

MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
TUESDAY- -MARCH 1, 2022- -5:00 P.M.

Mayor Ezzy Ashcraft convened the meeting at 5:03 p.m.

Roll Call – Present: Councilmembers Daysog, Herrera Spencer, Knox White, Vella and Mayor Ezzy Ashcraft – 5. [Note: Vice Mayor Vella arrived at 5:21 p.m. The meeting was held via Zoom.]

Absent: None.

The meeting was adjourned to Closed Session to consider:

(22-124) Conference with Legal Counsel – Potential Litigation, Initiation of Litigation Pursuant to Government Code Section 54956.9, Subsection (d)(4); Number of Cases: Five (As Plaintiff – City Initiating Legal Action); Potential Defendants: Owners of: 2801 Newport Road, Alameda, CA 94501 (Residential), 2825 Pearl Harbor Road, Alameda, CA 94501 (Residential), and Steeltown Winery 2440 Monarch Street, Alameda, CA 94501, Project Burger 2319 Central Avenue, Alameda, CA 94501.

(22-125) Conference with Labor Negotiators (Government Code Section 54957.6); City Negotiators: Eric Levitt, City Manager, and Nancy Bronstein, Human Resources Director; Employee Organizations: Alameda Police Officers Association (APOA), Alameda Police Managers Association (APMA), and Alameda Fire Managers Association (AFMA); Under Negotiation: Salaries, Employee Benefits and Terms of Employment.

Following the Closed Session, the meeting was reconvened and the City Clerk announced that regarding the Potential Litigation, staff provided information and Council provided direction by the following six roll call votes: Vote 1: Councilmembers Daysog: No; Herrera Spencer: No; Knox White: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye; Ayes: 3. Noes: 2 and Vote 2: Councilmembers Daysog: Aye; Herrera Spencer: Aye; Knox White: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye; Ayes: 5. Vote 3: Councilmembers Daysog: Aye; Herrera Spencer: No; Knox White: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye; Ayes: 4. Noes: 1. Vote 4: Councilmembers Daysog: Aye; Herrera Spencer: No; Knox White: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye; Ayes: 4. Noes: 1. Vote 5: Councilmembers Daysog: Aye; Herrera Spencer: No; Knox White: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye; Ayes: 4. Noes: 1. Vote 6: Councilmembers Daysog: Aye; Herrera Spencer: Aye; Knox White: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye; Ayes: 5; regarding Labor, staff provided information and Council provided direction, 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.

Adjournment

There being no further business, Mayor Ezzy Ashcraft adjourned the meeting at 7:00 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

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

MINUTES OF THE SPECIAL JOINT MEETING OF THE CITY COUNCIL AND  
SUCCESSOR AGENCY TO THE  
COMMUNITY IMPROVEMENT COMMISSION (SACIC)  
TUESDAY- -MARCH 1, 2022- -6:59 P.M.

Mayor/Chair Ezzy Ashcraft convened the meeting at 7:16 p.m. and made brief comments in support of Ukraine. Councilmember/Commissioner Daysog led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers/Commissioners Daysog, Herrera Spencer Knox White, 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.

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

(\*22-03 SACIC) Minutes of the Special Joint City Council and SACIC Meeting Held on January 4, 2022. Approved.

(\*22-126 CC/22-04 SACIC) Recommendation to Accept the Investment Transactions Report for the Period Ending December 31, 2021. Accepted.

ADJOURNMENT

There being no further business, Mayor/Chair Ezzy Ashcraft adjourned the meeting at 7:19 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- MARCH 1, 2022- -7:00 P.M.

Mayor Ezzy Ashcraft convened the meeting at 7:19 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

(22-127) The City Clerk announced that the Play House lease [paragraph no. 22-148], the Climate Action Resiliency Plan [paragraph no. 22-150] and the Council Referral regarding the land use initiative [paragraph no. 22-155] were withdrawn and would not be heard.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(22-128) Season for Nonviolence Word of the Day: Si Se Puede!

Councilmember Herrera Spencer read a quote.

(22-129) Proclamation Declaring March 7, 2022 as COVID-19 Memorial Day.

Mayor Ezzy Ashcraft read the proclamation.

(22-130) Proclamation Declaring March 2022 as American Red Cross Month.

ORAL COMMUNICATIONS, NON-AGENDA

(22-131) Zac Bowling, Alameda, discussed Seaplane Lagoon ferry ridership increasing; expressed support for the AC Transit Line 78 bus route; expressed concern over the closure of Oriskany Avenue and the Consent Calendar public comment process; urged the Open Government Commission to develop a policy recommendation for the Consent Calendar.

(22-132) Clifton Linton, Alameda, discussed a recent mechanical failure of the filtration system and heater at Emma Hood pool causing closure; stated the closure has impacted the aquatics community and programs; the pool infrastructure is fragile.

(22-133) Josh Altieri, Alameda Housing Authority (AHA), provided a monthly Housing Authority update.

(22-134) Jay Garfinkle, Alameda, expressed support for the monthly Housing Authority updates being presented as an agenda item; discussed the Sunshine Ordinance Task Force; expressed concern about a decrease in open government; urged Council to consider creating an open working group of citizens to set priorities and create a more open process.

(22-135) Anne Lee, Alameda, discussed the cancellation of the Alameda Free Shuttle program; expressed support for additional Uber and Lyft round-trip rides; noted there will be a cost for

Uber and Lyft versus the free shuttle; urged free trips be offered each month.

### CONSENT CALENDAR

The City Clerk announced the Police Chief would like provide revised policy language on the Police Department Policy Manual update [paragraph no. 22-136].

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(22-136) Councilmember Herrera Spencer moved approval of allowing speakers to comment for 2 minutes on the Police Department Policy Manual and the emergency response vehicle policy [paragraph no. 22-141].

Councilmember Daysog seconded the motion.

Under discussion, Councilmember Herrera Spencer stated the two matters are each policy-related.

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

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Expressed concern over increases in rent and housing for low-income; urged Council to take action to check on the Housing Authority: Ana Morales Salazar, Alameda.

Expressed concern about the use of Lexipol; stated the City does have the ability to modify and change policies using Lexipol; he does not support the City keeping the armored vehicle: Zac Bowling, Alameda.

Stated the subcommittee on Police reform recommended review of Lexipol policies; the language and motivations behind some of the policy updates are questionable and offensive; expressed concern about using the armored vehicle at community events; stated that she would like the community to have more of a voice regarding the matter: Jenice Anderson, Alameda.

Discussed the vote to extend public comment for the Consent Calendar: Jay Garfinkle, Alameda.

Stated Police policy matters being on the Consent Calendar appears dubious; discussed the death of Mario Gonzalez; urged policies be compliant with State law and go beyond including not allowing positional asphyxia; stated that it does not seem as though the community is being listened to; expressed concern about the armored vehicle being at parades in the community: Savanna Cheer, Alameda.

Expressed support for adding the duty to intercede in unlawful use of force; stated clear timelines for training and a definition of interceding are needed; the proposal for Assembly Bill (AB) 490 is an abomination; Council does not respect the community and does not respect Officers when the First Amendment policy leaves out duties; the policies need further vetting; urged Council take a careful look: Jennifer Rakowski, Alameda.

Discussed the death of her son Angelo Quinto-Collins and AB 490; stated excited delirium is a

pseudo-scientific diagnosis and should not be used; urged Council to attend a webinar called Debunking Excited Delirium and to support AB 1608: Cassandra Quinto-Collins, Antioch, CA

Discussed the death of her brother Angelo Quinto-Collins; stated the upcoming webinar includes knowledgeable experts with valuable information; webinar information can be found online and on social media; the webinar will provide a closer look at excited delirium, restraint and physical asphyxia: Bella Quinto-Collins, Antioch, CA.

Discussed the death of his step-son Angelo Quinto-Collins; stated the death has been reported as an accident due to excited delirium via the Contra Costa County Coroner's Office; noted the American Medical Association has come out against the diagnosis; the term is used to cover-up actions of Police Officers; excited delirium is controversial and a tool for obfuscation; urged Council's support of AB 1608: Robert Collins, Antioch, CA.

Expressed concern over positional asphyxia; stated it is obvious that any policy should prevent positional asphyxia; he is concerned over the militarization of Police; Alameda does not need militarization of Police: Roger Slattery, Alameda.

Stated the policies presented are inhumane and contrary to treating people as human beings; the policies should not be on the Consent Calendar, which is misleading and wrong; expressed concern for an attempt at the matters being under the radar; urged Council to take action to stop certain matters from being placed on the Consent Calendar: Erin Fraser, Alameda.

Councilmember Knox White requested the emergency response vehicle policy be removed from the Consent Calendar for discussion.

Councilmember Herrera Spencer requested that the resolution opposing Initiative 21-0042A1 [paragraph no. 22-143] be removed from the Consent Calendar and recorded a no vote on teleconference findings [paragraph no. 22-142].

Councilmember Knox White moved approval of the remainder 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.]

(\*22-137) Minutes of the Special and Regular City Council Meetings Held on February 1, 2022. Approved.

(\*22-138) Ratified bills in the amount of \$3,645,095.00.

(22-139) Recommendation to Authorize the City Manager, Via the Chief of Police, to Update the Existing Alameda Police Department Policy Manual to be Current with Existing Best Practices and Statutory Requirements.

The Police Chief gave a brief presentation.

Councilmember Herrera Spencer inquired whether Policies 314, 318, and 312 were presented exactly as the published in the meeting packet with no changes.

The Police Chief responded in the affirmative; stated the only modification made relates to Policy 300.

Councilmember Herrera Spencer inquired whether the changes to the policy have gone through the City Attorney's Office, to which the Police Chief responded in the affirmative.

The City Attorney stated staff has reviewed and approved the changes; staff recommended many of the changes presented.

Councilmember Knox White stated that he would like to see the proposed changes to Policy 300; he appreciates the changes coming forward; Council directed the changes due to the desire for multiple community eyes being able to catch issues; the Police Chief quickly acknowledges concerns; questioned whether the language about unreasonably impairing an individuals' breathing fits with the Government Code; stated the Government Code does not authorize techniques which involve a significant risk of positional asphyxia; requested clarification on the use of the term unreasonably impair; expressed support for not using the technique if there is any threat of impairing; stated the term "unreasonable" is concerning.

Mayor Ezzy Ashcraft concurred with concern about using the term "unreasonably" as a qualifier.

The City Attorney stated the term "unreasonable" includes "unlawful;" AB 490 makes clear that a law enforcement agency cannot authorize techniques which involve a substantial risk of positional asphyxia; the term "unreasonable" encompasses AB 490 and goes further by taking the position that any method that has an unreasonable restraint on breathing and respiration is unlawful under the policy; under AB 490, positional asphyxia is specifically called out; the "unreasonable" standard is read as broader and more protective.

The Police Chief concurred with the City Attorney; stated the "reasonable" standard is used when assessing force, other than lethal force; inserting the term comports with how Officers make the assessment about what force is reasonable and not.

Councilmember Knox White stated changes respond to community feedback, including the subcommittees, wanting to tighten up language; he looks forward to supporting the changes; expressed support for Council adopting Policy 358.3 regarding the minimum criteria for notification of major incidents; stated notifications are not provided for traffic collisions involving vulnerable road users; one of the biggest safety dangers in Alameda is with vulnerable road users; highlighting the collisions would bring the policy into alignment with the current City Manager practice; he is comfortable proceeding with the matter.

Mayor Ezzy Ashcraft inquired whether Councilmember Knox White is requesting Council be notified by the City Manager via text message, to which Councilmember Knox White responded Council is already alerted via text.

Mayor Ezzy Ashcraft requested clarification on the direction to staff.

Councilmember Knox White stated Policy 358.3 sets the minimum criteria for notification of homicides, traffic fatalities, unusual deaths, rapes and armed robberies; he would like to direct staff to add traffic collisions with vulnerable road users.

Vice Mayor Vella stated that she appreciates the response to feedback; inquired why the City

would not include the statutory language in the Use of Force policy and is including “or unreasonable.”

Mayor Ezzy Ashcraft inquired whether the section relates to Policy 300.3.

Vice Mayor Vella responded in the affirmative; inquired whether the statutory language can be placed after: “or unreasonably impair.”

In response to Mayor Ezzy Ashcraft’s inquiry, Vice Mayor Vella stated the language is included in AB 490; the terms “reasonably” and “unreasonably” are used throughout policies based on different legal standards and reasons; questioned whether there is legal reason to object to or use the statutory language.

The City Attorney stated that he has no concerns with Vice Mayor Vella’s proposed changes; Council may insert the language as proposed.

Councilmember Knox White stated Government Code Section 7286.5 contains the desired language.

Vice Mayor Vella stated the text would read: “a law enforcement agency shall not authorize techniques or transport methods that involve a substantial risk of positional asphyxiation.”

Mayor Ezzy Ashcraft inquired whether the policy would read: “Officers are not authorized to use any restraint or transportation method that involve a substantial risk of positional asphyxia or unreasonably impair an individuals’ breathing,” to which Vice Mayor Vella responded in the affirmative.

The Police Chief stated the positional asphyxia language was removed to address his concerns.

Mayor Ezzy Ashcraft requested clarification on concerns related to confusion.

The Police Chief stated the direction of the original language was that terms, such as positional asphyxia, restraint asphyxia and excited delirium, all lead to an outcome that is dangerous to the public; regardless of the terms, his direction is that Officers not do anything which puts someone at risk; he does not want Officers to do anything which will restrict breathing; expressed support for adding the Council proposed language to the policy; stated that he originally utilized the term for consistency.

Vice Mayor Vella expressed support for including the language of: “substantial risk of, or unreasonable...;” stated that she agrees with the Police Chief swapping out terms relative to breathing.

The City Attorney recommended adding definitional language from the statute if the term “positional asphyxia” is taken out; stated the definitional language provides a caveat that if an Officer places someone in a compressed airway situation, the person must be monitored; the added policy language should read: “...without reasonable monitoring for signs of loss of oxygen...;” if the policy copies the statutory text, there is no need for change; however, the definitional language should be included; discussed an Officer effectuating an arrest with actions that create risk; stated the Officer’s constant monitoring of the arrestee, comports with Fourth Amendment standards and should go back into the policy.

Councilmember Knox White stated that he understood the initial recommendation from Vice Mayor Vella to include both options, including a substantial risk of positional asphyxia, which addresses the City Attorney's comments; the term "unreasonable" can be added; Vice Mayor Vella did not narrow the policy, she specially called out the substantial risk of positional asphyxia due to the term being in the statute to provide clarity about the intent.

The Police Chief stated the updated language ties to the statute and respects and honors the concerns of the community.

The City Attorney stated that he recommends adding: "as defined by Government Code Section 7286.5" after positional asphyxia to make clear that positional asphyxia is a defined term under State law.

Councilmember Herrera Spencer inquired whether the language stricken from the originally proposed policy is from the Government Code.

In response to Mayor Ezzy Ashcraft's inquiry, Councilmember Herrera Spencer stated that she is not sure why the stricken language was included; she would like to ensure that the language being struck is no longer necessary; questioned whether the language is necessary; expressed concern about changing the Government Code language.

The City Attorney stated that he recommended striking the language; the language is not contained in the State law and does not add to the policy; the language is not necessary and removal is recommended.

Councilmember Herrera Spencer inquired where the language came from, to which the Police Chief responded the language came from Lexipol.

Councilmember Daysog stated that he is satisfied that the new language, which is in the best interest of securing public safety in Alameda; expressed support for the new language; stated that he appreciates both the City Attorney and Police Chief considering the community's concerns; if Council adopts the matter, the action will be another profound reform implemented by the Alameda Police Department (APD).

Councilmember Knox White moved approval of the policies as written with the exception of substituting the language proposed by the Police Chief: "Officers are not authorized to use any restraint or transportation method which would create substantial risk of positional asphyxia as defined by Government Code Section 7286.5 and/or unreasonably impair an individual's breathing or respiratory capacity. Once controlled, the individual should be placed into a recovery position (e.g. supine or seated) and monitored for signs of medical distress (Government Code section 7286.5)." and the addition of traffic collisions with vulnerable users into Policy 358.3.

Councilmember Herrera Spencer inquired what the additional language means for Policy 358.3.

The City Attorney responded that he has no legal concerns about the additional language.

The City Manager stated the language is not currently part of the policy; the language would formalize the current practice; alerts would be from APD, rather than the City Manager; he has



no concerns with the change.

The Police Chief expressed support for adding the language.

The Police Captain requested clarification about the language being added to the policy; stated that he would like to provide clear direction to staff.

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(22-140) Mayor Ezzy Ashcraft moved approval of giving Councilmember Knox White one additional minute.

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.

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Councilmember Knox White stated vulnerable road users are those who walk and bike; notification would be of any traffic collisions involving a person walking or biking.

Mayor Ezzy Ashcraft inquired whether the clarification provided is sufficient, to which the Police Captain responded he would like Council to provide the specific collision incidents which Officers will need to report to Council.

The Police Chief recommended the language: “any traffic collision involving pedestrians and bicyclists;” inquired whether Council can narrow the scope down to reportable injuries or age groups.

Councilmember Knox White stated that the City averages about 50 collisions per year and his proposal stands; the reporting does not appear to be overly broad.

Mayor Ezzy Ashcraft inquired whether the language proposed involves any collision involving a vehicle and pedestrian or bicyclist that results in some injury.

Councilmember Knox White responded the language can include “results in some injury;” stated oftentimes people do not know whether or not they are injured; if Council wants to know where safety is an issue in the City, Council needs to hear about collisions; Council does not hear about collisions without the policy; the City Manager already provides the information; the language will formalize the existing practice.

Mayor Ezzy Ashcraft inquired whether statistics will be kept and reported.

The Police Captain responded in the affirmative; stated the statistics are generally published around April or May.

Mayor Ezzy Ashcraft inquired whether the information is requested in real-time for Councilmembers.

Councilmember Knox White responded in the affirmative; stated that he would like the collision report to occur the same day; having the information is useful.

Councilmember Herrera Spencer inquired whether APD already keeps track of all accidents regardless of injury, to which the Police Chief responded in the affirmative.

Councilmember Herrera Spencer stated that she is unsure whether Council receives a text each time an accident occurs; inquired whether the City Manager sends out a text to Council for each accident.

The City Manager responded APD reports to him and then he reports to Council; stated if APD is not called to the scene, the incident does not get reported to Council.

Councilmember Herrera Spencer inquired whether the language needs to be added to make sure staff is in compliance, to which Councilmember Knox White responded in the affirmative.

Councilmember Herrera Spencer proposed a friendly amendment to the motion to add the language to clarify expectations.

Councilmember Knox White stated the amendment is unnecessary; calls are reported; there is no reasonable expectation to have a report of a call that was not received.

Vice Mayor Vella seconded the motion.

Under discussion, Councilmember Herrera Spencer inquired whether both the Police Department policy manual and the emergency response vehicle policy matters are being considered concurrently.

Mayor Ezzy Ashcraft responded Council is currently considering the Police Department policy manual.

On the call for the question, the motion 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.

(22-141) Recommendation to Authorize the Chief of Police, Via the City Manager, to Establish New and Amended Police Department Policies Governing the Use of the Alameda Police Department's Emergency Response Vehicle.

The Police Captain and Police Chief gave a brief presentation.

Councilmember Herrera Spencer stated Exhibit 3 denotes major incident notifications; noted Council just made changes to the notifications in the previous agenda matter; requested clarification for the Council direction provided.

The Police Captain stated the exhibit is attached to the emergency response vehicle matter due to the proposal for the new policy to make it clear notification has to be provided anytime the vehicle is deployed.

Mayor Ezzy Ashcraft stated the reason the notification is being heard is due to the use of the emergency response vehicle being added as a significant event.

Councilmember Herrera Spencer inquired whether the policy also refers to the previous agenda

matter, to which the Police Captain responded in the affirmative.

Councilmember Knox White stated that he has mistakenly combined an exhibit from the current matter with the previous policy matter; Council can take the same action under the current policy matter for the emergency response vehicle.

Councilmember Herrera Spencer stated that she would like to include the action under the current matter; proposed the previous action be included in the motion.

Councilmember Knox White stated a number of comments have been received related to the purpose of having the vehicle at community related events and public gatherings; expressed support for Council providing direction to clarify the language; stated public gatherings have to first find an incredible threat in order for the vehicle to be used; the vehicle will not be sent to public gatherings and hidden away; requested clarification.

The Police Chief concurred with Councilmember Knox White's comments; stated staff recognizes the vehicle as a tool; however, the tool has associated concerns; staff wants to be respectful and honor the associated concerns; noted Policy 409 opens with: "the emergency response vehicle shall be used as an armored vehicle resource to safely resolve incidents where there is an objective risk to civilians and/or Officer safety from a person or persons who may be considered armed and dangerous;" the qualifier must be met in order for the vehicle to be used; he is willing to add language that states use at community events is for educational purposes; the vehicle will not be used at recruitment events; expressed support for being transparent.

Councilmember Herrera Spencer moved approval of the staff recommendation with the addition provided by the Police Chief [and the language from the previous motion].

Councilmember Daysog 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.

(22-142) Recommendation to Approve Findings to Allow City Meetings to be Conducted via Teleconference.

Since Councilmember Herrera Spencer recorded a no vote, the matter carried by the following vote: Councilmembers Daysog: Aye; Herrera Spencer: No; Knox White: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 4. Noes: 1.

(22-143) Resolution No. 15869, "Opposing Initiative 21-0042A1, a Proposed Amendment to the State Constitution that would Limit the Ability of Voters and State and Local Governments to Raise Revenues for Government Services." Adopted.

The Communications and Legislative Affairs Officer gave a brief presentation.

Councilmember Herrera Spencer inquired whether the initiative adds a requirement for taxes to have a sunset dates, to which the Communications and Legislative Affairs Officer responded in the affirmative.

Councilmember Herrera Spencer further inquired what happens to current taxes that do not have a sunset date.

The Communications and Legislative Affairs Officer responded taxes already passed by voter would not change; stated measures passed going forward would need to have a sunset date or specified duration of time.

Councilmember Herrera Spencer inquired whether the duration of time could be 100 years.

The Communications and Legislative Affairs Officer responded the language only specifies a duration of time, not a limit.

Councilmember Herrera Spencer requested clarification from the City Attorney's Office.

The City Attorney stated that he concurs with the Communications and Legislative Affairs Officer's assessment of the amendment.

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

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.

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Mayor Ezzy Ashcraft called a recess at 9:04 p.m. and reconvened the meeting at 9:21 p.m.

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### CONTINUED AGENDA ITEMS

(22-144) Public Hearing to Consider Introduction of Ordinance Amending Alameda Municipal Code Chapter XXX to Implement Senate Bill (SB) 9 Regarding Two-Unit Housing Developments and Urban Lot Splits in Single-Family Residential Zones. Introduced.

The Planning Building and Transportation Director gave a Power Point presentation.

Councilmember Daysog stated the Alameda Architectural Preservation Society (AAPS) put together a detailed letter; requested clarification about separate metering and affordability requirements mentioned in the letter.

The Planning, Building and Transportation Director stated staff anticipates new SB 9 units will be separately metered; staff has not recommended requiring SB 9 units to be deed restricted for affordable housing; staff does not feel the restriction is necessary at the moment; discussed a, Association of Bay Area Government (ABAG) study of Accessory Dwelling Units (ADUs) from the; stated the study found that many ADUs are built for family members and over 30% of units charged very low rent and 30% charged low rent; there is a natural tendency for the units to be made affordable; Council may consider deed restricting the units.

Councilmember Herrera Spencer inquired the affordability categories for the remaining 40% of ADUs.

The Planning, Building and Transportation Director responded he over-generalized; stated housing includes four categories: very low, low, moderate and market rate; the unit breakdown was 33% very low, 30% low, 30% moderate and the remaining percentage were market rate; the breakdown is a result of ADU builds being used for family members, not deed restrictions.

Councilmember Herrera Spencer inquired whether the Planning, Building and Transportation Department charges fees for SB 9 units or ADUs.

The Planning, Building and Transportation Director responded ADUs are exempt from the Citywide Development Impact Fee (DIF); stated deed restricted, affordable units are also exempt from fees.

Councilmember Herrera Spencer inquired whether SB 9 units would incur permit fees, to which the Planning, Building and Transportation Director responded in the affirmative.

Councilmember Daysog requested clarification about the issue of applying the ordinance to residential district areas.

The Planning, Building and Transportation Director stated AAPS suggested that residential districts with an associated overlay, such as Harbor Bay Isle, do not fall under State law; it is risky to take the position that an overlay will exempt the City; Harbor Bay Isle does not have many second units since newer developments have smaller back yards; the same instance occurs in the Bayport region; most second units are built in older residential neighborhoods.

Stated the ordinance fits with the recommendation and understanding of SB 9; expressed support for 1,200 square foot units and for removing the cap; expressed concern about pitting SB 9 units against ADUs; stated deed restrictions on SB 9 units could create favor toward ADUs; Zac Bowling, East Bay YIMBY.

Questioned whether four units on a lot would all be detached or a combination of attached and detached; urged the square footage for SB 9 units be capped at 900 square feet; stated 1,200 square foot units are not affordable by design; units under 1,000 square feet are more affordable; Karen Miller, Alameda.

Urged Council to adopt the AAPS recommendations and consider limiting new units to 800 square feet, maintaining height limits and requiring that one SB 9 unit be deed restricted; discussed a new sea-level rise report; urged staff to review the report; expressed support for Council addressing whether ADUs will be allowed as AirBNB rentals; Carmen Reid, Alameda.

Stated that he disagrees with staff and State regulators; the City should require a report from Alameda's Emergency Operations Officer related to safe evacuation volume; Alameda does not have enough electricity for existing infrastructure or a safe way to evacuate its population in emergencies; expressed concern about allowing people to create policies which do not address evacuation needs; Jim Strehlow, Alameda.

Discussed the AAPS letter; urged Council to adopt a revised ordinance with proposed modifications; expressed support for noticing related to SB 9 construction projects and for limiting SB 9 preemption of local development standards; stated the draft ordinance applies the

preemption to all SB 9 units; discussed requirements for non-SB 9 units: Christopher Buckley, AAPS.

Mayor Ezzy Ashcraft stated there is concern that the units will be used for AirBNB rentals; inquired whether the matter is addressed in the ordinance.

The Planning Building and Transportation Director responded in the affirmative; stated a pre-condition of building SB 9 units requires a deed restriction stating the property cannot be used for rentals that are less than 30 days.

Councilmember Daysog inquired whether staff has comments regarding AAPS's letter referencing limiting the preemption of local standards only to the smaller 800 square foot unit size; requested staff to clarify the background and theory.

The Planning Building and Transportation Director responded the R1 District has a 20 foot rear yard setback; stated the front yard setback is much smaller and the side yard setback is 5 feet; the City can regulate back and side yard setbacks based on State law; the proposed ordinance states SB 9 units should have a 4 foot setback from the rear and side yard; the process is ministerial and will be handled by staff without the Planning Board or a public hearing process; the goal is to have a clear and objective ordinance that requires the minimum amount of staff judgement and discretion; property owners in the R1 District have a good idea of where to place second units; 2021 yielded about 20 second units; most property owners think about and do not wish to have issues with neighbors; staff rarely finds poor placement of second units; implementing the AAPS idea brings second units as close as possible to the main unit in order to keep as much of the rear yard setback as possible; second units typically work better with space between the main and second units; Council can direct staff to use AAPS's approach.

Councilmember Daysog stated that he is concerned about the height standard; inquired whether SB 9 unit have to be subordinate to the height of the primary unit; expressed concern about backyard mansions.

The Planning Building and Transportation Director responded the ordinance has a 30 foot height limit; stated a two-story house with a pitched roof would be an appropriate SB 9 unit; staff has not recommended a lower height limit; the limit will likely create a smaller footprint; a lower height limit would require a larger footprint; the entire R1 District has a 30 foot height limit.

Councilmember Knox White stated Council has come to a decision that makes sense and honors both SB 9 and the 2020 election result; expressed support for staff to return with the Housing Element; stated that he has a concern with historic preservation and design rules adding time and cost to processes; the new rules allow for discretionary Historic Advisory Board review; he would like to give direction to staff to come back with tighter rules on how determinations can be made within the Housing Element; votes have gone against the findings of fact and he would like to honor the historic extensions.

Councilmember Knox White moved approval of the staff recommendation [including introduction of the ordinance] with direction that the City will look at clarifying and specific rules under the Housing Element.

Mayor Ezzy Ashcraft proposed a friendly amendment of having a smaller maximum square footage for units.

Councilmember Herrera Spencer stated that she supports smaller unit size.

Mayor Ezzy Ashcraft discussed information from an Alameda County Mayor's Conference meeting about the growing homeless population being age 50 and over; living on the street ages people prematurely; there is a lack of affordable housing for people with lower income; many people are retiring from low paying, non-union jobs lacking benefits; many people are vulnerable to medical emergencies or car repairs, which cause the inability to afford rent; the best medicine is housing; more housing needs to be built; expressed support for capping SB 9 units between 800 and 1,000 square feet; stated Council is trying to increase the amount of affordable housing by design; she would like to keep the ordinance simple; limiting the unit size allows for more outdoor space; a property owner can still build a larger second unit under the ADU ordinance; 800 square foot units are affordable by design; ensuring access to affordable housing is a matter of Statewide concern as noted in SB 9.

Councilmember Herrera Spencer stated that she strongly supports the affordable by design effort and the 800 square foot unit size; the unit size is critical; 1,200 square foot units will cost over \$1 million; many people can only afford less; there is an opportunity to try and provide housing that is affordable by design; expressed concern about tree removal impacts to the environment; stated there should be balance with the SB 9 units.

In response to Councilmember Daysog's inquiry, the Planning, Building and Transportation Director stated staff originally proposed 1,200 square feet; the Planning Board increased the size to 1,600 square feet; noted the January public hearing yielded Council wanting smaller units; stated staff dropped the limit to the original 1,200 square feet.

Councilmember Daysog inquired the previous total number of allowable units on a parcel.

The Planning, Building and Transportation Director responded the amount had been up to ten units; stated there is a range; cities that wish to be liberal about second units and interpreting SB 9 allow up to ten units; most cities are landing around four units per parcel.

Councilmember Daysog stated Council previously had concerns about ten units per parcel as well as the unit size of 1,600 square feet; the current proposal is reasonable with a maximum of four SB 9 units or a combination of SB 9 and ADUs; Alameda Citizens Task Force put for a piece about price per square footage; expressed support for a smaller unit size of 800 to 1,000 square feet; stated the matter is a chance for Council to do something unique; it is reasonable to proceed with a maximum of four units between 800 and 1,000 square feet.

Councilmember Herrera Spencer stated that she would second the motion with a friendly amendment to limit SB 9 units to 800 square feet.

Councilmember Knox White expressed concern about the 800 square foot size; stated people will not do SB 9 units due to the size and fewer homes will be built; expressed support for consideration of 1,000 square feet and higher; stated lower square footage will produce less housing.

Mayor Ezzy Ashcraft stated that she believes many additional units can be built at 1,000 square feet; expressed support for a maximum of 1,000 square feet and for working towards getting more housing built; noted a substitute motion can be created.

Vice Mayor Vella stated Council previously provided direction on the matter; expressed support for units which are affordable by design; stated some people find affordability in building on their own parcel in order to house family or friends; previously, she did not support capping the unit size; expressed support for the 1,000 square foot unit size; stated additional space can make a difference for people wishing to age in place; many people have supported higher square footage for full visitability; she would prefer the higher end of the unit size range.

Mayor Ezzy Ashcraft stated that she understands many people are building units for family members and multi-generational living; the ADU size limit is 1,200 square feet; property owners have the option to elect build either SB 9 units or ADU units; expressed support for Council being creative and trying to put into place units which are affordable by design; the option to go up to 1,200 square feet exists with ADUs.

Vice Mayor Vella stated that she would like more similarities between SB 9 units and ADUs so people do not have to choose; people are considering planning for the future due to a 19% increase in home prices; Council is trying to encourage home building that meets all needs; she would prefer a higher unit size range.

Mayor Ezzy Ashcraft inquired whether Vice Mayor Vella would support a maximum of 1,000 square feet, to which Vice Mayor Vella responded in the affirmative.

Councilmember Knox White amended the motion to 1,000 square feet.

Councilmember Herrera Spencer discussed a January article in The Chronicle related to home prices; stated 1,000 square feet is not affordable by design; she supports Mayor Ezzy Ashcraft's analysis about ADUs being 1,200 square feet; SB 9 units provide opportunity to provide affordable by design units; 1,200 to 1,000 square foot units are not affordable by design in Alameda; homes are selling for above asking price; she is willing to compromise with 900 square foot units; higher unit sizes continue to drive gentrification in Alameda.

Vice Mayor Vella seconded the amended motion; stated 1,000 square foot units provide versatility and allow people to build for all needs and create more affordability; ; the size limit is a cap; people can create smaller units.

Under discussion, Councilmember Daysog inquired what would occur if Council requires at least one SB 9 unit to be 800 square feet.

Councilmember Knox White stated an 800 square foot home in Alameda is \$1.6 million; Council arguing between the 800 and 1,000 square foot unit size is not meaningful for affordable versus non-affordable units; housing is not affordable because people in Alameda, the Bay Area and the State have refused to build housing for 50 years; building a few 800 square foot units will not create affordability; Council needs to figure out how to incentivize housing to be built within the confines of the City Charter; expressed support for a maximum unit size of 1,000 and nothing lower; stated that he is happy to withdraw his motion if Councilmembers wish to go with a lower unit size.

Mayor Ezzy Ashcraft stated Council is trying to keep the ordinance fairly streamlined and easy to administer; expressed support for leaving the decision to the property owner; stated many things can be done with smaller units; expressed support for the 1,000 square foot unit limit.



Councilmember Daysog inquired whether Council is willing to split the difference and allow for a maximum of 900 square foot units.

Mayor Ezzy Ashcraft inquired what would be gained by a 100 square foot difference.

The Planning, Building and Transportation Director responded that he does not know if it is worth worrying about the difference; stated the vast majority of R1 property owners that could build two ADUs on their property are only building one and are not getting close to 1,200 square feet in size; the units being built are generally smaller; staff thinks that making the unit maximum too small will cause a family not to build; 1,000 square foot maximum is a good size; height limits are the problem with second units; property owners building 1,200 square foot units on one floor uses much of the backyard; staff has debated the reason for second units being small and part of the reason is due to height limits.

Councilmember Daysog stated Council has made substantial progress; the maximum amount of units decreased from ten to four and the square footage decreased from 1,600 to 1,000; he would have preferred 800 square foot units; however, there is compromise; expressed support for the 1,000 maximum square foot unit size and four units on one lot.

Councilmember Knox White stated 1,000 square foot unit size is splitting in the middle; there has been a lot of compromise and movement in the unit size.

Vice Mayor Vella stated compromise is good; however, she still would prefer not to have a cap on unit size; Council is working on housing as a top priority.

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.

### REGULAR AGENDA ITEMS

(22-145) Introduction of Ordinance Amending, in Part, Uncodified Ordinance No. 3275 Concerning a Temporary Moratorium on Rent Increases for Fully Regulated Residential Rental Units and Alameda Municipal Code, Article XV, Concerning Various Clean-Up Amendments. Introduced.

The Interim Base Reuse Manager gave a Power Point presentation.

Councilmember Daysog requested clarification of the technical corrections.

The Interim Base Reuse Manager stated Alameda County is piloting a program where property owners may borrow a small amount of funds from the County and receive a regulatory agreement in exchange for agreeing to maintain a small percentage of units as affordable; a 50 unit building can have as few as 10 affordable units and the entire building would become exempt from the rent program.

Councilmember Daysog inquired whether all 50 units must be deed restricted, to which the Interim Base Reuse Manager responded in the affirmative.

Urged Council to vote no on the matter; stated the pandemic has destabilized the community; the Bay Area needs time to recoup; the matter is antithetical; expressed concern over not receiving 60 days advance notice of rent increases; stated the 60 days are vital for renters to get their finances in order; there is no reason for the grace period to be halved; urged Council to reject allowing banked rent increases; stated the current rent relief options remain precarious for renters: Austin Tam, Filipino Advocates for Justice and Alameda Renters Coalition.

Discussed Measure K; stated escalating rents and evictions are decimating the community; 55% of the Alameda community are tenants; the percentage could be higher with rentals at Alameda Point; discussed Ordinance 3275; stated Ordinance 3275 reflects the values of a compassionate community in Alameda; urged Council to listen to the softer voices of compassion, vote no on the amendment and not lift the moratorium: Cheri Johansen, Alameda Progressives.

Stated that she is taken aback by the sudden proposal to lift the moratorium; the matter affects half of Alameda residents; questioned where the documentation exists in order to understand the problem; renters have previously been asked to provide hard evidence of rising rents and evictions; landlords making such a request for aid is unsettling; the matter feels like a slap in the face; Council must make a distinction between small landlords and investment groups; proof needs to be provided: Laura Thomas, Renewed Hope Housing Advocates.

Questioned whether there is awareness that the Consumer Price Index (CPI) is at 7% and when landlords can use the banking option; stated most small landlords rental properties and income are lifelines; Council has cut off income; landlords must keep up with repairs to provide units in good condition; housing inventory is old and needs a lot of maintenance; questioned when landlords can use banked rent; expressed concern about the calculations: BeBe Cheng.

Discussed the Council rent cap action of 2019; stated the previous ordinance was in effect six months prior to the pandemic hitting; the amount of time was not enough for renters to recover the inequities of past years; the rent moratorium provided some measure of security; the local emergency has not ended; however, Council is considering taking away the 60 day notice to renters; questioned whether Council believes the financial state for renters has improved over the pandemic; stated all costs are rising, including cost of living; urged Council to vote no: Toni Grimm, Alameda.

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(22-146) Councilmember Knox White moved approval of hearing the Park Street Wine Lease [paragraph no. 22-147] and budget resolution [paragraph no. 22-149] under Continued Agenda Items on March 15, 2022.

Vice Mayor Vella 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.

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Stated the current rent ordinance was created and agreed upon by both landlords and tenants after many community meetings; discussed the current unemployment rate in Alameda County; expressed concern about the proposed 2.7% limitation on rent increases; stated inflation will create higher conditions than 2.7%; landlords should have a choice of whether or not to go with the 2.7% increase or the current years' increase; the current ordinance does not allow banking

in consecutive years; urged Council to temporarily suspend the limit on cost recuperation and allow landlords to come up with a banking formula: Karen Miller, Alameda.

Stated there is a need for affordable housing; Alameda is one of the few cities in the area to have a rent freeze; expressed support for an increase 60 days from notification and for the City reiterating rent program assistance options; stated employment rates do not mean renters can afford market rate or rate increases; renters must be protected; people need to remain housed: Jenice Anderson, Alameda.

Stated many people are surprised by the matter and the lack of a 60 day notice; the City needs to have compassion for renters struggling with the pandemic: Zac Bowling,

Mayor Ezzy Ashcraft inquired whether the technical amendment is meant to address the the 60 day notice issue, to which the Interim Base Reuse Manager responded in the affirmative.

In response to Mayor Ezzy Ashcraft's request for clarification of the process, the Interim Base Reuse Manager stated the ordinance itself becomes effective on May 1<sup>st</sup>; landlords may increase rent after May 1<sup>st</sup>; any notice that goes out starting May 1<sup>st</sup> would not be valid for another 30 days.

In response to Mayor Ezzy Ashcraft's inquiry, the City Attorney stated the ordinance is being presented to Council as a first reading and will require a second reading; as proposed, the ordinance will not become effective for 45 days; the time would be further lengthened to 60 days.

Councilmember Herrera Spencer inquired whether the effective date for the ordinance would be May 1<sup>st</sup> at which time landlords could give notice, to which the Interim Base Reuse Manager responded the alternative proposed allows for notice to be given May 1<sup>st</sup>.

Councilmember Herrera Spencer stated that she heard comments from the public regarding tenants and problems related to COVID-19; inquired whether there are rental assistance programs.

The Interim Base Reuse Manager responded in the affirmative; stated the Alameda County emergency rental assistance program will accept applications from both tenants and landlords for tenants behind in rent; some tenants are experiencing issues for the first time and may not be aware of programs or associate shame with applying for assistance; Alameda County continues to accept applications and has put in a request to the Federal Government for additional funds.

Councilmember Herrera Spencer inquired whether the AHA and rent program are helping people and where people should go for assistance.

The Interim Base Reuse Manager responded there is an application online; stated people can call 2-1-1 if they cannot access the application online.

Mayor Ezzy Ashcraft discussed a news article; stated some money is going unused in some cases; inquired what the money goes towards and where to look for the application online.

The Interim Base Reuse Manager responded the name of the program is the Alameda County

Housing Secure Emergency Rental Assistance Program; stated the application is online and able to be found by searching Alameda Housing Secure; the application is intended for tenants who have been affected by COVID-19 and are behind on their rent or utilities; the program can pay up to 15 months of rent as well as past-due utility payments; landlords may also apply directly to the program; ultimately, both parties need to cooperate in the process since documentation is required from tenants; landlords have to receive and validate information provided by the tenants.

Mayor Ezzy Ashcraft stated the process can be accessed and utilized by landlords; however, cooperation with tenants is required; the threshold for documentation is low and includes self-attestation; the program pays 12 months of back rent and three months of forward rent and utility payments.

Councilmember Daysog inquired which cities have resumed payment.

Greg Kats, AHA, stated staff has looked at East Palo Alto, Mountain View, Berkeley and Los Angeles.

Councilmember Daysog inquired whether Mountain View and East Palo Alto had allowed rent increases.

Mr. Kats responded that he would have to look into the matter.

The Interim Base Reuse Manager stated only Los Angeles and Oakland are not allowing increases.

Mayor Ezzy Ashcraft inquired whether tenants were consulted and the reason behind the lack of consultation.

The Interim Base Reuse Manager responded the impetus was landlords providing public comment in December 2021; stated Council directed staff to present alternatives; staff shared the presentation with landlord representatives, stakeholders and tenants.

Councilmember Daysog inquired whether the staff recommendation allows a 2.7% rent increase and any capturing of banked increases will occur when the pandemic is over.

The Interim Base Reuse Manager responded in the affirmative; stated staff reviewed different alternatives; Council can approve the Annual General Adjustment (AGA) rent increases or de-couple the AGA rent increases plus banked rent increases; staff is recommending de-coupling AGA rent increases from the emergency rent ordinance; the action would allow landlords to begin raising rents up to the current AGA of 2.7%.

Councilmember Daysog inquired whether capturing of the banked increase would only occur when the pandemic is officially declared over.

The Interim Base Reuse Manager responded banked increases are still tied to the emergency ordinance; staff is not recommending untying banked increases from the emergency ordinance.

Councilmember Daysog inquired whether staff's recommendation is only the increase of 2.7%, to which the Interim Base Reuse Manager responded in the affirmative.

Vice Mayor Vella stated that she understands the Oakland rent moratorium prohibits rent increases above 1.9% or CPI unless high is required in order to provide a fair return; inquired what is meant by the exceptions being Oakland and Los Angeles.

The Interim Base Reuse Manager responded Oakland is allowing the AGA and are not currently allowing banked increases or capital improvement pass throughs.

Vice Mayor Vella inquired how long Oakland has been allowing the AGA.

The Interim Base Reuse Manager responded not the entire pandemic; stated that she will have to confirm the timing.

Vice Mayor Vella stated inquired whether there is an off-ramp if Council moves forward with the matter and COVID-19 cases rise and rent increases need to halt.

The City Attorney responded there are some off-ramps, but they are limited; stated the easiest off-ramp would be at second reading; if cases rise within the next two weeks, Council does not have to adopt the ordinance at the second reading; if Council approves the ordinance as proposed and decided re-impose a moratorium, Council would need to re-adopt a rent moratorium by either emergency ordinance and four affirmative votes or a regular ordinance and three affirmative votes.

Mayor Ezzy Ashcraft inquired the process if Council amends the proposed ordinance to create conditions which trigger the off-ramp proposed by Vice Mayor Vella and whether there are associated problems with said course of action.

The City Attorney responded the result depends on Council; stated Council could set forth objective criteria to pause implementation of the ordinance; Council can direct staff to bring back a first reading after creating a set of objective criteria.

Mayor Ezzy Ashcraft stated that she is intrigued by Vice Mayor Vella's inquiry; the rent moratorium ordinance passed at the beginning of the pandemic does not address advancements made since; Council has learned a lot in the interim; however, not everything is known about COVID-19; new variants are popping up and will continue; questioned whether a new variant could cause the Public Health Department to take extraordinary measures again; she is not sure how to include said possibility in the ordinance; inquired whether it is worth creating objective criteria.

The City Attorney responded as long as the local emergency remains in place, the City Manager has executive authority and could impose regulations subject to ratifications; stated the City Manager could implement the actions in the ordinance and bring it to Council for ratification as long as the local emergency is declared.

Vice Mayor Vella expressed concern about the notice provision and allowing groups to have an opportunity for input; stated there has been some input; however, the City should allow for enough notice time and clarify the notice dates; Council is trying to be mindful in its approach; the approach is similar to other jurisdictions trying to mitigate increases; expressed concern about what is unknown; stated there is an easing of mandates and restrictions; expressed support not creating language on the spot; stated that she would like staff to provide language,

which will allow time for conversation to occur with interested groups; the earliest increases would go into effect would be June 1<sup>st</sup>; the City Attorney provided workable solutions.

Mayor Ezzy Ashcraft inquired whether Vice Mayor Vella is proposing providing staff with direction to bring back the matter and not move forward at the current meeting, to which Vice Mayor Vella responded in the affirmative.

Councilmember Knox White stated the matter is not easy; the initial discussion occurred when the pandemic had just begun, people were being forced to stay in their houses and jobs were being shut down; he does not see a scenario in the next 6 to 9 months where the same will occur again even with future surges and variants; he did not imagine the rent moratorium lasting two years; Council should honor the 60 day notice; Council committed to allowing landlords to bank increases; public comment received from landlords and tenants suggests a middle ground has been found; expressed support for the ordinance and ensuring a 60 day notice; stated that he would also like to have a 60 day notice instead of allowing the banked AGA as soon as the pandemic is over; when the pandemic is over, everyone will know the AGA increases will not be available for another 60 days; if a landlord raises rent 2.7% in June, any other banked AGA cannot be used until the following June; the increase being available for use does not mean landlords can release the banked increases; the system and rules are in place to allow the more phasing; the faster Council allows the 2.7% increase, the less likely people will wait until September 1<sup>st</sup> when a larger AGA will be in place; the longer Council waits, the more likely landlords will wait until a higher AGA percentage occurs; expressed support for Council acting tonight; stated that he is not supportive of delaying the matter.

Mayor Ezzy Ashcraft expressed support for the additional 60 day notice before banked increases can occur; expressed concern about payment shock; stated the current situation is different than two years ago; there are vaccines.

Councilmember Herrera Spencer stated that she prefers an effective date of May 1<sup>st</sup>; she agrees with the comments provided by Councilmember Knox White; inquired whether there is a cap on how much landlords can use for banked rent increases.

The Interim Base Reuse Manager responded landlords can bank up to 8% and can implement increases that are based on the current year AGA plus up to 3%.

Councilmember Herrera Spencer expressed concern over how large the CPI will be with an additional 3%; stated it is appropriate to begin loosening the restriction; she is concerned about the increases since she is a renter; the increases will hit hard if the City does not allow for slow and gradual increases; it is appropriate to approve 2.7% now; staff's report is balanced and includes a lot of analysis to try to figure out how to unwind the matter without hitting tenants with a difficult increase.

Councilmember Daysog stated a number of renters and landlords are hurting during the pandemic; the staff recommendation is a middle-ground approach and is reasonable; the recommendation takes into consideration the concerns of renters and landlords; Council should begin to move forward with the matter; many other cities that have rent control have realized landlords cannot be hindered from performing economically; landlords and renters must cover costs.

Councilmember Daysog moved approval of staff's recommendation [introduction of the

ordinance], including the associated technical corrections.

Councilmember Knox White proposed a friendly amendment which includes a 60 day notice for banked AGA after the end of the local emergency.

Councilmember Daysog stated the notice is not currently included in the staff recommendation; expressed support for hearing from other Councilmembers.

Vice Mayor Vella inquired whether the 60 day notice would mean landlords have to wait 60 days to use the banked increase; whether a landlord waiting until the end of the local emergency could increase by 2.7% plus the next banked increase.

Councilmember Knox White responded landlords would bank the 2.7% and use the next AGA, plus up to 3% of the bank; the 2.7% would not be added to the increase and would go into the bank.

The City Attorney concurred with Councilmember Knox White.

Vice Mayor Vella inquired whether the total amount able to increase would be the 3% plus AGA, to which Councilmember Knox white responded in the affirmative.

Mr. Katz stated the most a landlord could impose at any given time would be the AGA at the time, plus 3% banked increase.

Councilmember Daysog outlined Councilmember Knox White's proposed motion amendment; inquired whether the process of the banked amount does not happen simultaneously, that the amount is increased 60 days later if there is an AGA rent increase, to which Councilmember Knox White responded in the negative.

The City Attorney stated there are a number of banking rules which remain in effect and create limitations on rent increases; one limitation is that there can only be a rent increase every 12 months; a landlord increasing rent in July prior to the pandemic ending, cannot increase rent again within 60 days of the pandemic ending; a landlord cannot increase rent twice within 12 months; landlords will have to wait until the 12 months is up before implementing another rent increase plus AGA.

Councilmember Daysog inquired the reason for having the 60 day notice for banked increases.

Councilmember Knox White responded a 60 day notice starts putting the use of the AGA out far enough that there is encouragement for landlords to use the 2.7% rent increase rather than sitting on a rent increase for months to utilize 5% plus 3%; the proposal encourages a phased in approach.

In response to Councilmember Daysog's inquiry regarding banked increases, Councilmember Knox White stated the 60 day notice pushes the increase out and banking still cannot be used until the end of the emergency.

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

Mayor Ezzy Ashcraft expressed support for the proposed 60 day notice.

Councilmember Herrera Spencer inquired whether staff considered the 60 day notice proposed by Councilmember Knox White.

The Interim Base Reuse Manager responded not exactly; stated that she is unclear whether the existing emergency ordinance includes the 60 day notice; the proposed change is new.

The Assistant City Attorney stated if Council approves the proposal from Councilmember Knox White, staff will need to add language to the ordinance clarifying the 60 day notice and delay of banked increases; the original ordinance does not have the language coupled with banked rent increases; the original ordinance 60 day notice applies to all rent increases; the new ordinance only addresses AGA rent increases and leaves out the proposed 60 day notice of banked rent increases.

Mayor Ezzy Ashcraft stated Council has worked hard trying to keep people housed; she would like to ensure the City is continuing along those lines; she understands that it is time to move forward.

Councilmember Herrera Spencer seconded 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: No; Vella: No; and Mayor Ezzy Ashcraft: No. Ayes: 2. Noes: 3.

Councilmember Knox White moved approval of the staff recommendation [introduction of the ordinance] with amendment that the use of banked AGA will not be available until 60 days after the rescission of the local emergency.

Councilmember Herrera Spencer inquired whether the May 1<sup>st</sup> date is part of the motion, to which Councilmember Knox White responded in the affirmative.

Councilmember Herrera Spencer seconded the motion.

Under discussion, Vice Mayor Vella inquired whether the City will be sending notifications and how the City will notify tenants about the changes to ensure timelines are understood.

Mr. Katz responded staff will provide a variety of outreach on the matter; stated staff will send out an e-newsletter to subscribers announcing the change and will put out a headline on the rent program website; staff will send out new maximum allowable rent increase letters to landlords and tenants.

Vice Mayor Vella expressed support for staff providing as much as possible to make it clear; stated multiple websites are available, which can be updated with information; she would like staff to streamline and find ways to clarify and provide an insert; expressed concern about staff only relying on the internet or emails; stated that she would like the information provided with enough time so that people do not scramble.

Councilmember Herrera Spencer expressed support for staff including information about how renters can qualify or sign up for assistance.



Councilmember Daysog stated that he will support the motion; the motion is in line with trying to work things out with different perspectives of landlords and tenants; two years of no rent increases is not sustainable for many; the proposed motion is reasonable and has middle-ground.

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.

(22-147) Introduction of Ordinance Authorizing the City Manager or Designee to Execute a First Amendment to the Lease with Park Street Wine Cellars, Inc., a California Corporation, for Approximately 700 Square Feet of Retail Space in the Historic Alameda Theatre Located at 2315 Central Avenue, Suite 122, to Provide Six Months of Rent Deferral with a Three-Year Repayment Period. Continued to March 15, 2022.

(22-148) Introduction of Ordinance Authorizing the City Manager or Designee to Execute a First Amendment to the Lease with Play House, LLC, a California Limited Liability Company, Doing Business as Director's Cut, for Approximately 1,850 Square Feet of Retail Space in the Historic Alameda Theatre Complex, Located at 2319 Central Avenue, to Provide a Six-Month Rent Credit and a Rent Reduction. Withdrawn and not heard.

(22-149) Adoption of Resolution Amending the Fiscal Year 2021-22 Budget; and

(22-149 A) Adoption of Resolution Amending the Alameda City Employees Association (ACEA) Salary Schedule to Add the Classification of Street Light Maintenance Technician; Amending The International Brotherhood of Electrical Workers (IBEW) Salary Schedule to Remove the Streetlight Technician; Upgrading Two Maintenance Worker II Positions To Streetlight Technicians, Effective March 12, 2022. Continued to March 15, 2022.

(22-150) Recommendation to Accept the Annual Report on the Climate Action and Resiliency Plan (CARP) and the Annual Report on Transportation. Withdrawn and not heard.

#### CITY MANAGER COMMUNICATIONS

(22-151) The City Manager discussed the removal of the indoor mask mandate, the City's 4<sup>th</sup> of July parade and the Point in Time Count.

#### ORAL COMMUNICATIONS, NON-AGENDA

None.

#### COUNCIL REFERRALS

(22-152) Consider Having the City Council Address the Zoning of the Harbor Bay Club. (Councilmember Herrera Spencer) Not heard.

(22-153) Consider Having the City Council Review Recreation and Parks Department Community Events. (Councilmember Herrera Spencer) Not heard.

(22-154) Consider Directing Staff to Bring the Rent Program “In-House” to the City Attorney’s Office. (Mayor Ezzy Ashcraft and Vice Mayor Vella) Not heard.

(22-155) Consider Adoption of Resolution Expressing Support for the “Brand-Huang-Mendoza Tripartisan Land Use Initiative” to Amend Article XI of the Constitution of the State of California to Make Zoning and Land Use Community Affairs, and Not of State Interest. Withdrawn and not heard.

#### COUNCIL COMMUNICATIONS

(22-156) Councilmember Herrera Spencer discussed the Point in Time Count.

(22-157) Mayor Ezzy Ashcraft discussed the Point in Time Count, a Bay Conservation and Development Commission (BCDC) Enforcement Committee meeting discussion related to abandoned vessels in the estuary, a joint meeting of the Alameda County Mayors and the Board of Supervisors to address homelessness, an interview held with consultants working on the three year strategic plan for Alameda Health Systems and a meeting of the City Council and Alameda Health Care District subcommittee.

#### ADJOURNMENT

There being no further business, Mayor Ezzy Ashcraft adjourned the meeting at 11:54 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

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