

MINUTES OF THE SPECIAL JOINT MEETING OF THE CITY COUNCIL AND
SUCCESSOR AGENCY TO THE
COMMUNITY IMPROVEMENT COMMISSION (SACIC)
TUESDAY- -JUNE 1, 2021- -6:59 P.M.

Mayor/Chair Ezzy Ashcraft convened the meeting at 7:02 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

Councilmember/Commissioner Knox White moved approval of the Consent Calendar.

Vice Mayor/Commissioner Vella seconded the motion, which carried by the following roll call vote: Councilmembers/Commissioners Daysog: Aye; Herrera Spencer: Aye; Knox White: Aye; Vella: Aye; and Mayor/Chair Ezzy Ashcraft: Aye. Ayes: 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*21-11 SACIC) Minutes of the Special Joint City Council and Successor Agency to the Community Improvement Commission Meeting Held on April 20, 2021. Approved.

(*21-363 CC/21-12 SACIC) Recommendation to Accept the Second Quarter Financial Report for the Period Ending December 31, 2020. Accepted.

ADJOURNMENT

There being no further business, Mayor/Chair Ezzy Ashcraft adjourned the meeting at 7:05 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- -JUNE 1, 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: The meeting was conducted via Zoom]

Absent: None.

AGENDA CHANGES

None.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(21-364) Mayor Ezzy Ashcraft made brief comments about a Proclamation recognizing Ana Bagtas.

(21-365) Proclamation Declaring the Month of June 2021 as Lesbian, Gay, Bisexual, Transgender, and Queer Pride Month.

Mayor Ezzy Ashcraft read the proclamation.

ORAL COMMUNICATIONS, NON-AGENDA

(21-366) Mich Levy, Alameda Education Association (AEA), read an AEA motion regarding the death of Mario Gonzales.

(21-367) Melissa Milam, Alameda, requested the West Alameda Business Association (WABA) special event permit for the Healing Garden Summer Series be modified; expressed concern about noise issues caused by the concerts; stated amplified noise is not appropriate.

(21-368) Marie Milam, Alameda, expressed concern about weekend noise issues related to the WABA events.

(21-369) Art Thoms, Alameda, discussed parking issues related to the WABA events; urged Council reduce the events to one weekend per month.

CONSENT CALENDAR

Councilmember Herrera Spencer noted that she would vote no on final passage of the ordinance [paragraph no. 21-378].

Councilmember Knox White moved approval of the Consent Calendar.

Councilmember Herrera Spencer 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.]

(*21-370) Minutes of the Special and Regular City Council Meetings Held on May 4, 2021. Approved.

(*21-371) Ratified bills in the amount of \$3,263,780.43. Accepted.

(*21-372) Recommendation to Accept the Work of Ranger Pipelines, Inc. for Cyclic Sewer Replacement Project, Phase 16, No. PW 05-19-26. Accepted.

(*21-373) Recommendation to Authorize the City Manager to Execute a Support Services Agreement with Sable Computer Inc. dba KIS Computer Company for an Additional Three Years for Two IntelliFlash Storage Area Networks (SAN) in the Amount of \$59,699. Accepted.

(*21-374) Recommendation to Authorize the City Manager to Purchase a Three Year Maintenance Support Agreement with SHI International Corp, a Reseller of Mimecast, to Secure the City's Email Platform and Facilitate the Email Archival Process in the Amount of \$120,398 Bringing the Total Purchase Order Price with Mimecast to \$166,147. Accepted.

(*21-375) Recommendation to Authorize the City Manager to Execute a Five Year Agreement with Avineon, Inc., in an Amount Not to Exceed \$78,000, to Assist the City in Developing a Five Year Geospatial Information System (GIS) Strategic Plan Including an Initial Deployment and Configuration of ArcGIS Enterprise. Accepted.

(*21-376) Recommendation to Authorize the City Manager to Execute a Third Amendment to the Agreement with Digital Map Products to Extend the Term by Two Years, for an Amount Not to Exceed \$36,000 per Year, for a Total Seven-Year Expenditure Not to Exceed \$252,000 for Government Data Mapping Services. Accepted.

(*21-377) Resolution No. 15778, "Requesting and Authorizing the County of Alameda to Levy a Tax on All Real and Personal Property in the City of Alameda as a Voter Approved Levy for the General Obligation Bonds Issued Pursuant to a General Election Held November 7, 2000 for the Alameda Library." Adopted.

(21-378) Ordinance No. 3300, "Amending the Alameda Municipal Code by Amending Article I (Uniform Codes Relating to Building, Housing and Technical Codes) of Chapter XIII (Building and Housing) to Adopt Local Amendments to the 2019 California Energy Code to Require Newly Constructed Buildings to be All-Electric." Finally passed.

Note: Councilmember Herrera Spencer voted no on the ordinance, which carried by the following vote: Ayes: Councilmembers Daysog, Knox White, Vella and Mayor Ezzy Ashcraft – 4. Noes: Councilmember Herrera Spencer – 1.

REGULAR AGENDA ITEMS

(21-379) Public Hearing to Consider Adoption of Resolution Approving the Engineer's Report, Confirming Diagram and Assessment, and Ordering the Levy of Assessments, Island City Landscaping and Lighting District 84-2, All Zones. Not adopted.

Councilmember Daysog recused himself and left the meeting.

Councilmember Herrera Spencer moved approval of continuing the hearing to the July 6, 2021 meeting.

Councilmember Knox White 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.]

(21-380) Resolution No. 15779, Approving the Engineer's Report, Confirming Diagram and Assessment, and Ordering the Levy of Assessments, Maintenance Assessment District 01-1 (Marina Cove).” Adopted.

The Management Analyst gave a brief presentation.

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

Councilmember Herrera Spencer 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.

(21-381) Public Hearing to Consider the Collecting of the Water Quality and Flood Protection Fees on the Property Tax Bills; and

(21-381 A) Resolution No. 15780, “Finding [No] Majority Protest and Approving the Continuation and Collection of the Existing 2019 Water Quality and Flood Protection Fee on the Property Tax Bills for Fiscal Year 2021-22.” Adopted.

The Program Specialist II gave a Power Point presentation.

The City Clerk announced a majority protest was not received.

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

Councilmember Daysog 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.

(21-382) 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. Introduced.

The Recreation and Park Director gave a brief presentation.

Councilmember Herrera Spencer inquired whether the additional language for housing constitutes a waiver of the City's obligations under City Charter Section 22-12; requested clarification of the process related to obligations; stated whether or not part of the property would be determined as park land is unclear; requested clarification about whether staff made a determination and how to ensure the matter is not considered a waiver.

The City Attorney responded the provision included in the lease is not a waiver of rights for the City or public under Charter Section 22-12; stated staff has shared a confidential memorandum to the Council regarding how Section 22-12 potentially applies to the site; if Council desires the matter be further discussed in public session, a vote will need to be taken.

Councilmember Herrera Spencer stated that she would like to know how the language related to protection would fit into the agreement in order to ensure the process in writing versus verbally.

The City Attorney stated Council can achieve the result in a couple of ways; the motion could clarify the language is not a waiver of any rights for the City or public; if Council wants to be more clear, direction may be given to staff to insert language to the effect within the lease agreement; the insertion would be unusual; however, staff is happy to do so if Council so chooses.

Vice Mayor Vella inquired which improvements the City would have to reimburse Greenway Golf for if the City takes the property back; questioned the limits on improvements Greenway Golf could make.

The Recreation and Parks Director responded all improvements are to be recommended by the Golf Commission, staff, and the Planning Board; stated any improvements from existing conditions would be reimbursed.

The Chief Assistant City Attorney stated the Board and Commission approvals are meant to act as a buttress against exorbitant renovation costs.

The City Manager stated Greenway Golf is open to language which states

“...reasonable improvements subject to Planning Board approval...” in order to provide limitations on any potential future reimbursement costs.

Councilmember Daysog inquired the risks associated with releasing the information contained in the confidential memorandum.

The City Attorney responded staff is sharing the risks with Council; stated the information is generally for Council to make decisions and determinations; any time attorney-client privileged information is released, there is the risk of providing information to outside entities wishing to bring potential litigation to the City; Council is not being asked to make a determination about whether Charter Section 22-12 applies; Council may not need to address said question in deciding whether or not to enter into the lease.

Discussed her experience as a real estate agent and resident in Alameda; urged Council to support the matter; stated the Golf Course is an asset to the community; urged Council approve Greenway Golf's request; stated the derelict tower reflects poorly on Corica Park and the City and is an eyesore; the proposed project would revitalize the neighborhood and attract visitors; Catherine Bierworth, Alameda.

Stated the beautification project will benefit patrons, neighbors, and the community at-large; Greenway Golf wants to improve the fire tower space in order to create an entrance which represents the evolution of Corica Park over the years; the project will foster a sense of civic pride and be a draw for citizens; the project will give the right first impression; the Fire supports the project; the project is an opportunity for collaboration and is designed for inclusivity; the proposed mural is intended to honor first responders; Greenway Golf has collected over 1,000 signatures in support for the proposed renovation and has worked with staff to address Council's valid concerns; urged Council to support the second lease amendment; Umesh Patel, Greenway Golf.

Stated the ownership of Greenway Golf has high integrity; the Golf Course design has been nationally recognized; urged Council to consider the improvements already made to the Golf Course; stated the project will be great for the community; Patrick Harris, Alameda.

Stated the fire tower is a nice landmark; expressed support for Greenway Golf's efforts to enhance the appeal of Island Drive; urged Council to approve the staff recommendation; Mark Swartz, Alameda.

Stated the proposed improvements will be great for the community, City, and Golf Course; many customers have expressed support for the project; Shawn Shelby, Alameda Golfworks.

Stated Alameda Chamber of Commerce is working on a “Visit Alameda” project in partnership with the City; Corica Park Golf Course is one of the main attractions; the Golf Course is important for visitors, is one of the top courses in California and is

frequently included in lists for legendary courses; expressed support for beautifying the Golf Course entrance: Madlen Saddik, Chamber of Commerce.

Expressed support for the recommendation; stated that he was struck by the Golf Course current entrance; the City's partnership with Greenway Golf has developed one of the nicest courses in the Bay Area; the Course is environmentally sustainable; a robust entrance is needed for the many Golf Course visitors: Chris Iglesias, The Unity Council.

Mayor Ezzy Ashcraft expressed support staff's work; stated staff incorporated Council's previous comments and changes.

Councilmember Herrera Spencer inquired whether any art proposals will be brought to the Public Art Commission (PAC).

The Recreation and Parks Director responded not currently; stated that she has checked with the PAC staff; staff can add the requirement if Council so desires.

Councilmember Herrera Spencer requested clarification about the reasons behind not sending the proposed art to the PAC when art in Jean Sweeney Park was sent to the PAC for consideration.

The Recreation and Parks Director responded since the art at Jean Sweeney Park was funded by the City, it needed to be taken to the PAC; stated the proposed art will not be funded by the City.

Councilmember Daysog stated there have been many tweaks to the agreement in order to move the matter forward; he is supportive of 99% of the changes made; expressed concern about the housing reversion language muddying the waters; stated there appears to be community support for the matter; citizens understand that the area needs to be beautified; expressed support for moving the matter forward.

Councilmember Herrera Spencer stated that she would like to include language which clarifies the agreement is not a waiver of City obligations under Charter Section 22-12; suggested adding "...or other park related uses...;" noted the lease is long-term and the space is approximately one half-acre; the drawings show trees and an open area which is not being used; questioned whether the City may use the open space for a park; expressed support for language being added to the housing section reflecting the use of space for parks or other park related uses.

Mayor Ezzy Ashcraft stated that she is unsure there are enough votes for the proposed amendment; noted the matter requires four affirmative votes to pass; outlined Section 8 of the second amendment; inquired where the language for parks would apply within the section related to housing.

Councilmember Herrera Spencer responded that she is proposing adding: "or other

park related uses” within the section after “...desires to construct housing...;” noted the area is not currently used by the City, not the Golf Course; stated that she would also like to add language indicating the agreement is not a waiver of the City’s obligations under Charter Section 22-12.

Mayor Ezzy Ashcraft stated housing is a need which has been deemed critical and essential; the State has noted every city has an obligation to contribute to housing needs; parks are wonderful; however, she does not see a need for the inclusion of the parks language; inquired whether any substantive changes will require another first reading.

The City Attorney responded in the affirmative; stated the proposed changes are minor and will require four votes.

Councilmember Daysog stated that he does not see any harm in the proposed amendments; if the choice is between housing or parks; an agreement for how to unwind matters with Greenway Golf is needed; including the waiver language is important.

Councilmember Knox White stated the waiver language makes him nervous; the language suggests Council is making a statement; if the proposed language states there is no finding related to Charter Section 22-12, he would be supportive.

The City Attorney stated if Council wishes to insert language, there is draft language available: “This section shall not be construed as a determination on whether or how City Charter Section 22-12 would apply to any future disposition of the fire tower property.”

Councilmember Knox White expressed support for the draft language.

Councilmember Herrera Spencer inquired whether “fire tower property” reflects the earlier description of the premises; stated an earlier description was noted as “fire tower premises,” to which the City Attorney responded that he will make the correction.

Councilmember Herrera Spencer expressed support for the draft language.

The City Attorney stated the other addition proposed by Councilmember Herrera Spencer included “...or related park uses;” in the event the City wishes to construct other park uses, the City could reimburse the developer and obtain the parcel back from the developer for other park uses; the City Manager suggested adding the term “reasonable” in front of costs; the modification can be included at the same time as other proposed edits.

The City Manager recommended that the language for other park uses be consistent with development completed by Greenway Golf.

Mayor Ezzy Ashcraft stated that she is trying to understand the reason for including park use language into the agreement; questioned whether the City is prepared to pay Greenway Golf for costs incurred to create another park in the space; inquired whether the location is a logical place for a park.

The Recreation and Parks Director responded in the negative; stated that she would not look to extend park related usage in the location aside from being part of Corica Park; the uses are already park related; however, if a non-golf related facility is considered, the costs would increase significantly for any park facility placed in the location; the costs for reimbursement would equate another park facility.

In response to Vice Mayor Vella's inquiry, the City Manager stated that he recommends adding: "all reasonable costs and expenses..." to the language proposed under Section 8.

The Recreation and Parks Director stated Greenway Golf is willing to place a cap of \$350,000 on the reimbursement clause; the amount is reasonable for improvements to the area.

Councilmember Herrera Spencer stated the lease is for 20 years with an option to extend another 5 years; if the City wants to place housing in the space in ten years, the Golf Course will have received the benefit of the improvements for ten years; expressed support for a pro-rated formula for the reimbursement cap.

Vice Mayor Vella expressed support for the reimbursement cap; stated that she is less concerned with Planning Board approval unless the approval is limiting in nature and does not bear upon the reasonableness; expressed concern about a future Council grappling with reimbursements and the term "reasonable" being included in the proposed language; inquired whether the City would be responsible for any maintenance or upkeep costs.

The City Manager responded Greenway Golf only intends on reimbursement for improvements, not maintenance; stated Greenway Golf is amenable to having a smaller reimbursement cap of roughly \$250,000 after a ten year period.

Mayor Ezzy Ashcraft noted there appears to be support for a reimbursement cap; stated language should specify the reimbursement is not to include maintenance and operations.

Councilmember Herrera Spencer expressed support for the reimbursement cap lowering after ten years; stated that she would prefer the reimbursement cap be calculated on a pro-rated basis; she will not be able to support the housing reversion without the pro-rated reimbursement; the City will pay \$350,000 for the housing reversion; the amount is a lot for both housing and parks; the only way the cost makes sense is to include pro-rated reimbursement language; another option is to strike the paragraph within Section 8.

Mayor Ezzy Ashcraft stated members of the community have articulated goals very well; the approach from Greenway Golf is also considered and understood; the benefits include improving the appearance of the Golf Course, attracting more visitors, allowing more uses and increasing Golf Course revenue; some of the revenue generated goes to the City; the facility will be expanding to include a more robust youth golf program.

Councilmember Knox White outlined reimbursement costs; inquired whether the reimbursement amount could be considered as pro-rated at the ten-year mark.

The Recreation and Parks Director stated Greenway Golf is agreeable to a pro-rated reimbursement cost.

Mayor Ezzy Ashcraft inquired whether the pro-rated reimbursement is after the ten year period, to which the Recreation and Parks Director responded the reimbursement cost will be pro-rated for the entire duration once improvements are completed.

Mayor Ezzy Ashcraft inquired whether the reimbursement cost cap is still \$350,000, to which the Recreation and Parks Director responded in the affirmative.

The City Manager proposed the reimbursement cost language read: "all reasonable actual costs with a cap of \$350,000" in the event that the costs are less than \$350,000.

The City Attorney inquired the denominator year where the reimbursement cost equals zero.

Councilmember Knox White responded the remaining years in the contract from the point of completion in the project, without the extension; if the extension is reached, the likelihood of the space not used for another park or housing is high.

The City Attorney stated the remaining years on the lease will be built into the agreement amendment to allow for no ambiguity; the agreement will now include \$350,000 upon completion, amortized over the remaining number of years on the lease.

The Recreation and Parks Director stated there are 32 years remaining on the base lease.

Councilmember Knox White proposed using 30 years as the base denominator; stated the construction time will likely take a year and a half to two years for completion; it would not be fair to include the construction years.

Councilmember Herrera Spencer moved approval of accepting the staff recommendation [including introduction of the ordinance] with striking Section 8 of the lease amendment.

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.

Councilmember Daysog moved approval of the staff recommendation [including introduction of the ordinance].

Councilmember Knox White seconded the motion with amendments including language from the City Attorney regarding no determination made under Section 8 of Charter Section 22-12, and the amendment of the payback cap of reasonable costs amounting to no more than \$350,000 pro-rated over a 30-year period.

Under discussion, the City Manager stated the amendment should also include adding language specifying using a structural engineer.

Councilmembers Knox White agreed to include the amendment.

Councilmember Daysog agreed to amend the motion.

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.

Mayor Ezzy Ashcraft stated the project is positive; she is looking forward to seeing the development; expressed support for the matter going before the PAC.

Councilmember Herrera Spencer inquired whether it is possible to make a motion to have the matter be heard by the PAC.

The City Attorney responded Council may always make a motion to reconsider.

The City Manager stated Greenway Golf would be fine with bringing the matter to the PAC; staff can provide a supplemental letter administratively for Greenway Golf to commit to consideration by the PAC.

Councilmember Herrera Spencer inquired whether Council needs to provide direction to staff regarding the PAC provision.

The City Manager responded many Councilmembers expressed support for the matter going to the PAC; the proposal was taken as informal direction to staff.

Mayor Ezzy Ashcraft called a recess at 8:34 p.m. and reconvened the meeting at 8:51 p.m.

(21-383) Introduction of Ordinance Amending the Alameda Municipal Code, Including Section 2-22 (Open Government Commission) and Article VIII (Sunshine Ordinance) of Chapter II (Administration) to Establish a Hearing Officer Form of Adjudication of Sunshine Ordinance Complaints, Clarifying Enforcement Provisions, and Providing for Other Updates and Enhancements to the Sunshine Ordinance. Not introduced.

The City Attorney gave a brief presentation.

Stated that he has been honored to work with residents committed to the objectives of the Sunshine Ordinance; outlined his experience on the Open Government Commission (OGC); stated the OGC is capable of performing its functions; OGC cases have been adjudicated efficiently; outlined the OGC being tasked with putting teeth into the null and void provision; urged Council to adopt an interim measure recommended by the OGC: Bryan Schwartz, Alameda.

Stated that she is surprised the matter is coming directly to the City Council without an open public hearing first; expressed support for strong principles of good government, including transparency and public trust; stated the proposed matter seeks to diminish the role of appointed Commissioners from the review process and weakens the role of the Commission; urged Council to consider options other than moving the functions to a Hearing Officer; outlined options for Council and staff; expressed support for the OGC having independent legal counsel; outlined issues brought forth to the Rent Review Advisory Committee (RRAC): Karen Butter, League of Women Voters.

Outlined the genesis of the Brown Act; stated it is up to a City to decide how to enforce the Brown Act; the Sunshine Ordinance is patently flawed in how it is used by the City; there have been more complaints due to more recent violations; expressed concern over manipulation of the OGC; stated the arguments to justify the proposed changes are absurd; it is inappropriate to have a Hearing Officer; people in Alameda should be able to make their own decisions: Jay Garfinkle, Alameda.

Stated that she is surprised to see the proposal on the Council agenda; she outlined concerns in correspondence submitted; there are trust and communication issues between the OGC and City Attorney's Office; a collaborative dynamic path is being created; if Council desires the insight of the OGC, clearer guidance needs to be provided; it is presumed that Council would like to receive unfiltered recommendations from the OGC to avoid miscommunication; it is prudent for Council to consider a hybrid or bifurcated model for adjudication rather than a Hearing Officer model; there is merit to creating an avenue for legally nuanced complaints; Commissioners bring a lived experience as community members engaged with local government; expressed concern about multiple aspects of the OGC proposed revisions to the Sunshine Ordinance being omitted; urged Council consider additional recommendations: Krystal LoPilato, OGC.

Expressed concern about the recommended changes to the OGC duties without seeking comments from Commissioners; stated an open and honest conversation could have led to a greater understanding of concerns; the central focus of the Commission is

to serve the public and create avenues of transparency, so that complaints are fairly evaluated and heard in a timely manner; she disagrees with the City Attorney's Office that three complaints this year indicates an unreasonable uptick; the current status of the Commission falls short of reaching reasonable goals; outlined her proposal for lessening the proposed five year complaint restriction; stated citizens voices should not be silenced; expressed concern about political undertones; urged a focus on the goal of serving Alamedans; outlined the City Attorney's role for the OGC; expressed support for a goal setting strategy: Carmen Reid, OGC.

Stated that he strongly opposes the changes proposed; there have been demonstrations for the need of a strong OGC and Public Records Act (PRA) enforcement mechanism; urged Council to gain a sense of the issues the OGC faces; stated the City's loss at a recent hearing appears to be behind the proposed changes; the City wins most cases heard by the OGC; the City should not get to change the rules due to a loss; expressed support for the independent and citizen-led nature of the OGC; stated a Hearing Officer model will gut the PRA process; the City has languished at PRA's; a strong enforcement mechanism is needed; the fines under the Sunshine Ordinance are minimal; eliminating fines is strategic in order to reduce or eliminate possible remedies to OGC complaints in court; urged Council to reject the staff recommendation: Erin Fraser, Alameda.

Stated recent trends are disturbing; City staff has aggressively been promoting its agenda to Board and Commission members; expressed support for staff pursuing a more agreeable and collaborative relationship with Boards and Commissions; stated there have been recent steps taken to gut the OGC; expressed concern about ad hoc committees being exempt from Brown Act requirements; urged Council help remedy the situation: Matt Reid, Alameda.

Stated that he opposes the proposed changes; those who have taken the time to submit correspondence and speak publically oppose the changes; he is familiar with the RRAC operations; the argument that potential violations of the Sunshine Ordinance should be brought before the rent control Hearing Officers is not correct; issues and violations of the Sunshine Ordinance affect all Alamedans; outlined policies set and enforced by Planning Boards; discussed appeals: William Smith, Alameda.

Urged Council to consider other options and effects on trust in government; stated that she has experience as a resident looking to participate in local government; now, more than ever, it is important to have accessibility in order to address issues; it is clear that the proposed matter is restricting accountability and ability to be involved in local government: Ashley Lorden, Alameda.

Stated that he is surprised by some of the proposal; the staff report mischaracterizes some of the recent OGC discussions; the Sunshine Ordinance and OGC are in the 10th year of existence; it is a good time to evaluate the last 10 years; expressed support for a process for access, and Council giving direction to the OGC and staff regarding the purpose of the OGC; stated an understanding of the role and any expansion or focus

should be formed; the matter has not come forth in the spirit of collaboration: Rasheed Shabazz, OGC.

Councilmember Knox White stated that he is not ready to support the staff recommendation; if Council wants to change the way adjudicating is performed, the matter should be sent to staff with direction to meet with the OGC over the coming year; he has heard good feedback from the current proposal; comments from OGC members have provided useful feedback; it is difficult to bifurcate the issues within the proposal; the null and void provision was requested from Council over a year ago; expressed support to direct staff to bring back the null and void replacement provision language within the next month and to include the OGC's recommendations; stated in the future, he expects recommendations from Boards and Commissions to be presented to Council in full; expressed support for staff making alternative recommendations; however, the full recommendation from Boards and Commissions should be included; expressed concern about Commissioners and Board members spending hours working on language to not have the material reflected when presented to Council.

In response to Councilmember Herrera Spencer's request for clarification on the background of the changes, the City Attorney stated most of the changes to the null and void remedy relate to one of the positions unanimously supported by the OGC; staff is bringing one change to Council; a change was made in order to provide the Council and City reasonable flexibility to continue to operate; there is an understanding that the status quo should be maintained to the extent possible.

Mayor Ezzy Ashcraft requested context be provided to the language outlined.

The City Attorney stated the language would provide that when a complaint is filed, the City would be encouraged to maintain the status quo; outlined a hypothetical Brown Act violation with little prejudice; stated in a different instance, the City would proceed notwithstanding a pending complaint; for posting and noticing, staff is committed to performing the work; posting and noticing is administrative and need not be included in the ordinance; for adjudications, staff saw complaints being brought with complicated legal issues which required serious parsing of court of appeal decisions; three members of the OGC indicated a lack of comfort in doing so; the lack of comfort indicated an independent Hearing Officer, with a trained legal background, would be a better fit to hear adjudicating cases; OGC members have indicated the cases are an opportunity for the Commission's main role to provide recommendations to the Council; any independent Hearing Officer decision would provide helpful feedback; the Commission would be relieved of the arduous task of having to parse difficult case law and will be able to receive a well-reasoned decision that is independent and fair; the City Attorney's Office acts upon direction from Council; Council directed staff to bring null and void changes to the OGC and staff did so for 18 months; Council did not provide other specific direction to bring other recommendations; changes to the RRAC were run recommendations through Commissions and were brought directly to Council.

The Assistant City Attorney stated the Hearing Officers are private attorneys serving on

a rotational basis and are not supervised by the City Attorney's Office; Hearing Officers are commonly used in other cities.

Councilmember Herrera Spencer stated Section 6 under Penalties references the status quo.

Mayor Ezzy Ashcraft stated the Hearing Officer may be an appropriate usage at some point; expressed support for comments made by Ms. LoPilato; stated the Commission is hard working and receives no training while being tasked with heavy lifts for the City; experienced litigators are at times stumped; training, guidance and assistance is important; an effort is currently underway to update the OGC bylaws; outlined her involvement in updating the RRAC hearing model; stated the determination to move to a Hearing Officer was largely due to renters having to share personal financial and medical information, which was not appropriate information to share in a public setting; Commissioners were not necessarily trained in order to provide the most neutral decision; certain instances of complex legal questions may require a Hearing Officer; expressed support for providing direction to have training for OGC members; stated there should not be a strained relationship between the OGC and the City Attorney's Office; communication is important; expressed support for sending the matter to the OGC in order to work out some of the recommendations with staff under a consensus model, and for a more streamlined OGC meeting process; stated there is opportunity to make matters better.

Vice Mayor Vella inquired what will happen in the interim if Council sends the matter back to the OGC; questioned whether the default will be status quo; expressed support for providing direction related to training for OGC members, and for a timeline of said training and onboarding; stated that she would like to know the process for any changes to ensure the training is continuous and not a set-time training; training should occur within a set time of appointment to the OGC; inquired how many times legal issues have arisen; questioned whether the system switch is based off of a unique set of situations; stated there is a saying bad facts create bad law; she likes the suggestion of looking into a facilitated look back on the Sunshine Ordinance and its purpose; there have been a number of new laws implemented since the enactment of the Sunshine Ordinance; it is not the task of the City Attorney's Office to ensure an improvement of relationship; the solution to hearings might be a hybrid model; a number of unanimous previous Commission recommendations on how to move forward were not brought to Council; she wants to understand how the previous OGC conversations and recommendations work together; if Council sends the matter back to the OGC, she would like to understand any changes to the recommendation; inquired whether there have been two prior recommendations from the OGC.

The City Attorney responded one major recommendation had been made and is included in the staff report; stated the report indicates the reasons why staff does not recommend it.

Vice Mayor Vella stated if the OGC is asked to look at the City Attorney's new request,

which has not yet been analyzed, she would like to include all recommendations made.

The City Attorney stated the prior recommendation from the OGC of 2020, was brought to the OGC of 2021.

Vice Mayor Vella inquired what would occur in the interim, to which the City Attorney responded if Council does not adopt the proposed ordinance, staff would operate in status quo.

Councilmember Daysog stated that he believes the Sunshine Ordinance and OGC have been one of the most important legislations to come out of City Hall; outlined those who spearheaded the legislation; previously meeting materials were delivered the Thursday prior to the Tuesday meeting; the Sunshine Ordinance assures the public is served by understanding how City Hall can operate in a transparent manner; the goal is to put reasonable rules in place to allow for meaningful community input; he is not convinced the OGC process is broken; there have been 17 OGC complaints since 2013; three of the complaints have been in 2021 alone; of the 17 complaints, the OGC has made a determination on seven with the remaining 10 being withdrawn; there does not appear to be an inundation of work requiring Council to transfer the OGC responsibilities to a Hearing Officer; expressed support for staff's analysis of a Hearing Officer being required; stated staff is making a professional judgement; he is satisfied with the current status of the OGC; the structure of OGC meetings is a separate issue; there is a balance between an imperfect process, which is citizen-led and slower, and a faster, more accurate process which is led by City staff; expressed support for the citizen-led process; stated people can raise issues regarding government transparency through the OGC, which is not just a court of appeals; the OGC is a place where residents' issues can be tried by peers within the OGC; the City should keep what it currently has; if the OGC is improved, the improvement should be at the margins.

Councilmember Herrera Spencer stated that she was not on the Council when the decision for null and void was made; requested clarification about the current status and status quo for the OGC.

The City Attorney stated the OGC may adjudicate a complaint filed by any member of the public under existing law; the provisions of the OGC are advisory and Council may choose whether or not to follow the advice provided by the OGC.

Councilmember Herrera Spencer expressed support for the advisory nature of the OGC; expressed concern about Section 6 related to findings of unfounded complaints; stated the five year period is an extreme and draconian penalty; the definition of unfounded is broad; a complaint being deemed unfounded does not indicate a frivolous intent or that the complaint does not have merit; outlined court filing processes not indicating a frivolous intent; the matter should return to the OGC; expressed support for the OGC's review of the penalty period; stated there appears to be a consensus of Council wanting to hear from community members; the penalty conflicts with the desire to hear from community members; five years is a long time; training should be offered to

any of the Boards and Commissions; expressed support for members serving on Boards and Commissions; stated meetings can go long; recently, more complaints have been heard by the OGC; expressed support for allocating more money in order to ensure PRA documents are produced in a timely manner; stated timeliness has been a legitimate complaint brought to the OGC.

Mayor Ezzy Ashcraft stated that she previously spent six years' time on the Planning Board; she attended training from the League of California Cities and annual specialized training for Planning Board members; the OGC is more specialized and requires effective training to help the Commission operate at its maximum capability; it is prudent to send the proposals back to the OGC for discussion with the City Attorney's Office.

Councilmember Herrera Spencer expressed support for the work of the City Attorney's Office; stated that she is concerned about OGC members comments related to the City Attorney's Office; she would like OGC members to reach out to the City Attorney's Office with concerns.

Councilmember Herrera Spencer moved approval of sending the matter back to the OGC for review of the proposed recommendations and set forth any proposed changes to Council in consultation with the City Attorney's Office as needed.

Councilmember Knox White seconded the motion, with an addition to direct that the null and void recommendations be brought back to Council.

Under discussion, Mayor Ezzy Ashcraft requested clarification about the included list from the motion; noted staff has indicated a need for clear direction provided in motions; stated motions need to be as succinct as possible.

Councilmember Knox White noted Councilmember Herrera Spencer has made a motion to send the recommendations back to the OGC for discussion.

Mayor Ezzy Ashcraft requested clarification of the proposed motion.

Councilmember Herrera Spencer stated that she was not part of Council when direction was previously given; inquired whether the amendment is appropriate to include in her motion; stated her motion allows the OGC to give direction on redline changes and the ordinance.

Mayor Ezzy Ashcraft inquired whether the assumption to have the OGC meet with the City Attorney's Office is implied.

Councilmember Herrera Spencer responded the OGC can choose to meet with the City Attorney's Office if they wish.

Mayor Ezzy Ashcraft inquired whether a separate motion is needed in order to bring the null and void recommendations back to Council.

The City Attorney responded in the affirmative; stated if Council desires the null and void matter return before the other recommendations, feedback from Council related to whether or not the proposed changes presented are generally acceptable will be helpful.

Councilmember Knox White stated that he would like to see the null and void remedy to return with language similar to Commissioner LoPilato; he is okay if staff wants to make recommendations for matters not to be included in the ordinance and adopted instead as policy; however, the full language from the Commission needs to be included along with any changes to the recommendation.

The City Attorney stated staff can bring the matter back to Council within two to three months.

Councilmember Knox White stated that he would like for the matter to return before the summer months due to the matter being 15 months out already.

The City Attorney stated staff can bring the null and void remedy back as soon as possible.

Mayor Ezzy Ashcraft inquired whether the reference to the language supplied by Commissioner LoPilato is understood by staff

The City Attorney responded in the affirmative; stated the comments provided are attached to the staff report and is similar to the language recommended by staff.

Mayor Ezzy Ashcraft inquired how staff envisions moving forward in working with the OGC.

The City Attorney responded staff would like to get through the null and void remedy first; stated once concluded, staff will return to the OGC to seek feedback and return to Council.

Mayor Ezzy Ashcraft inquired whether Councilmember Herrera Spencer is proposing a separate vote on the null and void remedy.

Councilmember Herrera Spencer responded that she is happy to accept the inclusion as a friendly amendment to the motion; expressed support for the null and void remedy being brought back first.

Councilmember Knox White seconded the motion with the friendly amendment.

Vice Mayor Vella proposed a friendly amendment of attaching the recommendations by the OGC in full in order to satisfy some of the concerns coming from the OGC.

Councilmembers Herrera Spencer and Knox White accepted the friendly amendment.

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.

(21-384) Presentation by the City Auditor on the Audit Report Approved April 20, 2021.

The City Auditor gave a presentation.

Councilmember Herrera Spencer stated it is critical for the community to understand how the audits show material deficiencies; expressed support for the work of the City Auditor; stated the presentation indicates impacts from not changing course and other related consequences; having a clean audit matters.

Councilmember Daysog stated staff hires auditors to go through the books and ensure the City is following basic governmental accounting standards; the City Auditor is elected by the people and provides review of the hired auditors report; the purpose of the presentation is to adhere to the City Charter provision reporting on the adequacy of the audit.

CITY MANAGER COMMUNICATIONS

(21-385) The City Manager announced an Alameda County update to the vaccine dashboard; stated 82.9% of residents 12 and older have received at least one dose of the COVID-19 vaccine; information for obtaining the vaccine is available on the City website; discussed an upcoming vaccine clinic at Esperanza Plaza on June 12th; announced the Flavors of Alameda campaign continues until June 15th; stated a community discussion on the Homeless Strategic Plan will be held via Zoom on June 10th.

ORAL COMMUNICATIONS, NON-AGENDA

None.

COUNCIL REFERRALS

(21-386) Consider Directing Staff to Return to Council with Solutions to Address Automobile-Related Events at Alameda Point. (Mayor Ezzy Ashcraft and Councilmember Knox White)

Mayor Ezzy Ashcraft and Councilmember Knox White gave a presentation.

Expressed support for the matter: Erin Fraser, Alameda.

Mayor Ezzy Ashcraft stated there have been unsanctioned events announced via social

media; some auto events have been hosted; Alameda Point is a place with wide open spaces; outlined recent, non-hosted, automobile-related events at Alameda Point; noted Oakland is having similar problems and is cracking down; she does not want Alameda Point to be the place where people can get away with un-hosted automobile events; inquired whether enforcement actions will change or become easier.

The City Attorney responded if Council adopts an ordinance prohibiting certain activities, the method of enforcement from Police will become easier; stated clear laws are easier to enforce; staff will return with a variety of recommendations which may include infrastructure, signage and laws.

Councilmember Herrera Spencer requested clarification about automobile-related shows and events and whether the recommendation is to make the direction broader; stated the Council Referral is narrow; inquired whether the Referral is to address speeding at Alameda Point; stated that she would like input from the City Attorney whether broadening the terms is allowed under the Brown Act.

Mayor Ezzy Ashcraft stated the Referral explains residents have reported a large number of speeding vehicles, especially during automobile-related events held at Alameda Point.

Councilmember Knox White expressed support for clarification of the term events; stated the term broadly captures the intent as indicated in the Referral.

Councilmember Herrera Spencer outlined the Council Referral title; stated if the motion is broader than the title, she would like clarification whether the direction will include automobile-related shows, such as sideshows and speeding; her understanding is the recommendation will be broader than described.

Vice Mayor Vella stated a determination must be made whether or not the events are official and permitted; there is concern about the creation or draw of a nuisance; the Referral captures and conveys the intention; there have been unofficial and non-permitted events, which are drawing reckless behaviors and endangering those at Alameda Point, especially children.

Mayor Ezzy Ashcraft stated there are laws which enforce speeding; however, Alameda Point appears to be attracting more drivers in larger numbers through events that are both sanctioned and unsanctioned; Council needs to take a look at whether or not the direction is appropriate for the City; the area has been relatively safe during the pandemic due to large gatherings not being allowed.

Councilmember Herrera Spencer stated that she is unsure whether or not there is mention of single vehicles or whether the intent involved multiple vehicles; the City does have a large car show that takes place on Park Street along with other activities at Alameda Point; she would like to ensure that Council considers certain massive car shows might attract a certain type of car; expressed support for caution in banning

certain cars.

Mayor Ezzy Ashcraft stated Council is directing staff to look into the issues in order to not be overly prescriptive.

Councilmember Daysog stated members of the public have been clamoring for enforcement of traffic safety laws; violations have been happening in a fairly concentrated fashion at Alameda Point; expressed support for Alameda Point being the first location for mobilizing enforcement; stated loud cars are heard across Alameda and appear to be speeding; the City needs to heighten traffic safety enforcement; there are now three traffic safety enforcement Officers; noted resources will need to be part of the staffing discussion; Alameda Point could benefit from road diet types of procedures which could be considered first due to present vulnerable communities; expressed support for the Referral.

Councilmember Knox White moved approval of the Council Referral, with the understanding the need to broaden the identification of the issue and returning with solutions.

Councilmember Daysog 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.

(21-387) Consider Scheduling a Performance Evaluation for the City Manager as Soon as Possible. (Councilmember Herrera Spencer)

Councilmember Herrera Spencer withdrew the referral.

COUNCIL COMMUNICATIONS

(21-388) Councilmember Herrera Spencer stated that she has received complaints about sideshows and cars speeding across Alameda; expressed gratitude to Joe Loparo for organizing a Memorial Day event.

(21-389) Mayor Ezzy Ashcraft discussed the Memorial Day event and a ceremony held at Coast Guard Island; outlined volunteering at a vaccine clinic at Encinal High School; discussed vaccines for those 12 years of age and older and upcoming vaccine events for second shots.

(21-390) Councilmember Daysog expressed gratitude toward Sal Castaneda for emceeding the Memorial Day event.

(21-391) Vice Mayor Vella discussed a Subcommittee of the City Council and East Bay Regional Parks District meeting and a Lead Abatement Joint Powers Association meeting.

(21-392) Mayor's Nominations for Appointment to the Housing Authority Board of Commissioners and Social Service Human Relations Board (SSHRB).

Mayor Ezzy Ashcraft nominated Kristin Furuichi Fong, Dianne Yamashiro-Omi, Samantha Green and Scott Means for appointment to the SSHRB.

ADJOURNMENT

(21-393) There being no further business, Mayor Ezzy Ashcraft adjourned the meeting in memory of Arnold Brillinger and the nine employees of the Valley Transportation Authority Transit Workers killed in San Jose at 10:54 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

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