exhibit 3 - Second Amendment
- 5-G** 2018-5985 Adoption of Resolution Amending the General Fund and the Capital Improvement Program Budget for Fiscal Year 2018-19 for the Jean Sweeney Open Space Park Project to Fund Immediate Possession of Four Remnant Parcels Totaling Approximately 2.8 Acres Owned by Union Pacific; and

Recommendation to Direct the City Attorney to Deposit the Sum of \$1,098,000 with the Condemnation Deposits Fund and Seek an Order for Prejudgment Possession of the Subject Property. (Recreation and Parks 310)

Attachments: Exhibit 1 - Map of Remnant Parcels
Resolution

- 5-H 2018-5988 Recommendation to Expand the Façade Grant Program Boundaries;
and

Adoption of Resolution Amending the Fiscal Year 2018-19 Base Reuse Fund Budget to Appropriate \$50,000 for the Façade Grant Program.
(Base Reuse 858)

Attachments: Resolution

- 5-I 2018-5992 Adoption of a Resolution Authorizing the Interim City Manager to Enter into a Joint Exercise of Powers Agreement (JPA) Establishing and Governing Operation of the Collection System Technical Advisory Committee, and a Defendant's Side Agreement to Facilitate the Environmental Protection Agency Sewer Consent Decree Compliance.
(Public Works 602)

Attachments: Exhibit 1 - 1979 JPA
Exhibit 2 - 1986 JPA
Exhibit 3 - New JPA
Exhibit 4 - Side Agreement
Resolution

- 5-J 2018-5974 Adoption of Resolution Opposing Proposition 6 on the November 2018 Ballot, which would Repeal the Recent Gas Tax Increase and Eliminate \$15 Million in Transportation Funding for Alameda. (City Manager 2110)

Attachments: Exhibit 1 - Impacts of Proposition 6
Resolution

- 5-K 2018-6041 Adoption of Resolution Supporting Proposition 2 on the November 2018 Ballot, which would Authorize the State of California to Use Revenue from Previously Authorized Bonds to Fund Existing Housing Programs for Individuals with Mental Illness. (City Manager 2110)

Attachments: Resolution

- 5-L 2018-6073 Final Passage of Ordinance Amending the Alameda Municipal Code By Adding Article 4-60 (Minimum Wage) to Chapter IX (Regulations Concerning Trade and Commerce) Concerning A Citywide Minimum Wage to Raise Alameda's Minimum Wage to \$15.00 Per Hour by 2020.

6 Regular Agenda Items

- 6-A 2018-6009 Adoption of Resolutions Appointing Rona Rothenberg as a Member of
 (5 minutes) the Planning Board and Reappointing Audrey Hyman as a Member of
 the Social Service Human Relations Board.
- 6-B 2018-5910 Presentation by Friends of the Alameda Animal Shelter (FAAS) -
 (15 minutes) Annual Progress Report. (City Manager 2110)
- Attachments: Exhibit 1 - Annual Report
 Exhibit 1 - REVISED Annual Report
 Exhibit 2 - 4th Quarter Report
 Exhibit 3 - Mid-Year Report
 Exhibit 4 - Leash Your Dog Flyer
 Exhibit 5 - FAAS Staffing
 Exhibit 6 - Agreement
- 6-C 2018-6038 Recommendation to Accept Informational Report on Activities,
 (30 minutes) Quarterly Meetings and Issues Related to the Oakland International
 Airport. (Community Development 481005)
- Attachments: Presentation
- 6-D 2018-6035 Introduction of Ordinance Authorizing the Interim City Manager to
 (15 minutes) Execute Documents Necessary to Implement a Ten-Year Lease with
 SpinLaunch Inc., a California Corporation, for Building 530, Located
 at 120 West Oriskany Avenue at Alameda Point. (Base Reuse 819099)
- Attachments: Exhibit 1 - Premises
 Exhibit 2 - Draft Form Lease
 Ordinance
- 6-E 2018-6007 SUMMARY: Public Hearing to Facilitate a Tax-Exempt Bond Financing
 (20 minutes) for Acquisition, Construction, Improvement, and Equipping of the Site
 A Affordable Family and Senior Projects by Eden Housing
- Public Hearing Under the Tax Equity and Fiscal Responsibility Act
 (TEFRA) to Consider Adoption of Resolution Approving the Issuance
 of Revenue Bonds by the California Municipal Finance Authority in an
 Aggregate Principal Amount Not to Exceed \$45,000,000 to Finance a
 70-Unit Multifamily Rental Housing Facility for Low- and Very
 Low-Income Families for the Benefit of Eden Housing Inc., or a
 Limited Partnership to be Established by Eden Housing Inc. (or an
 Affiliate); and
- Adoption of Resolution Approving the Issuance of Revenue Bonds by
 the California Municipal Finance Authority in an Aggregate Principal
 Amount Not to Exceed \$40,000,000 to Finance a 60-Unit Multifamily
 Rental Housing Facility for Low- and Very Low-Income Seniors for the

Benefit of Eden Housing Inc., or a Limited Partnership to be Established by Eden Housing Inc. (or an Affiliate). These Revenue Bonds will provide for the financing of the Site A Affordable Family and Senior Projects. (Base Reuse 819099)


Attachments: Exhibit 1 - Project Funding Sources
Resolution - Family Housing Site A
Resolution - Senior Housing Site A

- 6-F 2018-6032 Public Hearing to Consider Adoption of Resolution Calling a Special
(15 minutes) Election Regarding Alteration of the Rate and Method of Apportionment of Special Taxes for Community Facilities District No. 17-1 (Alameda Point Public Services District); and

Adoption of Resolution Amending the Fiscal Year 2018-19 Budget for the Community Facilities District 17-1 Fund by Increasing Estimated Revenue by \$174,051 and Increasing the Expenditure Budget by \$35,000. (Base Reuse 819099)

Attachments: Resolution - Special Election
Resolution - Budget

- 6-G 2018-6060 Adoption of Resolution Amending Master Fee Resolution No. 12191 to
(60 minutes) Revise Fees to Add New Cannabis Business Operator and Regulatory Fees;



Public Hearing to Consider Introduction of Ordinance Amending the Alameda Municipal Code by Amending Section 30-10 (Cannabis) to (1) Add Cannabis Retail Businesses as Conditionally Permitted Uses in the C-1, Neighborhood Business and C-M, Commercial-Manufacturing Zoning Districts; (2) Add Two Delivery-Only Cannabis Retail Businesses as a Conditionally Permitted Use in the C-M, Commercial-Manufacturing Zoning District; (3) Amend Certain Portions of the Zoning Code to Enable Cannabis Retail Businesses to Dispense Non-Medicinal or "Adult Use" Cannabis; and (4) Amend Certain Portions of the Zoning Code to Eliminate the Dispersion Requirement for Delivery-Only Cannabis Businesses;

Introduction of Ordinance Amending the Alameda Municipal Code by Amending Article XVI (Cannabis Businesses) of Chapter VI (Businesses, Occupations and Industries) to (1) Eliminate the Cap on Testing Laboratories; (2) Add Two Delivery-Only Dispensaries; (3) Allow Adult Use; (4) Create a Two-Tier Buffer Zone from Sensitive Uses for Dispensaries and Cultivation Businesses; and (5) Make Other Clarifying Revisions; and

Recommendation to Confirm Continued Use of Request for Proposal (RFP) Process to Administer Cannabis Retail Dispensary Business Operators' Permit Selection Process. (Economic Development)

Attachments: Exhibit 1 - Fee Study
Exhibit 2 - Map of Zones
Exhibit 3 - Letter
Resolution
Ordinance - Cannabis
Ordinance - Cannabis Businesses
Correspondence - Updated 10-16
Presentation

- 6-H 2018-5990 Recommendation to Accept \$1,876,823 Grant from the Staffing for Adequate Fire and Emergency Response (SAFER) Program; and
(20 minutes)
- Adoption of Resolution Amending the Fiscal Year 2018-19 Fire Grants Fund Revenue and Expenditures Budget by \$3,043,494, Each, and the General Fund Expenditures Budget by \$1,166,671 to Allocate the Required Matching Funds per the Grant Requirement. (Fire 220)

Attachments: Exhibit 1 - Award Package
Resolution

- 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**
- 10 **Council Communications - Councilmembers can address any matter not on the agenda, including reporting on conferences or meetings**
- 10-A 2018-6076 Consideration of Mayor's Nomination for Appointment to the Library Board, Planning Board and Social Service Human Relations Board.
- 11 **Adjournment - City Council**

- Meeting Rules of Order are available at <https://alamedaca.gov/node/5822>
- Time frames listed for agenda items are only estimates. Discussions on each item could take more or less time. Anyone interested in speaking is encouraged to arrive early rather than relying on the estimates.
- Translators and sign language interpreters will be available on request. Please contact the City Clerk at 510-747-4800 or TDD number 510-522-7538 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 or TDD number 510-522-7538 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.
- Video tapes of the meeting are available upon request.
- Please contact the City Clerk at 510-747-4800 or TDD number 510-522-7538 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.
- This meeting will be broadcast live on the City's website www.alamedaca.gov/agendas.
- Documents related to this agenda are available for public inspection and copying at the Office of the City Clerk, 2263 Santa Clara Avenue, Room 380, 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.
- 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.

Sunshine Ordinance Complaint, City Council Actions, 10/16/18

Complainant: Serena Chen

Date: 10/30/18

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

Name of individual contacted at Department or Commission: _____

☐ Alleged violation of public records access.☒ Alleged violation of public meeting. Date of meeting: 10/16/2018Sunshine Ordinance Section: 2-91.5 Agenda Requirements

(If known, please cite specific provision(s) being violated)

Please describe alleged violation. Use additional paper if needed. Please attach all relevant documentation supporting your complaint. Documentation is required.

City Council voted to add 2 additional cannabis dispensary permits without prior notification

A complaint must be filed no more than fifteen (15) days after an alleged violation of the Sunshine Ordinance.

Name: Serena ChenAddress: 931 IndependenceTelephone No: (510) 435-5889E-mail Address: serenatchen@gmail.comDate: 10/30/2018
Signature

Sunshine Ordinance Complaint, City Council Actions, 10/16/18

Complainant: Serena Chen

Date: 10/30/18

On Oct. 16, 2018, the city council voted 3-2 to amend section 30-10 (Cannabis) to revise and add fees. See below for published agenda item title and description. [Video of council meeting.](#)

Title Adoption of Resolution Amending Master Fee Resolution No. 12191 to Revise Fees to Add New Cannabis Business Operator and Regulatory Fees;

Public Hearing to Consider Introduction of Ordinance Amending the Alameda Municipal Code by Amending Section 30-10 (Cannabis) to (1) Add Cannabis Retail Businesses as Conditionally Permitted Uses in the C-1, Neighborhood Business and C-M, Commercial-Manufacturing Zoning Districts; (2) Add Two Delivery-Only Cannabis Retail Businesses as a Conditionally Permitted Use in the C-M, Commercial-Manufacturing Zoning District; (3) Amend Certain Portions of the Zoning Code to Enable Cannabis Retail Businesses to Dispense Non-Medicinal or "Adult Use" Cannabis; and (4) Amend Certain Portions of the Zoning Code to Eliminate the Dispersion Requirement for Delivery-Only Cannabis Businesses;

Introduction of Ordinance Amending the Alameda Municipal Code by Amending Article XVI (Cannabis Businesses) of Chapter VI (Businesses, Occupations and Industries) to (1) Eliminate the Cap on Testing Laboratories; (2) Add Two Delivery-Only Dispensaries; (3) Allow Adult Use; (4) Create a Two-Tier Buffer Zone from Sensitive Uses for Dispensaries and Cultivation Businesses; and (5) Make Other Clarifying Revisions; and

Recommendation to Confirm Continued Use of Request for Proposal (RFP) Process to Administer Cannabis Retail Dispensary Business Operators' Permit Selection Process. (Economic Development)

No where in the title and text of the staff report is any mention of the doubling of the number of full-service dispensaries from the two previously approved to four. The summary does mention the addition of "two delivery-only cannabis retail businesses as a conditionally permitted use in the C-M..." but I believe that delivery-only businesses are substantively different than two full-service storefront dispensaries.

Within the body of the report, staff makes it clear that the Delivery-Only Dispensaries would be closed to the public.

Conditionally Permit Delivery-Only Dispensaries (closed to the public) in the C-M Zone

Allowing delivery-only dispensaries as a conditionally permitted use in the C-M district would be consistent with the underlying intent for that zone. The nature of delivery-only dispensaries would be no different than other distribution or warehouse uses that already exist in those locations. With all cannabis businesses, the City has the ability to impose conditions of approval to address potential impacts through the use permit process.

Sunshine Ordinance Complaint, City Council Actions, 10/16/18

Complainant: Serena Chen

Date: 10/30/18

The public was not notified in advance and the decision to transform the delivery-only businesses seemed to have occurred during the council member discussion – after public comment had been closed,

Had I known that two additional full-service retail dispensary permits were under consideration, I would have submitted comments beforehand and made every effort to attend. I was however denied that opportunity due the lack of advance public notice.

I believe that the actions of the council violated the goal of the Sunshine Ordinance.

2.90.1 - Goal.

An informed public is essential to democracy. It is the goal of the ordinance codified in this article to ensure that the citizens of Alameda have timely access to information, opportunities to address the various legislative bodies ~~prior~~ to decisions being made, and easy and timely access to all public records.

The published agenda did not propose doubling the number of full-service marijuana dispensaries thereby denying Alameda residents an opportunity to comment on such a significant change.

2-91.5 - Agenda Requirements; Regular Meetings.

- a. Twelve (12) days before a regular meeting of City Council, and seven (7) days for all other policy bodies, the policy body shall post an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting. Agendas shall specify for each item of business the proposed action or a statement the item is for discussion only. These time requirements shall apply to posting on the internet.
- b. A description is meaningful if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item. The description should be brief, concise and written in plain, easily understood English. It shall refer to any explanatory documents that have been provided to the policy body in connection with an agenda item, such as correspondence or reports, and such documents shall be posted with the agenda or, if such documents are of more than one (1) page in length, made available for public inspection and copying at a location indicated on the agenda during normal office hours.



City of Alameda

Meeting Agenda

City Council

Wednesday, November 7, 2018

7:00 PM

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

SPECIAL MEETING - CLOSED SESSION - 5:00 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 2018-6064 PUBLIC EMPLOYEE APPOINTMENT/HIRING
(60 minutes) Pursuant to Government Code § 54957
Title/description of positions to be filled: City Manager
 - 3-B 2018-6063 PUBLIC EMPLOYEE APPOINTMENT/HIRING
(20 minutes) Pursuant to Government Code § 54957
Title/description of positions to be filled: Acting/Interim City Attorney and City Attorney
 - 3-C 2018-6062 CONFERENCE WITH LABOR NEGOTIATORS (Government Code
(40 minutes) section 54957.6)
CITY NEGOTIATORS: David L. Rudat, Interim City Manager, Elizabeth D. Warmerdam, Assistant City Manager and Nancy Bronstein, Human Resources Director
EMPLOYEE ORGANIZATIONS: International Brotherhood of Electrical Workers, Local 1245 (IBEW), Electric Utility Professional Association of Alameda (EUPA), Alameda City Employees Association (ACEA), Alameda Police Officers Association Non-Sworn Unit (PANS), and Alameda Management and Confidential Employees Association (MCEA)
UNDER NEGOTIATION: Salaries and Terms of Employment
- 4 Announcement of Action Taken in Closed Session, if any
2018-6183 November 7, 2018 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 2018-5260 Proclamation Declaring November 7, 2018 as Extra Mile Day. (City Manager 2110)
(5 minutes)
 - 3-B 2018-5262 Proclamation Declaring November 15, 2018 as America Recycles Day. (City Manager 2110)
(5 minutes)
 - 3-C 2018-6114 Proclamation Declaring November 2018 as National Native American Heritage Month. (City Manager 2110)
(5 minutes)
 - 3-D 2018-6115 Proclamation Declaring November 2018 as National Veterans and Military Families Month. (City Manager 2110)
(5 minutes)
- 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
2018-6184 November 7, 2018 Oral Communications Submittal
Attachments: Submittal
- 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 2018-6135 Minutes of the Joint City Council and Successor Agency to the Community Improvement Commission Meeting Held on September 18, 2018 and the Special and Regular City Council Meetings Held on October 2, 2018. (City Clerk)
 - 5-B 2018-6136 Bills for Ratification. (Finance)
Attachments: Bills for Ratification
 - 5-C 2018-6005 Recommendation to Authorize the Interim City Manager to Negotiate and Execute an Agreement for the Purchase of One Horton F-550 Type I Ambulance in an Amount Not to Exceed \$385,178. (Fire 3200)
Attachments: Exhibit 1 - Ambulance Quote
 - 5-D 2018-6080 Recommendation to Authorize the Interim City Manager to Execute a

Three Year Contract, in an Amount Not to Exceed \$30,000 Annually for a Total Three-Year Expenditure Amount Not to Exceed \$90,000, with Physio Control for Warranty and Maintenance of Fire Department Advanced Life Support (ALS) Medical Monitors and Equipment. (Fire 3232)

Attachments: Exhibit 1 - Agreement

- 5-E 2018-6086 Recommendation to Authorize the Interim City Manager to Accept the Work of Lennar Homes, for Tract 8118, Marina Shores. (Public Works 4210310)

- 5-F 2018-6095 Recommendation to Authorize the Interim City Manager to Execute a One-Year Contract Amendment, with the Option of Three One-Year Extensions, for an Amount not to Exceed \$150,000 Each, for a Total Five Year Expenditure not to Exceed \$750,000 Each, to the Following: BKF, HEI, and Schaaf & Wheeler for On-Call Civil Engineering Consulting Services. (Public Works 310)

Attachments: Exhibit 1 - BKF First Amendment

Exhibit 2 - BKF Contract

Exhibit 3 - HEI First Amendment

Exhibit 4 - HEI Contract

Exhibit 5 - Schaaf & Wheeler First Amendment

Exhibit 6 - Schaaf & Wheeler Contract

- 5-G 2018-6096 Recommendation to Authorize the Interim City Manager to Execute a One-Year Contract Amendment, with the Option of Three One-Year Extensions, for an Amount not to Exceed \$150,000 Each, for a Total Five Year Expenditure not to Exceed \$750,000 Each, to the Following: Baseline Designs, Inc., Habitat Engineering & Forensics, Inc., JMEC Engineering, and Oakley & Oakley for On-Call Structural Engineering Consulting Services. (Public Works 310)

Attachments: Exhibit 1 - Baseline Designs First Amendment

Exhibit 2 - Baseline Designs Contract

Exhibit 3 - Habitat Engineering First Amendment

Exhibit 4 - Habitat Engineering Contract

Exhibit 5 - JMEC Engineering First Amendment

Exhibit 6 - JMEC Engineering Contract

Exhibit 7 - Oakley & Oakley First Amendment

Exhibit 8 - Oakley & Oakley Contract

- 5-H 2018-6052 Recommendation to Authorize the Interim City Manager to Execute a Contract in the Amount Not to Exceed \$5,299,614, Including Contingency, to McGuire and Hester for the Cross Alameda Trail -

Ralph Appezato Memorial Parkway Improvements, No. P.W. 03-18-11; and

Adoption of a Resolution Amending the Fiscal Year 2018-19 Capital Projects Fund Budget for the Cross Alameda Trail (Main to Constitution) Project by \$1,794,060 from Various Funding Sources. (Public Works 310)

Attachments: Exhibit 1 - Contract
Resolution

- 5-I 2018-6085 Recommendation to Authorize the Interim City Manager to Execute a Three-Year Agreement in an Amount Not to Exceed \$500,000 with Centro Legal de la Raza for Tenant Legal Services; and

Adoption of Resolution Amending the Fiscal Year 2018-19 General Fund Budget of the City Attorney's Office to Appropriate the Remaining \$400,000 for Tenant Legal Services. (City Attorney 001-2310)

Attachments: Exhibit 1 - Request for Proposals
Exhibit 2 - Centro Legal Proposal
Exhibit 3 - Agreement
Resolution

- 5-J 2018-6061 Adoption of Resolution Amending Previous Authorization of a Portion of the City Base Allocation and Required Match Amount for Site A/Eden Affordable Senior Project and Affordable Family Project for Application to County Rental Housing Development Fund. (Base Reuse 819099)

Attachments: Resolution

- 5-K 2018-6113 Adoption of Resolution Declaring November 11 through 17 United Against Hate Week in the City of Alameda, in Conjunction with the Alameda Unified School Board and other Bay Area Cities. (City Manager 2110)


Attachments: School District Resolution
Resolution
Correspondence

- 5-L 2018-6106 Final Passage of Ordinance Amending the Alameda Municipal Code by Amending Section 30-10 (Cannabis) to (1) Add Cannabis Retail Businesses as Conditionally Permitted Uses in the C-1, Neighborhood Business, and C-M, Commercial-Manufacturing Zoning Districts; (2) Amend Certain Portions of the Zoning Code to Enable Cannabis Retail Businesses to Dispense Non-medicinal or "Adult Use" Cannabis, and

(3) Amend Certain Portions of the Zoning Code to Remove the Dispersion Requirement. (Economic Development)

Attachments: Correspondence

5-M 2018-6107



Final Passage of Ordinance Amending the Alameda Municipal Code by Amending Article XVI (Cannabis Businesses) of Chapter VI (Businesses, Occupations and Industry) to (1) Eliminate the Cap on Testing Laboratories, (2) Allow for Two Additional Cannabis Businesses to Operate as "Dispensary/Delivery" (Delivery Required) Within the Zoning Districts for Cannabis Retail, (3) Amend the Dispersion Requirement to Require No More Than Two Cannabis Retail Businesses to Operate on Either Side of Grand Street, (4) Create a Two-Tier Buffer Zone from Sensitive Uses for Cannabis Businesses, (4) Amend Certain Portions of the Regulatory Ordinance to Enable Cannabis Retail Businesses to Dispense Non-medicinal or "Adult Use" Cannabis, (5) Modify Requirements for Off-Island Delivery, and (6) Make Other Clarifying or Conforming Amendments thereto. (Economic Development)

Attachments: Correspondence

6 Regular Agenda Items

- 6-A 2018-6039 Introduction of Ordinance Approving a Lease Amendment with a
(10 minutes) Maximum Three-Year Extension of the Lease with CSI Mini-Storage, LLC, a California Limited Liability Company, for Buildings 338, 608, and 608A-C Located at 50 and 51 West Horner Avenue at Alameda Point. [Requires four affirmative votes] (Base Reuse 819009)

Attachments: Exhibit 1 - Leasehold Area
Exhibit 2 - Original Lease
Exhibit 3 - Lease Amendment
Ordinance

- 6-B 2018-6097 Introduction of Ordinance Amending the Alameda Municipal Code by
(60 minutes) Adding Article XVII (Tobacco Retailers) to Chapter VI (Businesses, Occupations and Industries) to Require Licensing of Tobacco Retailers in the City and to Prohibit the Sale of Flavored Tobacco Products. (City Attorney 2310)

Attachments: Exhibit 1 - Results of Community Survey
Exhibit 2 - Results of Tobacco Control Program Survey
Exhibit 3 - Alameda Unified School District Resolution
Correspondence - Updated 11-5
Presentation
Ordinance
Submittals

- 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
- 10 Council Communications - Councilmembers can address any matter not on the agenda, including reporting on conferences or meetings
- 10-A 2018-6124 Consideration of Mayor's Nomination for Appointment to the Library Board and Rent Review Advisory Committee.
- 11 **Adjournment - City Council**

- Meeting Rules of Order are available at <https://alamedaca.gov/node/5822>
- Time frames listed for agenda items are only estimates. Discussions on each item could take more or less time. Anyone interested in speaking is encouraged to arrive early rather than relying on the estimates.
- Translators and sign language interpreters will be available on request. Please contact the City Clerk at 510-747-4800 or TDD number 510-522-7538 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 or TDD number 510-522-7538 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.
- Video tapes of the meeting are available upon request.
- Please contact the City Clerk at 510-747-4800 or TDD number 510-522-7538 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.
- This meeting will be broadcast live on the City's website www.alamedaca.gov/agendas.
- Documents related to this agenda are available for public inspection and copying at the Office of the City Clerk, 2263 Santa Clara Avenue, Room 380, 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.
- 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.

BEFORE THE OPEN GOVERNMENT COMMISSION

OF THE CITY OF ALAMEDA

In re:
The Complaint of Serena Chen

Case No. 18-02

Serena Chen,
Complainant

DECISION OF THE
OPEN GOVERNMENT COMMISSION
OF THE CITY OF ALAMEDA

The City of Alameda,
Respondent

Originally, the above entitled matter came on for hearing 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 on November 14, 2018, at which time the Commission rendered a decision to sustain the complaint. (All further references to Section numbers are to the Alameda Municipal Code.) At the request of the City Attorney's Office, the Commission held a special meeting on December 17, 2018 to consider a memorandum from the City Attorney's Office and to provide the parties an opportunity to respond.

Facts

In compliance with the Sunshine Ordinance, the City Clerk on October 4, 2018

published the agenda and supporting materials for the City Council's meeting on October 16, 2018. In relevant part, the title for Agenda item 6-G provided that there would be a public hearing to consider the introduction of an ordinance to amend the Municipal Code in a number of respects concerning cannabis businesses, for example, by adding cannabis retail businesses as conditionally permitted uses in certain zoning districts, by adding two "delivery-only" Cannabis Retail Businesses as a conditionally permitted use in the C-M, Commercial-Manufacturing Zoning District, eliminating the dispersion requirements for "delivery-only" cannabis businesses. The agenda for this item is attached as Exhibit 1.

The City Council conducted a public hearing on these items on October 16, 2018. During the public hearing, Council resolved to include in the amendments a modification to the amendment allowing two "delivery-only" dispensaries, such that these cannabis businesses would be required to offer delivery of cannabis ("delivery required") and would also be open to the public, in recognition that the State and local requirements for either ("delivery-only" versus "delivery required") would be the same. Following the close of the public hearing the City Council introduced on first reading an ordinance amending various sections of the

Municipal Code concerning cannabis businesses, including that two "delivery required" dispensaries, which would be open to public, be allowed. In response to a question about whether the ordinance could be introduced that evening with the inclusion of the two "delivery required" dispensaries as conditionally permitted uses, the City Attorney advised yes.

On October 30, 2018, Serena Chen timely filed a Sunshine Ordinance Complaint against the Alameda City Council concerning an alleged violation of a public meeting on October 16, 2018, citing a violation of Section 2-91.5, Agenda Requirements. The complaint states the City Council voted to add two additional cannabis dispensary permits without prior notification. More specifically, the complaint states nowhere in the agenda title or text of the staff report concerning cannabis businesses was there any mention that the number of "full-service marijuana dispensaries" would be increased.

The complaint cites to Section 2-90.1 of the Municipal Code that provides that one of the goals of the Sunshine Ordinance is to ensure that Alameda residents have the opportunity to address the Council prior to a decision being made. The complaint also cites to Section 2-91.5 of the Municipal Code that provides agenda

items are to be contain a meaningful description of each item of business to be transacted and that the description of such items be sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information about the item. A copy of the complaint is attached as Exhibit 2.

In response to the complaint, the City Attorney's Office emailed Ms. Chen that the ordinance addressed in her complaint was not final ("are being amended"), but would be on the Council's November 7, 2018 agenda for "second reading". She was invited to attend and be heard concerning the ordinance amendments, or to submit comments in writing if she could not attend, in addition to being furnished with materials to do so. A copy of the Council's November 7, 2018 agenda is attached as Exhibit 3.

On November 7, 2018, Ms. Chen appeared, as did other members of the public, at the City Council meeting and addressed the Council concerning the amendments, in addition to emailing written comments prior to the meeting. After discussion, Council adopted the ordinances as presented in the November 7 agenda.

On November 14, 2018, the Commission conducted a hearing on the complaint. After hearing from the complainant and the City, the Commission sustained the complaint and ordered that the Ordinances in question be re-noticed for a first reading and that the Ordinances were null and void.

Thereafter, the City Attorney's Office provided a legal memorandum to the Commission that set forth in more detail why there had not been a violation of the Sunshine Ordinance. Even assuming there was a violation, the City Attorney concluded that the Commission did not have legal authority to render Ordinances adopted by the City Council as null and void. Rather, if the Commission continued to conclude that there had been a violation of the Sunshine Ordinance, it should recommend to the City Council that the Ordinances be considered for re-introduction following a public hearing and that the adopted Ordinances be repealed.

At the request of the City Attorney's Office, the complaint was returned to the Commission on December 17, 2018 for further consideration in light of the City Attorney's memorandum.

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 then 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 Commission conducted the hearing on November 14, 2018 and considered the evidence and arguments of Ms. Chen and the City. The Commission conducted a further hearing on the complaint on December 17, 2018 for the limited purpose of considering the City Attorney's legal memorandum and providing Ms. Chen an opportunity to respond to the legal memorandum.

Discussion

One of the goals of the Sunshine Ordinance is that residents have the opportunity to address the City Council prior to decisions being made. Section 2-90.1, AMC. Here, Ms. Chen had, and took, the opportunity on November 7, 2018, to address

the City Council about her concerns about the amendments to the cannabis ordinances prior to the City Council making a final decision on the amendments. Notwithstanding that, for the following reasons, the Commission finds a violation not only of Section 2-90.1 AMC, but also of Section 2-91.5 AMC.

Concerning the agenda title on October 16, 2018, the title included numerous proposed changes to the cannabis ordinances including the possibility of cannabis retail businesses being conditionally permitted in certain zoning districts, increasing the number of cannabis retail businesses and eliminating the dispersion requirements for certain cannabis businesses. Despite the breadth of these revisions, a person of average intelligence and education who had concerns about the number of full-service cannabis dispensaries could have considered attending the meeting on October 16 (or sought more information). More specifically as to Ms. Chen's complaint, although it is arguable that the agenda description was meaningful in that it apprised members of the public that there would be an increase in the number of dispensaries that would offer delivery services, the City Council's action fell outside the ambit of that brief, concise description. At a minimum, the difference between the agenda description posted for the October 16, 2018 regular meeting ("delivery only" dispensaries, closed to the public) and

the actual action taken by the Council ("delivery required," open to the public) is substantial enough that members of the public may have been confused as to whether or not they should appear to be heard or seek more information. In the end, the Commission recognizes that this complaint poses a very close question, but on balance we find that the complaint that there was a violation of Section 2-91.5, AMC should be sustained.

Turning now to the question of the appropriate penalty and how to give force and effect to Section 2-93.8 that provides that the Commission may order an action taken in violation of Section 2-91.5 "null and void" in light of the Commission's circumscribed authority to set aside Council legislative action, the Commission recommends the following:

1. City Council should consider re-introducing the two Ordinances in question following a noticed public hearing.
2. The agenda title for those items should track the agenda title that appeared on the Council's November 7, 2018 agenda concerning the Ordinances because that agenda title satisfies Sections 2-90.1 and Section 2-91.5 concerning the items.
3. City Council should consider repealing Ordinance Nos. 3227 and 3228.

Decision

There was a violation of Section 2-90.1 and Section 2-91.5 of the Alameda Municipal Code as set forth in Ms. Chen's complaint of October 30, 2018. The complaint, therefore, is **SUSTAINED**. In order to carry out this decision, the Commission recommends items 1, 2 and 3 above be agendaized for future consideration by the Council.

Signatures are on the following page.

Dated: December 17, 2018

Heather Little, Chair

Paul Foreman, Member

Mike Henneberry, Member

Irene Dieter, Member

Bryan Schwartz, Member



City of Alameda

Meeting Agenda

City Council

Tuesday, October 16, 2018

7:00 PM

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

REVISED on 10/8/2018 at 4:30 p.m. to correct the title of Item 6-D.

SPECIAL MEETING - CLOSED SESSION - 5:00 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 2018-6030 PUBLIC EMPLOYEE APPOINTMENT/HIRING
(45 minutes) Pursuant to Government Code § 54957
Title/description of positions to be filled: Acting/Interim City Attorney and City Attorney
 - 3-B 2018-6031 PUBLIC EMPLOYEE APPOINTMENT/HIRING
(10 minutes) Pursuant to Government Code § 54957
Title/description of positions to be filled: City Manager
 - 3-C 2018-6029 CONFERENCE WITH LABOR NEGOTIATORS (Government Code
(20 minutes) section 54957.6)
CITY NEGOTIATORS: David L. Rudat, Interim City Manager, Elizabeth D. Warmerdam, Assistant City Manager and Nancy Bronstein, Human Resources Director
EMPLOYEE ORGANIZATIONS: International Brotherhood of Electrical Workers, Local 1245 (IBEW), Electric Utility Professional Association of Alameda (EUPA), Alameda City Employees Association (ACEA), Alameda Police Officers Association Non-Sworn Unit (PANS), and Alameda Management and Confidential Employees Association (MCEA)
UNDER NEGOTIATION: Salaries and Terms of Employment
 - 3-D 2018-6074 CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Government
(20 minutes) Code section 54956.8)
PROPERTY: Northwest Territories, Alameda Point
CITY NEGOTIATOR: David L. Rudat, Interim City Manager
POTENTIAL TENANT: East Bay Regional Park District

EXHIBIT 7

ISSUE UNDER NEGOTIATION: Real Property Negotiations Price and
Terms of Payment

- 4 **Announcement of Action Taken in Closed Session, if any**
 2018-6108 October 16, 2018 Closed Session Announcement
 Attachments: Announcement

5 **Adjournment - City Council**

SPECIAL CITY COUNCIL MEETING - 6:45 P.M.

Pledge of Allegiance

- 1 **Roll Call - City Council**
- 2 **Proclamations**
- 2-A 2018-5259 Proclamation Declaring October, 2018 as Childhood Lead Poisoning
 (5 minutes) Prevention Week and Code Enforcement Officer Appreciation Week.
 (City Manager 2110)
- 2-B 2018-6075 Proclamation Declaring October 2018 as Filipino American History
 (5 minutes) Month. (City Manager 2110)
- 2-C 2018-5261 Proclamation Declaring October 21-27, 2018 as Friends of the
 (5 minutes) Alameda Free Library Appreciation Week. (City Manager 2110)
- 3 **Adjournment - City Council**

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

- 1 **Roll Call - City Council**
- 2 **Agenda Changes**
- 3 **Proclamations, Special Orders of the Day and Announcements - Limited to 15 minutes**
- 3-A 2018-5695 Proclamation Declaring October 2018 as Italian American History
 (5 minutes) Month. (City Manager 2110)
- 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** 2018-6077 Minutes of the Special and Regular City Council Meetings Held on September 18, 2018. (City Clerk)
- 5-B** 2018-6078 Bills for Ratification. (Finance)
- Attachments:** Bills for Ratification
- 5-C** 2018-5975 Recommendation to Receive a Report on the Continuation of the Art in City Hall Program. (City Manager 2110)
- Attachments:** Exhibit 1 - 2019 Guidelines
- 5-D** 2018-5986 Recommendation to Approve the Request for Qualifications (RFQ) to Reuse the Alameda Carnegie Building. (Economic Development 227)
- Attachments:** Exhibit 1 - 2007 Master Plan Report
 Exhibit 2 - Draft RFQ
- 5-E** 2018-5984 Recommendation to Award a Contract to Oregon Romtec Inc. in the Amount of \$970,613 for the Krusi Park Recreation Center Replacement Project. (Recreation and Park 280)
- Attachments:** Exhibit 1 - Contract
 Correspondence
- 5-F** 2018-5994 Recommendation to Authorize the Interim City Manager to Execute a Second Amendment to the Agreement with Nute Engineering, to Extend the Term One Year and Increase Compensation in an Amount Not to Exceed \$394,390 for a Total Agreement Compensation Not to Exceed \$727,459 for Engineering Design Services for Cyclic Sewer Rehabilitation Project, Phase 16. (Public Works 602)
- Attachments:** Exhibit 1 - Original Agreement
 Exhibit 2 - First Amendment
 Exhibit 3 - Second Amendment
- 5-G** 2018-5985 Adoption of Resolution Amending the General Fund and the Capital Improvement Program Budget for Fiscal Year 2018-19 for the Jean Sweeney Open Space Park Project to Fund Immediate Possession of Four Remnant Parcels Totaling Approximately 2.8 Acres Owned by Union Pacific; and
- Recommendation to Direct the City Attorney to Deposit the Sum of \$1,098,000 with the Condemnation Deposits Fund and Seek an Order for Prejudgment Possession of the Subject Property. (Recreation and Parks 310)

Attachments: Exhibit 1 - Map of Remnant Parcels
Resolution

- 5-H** 2018-5988 Recommendation to Expand the Façade Grant Program Boundaries;
and

Adoption of Resolution Amending the Fiscal Year 2018-19 Base Reuse Fund Budget to Appropriate \$50,000 for the Façade Grant Program.
(Base Reuse 858)

Attachments: Resolution

- 5-I** 2018-5992 Adoption of a Resolution Authorizing the Interim City Manager to Enter into a Joint Exercise of Powers Agreement (JPA) Establishing and Governing Operation of the Collection System Technical Advisory Committee, and a Defendant's Side Agreement to Facilitate the Environmental Protection Agency Sewer Consent Decree Compliance.
(Public Works 602)

Attachments: Exhibit 1 - 1979 JPA
Exhibit 2 - 1986 JPA
Exhibit 3 - New JPA
Exhibi 4 - Side Agreement
Resolution

- 5-J** 2018-5974 Adoption of Resolution Opposing Proposition 6 on the November 2018 Ballot, which would Repeal the Recent Gas Tax Increase and Eliminate \$15 Million in Transportation Funding for Alameda. (City Manager 2110)

Attachments: Exhibit 1 - Impacts of Proposition 6
Resolution

- 5-K** 2018-6041 Adoption of Resolution Supporting Proposition 2 on the November 2018 Ballot, which would Authorize the State of California to Use Revenue from Previously Authorized Bonds to Fund Existing Housing Programs for Individuals with Mental Illness. (City Manager 2110)

Attachments: Resolution

- 5-L** 2018-6073 Final Passage of Ordinance Amending the Alameda Municipal Code By Adding Article 4-60 (Minimum Wage) to Chapter IX (Regulations Concerning Trade and Commerce) Concerning A Citywide Minimum Wage to Raise Alameda's Minimum Wage to \$15.00 Per Hour by 2020.

6 Regular Agenda Items

- 6-A** 2018-6009 Adoption of Resolutions Appointing Rona Rothenberg as a Member of
 (5 minutes) the Planning Board and Reappointing Audrey Hyman as a Member of
 the Social Service Human Relations Board.
- 6-B** 2018-5910 Presentation by Friends of the Alameda Animal Shelter (FAAS) -
 (15 minutes) Annual Progress Report. (City Manager 2110)
 Attachments: Exhibit 1 - Annual Report
 Exhibit 1 - REVISED Annual Report
 Exhibit 2 - 4th Quarter Report
 Exhibit 3 - Mid-Year Report
 Exhibit 4 - Leash Your Dog Flyer
 Exhibit 5 - FAAS Staffing
 Exhibit 6 - Agreement
- 6-C** 2018-6038 Recommendation to Accept Informational Report on Activities,
 (30 minutes) Quarterly Meetings and Issues Related to the Oakland International
 Airport. (Community Development 481005)
 Attachments: Presentation
- 6-D** 2018-6035 Introduction of Ordinance Authorizing the Interim City Manager to
 (15 minutes) Execute Documents Necessary to Implement a Ten-Year Lease with
 SpinLaunch Inc., a California Corporation, for Building 530, Located
 at 120 West Oriskany Avenue at Alameda Point. (Base Reuse 819099)
 Attachments: Exhibit 1 - Premises
 Exhibit 2 - Draft Form Lease
 Ordinance
- 6-E** 2018-6007 SUMMARY: Public Hearing to Facilitate a Tax-Exempt Bond Financing
 (20 minutes) for Acquisition, Construction, Improvement, and Equipping of the Site
 A Affordable Family and Senior Projects by Eden Housing
- Public Hearing Under the Tax Equity and Fiscal Responsibility Act
(TEFRA) to Consider Adoption of Resolution Approving the Issuance
of Revenue Bonds by the California Municipal Finance Authority in an
Aggregate Principal Amount Not to Exceed \$45,000,000 to Finance a
70-Unit Multifamily Rental Housing Facility for Low- and Very
Low-Income Families for the Benefit of Eden Housing Inc., or a
Limited Partnership to be Established by Eden Housing Inc. (or an
Affiliate); and
- Adoption of Resolution Approving the Issuance of Revenue Bonds by
the California Municipal Finance Authority in an Aggregate Principal
Amount Not to Exceed \$40,000,000 to Finance a 60-Unit Multifamily
Rental Housing Facility for Low- and Very Low-Income Seniors for the

Benefit of Eden Housing Inc., or a Limited Partnership to be Established by Eden Housing Inc. (or an Affiliate). These Revenue Bonds will provide for the financing of the Site A Affordable Family and Senior Projects. (Base Reuse 819099)


Attachments: Exhibit 1 - Project Funding Sources
Resolution - Family Housing Site A
Resolution - Senior Housing Site A

- 6-F 2018-6032 Public Hearing to Consider Adoption of Resolution Calling a Special
(15 minutes) Election Regarding Alteration of the Rate and Method of Apportionment of Special Taxes for Community Facilities District No. 17-1 (Alameda Point Public Services District); and

Adoption of Resolution Amending the Fiscal Year 2018-19 Budget for the Community Facilities District 17-1 Fund by Increasing Estimated Revenue by \$174,051 and Increasing the Expenditure Budget by \$35,000. (Base Reuse 819099)

Attachments: Resolution - Special Election
Resolution - Budget

- 6-G 2018-6060 Adoption of Resolution Amending Master Fee Resolution No. 12191 to
(60 minutes) Revise Fees to Add New Cannabis Business Operator and Regulatory Fees;



Public Hearing to Consider Introduction of Ordinance Amending the Alameda Municipal Code by Amending Section 30-10 (Cannabis) to (1) Add Cannabis Retail Businesses as Conditionally Permitted Uses in the C-1, Neighborhood Business and C-M, Commercial-Manufacturing Zoning Districts; (2) Add Two Delivery-Only Cannabis Retail Businesses as a Conditionally Permitted Use in the C-M, Commercial-Manufacturing Zoning District; (3) Amend Certain Portions of the Zoning Code to Enable Cannabis Retail Businesses to Dispense Non-Medicinal or "Adult Use" Cannabis; and (4) Amend Certain Portions of the Zoning Code to Eliminate the Dispersion Requirement for Delivery-Only Cannabis Businesses;

Introduction of Ordinance Amending the Alameda Municipal Code by Amending Article XVI (Cannabis Businesses) of Chapter VI (Businesses, Occupations and Industries) to (1) Eliminate the Cap on Testing Laboratories; (2) Add Two Delivery-Only Dispensaries; (3) Allow Adult Use; (4) Create a Two-Tier Buffer Zone from Sensitive Uses for Dispensaries and Cultivation Businesses; and (5) Make Other Clarifying Revisions; and

Recommendation to Confirm Continued Use of Request for Proposal (RFP) Process to Administer Cannabis Retail Dispensary Business Operators' Permit Selection Process. (Economic Development)

Attachments: Exhibit 1 - Fee Study
Exhibit 2 - Map of Zones
Exhibit 3 - Letter
Resolution
Ordinance -Cannabis
Ordinance -Cannabis Businesses
Correspondence - Updated 10-16
Presentation

- 6-H 2018-5990 Recommendation to Accept \$1,876,823 Grant from the Staffing for Adequate Fire and Emergency Response (SAFER) Program; and
(20 minutes)

Adoption of Resolution Amending the Fiscal Year 2018-19 Fire Grants Fund Revenue and Expenditures Budget by \$3,043,494, Each, and the General Fund Expenditures Budget by \$1,166,671 to Allocate the Required Matching Funds per the Grant Requirement. (Fire 220)

Attachments: Exhibit 1 - Award Package
Resolution

- 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
- 10 Council Communications - Councilmembers can address any matter not on the agenda, including reporting on conferences or meetings
- 10-A 2018-6076 Consideration of Mayor's Nomination for Appointment to the Library Board, Planning Board and Social Service Human Relations Board.
- 11 Adjournment - City Council

- Meeting Rules of Order are available at <https://alamedaca.gov/node/5822>
- Time frames listed for agenda items are only estimates. Discussions on each item could take more or less time. Anyone interested in speaking is encouraged to arrive early rather than relying on the estimates.
- Translators and sign language interpreters will be available on request. Please contact the City Clerk at 510-747-4800 or TDD number 510-522-7538 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 or TDD number 510-522-7538 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.
- Video tapes of the meeting are available upon request.
- Please contact the City Clerk at 510-747-4800 or TDD number 510-522-7538 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.
- This meeting will be broadcast live on the City's website www.alamedaca.gov/agendas.
- Documents related to this agenda are available for public inspection and copying at the Office of the City Clerk, 2263 Santa Clara Avenue, Room 380, 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.
- 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.

Sunshine Ordinance Complaint, City Council Actions, 10/16/18
Complainant: Serena Chen
Date: 10/30/18

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

Name of individual contacted at Department or Commission: _____

☐ Alleged violation of public records access.

☒ Alleged violation of public meeting. Date of meeting: 10/16/2018

Sunshine Ordinance Section: 2-91.5 Agenda Requirements

(If known, please cite specific provision(s) being violated)

Please describe alleged violation. Use additional paper if needed. Please attach all relevant documentation supporting your complaint. Documentation is required.

City Council voted to add 2 additional cannabis dispensary permits
without prior notification

A complaint must be filed no more than fifteen (15) days after an alleged violation of the Sunshine Ordinance.

Name: Serena Chen

Address: 931 Independence

Telephone No: (510) 435-5889

E-mail Address: serenatchen@gmail.com

Date: 10/30/2018

Signature

Sunshine Ordinance Complaint, City Council Actions, 10/16/18
Complainant: Serena Chen
Date: 10/30/18

On Oct. 16, 2018, the city council voted 3-2 to amend section 30-10 (Cannabis) to revise and add fees. See below for published agenda item title and description. Video of council meeting.

Title Adoption of Resolution Amending Master Fee Resolution No. 12191 to Revise Fees to Add New Cannabis Business Operator and Regulatory Fees;

Public Hearing to Consider Introduction of Ordinance Amending the Alameda Municipal Code by Amending Section 30-10 (Cannabis) to (1) Add Cannabis Retail Businesses as Conditionally Permitted Uses in the C-1, Neighborhood Business and C-M, Commercial-Manufacturing Zoning Districts; (2) Add Two Delivery-Only Cannabis Retail Businesses as a Conditionally Permitted Use in the C-M, Commercial-Manufacturing Zoning District; (3) Amend Certain Portions of the Zoning Code to Enable Cannabis Retail Businesses to Dispense Non-Medicinal or "Adult Use" Cannabis; and (4) Amend Certain Portions of the Zoning Code to Eliminate the Dispersion Requirement for Delivery-Only Cannabis Businesses;

Introduction of Ordinance Amending the Alameda Municipal Code by Amending Article XVI (Cannabis Businesses) of Chapter VI (Businesses, Occupations and Industries) to (1) Eliminate the Cap on Testing Laboratories; (2) Add Two Delivery-Only Dispensaries; (3) Allow Adult Use; (4) Create a Two-Tier Buffer Zone from Sensitive Uses for Dispensaries and Cultivation Businesses; and (5) Make Other Clarifying Revisions; and

Recommendation to Confirm Continued Use of Request for Proposal (RFP) Process to Administer Cannabis Retail Dispensary Business Operators' Permit Selection Process. (Economic Development)

No where in the title and text of the staff report is any mention of the doubling of the number of full-service dispensaries from the two previously approved to four. The summary does mention the addition of "two delivery-only cannabis retail businesses as a conditionally permitted use in the C-M..." but I believe that delivery-only businesses are substantively different than two full-service storefront dispensaries.

Within the body of the report, staff makes it clear that the Delivery-Only Dispensaries would be closed to the public.

Conditionally Permit Delivery-Only Dispensaries (closed to the public) in the C-M Zone

Allowing delivery-only dispensaries as a conditionally permitted use in the C-M district would be consistent with the underlying intent for that zone. The nature of delivery-only dispensaries would be no different than other distribution or warehouse uses that already exist in those locations. With all cannabis businesses, the City has the ability to impose conditions of approval to address potential impacts through the use permit process.

Sunshine Ordinance Complaint, City Council Actions, 10/16/18

Complainant: Serena Chen

Date: 10/30/18

The public was not notified in advance and the decision to transform the delivery-only businesses seemed to have occurred during the council member discussion – after public comment had been closed.

Had I known that two additional full-service retail dispensary permits were under consideration, I would have submitted comments beforehand and made every effort to attend. I was however denied that opportunity due the lack of advance public notice.

I believe that the actions of the council violated the goal of the Sunshine Ordinance.

2.90.1 - Goal.

An informed public is essential to democracy. It is the goal of the ordinance codified in this article to ensure that the citizens of Alameda have timely access to information, opportunities to address the various legislative bodies prior to decisions being made, and easy and timely access to all public records.

The published agenda did not propose doubling the number of full-service marijuana dispensaries thereby denying Alameda residents an opportunity to comment on such a significant change.

2-91.5 - Agenda Requirements; Regular Meetings.

- a. Twelve (12) days before a regular meeting of City Council, and seven (7) days for all other policy bodies, the policy body shall post an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting. Agendas shall specify for each item of business the proposed action or a statement the item is for discussion only. These time requirements shall apply to posting on the internet.
- b. A description is meaningful if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item. The description should be brief, concise and written in plain, easily understood English. It shall refer to any explanatory documents that have been provided to the policy body in connection with an agenda item, such as correspondence or reports, and such documents shall be posted with the agenda or, if such documents are of more than one (1) page in length, made available for public inspection and copying at a location indicated on the agenda during normal office hours.



City of Alameda

Meeting Agenda

City Council

Wednesday, November 7, 2018

7:00 PM

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

SPECIAL MEETING - CLOSED SESSION - 5:00 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 2018-6064 PUBLIC EMPLOYEE APPOINTMENT/HIRING
(60 minutes) Pursuant to Government Code § 54957
Title/description of positions to be filled: City Manager
 - 3-B 2018-6063 PUBLIC EMPLOYEE APPOINTMENT/HIRING
(20 minutes) Pursuant to Government Code § 54957
Title/description of positions to be filled: Acting/Interim City Attorney and City Attorney
 - 3-C 2018-6062 CONFERENCE WITH LABOR NEGOTIATORS (Government Code
(40 minutes) section 54957.6)
CITY NEGOTIATORS: David L. Rudat, Interim City Manager, Elizabeth D. Warmerdam, Assistant City Manager and Nancy Bronstein, Human Resources Director
EMPLOYEE ORGANIZATIONS: International Brotherhood of Electrical Workers, Local 1245 (IBEW), Electric Utility Professional Association of Alameda (EUPA), Alameda City Employees Association (ACEA), Alameda Police Officers Association Non-Sworn Unit (PANS), and Alameda Management and Confidential Employees Association (MCEA)
UNDER NEGOTIATION: Salaries and Terms of Employment
- 4 Announcement of Action Taken in Closed Session, if any
2018-6183 November 7, 2018 Closed Session Announcement
Attachments: Announcement
- 5 Adjournment - City Council

EXHIBIT 3

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 2018-5260 Proclamation Declaring November 7, 2018 as Extra Mile Day. (City Manager 2110)
(5 minutes)

3-B 2018-5262 Proclamation Declaring November 15, 2018 as America Recycles Day. (City Manager 2110)
(5 minutes)

3-C 2018-6114 Proclamation Declaring November 2018 as National Native American Heritage Month. (City Manager 2110)
(5 minutes)

3-D 2018-6115 Proclamation Declaring November 2018 as National Veterans and Military Families Month. (City Manager 2110)
(5 minutes)

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

2018-6184 November 7, 2018 Oral Communications Submittal

Attachments: Submittal

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 2018-6135 Minutes of the Joint City Council and Successor Agency to the Community Improvement Commission Meeting Held on September 18, 2018 and the Special and Regular City Council Meetings Held on October 2, 2018. (City Clerk)

5-B 2018-6136 Bills for Ratification. (Finance)

Attachments: Bills for Ratification

5-C 2018-6005 Recommendation to Authorize the Interim City Manager to Negotiate and Execute an Agreement for the Purchase of One Horton F-550 Type I Ambulance in an Amount Not to Exceed \$385,178. (Fire 3200)

Attachments: Exhibit 1 - Ambulance Quote

5-D 2018-6080 Recommendation to Authorize the Interim City Manager to Execute a

Three Year Contract, in an Amount Not to Exceed \$30,000 Annually for a Total Three-Year Expenditure Amount Not to Exceed \$90,000, with Physio Control for Warranty and Maintenance of Fire Department Advanced Life Support (ALS) Medical Monitors and Equipment. (Fire 3232)

Attachments: Exhibit 1 - Agreement

- 5-E 2018-6086 Recommendation to Authorize the Interim City Manager to Accept the Work of Lennar Homes, for Tract 8118, Marina Shores. (Public Works 4210310)

- 5-F 2018-6095 Recommendation to Authorize the Interim City Manager to Execute a One-Year Contract Amendment, with the Option of Three One-Year Extensions, for an Amount not to Exceed \$150,000 Each, for a Total Five Year Expenditure not to Exceed \$750,000 Each, to the Following: BKF, HEI, and Schaaf & Wheeler for On-Call Civil Engineering Consulting Services. (Public Works 310)

Attachments: Exhibit 1 - BKF First Amendment

Exhibit 2 - BKF Contract

Exhibit 3 - HEI First Amendment

Exhibit 4 - HEI Contract

Exhibit 5 - Schaaf & Wheeler First Amendment

Exhibit 6 - Schaaf & Wheeler Contract

- 5-G 2018-6096 Recommendation to Authorize the Interim City Manager to Execute a One-Year Contract Amendment, with the Option of Three One-Year Extensions, for an Amount not to Exceed \$150,000 Each, for a Total Five Year Expenditure not to Exceed \$750,000 Each, to the Following: Baseline Designs, Inc., Habitat Engineering & Forensics, Inc., JMEC Engineering, and Oakley & Oakley for On-Call Structural Engineering Consulting Services. (Public Works 310)

Attachments: Exhibit 1 - Baseline Designs First Amendment

Exhibit 2 - Baseline Designs Contract

Exhibit 3 - Habitat Engineering First Amendment

Exhibit 4 - Habitat Engineering Contract

Exhibit 5 - JMEC Engineering First Amendment

Exhibit 6 - JMEC Engineering Contract

Exhibit 7 - Oakley & Oakley First Amendment

Exhibit 8 - Oakley & Oakley Contract

- 5-H 2018-6052 Recommendation to Authorize the Interim City Manager to Execute a Contract in the Amount Not to Exceed \$5,299,614, Including Contingency, to McGuire and Hester for the Cross Alameda Trail -

Ralph Appezzato Memorial Parkway Improvements, No. P.W. 03-18-11; and

Adoption of a Resolution Amending the Fiscal Year 2018-19 Capital Projects Fund Budget for the Cross Alameda Trail (Main to Constitution) Project by \$1,794,060 from Various Funding Sources. (Public Works 310)

Attachments: Exhibit 1 - Contract Resolution

- 5-I 2018-6085 Recommendation to Authorize the Interim City Manager to Execute a Three-Year Agreement in an Amount Not to Exceed \$500,000 with Centro Legal de la Raza for Tenant Legal Services; and

Adoption of Resolution Amending the Fiscal Year 2018-19 General Fund Budget of the City Attorney's Office to Appropriate the Remaining \$400,000 for Tenant Legal Services. (City Attorney 001-2310)

Attachments: Exhibit 1 - Request for Proposals
Exhibit 2 - Centro Legal Proposal
Exhibit 3 - Agreement Resolution

- 5-J 2018-6061 Adoption of Resolution Amending Previous Authorization of a Portion of the City Base Allocation and Required Match Amount for Site A/Eden Affordable Senior Project and Affordable Family Project for Application to County Rental Housing Development Fund. (Base Reuse 819099)

Attachments: Resolution

- 5-K 2018-6113 Adoption of Resolution Declaring November 11 through 17 United Against Hate Week in the City of Alameda, in Conjunction with the Alameda Unified School Board and other Bay Area Cities. (City Manager 2110)


Attachments: School District Resolution
Resolution
Correspondence

- 5-L 2018-6106 Final Passage of Ordinance Amending the Alameda Municipal Code by Amending Section 30-10 (Cannabis) to (1) Add Cannabis Retail Businesses as Conditionally Permitted Uses in the C-1, Neighborhood Business, and C-M, Commercial-Manufacturing Zoning Districts, (2) Amend Certain Portions of the Zoning Code to Enable Cannabis Retail Businesses to Dispense Non-medicinal or "Adult Use" Cannabis, and

(3) Amend Certain Portions of the Zoning Code to Remove the Dispersion Requirement. (Economic Development)

Attachments: Correspondence

5-M 2018-6107



Final Passage of Ordinance Amending the Alameda Municipal Code by Amending Article XVI (Cannabis Businesses) of Chapter VI (Businesses, Occupations and Industry) to (1) Eliminate the Cap on Testing Laboratories, (2) Allow for Two Additional Cannabis Businesses to Operate as "Dispensary/Delivery" (Delivery Required) Within the Zoning Districts for Cannabis Retail, (3) Amend the Dispersion Requirement to Require No More Than Two Cannabis Retail Businesses to Operate on Either Side of Grand Street, (4) Create a Two-Tier Buffer Zone from Sensitive Uses for Cannabis Businesses, (4) Amend Certain Portions of the Regulatory Ordinance to Enable Cannabis Retail Businesses to Dispense Non-medicinal or "Adult Use" Cannabis, (5) Modify Requirements for Off-Island Delivery, and (6) Make Other Clarifying or Conforming Amendments thereto. (Economic Development)

Attachments: Correspondence

6 Regular Agenda Items

6-A 2018-6039
(10 minutes)

Introduction of Ordinance Approving a Lease Amendment with a Maximum Three-Year Extension of the Lease with CSI Mini-Storage, LLC, a California Limited Liability Company, for Buildings 338, 608, and 608A-C Located at 50 and 51 West Hornet Avenue at Alameda Point. [Requires four affirmative votes] (Base Reuse 819009)

Attachments: Exhibit 1 - Leasehold Area
Exhibit 2 - Original Lease
Exhibit 3 - Lease Amendment
Ordinance

6-B 2018-6097
(60 minutes)

Introduction of Ordinance Amending the Alameda Municipal Code by Adding Article XVII (Tobacco Retailers) to Chapter VI (Businesses, Occupations and Industries) to Require Licensing of Tobacco Retailers in the City and to Prohibit the Sale of Flavored Tobacco Products. (City Attorney 2310)

Attachments: Exhibit 1 - Results of Community Survey
Exhibit 2 - Results of Tobacco Control Program Survey
Exhibit 3 - Alameda Unified School District Resolution
Correspondence - Updated 11-5
Presentation
Ordinance
Submittals

- 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
- 10 Council Communications - Councilmembers can address any matter not on the agenda, including reporting on conferences or meetings
- 10-A 2018-6124 Consideration of Mayor's Nomination for Appointment to the Library Board and Rent Review Advisory Committee.
- 11 Adjournment - City Council

- Meeting Rules of Order are available at <https://alamedaca.gov/node/5822>
- Time frames listed for agenda items are only estimates. Discussions on each item could take more or less time. Anyone interested in speaking is encouraged to arrive early rather than relying on the estimates.
- Translators and sign language interpreters will be available on request. Please contact the City Clerk at 510-747-4800 or TDD number 510-522-7538 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 or TDD number 510-522-7538 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.
- Video tapes of the meeting are available upon request.
- Please contact the City Clerk at 510-747-4800 or TDD number 510-522-7538 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.
- This meeting will be broadcast live on the City's website www.alamedaca.gov/agendas.
- Documents related to this agenda are available for public inspection and copying at the Office of the City Clerk, 2263 Santa Clara Avenue, Room 380, 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.
- 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.