

MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
TUESDAY- -SEPTEMBER 5, 2017- -5:30 P.M.

Mayor Spencer convened the meeting at 5:33 p.m.

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

[Note: Councilmember Ezzy Ashcraft arrived at 5:35 p.m.]

Absent: None.

ORAL COMMUNICATIONS

None.

REGULAR AGENDA ITEMS

(17-493) Workshop on a Proposed Ordinance Amending the Alameda Municipal Code by Repealing Section 30-5.15 (Medical Dispensaries and Cultivation) of the Alameda Municipal Code in its Entirety; Adding a New Article XVI (Cannabis Businesses); Adding a New Section 30-10 (Cannabis); and Amending Sections 24-11 (Smoking Prohibitions in Places of Employment and Unenclosed Public Places) and 24-12 (Smoking Prohibitions in Housing).

The City Manager and the Community Development Director made introductory remarks.

Councilmember Matarrese inquired whether Council would not be voting on the ordinance tonight.

The City Manager responded in the affirmative; stated the purpose of the workshop is for Council to provide direction.

Councilmember Ezzy Ashcraft inquired whether the workshop is a first reading of the ordinance, to which the City Manager responded in the negative.

Neil Hall, SCI Consulting Group, and the Community Development Director gave a Power Point presentation.

Councilmember Ezzy Ashcraft inquired what vertical integration means.

Mr. Hall responded vertical integration means a cultivator can also be a manufacturer and can hold a license for everything but testing.

Councilmember Ezzy Ashcraft inquired whether testing is a standalone license, to which

Mr. Hall responded in the affirmative.

Councilmember Ezzy Ashcraft inquired why there is a 600 foot buffer.

Mr. Hall responded the 600 feet is the State regulation and the minimum that is required in other cities.

Councilmember Ezzy Ashcraft inquired whether the 600 feet regulation is only from a school or daycare center, and does not include public parks.

Mr. Hall responded the regulation has also been used for public parks; stated including parks is at the preference of the city.

Councilmember Ezzy Ashcraft how the City would know how much time a license would take when doing the license for the first time.

Mr. Hall responded there is a learning curve with the industry; stated there is no real way to know the time but an estimate is given.

Councilmember Oddie inquired whether vaping is included in the smoking ordinance.

The Community Development Director responded in the negative; stated part of the draft ordinance before Council would update the smoking ordinance to prohibit cannabis smoking.

Councilmember Oddie inquired whether tobacco vaping is in the ordinance.

The Community Development Director responded tobacco vaping was not around when the smoking ordinance was adopted.

Councilmember Oddie inquired what is the significance of the January 1<sup>st</sup> deadline.

The Community Development Director responded January 2<sup>nd</sup> is the date the State will start issuing temporary licenses; stated a local jurisdiction needs to affirmatively regulate the industry or ban it outright ahead of the January 2<sup>nd</sup> deadline; if the City does not have regulations or a ban, the State will presume the uses are permitted solely based on the State requirements; if there is no consensus by the deadline, staff would recommend banning cannabis activity to allow time to work through the regulatory framework.

Councilmember Oddie inquired whether Alameda has a ban on medicinal use but nothing in place for recreational use.

The Community Development Director responded in the affirmative; stated the ordinance needs updating.

Councilmember Oddie inquired how local ownership could be encouraged.

Mr. Hall responded there are programs for local hiring.

Councilmember Oddie inquired whether the 600 foot regulation can be changed.

Mr. Hall responded there is conflict regarding the regulation, which states both a minimum of 600 feet and 600 feet or whatever a local jurisdiction determines; stated he is unsure how the matter will be reconciled.

The Community Development Director continued the presentation.

Mayor Spencer inquired whether dispensaries can be both medical and recreational under State Law.

The Community Development Director responded currently the regulations do not allow for co-locations; stated staff is inquiring whether or not Council would like to allow co-locations.

Mayor Spencer inquired whether the City is risking forfeiture of the building if a cannabis business is on City owned land.

The Community Development Director responded there is risk of forfeiture of the building or land; stated it is unchartered territory; staff would recommend reviewing how things evolve at the federal level.

Mayor Spencer inquired whether any cities allow cannabis businesses on city owned land.

The Community Development Director responded there was a plant in Coalinga, but it was sold; stated a unique attribute of Alameda is the former Navy Base is still owned by the federal government; cannabis is illegal at the federal level; continued the presentation.

Mayor Spencer inquired what is the definition of a youth center.

The Community Development Director responded the State definition is contained in the ordinance; continued the presentation.

Councilmember Ezzy Ashcraft inquired whether the Council could include a larger radius to include parks as a restricted area.

The Community Development Director responded in the affirmative; stated the ordinance contains the State minimums.

Mayor Spencer inquired whether the map provided in the exhibit reflects the State

minimum, to which the Community Development Director responded in the affirmative.

Vice Mayor Vella inquired whether staff reviewed other maps, which include parks or a distance exceeding 600 square feet.

The Community Development Director responded a map was done for a 1,000 square foot radius.

Mayor Spencer inquired what is the difference is between the 600 and 1,000 square foot maps.

The Community Development Director responded a there are less locations on Park Street and Webster Street and Harbor Bay Landing.

Mayor Spencer inquired whether there are any sites at Harbor Bay, to which the Community Development Director responded in the affirmative.

Councilmember Oddie inquired if the red outline on the 1,000 square foot map are the sites show the changes from 600 to 1,000 square feet, to which the Community Development Director responded in the affirmative.

Vice Mayor Vella inquired how staff determined which schools were included on the map.

The Community Development Director responded all of the kindergarten though twelfth grade public, private and charter schools are included in the map; stated if staff missed a school, it can be added.

Vice Mayor Vella inquired how is the square footage measured.

The Community Development Director responded door to door; continued the presentation.

Mayor Spencer inquired whether there is a map that includes the parks in Alameda.

The Community Development Director responded in the negative.

Vice Mayor Vella inquired whether staff considered parks.

The Community Development Director responded in the negative; stated staff took into account the States definition of sensitive use; parks are not considered sensitive use under State law; continued the presentation.

Mayor Spencer inquired whether the square foot buffer or parks issues should return to the Planning Board.

The Community Development Director responded the Planning Board will have to conduct more in depth work regarding the zoning districts.

Mayor Spencer inquired whether the matter would return to Council after the Planning Board, to which the Community Development Director responded in the affirmative.

Councilmember Matarrese inquired whether inserting a Planning Board meeting will affect the timeline and what the timeline would be.

The Community Development Director responded if direction is given to go to the Planning Board, the Board would hear the matter in October.

Mayor Spencer inquired whether there is a possibility to have the questions posed to Council, to which the Community Development Director responded in the affirmative; continued the presentation.

Councilmember Ezzy Ashcraft inquired if Council were to approve only one type of cannabis business now, could the ordinance be revised at a later date, to which the Community Development Director responded in the affirmative, continued the presentation.

Mayor Spencer inquired how many people participated in the survey.

The City Manager responded 600 people; stated the survey is a random sample of voters.

Mayor Spencer inquired how the voters are chosen.

The City Manager responded the random sample is selected from registered voters; stated a quality of life survey is done every four years and four questions were added at the end of the existing survey.

Mayor Spencer inquired whether the four questions were the only ones asked regarding the topic, to which the City Manager responded in the affirmative.

The Community Development Director continued the presentation.

Councilmember Matarrese inquired whether other work would not be done because staff is busy hurrying to get the cannabis issues resolved.

Mayor Spencer requested clarification whether Councilmember Matarrese is referring to other City work Councilmember Matarrese responded in the affirmative.

The City Manager responded in the affirmative to Councilmember Matarrese's inquiry.

Councilmember Matarrese stated the Planning Department, City Manager and staff will

be rushing to a specific date; the rush to get something in place will cause other items to be delayed.

Expressed support for establishing marijuana businesses: Debra Mendoza, Alameda.

Urged Council not to overregulate or over tax the industry; stated cannabis is not toxic: Mike Rafton, Alameda.

Discussed how the revenue can help other programs in Alameda, such as Meals on Wheels: Sharon Golden, Alameda Island Cannabis Community (AICC).

Discussed workers, including local hires, health, safety, benefits, and unions: Augustus Rodriguez, International Longshore and Warehouse Union.

Gave a Power Point presentation; discussed the benefits of cannabis: Rich Mozkowitz, Alameda for Safe Cannabis Access Group.

Urged adopting local preference regulations: Linda Ashbury, West Alameda Business Association.

Outlined his proposed business plan; urged Council to reconsider the proposed ban on onsite consumption: Mark Humburg, Alameda.

Expressed opposition to the regulations; suggested gathering input: Don Sherat, Alameda.

Expressed support for the ordinance; stated cannabis use for palliative reasons is on the rise: Gretchen Lipow, Alameda.

Expressed support for three local dispensaries; suggested uses for revenue from cannabis businesses: Dorothy Freeman, Alameda.

Stated that he does not support the regulations; expressed concern over the businesses being cash based: Scott Stockton, Alameda.

Discussed her medical marijuana use; expressed support for local preference and onsite consumption: Mallory Penny, Alameda.

Expressed support for cannabis businesses in Alameda: Sasha Stallworth, Alameda.

Stated her sole concern is location; urged a 1,000 foot restrictions from schools and parks; suggested edible and advertising regulations and using some revenue for educations at schools: Jennifer Williams, Alameda.

Expressed concern over locating near schools; urged a thoughtful, slow rollout: Poasseu Obot, Alameda.

Stated the Chamber does not support or oppose the regulations and is focused on the business aspect; urged education: Michael McDonough, Chamber of Commerce.

Expressed support for the regulation; discussed a recent tattoo parlor case: Debbie George, Alameda.

Expressed his support for Michael Nolan: Brian Holmes, Alameda.

Outlined programs that he has done for children: Michael Nolan, Alameda.

Outlined the importance of education; discussed medical uses; urged the City to go slowly with medicinal uses: Rosemary McNally, Alameda.

Discussed insurance needs of cannabis businesses and jobs: James Nelson, New Growth Insurance.

Expressed concern for general health and welfare; discussed cultivation: Ken Peterson, Alameda.

Stated the City has an opportunity to apply controls at the front end; expressed support for taking a public health approach to cannabis: Serena Chen, Alameda.

Outlined her and her family's medical marijuana use: Linda Weinstock, Alameda.

Expressed support for cannabis businesses not being hidden: Andy Huntoon, Alameda.

Councilmember Oddie stated vaping in the smoking ordinance need to be reviewed and flavored tobacco should be banned; the City should regulate delivery and incentivize local ownership licensing and permitting and local hire, and find a way for cannabis to be legal now to benefit those that have been impacted in a negative way from the war on drugs; the community will benefit from the tax structure; incubator space should be incentivized; there should be a labor peace agreement and education of children the 1,000 foot ban is a good idea; onsite consumption should be considered; the City should determine if the market is more beneficial for recreational or medical use; he is fine with the three dispensary cap and not allowing cannabis businesses on City-owned land.

Vice Mayor Vella stated that she would like to take things slow; she would like to phase in controversial items, such as safety and tax revenue; she is concerned about being able deal with a major incident; she would like retail sales to enter at a later phase and would like to see a more detailed map; 1,000 feet from schools should be considered; she would like to know what types of spaces are available and wants a more robust zoning conversation; initially, she would like the cap to be small to not inundate staff; there should be a labor peace agreement; retail should be limited to one type per district; flavored tobacco should be banned and the smoking ordinance should be

reviewed; there is value in reviewing onsite consumption to keep smoking out of parks; she would like a town hall meeting to keep community members informed before the final issuing of a permit to an applicant.

Councilmember Matarrese stated that he believes the City needs to start small in a phased in approach; he is concerned with the locations; the Planning Board should help with the land use issue; the requirement should be 1,000 feet buffer due to federal issues; he would like parks entered into the equation; onsite use still needs to be debated; the City should ensure the Police Department is paid and expanded to handle the issues that cannabis brings to a city; questioned how the City could mitigate the liability of having a heist at one of the locations; how to ensure workers are paying into Social Security or being paid overtime if paid in cash; stated that he agrees with no City or federal property; he would like to start with a pilot to see what the issues are first.

Councilmember Ezzy Ashcraft stated that she would like to go slow; she would like to bring in stakeholders like the School District and Parks and Recreation Commission; she would like the 1,000 foot buffer, and to ensure well paid jobs are created with benefits in a cash economy; she does not want too many cannabis businesses in one area; she would favor starting slow with laboratory testing or manufacturing; she would like the buffer to include parks; she would rather have an operator with experience and a track record; she would like another town hall meeting; under the ordinance, someone cannot be denied a permit for a previous conviction under California Health and Safety Sections 11350 or 11357; inquired whether the Sections includes recreational use.

The Police Chief responded Section 11357(b) is the one the Police Department uses for infraction citation for less than 1 ounce of marijuana; Section 11350 pertains to sales.

Councilmember Ezzy Ashcraft stated the City cannot deny a permit for someone with a previous conviction based on said statutes; the City needs to ensure the applicant has a current business license; questioned how long before a license would be revoked if someone does not pay the business license fees, and who pays for the hearing officer in the event of a hearing; stated certain shopping centers are family friendly, which are not good places for retail cannabis sales; questioned how deliveries are kept out of the hands of a minor; stated that she does not feel Alameda Point is a good location due to the families in the area and the infrastructure; she is not in favor of cultivation anywhere in the City at the current time; she would like to be proactive, but conservative.

Mayor Spencer requested the Police Chief to provide records on disproportionate citations for cannabis related offenses related to the skin color of the people cited, or if there is a particular area of town that received more citations; stated that she does not believe the issue is being rushed; she supports a preference for local ownership and employees; she would like a 600 foot buffer to be the requirement; a lot of medical conditions have relief from medical cannabis; she would like to work with the School District; she supports having a medical dispensary on each side of the Island and one on Bay Farm; she supports onsite consumption; she would prefer having regulations on deliveries from Alameda; the business permit should go through the Economic



Development Department; she does not feel the Police Chief should be in charge of the issue because it is not illegal; oversight should be through Police and Fire; she supports local ownership, a commercial benefit fund to support local causes, and community education; she would oppose advertising; she supports manufacturing; she is unsure about adding vaping to the smoking ordinance; the community should weigh in on said issue; she supports commercial cultivation; she would defer to the State regarding labor peace; she does not support people going off Island to go to dispensaries and is less comfortable with having deliveries from locations off the Island; she supports onsite consumption.

Councilmember Oddie stated that he would like to depoliticize the selection process; he does not want the matter to linger; he would like to have the Economic Development Department handle the issue because it is a health issue, not a legal issue; he is cognizant of the park issue, but he does not want to make it impossible for businesses to be permitted.

Councilmember Ezzy Ashcraft stressed the importance of having background checks conducted.

Mayor Spencer stated background checks will be done; that she would like Council provide direction to staff.

The City Manager stated staff has been taking notes.

Mayor Spencer stated that she would like to give direction and review the list to ensure the public is aware of the issues.

The Community Development Director stated that she understood a majority of Councilmembers would like to go slow and start with manufacturing and testing.

Councilmember Oddie stated his comment to go slow did not mean phasing; he means drafting an ordinance that is not rushed; other cities already have ordinances in place.

Mayor Spencer inquired what go slow means to staff.

The Community Development Director responded she understood there is a desire to hear feedback from the community and other stakeholders; inquired whether Council wants to have community outreach before an ordinance is drafted.

Mayor Spencer responded there has been time for input; stated more meetings will occur when staff returns with the ordinance; a School Board Member has attended the meetings.

Councilmember Ezzy Ashcraft stated the current Council meeting is the first public meeting that the City has held; the City is drafting the ordinance; the School Board Member who attended the meetings emphasized that she is not speaking in her

capacity as a School Board Member; she would like to hear from the community and stakeholders.

Vice Mayor Vella stated that she does not want to go slow; she would like to do things in a considerate and thoughtful manner and take action with purpose; inquired if Council could bifurcate the conversation to look at manufacturing first.

Mayor Spencer inquired how many Councilmembers support phasing.

Vice Mayor Vella responded that she would be open to having a date certain to return.

Mayor Spencer stated the phasing, which should be sooner rather than later, would be lab testing, manufacturing, distribution, deliveries, which is not brick and mortar dispensaries, and cultivation.

The City Manager inquired whether staff could start with manufacturing and testing first.

Mayor Spencer requested clarification from Vice Mayor Vella on her request.

Vice Mayor Vella stated what she heard from her colleagues is to deal with lab testing and manufacturing.

Mayor Spencer requested staff to call out the different categories and have Council respond.

The Community Development Director stated lab testing is one item to address.

Councilmember Matarrese stated people want a location to purchase cannabis in Alameda, which is the main issue; the easiest site to control, without a lot of cash around, is a lab; the Police Chief should not be responsible for administering a land use and permit process; he is hoping staff can synthesize direction and provide a timeframe.

Mayor Spencer inquired whether Councilmember Matarrese is requesting staff to return only with labs and brick and mortar dispensaries.

Councilmember Matarrese responded said direction is what he is hearing from constituents and colleagues; stated a phased in approach can include several options.

Vice Mayor Vella stated she would like staff to clarify the priorities moving forward.

The Community Development Director stated that she heard a majority consensus on a desire to update the smoking ordinance and review vaping and flavored tobacco; a phased in approach with manufacturing and testing in the beginning; she heard at least three votes to support a 1,000 foot buffer; there should be more community outreach; the land use decisions should be taken to the Planning Board; there is a desire to seriously review onsite consumption and to not have the Police Department head up the

operator permit or the land use permit and have permits administered by Community Development; she heard a majority in support of said items; she took a lot of notes; suggested Council consider a ban.

Mayor Spencer inquired whether Council has four votes for medicinal dispensaries, to which Councilmember Matarrese, Councilmember Oddie and Vice Mayor Vella responded in the affirmative.

Councilmember Ezzy Ashcraft stated that she would like more information on the public safety regarding onsite consumption; she believes Council is sending staff out in a lot of different directions.

Mayor Spencer inquired whether there is a majority vote to include distribution.

Councilmember Matarrese inquired what has happened in other jurisdictions with the business being all cash and what type of risks exists; stated piles of cash put people at risk and he would like to discuss the issue.

Mayor Spencer inquired whether employees pay into Social Security.

Mr. Hall responded one owner's solution was to hire a temporary firm that is in charge of allocating money for Social Security; there are a variety of solutions.

Councilmember Ezzy Ashcraft stated temporary agency do not give benefits; she is concerned about allowing dispensaries without knowing how to handle the cash; laboratory and manufacturing have less cash; she cannot support something that has employees brought in from a temporary agency.

The City Manager stated staff can return with options for the Council to consider; staff has noted the Council direction.

Mayor Spencer stated that she does not believe there should be a lot of work for staff; staff has an expert and examples from other cities; inquired whether there are three Councilmembers in support of manufacturing, testing and medicinal dispensaries.

Vice Mayor Vella stressed the importance of bifurcating manufacturing and testing from medicinal dispensaries due to the outstanding questions related to dispensaries.

Mayor Spencer inquired whether the issues can be on parallel tracks.

Vice Mayor Vella inquired how many other pending items will not be dealt with due to staff allocating time to cannabis.

Mayor Spencer inquired whether distribution can be included and if there are three votes for distribution.

Councilmember Ezzy Ashcraft requested the City Manager to respond to Vice Mayor Vella's question.

The City Manager responded there are a number of matters that staff, legal and the City Manager's Office are involved in, such as rent stabilization, inclusionary housing and development projects.

Councilmember Matarrese stated the Council has already prioritized the cannabis issue and the matter is lower than inclusionary housing and homelessness.

Mayor Spencer stated the priority was determined prior to her bringing another referral.

Councilmember Matarrese moved approval of directing staff to synthesize the list of commonalities with the majority votes and notes from the community and return with the next step, in a time that meets the Council priorities.

Vice Mayor Vella seconded the motion.

Under discussion, Mayor Spencer requested clarification on the timeframe.

The Community Development Director responded the matter will return at the first Council meeting in November, but will not be the final product; stated since many meetings will need to be held, an ordinance will cannot be adopted prior to January 2<sup>nd</sup>; Council might want to give direction to have a ban with a sunset.

Councilmember Ezzy Ashcraft inquired whether there can be a stand-alone meeting to be able to knock out the first draft of the ordinance.

The City Manager suggested coming back with an ordinance that addresses manufacturing and testing and prohibits everything else until Council reviews the issues.

The Community Development Director stated said approach allows for a first and second reading and the ordinance would be effective in 30 days prior to January 2<sup>nd</sup>.

Councilmember Oddie stated it seems to him staff is trying to find a way to say no, instead of trying to find a way to say yes.

The City Manager stated staff is saying yes.

Councilmember Oddie stated staff is only saying yes to a piece of the matter, which was already rejected earlier; he is open to the hard ban but does not want to go much past the end of the first quarter of next year.

Councilmember Ezzy Ashcraft stated the City Managers proposal is reasonable; there could be a roadmap outlining the next items to add to the ordinance.

Councilmember Oddie stated staff has suggested the same proposal twice and Council has already said no; three Councilmembers support moving forward with dispensaries and staff has said no twice.

Vice Mayor Vella stated that she believes it is fine to start with manufacturing and testing; she would like a more robust conversation on dispensaries; she would like to lay out a date for staff to return; a first and second reading can still be done in December; she would like to be realistic and have staff return with questions answered, all options and another opportunity for the community to weigh in; inquired whether there is a date certain that Councilmember Oddie would like to hear back from staff.

Councilmember Oddie inquired when staff could bring the matter back to Council.

The Community Development Director responded six months is a reasonable timeframe; if there is a willingness, having a special meeting would expedite the direction and discussion.

Mayor Spencer requested clarification that only direction is being given, a motion does not need to be made.

The City Attorney responded Council is giving direction; stated with Council being all over the map, she would suggest staff be allowed to do a little synthesizing and return to Council for a check-in first and then return with a phased timeline.

Mayor Spencer inquired whether the suggestion is to have a special meeting.

The City Attorney responded an ordinance cannot be introduced at a special meeting.

Councilmember Matarrese inquired whether a motion is inappropriate.

The City Attorney responded a motion can be done to give direction.

Councilmember Matarrese inquired whether his motion was out of line, which the City Attorney responded in the negative.

Councilmember Matarrese inquired whether the City Clerk could repeat the motion, to which the City Clerk responded she had stepped out of the room and asked Councilmember Matarrese to repeat the motion.

Councilmember Matarrese repeated his motion to have staff take the list of consensus and input from the community, and return with a second draft of the current draft ordinance.

Vice Mayor Vella stated Councilmember Ezzy Ashcraft made a friendly amendment to have a special meeting added to the calendar.

Councilmember Matarrese accepted the friendly amendment.

Mayor Spencer inquired whether there is still a December 31<sup>st</sup> deadline.

Councilmember Matarrese stated the answer is unknown until staff returns to Council.

The Community Development Director responded staff would still endeavor to make the deadline.

Mayor Spencer inquired whether the motion is to move forward with the lab testing and manufacturing only.

Councilmember Matarrese responded in the negative.

Mayor Spencer inquired what the motion includes.

The Community Development Director responded the motion includes taking everything, synthesizing it into a new draft ordinance, presenting the new draft ordinance at a special meeting where there will be opportunity for input and further direction.

Mayor Spencer inquired on which items.

The Community Development Director responded on the new draft ordinance.

Mayor Spencer inquired whether every type of cannabis business would be included, to which the Community Development Director responded in the affirmative.

In response to Councilmember Ezzy Ashcraft's inquiry, the Community Development Director stated dispensaries, with analysis of the cash business, the cap, and medical versus recreational would all be part of the synthesis; after the feedback at a special meeting, there would be potential for staff to return an ordinance for a first and second reading within 30 days; if new issues arise or staff has missed the mark, staff can be sent back to do more work; at that point, Council may want to reevaluate direction about the January 1<sup>st</sup> deadline.

Mayor Spencer inquired when the special meeting would take place.

The City Clerk responded not within the next four weeks.

Councilmember Oddie moved approval of calling the question.

Councilmember Matarrese seconded the motion.

Under discussion, Councilmember Ezzy Ashcraft requested to ask one additional question.

Councilmember Oddie withdrew the motion to call the question.

Councilmember Ezzy Ashcraft inquired whether staff is going to review the caps on manufacturing and testing as part of the draft ordinance, to which the Community Development Director responded in the affirmative.

On the call for the question, the motion passed by unanimous voice vote – 5.

### ADJOURNMENT

There being no further business, Mayor Spencer adjourned the meeting at 9:29 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

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

MNIUTES OF THE SPECIAL JOINT MEETING OF THE  
CITY COUNCIL AND SUCCESSOR AGENCY TO  
THE COMMUNITY IMPROVEMENT COMMISSION (SACIC)  
TUESDAY- -SEPTEMBER 5, 2017- -6:59 P.M.

Mayor/Chair Spencer convened the meeting at 9:42 p.m.

ROLL CALL - Present: Councilmembers/Commissioners Ezzy Ashcraft,  
Oddie, Vella and Mayor/Chair Spencer – 4.

[Note: Councilmember Ezzy Ashcraft arrived at 9:43 p.m.]

Absent: Councilmember/Commission Matarrese - 1.

ORAL COMMUNICATIONS, NON-AGENDA

None.

CONSENT CALENDAR

Councilmember/Commissioner Oddie moved approval of the Consent Calendar.

Vice Mayor/Commissioner Vella seconded the motion, which carried by unanimous voice vote – 4. [Absent: Councilmember/Commissioner Matarrese – 1.] [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(\*17-494CC/17-011SACIC) Recommendation to Accept the Investment Report for the Quarter Ending March 31, 2017. Accepted.

ADJOURNMENT

There being no further business, Mayor/Chair Spencer adjourned the meeting at 9:43 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk and Secretary, SACIC

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



MINUTES OF THE REGULAR CITY COUNCIL MEETING  
TUESDAY- -SEPTEMBER 5, 2017- -7:00 P.M.

Mayor Spencer convened the meeting at 9:43 p.m.

ROLL CALL - Present: Councilmembers Daysog, Ezzy Ashcraft, Matarrese, Oddie and Mayor Spencer – 5.  
 Absent: None.

AGENDA CHANGES

(17-495) Mayor Spencer discussed changes to the Consent Calendar.

The City Attorney stated if the Councilmember is voting no on a Consent item, the vote can be recorded without pulling the item.

Vice Mayor Vella inquired whether the Anti-Semitism referral [paragraph no. 17-523] could be heard before the referendum item [paragraph no. 17-515].

Mayor Spencer stated that she does not support moving up referrals.

Vice Mayor Vella inquired whether the referendum item could be heard first on in the Regular Agenda since it needs to be voted on tonight.

Mayor Spencer stated she is not in favor of the request.

Councilmember Ezzy Ashcraft, Matarrese and Oddie concurred with the request.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(17-496) Proclamation Declaring September 16, 2017 as Coastal Cleanup Day.

Mayor Spencer read the proclamation and presented it to the Public Works Program Specialist, who showed a photograph of the beach.

ORAL COMMUNICATIONS, NON-AGENDA

(17-497) Gaby Dolphin, Alameda, submitted information; read a statement and suggested renaming Calhoun Street after Heather Hyer who was killed in Charlottesville, South Carolina.

(17-498) Angela Hockabout, Alameda, urged doing more to develop housing.

(17-499) Jennifer Geema, Alameda, discussed her rental situation.

CONSENT CALENDAR

Mayor Spencer stated that she would vote no on final passage of the ordinance [paragraph no. \*17-514].

Councilmember Oddie stated that he would vote no on the 5 Bars resolution [paragraph no. \*17-511].

Councilmember Matarrese moved approval of the Consent Calendar.

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

(\*17-500) Minutes of the Special City Council Meetings Held on June 20, 2017 and July 5, 2017, and the Regular City Council Meeting Held on July 5, 2017. Approved.

(\*17-501) Ratified bills in the amount of \$14,213,204.80.

(\*17-502) Recommendation to Award a Five-Year Contract for an Amount not to Exceed a Total Five-Year Expenditure of \$250,000, Subject to Budget Approvals, to Hinderliter de Llamas (HdL) for Review and Analysis of Sales and Use Tax Revenues. Accepted.

(\*17-503) Recommendation to Accept the Quarterly Sales Tax Report for the Period Ending June 30, 2017 Collected During the Period January 1, 2017 to March 31, 2017. Accepted.

(\*17-504) Recommendation to Accept Report on the Appointment of Bryan Schwartz as a Member of the Open Government Commission. Accepted.

(\*17-505) Recommendation to Award a One-Year Contract, with the Option of Four One-Year Extensions, for an Amount not to Exceed \$93,319.86, for a Total Five Year Expenditure not to Exceed \$485,640.33, to Clean Lakes, Inc. for Vegetation Management, Debris Management, and Water Quality Monitoring for the South Shore Lagoons. Accepted.

(\*17-506) Recommendation to Award a One-Year Contract, with the Option of Four One-Year Extensions, for an Amount not to Exceed \$20,698.92, for a Total Five-Year Expenditure not to Exceed \$107,718.02, Subject to Budget Approval, to Dream Ride Elevator for Full Service Elevator Maintenance and Repairs in City Buildings (Various Locations). Accepted.

(\*17-507) Recommendation to Award a One-Year Contract, with the Option of Four One-Year Extensions, for an Amount not to Exceed \$105,600, for a Total Five-Year Expenditure not to Exceed \$549,546.65, Subject to Budget Approval, to Prime Mechanical for Annual Heating, Ventilating, and Air Conditioning System Maintenance at City Facilities. Accepted.

(\*17-508) Recommendation to Accept the Work of Rosas Brothers Construction for the Repair of Concrete Sidewalk, Curb, Gutter, Driveway, and Minor Street Patching, Fiscal Year (FY) 2016-17, Phase 17, No. P.W. 05-16-18. Accepted.

(\*17-509) Recommendation to Amend the Contract with Ranger Pipeline Inc. to Increase the Contract Amount by \$4,048,544.03, which Includes a 10% Contingency, for Cyclic Sewer Rehabilitation Project, Phase 14, No. P.W. 05-17-27, for a Total Authorized Amount of \$17,375,030, for Cyclic Sewer Rehabilitation Project, Phases 11, 12, 13 and 14. Accepted.

(\*17-510) Recommendation to Enter into an Agreement Between the City of Alameda and Waste Management of Alameda County Inc. for Solid Waste Transfer and Disposal Services for a Ten-Year Period (Ending June 30, 2027); and Adoption of Resolution Setting Per Ton Rates for Solid Waste Transfer and Disposal Services with Waste Management of Alameda County, Inc. Accepted.

(\*17-511) Resolution No. 15301, "Authorizing the City Manager to: (1) Execute a Professional Services Agreement and a License Agreement (the "Agreements") With XG Communities, LLC, a Delaware Limited Liability Company DBA 5 BARS Communities ("5 BARS") Each for a Term of Five Years with Four Five-Year Extensions for Wireless Telecommunications Facilities Consulting, Marketing and Management and Services for City Assets in Exchange for a Thirty-Five Percent (35%) Share of Generated Revenue" and (2) Execute Auxiliary Documents and to Perform Any and All Acts Necessary or Desirable to Permit 5 BARS to Perform the Services." Adopted.

[Note: Councilmember Oddie voted no, so the motion carried by the following vote: Ayes: Councilmembers Ezzy Ashcraft, Matarrese, Vella and Mayor Spencer – 4. Noes: Councilmember Oddie – 1.]

(\*17-512) Resolution No. 15302, "Approving the City of Alameda's Continued Participation in the Alameda County HOME Consortium, Authorizing the City Manager to Execute the Revised HOME Consortium Cooperative Agreement with Alameda County and Rescinding Resolution No. 15287." Adopted.

(\*17-513) Resolution No. 15303, "Authorizing the City Treasurer, the City Finance Director and the City Finance Services Manager to Order the Deposit or Withdrawal of Monies in the State Local Agency Investment Fund on Behalf of the City and Repealing Resolution No. 14776." Adopted.

(\*17-514) Ordinance No. 3188, "Approving Master Plan Amendment to Include a Maritime Commercial and Residential Variant for Approximately 39 Acres of Land with the Bayport/Alameda Landing City of Master Plan. [A Final Supplemental Environmental Impact Report for the Alameda Landing Mixed Use Development Project was Certified in Accordance with the California Environmental Quality Act (CEQA) (State Clearinghouse #2006012091) in 2006. An Environmental Assessment for the Proposed Actions has been Prepared.] Finally passed.

[Note: Mayor Spencer voted no, so the motion carried by the following vote: Ayes: Councilmembers Ezzy Ashcraft, Matarrese, Oddie and Vella – 4. Noes: Mayor Spencer – 1.]

### REGULAR AGENDA ITEMS

(17-515) Recommendation to Accept the Certificate of Sufficiency for Referendum Petition Against Ordinance No. 3180; and Select One of the Following Options: 1) Introduction of Ordinance Repealing Ordinance No. 3180 in Its Entirety. Introduced; or 2) Adoption of Resolution Calling an Election in the City of Alameda for the Purpose of Submitting to the Electors Ordinance No. 3180 Amending the Alameda Municipal Code by Amending Various Sections of Article XV of Chapter VI Concerning (a) Review of Rent Increases Applicable to All Rental Units and Rent Stabilization Applicable to Certain Rental Units and (b) Limitations on Evictions and the Payment of Relocation Fees Applicable to all Rental Units (Eliminating “No Cause” Ground for Eviction and Requiring Landlords to Pay Relocation Fees at the Expiration of Certain Fixed Term Leases). Not adopted.

Stated the ordinance should be rescinded to work on a better ordinance: Eric Strimmling, Alameda Renters Coalition.

Stated the rent ordinance needs to be amended; urged Council to push through the petition against Ordinance 3180: Lester Cabral, Alameda.

The City Attorney gave a brief presentation.

Vice Mayor Vella inquired whether the City Attorney could review the implications of what happens if Council rescinds versus putting the matter on the ballot.

The City Attorney responded the Council can place the ordinance on the ballot in April, June or November of 2018 at different costs; Ordinance 3180 would be not in effect; Ordinance 3148 continues to be in effect; the voters would decide if Ordinance 3180 would go into effect; if the Council decides to rescind the ordinance, there would be a first reading tonight; the referendum prohibits the Council from doing an action substantially similar to the provisions in Ordinance 3180 for one year; if Council puts the matter on the ballot and the people decide to rescind Ordinance 3180, then, the year period starts.

Mayor Spencer inquired if Ordinance 3180 is rescinded, is Ordinance 3148 still in effect, to which the City Attorney responded in the affirmative; stated Ordinance 3148 is unaffected by Ordinance 3180.

Councilmember Oddie inquired what defines substantially similar.

The City Attorney responded the Elections Code prohibits Council from doing anything

substantially similar; any provisions in Ordinance 3180 cannot be amended for one full year.

Councilmember Oddie requested staff to provide Council case law so that Council does not come up with changes that are not allowed.

Vice Mayor Vella inquired if there are any impacts to the fee.

The City Attorney responded that the fee is not included in the ordinance, so the fee is unaffected.

Vice Mayor Vella inquired whether the provision to pass on part of the fee to renters is now withdrawn, to which the City Attorney responded in the affirmative.

Councilmember Ezzy Ashcraft inquired whether the landlords can withdraw the ballot measure if an agreement with the renters is reached.

The City Attorney responded the signatures for the referendum have been certified and cannot be modified.

Councilmember Matarrese moved approval of accepting the Certificate of Sufficiency for Referendum Petition against Ordinance No. 3180.

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

Mayor Spencer inquired whether there is a motion for the second part of the item.

Vice Mayor Vella and Councilmember Ezzy Ashcraft stated they would like to have more discussion.

Councilmember Ezzy Ashcraft stated that she would still like to make changes to Ordinance 3148; not allowing no cause evictions protects residents; Alameda needs more housing and the City needs to help the people who are in their homes now; she will not support the rescission.

Councilmember Oddie stated an eviction in the Bay Area today is the equivalent of being homeless; he stands by Ordinance 3180.

Vice Mayor Vella stated that she would like landlords and tenants to sit down and have a conversation on possible solutions for everyone involved; she is saddened that families are being displaced.

Mayor Spencer stated that she supports having more conversations with the landlords and tenants.

Councilmember Matarrese moved introduction of the ordinance rescinding Ordinance

3180.

Mayor Spencer seconded the motion.

Under discussion, Councilmember Oddie inquired if the two groups come to an agreement to put something on the ballot would be permissible.

The City Attorney responded she will have to get back to Council on the answer.

The City Clerk stated Elections Code Section 9241 states: “the ordinance shall not again be enacted by the legislative body for a period of one year,” which might allow the Council could put the matter on the ballot.

Councilmember Oddie inquired whether there is anything the City could do to assist the tenants at 470 Central Avenue.

The City Attorney responded no cause eviction entitles tenants to relocation benefits, which is the case in some instances at 470 Central Avenue; there have been some for cause eviction notices at 470 Central Avenue where the landlord claims breach of the lease; it is not within the purview of the City to determine the accuracy of those claims; the Housing Authority does monitor that the landlord is conducting business properly according to Ordinance 3148.

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(17-516) Mayor Spencer stated a motion is needed to consider remaining items.

Councilmember Ezzy Ashcraft moved approval of hearing the two encroachment ordinances [paragraph no. 17-519].

Vice Mayor Vella seconded the motion which FAILED by the following vote: Ayes: Councilmember Ezzy Ashcraft, Councilmember Oddie and Vice Mayor Vella – 3. Noes: Councilmember Matarrese and Mayor Spencer.

Mayor Spencer moved approval of hearing the balance of the agenda, minus the WiFi referral [paragraph no. 17-522].

Councilmember Matarrese stated he will second the motion only if it is amended to not hear both referrals.

Mayor Spencer accepted the friendly amendment to the motion.

On the call for the question, the motion FAILED by the following voice vote: Ayes: Councilmember Matarrese and Mayor Spencer – 2. Noes: Councilmember Ezzy Ashcraft, Councilmember Oddie and Vice Mayor Vella – 3.

Mayor Spencer moved approval of hearing the resolutions of appointment and the two

encroachment ordinances.

Councilmember Matarrese seconded the motion, which FAILED by the following voice vote: Ayes: Councilmember Matarrese and Mayor Spencer – 2. Noes: Councilmember Ezzy Ashcraft, Councilmember Oddie and Vice Mayor Vella – 3.

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Councilmember Ezzy Ashcraft stated that she hopes the landlords and tenants get together to come to a solution.

Vice Mayor Vella inquired what is the City's involvement because the matter is a referendum of a City ordinance.

The City Manager responded cost.

Vice Mayor Vella inquired what the cost is to the City.

The City Manager responded that is dependent on which election the Council decides to put on the item; the June election would be more expensive than placing the item on the general election in November.

Mayor Spencer inquired what the specific cost would be.

The City Clerk responded it would depend on how many other items are on the June ballot; worse case would be around \$700,000; if the item is added to the November ballot, the cost would be approximately \$25,000 for printing and typesetting costs.

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

(17-517) Adoption of Resolution Appointing Patricia Lamborn as a Member of the Planning Board; and

(17-517A) Adoption of Resolution Appointing Alan Teague as a Member of the Planning Board. Not heard.

(17-518) Recommendation to Appoint Gene Kahane and Cathy Dana as Alameda's Poet Laureates. Not heard.

(17-519) SUMMARY: Introduce Two Ordinances that Resolve Two Encroachment Issues on City Property in Order to Facilitate the Start of Construction of the Cross Alameda Trail Project along Ralph Appezato Memorial Parkway, Between Main and Webster Streets.

Introduction of Ordinance Approving an Amended and Restated Lease and Authorizing the City Manager to Execute Documents Necessary to Implement the Terms of an

Amended and Restated Lease Agreement with Mr. Hi Chi Chen and Mrs. Lena Muy Chiv, a Married Couple, dba Hometown Donuts for 1930 Main Street; and

(17-519A) Introduction of Ordinance Approving a Grant of Non-Exclusive Easement and Authorizing the City Manager to Execute Documents Necessary to Implement the Terms of Grant of Non-Exclusive Easement to Alameda Boys & Girls Club (ABGC) and Alameda Unified School District (AUSD) for Access and Maintenance. Not heard.

#### CITY MANAGER COMMUNICATIONS

(17-520) Update on Tracking of Council Referrals. Not heard.

(17-521) The City Manager stated one Firefighter and one Police Officer from the City of Alameda have gone to assist with Hurricane Harvey; the City did not apply for the Justice Assistance Grant for funds for Police Department equipment due to the application having requirements to give information about immigrant citizens to the federal government; items that are going on at the federal level which might impact the City: the Executive Order that prohibited military equipment to be sold to local Police Departments has been rescinded; the federal regulations to manage flood control have been revoked; a bill has been designed to drastically cut illegal immigration and revise the Deferred Action for Childhood Arrivals (DACA) to allow immigrant children to have citizen status in the future.

#### ORAL COMMUNICATIONS, NON-AGENDA

None.

#### COUNCIL REFERRALS

(17-522) Consider Directing Staff to Explore Offering Free Public WiFi Throughout the City. Not heard. (Mayor Spencer)

(17-523) Consider: 1) Adoption of Resolution Condemning the Increased Incidents of Bias, Prejudice, Discrimination, Violence and Anti-Semitism; and 2) Direct Staff to Provide a Status Update on Hate Crime Training and Possible Training of Community Members; and Direct the City Manager to Provide Periodic Reports to Council on Hate Crimes. Not heard. (Vice Mayor Vella and Councilmember Oddie)

#### COUNCIL COMMUNICATIONS

(17-524) Consideration of Mayor's Nominations to the Historical Advisory Board (HAB) and Public Art Commission (PAC).

Mayor Spencer nominated Lynn Jones and Norman Sanchez to the Historical Advisory Board and Mark Farrell to the Public Art Commission.

(17-525) Mayor Spencer stated that she signed a letter against bias, discrimination and anti-Semitism with the U.S. Mayor's Conference; the Temple has an open house on



September 17<sup>th</sup>, from 2:00 p.m. to 4:00 p.m.; the Alameda Running Festival is also on September 17<sup>th</sup>.

(17-526) Report Out from Stop Waste on the Fix It Clinic. (Councilmember Oddie)

Councilmember Oddie encouraged having a Fix It Clinic in Alameda.

Mayor Spencer inquired whether the Alameda Library will have an event like the Fix It Clinic.

Jane Chisaki, Library Director, responded the Alameda Library does not do fix it clinics due to possible damage to carpeting; Mastic Center has expressed an interest in holding a fix it clinic.

(17-527) Vice Mayor Vella stated that she that received emails regarding trying to diversify the Economic Development Strategic Plan Board; she also received emails questioning why cannabis is not included in the plan.

The City Manager responded that she understood the direction for the Economic Development Strategic Plan is to be grassroots; additional citizens have been invited to participate to make the group more diverse.

(17-528) Councilmember Matarrese stated that he and Mayor Spencer represented the City at the East Bay Regional Parks District (EBRPD) liaison committee; EBRPD is putting a lot of money into Alameda.

(17-529) Councilmember Ezzy Ashcraft stated that she attended the lead poisoning prevention commission meeting; noted that she is grateful that Alameda did not cede local control over cell phone towers to the telecommunications industry.

(17-530) Mayor Spencer announced the Alameda Theater is showing the film Fallen, sponsored by the Police Officers Association, on Monday, September 11<sup>th</sup>.

## ADJOURNMENT

There being no further business, Mayor Spencer adjourned the meeting at 10:52 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

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