

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
TUESDAY- -OCTOBER 16, 2018- -5:00 P.M.

Mayor Spencer convened the meeting at 5:15 p.m.

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

Absent: None.

The meeting was adjourned to Closed Session to consider:

(18-561) Public Employee Appointment/Hiring; Pursuant to Government Code § 54957; Title/description of positions to be filled: Acting/Interim City Attorney and City Attorney

(18-562) Public Employee Appointment/Hiring; Pursuant to Government Code § 54957; Title/description of positions to be filled: City Manager

(18-563) Conference with Labor Negotiators (Government Code section 54957.6); CITY Negotiators: David L. Rudat, Interim City Manager, Elizabeth D. Warmerdam, Assistant City Manager and Nancy Bronstein, Human Resources Director; Employee Organizations: International Brotherhood of Electrical Workers, Local 1245 (IBEW), Electric Utility Professional Association of Alameda (EUPA), Alameda City Employees Association (ACEA), Alameda Police Officers Association Non-Sworn Unit (PANS), and Alameda Management and Confidential Employees Association (MCEA); Under Negotiation: Salaries and Terms of Employment

(18-564) Conference with Real Property Negotiators (Government Code section 54956.8); Property: Northwest Territories, Alameda Point; City Negotiator: David L. Rudat, Interim City Manager; Potential Tenant: East Bay Regional Park District; Issue Under Negotiation: Real Property Negotiations Price and Terms of Payment

Following the Closed Session, the meeting was reconvened and the City Clerk announced that regarding the City Attorney, direction was given to staff; regarding City Manager, staff provided an update; regarding Labor, Council received a briefing and gave direction to staff; and regarding Real Property, direction was given to staff by unanimous voice vote - 5.

Adjournment

There being no further business, Mayor Spencer adjourned the meeting at 6:46 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

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

MINUTES OF THE SPECIAL MEETING OF THE CITY COUNCIL
TUESDAY- -OCTOBER 16, 2018- -6:45 P.M.

Mayor Spencer convened the meeting at 7:04 p.m. and led the Pledge of Allegiance.

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

Absent: None.

AGENDA ITEM

(18-565) Proclamation Declaring October 21 through 27, 2018 as Childhood Lead Poisoning Prevention Week and October 8 through 14, 2018 as Code Enforcement Officer Appreciation Week.

Larry Brooks, Alameda County Healthy Homes Department/Lead Poisoning Prevention Program, made brief comments.

Mayor Spencer read the proclamation and presented it to Mr. Brooks.

Vice Mayor Vella and Councilmember Ezzy Ashcraft made brief comments.

(18-566) Proclamation Declaring October 2018 as Filipino American History Month.

Mayor Spencer read the proclamation and presented it to former Councilmembers Tony Daysog and Stewart Chen; Vice Mayor Vella; Bob Balandra, Phil Ableo and Marcelo Datuin, Bohol Circle; Benjamin Reyes, Senior, 2018 Veteran of the Year; Cynthia Bonta and Susan Reyes, Sister City Association; Max Baylosis, Knights of Columbus; Lita Baylosis and Janet Galera, United Pilipinos of Alameda; and Judge Benjamin Reyes, II.

Ms. Bonta made brief comments.

(18-567) Proclamation Declaring October 16, 2018 as Friends of the Alameda Free Library Appreciation Week.

Mayor Spencer read the proclamation and presented it to Karen Butter, President of the Friends of the Alameda Free Library Board, Marlon Romero, Supervising Librarian, Carole Robie, Friends of the Library Board Member; Amber Bales, Alameda Free Library Board Member, Kathleen Kearney, Alameda Free Library Board Member; and Honora Murphy, Library supporter.

Ms. Butter made brief comments.

Councilmember Ezzy Ashcraft made brief comments.

ADJOURNMENT

There being no further business, Mayor Spencer adjourned the meeting at 7:29 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- -OCTOBER 16, 2018- -7:00 P.M.

Mayor Spencer convened the meeting at 7:29 p.m.

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

Absent: None.

AGENDA CHANGES

(18-568) Mayor Spencer announced the SpinLaunch ordinance [paragraph no. 18-588] was withdrawn.

Councilmember Oddie requested the Fire grant [paragraph no. 18-585] be heard after the resolutions of appointment [paragraph no. 18-584].

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(18-569) Proclamation Declaring October 2018 as Italian American History Month.

Mayor Spencer read the proclamation and presented it to Alessandro Bertoncello; Alessandro DeBellis Alpicella Club; and Bob Ratto and Mike Robles-Wong, Alameda Sister City Association.

Mr. Ratto and Mr. Bertoncello made brief comments.

ORAL COMMUNICATIONS, NON-AGENDA

(18-570) Steve Slauson, Alameda, discussed his opposition to no-cash bail bonds.

(18-571) Toni Grimm, Alameda, expressed concern over the use of the term Housing Provider.

CONSENT CALENDAR

Mayor Spencer noted that she is voting no on the minimum wage ordinance. [paragraph no. 18-583]

Councilmember Oddie moved approval of the Consent Calendar.

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

(*18-572) Minutes of the Special and Regular City Council Meetings Held on September 18, 2018. Approved.

(*18-573) Ratified bills in the amount of \$1,725,693.06.

(*18-574) Recommendation to Receive a Report on the Continuation of the Art in City Hall Program. Accepted.

(*18-575) Recommendation to Approve the Request for Qualifications (RFQ) to Reuse the Alameda Carnegie Building. Accepted.

(*18-576) Recommendation to Award a Contract to Oregon Romtec Inc. in the Amount of \$970,613 for the Krusi Park Recreation Center Replacement Project. Accepted.

(*18-577) Recommendation to Authorize the Interim City Manager to Execute a Second Amendment to the Agreement with Nute Engineering, to Extend the Term One Year and Increase Compensation in an Amount Not to Exceed \$394,390 for a Total Agreement Compensation Not to Exceed \$727,459 for Engineering Design Services for Cyclic Sewer Rehabilitation Project, Phase 16. Accepted.

(*18-578) Resolution No. 15439, "Amending the General Fund and the Capital Improvement Program Budget for Fiscal Year 2018-19 for the Jean Sweeney Open Space Park Project to Fund Immediate Possession of Four Remnant Parcels Totaling Approximately 2.8 Acres Owned by Union Pacific." Adopted; and

(*18-578 A) Recommendation to Direct the City Attorney to Deposit the Sum of \$1,098,000 with the Condemnation Deposits Fund and Seek an Order for Prejudgment Possession of the Subject Property. Accepted.

(*18-579) Recommendation to Expand the Façade Grant Program Boundaries; and

(*18-579 A) Resolution No. 15440, "Amending the Fiscal Year 2018-19 Base Reuse Fund Budget to Appropriate \$50,000 for the Façade Grant Program."

(*18-580) Resolution No. 15441, "Authorizing the Interim City Manager to Enter into a Joint Exercise of Powers Agreement (JPA) Establishing and Governing Operation of the Collection System Technical Advisory Committee, and a Defendant's Side Agreement to Facilitate the Environmental Protection Agency Sewer Consent Decree Compliance." Adopted.

(*18-581) Resolution No. 15442, "Opposing Proposition 6 on the November 2018 Ballot, which would Repeal the Recent Gas Tax Increase and Eliminate \$15 Million in Transportation Funding for Alameda." Adopted.

(*18-582) Resolution No. 15443, "Supporting Proposition 2 on the November 2018 Ballot, which would Authorize the State of California to Use Revenue from Previously

Authorized Bonds to Fund Existing Housing Programs for Individuals with Mental Illness.” Adopted.

(18-583) Ordinance No. 3226, “Amending the Alameda Municipal Code By Adding Article 4-60 (Minimum Wage) to Chapter IX (Regulations Concerning Trade and Commerce) Concerning A Citywide Minimum Wage to Raise Alameda’s Minimum Wage to \$15.00 Per Hour by 2020.” Finally passed.

[Note: The ordinance was finally passed by the following voice vote: Ayes: Councilmembers Ezzy Ashcraft, Matarrese, Oddie and Vella – 4. Noes: Mayor Spencer – 1.]

REGULAR AGENDA ITEMS

(18-584) Resolution No. 15444, “Reappointing Audrey Hyman as a Member of the Social Service Human Relations Board.” Adopted; and

(18-584 A) Resolution No. 15445, “Appointing Rona Rothenberg as a Member of the Planning Board.” Adopted.

Councilmember Ezzy Ashcraft requested the vote be bifurcated.

Councilmember Matarrese moved adoption of the resolution appointing Ms. Rothenberg.

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

Councilmember Matarrese moved adoption of the resolution appointing Ms. Hyman.

Councilmember Ezzy Ashcraft seconded the motion, which carried by the following voice vote: Ayes: Councilmembers Ezzy Ashcraft, Matarrese and Mayor Spencer – 3. Noes: Councilmember Oddie – 1. Abstentions: Vice Mayor Vella – 1.

Vice Mayor Vella moved approval of reconsidering the motion on the resolution appointing Ms. Rothenberg.

Mayor Spencer seconded the motion, which carried by the following voice vote: Ayes: Councilmembers Matarrese, Oddie, Vella and Mayor Spencer – 4. Abstentions: Councilmember Ezzy Ashcraft – 1.

Mayor Spencer moved adoption of the resolution appointing Ms. Rothenberg.

Councilmember Matarrese seconded the motion, which carried by the following voice vote: Ayes: Councilmembers Matarrese, Oddie, Vella and Mayor Spencer – 4.

Abstentions: Councilmember Ezzy Ashcraft – 1.

(18-585) Recommendation to Accept \$1,876,823 Grant from the Staffing for Adequate Fire and Emergency Response (SAFER) Program; and

(18-585 A) Resolution No. 15446, “Amending the Fiscal Year 2018-19 Fire Grants Fund Revenue and Expenditures Budget by \$3,043,494, Each, and the General Fund Expenditures Budget by \$1,166,671 to Allocate the Required Matching Funds per the Grant Requirement.” Adopted.

The Fire Chief gave a brief presentation.

Mayor Spencer inquired if the City would be adding any new firefighters.

The Fire Chief responded that no additional firefighters would be added past the authorized strength adopted by Council.

Mayor Spencer inquired how many active firefighters the City currently has, to which the Fire Chief responded the authorized sworn positions is 92.

Mayor Spencer requested the Interim City Manager to address the current staffing numbers.

The Interim City Manager requested the Fire Chief to address the number of present and planned vacancies and the turnover rate that the SAFER hires would cover.

The Fire Chief stated there are seven vacancies in the Fire Department; he anticipates an additional seven vacancies due to retirements by the end of the year; even though 14 vacancies are anticipated, the Fire Department can only train ten personnel, at maximum, from an academy at a time; six would be paid from SAFER and four would be paid from the General Fund.

In response to Mayor Spencer’s inquiry regarding the length of the current vacancies, the Fire Chief stated current vacancies are from July to two weeks ago.

Mayor Spencer inquired how many active firefighters the City had in 2016.

The Fire Chief responded he could not answer that question.

Mayor Spencer requested the Interim City Manager to address the certainty of the seven anticipated retirements.

The Interim City Manager stated the retirements are highly probable; the Fire Chief has received “Intent to Retire” notices; employees have reached the average age of retirement and there are two work-related injuries.

Councilmember Ezzy Ashcraft requested confirmation that the six positions to be paid by the SAFER grant would be entry-level positions, including salary and benefits, to which the Fire Chief responded in the affirmative.

Councilmember Ezzy Ashcraft requested confirmation that the City would not be obligated to continue staffing the SAFER grant positions if the SAFER grant were to not continue, to which the Fire Chief responded in the affirmative; stated the staff report identifies the positions as temporary.

Councilmember Matarrese moved approval of the staff recommendation and adoption of the resolution.

Councilmember Oddie seconded the motion.

Under discussion, Mayor Spencer stated that she appreciates the responses she received; if anyone has questions, she, along with the Fire Chief and Interim City Manager, are available to meet.

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

(18-586) Presentation by Friends of the Alameda Animal Shelter (FAAS) - Annual Progress Report.

John Lipp, FFAS, gave a Power Point presentation.

Councilmember Oddie inquired if there are options staff could review for replacing the FAAS facility, either through bonds or working with developers.

Mayor Spencer stated that she would support the suggestion.

Councilmember Ezzy Ashcraft requested the award given to Joe Ernst of Alameda Point Partners be discussed.

Mr. Lipp stated the National Office of Animal Health (NOAH) award was given to Mr. Ernst; Mr. Ernst's development partnership has donated one half acre of land to FAAS in the Bay Farm Island Business Park; FAAS is looking into creating a private facility to house either a community center or adoption center on the land.

Vice Mayor Vella expressed admiration for FAAS working with the Alameda Point Collaborative (APC).

(18-587) Recommendation to Accept Informational Report on Activities, Quarterly Meetings and Issues Related to the Oakland International Airport.

The City Planner made brief comments.

Ed Downing, Airport Operations Committee, gave a Power Point presentation.

Councilmember Ezzy Ashcraft inquired what happened between 2015 and 2016 that caused such a steep increase in non-compliant corporate jet offenses.

Mr. Downing responded major sporting events were the potential cause of the increase; stated the Federal Aviation Administration (FAA) did not impose limitations on corporate jets during the major sporting events; continued the presentation.

Councilmember Oddie inquired if the planes on Runway 33 head off the East End of the Island, to which Mr. Downing responded in the affirmative.

Councilmember Oddie stated many of the complaints he receives are from residents who are not used to planes flying overhead.

Mr. Downing continued the presentation.

Councilmember Ezzy Ashcraft inquired what kind of recourse the City has to help make changes.

Mr. Downing suggested a letter be written to the Port of Oakland expressing concern over issues.

Councilmember Ezzy Ashcraft expressed support for the suggestion.

Mr. Downing continued the presentation.

Mayor Spencer noted the City sent letters and has been working with Congresswoman Barbara Lee, and lobbyists in Washington D.C.

Mr. Downing concluded the presentation.

Kristi McKenney, Port of Oakland, made brief comments.

Councilmember Oddie suggested that empirical data be included in the future, such as the Super Bowl causing an increase in flights, to support the figures displayed in the presentation.

Ms. McKenney continued her comments.

Matt Davis, Port of Oakland, continued the Power Point presentation.

Councilmember Ezzy Ashcraft inquired if the Tower Chief has a role in deciding which runway pilots use.

Mr. Davis responded upon call, Air Traffic Control reminds the pilot that there is a noise

abatement procedure with the Port of Oakland; stated the FAA provides notification, but the pilot does have the authority to request a different runway; Air Traffic Control will provide the runway specifically requested by the aircraft.

Councilmember Ezzy Ashcraft inquired if the pilot would be considering the situation; and if safety of approach, for example, is considered.

Mr. Davis responded the Port of Oakland advises pilots of the program if they violate the noise abatement procedure; stated pilots receive letters and notifications from Port of Oakland staff reminding them of the importance of the procedure; there are various reasons why an aircraft would chose not to follow the noise abatement procedure.

Councilmember Ezzy Ashcraft inquired the procedure for departing aircrafts.

Mr. Davis responded his previous explanation is for departing aircrafts; clarified the arriving aircraft procedures, which are very similar.

The Interim City Manager inquired if there are any noise curfews in place, to which Mr. Davis responded in the negative.

The Interim City Manager inquired if there is any noise reduction in place for commercial aircrafts to cut back on engines in order to reduce sound until they get to a certain altitude, to which Mr. Davis responded in the negative.

Councilmember Matarrese stated that he heard Runway 33 is unsafe; inquired why the issue was not addressed in the presentation, and what justification the Port of Oakland has for allowing the runway to be used.

Mr. Davis responded the airports responsibility is to publish and maintain a runway length safe for aircraft use; stated the pilot in command of the aircraft has to determine the safety margin; each aircraft has published limitations by the manufacturer based on multiple factors.

Councilmember Matarrese stated the response was not satisfactory; stated that he would like the topic discussed.

Mayor Spencer requested response as to who makes the decision.

Mr. Davis responded the decision lies with the pilot in command; stated the pilot in command is using manufacturer published data approved by the FAA, which allows for sufficient use of Runway 33; continued the presentation.

Councilmember Ezzy Ashcraft inquired if sending a letter to non-compliant pilots is the extent of the Port of Oakland's reprimand.

Mr. Davis responded the Port will call and send a letter.

Councilmember Ezzy Ashcraft inquired what the letter says.

Mr. Davis responded the letter advises of the Noise Abatement Program and encourages individuals to follow that program in the future.

Councilmember Ezzy Ashcraft inquired if there is consequence of any kind for not following the guidelines.

Mr. Davis responded there are no economic consequences; stated the Port does not have a fine-based program and is limited by the FAA and the Airport Noise and Capacity Act of 1990.

Councilmember Oddie inquired what the recourse is for the City.

Mr. Davis responded the City can also send individual letters if desired; stated the Port of Oakland provides information related to each incident publically; the program is outreach based.

Councilmember Oddie inquired who the non-compliant pilots will listen to, if suing the FAA would be possible recourse, and what other options are available.

Mr. Davis responded the options available primarily include engagement with the carriers; stated his presentation will address reasons why some carriers are non-compliant; well over 90% of operators comply with the program.

Vice Mayor Vella inquired about the steps the Noise Abatement Forum has taken to address the issues; stated many of the compliant flights generate noise; inquired if the update from the Forum includes all affected cities.

Mr. Davis responded the forum does include all cities involved.

Vice Mayor Vella inquired if there are items the Noise Abatement Forum is discussing relative to compliance.

Mr. Davis responded additional resources discussed earlier have been agreed upon by the Forum and the airport and are effective for the vast majority of pilots; pilots repeatedly refusing would be the target of additional means to promote compliance; continued the presentation.

Ms. McKenney completed the Power Point presentation.

Councilmember Matarrese inquired if Runway 33 can be examined to see if it is being used as it was designed; stated aircrafts have changed over the years; an experienced pilot should speak about the best uses for the runway; the matter should be studied and the Council should receive a response.

Ms. McKenney responded the Port of Oakland would be happy to do so.

Mayor Spencer inquired what steps have been taken in the past or if any studies have been conducted on this issue.

Ms. McKenney responded the Port of Oakland is required to maintain surfaces in order to be operational, regardless of age; stated the runways are maintained to operational standards; three inspections occur each day and the results are provided to the FAA on an annual basis; the Noise Abatement Program is voluntary.

Mayor Spencer inquired what analysis would be conducted by the Port of Oakland.

Ms. McKenney responded that she would provide more background and information to explain the short-hand in the presentation.

Mayor Spencer inquired if the analysis would conclude the runway to be unsafe for use.

Ms. McKenney responded if she believed the runway was unsafe, she would shut it down in an instant; stated the runway meets the minimum for aircrafts.

Vice Mayor Vella stated the runway should be checked to ensure the quality does not fall below the minimum compliance; the City works collectively with other cities and the Forum since many people are affected by aircraft noise; suggested including any next steps in future updates.

Ms. McKenney responded that she would do so.

Vice Mayor Vella inquired what kind of coordination occurs with sports teams during major sporting events.

Ms. McKenney responded the Super Bowl is run internationally; stated Oakland International Airport saw the most air traffic out of the three bay area airports; she does not anticipate the Super Bowl would come back to the bay area any time soon.

Mayor Spencer inquired if a history of efforts could be included in future reports; stated the FAA has been challenging to work with.

Ms. McKenney responded that she has documents which can be prepared for each Councilmember in order to review the history of efforts; stated NexGen has had impacts in the overall Bay Area and has changed the routes into a more compact area and flight pattern; fewer people are impacted by flight noise; however those impacted, notice it more than ever before; the next steps are to request Forum review, request the FAA to respond, and plan a response to the FAA in an attempt to engage.

(18-588) Introduction of Ordinance Authorizing the Interim City Manager to Execute Documents Necessary to Implement a Ten-Year Lease with SpinLaunch Inc., a California Corporation, for Building 530, Located at 120 West Oriskany Avenue at Alameda Point. Not heard.

(18-589) SUMMARY: Public Hearing to Facilitate a Tax-Exempt Bond Financing for Acquisition, Construction, Improvement, and Equipping of the Site A Affordable Family and Senior Projects by Eden Housing

Public Hearing Under the Tax Equity and Fiscal Responsibility Act (TEFRA) to Consider Resolution No. 15447, "Approving the Issuance of Revenue Bonds by the California Municipal Finance Authority in an Aggregate Principal Amount Not to Exceed \$45,000,000 to Finance a 70-Unit Multifamily Rental Housing Facility for Low- and Very Low-Income Families for the Benefit of Eden Housing Inc., or a Limited Partnership to be Established by Eden Housing Inc. (or an Affiliate)." Adopted; and

(18-589 A) Resolution No. 15448, "Approving the Issuance of Revenue Bonds by the California Municipal Finance Authority in an Aggregate Principal Amount Not to Exceed \$40,000,000 to Finance a 60-Unit Multifamily Rental Housing Facility for Low- and Very Low-Income Seniors for the Benefit of Eden Housing Inc., or a Limited Partnership to be Established by Eden Housing Inc. (or an Affiliate). These Revenue Bonds will provide for the financing of the Site A Affordable Family and Senior Projects." Adopted.

Councilmember Ezzy Ashcraft moved approval of both revenue bonds that are necessary for the low and very-low income family housing adoption of the resolutions.

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

(18-590) Public Hearing to Consider Resolution No. 15449, "Calling a Special Election Regarding Alteration of the Rate and Method of Apportionment of Special Taxes for Community Facilities District No. 17-1 (Alameda Point Public Services District)." Adopted; and

(18-590 A) Resolution No. 15450, "Amending the Fiscal Year 2018-19 Budget for the Community Facilities District 17-1 Fund by Increasing Estimated Revenue by \$174,051 and Increasing the Expenditure Budget by \$35,000." Adopted.

Councilmember Oddie moved adoption of the resolutions.

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

Mayor Spencer called a recess at 9:20 p.m. and reconvened at 9:28 p.m.

(18-591) Resolution No. 15451, "Amending Master Fee Resolution No. 12191 to Revise Fees to Add New Cannabis Business Operator and Regulatory Fees." Adopted;

(18-591 A) Public Hearing to Consider Introduction of Ordinance Amending the Alameda Municipal Code by Amending Section 30-10 (Cannabis) to (1) Add Cannabis Retail Businesses as Conditionally Permitted Uses in the C-1, Neighborhood Business and C-M, Commercial-Manufacturing Zoning Districts; (2) Add Two Delivery-Only Cannabis Retail Businesses as a Conditionally Permitted Use in the C-M, Commercial-Manufacturing Zoning District; (3) Amend Certain Portions of the Zoning Code to Enable Cannabis Retail Businesses to Dispense Non-Medicinal or “Adult Use” Cannabis; and (4) Amend Certain Portions of the Zoning Code to Eliminate the Dispersion Requirement for Delivery-Only Cannabis Businesses. Introduced;

(18-591 B) Introduction of Ordinance Amending the Alameda Municipal Code by Amending Article XVI (Cannabis Businesses) of Chapter VI (Businesses, Occupations and Industries) to (1) Eliminate the Cap on Testing Laboratories; (2) Add Two Delivery-Only Dispensaries; (3) Allow Adult Use; (4) Create a Two-Tier Buffer Zone from Sensitive Uses for Dispensaries and Cultivation Businesses; and (5) Make Other Clarifying Revisions. Introduced; and

(18-5591 C) Recommendation to Confirm Continued Use of Request for Proposal (RFP) Process to Administer Cannabis Retail Dispensary Business Operators’ Permit Selection Process.

The Economic Development Manager gave a Power Point presentation.

Mayor Spencer inquired how Alcoholic Beverage Control (ABC) regulations differ from the ordinance.

The Assistant City Attorney responded that he briefly looked up the regulations; 600 feet is discretionary and includes churches.

The Economic Development Manager continued the presentation.

In response to Councilmember Oddie’s inquiry, the Economic Development Manager stated the regulation is only for the C1 zone based on the discussion from July.

Councilmember Ezzy Ashcraft inquired if applicants, instead of the City, are required to notify a 300-foot radius.

The Economic Development Manager responded either the City or application can do the notification; stated an outside service would also be an option; continued the presentation.

Mayor Spencer inquired what the difference is between when the ABC denies a retail license as opposed to what the City has proposed for cannabis.

The Assistant City Attorney responded ABC has the ability to deny a permit but not based on the proximity or violation of the buffer; stated the City’s ordinance is not

discretionary and would not allow a cannabis business to locate inside the buffer zone; the buffer related to residences differs; ABC's sensitive uses is also different; the 600-foot buffer zone from schools, public playgrounds and youth facilities differs; the ABC can impose conditions on permittees to expand the scope of sensitive uses; the primary differences are the distance and discretion to impose certain conditions, the City's buffer zone discretion is more rigid with no wiggle-room.

Mayor Spencer requested more information about the residence requirement.

The Assistant City Attorney stated for ABC, there is an ability for the permittee to demonstrate that they will not disrupt quiet enjoyment within 100 feet of a residence, which the City does not require.

Expressed concern over local business being shut out of the process; urged raising the limit to four storefronts; urged following the Planning Board recommendation: Michael McDonough, Chamber of Commerce.

Expressed support for cannabis sales and concern over alcohol sales: Phillip Redd, Alameda.

Expressed concern over the ordinance not removing all dispersion as recommended by the Planning Board; urged there be no dispersion: Rich Moskowitz, Alameda.

Stated that she is struggling to find a suitable location for her cannabis nursery, which should have more flexibility: Sandra Square, Alameda.

Stated Harbor Bay and South Shore do not want the business; expressed concern over cannabis businesses being concentrated on the West End; suggested a cap for the district and a survey be done: Karen Bey, Alameda.

Expressed concern over the opening of a cannabis business by the Masjid; suggested places of worship be considered sensitive uses: Maaz Khan, Quba Masjid.

Expressed support for additional dispensaries; urged adult use be approved tonight: Ryan Agabao, Alameda for Safe Cannabis Access.

Read a letter of support from the West Alameda Business Association (WABA): John Ngu, WABA.

Stated children play in front of the mosque and church; urged the matter not proceed: Osman Ahmad.

Expressed support for delivery businesses and removal of the dispersion requirement: Melody Montgomery.

Mayor Spencer inquired what steps and options the City has if the Council agrees to the 600-foot radius provision.

Councilmember Ezzy Ashcraft requested clarification.

Mayor Spencer stated there is a permit in process for a specific location; a location is believed to be within 600-feet of the mosque; inquired what options the Council has given the current process.

The Assistant City Attorney responded the Council could edit the buffer zone and add additional sensitive use; stated the original buffer zone considers a number of different sensitive uses that could be referenced and changed; the possibility of making a change while an application is pending may propose challenges; changes may be made up until the land-use entitlements are obtained or locked-in by an applicant; it depends on the timing of the current applicant obtaining entitlement versus the change to take place.

Mayor Spencer inquired expediting the process is an option.

The Assistant City Attorney responded the ordinance would go through the standard process; an urgency ordinance would not be possible.

Mayor Spencer requested confirmation the change would take 60 days.

The Assistant City Attorney responded that is roughly correct; stated the first reading must occur evening, then the second reading, then a 30-day referendum period.

Mayor Spencer inquired whether the majority of Council agrees that the current meeting would qualify as the first reading; requested the process be explained again.

The Assistant City Attorney responded the process depends on if the ordinance is adopted before the applicant receives land use entitlement; stated the discussion is focused on vesting.

Vice Mayor Vella inquired if changes can be made after an applicant has moved forward.

The Assistant City Attorney responded doing so would be a challenge; stated typically vesting of Council rights does not happen until after entitlements are obtained; if an applicant has already been issued a Use Permit, using caution would be urged to ensure fairness.

Vice Mayor Vella stated what qualifies as a place of worship or a place where children gather has been discussed previously; inquired if the City would be going back to re-visit the issue.

The Base Reuse and Economic Development Director responded the discuss is whether or not the City would amend the definition of sensitive uses to include churches and other places of worship; stated the Council has adopted a robust process for approving cannabis businesses; the process consists of applying for a Use Permit under the regulatory ordinance as well as a land use application process which is governed by the ordinance that will extend use either by the Zoning Administrator or the Planning Board; having sensitive uses defined is helpful, but it will not be the only deciding factor that the Planning Board would take into account; the Board will also hear public testimony ; if the Council leaves the definition of sensitive uses intact, there is still an opportunity to have public input; the Planning Board would act on the application and consider criteria beyond the definition of sensitive uses; there is also the standard appeal or call for review process; the Council can look at amending the definition of sensitive uses to include places of worship or let the process play out for the current application; under ABC regulations, proximity to a sensitive use are is not a sufficient reason to deny a permit; additional factors can be taken into account.

Councilmember Ezzy Ashcraft inquired if the members who spoke from the mosque could appear before the Zoning Administrator or the Planning Board, to which the Assistant City Attorney responded in the affirmative; stated the potential for legal challenge should be considered.

Councilmember Ezzy Ashcraft stated that she would not support making a change to the buffer zone; there needs to be a map indicating places of worship and impacts.

Councilmember Oddie expressed concern; stated there is a process in place; inquired what would happen the next time the City approves an application and then makes changes.

Councilmember Matarrese stated there is a process under the current rules; the applicant will go before the Planning Board or Administrator to determine whether or not a Use Permit will be granted; inquired whether or not applications are required to be granted and if the process is truly discretionary; requested clarification of the process.

The Assistant City Attorney responded the process would follow the same guidelines as a Use Permit issuance; stated approval is discretionary; there is the ability to add additional conditions.

Councilmember Matarrese inquired whether the process is no different from any other Use Permit, under the current law, to which the Assistant City Attorney responded in the affirmative.

Mayor Spencer inquired if the Planning Board could add a condition to revoke the permit if someone smokes cannabis on the street three times; inquired what kind of conditions could be added.

The Assistant City Attorney responded adding said condition is possible; stated some stock conditions would be reviewed on an annual basis; adding conditions is something the Council may do, including nuisance control.

Mayor Spencer expressed concern with allowing Planning Board to not deny applications based off certain findings or lack of findings; inquired whether or not a dispensary near a mosque would could be a legal finding used to deny an application.

The Assistant City Attorney responded conditions are meant to meet concerns, be informed by public comment, and deliberated by the Planning Board.

Mayor Spencer stated the City does not currently allow smoking of cigarettes on streets; a concern expressed was on site consumption near a mosque; the condition of not allowing smoking outside relates to the concerns.

The Assistant City Attorney stated coming up with conditions on the spot is difficult; when a condition is considered, proof of breaking the condition is also considered as well as the revocation processes.

Councilmember Oddie stated the process needs to get back to a high level of consideration; the items being discussed are related to the Planning Board decision.

Vice Mayor Vella stated the Planning Board process is both location and use specific; she has heard the public comments and would urge participation in the Planning Board process; the regulations in place address some of the concerns mentioned; the Council's comments and concerns relative to conditions are better addressed during the Planning Board process.

Councilmember Ezzy Ashcraft cautioned the Council against jumping into the role of the Planning Board; stated certain points of view should be taken into consideration; requested clarification of the Planning Board's vote on dispersion distances.

The Economic Development Manager responded delivery-only businesses should have no dispersion requirement based on the Council direction.

The Base Reuse and Economic Development Director stated the Planning Board wanted to remove the dispersion requirement from the land use ordinance and asked that the Council consider whether or not the dispersion requirement should go into the regulatory ordinance; the Planning Board did not feel that the dispersion requirement is a land-use issue and recommended Council decide whether or not to have a dispersion requirement, which should be included in the regulatory ordinance; staff included the dispersion requirement in the draft ordinance for discussion purposes; the Planning Board agreed with staff's recommendation since the ordinances were drafted to not include a dispersion requirement for delivery-only dispensaries and suggested that the dispersion requirement be removed from the land-use ordinance with Council decided whether or not it should be included in the regulatory ordinance.

Councilmember Ezzy Ashcraft requested further clarification as to whether or not the Planning Board voted to remove the dispersion for delivery services, but did not vote to remove the dispersion from retail businesses.

The Base Reuse and Economic Development Director responded the Planning Board voted to remove the dispersion requirement from the land-use ordinance; stated the Planning Board did not have the discussion related to retail businesses; staff removed the dispersion requirement from the land use ordinance and placed it in the regulatory ordinance.

Vice Mayor Vella inquired if it would be possible for Council to make Grand Street the boundary, having half of dispensaries west and half east of Grand Street.

The Base Reuse and Economic Development Director responded in the affirmative; stated the Council approved a cap of two retail dispensaries when the dispersion requirement was adopted; as soon as the Council started to look into two delivery only dispensaries, the one-mile dispersion requirement would no longer work.

Councilmember Oddie inquired if it would be possible to have two dispensaries next to each other as long all four were not next to each other, to which the Base Reuse and Economic Development Director responded in the affirmative; stated the idea of having two east of Grand Street and two west of Grand Street makes more sense than a one mile dispersion, which would be highly limiting and challenging.

Councilmember Oddie inquired whether the Council could require that at least half of the dispensaries must have delivery.

The Base Reuse and Economic Development Director responded in the affirmative; stated under the current ordinances, the two retail dispensaries also have the ability to secure a delivery license; the feedback from July was to look at two additional delivery-only dispensaries; the Council could also require delivery to be included in conjunction with all four of the retail dispensaries.

Councilmember Oddie inquired if the City has to specifically say adult use is allowed or if striking medicinal use is sufficient, to which the Base Reuse and Economic Development Director responded in the affirmative.

Mayor Spencer inquired whether staff has a solution regarding the comment related having nurseries.

The Base Reuse and Economic Development Director responded staff has not made a change; stated one nursery is allowed in the CM zone only; in July, staff did not receive direction to revisit that issue; Council could direct the nursery be permitted in other zones.

In response to Mayor Spencer's inquiry regarding CM zones, the Base Reuse and Economic Development Director stated nurseries are permitted as long as they can secure a location.

Mayor Spencer inquired if staff thinks there are places within the CM zones that will not deny nursery applications.

The Base Reuse and Economic Development Director responded staff does not know and has not surveyed the landowners in the CM zones regarding their willingness to rent to a nursery.

Councilmember Matarrese inquired if the reason a nursery is not being allowed in the CM zones is because a property owner does not want it there or if the individual proposing the business cannot afford it.

The Base Reuse and Economic Development Director responded that she does not know and is relying on what the speaker stated during public comment.

Councilmember Matarrese inquired whether the City's laws does not prohibit a nursery, to which the Base Reuse and Economic Development Director responded in the affirmative.

Vice Mayor Vella inquired whether State law requires delivery only businesses to do all the things a brick and mortar dispensary has to do.

The Base Reuse and Economic Development Director responded in the affirmative; stated one difference is not having to meet the same parking standards; stated security and how product is handled is similar.

Vice Mayor Vella expressed concern over statements made about allowing for delivery as a business option; stated that she wants a requirement instead of an option as part of the application process to allow for those who are home-bound or have mobility issues to get product safely delivered in a way that is regulated.

The Base Reuse and Economic Development Director stated that she would defer to the Assistant City Attorney.

Vice Mayor Vella stated even if applicants anticipate offering delivery, they could decide not to offer delivery.

The Assistant City Attorney stated the easiest way to mandate the requirement is to have a cap for each; the existing cap could be retained for retail dispensaries open to the public, but two additional retail dispensaries that must offer delivery would also be allowed.

Councilmember Ezzy Ashcraft expressed concern over adult use versus medicinal use dispensaries; stated medicinal use dispensaries have not been given a chance to operate; requested clarification regarding the changes proposed in the petition being circulated related to a medicinal dispensary.

The Economic Development Manager stated the previous Council direction was to provide a robust discussion on adult use; the speaker indicated a high number of petition signatures have been obtained.

Councilmember Ezzy Ashcraft inquired what the harm would be in waiting until the requisite number of signatures have been gathered; stated the current process should still continue.

The Economic Development Manager responded the Council directed staff to bring the item back; staff brought the item back with an inclusive ordinance which included adult use, two dispensaries, and everything Council requested; the ordinance can be modified at the current meeting, including the substitution of medicinal use for adult use.

Councilmember Matarrese requested to go down the staff list.

The Economic Development Manager stated the first item on the list is approve the Fee Study resolution.

Councilmember Matarrese moved approval of accepting the fee study [adoption of the resolution].

Councilmember Ezzy Ashcraft seconded the motion.

Under discussion, Mayor Spencer inquired if staff wants a motion per item.

The Economic Development Manager responded in the affirmative for the fee study item.

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

The Economic Development Manager stated the next item is adding cannabis retail businesses to C1.

Mayor Spencer inquired if there are at least three votes in support.

Councilmember Oddie and Mayor Spencer expressed support.

Councilmember Matarrese and Ezzy Ashcraft stated they would not support it.

Councilmember Ezzy Ashcraft inquired what kind of retail dispensaries are assumed.

The Economic Development Manager responded retail dispensaries open to the public.

Councilmember Ezzy Ashcraft inquired if they would be medicinal or adult use.

The Economic Development Manager responded question can be discussed first, but it may be lengthy; stated the item currently being discussed is retail business dispensaries.

Mayor Spencer requested the question be asked.

The Economic Development Manager inquired if the question is for adult use.

Mayor Spencer, Vice Mayor Vella and Councilmember Oddie expressed support.

The Economic Development Manager inquired if retail dispensaries should include adult use.

Mayor Spencer inquired if the area is within C1.

Councilmember Oddie stated that he would like retail and delivery; requested consideration of delivery not being standalone.

Mayor Spencer stated that she is okay with having delivery only and dispensaries with delivery; she is also okay with having four dispensaries plus two separate delivery businesses.

Vice Mayor Vella stated that she is not in support of said amount.

Councilmember Oddie stated that he would like to support brick and mortar dispensaries with delivery before delivery only cannibalizes brick and mortar.

Mayor Spencer inquired how many and what type should be allowed.

Councilmember Oddie responded that he would be fine with four.

Mayor Spencer clarified four dispensaries with delivery.

Councilmember Oddie stated at least two should have delivery and can be delivery only or a dispensary with delivery.

The Economic Development Manager inquired who would like all dispensaries to be retail only with the option of being delivery only for two.

Councilmember Oddie responded if the two brick and mortar do not offer delivery, then delivery only can be considered.

Vice Mayor Vella stated that she would not support going from two to six.

The Economic Development Manager stated the discussion is for four dispensaries.

Vice Mayor Vella stated that she wants to make sure two would be required to have delivery options.

The Economic Development Manager inquired who supports four retail dispensaries, two of which can be delivery-only but two must offer delivery; inquired whether Vice Mayor Vella means four dispensaries with a storefront.

Vice Mayor Vella responded four could be storefront, two of which must provide delivery; stated that she wants to mandate the second dispensary that comes in must provide delivery.

Mayor Spencer stated there could be four storefront dispensaries, with a minimum of two dispensaries providing delivery.

The Economic Development Manager stated Councilmember Oddie's request differs; one dispensary could be delivery only or retail.

Councilmember Oddie stated the City needs at least two, all four dispensaries could have delivery.

Mayor Spencer inquired if Councilmember Oddie is okay with four storefronts.

Councilmember Oddie responded the City should have four storefronts, at least two of them need to have delivery.

Councilmember Matarrese expressed concern with processes; stated those in favor of the item have a financial interest; he is in favor of having medicinal use, and labs; the process is not known until it actually occurs.

Councilmember Matarrese moved approval of staying the two ordinances until one business runs through the process.

Councilmember Ezzy Ashcraft moved approval of a substitute motion to move forward with additional delivery services, testing labs and medicinal only.

Councilmember Matarrese seconded the motion.

Under discussion, Vice Mayor Vella stated many people do not want to register to get medicinal cannabis; the process is cumbersome; stated some people find it helpful to interact and discuss product options with consultants.

Mayor Spencer suggested calling the question.

Councilmember Oddie suggested tabling the motion.

Councilmembers Ezzy Ashcraft and Matarrese expressed support.

Mayor Spencer stated she would not call the question.

The Economic Development Manager inquired who is in favor of adding C1 to the zoning.

Mayor Spencer, Vice Mayor Vella and Councilmember Oddie stated aye, Councilmembers Ezzy Ashcraft and Matarrese stated no.

The Economic Development Manager inquired who is in favor of adding CM, Commercial Manufacturing, to the zoning.

The Council expressed unanimous support.

The Economic Development Manager inquired about eliminating the cap on testing labs.

The Council expressed unanimous support.

The Economic Development Manager inquired about removing the dispersion from the land use ordinance

Councilmember Ezzy Ashcraft stated if the dispersion is removed, it needs to be put somewhere else.

Mayor Spencer concurred; revised the question to: remove dispersion from the land use and put it into the regulatory ordinance.

The Council expressed unanimous support.

The Economic Development Manager inquired about modifying the dispersion of a mile to adopt different language.

Mayor Spencer inquired what language would be considered as the replacement.

The Economic Development Manager stated the language would read: "overconcentration: in addition to the operational radius noted above, there should be no more than two."

The Assistant City Attorney stated the language presented mirrors Vice Mayor Vella's proposal; there would be no more than two dispensaries on either side of Grand Avenue; inquired the timing for dispensaries to open in specific locations; the language

proposed is: “provided at least one such cannabis business is approved on either side before the second is approved.”

Mayor Spencer stated that she is agreeable to having two dispensaries opening up on either side of Grand Avenue, as long as the City ends up with two dispensaries on either side of Grand Avenue; expressed concern over negotiations causing delay in dispensaries opening as well as causing a monopoly; further stated her preference is an even balance of dispensaries on either side of Grand Avenue.

Councilmember Ezzy Ashcraft stated that she does not see a need to stipulate location timing on either side of Grand Avenue; inquired whether there would be dispersion between the two on either side.

The Assistant City Attorney responded there would be no dispersion; stated under the language, two dispensaries could be next to each other.

Mayor Spencer stated that she is okay with the language and agrees with the Planning Board’s suggestion.

The Assistant City Attorney inquired if Vice Mayor Vella’s proposal is to require two the four dispensaries to have delivery.

Mayor Spencer responded at least two must have delivery.

The Assistant City Attorney inquired if there has to be a distribution on either side of Grand Avenue.

Councilmember Oddie responded that all four could have delivery.

Councilmember Ezzy Ashcraft inquired if a dispensary applies to be next to an existing dispensary, would the process go through the Zoning Administrator and the Planning Board, to which the Economic Development Manager responded in the affirmative.

Mayor Spencer inquired at least three agree to the change.

Mayor Spencer, Vice Mayor Vella, Councilmembers Oddie and Ezzy Ashcraft stated yes, Councilmember Matarrese stated no.

The Economic Development Manager inquired whether a two-tier buffer system should be created; stated the buffer would be 1,000 feet for dispensaries, nurseries and cultivation to be located away from public and private schools.

Mayor Spencer stated that she thought the buffer would only apply to dispensaries; inquired if the schools are grades kindergarten through -12th grade.

The Economic Development Manager responded in the affirmative; stated the buffer zone would only apply to dispensaries; cultivation would be taken out; all other sensitive uses would have a 600 foot buffer.

Councilmember Oddie inquired if there could just be the one potential nursery license, to which the Economic Development Manager responded in the affirmative.

Councilmember Ezzy Ashcraft inquired about consideration of places of worship.

Mayor Spencer stated places of worship would be considered by the Planning Board.

Councilmember Ezzy Ashcraft suggested adding a definition to sensitive use.

Councilmember Oddie inquired whether the Planning Board could stipulate certain dates and times relevant to surrounding areas.

The Assistant City Attorney responded in the affirmative.

The Economic Development Manager stated the C1 would be added to the zoning for cannabis activities, the CM would be added to the zoning for cannabis activities, and adult use would be added to the zoning for cannabis activities.

Mayor Spencer moved introduction of the land use ordinance.

The Economic Development Manager noted dispersion would be removed from the land use ordinance.

Mayor Spencer inquired whether or not the dispersion removal is part of the approval, to which the Base Reuse and Economic Development Director responded the action is to vote on the land use ordinance and the dispersion requirement is not included.

The Assistant City Attorney inquired if the potential changes from pending operators should be included as well, to which Mayor Spencer responded in the affirmative.

The Assistant City Attorney presented language for review.

Mayor Spencer included the language presented in her original motion.

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

The Economic Development Manager stated Council voted to include dispersion, needs to specify how it will be modified.

Mayor Spencer inquired if the language is available for review.

Councilmember Oddie stated the language was just presented.

Councilmember Oddie inquired if the language being considered includes the cleanup language.

The Economic Development Manager responded the cleanup language needs to be approved.

Mayor Spencer inquired if the cleanup language is part of this motion, to which the Economic Development Manager responded in the affirmative; stated the motion includes cleanup language and the buffer.

Councilmember Oddie inquired if the alignment of labor peace with State law does not change the number of employees the City requires before labor peace, to which the Economic Development Manager responded in the affirmative.

Mayor Spencer moved approval [introduction of the regulatory ordinance]. .

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

The Economic Development Manager stated the final item to address is the Request for Proposals (RFP).

Mayor Spencer inquired if a motion is needed.

The Economic Development Director inquired if the Council wants the applicant to send out a 300-foot radius notice.

Vice Mayor Vella stated that she would like it to be a pass/fail requirement; the requirement would be to send the notice; part of the Use Permit process is to allow people to weigh-in; the requirement is to certify that the applicant has notified people.

Mayor Spencer concurred with Vice Mayor Vella.

Councilmember Ezzy Ashcraft stated the Use Permit process starts when neighbors in the 300-foot radius are notified.

Vice Mayor Vella stated the requirement is fine; the notice just needs to be certified as pass/fail and complete.

The Economic Development Director inquired if the 300-foot notice portion of the RFP would be pass/fail.

Vice Mayor Vella stated it does not matter if the applicant, the City or an outside consultant performs the notice; the action needs to be certified.

Mayor Spencer stated that she understands there are two mailings: one early and another by the City as the applicant is going through the normal process; inquired if the first mailing would be pass/fail, to which Vice Mayor Vella responded in the affirmative.

Councilmember Oddie stated the process seems redundant and he does not understand why it would be included in the RFP process.

Councilmember Ezzy Ashcraft stated that she would like to follow the same Planning Board process used for any land use determination.

The Economic Development Manager stated the requirement could be dropped.

Councilmember Ezzy Ashcraft stated the neighbors need to be notified, but not twice.

The Economic Development Manager stated neighbors would be noticed twice in the process; if the RFP process is kept standard, the neighbors would only be noticed during the Use Permit process.

Mayor Spencer inquired if a motion is needed to remove the process, to which the Economic Development Manager responded in the negative.

The Economic Development Manager stated staff would incorporate the information from the ordinances being approved into the RFP; the last item is to issue a fee credit to those submitting on the same location; requested general approval from Council for the process.

The Council unanimously agreed to the process.

CITY MANAGER COMMUNICATIONS

(18-592) The Interim City Manager announced a proposed USS Hornet event was not approved after the Drake concert on October 26, 2018.

ORAL COMMUNICATIONS, NON-AGENDA

None.

COUNCIL REFERRALS

None.

COUNCIL COMMUNICATIONS

(18-593) Consideration of Mayor's Nomination for Appointment to the Library Board, Planning Board and Social Service Human Relations Board. Not heard.

(18-594) Councilmember Ezzy Ashcraft stated that she participated in two walk-and-roll-to-school days at both Wood Middle School and Franklin Elementary School.

Mayor Spencer stated she participated in one at Otis Elementary.

ADJOURNMENT

There being no further business, Mayor Spencer adjourned the meeting at 11:22 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

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