

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
TUESDAY- -JULY 1, 2014- -6:00 P.M.

The Special City Council Meeting was cancelled. The following Closed Session Items were not addressed:

(14-276) Conference With Legal Counsel -Existing Litigation (54956.9), Case Name: East Bay Regional Park District v. City of Alameda, Superior Court of the State of California, Alameda County Case No. RG12655685. Not heard.

(14-277) Conference With Legal Counsel – Anticipated Litigation, Initiation of litigation pursuant to subdivision (c) of Section 54956.9 Number of cases: One (As Plaintiff - City Initiating Legal Action). Not heard.

Lara Weisiger
City Clerk

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

MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY- -JULY 1, 2014- -7:00 P.M.

Mayor Gilmore convened the meeting at 7:10 p.m. Vice Mayor Ezzy Ashcraft led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers Chen, Daysog, Ezzy Ashcraft, Tam and Mayor Gilmore – 5.

Absent: None.

AGENDA CHANGES

None.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY & ANNOUNCEMENTS

(14-278) Proclamation Declaring June 29 through July 5, 2014 as Anthony “Lil” Arnerich Week. [610-40]

Mayor Gilmore read and presented the proclamation to Lil and Norma Arnerich.

(14-279) Presentation of Certificates of Service to Judith Lynch, Historical Advisory Board; Joseph Restagno and Bill Sonnenman, Recreation and Park Commission; and Jennifer Watkinson, Social Service Human Relations Board.

The City Clerk stated no one could attend the meeting to be recognized.

(14-280) Presentation of Award by the Alameda Architectural Preservation Society (AAPS) to Community Development Department.

Chris Buckley and Richard Reutter, AAPS, gave a Power Point presentation and presented a certificate to the Community Development Director.

ORAL COMMUNICATIONS

None.

CONSENT CALENDAR

Councilmember Tam moved approval of the Consent Calendar.

Vice Mayor Ezzy Ashcraft seconded the motion, which carried by unanimous voice vote – 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*14-281) Minutes of the Special City Council Meeting, Regular City Council Meeting, and the Joint City Council and Successor Agency of the Community Improvement Commission (SACIC) Meeting Held on June 3, 2014. Approved.

(*14-282) Ratified bills in the amount of \$2,392,304.88.

(*14-283) Recommendation to Award a Contract in the Amount of \$269,307 to National Plant Services, Inc. for Citywide Sewer Mains Video Inspection and Cleaning, Phase 7, No. P.W. 03-14-13. Accepted.

(*14-284) Recommendation to Adopt Plans and Specifications and Authorize a Call for Bids for the Repair of Concrete Sidewalk, Curb, Gutter, Driveway, and Minor Street Patching, FY14-15, Phase 15, No. P.W. 05-14-20. Accepted.

(*14-285) Resolution No. 14948, "Calling for a General Municipal Election to be Consolidated with the Statewide General Election to be Held in the City of Alameda on Tuesday, November 4, 2014 and Requesting the Alameda County Board of Supervisors to Permit the Registrar of Voters to Render Specified Services to the City Relating to the Conduct of Said Election Pursuant to Section 10403 of the Elections Code." Adopted.

(*14-286) Ordinance No. 3097, "Approving a Lease and Authorizing the City Manager to Execute Documents Necessary to Implement the Terms of a Lease with Pacific Automated, LLC Doing Business As Brix Beverage for Five Years with an Additional Five Year Option in a Portion of Building 25 Located at 1951 Monarch Street at Alameda Point." Finally passed.

REGULAR AGENDA ITEMS

(14-287) Resolution No. 14949, "Reappointing Madeline Deaton as a Member of the Public Utilities Board." Adopted.

Councilmember Tam moved adoption of the resolution.

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

The City Clerk administered the Oath of Office and presented Ms. Deaton with a certificate of appointment.

(14-288) Summary: Consider Updating the City's Development Impact Fees (DIF) and Related Sections of the Alameda Municipal Code Public Hearing to Consider Introduction of Ordinance Amending Alameda Municipal Code Chapter XXVII, Section 27-3 (Citywide Development Fees); Adding Section 27-4 (Alameda Point Development Impact Fees); Introduction of Ordinance Amending the Alameda Municipal Code by Amending Charter XXVII (Development Fees) by Repealing Section 27-2 (Police and Fire Fee Requirements) in Its Entirety and by Amending Chapter III (Finance) by Repealing Section 3-60 (Residential Dwelling Unit Tax) in Its Entirety; and Approving

Willdan Financial's City of Alameda Development Impact Fees Update and Nexus Study, dated June 2014.

The Assistant City Manager made brief comments.

James Edison, Willdan Financial, gave a Power Point presentation.

The Administrative Services Manager made brief comments.

Councilmember Daysog inquired whether the affordable housing numbers are attributable only to Alameda or include comparison cities.

Mr. Edison responded there is no way to show clearly the number given all variables; stated some jurisdictions have an in-lieu fee or subsidy to be paid to the City which allows affordable housing in another location; Alameda exempts projects with fewer than five units; to date, there has not been any case of an in-lieu fee being paid, as projects have all been exempt or too large to use the in-lieu fee option.

In response to Councilmember Daysog's inquiry, Mr. Edison stated a comparison could not be made with similar projects in other cities regarding the affordable housing component; when averaged, Alameda was higher because the calculations only included half of the cities which have an in-lieu fee option; the best option was to not show an average.

The Assistant City Manager stated not to include the in-lieu fee in the analysis is reasonable since it has not been used.

Mr. Edison continued the presentation.

The Public Works Administrative Management Coordinator discussed outreach and made a brief presentation.

Mayor Gilmore stated parks are a significant portion of the impact fee.

Councilmember Tam inquired how Alameda funds parks without Quimby Act fees that other cities have.

The Assistant City Manager responded parks would be funded by Development Impact Fees (DIF), grants, public/private partnerships like Leydecker Park, the general fund, and possibly the Capital Improvement Program (CIP).

Councilmember Tam inquired whether the City would have an opportunity to receive reimbursement of the DIF from future development.

Mr. Edison responded in the negative; stated the City cannot repay the general fund with impact fees; the funds have to be spent on facilities.

Councilmember Tam inquired whether debt financing can be repaid, to which the Assistant City Manager responded in the affirmative.

Councilmember Chen stated the impact fee for commercial is lower than residential to encourage commercial development for most of the City; inquired why the same concept is not applied to Alameda Point.

Mr. Edison responded commercial fees do not pay for parks or residential uses; stated Alameda Point is a whole infrastructure program, the analysis was a fair share exercise.

The City Manager stated the studies evaluate the program; residents use parks, commercial does not; Alameda Point is separate and any lease or sale revenue is required to go back to Alameda Point for 25 years; there are a different set of impacts.

Councilmember Daysog inquired whether the \$24.2 million DIF listed under public safety is flexible enough to accommodate animal shelter impacts, to which Mr. Edison responded in the affirmative; stated the CIP could be updated every five years depending on the changing needs.

Councilmember Daysog inquired whether there would be flexibility in the future to accommodate a Child Care Impact Fee at the Sports Complex, to which Mr. Edison responded in the affirmative; stated as long as the child care is use-related to the Sports Complex.

Councilmember Daysog commented that workers may view the availability of child care as an economic development tool.

Mr. Edison stated the child care element would be considered as part of a Recreation and Park facility.

Stated a DIF increase could have a negative impact on the development plan; discussed the impact of the 30% increase on property values; urged delaying taking action: Brock de Lappe, Alameda Marina.

Urged delaying taking action on the Alameda Point fees; stated that his residential development company did not have an opportunity to comment; suggested basing the fees on what the City wants to do in the next 30 to 40 years: Scott Roylance, William Lyon Homes.

Stated the Building Industry Association only had a few weeks to review the fees and requests the matter be continued for one month: Lisa Vorderbrueggen, Building Industry Association.

Mayor Gilmore inquired whether Ms. Vonderbrueggen is speaking from the perspective of home builders, to which Ms. Vonderbrueggen responded in the affirmative.

Expressed concern over property builders and stakeholders not having ample time to review the DIF study; urged more time be given to assess impacts: Robert McGillis, Architect, Alameda.

Stated the Government Relations and Economic Development Committee (GREDC) established by the Chamber of Commerce supports staff recommendation: Michael McDonough, Chamber of Commerce.

Urged the DIF not be delayed; stated Alameda will lose money: Robb Ratto, Park Street Business Association (PSBA).

Discussed multi-family housing: Bill Smith, Alameda.

Mayor Gilmore stated there is a difference between the impact fees of Alameda and Alameda Point; Alameda Point development fees are calculated on a per acre basis.

The City Manager concurred with the Mayor, stated Mr. Smith's assumptions regarding multi-family versus single family units do not hold.

The Community Development Director stated Mr. Smith is correct; an Affordable Housing/Unit Fee or Linkage Fee is charged for non-residential development to capture the impacts and need for affordable housing for new employees; however, the Nexus Study focused solely on the DIF and did not address the Linkage Fee which is a separate ordinance; the Linkage Fee is included in all fees assessed on non-residential development.

The Assistant City Manager noted the Nexus Study includes a commercial comparison.

Vice Mayor Ezzy Ashcraft inquired whether the Alameda Point piece could be bifurcated from rest of the City.

The Public Works Administrative Management Coordinator responded bifurcation is possible; however, the City would forego millions of dollars if the item is delayed to September.

Vice Mayor Ezzy Ashcraft stated there was a short window of time to complete the study and present it to Council; other cities have used a longer window.

The City Manager stated if Council decides to extend dialogue with the BIA, staff would recommend a moratorium on building permits until the fees are adopted so no money is left on the table, and everyone pays a fair share.

Vice Mayor Ezzy Ashcraft stated fees have not been increased for 13 years, a 60-day delay should not cause undue harm; that she has complete confidence in report, but encourages delaying approval in order to hear people have dialogue with the BIA.

Councilmember Daysog stated the fee increases are reasonable; Alameda is subsidizing the builders and he shares staff's perspective on moving forward; Alameda Point is not a new project; the City Manager has articulated the City's desire to move the Alameda Point project more quickly on a number of occasions and in trade publications; there was ample time for the BIA to inquire about the project.

Councilmember Tam left the dais at 8:46 p.m. and returned at 8:48 p.m.

Councilmember Chen stated that he does not support bifurcating the motion; updating fees is important; Alameda is hard pressed for funding resources; an RFQ was sent out for Alameda Point; developers should know the exact costs per acre; bifurcating is not fair to future developers and sends the wrong message; staff needs to be sensitive and aware of the developments already in the pipeline and do a better job of outreach.

Councilmember Tam inquired how many potential developers with projects in the pipeline attended the public meetings and how were they contacted.

The Public Works Administrative Management Coordinator responded there were at least two developers with projects in the pipeline at the public meeting; stated all developers were contacted via outreach to the Chamber of Commerce, commercial realtors, brokers, local developers, and by following up with the BIA; everyone was provided the same information.

The Community Development Director stated the initial outreach was with the Chamber of Commerce; staff sent information to the commercial brokers list which included at least two members of the BIA; a day after the public meeting, she personally phoned all home builders with active projects to give them a heads up; she personally presented the fees to the Economic Development Board of Realtors and Government Relations Committees.

Vice Mayor Ezzy Ashcraft inquired how many developers were contacted personally, to which the Community Development Director responded four key projects: 1) Andrew Warner, City Ventures, Oak Street and Hangstrom Project; 2) Grant Reid, Lennar Marina Cove II; 3) Scott Roylance, Boatworks; and 4) Del Monte.

In response to Vice Mayor Ezzy Ashcraft's inquiry, the Community Development Director stated Andrew Warner of City Ventures and a representative for Alameda Marina and Shipways attended the June 21st meeting.

In response to Councilmember Tam's inquiry, the Community Development Director stated the developers were aware of the initiative and are working with members of the BIA.

Councilmember Tam stated the letter and comments heard this evening indicate that the BIA would like their consultants to review the Nexus Study and delay adoption for 60 days; inquired whether the entire BIA agreed with this direction.

The Community Development Director responded stated she cannot answer the question for the entire membership; however, the homebuilders she spoke with directly were primarily focused on where their projects are in the pipeline and how the fees would affect their specific projects.

Councilmember Tam inquired how a moratorium on building permits would affect developers with projects already in the pipeline.

The Community Development Director responded the Marina Cove II project is the only one ready to pull permits; stated submitting a building permit is the cutoff to be grandfathered and not be impacted by the new fees.

In response to Councilmember Tam's inquiry, the City Manager stated a moratorium would not stop the entitlement process; staff does not recommend it, unless Council decides to postpone the approval; a moratorium should be in place until the issue can be resolved in order to protect the City.

Councilmember Daysog stated that he is concerned with the headline a moratorium would cause; no matter how it is parsed, it is not the message the Council wants to send about Alameda Point.

The City Manager stated a moratorium is not staff's recommendation, just a back-up position.

Vice Mayor Ezzy Ashcraft stated that she fully supports the proposed fees; the moratorium she is suggesting would only be for the rest of the Island.

In response to Councilmember Daysog's inquiry, the City Manager stated the City Clerk polled Council for their availability to meet on July 29th in the event the DIF issue needs to be amended or brought back.

The City Attorney stated an emergency interim moratorium could last 45 days; a moratorium done by ordinance can last more than 45 days but must have a first reading at a regularly scheduled meeting, which would be July 15th; the second reading could be done on July 29th.

Mayor Gilmore stated fees have not been raised in 13 years; that she is sympathetic to home builders, but Council will need to find a way to bridge the delta if the proposed fees are not approved; she is in favor of passing the fees, but if a Council majority decides to extend, she would only agree if there is an accompanying moratorium.

Vice Mayor Ezzy Ashcraft moved introduction of the Ordinance with a modification that the residential DIF for the main island be bifurcated with the condition that a moratorium, as explained by the City Manager and City Attorney, be in place until such time the issue returns, and the Alameda Point DIF proposal move forward.

The motion failed due to a lack of second.

Councilmember Daysog moved introduction of the ordinance.

Councilmember Chen seconded the motion, which carried by the following voice vote: Ayes: Councilmembers Chen, Daysog, Tam and Mayor Gilmore – 4. Noes: Vice Mayor Ezzy Ashcraft – 1.

(14-289) Resolution No. 14950, “Approving the 2014 Alameda County Transportation (ACT) Expenditure Plan and Recommendation to the Alameda County Board of Supervisors to Place a 30-Year Extension and Augmentation of the Existing Transportation Sales Tax on the November 4, 2014 General Election Ballot.” Adopted.

Arthur Dao, Alameda County Transportation Commission (ACTC), made brief comments; and Tess Lengyel, ACTC, gave a Power Point presentation.

The City Manager noted work was done by the City Auditor and Treasurer’s Fiscal Sustainability Task Force; the new measure would double the amount of money going to local roads from the County to the City, which is a sizeable increase and dovetails nicely with the City’s plan for upgrading storm sewers and other facilities.

In response to Councilmember Chen’s inquiry, Mr. Dao stated Alameda is currently operating on one-half cent sales tax; if voters approve an increase in November, the sales tax would increase to one cent, effective April 1, 2015 through 2045; the Council is approving the plan, not how it is funded.

Councilmember Chen stated that he likes that almost \$1 billion is being allocated for much needed affordable transit for youth and seniors.

Councilmember Tam stated the Cities of Livermore, Dublin, and Pleasanton all fell short in securing 66.7% voter approval for the measure in 2012; their Councils were supportive then and now; inquired what is different that the cities were able to secure the votes this time around.

Mr. Dao responded ACTC learned a lesson in 2012 and is more organized; stated education and outreach in the Tri Valley is more robust; ACTC has made \$1.3 billion in transportation improvements in the Tri Valley alone and are making sure the policy makers and voters understand the benefits.

Ms. Lengyel stated there was no sunset date in 2012; voters were more comfortable having a sunset date which gives assurances that the tax does not last forever.

Vice Mayor Ezzy Ashcraft stated that she agrees with having a sunset date; the economy has improved since 2012; she is hopeful meet the threshold ACTC needs.

Councilmember Daysog requested a summary of the Broadway/Jackson improvements contemplated and the \$75 million set aside for the project.

Mr. Dao stated there is no decision on the terms of the project's scope; essentially, the project is beyond freeway improvement; ACTC will continue to work towards a solution with Oakland and Alameda to take care of traffic issues; ACTC is committed to achieving environmental clearance in three years.

Ms. Lengyel noted Alameda Point is mentioned as part of the project description.

Mayor Gilmore thanked ACTC staff; stated it is enlightening to hear the concerns of Oakland and China Town and to see how efficient ACTC staff is; that she is confident the Broadway/Jackson project will move forward in the proposed timeline.

Councilmember Chen inquired whether the free estuary crossing is funded by ACTC.

The Public Works Director responded the shuttle is funded through 2015; Alameda is currently looking for grant funds to go beyond 2015.

Councilmember Chen inquired whether funds for the shuttle are coming out of Measure B, to which the Public Works Director responded in the negative.

Mr. Dao stated ACTC is conducting a comprehensive transit study and has made efforts to write the shuttle into the expenditure plan so that it can be eligible for funding out of the \$300 million community development project funding.

The Public Works Director gave a Power Point presentation.

Expressed support for the measure: Mary Lim-Lampe, Genesis; and Reverend Krista Fregoso, Genesis and St. John's Episcopal.

Vice Mayor Ezzy Ashcraft moved adoption of the resolution and approval of the staff recommendation.

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

(14-290) Introduction of Ordinance Approving a Lease and Authorizing the City Manager to Execute Documents Necessary to Implement the Terms of the First Lease Amendment with Environmental Management Services for Twelve Months in a Portion of Building 7, Suite 103 and 112 Located at 851 West Midway Avenue at Alameda Point. Introduced.

The Economic Division Manager gave a brief presentation.

Councilmember Tam moved introduction of the ordinance.

Vice Mayor Ezzy Ashcraft seconded the motion which carried by unanimous voice vote – 5.

Mayor Gilmore called a recess at 9:39 p.m. and reconvened the meeting at 9:50 p.m.

(14-291) Introduction of Ordinance Adopting the Alameda Point Waterfront Town Center Plan. Introduced.

The City Planner gave a Power Point presentation.

Councilmember Chen inquired whether the 500 acres of nature preserve include Building 25, to which the City Planner responded in the negative.

Councilmember Daysog inquired whether Alameda citizens have proposed specific language about prioritized wetland creation at Seaplane Lagoon/de-pave park, to which the Chief Operating Officer – Alameda Point responded in the negative.

Councilmember Tam inquired whether the 500 acre nature reserve is Alameda's designation or Federal designation, to which the Chief Operating Officer – Alameda Point responded it is Alameda's designation.

Councilmember Tam inquired whether property was conveyed to U.S. Fish and Wildlife Service (USFWS).

The Chief Operating Officer – Alameda Point responded in the negative; stated the Navy planned to convey the land to USFWS, but negotiations fell through because of landfill liability issues; the Veterans Administration (VA) stepped forward, is willing to accept liability issues and are now the recipients of the land; the USFWS has a biological opinion with strict measures, which restricts the VA from doing anything on the property; the USFWS does not want to upset the delicate environment for the least tern.

In response to Councilmember Tam's inquiry, the Chief Operating Officer – Alameda Point stated the USFWS did not recommend creating wetlands from the area, the wetlands just exist.

The City Planner continued the presentation.

Mayor Gilmore thanked staff for the presentation; stated the huge project has been years in making; thanked the public and the Planning Board.

In response to Councilmember Daysog's inquiry, the City Planner stated the Enterprise District is not subject to the plan; Council already approved a Master Infrastructure Plan (MIP) for the whole base; the Plan supports the MIP.

The Chief Operating Officer – Alameda Point added the plan also implements zoning and creates two sub-districts that need greater attention with more specific detail; the plan finishes entitlements for the district; the Enterprise District is more commercial and not required to have the same level of detail in the plan.

Councilmember Chen inquired whether there are any plans to reserve DIF for wetland creation.

The Chief Operating Officer – Alameda Point responded in the affirmative, stated the DIF has \$79 million allocated for parks and open space at Alameda Point; the Recreation and Park Commission did not recommend any changes to the Plan.

Stated that she is excited about the Plan, but concerned the wetland space will not come to fruition; suggested including a timeline and osprey nest: Leora Feeney, Alameda.

(14-292) Vice Mayor Ezzy Ashcraft moved approval of considering the Report on the Initiative Measure [paragraph no. 14-294], the Fiscal Responsibility Measure [paragraph no. 14-295] and the Resolution establishing Integrated Waste Collection Ceiling Rates [paragraph no. 14-296] after 10:30 p.m.

Councilmember Chen seconded the motion, which carried by the following voice vote: Ayes: Councilmembers Chen, Daysog, Ezzy Ashcraft and Mayor Gilmore – 4. Noes: Councilmember Tam – 1.

Expressed concern over retaining Building 25 while setting a goal to remove pavement: Richard Bangert, Alameda.

In response to Mayor Gilmore inquiry regarding removing pavement, Mr. Bangert stated staff has to be committed to look into methods, costs and funding; a Wetland Mitigation Bank could be created for Alameda Point which would give value to the land; credits from the bank could be sold to developers to mitigate development.

Mayor Gilmore stated there are other projects in the Plan, such as a Sports Complex; inquired about prioritization.

Mr. Bangert responded staff should have a public workshop to discuss priorities; stated there is a big difference between construction of a Sports Complex versus removing pavement.

Expressed support for the Planning Board recommendations regarding the western edge of the Sea Plane Lagoon; urged the City to seek cost information: Irene Dieter, Alameda.

Commended everyone supports the Plan; discussed the importance of wetlands; suggested less intensive, quieter use: William Smith, Alameda.

Stated Building 25 should be removed to create continuity with the wetlands behind the building; expressed concern over impacts of the ferry service on slips and wetlands: former Councilmember Doug deHaan, Alameda.

Vice Mayor Ezzy Ashcraft complimented staff on the report; stated that she met with Irene Dieter and Richard Bangert; projects are done in phases but there is not enough funding for all the projects; prioritizing projects is determined by many factors; the Building 25 tenant has a lot of capital investment in the building and she is hesitant to cast aside a \$250,000 revenue stream; creating wetlands is not a priority, to do so will remove a revenue stream and sends a message she cannot support; inquired whether the sea level rise would eventually address what happens to Buildings 25 and 29.

The Chief Operating Officer – Alameda Point responded in the affirmative for Building 29; stated Building 29 is zoned open space, is currently used for interim leasing and generates \$30,000 lease revenue annually; once the park is funded, leasing would cease; the Planning Board wanted to include language that Building 25 would be removed by the end of build-out of the Plan; staff was against including said language because it would be premature to cut off a revenue source until funding for the park is found; excluding the language preserves the flexibility for continued revenue.

Vice Mayor Ezzy Ashcraft stated having flexibility is compelling; inquired whether language change come back at a later time, to which the Chief Operating Officer – Alameda Point responded in the affirmative; stated the Council has the ultimate decision to rezone land.

Councilmember Daysog stated the entitlement phase of the waterfront area is coming to a close; Alameda is ready to move forward; the Request for Proposals (RFQ) process has started; the plan gives enough details and ideas to allow future developers a great starting framework; suggested creating a mechanism to fund depaving from the revenue-generating buildings within close proximity to the park.

(14-293) Councilmember Chen moved approval of continuing past 11:00 p.m.

Councilmember Daysog seconded the motion, which carried by the following voice vote: Ayes: Councilmembers Chen, Daysog, Ezzy Ashcraft and Mayor Gilmore – 4. Noes: Councilmember Tam – 1.

Councilmember Chen stated that he supports the plan; suggested creating a funding reserve by setting aside a portion lease revenues from Building 25; stated the reserve could be used to hire a consultant to create a plan for wetlands and see whether or not wetlands are feasible; he would like to add language giving Council and staff time to reevaluate Building 25 after the park is funded and language which directs staff to work with the community to come up with funding sources for the park; in terms of prioritizing, Alameda has over 20 parks, he would like to see the wetlands.

Mayor Gilmore inquired whether existing language allows Council to reevaluate the existence of Building 25 at any time, to which the Chief Operating Officer – Alameda Point responded in the affirmative.

In response to Mayor Gilmore's inquiry regarding lease revenues, the Chief Operating Officer – Alameda Point stated the fund balance is tight and Alameda needs a long term sustainable budget approach.

Mayor Gilmore inquired whether there is room in the budget to sequester a portion of lease revenues.

The Chief Operating Officer responded staff does not recommend creating a reserve fund; the budget is already tight; there is no need to hire a consultant as cost estimates have already been done and a consultant's scope of work could be accommodated by staff; creating a reserve fund may set a precedent and will impact the budget.

Councilmember Daysog stated the language does not need to be as prescriptive as he originally stated and could be included in the financing strategy; the language could be open ended and just indicate that the creation of wetlands should be investigated.

The Chief Operating Officer – Alameda Point concurred with Councilmember Daysog; stated including language regarding wetlands creation in the financing strategy is a great idea; enhancing existing wetlands is preferred over creating new wetlands, which involves an onerous permitting process; that she is happy to work cooperatively with the community to find funding sources.

Councilmember Tam stated flexibility and accountability for future Councils is important; her department at East Bay Municipal Utilities District (EBMUD) manages wetlands mitigation banks; finding buyers is difficult since habitats take a lot of initial funding; designation of the land as wildlife refuge is an option.

The Chief Operating Officer – Alameda Point suggested including language in the conceptual financing strategy that staff will explore creative funding opportunities, including wetland mitigation banks, potential designation as national wildlife refuge and other opportunistic and creative strategies.

Councilmember Chen stated if a reserve fund is not feasible, there should at least be a draft plan for wetland creation; that he would also like language added that Building 25 be reevaluated when the park is fully funded.

Councilmember Daysog stated that he is wary of being overly prescriptive; being too specific on items happening far into the future would tie the hands of a future Council.

Mayor Gilmore stated that she concurs with Councilmember Daysog; when the park becomes fully funded, it will be logical and obvious for a future Council to determine what to do.

Vice Mayor Ezzy Ashcraft concurred with Mayor Gilmore and Councilmember Daysog; stated many developers have implied that they would take Building 25 out and it does not to be included in a specific plan; that she does not want to tie future Council's hands.

Councilmember Daysog moved staff recommendation to adopt specific plan; inquired whether the revised language needs to be drafted now.

Mayor Gilmore inquired whether Councilmembers Daysog and Tam's comments were direction to staff or actual language.

Councilmember Daysog responded his comments were actual language he wants to add.

The Chief Operating Officer – Alameda Point suggested the recommendation should be to adopt the plan including the Planning Board recommendations with the exception of Building 25, and adding language to address creative funding opportunities in concert with the community.

The City Attorney stated if the language the Chief Operating Officer – Alameda Point suggested is acceptable to the Council, it is on the record and staff can draft the language, which will be passed at the second reading.

The Chief Operating Officer – Alameda Point stated changing the plan is not simple, staff would have to create an addendum sheet and attach to the revised ordinance for a second reading.

Councilmember Daysog clarified that his motion is to approve introduction of the ordinance.

Vice Mayor Ezzy Ashcraft inquired whether Council was modifying the ordinance.

The City Attorney responded in the affirmative; stated Council is approving the ordinance with the addendum sheet.

Councilmember Daysog clarified this motion is to approve introduction of the ordinance with an addendum to address creative funding opportunities in concert with the community.

Vice Mayor Ezzy Ashcraft seconded the motion.

On the call for the question, the motion carried by the following voice vote: Ayes: Councilmembers Daysog, Ezzy Ashcraft, Tam and Mayor Gilmore – 4. Noes: Councilmember Chen – 1.

(14-294) Recommendation to Receive the Report on the Initiative Measure to Amend City of Alameda General Plan including the 2007-2014 Housing Element and the Zoning Ordinance to Classify Approximately 3.8999 Acres of Land Adjacent to McKay Avenue as Open Space and Consider Options: Option 1 - Adopt the Ordinance; or Option 2 - Adopt a Resolution Submitting the Ordinance to the Voters, Decide Interest in Drafting Arguments and Direct City Attorney to Prepare Impartial Analysis.

The Report on the Initiative Measure and the Fiscal Responsibility Measure [paragraph no. 14-294] were addressed together.

The City Attorney gave a brief presentation on the initiative measure and the fiscal responsibility measure; provided copies and outlined corrections to the ordinances and resolution.

Mayor Gilmore inquired what clarification needs to be made if Council places the measure on the ballot.

The City Attorney responded if Council chooses to adopt the open space initiative, staff recommends language changes to the ordinance: “without alteration” should be added after “The City Council hereby adopts...” and “The City Council shall be authorized to take such measures including, but not limited to, suspension or stay of the effectiveness of the initiative ordinance as are necessary to mitigate any other possible detrimental impacts.”; the changes ensure consistency in the language and conform to the requirements of the law.

Urged more serious analysis of the initiative; stated placing the initiative on the ballot with no analysis of the risk is irresponsible; that does not support a companion measure: Jane Sullwold, Friends of Crown Beach.

Stated the issue spun out of control; legal costs continue to accumulate; urged adoption of the measure without a companion measure: former Councilmember Doug deHaan, Alameda.

Urged adoption of the initiative or placing the initiative on the ballot without companion measure: Irene Dieter, Alameda.

Stated Council would be responsible for any litigation costs that occur from the initiative:
former Councilmember Karin Lucas, Friends of Crown Beach.

Stated Neptune Point does not need to be housing to meet the Housing Element target:
Jim Smallman, Alameda.

Stated that he opposes the companion measure; which would bring a lot of opposition from the environmental community: William Smith, Alameda.

Stated that he supports the initiative; the compelling need for a companion measure should be clearly explained to the voters: Harry Reppert, Alameda.

Mayor Gilmore stated Council has received briefings from the City Attorney in closed session on the matter; Council understands the initiative, the companion measure and the ramifications of each; addressed the last speaker, stated the necessity for a companion measure is the City may be forced to pay to defend a lawsuit or a judgment in a lawsuit; Alameda is already struggling to find money for existing parks, paying for another park is not in budget; the fiscal responsibility measure ensures the City's General Fund is protected.

Councilmember Daysog stated the issue is important; if Council adopts the initiative with a companion measure, and the City is sued, the Council would not just raise taxes, but would decide to reprogram General Fund dollars because it is the will of the people; that he supports adopting the initiative tonight.

Councilmember Chen concurred with Councilmember Daysog; stated that he is in favor of adopting the initiative, without any alternation or modification; that he has reservations about a companion measure.

Councilmember Tam concurred with Councilmembers Daysog and Chen regarding the initiative; stated Council should adopt the initiative; after eight years on the Council, she has learned the best way to be silenced is to be sued as it becomes difficult for the Council to explain preferences and views; concurred with speakers that a companion measure does not grant any more authority to the Council that it does not already have; however, the ordinance lets the public know Council's intent and accountability in carrying out its fiduciary responsibilities.

Vice Mayor Ezzy Ashcraft concurred with Councilmember Tam; stated adopting the open space initiative with a companion measure is prudent; inquired whether Council should consider any more specific language to protect the City's interests.

The City Attorney responded in the affirmative; stated the companion measure does allow an avenue for potential actions for Council, including, but not limited to, stay or suspension of the initiative.

Councilmember Daysog inquired whether the additional language to stay or suspend the initiative is an option the Council can exercise if a lawsuit is filed and the City has to deal with fiscal impacts through options such as property taxes, sales taxes, and reprogramming General Fund money; to which the City Attorney responded in the affirmative.

Mayor Gilmore concurred with her colleagues; stated the benefit of adopting the initiative is acknowledging the will of the people; if Council is not sued after 120 days, the property is rezoned to open space; if there is a lawsuit, the Council has authority to manage the fiscal impact of a lawsuit; a primary goal of the Council is to do what is best for the City and protect the General Fund.

Vice Mayor Ezzy Ashcraft moved approval of receiving the report and introduction of the ordinance.

Councilmember Tam inquired whether the motion included the amendment to the ordinance, to which Vice Mayor Ezzy Ashcraft responded in the affirmative.

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

(14-295) SUMMARY: Approve Actions Related to Proposed Alameda Open Space Fiscal Responsibility Measure.

Recommendation to Consider Options Pertaining to the Alameda Open Space Fiscal Responsibility Ordinance Pertaining to the Initiative Measure to Amend City of Alameda General Plan Including the 2007-2014 Housing Element and the Zoning Ordinance to Classify Approximately 3.8999 Acres of Land Adjacent to McKay Avenue to Open Space: Option 1 - Adopt the Ordinance; Option 2 - Adopt a Resolution Submitting the Measure to the Voters, Decide Interest in Drafting Arguments and Direct City Attorney to Prepare Impartial Analysis; or Option 3 - Take No Action.

For the discussion, refer to the Report in the Initiative Measure [paragraph no. 14-294].

Councilmember Daysog moved approval of option 1: introduction of the ordinance with amendments to include language regarding reprogramming the General Fund: “the City Council cuts services or modifies the City Budget in an amount sufficient to pay the judgment and all accrued interest thereon; pay all legal fees associated with defending the claim and lawsuit, make any required improvements to the property and pay for necessary maintenance of the property.”

Vice Mayor Ezzy Ashcraft seconded the motion, suggested including the amendment regarding Council’s ability to “suspend or stay” the initiative in the event of inverse condemnation.

Under discussion, Councilmember Daysog inquired whether the changes the City Attorney suggested are conforming changes, to which the City Attorney responded in

the affirmative; stated change were made for consistency and clarity.

Councilmember Tam noted the changes will be included for the second reading.

In response to Mayor Gilmore's inquiry, the City Attorney stated the second reading of the Ordinance would be July 15th and the initiative would become effective in 30 days, which is August 14, 2014.

Councilmember Chen stated that he would not support the motion; stated the additional language has not been vetted by the community; he prefers to delay the initiative, but understands delaying is not an option.

On the call for the question, the motion carried by the following voice vote: Ayes: Councilmembers Daysog, Ezzy Ashcraft, Tam and Mayor Gilmore – 4. Noes: Councilmember Chen – 1.

(14-296) Public Hearing to Consider Resolution No. 14951, "Establishing Integrated Waste Collection Ceiling Rates and Service Fees for Alameda County Industries, Inc. (ACI) for Rate Period 13 (July 2014 to June 2015)." Adopted.

The Administrative Services Manager and Marva Sheehan, Hilton Farnkopf & Hobson (HF&H), gave a Power Point presentation.

Stated PSBA is in support of the rate increase; thanked ACI for working with PSBA: Robb Ratto, PSBA.

Councilmember Tam moved adoption of the resolution.

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

CITY MANAGER COMMUNICATIONS

None.

COUNCIL REFERRALS

None.

ORAL COMMUNICATIONS, NON-AGENDA

None.

COUNCIL COMMUNICATIONS

(14-297) Councilmember Daysog stated that he attended the League of California Cities

Housing and Community Development Meeting; discussed progress on massage parlor laws.

(14-298) Councilmember Tam stated that she attended the League of California Cities Environmental Quality Policy Committee meeting and briefing about the Governor's budget.

(14-299) Mayor Gilmore reminded the public about the Fourth of July Parade.

ADJOURNMENT

There being no further business, Mayor Gilmore adjourned the meeting at 12:56 a.m.

Respectfully submitted,

Lara Weisiger
City Clerk

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