

MINUTES OF THE SPECIAL JOINT MEETING OF THE CITY COUNCIL AND
SUCCESSOR AGENCY TO THE
COMMUNITY IMPROVEMENT COMMISSION (SACIC)
TUESDAY- -JANUARY 5, 2021- -6:59 P.M.

Mayor/Chair Ezzy Ashcraft convened the meeting at 7:01 p.m.
Councilmember/Commissioner Daysog led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers/Commissioners Daysog, Knox
White, Spencer, Vella and Mayor/Chair Ezzy Ashcraft
– 5. [Note: The meeting was held via Zoom.]

Absent: None.

CONSENT CALENDAR

Vice Mayor/Commissioner Vella moved approval of the Consent Calendar.

Councilmember/Commissioner Knox White seconded the motion, which carried by the following roll call vote: Councilmembers/Commissioners Daysog: Aye; Knox White: Aye; Spencer: Abstain; Vella: Aye; and Mayor/Chair Ezzy Ashcraft: Aye. Ayes: 4. Abstention: 1. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*21-001 CC/21-01 SACIC) Minutes of the Special Joint City Council and SACIC Meetings Held on October 6, 2020 and December 1, 2020. Approved.

AGENDA ITEM

(21-002 CC/21-02 SACIC) Public Hearing to Consider Resolution No. 15732/SACIC No. 21-11, “Approving the Development List of Affordable Housing Projects and Funding Request for Such Projects as Requested by the Alameda Unified School District (AUSD).” Adopted; and

(21-002 A CC/21-02A SACIC) Recommendation to Authorize the City Manager to Submit the Recognized Obligation Payment Schedule (ROPS) and Administrative Budget for the Period from July 1, 2021 to June 30, 2022 to the Countywide Oversight Board.

The Community Development Program Manager gave a brief presentation.

Mayor Ezzy Ashcraft requested clarification of the additional units included in the recommendation as well as the connection to Alameda Unified School District (AUSD).

The Community Development Program Manager stated Rosefield Village is owned by the Housing Authority and contains modular built units which have been demolished;

construction is currently ongoing at the site and will result in a total of 90 units on-site; some of the buildings will remain and be rehabilitated; AUSD receives ROPS money, which may be used for development of housing for AUSD employees; the Housing Authority has a Memorandum of Understanding (MOU) with AUSD and expertise in affordable housing development; the Housing Authority will either set aside or provide preference to AUSD employees in exchange for funds provided by AUSD to help build the affordable housing.

Mayor Ezzy Ashcraft inquired whether the requirement includes income qualifying AUSD employees, to which the Community Development Program Manager responded in the affirmative.

Councilmember/Commissioner Daysog moved approval of the staff recommendation [including adoption of the resolution].

Vice Mayor/Commissioner Vella seconded the motion, which carried by the following roll call vote: Councilmembers/Commissioners Daysog: Aye; Knox White: Aye; Spencer: Aye; Vella: Aye; and Mayor/Chair Ezzy Ashcraft: Aye. Ayes: 5.

ADJOURNMENT

There being no further business, Mayor/Chair Ezzy Ashcraft adjourned the meeting at 7:11 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk
Secretary, SACIC

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

MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY- -JANUARY 5, 2021- -7:00 P.M.

Mayor Ezzy Ashcraft convened the meeting at 7:11 p.m.

ROLL CALL - Present: Councilmembers Daysog, Knox White, Spencer, Vella, and Mayor Ezzy Ashcraft – 5. [Note: The meeting was conducted via Zoom]

Absent: None.

AGENDA CHANGES

None.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

None.

ORAL COMMUNICATIONS, NON-AGENDA

(21-003) Paul Foreman, Alameda, discussed the campaign for Measure Z; urged Council apply similar rhetoric to the “Yes on Z” campaign as used on the “No on Z” campaign; discussed ballot arguments and a UC Berkeley report from November 18th; stated there are contradictory elements to the 2014 Housing Element; the City can do better with integration and multi-family housing.

(21-004) Jenice Anderson, Alameda, discussed meetings of the subcommittees on racism; stated that she is curious about the timeline for public participation with the subcommittees; discussed the Alameda Police Department’s (APD) armored vehicle; inquired about the ethics of APD’s social media.

(21-005) Alexia Arocha, Alameda, expressed concerns about the operation and formation tactics of the subcommittees; stated there appears to be bias in participation; the steering committees represent only a fraction of the public population; discussed the history of policing negative interactions with Police and APD’s armored vehicle.

CONSENT CALENDAR

Mayor Ezzy Ashcraft stated the minutes [paragraph no. 21-006] and final passage of the ordinance [paragraph no. 21-011] were removed from the Consent Calendar for discussion.

Councilmember Knox White moved approval of the Consent Calendar.

Vice Mayor Vella seconded the motion, which carried by the following roll call vote:

Councilmembers Daysog: Aye; Knox White: Aye; Spencer: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(21-006) Minutes of the Special and Regular City Council Meetings Held on December 1, 2020.

Vice Mayor Vella moved approval of the minutes.

Councilmember Knox White seconded the motion, which carried by the following roll call vote: Councilmembers Daysog: Aye; Knox White: Aye; Spencer: Abstain; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 4. Abstention: 1.

(*21-007) Ratified bills in the amount of \$6,242,593.08.

(*21-008) Recommendation to Authorize the City Manager to Execute a Second Amendment to the Agreement with Kevin Harper CPA and Associates, in an Amount Not to Exceed \$25,000 for a Total Compensation Not to Exceed \$99,499, and to Extend the Contract to October 31, 2021, for Financial Services in the Finance Department. Approved.

(*21-009) Recommendation to Accept a Report on the Appointment of Members to the Open Government Commission. Accepted.

(*21-010) Resolution No. 15732, "Ratifying the Proclamation of the Director of Emergency Services and Continuing the Declaration of the Existence of a Local Emergency in Response to the COVID-19 Pandemic, Consistent with Government Code Section 8630(c)." Adopted.

(21-011) Ordinance No. 3294, "Authorizing the City Manager to Execute Lease Amendments for Rent Relief Program with Pacific Pinball Museum and Wonky Kitchen via the Non-Profit Spirits Alley Program for Rent Relief in Response to the Covid-19 Pandemic." Finally passed.

Councilmember Daysog recused himself and left the meeting.

Councilmember Spencer stated the language added in reference to one COVID-19 violation is too severe a penalty and that she would prefer either a three violation limit or an opportunity to cure.

Mayor Ezzy Ashcraft stated the restriction is not limited to one violation; there is a three-level process a business would go through should a violation be found: 1) educate, 2) warn and 3) citation; noted the goal is to help businesses as well as open businesses; stated citations are not to be given at the first violation; requested clarification of the City Manager and City Attorney roles.

The City Attorney stated any change made by Council that is not typographical will return for first reading based on the matter being final passage of an ordinance; noted the matter does require four affirmative votes of the Council in order to pass; stated violations must be substantial in order to enforce; there is difficulty and ambiguity in using the term “substantial;” however, staff has been directed by Council not to take action on minimal or trivial violations.

The City Manager stated staff has included language on violations coming from the County or Code Enforcement; in order to create more protections, violations would have to be confirmed by both the City Attorney and City Manager.

Councilmember Spencer stated there is discretion; expressed concern about the City process conflicting with the County process; stated violations which may not be egregious should be able to be cured; expressed support for language being included within the document, reflecting substantial violations versus an understanding between staff and Council.

Councilmember Knox White inquired whether Council has signed other lease extensions for other businesses containing the language and whether staff can return to Council with a written policy to address the issues raised by Councilmember Spencer; expressed concern about multiple lease extensions on the same matter having different language.

Vice Mayor Vella stated that she does not want to address an interpretive issue relative to lease agreements; Council can provide direction separately should it be needed; expressed support for a conversation being agendized at a future meeting; expressed concern about the safety of workers and members of the public; stated a number of companies have taken directives not as seriously as necessary, resulting in a tightening of measures in response to the number of employers experiencing major outbreaks; Alameda should be addressing the issue when providing public funds and changing lease agreements to public parcels; the intent of the language is to ensure health safety issues are addressed.

Mayor Ezzy Ashcraft questioned whether Councilmembers Spencer and Knox White would be willing to work as an ad hoc committee to put together advisory language; stated policy direction is needed to ensure Council’s intent is carried out; a proposal may be brought back for Council consideration; inquired whether an ad hoc committee is permissible.

The City Attorney responded there are no legal problems should Council wish to appoint a subcommittee.

Mayor Ezzy Ashcraft expressed concern about delaying the matter by reverting back to first reading; stated the concerns raised are valid; urged the matter move forward.

Councilmember Spencer stated that her preference is to modify the language; she will

not be able to support the matter without more clarification; expressed support for Council working out the language to address the issue.

Mayor Ezzy Ashcraft inquired whether Councilmember Spencer is requesting modified language as direction to staff; noted should Council modify the language of the ordinance the matter reverts to first reading with a second reading to follow.

Councilmember Spencer responded in the affirmative.

Vice Mayor Vella inquired whether Council is addressing a problem that has been raised by companies which are agreeing to the lease.

The City Manager responded that he has not received concerns from any businesses.

The Assistant Community Development Director stated staff could include that any rescinding of funds must be approved by Council; the Council would then weigh-in on the severity of the violation and whether the violation warrants rescinding of funds; the agreement would not require modification.

The City Attorney stated as long as the direction remains direction to staff, the second reading may proceed; if Council wishes to modify the lease to reflect new language, the matter will return for a first reading.

Councilmember Spencer stated that she would like more information; inquired whether the proposal includes a separate document to be voted on by Council.

The Assistant Community Development Director responded a staff report could be brought back to Council.

The City Attorney stated Councilmember Spencer's inquiry is related to the form memorialized by Council's direction; the City Clerk will produce minutes and the Council direction is memorialized within the document as formal Council direction.

Councilmember Spencer stated that she would prefer the language be included within the agreement; another sentence should be added to instruct staff to return to Council for direction.

Vice Mayor Vella expressed concern about the decision to modify the lease causing impacts to businesses; stated businesses have agreed to sign the lease as-is; the issue is being raised on behalf of tenants but has not been raised by tenants; expressed support for input from Councilmembers or spokespeople that have heard concerns from tenants; stated that she would prefer to give direction to staff; noted Council meetings are public, concerns have been discussed and businesses have had the opportunity to reach out; stated the businesses she has spoken to have urged Council to approve the leases as-written; expressed concern about addressing a problem which has not been raised.

Mayor Ezzy Ashcraft expressed concern about Council performing actions that support serious violations of public health restrictions; stated there are competing interests.

The City Manager stated that he has heard three concerns: 1) the health of the employees, as well as patrons to businesses, 2) actions which unintentionally hurt businesses by adding an extra provision causing a misinterpretation and subsequent revocation by either the City Attorney or the City Manager, and 3) providing funds to aid businesses; stated his recommendation, based on the concerns raised, is for Council to consider approving the leases at this meeting and should any business wish to revisit their lease, said lease can be brought back for Council consideration; in order to provide aid as soon as possible, staff can bring back a policy and further protections for businesses that make a request.

Councilmember Spencer stated that she was not present for the first reading; from her perspective, the language included is too extreme; noted that she would not have supported the first reading language nor the previous leases; stated it is important to have a policy; it is not appropriate to place the burden of returning to Council on businesses; expressed support for finding a compromise.

Mayor Ezzy Ashcraft stated that she has heard the need for policy directive; noted that she has recommended an ad hoc committee of Councilmembers Knox White and Spencer to work with the City Manager and City Attorney to return with language which adds a safeguard to the lease agreements; stated doing so allows the matter to move forward, provides funds to businesses that have been waiting and creates a solution to address concerns; inquired whether Councilmember Spencer would consider being part of the ad hoc committee.

Councilmember Spencer responded that she is not in a position to support the matter as-written; stated that she has recommended Council creating language and expedite the process when the matter returns.

Councilmember Knox White expressed concern about different language being contained in different agreements; inquired whether Council direction can be provided to staff not to implement the clause until a policy clarifying the process is created and adopted; stated the recommendation allows for all adopted contracts to have the same language and protections giving clear Council-adopted direction about implementation; expressed concern about wordsmithing contracts at the current meeting; questioned whether Council can state that action will not be taken until a clear policy is in place.

Mayor Ezzy Ashcraft stated that she is willing to put together any Councilmember-combination ad hoc committee; Councilmember Spencer has been given the first opportunity based on concerns raised.

Councilmember Spencer stated that she will not be able to support the contract without more information on the policy.

Vice Mayor Vella stated failure to act at this meeting allows the perfect to get in the way of the good; Council is raising an issue on behalf of companies which have access to their own attorneys; expressed concern about actions and delays which do not help out businesses; stated the issue has not been raised by businesses publicly or privately; that she has heard clear direction for potential policy ideas and directions to staff; other lease agreement amendments have been entered into in order to provide aid; Council will be doing a disservice to businesses and the community by not voting on the matter; the matter not passing at the current meeting would be unfortunate.

Mayor Ezzy Ashcraft stated Councilmember Knox White has recommended no enforcement of the provision until a policy is brought back and approved by the Council; the policy will be voted on by the entire Council.

Councilmember Spencer inquired whether a vote of three or four would be required for the policy brought back to Council, to which the City Attorney responded a vote of three is required.

Councilmember Spencer stated the difference in votes needed is a critical difference; expressed support for stipulating three violations instead of one.

Mayor Ezzy Ashcraft stated that she has recommended Councilmembers Spencer and Knox White work with staff on a subcommittee.

Councilmember Knox White stated that he would work toward ensuring four votes.

Vice Mayor Vella stated Council cannot impose legal requirements to require supermajority votes; requested clarification from Councilmember Knox White.

The City Attorney stated Council may provide direction to staff not to implement the section and to bring back policy requiring Council approval; Council can be more specific in providing staff direction stating a policy is to be brought back which includes Council approval as a future requirement.

Councilmember Knox White expressed concern about some businesses having different COVID-19 agreement triggers; stated the three violations could cause confusion for different levels of violations; expressed concern about lacking a clear policy.

Councilmember Spencer stated that her concern is not being addressed; as written, the document does not address the different types of violations; violations should be addressed within the document itself.

Vice Mayor Vella expressed concern about acting on behalf of businesses and applicants by creating an issue that may not exist.

Councilmember Knox White questioned whether the discussion should reflect how the City Manager and City Attorney will determine violation types; stated it seems as though the concern is the level of severity of violations.

Mayor Ezzy Ashcraft inquired whether the matter could be continued to the next Council meeting where staff can bring forward a policy clarifying the implementation of lease amendment violations.

The Assistant Community Development Director responded staff is willing to take direction from Council.

Vice Mayor Vella inquired whether delaying the matter will impact businesses and whether staff will be working with businesses based on proposed language.

Mayor Ezzy Ashcraft responded that she would like staff to work with a member or two of Council; inquired whether Vice Mayor Vella and Councilmember Knox White would be part of an ad hoc committee.

Vice Mayor Vella expressed support for Councilmember Spencer being part of the ad hoc committee; stated that she does not want to block businesses from receiving aid.

The Assistant Community Development Director stated there are eight agreements in various forms of process; the current matter is the last two agreements for the program; noted the delay will likely be six weeks or longer; stated there will be first and second reading, plus a 30-day period.

Mayor Ezzy Ashcraft stated there is an option for Council provide staff direction to suspend any implementation until a clarifying policy returns for consideration and approval; noted that she does not want to delay businesses receiving funds.

Councilmember Spencer expressed support for staff offering appropriate language; questioned whether the changes would be material enough to warrant another first reading.

The City Attorney stated if Council provides staff with language direction, the lease agreements would not need to return for first reading; the direction can be concrete to the effect of: "Council is directing staff to bring all abatement to Council. Staff is directed not to implement any abatement without Council approval;" should Council wish to change the lease form, the matter would need to return for first reading.

Councilmember Spencer stated that she is looking for the inclusion of "substantial or significant violation" as a qualifying term.

Councilmember Knox White moved approval of the contract [final passage of the ordinance], with one minor stipulation that the term "substantial violation" is added to the agreement language.

The City Attorney stated that he is assuming Councilmember Knox White is providing direction to staff and not amending the contract; direction is being provided to treat qualifying violations as substantial and for staff to bring any such substantial qualifying violation back to Council for approval.

Councilmember Spencer inquired whether there is a reason the term “substantial” cannot be added to the agreement.

The City Attorney expressed concern about adding the term “substantial” to the agreement since the term is undefined; stated policy can be internally defined; however, allowing the term “substantial” to be included in the agreement makes for difficult enforcement; noted Council direction was provided at first reading; stated that he does not recommend adding the term “substantial” to the lease agreement; the term should be provided as policy direction to staff; should Council wish for something more definitive, a limit of three violations provides a countable interpretation; a recommended motion could be to the effect of: “staff shall not implement the revocation unless one violation is substantial and, in such cases, staff must bring such violations to the Council for approval before implementation” as the policy direction while moving to approve the lease agreement as-is.

The City Manager stated it will be difficult to add “substantive violation” due to the way subsection d. is written; staff will have to work on the language in order for it to make sense, which would require another first reading.

Councilmember Knox White inquired whether the City Attorney’s recommendation helps Councilmember Spencer’s concerns.

Councilmember Spencer inquired whether changes are being made to the lease agreement language or under a separate policy.

Councilmember Knox White responded that the policy will be separate from the lease agreement; stated the term “substantial” will be included in a policy outside of the lease agreement.

Councilmember Spencer stated the recommendation does not address her concerns; the policy proposed can be changed by a vote of three Councilmembers.

(21-012) Mayor Ezzy Ashcraft moved approval of granting each Councilmember an additional 5 minutes.

Councilmember Spencer seconded the motion, which carried by the following roll call vote: Councilmembers Knox White: Aye; Spencer: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 4. [Absent: Councilmember Daysog – 1.]

The City Attorney stated Council policy can be changed by a vote of three Councilmembers; another recommendation is to for Council to approve the lease agreements as-is and provide direction for staff to bring all leases back for more permanent modifications.

Councilmember Spencer expressed support for the proposal of lease agreement modifications, including substantial violations returning to Council.

Mayor Ezzy Ashcraft expressed concern about the proposal resulting in the matter returning for first reading.

The City Manager stated the matter is not related to money being provided to tenants, it is rent deferral; staff can administratively hold rent until the matter returns for another first reading.

Vice Mayor Vella expressed concern about administrative decisions regarding public funds; stated previous Council discussions on the matter have been published online; three proposals have been recommended at the current meeting; expressed concern about attempting to rewrite the language.

Councilmember Knox White questioned whether the matter can be bifurcated in order to include Councilmember Daysog for the discussion related to Wonky Kitchen.

Mayor Ezzy Ashcraft expressed support for bifurcating the matter.

Councilmember Daysog returned to the meeting.

Councilmember Knox White outlined concerns raised; stated that he would like to propose bifurcating the matter into two separate votes, one for Wonky Kitchen and one for Pacific Pinball.

Mayor Ezzy Ashcraft stated should Council begin to add language to the lease agreements, the matter will need to return for another second reading; noted there are concerns for delaying the matter.

Councilmember Daysog stated that he believes he should recuse himself from the Pacific Pinball matter due to proximity to his home.

The City Attorney inquired whether the location near Councilmember Daysog's home is visitor-serving, to which Councilmember Daysog responded in the affirmative.

The City Attorney stated the test for recusal typically relates to personal impacts to finances and whether the Council decision will have a material change of the use for the visitor-serving location; noted the common law conflict falls under the belief of a Councilmember to be fair given that there may or may not be financial impacts to said

Councilmember's home with the existence of a visitor-serving use; should the Councilmember believe there will be a financial impact to their home's value, up or down, then recusal should be sought.

Councilmember Daysog stated that that he can be a fair and impartial participant in the discussion.

The Assistant Community Development Director stated the location near Councilmember Daysog's home is visitor-serving; however, the lease agreement being considered is for a warehouse location at Alameda Point; the location does not directly feed the operations of the Webster Street location.

Mayor Ezzy Ashcraft stated the City is only the landlord for the location at Alameda Point.

The City Attorney stated given that the location near Councilmember Daysog's home is not a concern, it is unlikely that his property value will be affected in a positive or negative way; since Councilmember Daysog has stated that he can be fair and impartial under Common Law, he is able to participate in the discussion; outlined concerns raised by Councilmember Spencer.

Councilmember Daysog inquired whether policy guidance would guard against overreach on the part of staff or Council.

Mayor Ezzy Ashcraft responded businesses would have to be found in significant violation of County Public Health Officer's orders; noted any violation first yields education, warning, and then citation, unless a violation is egregious; protection for all is key.

Vice Mayor Vella stated the concern is a Council-raised issue.

Councilmember Daysog inquired whether Pacific Pinball or Wonky Kitchen could use or take advantage of the policy guidance should a violation occur.

The City Attorney responded any Council adopted policy could be used to protect tenants via their legal representation; stated staff would be remiss not to follow Council direction.

Councilmember Spencer stated that her concern is a policy change requires three votes from Council.

Councilmember Daysog expressed concern about an overreach from staff in enforcing tenant violations or penalties; expressed support for a form of due process.

Mayor Ezzy Ashcraft stated lease forfeiture is not part of the discussion; forfeiture of City funds is being discussed.

Councilmember Knox White moved approval of both contracts as-written, with direction to staff not to enforce the COVID-19 enforcement violation section of the contract or any previous and future approved contracts, until a policy returns to Council to address how violations will be determined and a written process for enforcing violations has been approved by Council.

Vice Mayor Vella seconded the motion, with an amendment to have the policy come back to Council by a date-certain; stated that she does not want the provisions suspended for a long period of time.

Under discussion, Councilmember Knox White accepted the amendment to the motion; expressed support for the policy returning at the first meeting in February.

The City Manager stated the goal would be for the matter to return February 2, 2021 and no later than February 16, 2021.

Vice Mayor Vella stated it is important to stay focused on the bigger issue of helping businesses financially and to have the same interpretation for all contracts, not just few.

Councilmember Daysog expressed support for the motion including withholding invoking the COVID-19 penalties until a time certain when a policy can be finalized; stated that he supports Councilmember Spencer working with the City Attorney to finalize the policy.

Councilmember Spencer stated that she would like the inclusion of two violations instead of one.

Mayor Ezzy Ashcraft inquired whether Councilmember Spencer would be discuss the policy formation with the City Attorney.

Councilmember Spencer responded that she is happy to work with Council or staff on language; stated the current language is not addressing her concerns.

On the call for the question, the motion carried by the following roll call vote: Councilmembers Knox White: Aye; Spencer: Abstain; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 4. Abstention: 1.

Mayor Ezzy Ashcraft called a recess at 8:57 p.m. and reconvened the meeting at 9:12 p.m.

REGULAR AGENDA ITEMS

(21-013) Introduction of Ordinance Authorizing the City Manager to Execute Lease

Amendments for Rent Relief Programs to Rock Wall Winery and St. George Spirits through the Loan Conversion Assistance Program for Rent Relief in Response to the Covid-19 Pandemic. Introduced.

The Interim Community Development Director and Assistant Community Development Director gave a brief presentation.

Mayor Ezzy Ashcraft stated the reference to hand sanitizer is in relation to St. George Spirits production; noted the business has been donating hand sanitizer.

Councilmember Daysog stated the concerns from the previous matter apply; expressed concern about adopting a policy after a program has been approved; inquired whether there is anything which can deal with overreach and policy issues.

Vice Mayor Vella stated the main goal is to provide financial assistance to tenants; questioned how the topic of overreach relates to the matter.

Councilmember Spencer inquired whether tenants receive rent abatement at the front of the program term.

The Interim Community Development Director responded as tenants meet a particular event, the opportunity for abatement is available to be applied thereafter.

The Assistant Community Development Director stated there are two separate programs; the current matter is related to loan conversion; ongoing goals must be met in order for St. George Spirits to receive abatement.

Councilmember Spencer inquired whether St. George Spirits has already performed the goal of providing hand sanitizer in order to receive three months of abated rent.

The Assistant Community Development Director responded St. George Spirits has an approximate goal of providing 3,500 units of hand sanitizer and is currently at 2,000.

Councilmember Spencer stated the goals appear to have already been negotiated and are now coming to Council for ratification.

The Assistant Community Development Director stated St. George Spirits is producing hand sanitizer and staff is urging continuation of production by setting the goal amount; the program goal sets performance measures.

Councilmember Spencer stated \$118,000 is being abated for 3,600 gallons of hand sanitizer; inquired whether valuation of hand sanitizer has been provided; noted many members of the community are providing services and not receiving the same amount of relief.

The Assistant Community Development Director responded the value of hand sanitizer

was not calculated in relation to rent; stated the value is responsive to Council's direction to help those that are helping the community; stated none of the performance measures equate a mathematical equation.

Mayor Ezzy Ashcraft stated the times are described as unprecedented for a reason; expressed support for staff's efforts.

Councilmember Spencer questioned whether the lease is a three year term, with the ability to abate six months total; noted the previous program allowed for three months to be abated; stated the City is also landlords for residential spaces as well; inquired whether programs are being offered to residential lessees.

The Assistant Community Development Director responded the previous matter [final passage paragraph no. 20-__] allowed a total of nine months to be abated; noted the current program is a shorter abatement period; stated the City has provided residential tenants the same programs provided Citywide.

Councilmember Spencer requested clarification of the rent programs.

The Assistant Community Development Director stated the previous matter program allows for a nine month deferral and three month payback within three years; if payback occurs early, an abatement of one month is allowed for each year paid early.

In response to Councilmember Spencer's inquiry, the Assistant Community Development Director stated tenants can abate six months between March of 2020 and June of 2021, with three years to meet the milestones; noted the program is not on a per year basis due to milestone timing; stated the previous matter's program requirements differ.

Councilmember Spencer noted the programs differ in abatement and repayment.

Discussed the pandemic; stated staff at St. George Spirits felt the need to do something; an investment of thousands of dollars has been made in order to produce hand sanitizer; discussed distilleries producing hand sanitizer throughout the Country and hand sanitizer costs; stated there has been no intention of selling the hand sanitizer; people should be looking out for one another during these times; if the matter not pass, hand sanitizer will continue to be produced and provided: Lance Winters, St. George Spirits.

Councilmember Daysog outlined the process for ordinance approval; stated COVID-19 enforcement provisions are new information; expressed support for guarding against overreach; stated Section 4 of the agreement relates to COVID-19 enforcement; questioned whether Council should adopt policy guidance language offline prior to adopting the agreement; stated concerns raised about overreach should be hammered out first.

Vice Mayor Vella stated that she is not interested in having something transpire in a way that pauses the current meeting, circumventing the Brown Act; the issue has not been raised by tenants that are part of the program; expressed concern about jumping down a rabbit hole versus addressing issues brought forth by businesses; stated that she does not want to lose sight of the bigger picture to provide financial assistance to businesses that have been good businesses and community members; the path laid out from the previous matter will apply to other matters; it is a red herring to say there is overreach; Council is providing a benefit to businesses in order to help keep them afloat; the foundation has been laid and a conversation can be had if the hypothetical concern is raised by tenants; expressed support for the matter as written; stated Council should address the immediate hurdles coming before businesses.

Councilmember Knox White stated consistency needs to occur; different expectations in different contracts is problematic; noted action has been taken related to COVID-19 violations; stated additional concerns can be addressed in a policy which will add additional protections to an already agreed upon contract; expressed support for moving forward with staff's recommendation; expressed concern about delaying the matter.

Councilmember Spencer stated that her concern is for City monies not being balanced; the matter is a big ask and it is important to be clear about what the ask is; outlined language under Section 4 of the agreement; stated the language is precise, does not allow for discretion and is important to address.

Mayor Ezzy Ashcraft further outlined language in Section 4 of the agreement; stated the matter is coming back to Council for further refinement of policy; there is a lot of permissive language; the goal of COVID-19 provisions is to stem the spread of the virus and allow businesses to re-open; requested clarification about impacts to the Base Reuse fund.

The City Manager stated there will be short-term impacts to the Base Reuse fund; staff is looking at the long-term effects on businesses to ensure tenants are able to stay and avoid the potential of long term losses.

Mayor Ezzy Ashcraft outlined the financial impact portion of the staff report; stated the end of the pandemic is unknown; it is important to ensure logical and sensible orders for public health are being followed; Alameda has had very few businesses cited for violations.

Councilmember Daysog stated that he does not see himself supporting the agreement until an overreach policy is in place.

Vice Mayor Vella stated Council has twice heard from business owners asking for aid; requested clarification why Councilmembers would support withholding financial aid to businesses due to a hypothetical issue which will be addressed prior to the contract being enforced; stated business owners have not raised concerns about overreach; due to the timeline of the ordinance, Council has the opportunity to address concerns;

Council has time to enact the policy.

Councilmember Spencer stated there is a compromise to remove the paragraph regarding COVID-19 violations; the instance of violations is hypothetical and Alameda has good businesses; adding the language to the agreement is an overreach; businesses can be trusted and worked with; stated that she will support the agreement with the provision removed.

Vice Mayor Vella stated the provision is due to Council providing substantially higher financial help than other businesses; there is a give and take and agency on the part of the businesses; the discussion is a distraction from the matter and is killing an agreed to deal.

The City Manager stated there has been a net positive balance of \$6 million in the Base Reuse fund; capital expenses still exist for the fund; staff has recommended the lease agreements due to the long-term viability of the area and ability to strengthen the City.

The Interim Community Development Director stated staff does not anticipate further applications for the program; \$1.5 million has been allocated for the program and only half of the allocation has been spent.

Councilmember Spencer moved approval of the staff recommendation [introduction of the ordinance], with striking the COVID-19 enforcement violations provision.

The motion failed for lack of a second.

Mayor Ezzy Ashcraft stated in political life, members rarely come to a perfect agreement; elected representatives are governing at precarious times for all; not everyone is impacted by COVID-19 equally; noted that she has recommended an ad hoc committee be formed to address policy language; urged consideration of compromise.

Councilmember Knox White stated the program was developed in November 2020; that he feels Council has come up with a solution to address concerns raised by Councilmembers; it seems odd and off-putting for Council to have agreements with different terms for different tenants; expressed concern about the suggestion that three Councilmembers would change policy in order to pull rent from businesses; stated that he supports fixing the concerns through a policy; the issue does not relate to putting the City at more risk; however, the protections added negotiate against the City and ensure clarity for tenants.

Councilmember Knox White moved approval of the staff recommendation [introduction of the ordinance], with hope that Council can honor the negotiations and work staff has done at the direction of a unanimous Council.

Vice Mayor Vella seconded the motion.

Under discussion, Councilmember Spencer stated that she watched the previous meeting discussion; noted the COVID-19 provision was added at the end of the discussion; stated the compromise is to remove the COVID-19 section and return with a policy; the COVID-19 provision is harsh and extreme; policy can change by a vote of three Councilmembers at any time.

On the call for the question, the motion, which required four votes, failed by the following roll call vote: Councilmembers Daysog: No; Knox White: Aye; Spencer: Abstain; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 3. Noes: 1. Abstention: 1.

Mayor Ezzy Ashcraft stated that she is disappointed and does not support treating businesses differently.

The City Manager inquired whether staff should figure out an alternate solution to bring back for Council consideration.

Councilmember Knox White moved approval of removing Section 4 and approving the contracts, with direction to staff to work to insert the final policy into a lease amendment.

Councilmember Spencer seconded the motion.

Under discussion, Mayor Ezzy Ashcraft stated that she is concerned about suspending any reference to COVID-19 public health order violations; noted that she might consider supporting a modification to the language.

Vice Mayor Vella stated that she is concerned due to other businesses at Alameda Point flouting the public health regulations; she does not support a full removal of the COVID-19 provision; expressed support for language referencing COVID-19 health and safety orders and any Occupational Safety and Health Administration (OSHA) violations related to COVID-19 or violations of County Health orders.

Mayor Ezzy Ashcraft expressed support for language which articulates the opportunity to cure violations within a certain period of time.

The City Attorney stated one fix could be to change the decision makers to the City Council instead of the City Manager and City Attorney.

Mayor Ezzy Ashcraft inquired whether there is an opportunity to cure, to which the City Attorney responded Section 4 of the lease allows the opportunity to cure; the edit will allow for Council consideration.

(21-014) Mayor Ezzy Ashcraft moved approval of granting each Councilmember an additional 5 minutes.

Councilmember Spencer seconded the motion, which required four affirmative voters so it failed by the following roll call vote: Councilmembers Knox White: No; Spencer: Aye; Vella: No; and Mayor Ezzy Ashcraft: Aye. Ayes: 3. Noes: 2.

Vice Mayor Vella inquired whether the recommendation from the City Attorney is an acceptable amendment to the motion made by Councilmember Knox White.

Councilmember Knox White inquired whether Councilmember Daysog would support the amended motion.

Councilmember Daysog responded the City Council is not playing an administrative role in managing a contract; stated there is no higher authority for overreach than the Council during a public meeting; Council is moving in the right direction; noted that he is not supportive of creating policy language on the fly; stated that he would prefer the policy be in place prior to approving the agreements.

Vice Mayor Vella proposed language which includes that the ultimate decision rests with a vote of the City Council with a recommendation provided by staff; stated Council will have a guiding policy developed prior to the decision to ratify.

Councilmember Daysog stated the issue is staff overreach; there is room to say it is incumbent on Council to decide; noted businesses are feeling punished by government; expressed concern about creating policy at the meeting.

Vice Mayor Vella stated that she is concerned about the notion of staff overreach if Council has the deciding vote; inquired whether Councilmember Daysog is agreeable to the amendment.

Councilmember Daysog responded that he will need to see the language.

Councilmember Knox White inquired whether the language could require a vote of four Councilmembers.

The City Attorney responded that he advises against doing so; stated the Charter is clear about three votes.

Vice Mayor Vella proposed adding: "... the City may, upon a vote of the majority of City Council, in their sole and complete discretion..."

Mayor Ezzy Ashcraft called a recess at 10:33 p.m. and reconvened the meeting at 10:40 p.m.

The City Clerk displayed amended language to the ordinance: "...the City may, upon

the approval of the City Council, in its sole and complete discretion, impose some or all of the following remedies:..."

Councilmember Daysog proposed including: "on a 4 to 1 vote," adding "some" to "...all unpaid" in Section 4(i), "some" to "...all previously" in Section 4(ii) and "some or all of" to "... any further" in Section 4(iii).

The City Attorney stated that he is concerned about increasing the voting threshold which is not authorized by the City Charter.

Councilmember Daysog withdrew the addition of: "on a 4 to 1 vote."

Councilmember Knox White withdrew his motion

Councilmember Daysog moved introduction of ordinance with the amended lease language.

Councilmember Knox White second the motion, which carried by the following roll call vote: Councilmembers Daysog: Aye; Knox White: Aye; Spencer: Abstain; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 4. Abstention: 1.

(21-015) Presentation by Assemblymember Rob Bonta: State Legislative Update.

Assemblymember Bonta made brief comments.

Vice Mayor Vella stated the pandemic has highlighted existing inequities, specifically the lack of transitional housing; more transitional housing is needed in Alameda; there is an opportunity to work with the State for more transitional housing; expressed support for streamline legislation related to the Employment Development Department (EDD); stated State funding for housing goals and schools is needed as well as for daycare providers; expressed concern about Vons and Albertsons laying off full-time drivers; expressed support for the continued fight on bail reform, the juvenile justice program and tenant protection programs.

(21-016) Councilmember Knox White moved approval of holding the public hearing [paragraph no. 21-017] and continuing the referral to another meeting [paragraph no. 21-019].

Vice Mayor Vella seconded the motion, which required four votes so it failed by the following roll call vote: Councilmembers Daysog: No; Knox White: Aye; Spencer: No; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 3. Noes: 2.

Councilmember Spencer moved approval of extending the meeting beyond 11:00 p.m. to hear both the public hearing [paragraph no. 21-017] and the referral [paragraph no. 21-019].

Councilmember Daysog seconded the motion.

Under discussion, Mayor Ezzy Ashcraft stated that she could support the motion only if the meeting is finished before midnight.

Councilmember Spencer withdrew her motion.

Councilmember Daysog inquired whether an unheard matter continues to the next meeting.

Mayor Ezzy Ashcraft responded the meeting will end should a motion to continue not pass.

Councilmember Daysog proposed the first motion be recreated with a date and time certain for the referral.

Councilmember Knox White moved approval of holding the public hearing and continuing the referral to January 19, 2021.

Councilmember Daysog seconded the motion, which carried by the following roll call vote: Councilmembers Daysog: Aye; Knox White: Aye; Spencer: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 5.

Councilmember Daysog expressed support for a more strategic approach to Bay Area Rapid Transit (BART) in Alameda; stated that he would like more discussion around flexibility of Regional Housing Needs Assessment (RHNA) responsibilities and RHNA generally, based on changes due to COVID-19; expressed support for an accounting of small mom and pop landlords' concerns.

Mayor Ezzy Ashcraft outlined a call with the Alameda Chamber of Commerce; stated another city is paying a consultant \$10,000 per month to locate and identify grant opportunities for State funding to help small businesses; there is good representation at the Federal and State government and contacts can be provided; expressed support for receiving State representative input; discussed the COVID-19 vaccine rollout; questioned how the State can help cities with the vaccine process; expressed support for housing legislation to return after delays from COVID-19; stated the City has received support for the Bicycle Pedestrian Bridge project; that she would like strategic support and input related to the project.

Councilmember Knox White stated transportation is the backbone of the economy; expressed support for receiving support in ways to make streets safer by implementing automated safety cameras for speeding and supporting transit recovery for the region; stated that he would like to ensure transportation funding follows housing processes and infrastructure improvements; housing is desperately needed; noted support and

State action is needed on Police accountability.

Councilmember Spencer stated there are transportation issues; noted mask enforcement for BART is low; expressed support for more data being provided from County Public Health related to COVID-19 case numbers and connecting regional shut downs based on case numbers, and more information related to allowing outdoor dining for businesses and opening outdoor areas; stated many people are sharing indoor spaces due to enough outdoor space not being provided for use; expressed concern about reports of increased crime and addressing changes due to the unsheltered population.

Assemblymember Bonta expressed gratitude for the comments provided; stated there are opportunities to work together and find partnership; some of the matters will require follow-up meetings; part of the State legislature goals are to help cities navigate available funding through grant processes or programs; information related to grant and loan programs can be shared with cities in order to support small businesses; funding has been made available for the State and Alameda would be eligible for some; the fight continues to get rid of the unfair and unjust system of money bail; there is fast movement and urgency for tenant protections; the overlay of both County and City support can provide stronger backbone for struggling tenants; there is progress and momentum for the Bicycle Pedestrian Bridge; noted traffic safety cameras have been discussed at the district level as an area of interest and contain tricky political issues; stated the COVID-19 vaccine is accommodated by facts, science and data and some counties can be more restrictive should they so desire; Alameda County has been consistently more restrictive than the State; it is tricky finding a balance between public health and economic drivers; smart and important reforms have begun to build community trust in police accountability; expressed gratitude for the opportunity to address Council.

(21-017) Public Hearing to Consider Resolution No. 15733, "Adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program to Rezone the Property at 2350 Fifth Street from M-X, Mixed Use to R-4, Neighborhood Residential District to Facilitate Residential Use of the Property." Adopted; and

(21-017A) Introduction of Ordinance Amending the Zoning Map Designation for the Property at 2350 Fifth Street (APN 74-1356-23) from M-X, Mixed Use to R-4, Neighborhood Residential District to Facilitate Residential Use of the Property, as Recommended by the City Planning Board. Introduced.

The Planning, Building and Transportation Director gave a brief presentation.

In response to Councilmember Spencer's inquiry, the Planning, Building and Transportation Director stated the parking requirement in the existing and proposed zoning is two spaces per unit.

Councilmember Knox White moved approval of the staff recommendation [adoption of

the resolution and introduction of the ordinance].

Vice Mayor Vella seconded the motion.

Under discussion, Councilmember Daysog stated the location is ideal for commercial and should be zoned mixed use; discussed Bayport; expressed support for a smaller scale neighborhood serving commercial site.

Councilmember Spencer inquired whether the matter requires three votes to pass with the location being City property.

The City Attorney responded Council is not voting on property disposition; stated the actions being taken are to rezone, which requires three votes.

On the call for the question, the motion carried by the following roll call vote: Councilmembers Daysog: No; Knox White: Aye; Spencer: No; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 3. Noes: 2.

CITY MANAGER COMMUNICATIONS

(21-018) The City Manager encouraged use of the vaccine as it becomes available; discussed an extension of time requested by the policing subcommittees due to the holidays; stated a report back to Council is due the week of January 20th; a public engagement process is anticipated; the matter is scheduled to be on a Council meeting in March to allow time for public engagement; three separate meetings are available for public viewing; announced the APD armored vehicle matter will return for Council discussion.

ORAL COMMUNICATIONS, NON-AGENDA

None.

COUNCIL REFERRALS

(21-019) Consider Establishing a New Methodology by which the Number of Housing Units are Calculated for Parcels Zoned C-2-PD (Central Business District with Planned Development Overlay). (Councilmember Daysog). Not heard.

COUNCIL COMMUNICATIONS

(21-020) Mayor Ezzy Ashcraft announced that she and Councilmember Spencer attended the 100th anniversary celebration for the Alameda Rotary Club via Zoom; discussed the christening of Saildrone's Surveyor SD-1200.

(21-021) Vice Mayor Vella announced that she attended an Alameda County Lead Abatement Board meeting; stated there is concern about delaying lead testing children

due to COVID-19; discussed high levels of lead in bulk spices; stated there is concern about lead levels in home based daycare facilities; announced she attended a meeting for Stopwaste; stated legislation implementation around compost and recyclables is delayed; discussed an award received by Alameda Grocer.

(21-022) Councilmember Spencer announced an upcoming blood drive at Temple Israel.

ADJOURNMENT

There being no further business, Mayor Ezzy Ashcraft adjourned the meeting at 11:48 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

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