

MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
TUESDAY- -JULY 5, 2016- -6:00 P.M.

Mayor Spencer convened the meeting at 6:00 p.m.

Roll Call – Present: Councilmembers Daysog, Ezzy Ashcraft, Matarrese, Oddie and Mayor Spencer – 5.

[Note: Councilmember Daysog arrived at 6:09 p.m.]

Absent: None.

The meeting was adjourned to Closed Session to consider:

(16-323) Conference with Legal Counsel – Existing Litigation (Pursuant to Government Code § 54956.9); CASE NAME: Zachary Ginsburg v. City of Alameda; COURT: Superior Court of the State of California, County of Alameda; CASE NO: RG15791428

Following the Closed Session, the meeting was reconvened and Mayor Spencer announced direction was given to staff.

Adjournment

There being no further business, Mayor Spencer adjourned the meeting at 6:32 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

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

MINUTES OF THE REGULAR CITY COUNCIL MEETING  
TUESDAY- -JULY 5, 2016- -7:00 P.M.

Mayor Spencer convened the meeting at 7:03 p.m. and led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers Daysog, Ezzy Ashcraft, Matarrese, Oddie and Mayor Spencer – 5.

Absent: None.

AGENDA CHANGES

(16-324) Mayor Spencer announced that the ordinance authorizing Lease with Pacific Automated [paragraph no. 16-345] and the ordinance amending the Municipal Code [paragraph no. 16-346] were withdrawn and would return at a later date.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(16-325) Presentation of Certificates of Service to Dean Batchelor, Civil Service Board; Dennis Owens and Donna Rauk, Historical Advisory Board; Cullen Jones, Housing Authority Board of Commissioners; Mike Henneberry, Planning Board; Elizabeth Candelario, Public Art Commission; Suzanne Warner, Rent Review Advisory Committee; Doug Biggs and Michael Radding, Social Service Human Relations Board; Eric Schatmeier, Transportation Commission.

Mayor Spencer presented the service certificates Mr. Owens and Mr. Biggs.

Mr. Owens and Mr. Biggs made brief comments.

ORAL COMMUNICATIONS, NON-AGENDA

(16-326) Paul Foreman, Alameda, discussed the Governor's State Budget Trailer Bill regarding streamlining affordable housing; urged Council to oppose the legislation.

Mayor Spencer requested staff to provide contact information for the public.

Councilmember Ezzy Ashcraft stated Council has not taken action on the matter.

Mayor Spencer requested the information be included in the staff report.

The City Manager stated the information would be included in the staff report that would go out on Thursday.

CONSENT CALENDAR

Mayor Spencer announced that the agreement with Strategic Economics [paragraph no.

16-330] and the final passage of the ordinance [paragraph no. 16-336] were removed from the Consent Calendar for discussion.

Councilmember Ezzy Ashcraft moved approval of the remainder of the Consent Calendar.

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

(\*16-327) Minutes of the Special, Regular and Successor Agency to the Community Improvement Commission Meetings Held on June 7, 2016. Approved.

(\*16-328) Ratified bills in the amount of \$1,959,969.81.

(\*16-329) Recommendation to Accept the Investment Report for the Quarter Ending March 31, 2016. Accepted.

(16-330) Recommendation to Approve a Nine Month Agreement in the Amount of \$148,085 with Strategic Economics to Prepare an Economic Development Strategic Plan for the City of Alameda, and Reappropriate \$50,000 from Unspent Fiscal Year 2015-16 Funds for the Agreement.

Councilmember Daysog stated the project is based on the 2000 Economic Development Strategic Plan; he looks forward to discussing how to alter the Transient Occupancy Tax (TOT) rate and still be competitively positioned.

Vice Mayor Matarrese stated the plan is a staff-driven activity; Council just appointed the Mayor's Economic Development Advisory Panel (MEDAP) on June 7<sup>th</sup>; Council should give specific direction that the process be driven by expertise just gathered; he would like the plan to be a community-driven exercise.

In response to Vice Mayor Matarrese's inquiry, the Economic Development Manager stated staff plans to use an ad hoc committee and the MEDAP; after community input and direction from the Panel, the plan will go to the Planning Board, then back to Council.

Mayor Spencer inquired who will choose the members of the ad hoc committee, to which the Economic Development Manager responded staff would put together the committee.

In response to Mayor Spencer's inquiry, the Economic Development Manager stated one person from the Mayor's Advisory Panel would be on the ad hoc committee.

Councilmember Ezzy Ashcraft inquired why there would be only one person from MEDAP, to which the Economic Development Manager responded there was only one

volunteer.

Mayor Spencer stated that she is concerned \$150,000 is being requested and the MEDAP was just appointed and has not even met yet; she would like the MEDAP to be heavily involved and would like their feedback.

Councilmember Daysog recommended bringing the plan to the Panel to lay out the roles, then move it forward to the committee; suggested that at a meeting of Panel there be an opportunity to decide whether additional members want to be involved in the committee and which members want to participate in the whole process.

Mayor Spencer inquired whether staff would choose the members of the ad hoc committee, to which the Economic Development Manager responded in the affirmative.

Mayor Spencer inquired how many members would be on the committee, to which the Economic Development Manager responded there would be about seven members.

Mayor Spencer stated she is not supportive of staff choosing the members; Council should choose the members.

Vice Mayor Matarrese stated that he does not want to add another layer of committees; suggest the MEDAP oversee the project; stated Council just pulled the expertise together; the description of the panel includes advising and reporting to the Mayor and Council on policies and programs; the strategic plan is the ultimate in policies and programs; he would like the Advisory Panel to oversee the plan and come to Council with a recommendation.

Mayor Spencer stated Council wants the volunteer's expertise to be used.

Councilmember Ezzy Ashcraft suggested sending the item back for staff to provide more detail; stated that she does not object to staff suggesting the members, but would like to see the groups [ad hoc committee and MEDAP] work together.

Councilmember Oddie stated rather than have Council micromanage the minutia of the process, he would like to see the results.

Councilmember Daysog stated Council could still move forward and work with the process laid out by staff; the process should be flexible to allow individuals to participate and be tweaked.

Councilmember Ezzy Ashcraft stated that she would like consultants to provide Council with the names of the panel members.

The Economic Development Manager stated the consultants would attend the MEDAP meeting.

Vice Mayor Matarrese moved approval of sending the matter back to have staff describe role of the MEDAP and follow the intended use of the Panel in the description.

Mayor Spencer seconded the motion.

Councilmember Daysog stated that he would not support the motion; the process outlined could be moved forward and incorporate all the concerns.

On the call for the question, the motion failed by the following voice votes: Ayes: Vice Mayor Matarrese and Mayor Spencer – 2. Noes: Councilmembers Daysog, Ezzy Ashcraft and Oddie – 3

Councilmember Daysog moved approval of accepting staff's recommendation to start the process, with the amendment to invite Panel members to be further engaged during the process.

The City Manager suggested the motion include that MEDAP be involved in all steps of the process.

Councilmember Oddie seconded the motion.

Mayor Spencer stated that she would not support the motion; she is concerned about asking people to volunteer their time without utilizing their expertise.

Councilmember Oddie stated there was one volunteer.

Mayor Spencer stated that she cannot believe there was only one volunteer from the entire panel.

Councilmember Ashcraft stated that she would like to see a meeting of the entire Panel so the consultants can see the full breadth of expertise.

On the call for the question, the motion carried by the following voice votes: Ayes: Councilmembers Daysog, Ezzy Ashcraft and Oddie – 3. Noes: Vice Mayor Matarrese and Mayor Spencer – 2.

(\*16-331) Recommendation to Authorize the City Manager to Execute a Three-Month Contract Extension with CSG Consulting Services for Professional Plan Check Services. Accepted.

(\*16-332) Recommendation to Award a Contract in the Amount of \$625,083, Including Contingencies, to Harbor Bay Business Park Association (HBBPA) for the Landscape Maintenance Management Contract for the City of Alameda Island City Landscaping and Lighting District 84-2, Zone 5 - Harbor Bay Business Park. Accepted.

(\*16-333) Recommendation to Award a Contract in the Amount of \$4,565,426, Including

Contingencies, to Goodland Landscape Construction, Inc., for Estuary Park Site Improvements, Phase 1, No. P.W. 02-16-01 and to Amend Fiscal Year 2016-17 Project Budget. Accepted.

(\*16-334) Recommendation to Award a Professional Services Contract to Ninyo and Moore For Geotechnical Testing and Inspection Services in the Amount of \$100,379, including Contingency of \$4,780, for Estuary Park Site Improvements, Phase 1, No. P.W. 02-16-01. Accepted.

(\*16-335) Recommendation to Authorize the City Manager to Execute an Agreement with Macks Craic, Inc., (dba Mack5) in the Amount of \$157,815 for Construction Management Services for Estuary Park, Jean Sweeney Open Space Park and Krusi Park Recreation Center Replacement and Amend Fiscal Year 2016-17 Revenue Budget by \$20,000 for the Jean Sweeney Open Space Park CIP 91309. Accepted.

(16-336) Ordinance No. 3156, "Amending the Alameda Municipal Code by Adding Section 2.24 to Article II of Chapter II Related to Emergency Organization and Creating the City of Alameda Disaster Council as Required by State Law to Obtain Legal Recognition as an Official Emergency Organization." Finally passed.

Stated the Charter provides that the Mayor may take command and govern the City by proclamation in the event of an emergency; the ordinance conflicts with the Charter and gives the same power to the City Manager; urged clarification of the ordinance language: Paul Foreman, Alameda.

The City Attorney stated that she provided information to the Council; she disagrees with Mr. Foreman's interpretation of the ordinance and Charter; Section 6-1 of the Charter was adopted in 1937 prior to the Emergency Operations Plan (EOP); the City is in compliance with the Charter and there is no conflict.

Councilmember Daysog stated the purpose of a Disaster Council is to have a game plan in place before a disaster; Charter Section 6-1 allows the Council to designate that Mayor in charge of Police and Fire; the point of having a disaster plan is so Council would not have to pull the trigger of Section 6-1; he is in favor of Section 3-12 which gives the Council the ability to determine emergencies; the plan is being put in place now so that things are not done on the fly in the event of an emergency.

In response to Mayor Spencer's inquiry, the City Attorney stated the Disaster Council meetings are subject to the Sunshine Ordinance and are open and public.

Mayor Spencer stated that she is concerned because the change completely removes City Council representation on the Disaster Council; three of the Disaster Council members listed do not live on the Island, including the Police Chief, Fire Chief, and City Manager; all Council members live in Alameda; a letter from former Mayor Johnson recommends increasing the role of Council on the Disaster Council; the Mayor does not support eliminating Council's role.

Vice Mayor Matarrese stated the separation of operations from policy is maintained in the ordinance and does not usurp the ability of the Council to provide authority to the Mayor, or the Council's role in defining an emergency.

Vice Mayor Matarrese moved final passage of the ordinance.

Councilmember Ezzy Ashcraft seconded the motion.

Under discussion, Councilmember Ezzy Ashcraft stated, disaster planning and preparedness is now differently; the kinds of disasters communities have seen would not have been contemplated; responses to emergencies more sophisticated; the Disaster Council brings together staff and a variety of backgrounds in the community; the Disaster Council does the planning; encouraged residents to take Community Emergency Response Team (CERT) training.

Mayor Spencer stated Alameda is not following the State's model ordinance; the State-proposed ordinance has the Mayor as the Chair of the Disaster Council.

Councilmember Oddie stated he concurs with Councilmember Daysog's statements.

On the call for the question, the motion carried by the following voice vote: Ayes: Councilmembers Daysog, Ezzy Ashcraft, Matarrese and Oddie – 4. Noes: Mayor Spencer – 1.

## REGULAR AGENDA ITEMS

(16-337) Resolution No. 15183, "Calling an Election to be Consolidated with the City's Next General Municipal Election on November 8, 2016, and Submitting to the Voters at That Election a Measure, the Utility Modernization Act, That Proposes to Amend the City Charter by Amending Section 12-6 to Reaffirm Alameda Municipal Power's (AMP) Annual General Fund Transfer and Amending the Alameda Municipal Code by Repealing Chapter 3-59 and Replacing It with a Modernized Utility Users Tax Ordinance; Consider Authoring a Direct and Possible Rebuttal Argument; and Direct the City Attorney to Prepare the Impartial Analysis." Adopted.

The Assistant City Manager, Don Maynor, MuniServices, and the Finance Director gave a Power Point presentation.

The Assistant City Manager stated the 2015 Ginsburg vs. City of Alameda lawsuit claims the AMP transfer is a violation of Proposition 26 which was passed in 2010 and requires a vote of the people; almost all municipal utilities do some sort of transfer to their General Fund; staff believes Alameda is grandfathered and has included the transfer in the ballot measure as an abundance of caution.

Mayor Spencer inquired whether the municipal utilities have voter approval before doing

any transfers, to which the Assistant City Manager responded in the negative.

Mayor Spencer inquired whether there are any other cities that require voter approval before doing any transfers, to which the Assistant City Manager responded in the negative; continued the presentation.

Mayor Spencer inquired whether any of the ordinances he has seen included confirming the transfer, to which Mr. Maynor responded in the negative.

Councilmember Daysog inquired what portion of the \$8 million Utility Users Tax (UUT) revenue comes from cell phone users, to which the Finance Director responded 30% of the UUT revenue comes from telecommunication; continued the presentation.

Mayor Spencer inquired whether the Balanced Revenue Index (BRI) formula is unique to Alameda.

The Finance Director responded a previous City Manager negotiated with bargaining groups to develop the formula; continued the presentation.

The Assistant City Manager stated the City of Livermore is considering adopting the formula.

In response to Mayor Spencer's inquiry, the Finance Director stated the total increase is \$3.6 million.

The Assistant City Manager noted the expected \$1.5 million increase in the UUT would not affect the BRI.

Mayor Spencer stated the UUT was projected to decrease over time in the past; the pay increase was anticipated to be a negative number; inquired whether the increase would be a positive number with the change.

The Finance Director responded the affirmative, stated the pay increase is positive year over year; the increase will be seen in the five-year projection.

Councilmember Oddie inquired whether there is a BRI-free year in 2019, to which the Finance Director responded in the affirmative.

Councilmember Ezzy Ashcraft inquired whether there will be a significant increase in the amount of UUT collected.

The Finance Director responded it depends on cell phone use.

Mr. Maynard stated the amount is difficult to predict.



In response to Mayor Spencer's inquiry, the Finance Director stated the public safety contract is six years; continued the presentation.

Mayor Spencer inquired whether pension is determined by the pay of public safety employees, to which the Finance Director responded pension is determined by the salary amount.

Councilmember Daysog inquired whether Alameda is at risk of bankruptcy if the UUT does not pass.

The Finance Director responded that she is not certain she can say Alameda is at risk because the City has reserves.

The City Manager stated it is important to note that the balance is protecting services versus pensions; residents depend on emergency services; the Utility Modernization Act (UMA) preserves the existing revenue source to continue in the future.

Councilmember Ezzy Ashcraft stated hopefully no Council would take the City to bankruptcy; Council is being prudent and looking to the future.

Councilmember Matarrese moved [adoption of the resolution] calling an election to be consolidated with the City's next General Municipal Election on November 8, 2016, and submitting to the voters at that Election a Measure, the Utility Modernization Act, that proposes to amend the City Charter by amending Section 12-6 to reaffirm Alameda Municipal Power's annual General Fund transfer and amending the Alameda Municipal Code by repealing Chapter 3-59 and replacing it with a modernized Utility Users Tax ordinance; Consider Authoring a Direct and Possible Rebuttal Argument; and Directing the City Attorney to Prepare the Impartial Analysis.

Councilmember Daysog requested to bifurcate the motion to separate the UUT Modernization from the General Fund transfer.

Mayor Spencer concurred with Councilmember Daysog; stated that she will support the transfer but not the increase.

The City Clerk stated the two issues are combined in one resolution and one act; they cannot be separated.

Councilmember Ezzy Ashcraft seconded the motion.

The City Attorney clarified that the act has two components which cannot be separated.

Mayor Spencer stated that she will not be supporting the motion in its entirety; Alameda is exercising an abundance of caution; other cities have not put anything on the ballot; she is concerned that the BRI formula may result in higher tax and an increase in pay, rather than expanding services, which she does not support

Councilmember Daysog made a substitute motion to bifurcate the two components.

Mayor Spencer seconded the substitute motion which failed by the following voice votes: Ayes: Councilmember Daysog and Mayor Spencer – 2. Noes: Councilmembers Ezzy Ashcraft, Matarrese and Oddie – 3.

Councilmember Oddie stated modernizing the UUT is an important step Council must take.

Councilmember Daysog stated he would support the motion; it is important to have the transfer; the BRI formula is not sustainable and should be changed.

On the call for the question, the motion carried by the following voice vote: Ayes: Councilmembers Daysog, Ezzy Ashcraft, Matarrese and Oddie – 4. Noes: Mayor Spencer – 1.

In response to the City Attorney's inquiry regarding authoring an argument, Councilmember Ezzy Ashcraft stated she would delegate it to staff.

Vice Mayor Matarrese moved approval of assigning two Councilmembers to author a [argument and] rebuttal with staff and have Council approve.

Councilmember Daysog stated there are two arguments that need signatures.

The City Clerk clarified that the direct argument is due July 19<sup>th</sup> and the rebuttal would be due July 28<sup>th</sup>.

Tom Clifford, Clifford Moss, stated that he recommends a subcommittee vet and decide who will sign the argument, along with community members.

Mayor Spencer stated Vice Mayor Matarrese and Councilmember Daysog could be the subcommittee.

Councilmember Ezzy Ashcraft noted the Council is also directing the City Attorney to provide the impartial analysis.

The motion carried by consensus.

(16-338) Recommendation to Approve the Jean Sweeney Open Space Park Design Development Plan.

Vice Mayor Matarrese recused himself and left the dais.

The Recreation and Parks Director gave a Power Point presentation.

In response to Councilmember Ezzy Ashcraft's inquiry, the Recreation and Parks Director stated the natural play area would be Americans with Disabilities Act (ADA) accessible; continued the presentation.

Mayor Spencer inquired whether there will be an Environmental Impact Report (EIR).

The Recreation and Parks Director responded an initial study was done and Council approved a Mitigated Negative Declaration to meet the California Environmental Quality Act (CEQA) requirements; the area would be constantly checked to make sure the habitat is protected as the project moves forward.

Mayor Spencer inquired about the bicycle trail gap on Atlantic Avenue between Constitution Avenue and Webster Street.

The Recreation and Parks Director responded staff has taken a draft design to the Transportation Commission; final drawings were intentionally delayed because the Housing Authority applied for a grant to fund the Midblock Crossing for seniors at Independence Plaza; the goal is to create a signalized crosswalk for safe crossing; Public Works has set aside \$200,000 to create a bikeway along that gap.

Councilmember Ezzy Ashcraft inquired what is the estimated amount of funding needed, to which the Recreation and Parks Director responded approximately \$165,000.

In response to Councilmember Ezzy Ashcraft's inquiry, the Recreation and Parks Director stated Bike Walk Alameda approved the plans for the bike trail; continued the presentation.

In response to Councilmember Daysog's inquiry, the Recreation and Parks Director stated staff would operate from the park maintenance building which would be built on the Sherman Street side.

Councilmember Daysog inquired whether a resident community center is being contemplated, to which the Recreation and Parks Director responded in the negative; stated the Council approved the park master plan which provides for all open space.

Councilmember Daysog inquired whether Lookout Point is recreational or utility, to which the Recreation and Parks Director responded Lookout Point is intended as a play component.

Councilmember Ezzy Ashcraft inquired whether the park is able to be closed and how it will be enforced.

The Recreation and Parks Director responded only Longfellow Park is locked; stated enforcement would be the same as other parks, which includes patrol by neighbors, eyes on the street, and Police.

In response to Councilmember Ezzy Ashcraft's inquiry, the Recreation and Parks Director stated neighbors have been heavily involved in the discussions regarding the development of the park.

In response to Councilmember Ezzy Ashcraft's inquiry, the Recreation and Parks Director stated she has not gone door to door to the neighbors whose backyards are right along the park; she has talked to some neighbors, who overall are excited; the biggest concern is no amplified sound and parking in the neighborhoods.

Councilmember Ezzy Ashcraft inquired whether there would be any shared parking with business park, to which the Recreation and Parks Director responded in the negative.

Councilmember Oddie stated that he hopes the tower at Lookout Point could be considered in the future as something where people could admire the beauty of the park.

Expressed his support for the plan, which is Jean's dream; outlined the history of acquiring the property: Jim Sweeney, Jean Sweeney Open Space Park Fund.

Urged everyone to review information on [SweeneyOpenSpace.org](http://SweeneyOpenSpace.org): Dorothy Freeman, Jean Sweeney Open Space Park Fund.

Expressed concern over the loss of Bay Eagle garden; stated that she likes the Jean Sweeney plan, but would like to see both gardens: Jane Jackson, Bay Eagle Community Garden.

Stated the plan is a chance to have a regional jewel and an opportunity to reinvigorate knowledge of growing vegetables; gave an overview of the foragers' garden idea: Marla Koss, Alameda Backyard Growers.

Stated a lot of consideration has gone into the detail and design of the park; urged Council to approve the design and move forward: Bill Delaney, Recreation and Park Commission.

Councilmember Ezzy Ashcraft commended the Recreation and Parks Director and Park Designer Kristoffer Köster; the 27 acres will be turned into outdoor space.

Councilmember Oddie stated iconic parks define cities; Jean Sweeney Park will be Alameda's iconic park; the presentation was amazing and he will remember voting for the park as he does for Alameda Point; his promise to Jean's legacy is to do whatever he can to pay for the maintenance of the park.

Councilmember Daysog thanked all the people involved; stated that he appreciates the commitment of residents and the efforts of staff; he is excited to break ground on the park.

Mayor Spencer thanked the Sweeneys, staff, and Friends of Jean Sweeney Park; stated she that appreciates Jim Sweeney serving as Grand Marshall of the 4<sup>th</sup> of July Parade.

Councilmember Ezzy Ashcraft moved approval of the Jean Sweeney Open Space Park Design Development Plan.

Councilmember Oddie seconded the motion, which carried by unanimous voice vote – 4. [Absent: Vice Mayor Matarrese – 1.]

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Mayor Spencer called a recess at 9:53 p.m. and reconvened the meeting at 10:01 p.m.

(16-339) Mayor Spencer stated that she would like to call the rent item [paragraph no. 16-340] next.

In response to Mayor Spencer's inquiry, the City Clerk stated the two remaining lease ordinances should go quickly; the ordinances need to be introduced tonight in order to be finally passed at the July 19<sup>th</sup> meeting.

Mayor Spencer stated that she would like to move the rent item before the two leases.

Councilmember Ezzy Ashcraft stated she would like to keep the agenda order since the two leases could move expeditiously.

Mayor Spencer inquired whether there was objection to calling the rent item first.

Vice Mayor Matarrese stated he would agree to calling the rent item first if there was a commitment to go past 11:00 p.m. in order to address the two lease items.

Councilmember Ezzy Ashcraft stated she is willing to go past 11:00 p.m. for the rent item and two leases, but not for the Council referrals; Council is not serving the public if meetings go late.

Councilmember Oddie stated the lease items would have already been finished by now had the items been called; he cannot commit to going past 11:00 p.m. at this point.

By consensus, approval of calling the rent item [paragraph no. 16-340] carried by the following voice vote: Ayes: Councilmembers Daysog, Ezzy Ashcraft, Matarrese and Mayor Spencer – 4. Abstention: Councilmember Oddie – 1.

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(16-340) Recommendation to Accept Comparison of (1) the City's Rent Review, Rent Stabilization and Limitations on Eviction Ordinance (City's Ordinance), (2) the Proposed City of Alameda Charter Amendment to Establish Rent Control, a Rent Control Board,

and Regulate Termination of Tenancies (Renters' Initiative), and (3) the Proposed City of Alameda Charter Amendment to Prohibit the City from Imposing Restrictions on the Price for which Real Property May Be Rented or Sold (Landlords' Initiative); and

(16-340A) Provide Direction to Staff Regarding the November 8, 2016 Ballot: (1) Arguments Relating to the Proposed Renters' Initiative Should that Renters' Initiative Qualify for the Ballot; and (2) Whether the City Should Place City's Ordinance on the Ballot as a Proposed Charter Amendment.

The Community Development Director and John Bliss, SCI Consulting, gave a Power Point presentation.

Councilmember Daysog inquired whether the five cases heard by the Rent Review Advisory Committee (RRAC) means that the landlord and tenant came to an agreement through the RRAC process, and therefore all 21 cases of rent increases have been resolved, to which the Community Development Director responded in the affirmative.

In response to Councilmember Ezzy Ashcraft's inquiry, the Community Development Director stated the RRAC cases reflect the months of April, May, and June; July's RRAC meeting is tomorrow night, July 6<sup>th</sup>.

Mayor Spencer inquired how many cases will be heard at tomorrow's RRAC meeting, to which the Community Development Director responded five cases are schedule, but the numbers may have been reduced as cases tend to be resolved prior to the meeting.

Councilmember Oddie inquired how many of the 21 cases could have been eligible for binding arbitration, to which the Community Development Director she does not have the answer but would find out and inform Council.

Mr. Bliss continued the presentation.

In response to Mayor Spencer's inquiry, the Community Development Director stated Council affirmatively determined that the Housing Authority-owned units and Section 8 units would be exempt from rent control; the renter's initiative language is unclear whether Section 8 units would be exempt from rent control.

In response to Councilmember Ezzy Ashcraft's inquiry, the Community Development Director stated the landlord's initiative talks specifically about the City's inclusionary zoning and regulatory agreements that may be in place for non-profit housing; it does not directly address Section 8 voucher holders in the private market.

In response to Mayor Spencer's inquiry, the Assistant City Attorney stated staff could not say to Council that Section 8 housing is categorically exempt given the uncertainty of the language in the renter's initiative which defines a controlled rental unit.

Mayor Spencer requested staff to determine whether rent control would apply to Section 8 voucher holders prior to the election.

The Assistant City Attorney stated staff could provide an opinion on the matter, but cannot state how a court would make the determination.

Mayor Spencer stated she would like to have an educated opinion on the issue.

Councilmember Ezzy Ashcraft stated that she would want the drafters of the legislation to explain their intent; the questions should not be asked of the City Attorney.

The City Attorney concurred with Councilmember Ezzy Ashcraft; stated the City does not know the answer to whether Section 8 would be exempt; if the initiative passes, there are potential questions that need to be determined through court.

Mayor Spencer inquired whether or not the Housing Authority could weigh in on the Section 8 issue.

Vice Mayor Matarrese stated the wording is not going to change.

The Community Development Director noted Housing Authority staff initially raised the concern about the ambiguity of the language.

Mayor Spencer stated that she hopes to hear back from the Housing Authority prior to the election.

The City Clerk outlined the options of the initiatives being placed on the November ballot; stated the landlord's initiative may not make it in time for the July 19<sup>th</sup> meeting.

Mayor Spencer inquired what would happen if the landlord's initiative does not make it by the July 19<sup>th</sup> meeting.

The City Clerk responded it would mean two potentially competing measures would end up on two separate elections and the City would have to deal with it later; the tenant's initiative could potentially go on the November ballot, and the landlord initiative would be in 2018.

Councilmember Daysog stated the only reason why the landlord initiative would not make it is because Council does not meet in August; the choice to not meet in August affects deliberating on the landlord initiative; if Council decides to meet in August, the landlord's initiative could go on the November 2016 ballot.

The City Clerk stated the cut-off date for initiatives to be submitted to the County is August 12<sup>th</sup>.

In response to Councilmember Oddie's inquiry, the City Clerk stated a decision on arguments does not have to be done today; the matter would come back to Council on July 19<sup>th</sup>.

Councilmember Ezzy Ashcraft stated everyone knew the rules were in place regarding the Council going dark in August; Council would have to decide at another time whether or not to move the "finish line."

In response to Councilmember Daysog's inquiry, the City Clerk stated July 19<sup>th</sup> is the last regularly scheduled Council meeting; the Certificate of Sufficiency is required to go to Council at a regular meeting.

Mayor Spencer inquired whether Council could set a regular meeting in August, to which the City Clerk responded in the affirmative; stated the Council could amend the previously adopted resolution setting regular meetings.

The City Attorney stated amending the meeting-setting resolution is not before the Council tonight.

In response to Mayor Spencer's inquiry, the City Attorney stated amending the resolution to set regular meetings would have to be agendaized for July 19<sup>th</sup>.

Mayor Spencer inquired whether the resolution amendment could be added to the July 19<sup>th</sup> agenda, to which the City Clerk responded in the affirmative.

The Assistant City Attorney stated Council has the discretion to set the next election in March 2017 if the initiative does not make it to Council at a regular meeting before the August 12<sup>th</sup> deadline.

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(16-341) Mayor Spencer stated a motion is needed to consider the remaining items, which are the Kai Concepts lease [paragraph no. 16-343], the La Costa Pacific lease [paragraph no. 16-344], and the three referrals.

Councilmember Daysog moved approval [of considering the remaining items].

Mayor Spencer inquired whether the motion is for the two leases or the two leases and the referral.

Councilmember Daysog stated that he would defer to the Council's pleasure.

Councilmember Oddie, Ezzy Ashcraft and Mayor Spencer expressed support for only hearing the two leases.

Councilmember Daysog stated his motion would be to consider the two leases.



Vice Mayor Matarrese second the motion, which carried by unanimous voice vote – 5.

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Urged Council to allow voters to vote on the two initiatives and not add the City's ordinance: Jay Justin Julio Feria, Filipino Advocates for Justice.

Expressed concern that the two ballot initiatives and Charter amendment will confuse voters; urged the renters initiative be placed on the ballot: Erin Subido, Filipino Advocates for Justice.

Stated profit margins are valued more than the community; urged support for renters: Christina Rey, Filipino Advocates for Justice.

Stated the signature gatherers for the renters initiative worked very hard to submit their petition on time; she does not believe special privilege should be offered to those who were not as timely: Bunny Duncan, Alameda Renters Coalition (ARC).

Expressed her disappointment in an obvious bias against renters; stated the City's ordinance is failing; Council continues to deliberate the issue very late when supporters have to leave and are unable to voice their concerns; urged Council to step up and protect their constituents, more than half of whom are renters: Catherine Pauling, ARC.

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(16-342) Mayor Spencer stated a motion is needed to continue the meeting past 11:00 p.m.

Councilmember Ezzy Ashcraft moved approval [of continuing the meeting].

Vice Mayor Matarrese seconded the motion, which carried by unanimous voice vote – 5.

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Stated she is a professional and is struggling with rent issues which affect everyone, not just the underprivileged; urged Council to consider what is right and to support rent control: to Julia Norris, Alameda.

Stated she collected signatures and found that a lot of tenants are afraid of their landlords; urged Council to make a reasonable decision to help Alameda tenants: Gloria Rios, ARC.

Stated having clear laws creates less litigation; he is concerned about landlords receiving a 7.9% raise; Alameda renters would not be able to survive: Eric Strimling, ARC.

Stated residents cheered for the ARC truck in the Fourth of July parade; people are confused and think the Council already enacted rent control via the City ordinance:

putting the City ordinance on the ballot will be a huge mistake: Bill Rowen, ARC.

Stated the only way to protect Alameda renters and the community is to tie increases to 65% of CPI and end no-cause evictions; urged Council to keep Alameda residents in their homes: Brad Hirn, ARC.

Expressed concern that generations of Alamedans can no longer afford to live in Alameda; urged Council to do something before the next generation of residents are people who have never been to Alameda: Catlin Grey, Alameda.

Expressed support for the renters initiative; stated her family moved to Alameda because of the community and the public schools; urged Council to do the right thing: Patricia Grey, Alameda.

In response to Mayor Spencer's inquiry, the City Manager stated Council is being presented a comparison of two initiatives that the Council has no control over amending or selecting; the issue is purely about how many signatures are verified by the County and whether or not the initiatives will come on July 19<sup>th</sup> for the Council to automatically put on the ballot; the rent stabilization ordinance will continue to stand until the election changes it; staff is giving an objective overview and providing education to the public.

Mayor Spencer inquired what is the purpose of accepting the comparison, to which the City Manager responded there is nothing to accept or change; stated the comparison is for informational purposes only; the chart could go on the City website for public education and for staff to clarify the differences.

Councilmember Ezzy Ashcraft stated that she regrets the misunderstanding about the suggestion of placing the City's ordinance on the ballot; she understands staff was trying to show the whole spectrum of possibilities, but it counteracts the important element of flexibility Council built into the ordinance.

Vice Mayor Matarrese moved approval of accepting the presentation as a summary and the detailed attachment.

Mayor Spencer seconded the motion.

Under discussion, Councilmember Daysog stated the recommendation goes beyond just accepting the presentation; staff wants Council to make a decision; the key component of the City ordinance is preventing excessive rent increases; the presentation is of value and the ordinance seeks the necessary balance.

Councilmember Oddie stated that he has no problem placing the comparison on the website as information, but feels it is premature as neither initiative has qualified yet; people are not getting details, only highlights, which causes confusion and misinformation.

Councilmember Ezzy Ashcraft concurred with Councilmember Oddie; stated Council will know this week if the renters initiative qualifies; placing information on the website before knowing what will be on the ballot invites confusion; offered a friendly amendment to the motion: the information would be placed on the website at such time when the initiatives qualify.

Vice Mayor Matarrese accepted the amendment to the motion.

Councilmember Daysog seconded the amended motion, which carried by unanimous voice vote - 5.

Vice Mayor Matarrese stated that he will not support the Council being involved in the arguments for or against; he does not support putting the City ordinance on the ballot as a Charter amendment.

Councilmember Oddie stated that he would not be in favor of Council weighing in either way; it is premature.

Councilmember Daysog stated it is important to weigh in on ballot initiatives whose repercussions could be as profound as the City of Berkeley rent control; it is the responsibility of the Council to express to the tenants, landlords, and undecided Alamedans where it stands; the issue is too profound to not speak out.

Councilmember Ezzy Ashcraft stated it is important for Council to stick to its word; the provision in the ordinance allows for annual review; she respects the public process, but putting the measure as a Charter amendment on the ballot would be a mistake; she would not support it.

Mayor Spencer stated that she would like a discussion of arguments to come back on July 19<sup>th</sup>; she does not plan to support the renters initiative; she supports the Council ordinance.

Councilmember Oddie stated if the initiatives qualify, Council could make a determination on July 19<sup>th</sup>.

The City Manager stated two Councilmembers could agree to draft an argument to be brought back on July 19<sup>th</sup>; the problem is there would be a deadline issue.

The City Clerk stated Council would be forced to delegate a subcommittee because the argument would be due prior to another meeting which would be required for the entire Council to vote on the argument.

Councilmember Daysog and Mayor Spencer stated they would serve on the subcommittee to draft an argument.

Mayor Spencer stated she would like to have the option to be able to take a position.

Councilmember Ezzy Ashcraft stated that she would not support Councilmember Daysog writing the argument since he has his own petition; handing the argument to staff would be better.

In response to Mayor Spencer's inquiry, the City Clerk stated Council would either be forced to make a decision at the July 19<sup>th</sup> meeting and would be locked-in to designating two people, or calling a special meeting in seven days.

Councilmember Ezzy Ashcraft stated that she would prefer to delegate to staff.

Councilmember Oddie inquired whether Council is deciding to oppose the tenant initiative.

The City Clerk responded an argument has to be for or against.

Vice Mayor Matarrese moved approval of Council not taking a position, that there be no argument.

Councilmember Oddie seconded the motion.

Under discussion, the Assistant City Attorney stated Council does not have to decide tonight whether or not to make an argument; staff was just giving Council an opportunity to think about what to do if the initiatives qualify to be prepared with a decision on July 19<sup>th</sup>.

Mayor Spencer stated that she would oppose the Council not taking a position; she does not support the renters initiative and supports the staff ordinance; too much time and work went into the ordinance.

Councilmember Ezzy Ashcraft stated that she believes in what Council did, even though both sides were unhappy with the ordinance; there were valuable truths on both sides; she is willing to let the City ordinance stand on its own two feet; she concurs with Vice Mayor Matarrese and does not want to make an argument for or against the renters initiative.

Councilmember Daysog stated the City ordinance is a reasonable approach to the excessive rent increases; should any of the initiatives gather enough signatures, Council needs to stand tall and proud and support the City ordinance; if Council needs to stand against an initiative, so be it.

On the call for the question, the motion carried by the following voice votes: Ayes: Councilmembers Ezzy Ashcraft, Matarrese and Oddie – 3. Noes: Councilmember Daysog and Mayor Spencer – 2.

Vice Mayor Matarrese moved approval of not putting the city ordinance on the ballot.

Councilmember Daysog seconded the motion.

Mayor Spencer stated that she supports putting the City ordinance on the ballot with revisions and keeping the sunset date; she is concerned the other initiatives would be on the ballot and the City's would not; there is confusion; citizens think the Council ordinance just dies if there is a tenant measure and a landlord measure.

Councilmember Oddie stated that he is not ready to make a decision; he does not know if either initiative will qualify; one of the strengths of the City ordinance is the opportunity to fix it when it is broken; the two competing initiatives make doing so difficult; he does not think staff time should be spent on something that may be moot in three months.

Mayor Spencer inquired whether the matter could come back on July 19<sup>th</sup>, to which the City Attorney responded in the affirmative.

Councilmember Ezzy Ashcraft stated two initiatives may end up on the ballot and adding a third is not necessary.

In response to Councilmember Daysog's inquiry, the City Clerk stated the random sample check of signatures on the landlord initiative will be done by July 27<sup>th</sup>.

Councilmember Daysog inquired whether Council would make a decision on July 19<sup>th</sup> regarding having a regular meeting in August, to which Mayor Spencer responded in the affirmative.

Councilmember Daysog stated no action regarding the landlord initiative is needed at this point.

Vice Mayor Matarrese reiterated his motion to not place the City ordinance on the ballot.

Councilmember Daysog withdrew his second.

Councilmember Ezzy Ashcraft seconded the motion which failed by the following voice votes: Ayes: Councilmembers Ezzy Ashcraft and Matarrese – 2. Noes: Councilmember Daysog and Mayor Spencer – 2. Abstention: Councilmember Oddie – 1.

Councilmember Oddie moved approval of discussing the City measure on July 19<sup>th</sup>.

Councilmember Daysog seconded the motion which carried by the following voice votes: Ayes: Councilmembers Daysog, Oddie and Mayor Spencer – 3. Noes: Councilmembers Ezzy Ashcraft and Matarrese – 2.

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Mayor Spencer called a recess at 11:49 p.m. and reconvened the meeting at 11:51 p.m.

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(16-343) Introduction of Ordinance Approving a Lease and Authorizing the City Manager to Execute Documents Necessary to Implement the Terms of a Three-Year Lease with Kai Concepts, LLC, a California limited liability company, for Building 168, Suite 300, located at 1651 Viking Street. [In accordance with the California Environmental Quality Act (CEQA), this project is Categorically Exempt under the CEQA Guidelines Section 15301(c) - Existing Facilities.] Introduced.

The Assistant Community Development Director gave a brief presentation.

Vice Mayor Matarrese moved introduction of the ordinance.

Councilmember Ezzy Ashcraft seconded the motion, which carried by unanimous voice vote – 5.

(16-344) Introduction of Ordinance Approving a Lease and Authorizing the City Manager to Execute Documents Necessary to Implement the Terms of a Ten Year Lease with One Five-Year Extension Option with La Costa Pacifica Inc. dba Urban Legend Cellars (ULC) for Building 25, Unit 300 Located at 1951 Monarch Street at Alameda Point. [In accordance with the California Environmental Quality Act (CEQA), this project is Categorically Exempt under the CEQA Guidelines Section 15301(c) - Existing Facilities]. [Requires Four Affirmative Votes].

The Assistant Community Development Director gave a brief presentation.

Mayor Spencer stated that she would support the lease.

Vice Mayor Matarrese stated the proximity of the client would help accelerate recognition that the area will be a future park; the 15-year lease is worth it; he is ready to move forward.

Councilmember Ezzy Ashcraft stated ULC is investing a lot of capital to bring the space to the necessary specifications; meeting ULC half way to amortize their investment is a good way to attract businesses; she would be happy to have the business at Alameda Point.

Councilmember Oddie moved introduction of the ordinance.

Vice Mayor Matarrese seconded the motion, which carried by unanimous voice vote – 5.

(16-345) Introduction of Ordinance Approving a First Amendment to a Lease and Authorizing the City Manager to Execute Documents Necessary to Implement the Terms of a First Amendment to the Lease Agreement with Pacific Automated LLC, a California Limited Liability Company, dba Brix Beverage (Pacific Automated, LLC) to Include a Portion of Building 25 (Unit 100), a Small Outbuilding Known as Building 491,

and Additional Parking Common Areas as Part of the Original Premises at 1951 Monarch Street at Alameda Point. [In accordance with the California Environmental Quality Act (CEQA), this project is Categorically Exempt under the CEQA Guidelines Section 15301(c) - Existing Facilities.] Not heard.

(16-346) Introduction of Ordinance Amending the Alameda Municipal Code by Amending Chapter 30 (Zoning Ordinance) to Facilitate the City's Ability to Disperse Public Art Funds, and Amend the Fiscal Year 2016-17 Public Art Fund Budget by \$200,000 and Capital Improvement Projects Fund Budget by \$100,000. [The Proposed Amendments are Categorically Exempt from the Requirements of the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines Section 15305, Minor Alterations to Land Use Limitations.] Not heard.

#### CITY MANAGER COMMUNICATIONS

(16-347) The City Manager thanked Assemblymember Bonta for sponsoring Assembly Bill AB366 to enable the City to put a potential half-cent sales tax on the ballot.

#### ORAL COMMUNICATIONS, NON-AGENDA

None.

#### COUNCIL REFERRALS

(16-348) Consider Directing the City Manager to Initiate and Begin the Process with the Planning Board to Propose Revisions to the Ordinance and Code Sections Defining Alameda's Inclusionary Housing for Residential Development. (Vice Mayor Matarrese) Not heard.

(16-349) Consider Directing the City Manager to Schedule a Priority Setting Work Session. (Mayor Spencer) Not heard.

(16-350) Consider Directing the City Manager to Immediately Hold a City Council Workshop on the Final Phase of the Bayport-Alameda Landing Disposition and Development Agreement (DDA)\Development Plan. (Councilmember Daysog) Not heard.

#### COUNCIL COMMUNICATIONS

(16-351) Consideration of Mayor's Nominations for Appointment to the Civil Service Board and Golf Commission.

Mayor Spencer nominated Troy Hosmer to the Civil Service Board and Ron Taylor to the Golf Commission.

(16-352) Councilmember Ezzy Ashcraft announced that she attended the Board of

Supervisors meeting; the Board voted to place affordable housing bond on the November ballot.

(16-353) Councilmember Oddie requested the Council adjourn the meeting in Robert Follrath's memory.

#### ADJOURNMENT

(16-354) There being no further business, Mayor Spencer adjourned the meeting at 12:04 a.m. in memory of Robert Follrath.

Respectfully submitted,

Lara Weisiger  
City Clerk

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