

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
TUESDAY- -FEBRUARY 20, 2024- -5:00 P.M.

Mayor Ezzy Ashcraft convened the meeting at 5:17 p.m.

Roll Call – Present: Councilmembers Daysog, Herrera Spencer, Jensen, Vella and Mayor Ezzy Ashcraft – 5. [Note: Councilmember Vella arrived at 5:27 p.m. and Vice Mayor Daysog arrived at 5:29 p.m.]

Absent: None.

Consent Calendar

(24-073) Recommendation to Approve Amy Wooldridge, Assistant City Manager, and Michael Roush, Special Counsel to the City Attorney's Office, as Real Property Negotiators for Tract 8570 (Lots 2, 3, 4, 5, 6, and 7), known as Submerged Properties Adjacent to the Fernside Boulevard Public Access Pathways.

In response to Councilmember Herrera Spencer's inquiry related to staff members, Special Counsel stated tonight is the first time the submerged parcels have been in front of City Council for closed session; the matter came before Council peripherally regarding the final maps for the lots as a regular agenda item; sale of the lots have to adjacent property owners is resulting the closed session matter now before Council to discuss price and terms.

Councilmember Herrera Spencer stated the City has negotiated other parcels; inquired whether the City had a team of staff working on the matter.

The Assistant City Manager responded that the City has not sold any submerged parcels and there has not been a closed session for the related submerged parcels.

Councilmember Herrera Spencer stated the previous agreement included other parcels being sold for \$10,000 each; there is historical knowledge from previous, similar negotiations; the current parcels include the balance of the parcels.

The Assistant City Manager stated that she is unsure whether the previous matter had been heard in closed session; the sale of previous parcels had been led by a different legal team.

Mayor Ezzy Ashcraft stated the remaining six parcels are pathway properties; noted other parcels were similar but did not include pathways.

Councilmember Herrera Spencer stated historical knowledge is important in how the City approaches the matter; inquired whether there are any staff members present for both the previous and current matter.

The City Clerk responded Andrico Penick had been the main legal lead for the previous team and is no longer with the City.

Special Counsel stated the report from 2016 does not indicate that there had been a related closed session discussion.

Councilmember Herrera Spencer stated that she believes previous parcels were discussed in closed session; she would prefer to have previous staff included in the current discussion.

Mayor Ezzy Ashcraft noted the current Assistant City Manager was previously the City's Recreation and Parks Director and has institutional knowledge of the matter.

Councilmember Herrera Spencer stated that her concern goes beyond the paths; many other properties were discussed; she understands there are no remaining staff members present for the current discussion.

Councilmember Herrera Spencer moved approval of the Consent Calendar.

Councilmember Jensen seconded the motion, which carried by the following voice vote: Ayes: Councilmember Herrera Spencer, Councilmember Jensen, and Mayor Ezzy Ashcraft – 3. Absent: Councilmember Vella and Vice Mayor Daysog -2. [Items so enacted or adopted are indicating by an asterisk preceding the paragraph number.]

The meeting was adjourned to Closed Session to consider:

(24-074) Conference with Legal Counsel – Existing Litigation Pursuant to Government Code § 54956.9(a); Case Name: City of Alameda v. Garcia Sinclair; Court: Superior Court of the County of Alameda; Case Numbers: 23CV056248 & 23CV057593; Court: In the Court of Appeal of the State of California, First Appellate District, Division Two; Case Number: A168804

(24-075) Conference with Real Property Negotiators – Pursuant to Government Code Section 54956.8); Property: Tract 8570 (Lots 2, 3, 4, 5, 6, and 7), known as Submerged Properties Adjacent to the Fernside Boulevard Public Access Pathways; City Negotiators: Assistant City Manager Amy Wooldridge and Special Counsel Michael Roush; Negotiating Parties: City of Alameda and Musso Trust (Lot 2); Zimmermann and Tse (Lot 3); Barics and Polentz (Lot 4); Walker Trust Lot 5); McDonald et. al (Lot 6); and Fisher Trust (Lot 7); Under Negotiation: Price and Terms of Sale

Following the Closed Session, the meeting was reconvened, and the City Clerk announced that regarding Existing Litigation, staff provided information and Council provided direction by the unanimous voice vote – 5, and regarding Real Property, staff provided information with no vote taken.

Adjournment

There being no further business, Mayor Ezzy Ashcraft adjourned the meeting at 7:04 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Sunshine Ordinance.

MINUTES OF THE JOINT MEETING OF THE CITY COUNCIL AND SUCCESSOR
AGENCY TO THE COMMUNITY IMPROVEMENT COMMISSION (SACIC)
TUESDAY- -FEBRUARY 20, 2024- -6:59 P.M.

Mayor/Chair Ezzy Ashcraft convened the meeting at 7:16 p.m.
Councilmember/Commissioner Vella led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers/Commissioners Daysog, Herrera
Spencer, Jensen, Vella and Mayor/Chair Ezzy
Ashcraft – 5.

Absent: None.

CONSENT CALENDAR

Councilmember/Commissioner Jensen moved approval of the Consent Calendar.

Councilmember/Commissioner Herrera Spencer seconded the motion, which carried by
unanimous voice vote - 5. [Items so enacted or adopted are indicated by an asterisk
preceding the paragraph number.]

(*24-001 SACIC) Minutes of the Special Joint City Council and SACIC Meeting Held on
December 19, 2023. Approved.

AGENDA ITEM

(24-076 CC) Receive an Informational Report on Pension Funding and the Pension
Rate Stabilization Program.

(24-077 CC) Mayor/Chair Ezzy Ashcraft stated 20 minutes is needed for the
presentation.

Councilmember/Commissioner Herrera Spencer moved approval of allowing 20 minutes
for the presentation.

Councilmember/Commissioner Jensen seconded the motion, which carried by
unanimous voice vote - 5.

Ira Summer, Pallity, gave a Power Point presentation.

(24-078 CC) Councilmember Vella moved approval of allowing an additional 3 minutes
for the presentation.

Councilmember/Commissioner Herrera Spencer seconded the motion, which carried by unanimous voice vote - 5.

Mr. Summer completed the presentation.

In response to Councilmember/Commissioner Herrera Spencer's inquiry about where Alameda stands in comparison to other cities and the statistics chosen, Mr. Summer stated it depends on what the revenue sources and ability to pay.

Councilmember/Commissioner Herrera Spencer inquired about the comparison to other cities, to which Mr. Summer responded that he believes something Alameda has going for it is the amount of development going on; stated hopefully new revenue will be coming into Alameda; strong revenue growth is expected in the future, which gives Alameda an opportunity to take some of the extra money and help pay off obligations.

Councilmember/Commissioner Jensen inquired how Alameda has been effective in addressing its pension liability.

Mr. Summer responded Alameda's general approach has been to pay extra money directly to CalPERS as additional contributions, and other funds go into the 115 Trust.

Councilmember/Commissioner Jensen stated there has been turnover, especially in public safety; inquired whether Public Employees' Pension Reform Act (PEPRA) is another way of addressing the liability, to which Mr. Summer responded in the affirmative.

(24-079 CC/24-002 SACIC) Resolution No. 16135, "Amending the Fiscal Year (FY) 2023-24 Budget." Adopted; and

(24-079A CC) Resolution No. 16136, "Approving Workforce Changes for FY 2023-24." Adopted.

The Budget Manager gave a Power Point presentation.

In response to Councilmember/Commissioner Herrera Spencer's inquiry about non-routine litigation matters, the City Attorney stated the City typically does not budget a litigation line item for Alameda Point given that litigation is infrequent; the expense is unexpected, which is why it shows up; the City is undergoing a number of affirmative litigations, meaning the City is the plaintiff bringing the action; the City is currently the plaintiff for three unlawful detainer actions at Alameda Point.

Councilmember/Commissioner Herrera Spencer inquired whether unlawful detainer could be defined, to which the City Attorney responded it is eviction proceedings.

Mayor/Chair Ezzy Ashcraft inquired if the party has failed to pay rent, to which the City Attorney responded in the affirmative.

Vice Mayor/Commissioner Daysog stated the presentation shows the unassigned fund balance to be \$33.2 million; inquired where the City is in terms of the unassigned fund balance target.

The Finance Director responded the City has met its target for 20% reserves, plus an economic uncertainty target of 5%.

Vice Mayor/Commissioner Daysog stated the unassigned fund balance is \$33.2 million, however the total fund balance is roughly \$104 million, because of all the different categories with funds set aside; expenditures are significantly exceeding revenues for the year, but there is still room to maneuver considering the fund balance.

The Finance Director stated when Council adopted the budget in June, staff programmed a significant amount of residual fund balance.

Mayor/Chair Ezzy Ashcraft requested clarification about the target percentages.

The Finance Director stated Council has a policy to set aside 20% of General Fund expenditures for earthquakes, as well as another policy of 5% for economic uncertainty; between the two, 25% is sitting in reserves, which is a great place to be.

Councilmember/Commissioner Herrera Spencer inquired about charging people to use electric car chargers.

The Public Works Director responded ten charging ports were placed at Seaplane Lagoon Ferry Terminal and will begin charging the public to make use of those facilities; stated the budget addresses both revenue coming in and electricity expense; chargers were installed in the Civic Center garage about a decade ago and have been free; electricity pass-through cost are being established.

Councilmember/Commissioner Herrera Spencer inquired whether the chargers at Alameda Municipal Power (AMP) would continue to be free.

The Public Works Director responded the budget does not address AMP's charging.

Urged Council to ensure there are sufficient resources to achieve adopted goals made around street safety and the climate emergency: Cyndy Johnsen, BikeWalk Alameda.

Councilmember/Commissioner Jensen inquired about the progress regarding transportation projects and how the recent staffing increase addresses delays; further inquired whether there is potential for other transportation grant funding to move forward quicker.

The City Manager responded four new engineers were hired in the last year; stated since being hired, things are moving along faster; delays were in part due to a staffing and recruitment challenges; staff is looking at bringing Council other project options during mid-cycle in order to potentially expedite some projects, however, there may be some trade-offs due to a shortage of funding; staff is passionate and focused about trying to keep on schedule; construction costs have been higher; an annual report on transportation plans will be coming on March 19th with more information and a status report.

Councilmember/Commissioner Vella stated her preference is to have the conversation lead into the annual budget, as opposed to mid-year.

The City Manager stated the mid-cycle budget is the second regular meeting in May; at that work session, staff will present transportation options and what it would take to get back on schedule; there may be projects that require significant grant funding; staff has talked about strategically deploying resources a little differently and is working on to see if operational items can move faster.

Mayor/Chair Ezzy Ashcraft stated the City should charge for electric vehicle charging; providing free charging is not a City function; some people leave cars charging overnight at Civic Center garage; charging will be a good incentive to get people to move their vehicles.

Councilmember/Commissioner Herrera Spencer stated that she does not have a problem charging, but was unsure whether it had been announced to the public; questioned why the City would not charge at AMP's building.

Vice Mayor/Commissioner Daysog stated although the City has had a healthy fund balance in years prior, he recommends moving with caution in terms of digging into the fund balance in the next year.

Mayor/Chair Ezzy Ashcraft stated it is hard to put a price tag on road safety and protecting human life; she would like to see how much can be done and how soon it can be done; given the presentation about pension liabilities, she would like to direct staff to return with options for a discretionary contribution; the City has an obligation to current employees and retirees to do what the City said it would do at the time of hire.

Vice Mayor/Commissioner Daysog stated there should be traffic safety measures; rather than dipping into the fund balance reserve, tough decisions must be made in terms of shifting money from other programs.

Councilmember/Commissioner Vella moved adoption of the resolutions.

Councilmember/Commissioner Jensen seconded the motion.

Under discussion, Councilmember/Commissioner Herrera Spencer requested the motion be bifurcated.

Councilmember/Commissioner Vella moved adoption of the budget resolution.

Councilmember/Commissioner Jensen seconded the motion, which carried by the following voice vote: Ayes: Councilmembers Daysog, Jensen, Vella and Mayor Ezzy Ashcraft – 4. Noes: Councilmember Herrera Spencer – 1.

Councilmember/Commissioner Jensen moved adoption of the workforce resolution.

Councilmember/Commissioner Vella seconded the motion, which carried by unanimous voice vote - 5.

ADJOURNMENT

There being no further business, Mayor/Chair Ezzy Ashcraft adjourned the meeting at 8:30 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk
Secretary, SACIC

The agenda for this meeting was posted in accordance with the Sunshine Ordinance.

MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY- -FEBRUARY 20, 2024- -7:00 P.M.

Mayor Ezzy Ashcraft convened the meeting at 8:30 p.m.

ROLL CALL - Present: Councilmembers Daysog, Herrera Spencer, Jensen, Vella, and Mayor Ezzy Ashcraft – 5.
Absent: None.

AGENDA CHANGES

None.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

None.

ORAL COMMUNICATIONS, NON-AGENDA

(24-080) Doyle Saylor, Alameda Friends and Families for Ceasefire (AFF4C), urged Council to join other cities and stand for peace in Gaza.

(24-081) Emil Radloff, Alameda, stated that he met with the Recreation and Parks Director regarding Greenway Golf course; thanked staff for making the connection.

(24-082) Ramzi Elkana, Alameda, urged Council to call for a ceasefire in Gaza.

(24-083) John Buffler, Space Erase, stated his company is making a single-use space vehicle to remove low earth orbit debris and is currently in talks to gauge interest.

(24-084) Saara Ahmed, AFF4C, urged Council to call for a ceasefire in Gaza.

(24-085) Sophia Ritchie, AFF4C, urged Council to call for a ceasefire in Gaza.

(24-086) Lean de Leon, AFF4C, urged Council to call for a ceasefire in Gaza.

(24-087) Ghaida, Alameda, urged Council to call for a ceasefire in Gaza.

(24-088) Roan Byrne-Safro urged Council to call for a ceasefire in Gaza.

CONSENT CALENDAR

Councilmember Herrera Spencer requested the Council Referral form update [paragraph no. 24-095] be removed from the Consent Calendar for discussion.

Councilmember Vella stated she was not able to participate in the workshop for the Building Resilient Infrastructure and Communities grant [paragraph no. 24-093]; expressed concern about updates relative to the structure of governance and oversight with the potential large dollar amount and substantial workload.

Councilmember Jensen inquired if open City Council approved the contribution, to which the City Manager responded in the affirmative; stated the grant requires a match; the Port wrote a letter in support of paying its share and Oakland approved its share of the match today.

Councilmember Herrera Spencer moved approval of the Consent Calendar.

Councilmember seconded the motion, which carried by unanimous voice vote - 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*24-089) Minutes of the Regular City Council Meeting Held on January 16, 2024. Approved.

(*24-090) Ratified bills in the amount of \$8,186,484.31.

(*24-091) Recommendation to Authorize the City Manager to Execute a One-Year Agreement with 1582 Medical Corporation for Medical Examinations in an Amount Not-to-Exceed \$106,000 with the Option to Extend for One Additional Year for a Total Compensation Not-to-Exceed \$216,000. Accepted.

(*24-092) Recommendation to Authorize Updates to the Existing Alameda Police Department Policy Manual to Conform to Best Practices and to Ratify Policies that Have Been Updated Pursuant to Legal Updates, Significant Liability Issues, and Imminent Safety. Accepted.

(*24-093) Resolution No. 16137, "Approving Application for Federal Emergency Management Agency Building Resilient Infrastructure and Communities (BRIC) Grant Funds Totaling \$55.5 Million Including Matching Funds in the Amount of \$1,924,248, If Awarded." Adopted.

CONTINUED AGENDA ITEMS

None.

REGULAR AGENDA ITEMS

(24-094) Introduction of Ordinance Amending the Alameda Municipal Code by Amending Section 2-22 (Open Government Commission) and Article VIII (Sunshine Ordinance) of Chapter II (Administration) to Establish a Hearing Officer Form of Adjudication of Sunshine Ordinance Complaints, Clarify Enforcement Provisions, and Revise the Duties of the Open Government Commission (OPTION A); or

(24-094A) Introduction of Ordinance Amending the Alameda Municipal Code by Deleting Section 2-22 (Open Government Commission) and Amending Article VIII (Sunshine Ordinance) of Chapter II (Administration) to Eliminate the Open Government Commission, Establish a Hearing Officer Form of Adjudication of Sunshine Ordinance Complaints, and Clarify Enforcement Provisions (OPTION B).

Special Counsel and the City Clerk gave a brief presentation.

Councilmember Jensen stated Section 2.93.2.b requires filing of an official complaint form, including submission of all evidence, with the City Clerk's Office; inquired if this has changed.

Special Counsel responded subsection a currently states any person may file a complaint concerning any violation of the Sunshine Ordinance; Mayor Ezzy Ashcraft suggested adding with the City Clerk's Office; staff agrees as it will be consistent with subsection b and make it clear where complaints should be filed.

Councilmember Jensen inquired what the role of the Open Government Commission (OGC) could potentially be if Option A were passed and the OGC remains in place.

The City Clerk stated there are duties that would remain if Council keeps the Commission; the OGC advises Council on appropriate ways to implement the Sunshine Ordinance, develop goals to ensure practical and timely implementation of the Sunshine Ordinance, amongst other tasks; the OGC expressed disinterest in continuing to submit a report in writing to Council at least once annually.

In response to Councilmember Herrera Spencer's inquiry about noticing the hearings, and members of the public attending in person or on Zoom, Special Counsel stated if the technology to set up the hearings via Zoom is available, it would seem possible that members of the public could listen to the proceedings; staff would notice the hearings on the City's website; the public would have to check to see if hearings are scheduled.

Councilmember Herrera Spencer inquired if the public must attend in person to be able to participate.

The City Clerk responded Zoom could be an option if Council directs it be done.

Councilmember Herrera Spencer inquired whether it is currently part of the ordinance.

Special Counsel responded the ordinance is silent about it; staff is looking for direction concerning how Council would like to have hearings conducted.

The City Attorney stated, in regards to public comment, currently, the rent control hearings typically do not provide for public comment; the Hearing Officer has the discretion to allow additional testimony if appropriate; hearings are conducted closer to a court proceeding; staff recommends the process mirror rent control hearings and give the Hearing Officer discretion to decide what type of evidence is to be admitted and which is not to be admitted or heard.

Councilmember Herrera Spencer inquired what a rent contract has to do with an alleged violation at a public meeting; inquired what is the connection of a private contract between a landlord and a tenant and why would the two be treated the same.

The City Attorney responded staff is trying to set up an adjudicatory proceeding, much like a judicial proceeding; stated Sunshine adjudications are to spare the cost of an actual superior court proceeding and a Hearing Officer model moves closer to that.

Councilmember Herrera Spencer inquired if staff is proposing eliminating public participation on a complaint about a public meeting.

Mayor Ezzy Ashcraft stated similar to a judge in a courtroom setting, the parties could submit what they consider relevant witnesses and the Hearing Officer would decide whether to hear them.

The City Attorney stated, just like a court proceeding, any number of members of the public would probably testify; that is what it would be in court and that is what will be in the administrative hearing.

Councilmember Herrera Spencer expressed concern about participation.

Special Counsel stated generally the party who filed the complaint presents why they felt there had been a violation at OGC hearings; it would be unusual for a member of the public to comment if not directly involved with filing of the complaint.

Councilmember Herrera Spencer stated she, along with other members of the public, have previously spoken without filing a complaint; requested clarification about members of the public wanting to speak but more than likely not being chosen, as this will be operating as if it were a private contract.

The City Clerk stated at a previous hearing where a neighborhood attended, one person presented, however, during the hearing, the Commission allowed additional witnesses to be added.

Councilmember Herrera Spencer stated the term quasi-judicial is being used, in regard to the decisions being advisory to Council; inquired whether the decision would be binding, to which Special Counsel responded in the negative; stated staff is not recommending any changes to the current process or procedure as to how the decision of the Hearing Officer would be handled; it would be treated like the current OGC decisions.

Councilmember Herrera Spencer inquired if the City Attorney's Office would be selecting the Hearing Officers, as opposed to the OGC, to which Special Counsel responded in the affirmative; stated staff has a list of qualified Hearing Officers who are selected in order on a rotational basis; the City Attorney's Office could not designate a specific Hearing Officers to hear an item.

Councilmember Herrera Spencer inquired whether the list is the same one used on rent tenant issues, to which Special Counsel responded in the affirmative; stated the people are well-qualified attorneys with broad knowledge of municipal law, including the Brown Act and Public Records Act.

Councilmember Herrera Spencer inquired if knowledge of the Sunshine Ordinance would be required.

Special Counsel responded it is not likely attorneys will have knowledge, unless they worked for a jurisdiction that had a sunshine-type ordinance; only a handful of cities have such ordinances; since most attorneys have knowledge of the Brown Act and the Public Records Act, staff believes most would be able to get up to speed quickly on the nuances of the Sunshine Ordinance, which is modeled after the two acts.

Councilmember Herrera Spencer inquired if they will be required to read and understand the Sunshine Ordinance before being given the authority to make decisions, to which Special Counsel stated responded could include the requirement.

Councilmember Herrera Spencer inquired how staff would ensure the Hearing Officers read the Sunshine Ordinance.

Special Counsel stated, analogizing it to the rent ordinance, the Hearing Officers hearing disputes probably have knowledge and expertise about rent ordinances in other jurisdictions, which staff then asks them to apply that knowledge and interpret Alameda's rent ordinance consistent with that knowledge; similarly, staff would treat the hearings that come before Hearing Officers on Sunshine Ordinance complaints the same way.

Mayor Ezzy Ashcraft inquired if Council could add a requirement stating anyone who applies to be must familiarize themselves with the City of Alameda Sunshine Ordinance, to which Special Counsel responded in the affirmative.

The City Clerk stated when new members of the OGC are first appointed, they are provided the ordinance to read.

Councilmember Herrera Spencer stated it is a bit different as one Hearing Officer would making decisions versus a five-body commission.

Stated the OGC was created with the idea of increasing transparency of government actions and initially had some relationship to the Brown Act; a committee or commission is needed to ensure openness of the government; he does not agree with the current system in place: Jay Garfinkle, Alameda.

Stated the point is not whether the Hearing Officer is biased or not with regard to a particular subject, but rather staff's conflict of interest in choosing the people to serve; suggested the City Attorney come up with a list of top candidates and submit it to the OGC to make the decision; withdrew support for the item: Paul Foreman, Alameda Citizens Taskforce.

Councilmember Vella expressed concern with the current matter of expediency; issues should be dealt with in a fair and expedient manner; the goal is for issues to be resolved or come back to Council to be remediated, re-heard, re-authorized, or re-agendized, in order to cure whatever issues exist; she does not have a problem with the OGC weighing in, but perhaps not for every hearing; if the OGC would like to convene, one of the tasks could be that the OGC has veto power over potential candidates for a pool for Hearing Officers; expressed concern about boards or commissions having the ability to hire or fire; stated that she does not think it should be a panel of Hearing Officers, it should be one; the point of having the OGC is to have remediation and allow the City to cure before going through a long and costly process; there are still opportunities for the OGC to give feedback; moving forward with the first option by staff without eliminating the OGC would be her preference, if there is a way to garner further input, but not rising to a selection process where the OGC gets to vote or select Hearing Officers.

Mayor Ezzy Ashcraft inquired if Councilmember Vella said she would like for the OGC to have veto power over Hearing Officer selection, to which Councilmember Vella responded in the negative; stated there should be a process where the City Attorney can raise concerns around certain qualifications and the OGC should be able to question them, understanding it does not get to decide about the Hearing Officer; there needs to be more than one Hearing Officer.

Mayor Ezzy Ashcraft stated each Hearing Officer must be currently licensed to practice law in the State of California, with at least five years of experience, and shall possess any additional

qualification established by the City Attorney; Councilmember Herrera Spencer's suggestion of having Hearing Officers be familiar with the Sunshine Ordinance can be added; it is on a rotating basis and would not be a panel; there would be a pool to choose from in case of a conflict; adjudicative responsibilities include Hearing Officers be faithful to the law, regardless of partisan interest, public clamor, or fear of criticism and shall maintain professional competence in the law; this separates a Hearing Officer from an OGC member, who is an appointee; she is confident in the City Attorney's Office ability to apply administrative regulations to the selection of Hearing Officers.

Councilmember Vella stated that she is asking something be codified in the regulation that if the regulation changes, it be presented to the OGC for input.

Mayor Ezzy Ashcraft inquired if Councilmember Vella meant the policies for selection of the Hearing Officers, to which Councilmember Vella responded in the affirmative; stated the OGC could weigh in as part of an annual review whether the policy stays the same or changes; the OGC should provide input to determine if the system is working.

Mayor Ezzy Ashcraft stated that she is not ready to eliminate the OGC; if Council agrees to move forward with Option A, it would be brought back for a 6-month and a 12-month review; a more informed decision can be made once everyone sees how the process plays out; it is hard to watch the process Commissioners go through and it is difficult for everyone involved; knowing how well the rent Hearing Officer model has worked and how helpful it has been to the parties, she believes it is time to move forward.

Councilmember Jensen stated the intent is to establish a more robust, more informed, and more effective adjudication of the Sunshine complaints; the rent control program was used as a model; suggested making hearings for complaints open, either on Zoom or in person to encourage participation; stated the meetings would not be subject to the Brown Act, as it is not a meeting of a group of legislators or policy makers; currently, the City Attorney represents the City and advises the judge, which is the OGC; this would be one step away from the procedure currently in place; she does not have a problem with having the City Attorney choose the Hearing Officers; she has watched many OGC meetings and finds there are often questions, hearings tend to go on for a long time and there is not a lot of direction; she would like to hear from the City Attorney more often and have a regular updates about Sunshine complaints; the OGC should remain in place.

Mayor Ezzy Ashcraft stated the City Attorney has notified Council about Sunshine complaints; inquired whether the City Clerk could explain what the current process in place is for reporting about Sunshine complaints filed.

The City Clerk stated Council amended the Sunshine Ordinance some time ago, stating all decisions are now posted on the OGC website; additionally, the Mayor always reports out in the State of the City, which is a requirement of the Sunshine Ordinance; the annual report the OGC includes a summary of all of the complaints the previous year; the formal reporting currently required by the ordinance would remain.

Councilmember Jensen stated that she would like a bit more; suggested being more deliberate in sharing information as the complaints come in; sharing should be done more routinely and publicly.

Vice Mayor Daysog stated the OGC is a necessary check, not what the City Council decides, but how decisions are made in light of the Sunshine Ordinance, the Brown Act, or any other relevant regulations regarding governmental transparency; there is strength in having a Commission of ordinary people from all walks of life; he has not personally experienced anything that puts him ill at ease with the OGC; he values the contributions the Commission makes; he would like to stay with the OGC as it is currently comprised.

Mayor Ezzy Ashcraft stated there is a better, more efficient, and more thoughtful process for all the parties involved; some OGC members have discussed frustration at the incredible commitment of time and many hours of hearings they do not feel qualified to hear; she supports Option A.

Councilmember Herrera Spencer expressed concern regarding public participation; inquired whether the hearings will be noticed, where the public can find the information, and if a decision has been made regarding advanced notices of hearings.

Councilmember Vella inquired if Councilmember Herrera Spencer has a suggestion as to what the publication process would look like.

Councilmember Herrera Spencer stated there will be no schedule; staff will set something that could be three or five days in advance; she prefers there be a set time for the hearings.

Mayor Ezzy Ashcraft inquired if she was speaking about the amount of notice for a hearing, to which Councilmember Herrera Spencer responded in the affirmative; inquired how it will be noticed so the public knows it is happening if it is not a set schedule.

Mayor Ezzy Ashcraft stated a complaint would have to come to the OGC for a hearing to be scheduled.

Councilmember Herrera Spencer stated that she prefers 7 to 10 days' notice; suggested the hearing be similar to public meetings and be done Monday through Thursday evenings, no earlier than 5 or 6 p.m.

Mayor Ezzy Ashcraft inquired if the OGC has a set meeting schedule, to which the City Clerk responded staff tried to have hearings on the first Monday of the month; sometimes could not be held that day in order to meet the window for the complaint to be heard; meetings have been held on different days to accommodate when the complaint is filed.

Mayor Ezzy Ashcraft inquired whether there is an email list people could sign up for, to which the Communications Director responded anyone can go to the City's webpage: alamedaca.gov/subscribe to sign up for dozens of mailing lists, ranging from transportation projects to general emergency alerts.

The City Clerk stated that is also the same location one may sign up to receive agendas for OGC meetings and other bodies.

Councilmember Herrera Spencer stated there should be a set time; the OGC should be open government by definition; the proposal does not fulfill said function if hearings are not open and allow for public participation; inquired whether the City Attorney hires outside attorneys to give direction and help the OGC.

Special Counsel responded the City Attorney's office has hired outside counsel to provide advice to the Commission; an ethical wall was created so the Attorney assigned to advise the Commission is not working with the Attorney presenting the City's position; functions are kept separate.

Councilmember Herrera Spencer inquired if the City Attorney's office hires outside counsel due to a conflict.

Special Counsel responded it is often not because of a conflict but because outside counsel may have more expertise; stated sometimes there might be a perception of the conflict; to avoid that, counsel has been retained to advise the Commission.

Councilmember Herrera Spencer expressed concern about the pool needing to be large enough so the OGC could then select a smaller pool to hear matters.

Vice Mayor Daysog stated the OGC should stay as is; the OGC are volunteer members; one can get in touch with them, see them in public and speak to them about decisions; the same interaction may not be available with a staff person.

Councilmember Vella moved introduction of ordinance Option A, with direction that the policy for selection of the hearing officer be reviewed with the OGC if it changes or at least once annually, which be codified in the ordinance; complaint hearings allow at least ten days' notice to the public and include publication on the website and list serve, hearings be aired to the public remotely or in person, allow remote participation for the petitioners, get feedback at the six-month review, and when there is going to be a hearing, it be included in the City Manager's comments for at least the next year.

Councilmember Jensen seconded the motion.

Under discussion, Councilmember Jensen clarified that she was not suggesting there is currently any bias in the City Attorney's office with regard to the role the City Attorney plays in advising the OGC, as well as taking the position for the City as the plaintiff; stated the 30-day timeline to hear the complaint would make it impossible to have a set date, get a Hearing Officer in place, have the hearing and meet the timeline.

Mayor Ezzy Ashcraft concurred with Councilmember Jensen; noted the report during City Manager Communications at Council meetings may not come at the right time.

The City Clerk stated the 30-day timeline is 30 working days, which is included in the ordinance.

Councilmember Herrera Spencer requested clarification regarding public participation and having the public speak at meetings, in person or remotely.

Mayor Ezzy Ashcraft stated if the Hearing Officer deems it relevant, they may do so.

Councilmember Herrera Spencer stated this is not public participation, but rather an attack on it.

Councilmember Vella stated nothing precludes people from adding to the petitioners' packet or filing their own complaint to join the petitioner, which would allow them to participate.

On the call for the question, the motion carried by the following voice vote: Ayes: Councilmembers Jensen, Vella and Mayor Ezzy Ashcraft – 3. Noes: Councilmembers Daysog and Herrera Spencer – 2.

Mayor Ezzy Ashcraft called a recess at 10:09 p.m. and reconvened the meeting at 10:15 p.m.

CONSENT CALENDAR - ITEMS REMOVED FOR DISCUSSION

(24-095) Recommendation to Amend the Council Referral Form to Update the Strategic Plan Priorities.

Councilmember Herrera Spencer stated she would like to add language that the Councilmember bringing the referral could choose one of priorities or explain why they believe it is important, but it does not have to fall under one of the priorities.

The City Manager stated one of the main objectives of developing a work plan is to have a discussion of trade-offs if staff makes changes or Council directs staff to do something different; having the referral form tie back to the strategic plan helps keep everyone accountable.

Councilmember Herrera Spencer stated it would be nice to give an option to explain if it does fall under the priorities or why it is still important to hear even if it does not.

Mayor Ezzy Ashcraft inquired whether Councilmember Herrea Spencer has any examples, to which Councilmember Herrera Spencer responded in the affirmative; stated there was previously a referral for a ceasefire; inquired which current or previous priority it fell under.

The City Clerk stated it was under number 3 of the prior priorities, which read, “supporting enhanced livability and quality of life, including addressing the housing crisis and homelessness.”

Councilmember Herrera Spencer stated a ceasefire in the Middle East does not impact the housing crisis in Alameda; there are real, important items that do not necessarily fall under the priorities and are not anticipated, which is why a Councilmember brings a referral; Councilmembers should be able to say, although it does not relate to the priorities, the community deems it important, and Council should hear it.

Mayor Ezzy Ashcraft stated that she has listened intently to the speakers who have spoken in Council meetings about the need for a humanitarian ceasefire in Gaza; these are residents who talk about the impact it has on their family, as some have relatives there; that counts towards the quality of peoples’ lives; what we do transcends our borders.

Councilmember Herrera Spencer stated there are other issues Councilmembers have brought that are not necessarily one of the five priorities but are still important and should still be heard.

Councilmember Vella inquired if, for the referral to be heard, it must tie to a strategic priority; stated her understanding is it does not; a prioritization box allowed Councilmembers to address the urgency of the matter was removed.

The City Clerk stated the priority box was removed and replaced with the adopted Council priorities list to try and mesh where the item would fall and impact other projects.

Mayor Ezzy Ashcraft stated that she consulted with the City Manager and the City Attorney ahead of time and shared her proposal; it is very important to list the priorities and consult with, and respect, staff input regarding how much staff time an item would take.

Councilmember Herrera Spencer clarified that she is not asking to remove the priorities; stated the last sentences briefly describe which priority the subject falls under and how it relates; she would like to add, if it does not pertain to a priority, why it should be heard.

Councilmember Vella stated she does not see any harm in adding “if applicable” ahead of the last sentence.

Councilmember Jensen stated staff reports should state what strategic priority the report or action supports.

The City Manager stated that is included; occasionally routine items may not fall within the priorities, such as purchasing a vehicle.

Councilmember Jensen stated general reports mention financial and environmental impacts, amongst others, but perhaps one or two could be replaced by Council priorities.

The City Clerk stated staff puts it under in the Policy section; the format of staff reports is not approved by Council; the City Manager has instructed staff to include it under the section, if applicable.

Councilmember Jensen stated it mentions it incorporates the priorities but does not say which.

The City Clerk provided an example.

Councilmember Herrera Spencer moved approval of the form with amendment to add “if applicable” in front of “briefly describe” in the last sentence of the form.

Councilmember Vella seconded the motion, which carried by the following voice vote: Ayes: Councilmembers Daysog, Herrera Spencer and Vella – 3. Abstentions: Councilmember Jensen and Mayor Ezzy Ashcraft – 2.

CITY MANAGER COMMUNICATIONS

(24-096) The City Manager stated heavy rains have prompted a flood watch until 10 a.m. February 21; urged residents to report fallen trees and flooding; made announcements about the Alameda Film Festival, a free screening of a documentary exploring guaranteed income programs and a new program called “Supper and Support” being hosted at the library every month.

ORAL COMMUNICATIONS, NON-AGENDA

(24-097) Jackson Peterson, GovGPT, discussed an AI-driven tool designed to optimize the City’s governance and communication processes.

(24-098) Paul Beusterien, Alameda, gave an update on the Rank Choice Voting (RCV) ; stated RCV could make the lives of elected officials better, can make it easier to work together and can make Councilmembers more likely to want to collaborate.

COUNCIL REFERRALS

None.

COUNCIL COMMUNICATIONS

(24-099) Councilmember Herrera Spencer stated that she attended several Chamber of Commerce events; discussed Police incidents; encouraged residents to report encampments.

(24-100) Councilmember Vella stated that she attended the memorial service for Alameda retired Firefighter Patrick Corder; she will be attending a League of California Cities Executive Board Meeting alongside Mayor Ezzy Ashcraft.

(24-101) Councilmember Jensen stated the Alameda Police Department had a graduation event for Officers.

(24-102) Mayor Ezzy Ashcraft stated that she attended the graduation, and a Mongolian Lunar New Year celebration; she was interviewed by a group of Lincoln Middle School students who are starting a print newspaper; she spoke to two dozen Harvard University graduate students who went on a trip to Alameda Point; she will be attending a League of California Cities Executive Board Meeting alongside Councilmember Vella.

ADJOURNMENT

There being no further business, Mayor Ezzy Ashcraft adjourned the meeting at 10:50 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Sunshine Ordinance.