

MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
WEDNESDAY- -NOVEMBER 7, 2018- -5:00 P.M.

Mayor Spencer convened the meeting at 5:05 p.m.

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

Absent: None.

Public Comment:

Gaby Dolphin, Alameda, stated hiring a new City Manager and City Attorney is not business as usual; suggested holding Town Hall meeting meet and greets to allow candidates to answer questions.

The meeting was adjourned to Closed Session to consider:

(18-595) Public Employee Appointment/Hiring; Pursuant to Government Code § 54957; Title/description of positions to be filled: City Manager

(18-596) Public Employee Appointment/Hiring; Pursuant to Government Code § 54957; Title/description of positions to be filled: Acting/Interim City Attorney and City Attorney

(18-597) 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

Following the Closed Session, the meeting was reconvened and the City Clerk announced that regarding the City Manager, City Attorney, and Labor, direction was given to staff.

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Mayor Spencer called a recess at 7:06 p.m. and reconvened the meeting at 10:36 p.m.

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Following the Closed Session, the meeting was reconvened and the City Clerk announced that regarding Labor, direction was given to staff.

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.

MINUTES OF THE REGULAR CITY COUNCIL MEETING  
WEDNESDAY- -NOVEMBER 7, 2018- -7:00 P.M.

Mayor Spencer convened the meeting at 7:12 p.m. Boy Scout Troop 2 led the Pledge of Allegiance.

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

Absent: None.

AGENDA CHANGES

(18-598) The City Clerk announced the National Native American Heritage Month Proclamation [paragraph no. 18-601], Physio contract [paragraph no. 18-607] and the Resolution Site A/Eden [paragraph no. 18-613] would not be heard.

Mayor Spencer stated the proclamation was moved to November 27<sup>th</sup> at the request of those accepting.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(18-599) Proclamation Declaring November 7, 2018 as Extra Mile Day.

Mayor Spencer read the proclamation and presented it to Joanne Robinson, Michael Chen, John Jacobs, Jerry and Linda Juhala, John Knox White, Jacqueline Mitchell, Kari Thompson, Mark Sorensen, and the family of the late Kent Rosenblum.

(18-600) Proclamation Declaring November 15, 2018 as America Recycles Day.

Mayor Spencer read the proclamation and presented it to Janet Magleby, Downtown Alameda Business Association; Linda Asbury, West Alameda Business Association; Janet Davis, Friends of the Alameda Animal Shelter; and Chris Valbusa and Carrie Wright, Alameda County Industries.

Ms. Magleby and Ms. Asbury made brief comments.

(18-601) Proclamation Declaring November 2018 as National Native American Heritage Month. Not heard.

(18-602) Proclamation Declaring November 2018 as National Veterans and Military Families Month.

Mayor Spencer read the proclamation and presented it to Andy Huntoon, Vietnam Veteran; Jonathan Minton United States Navy Veteran; Petty Officer Colton Lane

Tokanada, Commander Jackie Leverich, and Eladia Minton, United States Coast Guard; and John Kuhlenkamp and Larry Fukuba, American Legion Post 9.

Mr. Huntoon and Ms. Leverich made brief comments.

#### ORAL COMMUNICATIONS, NON-AGENDA

(18-603) Keith Nealy, Alameda, submitted information expressed concern over flyers being stapled to utility poles.

#### CONSENT CALENDAR

The City Clerk announced the United Against Hate resolution [paragraph no. 18-614] and the cannabis ordinances [paragraph nos. 18-615 and 18-616] were removed from the Consent Calendar for discussion.

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

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

(\*18-604) Minutes of the Joint City Council and Successor Agency to the Community Improvement Commission Meeting Held on September 18, 2018 and the Special and Regular City Council Meetings Held on October 2, 2018. Approved.

(\*18-605) Ratified bills in the amount of \$5,268,058.98.

(\*18-606) Recommendation to Authorize the Interim City Manager to Negotiate and Execute an Agreement for the Purchase of One Horton F-550 Type I Ambulance in an Amount Not to Exceed \$385,178. Accepted.

(18-607) Recommendation to Authorize the Interim City Manager to Execute a Three Year Contract, in an Amount Not to Exceed \$30,000 Annually for a Total Three-Year Expenditure Amount Not to Exceed \$90,000, with Physio Control for Warranty and Maintenance of Fire Department Advanced Life Support (ALS) Medical Monitors and Equipment. Not heard.

(\*18-608) Recommendation to Authorize the Interim City Manager to Accept the Work of Lennar Homes, for Tract 8118, Marina Shores. Accepted.

(\*18-609) Recommendation to Authorize the Interim City Manager to Execute a One-Year Contract Amendment, with the Option of Three One-Year Extensions, for an Amount not to Exceed \$150,000 Each, for a Total Five Year Expenditure not to Exceed

\$750,000 Each, to the Following: BKF, HEI, and Schaaf & Wheeler for On-Call Civil Engineering Consulting Services. Accepted.

(\*18-610) Recommendation to Authorize the Interim City Manager to Execute a One-Year Contract Amendment, with the Option of Three One-Year Extensions, for an Amount not to Exceed \$150,000 Each, for a Total Five Year Expenditure not to Exceed \$750,000 Each, to the Following: Baseline Designs, Inc., Habitat Engineering & Forensics, Inc., JMEC Engineering, and Oakley & Oakley for On-Call Structural Engineering Consulting Services. Accepted.

(\*18-611) Recommendation to Authorize the Interim City Manager to Execute a Contract in the Amount Not to Exceed \$5,299,614, Including Contingency, to McGuire and Hester for the Cross Alameda Trail -Ralph Appezato Memorial Parkway Improvements, No. P.W.03-18-11. Accepted; and

(\*18-611A) Resolution No. 15452, "Amending the Fiscal Year 2018-19 Capital Projects Fund Budget for the Cross Alameda Trail (Main to Constitution) Project by \$1,794,060 from Various Funding Sources." Adopted.

(\*18-612) Recommendation to Authorize the Interim City Manager to Execute a Three-Year Agreement in an Amount Not to Exceed \$500,000 with Centro Legal de la Raza for Tenant Legal Services. Accepted; and

(\*18-612A) Resolution No. 15453, "Amending the Fiscal Year 2018-19 General Fund Budget of the City Attorney's Office to Appropriate the Remaining \$400,000 for Tenant Legal Services. Adopted.

(18-613) Adoption of Resolution Amending Previous Authorization of a Portion of the City Base Allocation and Required Match Amount for Site A/Eden Affordable Senior Project and Affordable Family Project for Application to County Rental Housing Development Fund. Not heard.

(18-614) Resolution No. 15454, "Declaring November 11 through 17 United Against Hate Week in the City of Alameda, in Conjunction with the Alameda Unified School Board and other Bay Area Cities." Adopted.

Expressed gratitude to staff for the consideration of the item; stated the proposed material would benefit from alternate language being considered: Rasheed Shabazz, Alameda.

Mayor Spencer requested the first line be struck; stated the proposed language comes from other cities; the intent is to focus on being a nation of immigrants.

Councilmember Matarrese stated the first line is worth striking.

Mayor Spencer outlined the new text.

Councilmember Oddie expressed support for the new text; requested Mr. Shabazz's presentation be included as correspondence.

Vice Mayor Vella moved adoption of the resolution [with striking the first line]; stated the City is working on the goals and trying to achieve better acceptance of diversity and everyone in the community.

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

(18-615) Ordinance No. 3227, "Amending the Alameda Municipal Code by Amending Section 30-10 (Cannabis) to (1) Add Cannabis Retail Businesses as Conditionally Permitted Uses in the C-1, Neighborhood Business, and C-M, Commercial-Manufacturing Zoning Districts, (2) Amend Certain Portions of the Zoning Code to Enable Cannabis Retail Businesses to Dispense Non-Medicinal or "Adult Use" Cannabis, and (3) Amend Certain Portions of the Zoning Code to Remove the Dispersion Requirement." Finally passed.

Mayor Spencer inquired if a complaint was filed related to the item.

The Acting City Attorney responded a complaint has been filed contending the Council's deviation from the specifics of the agenda title violates the Sunshine Ordinance; stated the City Attorney's office has already opined that the agenda was clear and specific enough to embrace the action Council took; the Council may continue with final passage.

Expressed concern over the ordinance being amended and proximity to children: Don Sherratt, Alameda.

Read a letter he submitted: Mark Hersman, Portman Enterprises.

Under discussion, Councilmember Oddie inquired if the buffer zone near public or private schools was kept at the 1,000 foot distance.

The Assistant City Attorney responded in the affirmative, stated there is a two-tier system.

The Base Reuse and Economic Development Director stated the 1,000 foot buffer applies to both private and public schools.

Mayor Spencer inquired the distance for day care centers.

The Base Reuse and Economic Development Director responded the buffer zone is 600 feet; stated all other sensitive uses are included in the 600 foot buffer zone.

Mayor Spencer inquired if the 600 foot buffer zone is consistent with State law.

The Base Reuse and Economic Development Director responded the ordinance establishes a two tier buffer zone; stated staff believes there is some ambiguity with sensitive uses; a robust discussion related to defining the uses would come back to Council November 27<sup>th</sup>; Council can proceed with the item presented.

In response to Mayor Spencer's inquiry if the City Attorney's office believes the Council can proceed with the item, the Acting City Attorney responded in the affirmative.

Councilmember Oddie moved final passage of the ordinance.

Vice Mayor Vella 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.

(18-616) Ordinance No. 3228, "Amending the Alameda Municipal Code by Amending Article XVI (Cannabis Businesses) of Chapter VI (Businesses, Occupations and Industry) to (1) Eliminate the Cap on Testing Laboratories, (2) Allow for Two Additional Cannabis Businesses to Operate as "Dispensary/Delivery" (Delivery Required) Within the Zoning Districts for Cannabis Retail, (3) Amend the Dispersion Requirement to Require No More Than Two Cannabis Retail Businesses to Operate on Either Side of Grand Street, (4) Create a Two-Tier Buffer Zone from Sensitive Uses for Cannabis Businesses, (5) Amend Certain Portions of the Regulatory Ordinance to Enable Cannabis Retail Businesses to Dispense Non-medicinal or "Adult Use" Cannabis, (6) Modify Requirements for Off-Island Delivery, and (7) Make Other Clarifying or Conforming Amendments Thereto." Finally passed.

Mayor Spencer inquired if the City Attorney's office finds it appropriate to proceed with the item, to which the Acting City Attorney responded in the affirmative.

Stated public health issues related to tobacco should be applied to cannabis, expressed concern over delivery-only options versus full service recreational dispensaries; stated the two delivery-only options presented at a previous Council meeting changed without her prior knowledge: Serena Chen, Alameda.

Expressed concern over the language not being clear and staff members' potential economic conflicts; stated that he opposes the ordinance: Don Sherratt, Alameda.

Stated the Council's intent to have four dispensaries was clear from the July meeting; urged Council to pass the ordinance: Rich Moskowitz, Alameda.

Stated dispensaries are the safest way to keep cannabis out of the hands of children; discussed cannabis benefits and youth centers: Ryan Agabao, Alameda.

Expressed support for having dispensaries: Phillip Redd, Alameda.

Expressed concern over having too many restrictions: Andrew Huntoon, Alameda.

Stated that she opposes having dispensaries instead of deliveries: Rosalyn Moya, Alameda.

Under discussion, Councilmember Ezzy Ashcraft stated that she would vote to oppose the ordinance because more time is needed to regulate enforcement; expressed concern that a significant change was made to the ordinance by adding adult use dispensaries not noted.

Vice Mayor Vella stated that she has read the correspondence; the Council's intent is to address the questions raised related to defining a youth center; the Council is working toward best practices and has limited where cannabis businesses can locate; she does not want to limit the distances such that there is no place for cannabis businesses to locate; the changes are intended to help accommodate businesses having difficulty locating in Alameda; delivery only businesses have to adhere to the same standards as dispensaries; security provisions are taken very seriously; the State has made cannabis one of the most regulated substances available; the robust conversation defining a youth center is needed; Council should follow staff's recommendation, which she plans to support.

Councilmember Oddie stated the conversation defining youth centers is needed due to correspondence received that questions how staff would interpret sensitive use and youth centers; inquired if staff members have to complete Form 700's allowing people who have special interest in the cannabis business to disclose it on public documents.

The Acting City Attorney responded if a staff member has an ownership interest, or a significant investment in a local cannabis business, it would have to be publicly disclosed on the Form 700; stated a member of a body would have to recuse themselves.

Councilmember Oddie inquired if the Forms are available only for high-level staff that would be making these types of decisions, to which the Acting City Attorney responded he does not know if they are available on the City's website; stated the public can look at all reportable filings.

Mayor Spencer stated the Council has been extremely responsible in trying to come up with a policy that is as safe as possible; speakers have expressed concern that cannabis is not available in Alameda; two years is not moving fast; many cities develop policy in less than two years; the intent is to have lab tested items available for consumption in a safe environment; expressed concern over prescribed opiate drugs; stated the fastest growing demographic for cannabis use is senior citizens; expressed support.

Vice Mayor Vella stated San Francisco's Good Neighbor Policy refers to not smoking outside businesses, posting signs that say no smoking and no loitering, ensuring vehicles are not double parked, and other things related to the business being safe and



operational; if Council gives staff direction for the November 27<sup>th</sup> meeting discussion, items that ensure businesses are following best practices should be included.

Mayor Spencer stated some dispensaries look like art galleries; there is a way to have dispensary businesses in the community that do not stand out.

Councilmember Oddie moved final passage of the ordinance, with direction to staff to come back with a discussion on how youth centers will be interpreted.

Vice Mayor Vella 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.

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Mayor Spencer called a recess at 8:31 p.m. and reconvened the meeting at 8:47 p.m.

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### REGULAR AGENDA ITEMS

(18-617) Introduction of Ordinance Approving a Lease Amendment with a Maximum Three-Year Extension of the Lease with CSI Mini-Storage, LLC, a California Limited Liability Company, for Buildings 338, 608, and 608A-C Located at 50 and 51 West Hornet Avenue at Alameda Point. Introduced.

The Base Reuse and Economic Development Assistant Director gave a brief presentation.

Councilmember Ezzy Ashcraft moved introduction of the ordinance.

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

(18-618) Introduction of Ordinance Amending the Alameda Municipal Code by Adding Article XVII (Tobacco Retailers) to Chapter VI (Businesses, Occupations and Industries) to Require Licensing of Tobacco Retailers in the City and to Prohibit the Sale of Flavored Tobacco Products. Introduced.

Mayor Spencer inquired whether Council would be interested in reducing speaker time.

Vice Mayor Vella moved approval of reducing the time to one minute.

Councilmember Matarrese seconded the motion.

Under discussion, Mayor Spencer inquired how many speakers are in favor versus not in favor, to which the City Clerk responded more speakers are in favor.

Mayor Spencer expressed concern over having less people on one side.

Vice Mayor Vella stated that she received a lot of correspondence related to the item prior to the meeting; inquired if other members of the Council received correspondence as well, to which Councilmember Ezzy Ashcraft responded that she met with retailers and received correspondence.

In response to Mayor Spencer's inquiry of how much time the public comment would be reduced to, Vice Mayor Vella stated one minute.

Mayor Spencer made a substitute motion to approve giving speakers 90 seconds, which failed for a lack of second.

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

The Assistant City Attorney gave a Power Point presentation.

Councilmember Ezzy Ashcraft inquired what the rationale is of allowing a new tobacco retailer to keep operating within 300 feet of a sensitive use if the business is bought within three years of the ordinance passage.

The Assistant City Attorney responded staff held two meetings with tobacco retail organizations; stated the draft ordinance presented to the groups would have not permitted tobacco sales if the business was sold, which would provide an extreme economic hardship; the re-drafted ordinance placed a three year window allowing for sale of the business to address the economic hardship.

Councilmember Ezzy Ashcraft inquired why the State will not disclose how many State licensed tobacco retailers operate in Alameda.

The Assistant City Attorney responded his understanding is the State considers the information confidential; stated based off information gathered, there are roughly fifty such businesses in the community.

Councilmember Ezzy Ashcraft inquired what percentage of the tobacco retailers are stores that only sell tobacco products.

The Assistant City Attorney responded that he does not know.

Vice Mayor Vella inquired if a business within the buffer zone sells within a year of the passed ordinance then sells again would the second new owner keep the license, to which the Assistant City Attorney responded in the affirmative; stated the window for any sale of the business is three years; after the three year window, any businesses

sold within the buffer zone would be precluded from selling tobacco products; continued the presentation.

Councilmember Ezzy Ashcraft inquired if only San Francisco has an outright ban on all flavored tobacco; and why some jurisdictions decided to only allow menthol.

The Assistant City Attorney responded he is not sure the rationale and assumes it relates to menthol being a significant portion of tobacco sales.

Councilmember Ezzy Ashcraft inquired if menthol is thought to be a greater selling flavor of tobacco product, to which the Assistant City Attorney responded in the affirmative; stated the tobacco retailers' response is consistent with said thought; continued the presentation.

In response to Councilmember Ezzy Ashcraft's inquiry regarding who determines whether the retailers' license is suspended or if a fine is imposed, the Assistant City Attorney stated the Department Head would make a determination about which penalty to impose.

Councilmember Ezzy Ashcraft inquired if the Department Head would be the City Manager, to which the Assistant City Attorney responded the ordinance is currently drafted listing the Community Development Director.

In response to Councilmember Ezzy Ashcraft's inquiry regarding suspensions, fines or revocation the Assistant City Attorney stated if a retailer's tobacco license is suspended, the other profitable, collateral product purchases cease; the intent is to fine the business to allow operation to continue.

Councilmember Ezzy Ashcraft stated the violations might be better adhered to if the penalty is suspension, rather than a fine.

Vice Mayor Vella requested clarification that collateral sales means the purchase of groceries in addition to tobacco products, to which the Assistant City Attorney responded in the affirmative; continued the presentation.

Councilmember Matarrese inquired if additional staff would be hired related to the grant award or if existing staff would be adding to their workload.

The Assistant City Attorney responded hiring additional staff to enforce the program is not anticipated at this time; stated time spent by Police and Code Enforcement will be tracked to ensure the cost can be calculated.

Councilmember Ezzy Ashcraft inquired where the revenue from the fines will go, to which the Assistant City Attorney responded the General Fund; continued the presentation.

Councilmember Oddie inquired if the presentation addresses issues and concerns related to public health.

The Assistant City Attorney responded the issue of public health is discussed in the staff report and the ordinance.

Councilmember Oddie inquired if the tobacco retailers raised any concerns about putting a product into the market that essentially kills people; and if there is any difference between menthol and regular tobacco products.

The Assistant City Attorney responded menthol is shown to be more harmful than non-menthol products; stated ads for menthol products are primarily targeted at youth and minority groups.

Councilmember Oddie stated retailers are requesting an exemption for a more harmful product that is targeted at youth and minority groups.

The Assistant City Attorney continued the presentation.

Vice Mayor Vella stated the staff report includes an option to keep menthol tobacco products behind the counter at tobacco retail locations; inquired if tobacco could products be kept behind the counter at all retail stores.

The Assistant City Attorney responded in the affirmative.

Vice Mayor Vella stated some of the exemptions raised at meetings are already required of tobacco retailers; inquired if current practices were considered, to which the Assistant City Attorney responded in the affirmative; stated the public health concerns are addressed in the ordinance; completed the presentation.

Provided smoking statistics and reviewed advertising tactics: Irene Nikkah, American Cancer Society – Cancer Action Network.

Suggested the buffer zone be to the front door of business; expressed concern over broken leases and adults not having access to flavored tobacco products to quit smoking: Marilyn Pepper.

Stated the National Association of Tobacco Outlets (NATO) opposes the ordinance as proposed: Jaime Rojas, NATO.

Stated that he supports the ordinance: Don Sherratt, Alameda

Stated most kids start with flavored or menthol cigarettes; San Francisco, Beverly Hills, Richmond, San Pablo, and Marin County have bans: Phillip Gardiner, African American Tobacco Control Leadership Council (AATCLC).

Urged the Council to consider the ban: Alexis Kuchi, Alameda Girl Scout Troup 31901.

Stated kids are curious and want to try flavors; the ban will help children grow up tobacco free: Malia Zachariah, Alameda.

Stated the products are running rampant through schools and are creating a new generation of smokers; submitted 735 signed statement cards: Seamus McGuinness, Encinal High School.

Stated the ordinance will make Alameda a healthier place for all residents: Arabis O'Brien, Lincoln Middle School.

Expressed support for the ordinance; stated tobacco companies are targeting youth: Denise Zachariah, Alameda.

Stated that she supports the ordinance; discussed the quantity of students smoking: Marina Rodrigues, Encinal High School.

Stated tobacco is bad for all living things: Zachary and Nora Lazarus, Alameda.

Urged Council to end the sale of flavored tobacco that appeals to youth: Michael Chen, Encinal High School.

Urged Council to end the sale of flavored tobacco products that hooks kids before they can legally purchase it: Max Palmer, Encinal High School

Stated packaging and names are similar to candy and appeals to kids: Amanda McGowan, Lincoln Middle School.

Stated candy flavored tobacco products should not be sold in Alameda; the ordinance will help keep kids from trying tobacco: Turner Brotze, Lincoln Middle School.

Stated students are addicted to nicotine products; action needs to be taken: Nick Lindell-Wright, Encinal High School.

Stated students thought images of favored tobacco products were candy or snacks for kids: Kimberly McGowan, Lincoln Middle School.

Expressed support for the ban; stated the products are a gateway: Sven S., Encinal High School.

Stated flavored tobacco products are designed to appeal and attract a younger demographic: Jackson Ade, Encinal High School.

Expressed concern over youth getting quickly addicted to the products and support for the ban: Annina Jordan, Encinal High School.

Expressed concern over children having easy access to vaping: Matt Brotze, Lincoln Middle School.

Stated friends and classmates use the products, which they can purchase at local drug stores: Anisya Lustig-Ellison, Encinal High School.

Stated that she has seen students use products in classroom because they are easy to conceal: Darla Kahl, Encinal High School.

Urged the Council to ban the sale of flavored tobacco projects, which are accessible and affordable: Kevin Gorham, Alameda.

Read a portion of a poem; stated the matter is a public health issue: Rasheed Shabazz, Alameda.

Urged Council to approve the ban to promote youth health; stated products can be easily concealed and used in class: Maaz Khan.

Urged Council to approve the ban to save the lives of children: Sydney Williams, Encinal High School.

Urged Council to approve the ban; discussed how smoking affected the health of his father and grandmother: Nick Brodnicki, Alameda.

Stated flavored tobacco products should be removed from the community: Jill DiGaicomio, Alameda.

Stated children purchase tobacco products online or from family members: Antonio Neumann, Alameda Valero.

Discussed research regarding flavored tobacco products being marketed as quitting devices; stated having the products in stores gives youth access: Craig Wingate, Alameda.

Requested menthol products be separated from flavored tobacco products; discussed collateral sales: Linda Asbury, West Alameda Business Association.

Expressed concern over menthol being a social justice issue; stated tobacco is targeting youth: Rachael Gratz-Lazarus, Alameda.

Suggested increasing the cost of packs of cigarillos: Brian Davis, Alameda County Tobacco Control Coalition (ACTCC).

Stated youth smoking rates go down when prices go up: Stefan Wooding, ACTCC.

Stated four out of five kids started with flavored tobacco; discussed health risks; urged menthol be included in the ban: Amanda Gutzwiller, Alameda Lung Association.

Expressed concern over the products looking like candy and youth using the products: Shea Overstreet, Alameda.

Stated banning menthol is illegal; discussed fines and online sales: Paul Sekhon, Alameda.

Suggested having restrictions similar to Hayward, discussed statistics of approvals in other cities and penalties being too harsh: Bob Sekhon, Alameda.

Submitted information; stated letters of support and a resolution are included in the material: Rosalyn Moya, ACTCC.

Provided statistics on youth using tobacco products; stated youth favor flavored tobacco products: Karen Butter, Alameda.

Stated the matter is a social justice, adult and youth issue; encouraged approval of the ban: Kwesi Wilkerson, AATCLC.

Stated menthol should be an exception; he opposes the three year window and penalties: Matt Hussain, Alameda.

Expressed support for the ordinance; stated one in four students are using some form of e-cigarette: Page Tomblin, Alameda Parent Teacher Association Council.

Stated menthol is not the problem and should be exempted; the start date should be July 2020: Teresa.

Stated the ban would be detrimental to store owners; urged menthol not be banned: Brian Lee, UC Liquor.

Discussed JUUL products; stated students are asking for help to stop smoking: Serena Chen, Alameda.

Stated Alameda retailers have a 98% compliance rate; youth purchase flavored tobacco products online: Raed Abdallah, Alameda.

Stated the problem is the internet; stated the retail compliance rate is commendable: Frank George, Alameda.

Councilmember Ezzy Ashcraft stated that she has reservations about the three year 300 foot ban and does not understand the rationale of having businesses near sensitive uses; she thinks menthol should be included in the ban based on comments and does

not agree with pharmacies selling tobacco products; she wants to be sensitive to the needs of local businesses.

Vice Mayor Vella stated the issue is not only targeted to youth, it also involves people of color and women; increasing the price for little cigars should be considered; expressed concern over the three year portion of the item; stated the intent is to lower the amount of tobacco retail business over time; expressed disappointment in San Leandro for not banning menthol; stated banning online sales of tobacco products should be considered at the State level.

In response to Councilmember Oddie's inquiry about Councilmember Ezzy Ashcraft's suggested alternative to the three year-300 foot regulation, Councilmember Ezzy Ashcraft stated the license should not run with the land if the business is sold.

Councilmember Oddie discussed San Francisco's menthol ban; stated that he stands with social justice activists who value stopping tools of death from being perpetuated in communities of color and Lesbian, Gay Bisexual and Transgender (LGBT) communities.

Councilmember Matarrese moved introduction of the ordinance with amendments to remove the three year window to sell a business and have the license carry with it, to include cigarillos into the pricing that is comparable to cigars, and to remove the option to have an in lieu fine versus suspension on the second and third offense to ensure people are not cost of business violations out.

Councilmember Oddie seconded the motion.

Under discussion, Mayor Spencer stated that she is disturbed by the notion that students are not aware of the harm cigarettes cause; students smoking in bathrooms and classrooms is unacceptable; schools should ensure students are not smoking in bathrooms or classrooms; Council banning the sale of flavored tobacco products does not stop products from being accessible online; encouraged all to take responsibility for smoking; stated the State regulations to increase fees and the purchase age to 21 is helpful; she agrees with banning flavored tobacco products but not menthol; it is important to teach youth to not smoke; she would not support the item.

On the call for the question, the motion carried by the following voice vote: Councilmembers Ayes – 4, Mayor Spencer Noes - 1.

#### CITY MANAGER COMMUNICATIONS

None.

#### ORAL COMMUNICATIONS, NON-AGENDA

None.



## COUNCIL REFERRALS

None.

## COUNCIL COMMUNICATIONS

(18-619) Consideration of Mayor's Nomination for Appointment to the Library Board and Rent Review Advisory Committee (RRAC).

Mayor Spencer nominated Joyce McConeghey to the Library Board and Simon Chiu and Carolyn Johnson to the RRAC.

(18-620) Councilmember Ezzy Ashcraft stated on October 22<sup>nd</sup> she attended the California Public Employees' Retirement System (CalPERS) forum for elected officials that addressed pension cost liabilities strategies; suggested City staff attend CalPERS board meetings.

(18-621) Vice Mayor Vella stated that she was appointed by the League of Cities Asian Pacific Islander Caucus to serve on the Housing and Economic Development Committee.

## ADJOURNMENT

(18-622) There being no further business, Mayor Spencer adjourned the meeting in memory of Jerry Robbins, Charles "Charlie" Wolfe and Mary Blackshere at 10:35 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

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