

MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
TUESDAY- -MAY 4, 2021- -6:00 P.M.

(21-280) The special closed session meeting was cancelled.

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Lara Weisiger  
City Clerk

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

MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
TUESDAY- -MAY 4, 2021- -6:59 P.M.

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

ROLL CALL - Present: Councilmembers Daysog, Knox White, Vella, and Mayor Ezzy Ashcraft – 4. [Note: The meeting was conducted via Zoom]

Absent: Councilmember Herrera Spencer – 1.

COUNCIL COMMUNICATIONS

(21-281) Mayor's Nominations for Appointments to the Golf Commission and Housing Authority Board of Commissioners.

Mayor Ezzy Ashcraft nominated Kaiwin Su and John Kim for appointment to the Golf Commission.

ADJOURNMENT

There being no further business, Mayor Ezzy Ashcraft adjourned the meeting at 7:05 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- -MAY 4, 2021- -7:00 P.M.

Mayor Ezzy Ashcraft convened the meeting at 7:05 p.m.

ROLL CALL - Present: Councilmembers Daysog, Herrera Spencer, Knox White, Vella, and Mayor Ezzy Ashcraft – 5. [Note: Councilmember Herrera Spencer arrived at 7:09 p.m. The meeting was conducted via Zoom]

Absent: None.

AGENDA CHANGES

(21-282) The City Clerk noted that the Greenway Golf ordinance [paragraph no. 21-311] was withdrawn and would not be heard.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(21-283) Proclamation Declaring May 2021 as Affordable Housing Month.

ORAL COMMUNICATIONS, NON-AGENDA

(21-284) Zac Bowling, Alameda, discussed Public Comment procedures for Council Meetings, the Brown Act and Oral Communications at a previous meeting; stated each member should be afforded an opportunity to speak on non-agenda items prior to the conclusion of the meeting; if meetings continue to be abruptly ended, there will be an issue with the Brown Act; the matter has been brought to other cities' adjournment proceedings; outlined Assembly Bill (AB) 339.

(21-285) Erin Fraser, Unbundling Police Services Subcommittee, stated that he wishes the Council had not ignored recommendations made by the Subcommittee; discussed recommendations made by the Subcommittees and Mario Gonzalez; urged Council to take action at the May 8<sup>th</sup> Special Meeting; stated any action taken will not bring Mr. Gonzalez back.

(21-286) Gaby Dolphin, Alameda, submitted a proposed resolution; urged Council to immediately act in relation to the insurrectionist attack on the Capitol January 6<sup>th</sup>; stated regional problems affect Alameda and cannot be solved by Alameda alone; urged the City request the State Attorney General to determine whether there is cause to believe the Oathkeepers operate within the Alameda County Sheriff's department and whether the department engages in unconstitutional or unlawful policy and practice in use of force.

(21-287) Bob Walsh, Bird Shared eScooters, stated shared scooter programs help reduce private car trips, support local businesses and reduce carbon footprints; shared electric scooters are safe, enjoyable and could offer a socially-distanced way to take medium and short ranged trips throughout Alameda during COVID-19; shared scooters have a dramatic, positive impact on local businesses; discussed a study about offsetting greenhouse gas

emissions.

(21-288) Debra Mendoza, Alameda, stated community voices need to be heard; the most important thing to do is to think about the decision and action to be taken at the Saturday May 8<sup>th</sup> Special Council Meeting; discussed the death of Mario Gonzalez and Police service calls; urged Council to take immediate action and stop sending Police to non-emergency, non-crisis calls for homelessness, mental health and substance abuse.

(21-289) Sophia DeWitt, East Bay Housing Organizations (EBHO), expressed support for declaring May as Affordable Housing Month; stated EBHO has 12 virtual educational topic events which will be free to all members of the community and can be accessed at: [www.ebho.org](http://www.ebho.org) on the events page; EBHO is looking forward to working with the City of Alameda on affordable housing issues and policies, particularly the upcoming Housing Element and Zoning Code.

(21-290) Alexia Arocha, Alameda, stated that she has called in countless times to demand action and accountability for Alameda Police; discussed previous calls for action; questioned where the action from Council will be since the final Committee recommendations have been submitted; expressed concern about important recommendations not being included in the final recommendations; stated people need to stop calling the Cops on Black and Brown folks; the Police need to stop responding to [non-emergency] calls; urged Council to meet the demands from Mario Gonzalez's family and the community.

(21-291) Ramon Rodriguez, Turlock, discussed the deaths of Mario Gonzalez and Trevor Seever; questioned how many times the Police will kill; stated reforming Police will not do anything; the system of policing has been killing Black, Brown and vulnerable people for years; the form of oppression must end; urged Council to defund the Police and put more money into social and alternative services.

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(21-292) Vice Mayor Vella moved approval for extending the time by two additional minutes.

Councilmember Knox White seconded the motion, which carried by the following roll call vote: Councilmembers Daysog: No; Herrera Spencer: Ayes; Knox White: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 4. Noes: 1.

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(21-293) Melodye Montgomery, Alameda, stated the recommendations from the Subcommittees are important and need to happen immediately; Council must take action sooner rather than later; Council must be immediately responsive to the community and do better.

## CONSENT CALENDAR

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

(\*21-294) Minutes of the Continued March 16, 2021 City Council Meeting Held on March 30, 2021 and the Regular City Council Meeting Held on April 6, 2021. Approved.

(\*21-295) Ratified bills in the amount of \$4,505,990.95.

(\*21-296) Recommendation to Authorize the City Manager to Execute the First Amendment to Ferry Service Operations Transfer Agreement between the City of Alameda and the San Francisco Bay Area Water Emergency Transportation Authority. Accepted.

(\*21-297) Recommendation to Accept the Work of Ray's Electric for Signal Installation at Harbor Bay Parkway/North and South Loop Road and Harbor Bay Parkway/Penumbra Place and South Loop Road, No. P.W.04-19-23. Accepted.

(\*21-298) Recommendation to Accept the Work of American Pavement Systems, Inc. for the 2020 Pavement Management, Phase 39, Slurry and Cape Seal Project, No. P.W. 03-20-17. Accepted.

(\*21-299) Recommendation to Accept the Work of McGuire & Hester, for the 2020 Pavement Management, Phase 39, Hot Mix Asphalt Overlay and Base Repair Project, No. P.W. 05-20-26. Accepted.

(\*21-300) Recommendation to Accept the Five-Year Outlook for Housing Development Fiscal Years 2020-25. Accepted.

(\*21-301) Recommendation to Approve 1925 Everett Street as the New Location for the Dan Fontes Mural and the Egret as the New Design for the Mural. Accepted; and

(\*21-301A) Resolution No. 15766, "Amending the Public Art Fund Budget to Appropriate up to \$1,500 for the Dan Fontes Mural." Adopted.

(\*21-302) Resolution No. 15767, "Increasing the Fiscal Year 2020-21 Expenditure Budgets in the Recognized Obligation Payment Schedule (ROPS) Fund by \$230,000, the HOME Fund by \$10,000, and the Human Services Fund by \$90,000." Adopted.

(\*21-303) Resolution No. 15768, "of Intention to Set June 15, 2021 for a Public Hearing to Consider Collection of Delinquent Integrated Waste Management Accounts Via Property Tax Bills." Adopted.

## REGULAR AGENDA ITEMS

(21-304) Resolution No. 15769, "Confirming the Park Street Business Improvement Area Annual Assessment Report for Fiscal Year 2021-22; and Levying an Annual Assessment on the Park Street Business Improvement Area of the City of Alameda for Fiscal Year 2021-22." Adopted.

The Development Manager and Kathy Weber, Downtown Alameda Business Association (DABA), gave a brief presentation.

Councilmember Daysog moved approval of adoption of resolution.

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

(21-305) Resolution No. 15770, "Confirming the Webster Street Business Improvement Area Assessment Report for Fiscal Year 2021-22; and Levying an Annual Assessment on the Webster Street Business Improvement Area of the City of Alameda for Fiscal Year 2021-22." Adopted.

Councilmember Daysog recused himself and left the meeting.

The Development Manager and Sandy Russell and Linda Asbury, West Alameda Business Association (WABA), gave a brief presentation.

Councilmember Knox White moved approval of adoption of the resolution.

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

(21-306) Introduction of Ordinance Amending the Alameda Municipal Code by Amending Article XV (Rent Control, Limitations on Evictions and Relocation Payments to Certain Displaced Tenants) to Adopt and Incorporate Provisions Concerning Capital Improvement Plans (CIP) for Rental Units in the City of Alameda. Not introduced.

Special Counsel gave a brief presentation.

Councilmember Daysog stated correspondence received indicates the \$25,000 threshold is too high; requested clarification from staff on the average improvement costs.

Special Counsel stated staff took comments into consideration; staff discussed decreasing the limit and concluded the \$25,000 threshold is reasonable; the improvements listed in the ordinance are significant and substantial; if a landlord engages in only one of the listed improvements, the \$25,000 threshold will likely be reached; landlords tend to make several improvements in order to reach the \$25,000 threshold; Council could reduce the amount if desired; if staff runs into problems after adoption, the matter could return for additional consideration.

Councilmember Herrera Spencer inquired how many landlords have taken advantage of the CIP program since the start.

Special Counsel responded not many; stated staff is bringing the proposed revision to the

policy due to low response; staff feels as though the program is not being utilized and improvements to the housing stock are not occurring; in revising the ordinance, staff anticipates improvements will increase.

Councilmember Herrera Spencer inquired the number of landlords who have participated in the program.

Gregory Katz, Alameda Housing Authority, responded the previous fiscal year had one program submission.

Councilmember Herrera Spencer inquired whether the amount has remained the same to-date.

Mr. Katz responded that he could provide the information since the beginning of the program.

Mayor Ezzy Ashcraft inquired whether the CIP process was not being used due to landlords finding ways to improve their properties without using the program pass-through; questioned indicators housing stock is not being improved aside from low numbers of program use.

Special Counsel responded improvements have been made; stated the threshold number under the current policy is high and causes a deterrent for landlords; if there is turnover, landlords can raise the rent to market-rate, which causes a cash infusion and allows the landlord to make capital improvements without having to go through the current process; he is not aware of an uptick in rehabilitation of units throughout the City; staff recommends the CIP process as an avenue to make improvements and recover costs over time.

Stated the Bay East Association of Realtors opposes the current CIP proposal, but would like to continue to engage with stakeholders to come up with something that is workable; the per unit threshold is too high; only foundation replacement would qualify under the current proposal; discussed the ordinance definitions; recommended the CIP be any improvement reflecting the definition; noted the Internal Revenue Service (IRS) definition for a depreciating asset: Karen Miller, Local Government Relations Committee of the Alameda Chapter Bay East.

Expressed concern about the timing and creating policy that would not take effect for over a year; stated times are uncertain for renters; renters looking for housing often have to provide their own cleaning and painting; renters should be protected; urged Council to support State funding or grants to assist landlords behind on receiving rents: Catherine Pauling, Alameda.

Stated that he is against the CIP; questioned why the plan is being addressed during COVID: Austin Tam, Alameda.

Stated this is an opportunity for Council to show it cares about diversity; discussed statistics from the Alliance of Californians for Community Empowerment (ACCE); stated many people have lost their job during the pandemic; urged Council to vote against the ordinance: Sofia

Coffin, Alameda.

Stated housing is a human necessity; mass displacement and homelessness is the alternative; tenants should not be forced to pay to improve homes they do not own; rent is paid for a habitable, functioning home; pass-throughs allow property owners new ways to raise rents; the changes are unfair and will only worsen the crisis of economic inequality; urged Council reject the CIP proposal: Laura Woodard, Alameda.

Stated passing the ordinance will affect his family and many Black, Indigenous, People of Color (BIPOC) communities and renters across the Island; adding pass-throughs onto rent increases will increase homelessness and gentrification in Alameda as low-income renters are priced out of their homes; urged Council not to pass the ordinance: Vinny Camarillo, Youth Activists of Alameda.

Stated Filipino Advocates for Justice opposes the proposed changes to the ordinance; amendments that undermine the City's present rent protections should not be considered given the ongoing pandemic and the immediate necessity for Alamedans to stay in their homes; COVID-19 has disproportionately affected low-income communities of Color; it is evident that the proposal is easily exploitable and will result in unsustainable rent increases for vulnerable tenants; renters can develop chronic stress and end up taking extra jobs which increases exposure to COVID-19; urged Council to vote no on the proposed amendment: Nelson Layag, Filipino Advocates for Justice.

Stated that she is opposed to the plan due to its lack of protections for renters; landlords currently have to demonstrate a financial need prior to an upward adjustment on rent over the allowed annual increase; there is no such protection with the CIP pass-through; the program appears to have a bias for property owners; there is an ever-increasing inequality of income in the City, which has been getting worse as time passes; many renters are paying over 30 to 50% of their income on rent; all renters should be protected; the plan is unfair to renters; urged Council to vote no: Toni Grimm, Alameda Renters Coalition.

Urged Council not to pass the pass-through provision; discussed a rental assistance webinar; stated the policy is complex and difficult to understand; there is not enough legal support for renters; many people are desperate to pay rent during COVID-19; small landlords may need support in order to maintain properties; expressed support for a program which taxes corporations for a pass-through: Grover Wehman-Brown, East Bay Housing Organizations.

Stated that he opposes the proposed changes; rent increases below the Consumer Price Index (CPI) have been sufficient to finance improvements; rental expenses are planned and budgeted in advance and do not require sudden increases in rent charged; he has never had to exceed the CPI to cover major Capital Improvements for his property; many landlords who properly budget for improvements have improved their properties since rent control went into effect; urged Council to stand in solidarity with more than half of Alameda residents and reject staff's recommendation: William Smith, Alameda.

Stated renters' financial struggles are burdened by the effects of COVID-19; many have lost their jobs; the proposed passage of the CIP will further financially endanger the renters;



questioned the reason renters pay 100% of the costs when they do not own the property; urged Council to consider long-term effects which will exacerbate the severity of income between residents and landlords; stated the CIP ordinance will likely drive renters out of their home: Brian Lin, Alameda.

Stated that he is opposed to the ordinance; the proposed changes can easily be exploited to displace renters and is concerning; the pass-throughs go against rent control law approved in 2019 and the intent of Ordinance 3250; pass-throughs will increase displacement and homelessness during a time when many renters do not know whether they can pay for rent the following month; there is no limit to the number of pass-throughs in a one year period; this is not the correct time to discuss changing the City's rent protections: Arvin Garcia, Alameda.

Stated the issues are complex; he does not agree with the increase in the current climate; expressed concern over policies which allow for renters to directly fund equity improvements for landlords; stated landlords will bank equity off renters and likely will not contribute to the community via taxes; being a landlord is a capitalist venture; there is a fair rate of return petition process; the rate of return process should be improved, not pass-through; urged Council to take delicate care with the matter to ensure no increase in sudden displacement: Zac Bowling, Alameda.

Stated that she opposes the ordinance; shared her story of being evicted in Alameda; stated that her termination was based on invalid grounds and she was eligible to receive relocation fees from the owner: Jessica Lizardo, Alameda.

Stated that she opposes the ordinance at this time; any amount of rent increase will severely hurt low- and very low-income residents; the ordinance will hurt good landlords and help bad landlords; landlords have an obligation to maintain habitable housing; the ordinance is not fair to those already keeping rental units habitable; urged Council not to enact the CIP: Svetlana Rishina, Alameda.

Expressed support for comments made by Mr. Bowling; stated rent increase at this time will only hurt the most vulnerable and add to gentrification; the expectation in paying rent is to have safe shelter; urged Council vote no in order to protect all citizens: Melodye Montgomery, Alameda.

Stated the proposal will impact low-income people and drive more People of Color out of Alameda; many people have moved out of Alameda due to high living costs; urged Council to stop gentrification: Randell Rubio, Alameda.

Stated that he would like a more diverse, equitable and affordable Alameda; the public is against the matter; there is consent to reject the matter: Erin Fraser, Alameda.

Mr. Kats stated the number of CIP submissions since 2016 is nine; noted three were in 2016, two in 2017, one in 2018, one in 2019 and two in 2020.

Councilmember Daysog stated the residents are unanimous in their displeasure; it is a rare day when landlord and renter organizations see eye-to-eye for different reasons; now is not

the time to move the matter forward; at some point, the City will have to modify the CIP; expressed support for the City working with smaller mom and pop landlords when the time comes to modify the CIP; stated the Council can consider the matter in 18 months.

Councilmember Herrera Spencer stated based on public comment, neither side seem supportive; requested staff to clarify the reasons the matter is appropriate; questioned whether staff understood the opposition prior to the comments.

Special Counsel stated staff understood concern from both sides; Council previously directed staff to return; staff had an obligation to bring the matter for consideration; the current policy is too onerous for both landlords and tenants; if a CIP is approved under the current policy, the result is not a pass-through, but a rent increase and is added to tenants' base-rent and can have a cumulative effect; staff desired to move away from the current process and provide a more traditional pass-through; provisions limiting pass-through amounts prevent landlords from placing increases annually or bi-annually; staff understood the proposal would not be embraced by either the landlord or tenant groups; however, there was an obligation to bring the matter back for consideration; staff vetted the matter with both groups and attempted to address concerns from both sides; the policy decision is up to Council.

Councilmember Herrera Spencer stated that she thinks staff will need to return again with another proposal; expressed support for multiple options being provided for consideration in the future.

Councilmember Knox White stated some people are concerned that the proposed matter has pass-throughs similar to San Francisco which allows a pass-through for many different types of fees and taxes; requested clarification about the pass-throughs.

Special Counsel stated the landlord would be limited to 5% of the rent regardless of the amount of CIP improvements; the amortization period may extend to longer than 15 years; however, the proposed ordinance requires the cap of 5%; the improvements must be substantial such as foundation work, Heating, Ventilation and Air Conditioning (HVAC) systems, pet damage, water conservation systems and updating units to provide accessibility; the program is limited and is not a pass-through for taxes or other fees and charges and is limited to the CIP improvements identified in the ordinance.

Councilmember Knox White stated Council previously made amendments to the ordinance to set the time to initiate pass-throughs as one-year after the local emergency; the matter can come back without any delay in actual implementation; the recommendation is the second part of a two-part decision made in September 2019 when Alameda had moved from rent stabilization to a rent control regime with a significant Annual General Adjustment (AGA); Council gave direction to come back to ensure there was a CIP process allowing people to maintain some level of return for large projects; expressed concern about someone with less units having a harder time qualifying for the larger expenses; stated should Council send the matter back for additional thought and consideration, he would like to understand the options to ensure a balance in access for both large and small landlords; the Culver City program is tighter and stricter; however, a couple points could be good for consideration; expressed support for the total cost of the project amount being the total;

stated the amount should not include any loan fees or interest; as-written, it is not clear that the interest is not part of the pass-through; the Culver City program includes language which precludes any maintenance projects due to wear and tear or due to landlord neglect; there have been comments alluding to landlords purposefully neglecting buildings in order to pass-through repair cost; expressed support for not penalizing good landlords; stated staff brought back what Council previously requested; the matter is complicated; there is time; inquired who oversees appeals.

Special Counsel responded appeals and handled by the Hearing Officer; stated the City has a panel of 3 to 4 Hearing Officers that hear complaints from tenants or fair return petitions from landlords; Hearing Officers are well versed in rent control law; the ordinance provides that the Program Administrator is not to give any consideration to any additional costs a landlord incurs for property damage or deterioration due to an unreasonable delay in the undertaking or completion of any improvement or repair; the ordinance language is intended to deal with situations where a landlord puts off reasonable improvements; staff can look at the Culver City language and create more specific language.

Vice Mayor Vella stated Council is discussing sending the matter back with potential changes and alternatives; expressed support for discussing the timeline and when the matter will return to Council, and for removing the fees and interest from the total calculation; stated there have been questions relative to the definitions used in the proposed policy and other policies relative to relocation; expressed support for staff reviewing the questions raised and using the same definitions in the ordinances; stated there have been questions raised about the language relative to defining Capital Improvement; the comments related to the Culver City language are helpful in defining what constitutes a Capital Improvement; there is interest in clarifying what a CIP is; there are concerns about making the ordinance too subjective and the definitions narrow; the ordinance is 33 pages long and is not simple or easy to follow; expressed concern about creating a complicated and difficult to follow process; expressed support for staff addressing all issues; stated Council should discuss how to boil the matter down; expressed support for a one-page document accompanying the final document, which refers to sections of the ordinance; questioned what will constitute a reasonable delay or greater damage to property and what the 5% amount applies to; stated that she understands the 5% is of the rent not the CIP, which should be defined more clearly; stated unreasonable delay and who decides an unreasonable delay must be defined clearly; she understands the Hearing Officer will define unreasonable delay; questioned the documentation needed for unreasonable delay.

Councilmember Daysog expressed support for the matter returning with further clarification and substantiation as to the threshold to be used; stated whatever number is used will need to be further substantiated with a range of data with respect to examples of upgrade costs; some upgrades are noted as not being able to reach the threshold; smaller mom and pop landlords may have a difficult time reaching thresholds; however, larger landlords with 50 or more units may not; expressed support for modeling how the different thresholds apply to different size landlords.

Councilmember Herrera Spencer stated if the City is trying to encourage maintenance of rental properties, she would like to see analysis that demonstrates the proposed formula will

yield the desired result; expressed appreciation for the information provided by Mr. Katz; questioned whether the applicants completed the improvement work or whether the applications were merely submitted without work; stated that she would like to know the status of the repairs; she is concerned the formula not achieving the goal of maintaining the property; one of the not well-liked criteria is that repairs may be amortized beyond 15 years in order to keep the rent increase less than 5%; she would like to know some examples with real numbers of what the amortization looks like; 50% of the City's population lives in rentals; expressed support for staff returning with permit data for non-rentals; if non-rental repairs are low, then the issue is not rental property related; the CIP might be working and rental properties might have a similar repair rate; the goal is to maintain and to keep tenants in properties; Council is trying to move forward to find the right spot.

In response to Mayor Ezzy Ashcraft's inquiry, Mr. Katz stated of the nine submissions, one has been conditionally approved, one has been closed by the owner, one is still pending, and six have been denied.

Mayor Ezzy Ashcraft inquired the reason for denial.

Mr. Katz responded that he would need to go back and review the individual cases to determine the reason for denial; stated it is most likely due to the various eligibility thresholds for CIP applications.

Mayor Ezzy Ashcraft stated the response is instructive; part of the challenge is that Council will soon be engaged in budget hearings to discuss the City's use for American Rescue Plan Act (ARPA) funds; some of the funding will be directed to helping tenants and landlords to ensure the City is avoiding displacement; the City is also mindful of landlords suffering hardships due to COVID-19; Council will know more when there has been a chance to discuss and provide direction; Council is mindful of renter's concerns; expressed support for more detail being provided; questioned whether there is a way to incentivize landlords to perform necessary repairs; stated the program is elaborate and has many details; expressed support for a one-page executive summary document at the beginning of the CIP document; stated the information will go a long way to help people understand the process; expressed support for the document being user-friendly; stated the program is very complicated, which is one of the reasons the program is so infrequently used ; questioned whether enough information and direction from Council has been given for a motion to be made.

Councilmember Knox White moved approval of giving direction to staff to come back by the end of the calendar year in working to address the varied comments from Council to allow for enough time before a program goes into effect.

Councilmember Knox White stated a question has come up that some buildings have long and short term rentals; language should be clear that money spent on units being used for short-term rentals, similar to AirBNB, does not count towards the CIP; expressed support for any substantive maintenance cost benefitting one or a small section of a building and leeway being given by the Program Administrator to assign and assess the pass-through to ensure tenants not receiving the benefit of the improvements are not paying for the improvement.

Councilmember Daysog stated that he would like the matter to return to Council at the end of the Fiscal Year, June 2022 as opposed to the end of the calendar year; the main issue raised by tenants is the pandemic; it is likely the pandemic will still be active and people will still be coming back; he hopes that by May 2022 things will be better.

Councilmember Knox White stated the direction has the activation starting one year past the end of the declaration of the emergency; he thinks there is value in giving a head's up as opposed to pushing the matter off; bringing the matter back this year allows time for adjustments; moving the matter to the budget season becomes problematic; he is okay with moving the matter to March 2022.

Councilmember Daysog stated March would be great.

Mayor Ezzy Ashcraft requested clarification about the timing.

Councilmember Knox White stated instead of the end of 2021, the motion is being amended to have the matter return no later than March 2022.

Mayor Ezzy Ashcraft stated more time is beneficial in order to provide outreach and information gathering.

Councilmember Daysog seconded the motion.

Under discussion, Councilmember Herrera Spencer stated that she would like to request the City Attorney to reach out to both sides again.

Councilmember Knox White stated the information is included in the motion; all interested people willing to sit down and help should be engaged.

Councilmember Daysog stated that he has always voted against the CIP at any stage; noted that he will support the motion, and look at the threshold issue when the matter returns in March 2022.

Vice Mayor Vella requested clarification about the direction provided related to the smaller mom and pop landlords and the differentiation between larger and smaller units; questioned whether the motion is a blanket CIP process review or whether there is specific direction being provided.

Mayor Ezzy Ashcraft stated the motion is to make sure the City is not benefitting some landlords and rewarding others who are not doing as they should have been; she does not know about different standards for different sized landlords; the information will come back to Council.

Councilmember Daysog stated that his first response is simply to reach out to smaller landlord groups, get input and evaluate the input with professional judgement; assemble a policy crafted around the input.

On the call for the question the motion carried by the following roll call vote: Councilmembers Daysog: Aye; Herrera Spencer: Aye; Knox White: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 5.

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Mayor Ezzy Ashcraft called a recess at 9:00 p.m. and reconvened the meeting at 9:15 p.m.

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(21-307) Resolution No. 15771, “Adopting a Tier-Structured Annual Rent Program Fee for the City’s Rent Control Ordinance and Implementing Regulations, which Establishes the Proposed Annual Rent Program Fee for Fiscal Year 2021-22 of \$148 for Fully Regulated Units and \$100 for Partially Regulated Units; Allocates General Fund Money to Pay the Rent Program Fee for Fiscal Year 2021-22 on Behalf of Landlords Participating in the Section 8 Program; and Extends the Due Date for Rent Program Fees for Fiscal Year 2021-22 from July 31, 2021 to September 30, 2021, with Penalties and Interest on Any Late Fees Not Accruing Until September 30, 2021.” Adopted.

The Community Development Program Manager gave Power Point presentation.

In response to Mayor Ezzy Ashcraft’s inquiry regarding what rent fees are used for, the Community Development Program Manager stated the rent fees pay a number of things; the program is administered by the Housing Authority; the fees pay for staff time, materials, labor, salaries, and City staff salaries primarily from the City Attorney’s office; staff anticipates an increase in the requested number of hearings post-pandemic; next year’s budget has additional costs allocated to a Hearing Officer.

Urged Council consider a moratorium on the rent registry fee for Fiscal Year 2021-2022; stated that she would like to see the expenses of the rent program be paid out of the ARPA funds; the payment will benefit both landlords and tenants as they recover from the pandemic and might incentivize the 18% of landlords that have not registered to do so: Toni Grimm, Alameda Renters Coalition.

Councilmember Knox White moved adoption of the staff recommendation [including adoption of related resolution].

Councilmember Knox White stated Council should keep the increase down; however, the program should not go into the red; if the City uses ARPA funds, it should be used to pay back rent and associated costs.

Vice Mayor Vella seconded the motion.

Under discussion, Vice Mayor Vella stated that she would like to add the question about the rent registry to the upcoming ARPA budget discussion.

Councilmember Daysog stated that he has been reluctant to support rent control in Alameda; the ordinance prior to the original ordinance had been a compromise; the new rent control regime from 2019 is too onerous, especially on smaller mom and pop landlords; outlined rental homes being lost in the Fernside District; stated the rental housing stock has

been most affected by the onerous rent control regime currently in place; he will not go into the onerous portions of the rent control regime and pines for Ordinance 3148 in ways that he previously did not; he does not see himself voting for the matter.

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

(21-308) Recommendation to Amend the Council Referral Process and Form, and the Meeting Rules Pertaining to Council Referrals and Council Communications; and

(21-308 A) Resolution No. 15772, "Amending Various Sections of Resolution Nos. 15382, 15697 and 15766 to Amend the Rules of Order Governing City Council Meetings." Adopted.

The City Clerk gave a brief presentation.

Councilmember Herrera Spencer inquired when the referral process had been implemented.

The City Clerk responded the process was enacted around the 2008 or 2010 time-period; stated that she will find out momentarily.

Councilmember Herrera Spencer stated the item seems like a Council Referral placed on the Regular Agenda; questioned why the matter was not brought forth as a Council Referral.

The City Clerk responded December of 2007 is when the Referral process was implemented; the current matter is similar to the February 16<sup>th</sup> item; a subcommittee of Council met and brought back a recommendation to the entire Council for consideration.

Councilmember Herrera Spencer stated that she thinks the February 16<sup>th</sup> meeting took cuts as well as this matter; the Mayor and a Councilmember decided there can be subcommittees which can get on the Regular Agenda, which she does not support; the matter should go through the Council Referral process; expressed concern about substantive issues raised to significantly reduce the amount of time spent on Council Referrals, public comment and Council Communications; stated oftentimes a Councilmember will respond or comment multiple times; Councilmembers are making serious changes in the public communication portion and how Council conducts business; she thinks it is sad that meetings are getting to the point of not being transparent and greatly limit participation; it is unfortunate to have a possible majority of Council want to slash time that Councilmembers and the public get to have as an opportunity to speak; she will not be supporting the matter.

Vice Mayor Vella stated Council has standing committees specifically to deal with the matter; the committee started months ago in terms of ensuring meetings are running smoothly so Council can get through agendas and address issues which are part of regular City business and are time-sensitive; she appreciates the work the standing Council subcommittee has put in; it seems as though some Council Referrals are based on Council

action, where a majority of the Council has already given direction and the matter comes back as a Council Referral; one of the majority voters would have to bring a matter back for Council reconsideration; expressed concern about discussing, deliberating and enacting a matter to have it return as a Council Referral.

Mayor Ezzy Ashcraft stated the committee is not a standing committee; Councilmember Knox White and herself are an ad hoc committee; meetings are called when an issue arises; requested clarification about the comments made related to matters being brought back as Council Referrals; inquired the examples of such situations.

Vice Mayor Vella stated there have been several examples where Council has given direction on only to have the matter return as a Council Referral; she is raising the question due to the topics of Referrals being discussed.

The City Attorney stated there is no legal prohibition against Council Referrals being brought forth for consideration after an action has been passed; the action is similar to a staff report brought for reconsideration of matters; Council may change rules; the Council has wide latitude to adopt rules to place limits if Council chooses to do so.

Vice Mayor Vella inquired whether the subcommittee could present about the goal relative to the decision to limit the referral topics.

Mayor Ezzy Ashcraft responded that her goal is to increase transparency and the opportunity for audience observation and participation; stated public speakers are timed; if there are instances where Council can speak for unlimited periods of time back and forth, the meeting runs longer; competing interests are being balanced; the recommendation is provided with great consideration and respect for the public.

Councilmember Knox White stated there might be a misunderstanding about the proposed changes; the subcommittee met with staff and discussed how other cities have addressed the issue of Councilmembers getting matters onto the agenda via a Referral process; the City's Council Referral process is unique; in many cities, topics are announced during Council Communications and Council decides whether or not to place the topic on a future meeting agenda; the subcommittee decided to add an additional step to ask whether the Council would like to have a discussion and ask staff to bring forth information; there have been a number of instances of late meetings with staff waiting until 11:00 p.m. for a matter to not be heard; the approach will allow Council to move through the matter quickly; the attempt is to get back to the 2007 Referral process to identify a way for Councilmembers to get a topic on the agenda for consideration without sending staff down a rabbit hole of performing work on something that might not be supported by a majority of Council; the reason for limiting the discussion is not to discuss the matter itself; discussed the referral related to gas leaf blowers; stated having information ahead of time might help Council decide whether to have City staff wait at a meeting until 11:30 p.m. to provide an answer.

Councilmember Herrera Spencer stated that her understanding is presentations are limited to ten minutes; she is unsure about the latest limits on Council comments due to many changes; noted the leaf blower referral had been for an update; stated the referral had previously been brought forth in 2018; requesting an update as part of the Referral process



is an appropriate use; it is unfortunate that a majority of Council is furiously trying to limit public and Council comments and are changing the process in place since 2007; less communication is less transparency and is unfortunate.

Mayor Ezzy Ashcraft stated the Council Referral process been not been used so prolifically as in the last year; a Special Council Meeting was held to work through a backlog of Council Referrals; some of the Referrals could have been answered by an off-agenda report, which can be put into a portal on the City's website; for Council meetings be user-friendly to the members of the public wishing to attend, the meetings cannot go on until the early morning hours and limited to those who are able to stay up; the matter is a change based on the use of the Council Referral process.

Councilmember Daysog stated the key issue for him is that the current Referral process is a process in which he can address the concerns and voices of residents of Alameda expressing interest in particular matters; some issues are brought forth based on interesting ideas which will benefit residents; there is nothing broken with the current Council Referral process; there has possibly been more Referrals in the first quarter of 2021 than ever before; however, it should not matter; as best as possible, Council is representing the concerns and values of residents; he respects the fact that each Councilmember sees possible different models or approaches of representing constituents and residents; the current system works; the issue of efficiency is not the correct issue; Council is not having lengthy meetings due to Council Referrals, Council is having lengthy meetings due to a juggernaut of interesting issues that are piling up in unexpected ways; in times of a crisis pandemic, the meetings are what they are; efficiency is not the issue; Referrals come at the very end of the meeting; outlined Referrals he brought forth; stated he is not sold on the efficiency issue; the matter does not weigh heavily on his concern for representing constituents as best as possible; nothing stops the City Manager or Councilmember from reaching out to each other on Referral matters which require interaction with City staff; there is plenty of time for interaction to happen or have a Councilmember reconsider their Referral or any questions raised; there is not a need to create a new filter, which seems to be part of the package; he does not support Referrals first going through the filter of the City Manager; Councilmembers need to articulate their concerns and the Referral process as best as possible; Councilmembers must win over colleagues; Council should move forward with what it has; outlined his previous years of service as being different than the current process and dealing with past City Managers; expressed support for keeping the current Referral system in place.

Vice Mayor Vella expressed concern about Special Meetings being held to address all of the Referrals; stated matters which could have been addressed via requests for information have not been pulled off of the agenda; Council must be respectful of City resources; Council manages City resources; the use of staff time is a significant resource; part of her concern is a significant amount of staff time being spent either waiting at a meeting or preparing information in response to the Referral without Council direction; expressed support for the recommendation.

Vice Mayor Vella moved approval of the subcommittee's proposal [including adoption of the resolution].

Councilmember Knox White seconded the motion.

Under discussion, Councilmember Knox White stated the matter returns Council to the 2007 rules; the Referral process has gone through ever-changing edits; initially, Council was not able to bring matters forward to be voted on and changes were made to bring Referrals forward in order to adopt policy at the time; Referrals were always about managing resources and giving Councilmembers the opportunity to bring matters forward for discussion and decide whether or not the matter should be put on the Regular Agenda for a full Council discussion.

Mayor Ezzy Ashcraft emphasized that Council is not getting rid of the Referral process; stated Council should meet the needs of constituents; Council is being given other options to do so, which may provide answers faster than waiting to address the item at a meeting.

Councilmember Daysog questioned why significant staff time would be used on a Council Referral; stated that he does not remember when staff has spent significant time on Referrals.

The City Manager stated reports have been forwarded to Councilmembers at times to provide background.

Mayor Ezzy Ashcraft noted the Information Technology and Planning, Building and Transportation Directors were present for prior Council Referrals.

Councilmember Knox White stated an example is the first Council Referral of the year included an intense amount of staff time in preparation of background and memos for the shopping center Referral; numerous City Attorney and Planning, Building and Transportation Department memos and emails were put together in order to address specific issues; noted the Planning, Building and Transportation Director had been present at each meeting the matter had been agendized; prior to putting resources into work, Councilmembers can make a case for constituents in five minutes if a Referral topic is worthy to members of the community and Council.

Councilmember Daysog stated that he did not ask staff to perform any work or be present for the previous Referral; noted that he had put together a presentation for the matter and expected not to have staff involved; Councilmembers can make the case to other Councilmembers; then, staff time is put towards the matter when it returns for consideration.

Councilmember Knox White stated the previous Referral did have direction to staff to work on something with the Planning Board as if the matter had Council support; staff had to get involved due to there not being a point where Council was able to decide on whether to work on the matter or not; staff needed to perform work in order to decide whether or not to pursue the matter; many times staff has to provide work due to the Council Referral being an action item as opposed to deciding on whether or not to allow staff time.

Mayor Ezzy Ashcraft questioned whether Councilmember Daysog agrees not to allow staff time on a matter.

Councilmember Daysog stated staff should not be part of the pre-Council Referral process; noted he will vote no on the matter.

Councilmember Herrera Spencer outlined her Referral for Citywide WiFi; stated that she did not request for staff to be present staff being present for the update was not originally part of the Referral; it is unfortunate to have Councilmembers misrepresented; if the majority of Council does not wish to have staff provide information, the request should not be made; having the City Manager provide information in response to Referrals is a good thing; expressed concern about modifying Council Communications; stated that she was under the impression members could only speak once under Council Communications; questioned whether the matter is included as part of the proposal.

The City Clerk responded the edit is under the Rules of Order and provided as a proposed redline change.

Councilmember Herrera Spencer inquired the maximum time being given to Councilmembers under Council Communications.

The City Clerk responded three minutes.

Councilmember Herrera Spencer stated that she strongly disagrees with the time limit; expressed support for the motion to be separated; stated the matter should have been called out separately; the report should make clear that changes are being made to two different parts of the agenda; Council Communications is an opportunity for Councilmembers to discuss conferences, meetings and other events attended; she wants to share those matters with the public; it is unfortunate that Council will not be sharing the meetings and events attended; three minutes is a quick time to be sharing such matters; expressed support for Councilmembers being able to speak multiple times during Council Communications; stated it is okay to have an exchange under Council Communications; being unable to respond to another Councilmember under Council Communications is unfortunate; Council Communications is a nice time to have dialog whether it is for a past or future event; it is unfortunate that two Councilmembers do not want other members to share events; she will not be supportive of the matter.

Mayor Ezzy Ashcraft outlined the rules related to unfounded accusations towards other Councilmembers; questioned whether another amount of time would be enough to share comments during Council Communications.

Councilmember Herrera Spencer stated that she does not have a time limit; the lack of time limit is not and has not been a problem; she does not have a problem with people sharing events attended; other Councilmembers see sharing events as a problem; noted the increase in Council Referrals is due to the lack of action taken on matters in three years.

Mayor Ezzy Ashcraft stated the Council Communications speaking time could be increased to five minutes per Councilmember and allow multiple comments to be made within the limit; she cannot support the lack of a time limit.

Vice Mayor Vella stated there is a motion on the floor; Council always has the ability to

suspend time limits by a vote; there is no harm in the proposed motion.

Mayor Ezzy Ashcraft stated the proposal was meant to be a compromise in time limits.

Vice Mayor Vella stated that she is amenable to changing the motion.

Councilmember Knox White stated that he did not remember discussing Council Communications being three minutes; proposed leaving the limit for Council Communications at nine minutes; expressed support for Councilmembers sharing regular meetings attended.

Councilmember Knox White offered a friendly amendment to the motion to remove the proposed limit for Council Communications.

Mayor Ezzy Ashcraft requested clarification about the current time limits on Council Communications.

The City Clerk stated a time limit had not ever been placed on Council Communications; a time limit is being proposed for the section for the first time.

Mayor Ezzy Ashcraft inquired whether Councilmember Knox White would like to add a nine minute limit to the Council Communications agenda section.

Councilmember Knox White responded in the affirmative; stated he is happy to change the limit from three minutes to nine minutes of Council speaking time and remove the stipulation of only speaking once.

Vice Mayor Vella accepted the friendly amendment to the motion.

The City Clerk stated Section 8 of the Rules of Order will now say: "Councilmembers can speak under Council Communications for up to nine minutes."

Councilmember Herrera Spencer stated that her understanding is that Councilmember Knox White stated Councilmembers may speak more than once under Council Communications.

Mayor Ezzy Ashcraft stated as long as Councilmembers stay within the allocated time, they may speak more than once; if a Councilmember needs more than the nine minutes, Council may vote to suspend the rules.

Councilmember Herrera Spencer expressed support for the change.

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

(21-309) Recommendation to Authorize the City Manager to Execute an Agreement Between the City of Alameda and Alameda County Industries for Collection, Transportation

and Processing of Alameda's Municipal Solid Waste, Recycling, and Organic Materials for a Twelve-Year Period (Ending June 30, 2033), with the Option of Two Four-Year Extensions; and

(21-309 A) Introduction of Ordinance Approving the Franchise Agreement Between the City of Alameda and Alameda County Industries AR, Inc. Introduced.

Rob Hilton, HF&F, gave a Power Point presentation.

Councilmember Herrera Spencer inquired why the contract was not put out for bid.

The Assistant City Manager responded discussion with Council began in early 2020, which yielded a sole-source effort; Alameda County Industries (ACI) showed high customer satisfaction within the community; Council direction indicated the relationship to the City was good; other communities going out with a competitive bid procurement process were experiencing responses with much higher rate increases; if the process had not worked out, the City would have gone out to bid; the City made good progress with ACI and continued the process.

In response to Councilmember Herrera Spencer inquiry about the maximum amount allowable under the contract per year, the Assistant City Manager stated staff capped the percentage at 5%; the agreement limits the potential for significant rate increases in any given year; the amounts proposed in the agreement are 3% for the current year and a maximum of 5% for other years.

Councilmember Herrera Spencer inquired whether the contract has a formula that explains how the percentage increase will be calculated, to which the Assistant City Manager responded in the affirmative.

Mr. Hilton stated the formula is within Exhibit E to the agreement and shows roughly 25 to 30 pages of compensation formulas; the first set shown in Exhibit E-1 looks at an index-based methodology for fuel, labor costs and general inflation; the exhibit shows tonnages delivered to facilities and actual revenues with reconciliation based on inflation and performance factors; there are cost reviews every fourth year of the agreement, which performs a detailed review of the companies' books to look at and reconcile expenses and revenues ensuring customers are not overpaying for services and that the company is not over-profitable; there is a stipulated profit-margin not to be exceeded.

Councilmember Herrera Spencer inquired whether there is public information.

Mr. Hilton responded a rate application is submitted; stated the City has due diligence over the rate application; anything considered within the process becomes public information.

Councilmember Herrera Spencer inquired the profit for the previous year.

Mr. Hilton responded the 2020 books were not audited; stated the audit is currently in process; in prior years, profitability has been around \$1.2 to 1.3 million.

Stated that she participated in discussions with City staff and consultants and provided input from the view of implementation of the City's Zero Waste Implementation Plan and Climate Action and Resiliency Plan (CARP); she is enthusiastic about the City's leadership in Zero Waste; ACI has been an impressive partner over the past 20 years in implementing the City's program and becoming a leader in Zero Waste; urged Council to endorse the staff recommendation: Ruth Abbe, Community Action for a Sustainable Alameda (CASA).

Stated that he has no objections to the matter; expressed concerns about conflict of interest; discussed Vice Mayor Vella's compensation as a regional attorney for Teamsters; stated there is an appearance of impropriety: Erin Fraser, Alameda.

Vice Mayor Vella stated that she does not work for Joint Council 7; as an attorney, someone can work for one law firm which has another law firm in the same city; there is no financial connection; she does not work for Joint Council or the Teamsters Local for frontline workers; she is happy to have the City Attorney weigh-in on the matter.

The City Attorney stated that his understanding from the comments made is that Vice Mayor Vella's source of income is not going to be impacted by this contract based on representations; there will be no conflict of interest based on State law.

Vice Mayor Vella inquired what would create a conflict of interest.

The City Attorney responded State law provides that the decision makers would have a conflict of interest in a number of circumstances whether it be real property or source of income in business; the types of conflicts are varied.

Vice Mayor Vella inquired the specific conflicts related to the current matter.

The City Attorney responded the fact that employees might be unionized and Vice Mayor Vella has a representation relationship of employees, which are unionized generally, does not present a prohibited conflict of interest under State law; conflict matters are highly fact-specific; in general, representing employees in a matter would not create a conflict of interest in the case where the Council is granting a franchise agreement to the organizational structure; Vice Mayor Vella's comments indicate that she does not represent the employees.

Vice Mayor Vella stated that she also does not work for a union which represents the employees.

The City Attorney stated there is zero financial implication; the final decision always rests with the decision maker; however, based on representations, there appears to be no conflict of interest.

Mayor Ezzy Ashcraft outlined her involvement with an increase in ACI rates; stated the previous owner of the company had temporary workers with no benefits; she visited the site and met with management; the situation was wrong and the workers needed to be made employees in order to allow for benefits; management discussed the matter with the union; the change incurred a cost; the community supported not wanting workers to suffer due to

working conditions; she was impressed with how the situation played out; the communication was respectful; the change speaks volumes for the company; she is satisfied with the due diligence performed.

Councilmember Herrera Spencer stated that she was Mayor at the time of the change in employment for ACI workers; every Councilmember supported the change, which was overwhelmingly supported by the community; she has looked at the numbers; since 2006, the rate for the smallest bin was \$45 for the quarter; the annual rate of inflation since 2006 has been 1.89%, which would bring the cost up to \$59; however, the current cost for the smallest bin is \$132.20 per quarter; the result is a compounded interest of 6% per annum over time; the graph only shows the past four years; the rate increase has been more; if there is a 5% increase each year, the resulting fee would be \$188 per quarter; the increase is a problem; people have a problem paying the fee; there are 15% lower rates for those that qualify as low-income or are senior citizens; the 15% reduction could help people in need; expressed support for Council looking at a higher percentage in reduction for low-income and for ACI making the discount clearer on the website; discussed ACI's website; stated many seniors and low-income qualifying people might not know about the discount process; she would like ACI's website to clearly indicate the discount; she appreciates the work performed; expressed concern about profits and ACI being a private company; stated it is impossible to know what the profits truly are; the percentage rate is high; many people are not earning a 6% increase over time; when long-term contracts are presented, clearly showing the numbers is important; expressed support for a one-page document clearly showing the formula; stated that she does not expect anyone to review a 30-page analysis document to figure out the contract increases; 5% is a significant increase; there is not enough consideration for the affordability of a 5% increase; the contract should have gone out for bid.

The Assistant City Manager stated the rate changes over the past 15 years have included positive changes, such as recycling and compost programs and Senate Bill (SB) 1383; SB1383 deals with food waste recovery and composting; the programs are the right thing to do from an environmental perspective; the programs do have costs and are seen in rate changes over time; the 5% is a maximum and not a set number; the rate adjustments will be fully vetted and discussed in the context of the calculations mentioned earlier.

The City Manager stated that he would like the discounts re-stated and clarified for the public.

The Assistant City Manager stated Councilmember Herrera Spencer is correct; the 15% discount is available by contacting ACI; there is a rate stabilization portion of the agreement; Council is presented with delinquent accounts on an annual basis; there are not many delinquent accounts; Council has the opportunity to make decisions about how the City moves forward with said accounts.

Councilmember Daysog stated the crux of the matter is the question of extending on a no-compete sole source contract to ACI or if Council should open the matter up to a competitive bid process; there are a number of other outfits which might be able to deliver services to Alameda; in order for him to evaluate the question and judge how to make the best decision, he needs to know that there is solid data provided to support the decision one

way or another; the magnitude of the decision is incredible; ACI, as well as any other waste organization, has an economic activity in the City of Alameda of roughly \$23 million per year; in order to maintain the \$23 million per year, Alameda residents must pay as rate-payers; the amount over 20 years is roughly \$287 million to be given out on a non-compete sole source basis; expressed concern about extending the contract on a non-compete sole source basis; the information is not new; his views are the same from October 2020; however, is worth restating; outlined the presentation from a residential rate comparison; stated one would think there could be a reduction in the rate for residential 30 to 35 gallon bins over time; the rate increases slightly from the current average; the increase in rate and the magnitude of dollars says that Council needs to look at the contract from a competitive Request for Proposals (RFP) basis; the reason the City contracts with ACI is based on a previous competitive basis in 2002; he was on Council when ACI was selected; ACI has provided good service; he appreciates the annual reports provided; there is an issue of the magnitude of the money being dealt with; data points suggesting there should be a decline in rates; when he looks back on the October 2020 meeting regarding ACI, the scoring done through the survey showed ACI with a B+ grade; outlined ACI's total satisfaction of 89% in the context of AMP whose total satisfaction is 96%; stated AMP's total satisfaction is the gold standard; Pacific Gas and Electric (PG&E) scored higher than ACI in satisfaction; total favorability for ACI scored at 83% and AMP scored 91%; reasonable rates for ACI scored 74% and AMP scored 82%; the survey shows scores that do not indicate A grade services; percentages showing an A grade might be considered for a non-compete sole source contract; he does not see the grounds for a sole source contract; utility business is tough; ACI has done a good job and provided incredible reports; questioned whether the City is getting the best dollar it can; stated the only way to know is to put out an RFP; ACI should lower rates; he is not convinced a case has been made for going forward on a non-compete sole source contract; expressed support for going out to bid; stated that he believes ACI would prove to be successful in an RFP process.

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(21-310) Mayor Ezzy Ashcraft stated a motion is needed to consider the remaining agenda items and the two Council Referrals, after 11:00 p.m.

Councilmember Herrera Spencer moved approval of hearing the Council Referral requesting a performance review [paragraph no. 21-315].

Councilmember Daysog seconded the motion, which failed by the following roll call vote: Councilmembers Daysog: Aye; Herrera Spencer: Aye; Knox White: No; Vella: No; and Mayor Ezzy Ashcraft: No. Ayes: 2. Noes: 3.

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Mr. Hilton stated there have been recent competitive procurements in the Alameda County market to inform what might happen through the bid process; the processes resulted in 20 to 30% rate increases; when negotiating directly with ACI about large rate increases, staff expressed concern; the desire was to see how good of a deal could be provided for the City; in order to benchmark the deal, staff had to look at cost factors in other competitive deals; staff looked at hourly labor, fuel, maintenance and General and Administrative (G&A) expense percentages to ensure there were no charges for overhead; staff looked at profit and what is being paid for recycling, disposal and composting costs and benchmarked



accordingly; staff ensured the deal for Alameda was at least as good as the deals that ACI and other companies were proposing out on the competitive market place; staff considered a switching cost in order to change contractors; the switching cost can be unpredictable and significant; there have been concerns about having a good partner that has brought the City through a number of changes, programs and services to get to the current status; with SB1383 coming in six months, there is a feeling that ACI will be able to get ahead of customer engagement; the City avoiding compliance issues if the contract expires and a new company is brought in is a big value; it is a policy issue for Council; however, staff has thought about the matter extensively as the deal had been vetted.

Councilmember Herrera Spencer inquired which cities received a 20 to 30% increase.

Mr. Hilton responded the City of Oakland was well over the percentage increase; stated the City of San Ramon, which uses the same bargaining unit as Alameda, received bids at 20 and 30%; the special district of Castro Valley received bids at 15 and 20%.

Councilmember Herrera Spencer inquired whether the rates are reflected in the chart on page nine.

Mr. Hilton responded in the affirmative; stated Oakland and Piedmont recently re-did their contracts and are now the most expensive in the Bay Area.

Councilmember Herrera Spencer stated that she does not understand why Piedmont would be so high, which is likely an anomaly; the City of Oakland is a little higher than the proposed rates for Alameda; inquired the rate for the City of San Ramon.

Mr. Hilton responded the City of San Ramon increased by 30%.

Councilmember Herrera Spencer stated the increase depends over time; noted Alameda's rates have increased significantly over time; she would have liked to have seen more information and data in the presentation; outlined the increase of 6% per year since 2006; stated that she has received many complaints about trash not being picked up; noted people will call in and pickup continues to not occur; she is unsure whether she received the original survey; she would have liked to have seen the survey results; expressed support for dealing with calls of trash not being picked up.

Vice Mayor Vella stated there has been a lot of requests for data; the matter previously came before Council and Council specifically asked certain things to be looked into by staff and prioritized services; growing needs relative to the industry have also been considered; noted former Councilmember Oddie presented updates from StopWaste relative to cost impacts on solid waste, recycling and compost requirements; CASA has weighed-in and is working with the City to ensure the City is compliant; data is present within the staff report and a lot of information has been attached to the report; Council may disagree with the data; there are significant costs relative to environmental goals set forth by the State; no matter who the City chooses to contract with, there will be increases relative to implementation of goals and meeting requirements of the CARP; many Councilmembers have been supportive of meeting CARP goals; Council must keep in mind the rates imposed and note that Alameda is different from other cities in terms of solid waste

percentage of residential to commercial; there are a number of different factors covered extensively in previous Council meetings and also within the staff report; Council has expressed support for an ACI office in Alameda; expressed concern about cutting costs on the back of low wage workers; stated workers deserve a living wage and compensation that includes health care; she is not supportive if costs include a cost to switch vendors; Council has had an extensive conversation and she does not intend to change the direction at this point.

Mayor Ezzy Ashcraft stated Council is looking to provide many things with the service, including compliance with new State law; it is especially important for Alameda to do the kinds of things that reduce waste and are environmentally friendly; Alameda is an Island and needs to take global warming seriously; some of the matters are going to cost more money, such as the eventual conversion to electric vehicles for the fleet; the change requires infrastructure and start-up costs; the value of the change must be weighed for what is received; staff was able to negotiate decent rates due to the possibility of an open process; the City is getting increased services, including bulk pick-up at multi-family dwellings; there will be less couches on curbs; the numbers for customer satisfaction are good; no service provider is perfect; she receives complaints about bins not being picked up from time to time and an immediate response is typical when reaching out to ACI; she receives the similar comments from AMP customers; she thinks ACI has been a good provider and workers are treated well; expressed support.

Councilmember Knox White stated the process has been over one year with multiple check-ins; he appreciates the comments; expressed support for the matter based on solid work by staff and consultants; stated Council has asked a lot of the questions raised through the process; he is confident that staff has negotiated a solid deal; costs have been increasing due to dealing with the increase in trash; Consumer Price Index (CPI) is not the measure to be used in determining success.

Councilmember Knox White moved approval of the contract as proposed by City staff [including introduction of the ordinance].

Vice Mayor Vella seconded the motion.

Under discussion, Councilmember Herrera Spencer stated that she encourages people to look over page nine of the presentation to see 11 cities paying significantly less than Alameda.

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

(21-311) Introduction of Ordinance Approving a Second Amendment to the Lease with Greenway Golf Associates, Inc., a California Corporation, for Chuck Corica Golf Complex to Adjust Lease Area to Include the Old Fire Training Tower. Not heard.

## CITY MANAGER COMMUNICATIONS

(21-312) The City Manager announced updates related to exploring and defining mental health resources within homeless services, gas leaf blowers, a vaccine clinic May 6<sup>th</sup> and the Central Avenue Veterans Wall project.

#### ORAL COMMUNICATIONS, NON-AGENDA

(21-313) Zac Bowling, Alameda, discussed AB 339; stated that he is a fan of the bill; urged Council adopt the current proposal for AB 339; stated the bill continues the ability for public comment and civic engagement via internet and telephone remotely; the bill is voluntary for cities to adopt; having access during COVID-19 has dramatically allowed participation and engagement for members of the community; discussed AB 1322.

(21-314) Tripti Jain discussed a rental property she owns in Fremont.

#### COUNCIL REFERRALS

(21-315) Consider Scheduling a Performance Evaluation for the City Manager as Soon as Possible. (Councilmember Herrera Spencer) Not heard.

(21-316) Consider Addressing the Surplus Lands Act, including Lobbying Efforts and Assembly Bill 1486. (Councilmember Herrera Spencer) Not heard.

#### COUNCIL COMMUNICATIONS

(21-317) Councilmember Knox White discussed Alameda County (AC) Transit transit talk and an AC Transit Interagency Liaison Committee (ILC) meetings; stated the transit picture is less grim for those impacted; AC Transit has a bare bones service solution being rolled out for the summer; announced a new bus route timed with the new ferry terminal at Alameda Point; stated there will be a direct connection for the West End that will start at the East End; discussed AC Transit's budget and new services starting back up over the coming year.

(21-318) Councilmember Herrera Spencer discussed a meeting from the Airport Noise Forum; discussed the website: flyquiotoak.com; stated people should report being affected by airplane noise and traffic; the organization is working with the Federal Aviation Administration (FAA) to get relief.

(21-319) Councilmember Daysog discussed the AC Transit ILC meeting; stated the Alameda Unified School District will be sending a member to regularly attend the meetings.

(21-320) Mayor Ezzy Ashcraft discussed a meeting webinar preparing for receiving recovery funding; stated the guidelines from the Treasury Department will come out on May 11<sup>th</sup>; discussed a Mayor's Town Hall on policing which was student-led by the Youth Activists of Alameda; announced an upcoming Town Hall on bystander intervention training.

(21-321) Vice Mayor Vella stated the upcoming bystander training focuses on not responding to the person that is performing hateful acts and instead focuses on the target or victim; announced a Lead Abatement Board Healthy Homes Department meeting, which will

lower the Board compensation and reinvest saved funds into the training budget; discussed letters being sent in about lead and other heavy metals in baby food and advocating for more enforcement around the matter.

#### ADJOURNMENT

(21-322) There being no further business, Mayor Ezzy Ashcraft adjourned the meeting at 11:29 p.m. in memory of Juelle Ann Boyer.

Respectfully submitted,

Lara Weisiger  
City Clerk

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