

MINUTES OF THE SPECIAL JOINT MEETING OF THE
CITY COUNCIL AND SUCCESSOR AGENCY
TO THE COMMUNITY IMPROVEMENT COMMISSION (SACIC)
TUESDAY- -DECEMBER 18, 2018- -5:00 P.M.

Mayor/Chair Spencer convened the meeting at 5:08 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.

CONSENT CALENDAR

Mayor/Commissioner Spencer moved approval of the Consent Calendar.

Councilmember/Commissioner 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.]

(*18-663 CC/18-014 SACIC) Recommendation to Accept the Investment Report for the Quarter Ending September 30, 2018. Accepted.

(*18-664 CC/18-015 SACIC) Recommendation to Accept the Fourth Quarter Financial Report for the Period Ending June 30, 2018. Accepted.

ADJOURNMENT

There being no further business, Mayor/Chair Spencer adjourned the meeting at 5:09 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk and Secretary, SACIC

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

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
TUESDAY- -DECEMBER 18, 2018- -5:01 P.M.

Mayor Spencer convened the meeting at 5:09 p.m.

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

Absent: None.

CONSENT CALENDAR

Mayor Spencer announced the Interim City Attorney contract [paragraph no. 18-669], the cannabis ordinance [paragraph no. 18-674] and the McKay Avenue ordinance [paragraph no. 18-675] 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.]

(*18-665) Minutes of the Special and Regular City Council Meetings Held on November 27, 2018. Approved.

(*18-666) Ratified bills in the amount of \$1,579,796.10.

(*18-667) Recommendation to Accept the Work of Suarez and Munoz Construction, Inc. for Jean Sweeney Open Space Park Phase A, No P.W. 15-16-09. Accepted.

(*18-668) Recommendation to Authorize the Interim City Manager to Execute an 18 Month Agreement with CDM Smith in an Amount Not to Exceed \$600,301, Including Contingency, for the Outreach, Planning and Design Services for the Clement Avenue Safety Improvements. Accepted.

(18-669) Recommendation to Approve Agreement Appointing Michael H. Roush as Interim City Attorney for a Term of No More Than 960 Hours at a Salary of \$113.94 Hourly.

Mayor Spencer stated that she will not be able to support the item.

Councilmember Matarrese moved approval of the agreement.

Councilmember Ezzy Ashcraft seconded the motion.

Mayor Spencer the call for the question, and only two Councilmembers voted as follows: Ayes: Councilmember Matarrese - 1. Noes: Mayor Spencer - 1.

Under discussion, Vice Mayor Vella stated that she desires to have discussion prior to voting.

Mayor Spencer requested a motion for reconsideration.

Vice Mayor Vella moved approval of reconsidering the vote.

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

Vice Mayor Vella expressed concern over having continued legal counsel as the Council transitions; requested further explanation from Mayor Spencer.

Mayor Spencer called a recess at 5:13 p.m. and reconvened the meeting at 5:14 p.m.

Mayor Spencer stated that her first concern in hiring employees is the ability to perform their job serving the City; expressed concern over the hiring.

Councilmember Ezzy Ashcraft expressed support.

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

(*18-670) Recommendation to Authorize Participation in Open Property Assessed Clean Energy (PACE), HERO, Ygrene, Figtree and E3 to Operate a Property Assessed Clean Energy Program and Authorize the Interim City Manager to Execute the Member Acknowledgement Forms for Each New Property Assessed Clean Energy Provider;

(*18-670A) Resolution No. 15462, Consenting to the Inclusion of Properties within the Territory of the City in the California Statewide Communities Development Authority (CSCDA) Open PACE Programs; Authorizing the California Statewide Communities Development Authority to Accept Applications from Property Owners, Conduct Contractual Assessment Proceedings and Levy Contractual Assessments within the Territory of the City; and Authorizing Related Actions;

(*18-670B) Resolution No.15463, “Consenting to Inclusion of Properties within the City’s Jurisdiction in the California HERO Program to Finance Distributed Generation Renewable Energy Sources, Energy and Water Efficiency Improvements and Electric Vehicle Charging Infrastructure and Approving the Amendment to a Certain Joint Powers Agreement Related Thereto.” Adopted;

(*18-670C) Resolution No.15464, “Consenting to Inclusion of Properties within the City’s Jurisdiction in the Golden State Finance Authority Community Facilities District to Finance Renewable Energy Improvements, Energy Efficiency and Water Conservation Improvements and Other Authorized Improvements and Approving Associate Membership in the Joint Exercise of Powers Authority Related Thereto.” Adopted;

(*18-670D) Resolution No.15465, “Joining the Figtree Pace Program; Authorizing the California Enterprise Development Authority to Conduct Contractual Assessment Proceedings and Levy Contractual Assessments within the Territory of the City of Alameda; and Authorizing Related Actions.” Adopted; and

(*18-670E) Resolution No.15466, “Consenting to the Inclusion of Properties within the Territory of the City in the California Municipal Finance Authority Open PACE Programs; Authorizing the California Municipal Finance Authority to Accept Applications from Property Owners, Conduct Contractual Assessment Proceedings and Levy Contractual Assessments within the Territory of the City; and Authorizing Related Actions.” Adopted.

(*18-671) Resolution No.15467, “Amending Resolution No. 9460 to Reflect Current Positions and Entities to be Included in the City of Alameda’s Conflict of Interest Code and Rescind Resolution No. 15230.” Adopted. [

(*18-672) Resolution No.15468, “Declaring Canvass of Returns and Results of the Consolidated General Municipal Election Held on Tuesday, November 6, 2018, including Enacting Ordinance No. 3231, Amending the Alameda Municipal Code by Adding Section 3-63 (Transaction and Use Tax) to Division IX (Taxes) of Article II (Taxation) of Chapter III (Finance and Taxation) Imposing a Transaction and Use Tax to be Administered by the California Department of Tax and Fee Administration.” Adopted.

(*18-673) Ordinance No. 3232, “Amending the Alameda Municipal Code by Amending Section 30-5.15 of Chapter XXX (Zoning Ordinance) to Adopt New Bird-Safe Building Standards and Update Outdoor Lighting Regulations Consistent with Dark Skies Standards.” Finally passed.

(18-674) Ordinance No. 3233, “Amending the Alameda Municipal Code by Amending Various Provisions of Article XVI (Cannabis Businesses) of Chapter VI (Businesses, Occupations and Industry), Including but not Limited to (a) Modify the Definition of “Youth Centers” as a Sensitive Use, Including Specifically Excluding Certain Uses (Martial Arts/Combat Sports, Cultural or Similar Education, and Physical Fitness); (b) Modify the Definition of “Cannabis Business Owner” to Conform with State Law; and (c) Make Any Other Conforming Amendments.” Finally passed.

Inquired who the City Council and staff work for; urged Council to pause and get staff to answer questions: Don Sherratt, Alameda.

Discussed focusing on justice; stated a location on Park Street was turned down for Ruby’s Tumbling, but a location with a martial arts business next door is being allowed: Serena Chen, Alameda.

Stated two-thirds of the community supports having cannabis businesses in town: Mark Hersman, Portmann Enterprises.

Discussed support for cannabis businesses; urged Council to move forward and do outreach: Rich Moskowitz, Alameda.

Expressed support for safe access to cannabis: Elizabeth Henry, Alameda.

Discussed “Quality of Life” survey results; expressed concern over potentially causing good operators to relocate: Nick Portolese, Alameda.

Discussed being a parent and cannabis advocate: Phillip Redd, Alameda.

Stated that she would like cannabis far away from children; discussed sending her children to the martial arts studio: Echo Chen, Alameda.

Expressed support for cannabis adult use; submitted a letter: Susan Freeman, Alameda.

Expressed support for cannabis businesses; discussed strict regulations over cannabis businesses: John Ngu, Alameda for Safe Cannabis Access.

Discussed the health benefits of cannabis; expressed support for adopting the ordinance: Kari Tillman, Alameda.

Expressed concern over the City definition differing from State law: Joanna Lau, Alameda.

Mayor Spencer requested clarification of the definition of youth center in accordance with State law.

The Acting City Attorney stated that he believes the definition is not a violation of State Law.

The Assistant City Attorney stated the State provides authority to local jurisdictions to decide for themselves; the Bureau of Cannabis Control (BCC) is also in agreement.

Mayor Spencer inquired if it is the legal opinion of the Assistant City Attorney that the current definition of youth center is not in violation of State Law. to which the Assistant City Attorney responded in the affirmative.

Councilmember Ezzy Ashcraft inquired if the buffer zone has been eliminated or reduced between the martial arts studio and the proposed cannabis retailer.

The Assistant City Attorney responded the determination as to what the buffer zone

should be is similar to determining the scope of the sensitive uses being protected.

Vice Mayor Vella inquired if the words “martial arts center” are in the definition of protected youth center.

The Assistant City Attorney responded the original definition did not include martial arts center, but the carve-out definition does.

Vice Mayor Vella inquired if “martial arts center” was included in the original definition of youth center at the July 24, 2018 Council meeting, to which the Assistant City Attorney responded in the negative.

Vice Mayor Vella inquired when the challenge to the definition of youth center was filed, to which the Base Reuse and Community Development Director responded within the past two months.

Councilmember Ezzy Ashcraft inquired if the term “tumbling center” was included in the original ordinance, to which the Assistant City Attorney responded in the negative.

Councilmember Ezzy Ashcraft inquired when the determination was made not to locate a cannabis dispensary on Park Street due to the proximity to Ruby’s Tumbling. to which the Assistant City Attorney responded that he does not know.

The Base Reuse and Community Development Director stated staff considered the tumbling center a sensitive use from the beginning of the process because it exclusively serves minors.

Councilmember Ezzy Ashcraft inquired why the Alameda Recreation and Parks Department (ARPD) is able to designate its centers as protected youth centers when classes are offered to both adults and youth in the same facilities.

The Base Reuse and Community Development Director responded ARPD centers have been designated as a youth center under the ordinance since the beginning; ARPD is allowed to make a request that a community center be designated as a youth center; ARPD has not made such a request.

Councilmember Ezzy Ashcraft inquired if the protection exists within the ordinance. to which the Base Reuse and Community Development Director responded in the affirmative.

Councilmember Ezzy Ashcraft inquired why the same right would not be afforded to the martial arts center on Webster Street.

The Base Reuse and Community Development Director responded the Council’s previous decision had been to keep the changes narrow and to respect the definition as it stood at the time it was memorialized with respect to the community centers within

parks.

Councilmember Ezzy Ashcraft inquired if the only choice is between removing the protection from ARPD as well or can the provision be expanded to private business if a significant percentage of clients are youth.

The Base Reuse and Community Development Director responded the Council can revise the definition accordingly.

Mayor Spencer inquired why staff's recommendation is to use the term "exclusively" in regards to implementation.

The Base Reuse and Community Development Director responded the recommendation to Council to look at youth centers as exclusively serving minors is in part an ability to perform enforcement and to be able to document use consistently and clearly; stated there is difficulty in how the documentation and enforcement is performed, how is it researched, and how consistency is ensured; in a desire to treat all businesses equally, staff is recommending that a definition of youth center is one that exclusively serves minors, as well as a carve-out for further clarity of martial arts and other recreational type businesses.

Councilmember Oddie moved final passage of the ordinance.

Mayor Spencer seconded the motion.

Under discussion, Councilmember Oddie stated this is an attempt to do a de facto ban; expressed support for the ordinance; stated it is an issue of justice; outlined youth access, point of sale and advertising tactics for dispensaries.

Vice Mayor Vella stated there are difficulties in placing dispensaries in areas that are a far distance from children; alcohol retail locations are more prevalent and permit children to enter; outlined the difficulties in youth accessing cannabis products via child-proof bags; expressed support of final passage of the ordinance.

Councilmember Ezzy Ashcraft stated that she does not oppose cannabis in Alameda; her objection is related to changing the definition of "youth center;" outlined the Open Government Commission finding related to noticing; stated that she will not support the item due to the change in definition.

Councilmember Matarrese stated the carve-out is a pointer to spot zoning; the definition should be left as it stands and the application should go through the process; he will not support the change.

Mayor Spencer stated that she does not consider the item as a change but as a clarification that will assist staff in implementation; she disagrees with the notion of spot zoning; outlined State Law distances from dispensaries to schools; stated Council is

trying to ensure safe, lab-tested items are accessible.

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

(18-675) Ordinance No. 3234, “Amending Alameda Zoning Map for the Property on the West Side of McKay Avenue (APN 74-1305-26-2) to Remove the G Government Combining District Designation to Allow for Private Use of the Property for a Wellness Center.” Finally passed.

Showed a video; requested the Council postpone removing the G overlay: Liza Gabato Morse, Alameda.

Stated the zoning is required since there is a legal lease of the property; Alameda Point Collaborative (APC) is committed to a safe project: Doug Biggs, APC.

Councilmember Ezzy Ashcraft moved final passage of the ordinance amending Alameda Zoning Map for the property on the west side of McKay Avenue to remove the G Government Combining District Designation to allow for private use of the property for a wellness center.

Councilmember Matarrese seconded the motion.

Under discussion, Mayor Spencer stated that she will not be supporting the motion; there is insufficient notice of contaminated property.

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

ADJOURNMENT

There being no further business, Mayor Spencer adjourned the meeting at 6:17 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- -DECEMBER 18, 2018- -7:00 P.M.

Mayor Spencer convened the meeting at 7:01 p.m. and led the Pledge of Allegiance.

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

Absent: None.

RESOLUTION ACKNOWLEDGING SERVICE AND FAREWELL COMMENTS

(18-676) Resolution No. 15469, “Commending Frank Matarrese for Four Years of Service to the City of Alameda as Councilmember.” Adopted; and

(18-676A) Resolution No. 15470, “Commending Trish Herrera Spencer for Four Years of Service to the City of Alameda as Mayor.” Adopted.

Expressed appreciation for Mayor Spencer’s service; stated Mayor Spencer has shown leadership: Liza Gabato Morse, Alameda.

Discussed the need for a difference from special interests to common good and interests of all stakeholders and residents: Ken Peterson, Alameda.

Expressed appreciation for Mayor Spencer’s service, especially for people of color: Maz Tacano, Alameda.

Mayor Spencer read the resolution and presented it to Councilmember Matarrese.

Vice Mayor Vella, Councilmembers Oddie and Ezzy Ashcraft and Mayor Spencer made brief comments.

Councilmember Matarrese made brief comments.

Vice Mayor Vella read the proclamation and presented it to Mayor Spencer.

Vice Mayor Vella, Councilmember Oddie, Matarrese and Ezzy Ashcraft made brief comments.

Councilmember Ezzy Ashcraft moved adoption of the resolutions.

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

Mayor Spencer made brief comments.

Eric Panzer presented resolutions from Senator Skinner and Assemblymember Bonta to Mayor Spencer and Councilmember Matarrese.

Mayor Spencer called a recess at 7:49 p.m. and the meeting was reconvened at 8:13 p.m.

INSTALLATION

(18-677) The Honorable Judge Delbert Gee administered the Oath of Office to Mayor Ezzy Ashcraft and Councilmembers Knox White and Daysog; and the Honorable Judge Tara Flanagan administered the Oath of Office to Councilmember Oddie.

ROLL CALL - Present: Councilmembers Daysog, Knox White, Oddie, Vella and Mayor Ezzy Ashcraft – 5.

Absent: None.

CONSIDERATION OF APPOINTMENT OF VICE MAYOR

(18-678) Councilmember Oddie moved approval of appointing John Knox White as Vice Mayor.

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

Congratulated and welcomed new Councilmembers; expressed opposition to Measure K; Laura Thomas, Alameda Justice Alliance.

POEM BY POET LAUREATE

Poet Laureate Gene Kahane read a poem.

COMMENTS BY NEW COUNCIL

(18-679) Councilmember Oddie, Councilmember Daysog, Vice Mayor Knox White and Mayor Ezzy Ashcraft made brief comments.

AGENDA CHANGES

None.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

None.

ORAL COMMUNICATIONS, NON-AGENDA

None.

CONSENT CALENDAR

None.

REGULAR AGENDA ITEMS

None.

CITY MANAGER COMMUNICATIONS

None.

ORAL COMMUNICATIONS, NON-AGENDA

None.

COUNCIL REFERRALS

None.

COUNCIL COMMUNICATIONS

None.

ADJOURNMENT

There being no further business, Mayor Ezzy Ashcraft adjourned the meeting at 8:56 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

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