

MINUTES OF THE REGULAR CITY COUNCIL MEETING  
TUESDAY- -OCTOBER 6, 2015- -7:00 P.M.

Mayor Spencer convened the meeting at 7:01 p.m. Lena Clem led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers Daysog, Ezzy Ashcraft, Matarrese, Oddie and Mayor Spencer – 5.

Absent: None.

AGENDA CHANGES

(15-572) Mayor Spencer announced that City Manager communications would be heard before Special Orders of the Day.

CITY MANAGER COMMUNICATIONS

(15-573) The Interim City Manager announced the Rent Review Advisory Committee (RRAC) Ordinance went into effect on October 1st; stated all rent increases have to be accompanied by notice informing tenant of the RRAC and property owner participation is mandatory; City Attorney staff are receiving RRAC complaints in Room 360 tonight; announced a Special City Council meeting would be held on Wednesday, November 4th at 7:00 p.m. to address the housing affordability crisis; a Job Fair sponsored by the City is scheduled on Wednesday, October 14th from 10 a.m. to 3:00 p.m. at South Shore Center.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(15-574) Mayor Spencer made an announcement regarding noise associated with Fleet Week.

(15-575) Presentation of Certificates of Service to Peter Horikoshi and Linda McHugh, Civil Service Board; Steve Fort, Kelly Harp and Audrey Lord-Hausman, Commission on Disability Issues; Jeffrey Wood, Golf Commission; Mike Hartigan and Gail Wetzork, Library Board; Dania Alvarez and Stanley Tang, Planning Board; Gregory Hamm, Public Utilities Board; Lola Brown and Ann Cooke, Recreation and Park Commission; Karen Miller, Rent Review Advisory Committee; and Henry Villareal, Social Service Human Relations Board.

Mayor Spencer presented the certificates to Mr. Horikoshi, Ms. McHugh, Mr. Fort, Mr. Wetzork, Mr. Tang, Mr. Hamm, and Ms. Cooke.

(15-576) Proclamation Recognizing Public Power Week, October 4 through 10, 2015: A Week-Long Celebration of Alameda Municipal Power's Year-Round Service to the City of Alameda.

Mayor Spencer read and presented the proclamation to Mary Sutter, Public Utilities Board President.

Ms. Sutter made brief comments.

(15-577) Proclamation Declaring October 7, 2015 as Walk and Roll to School Day.

Dr. Shirley Clem and Erin Ashworth-Breidinger from Otis School made brief comments.

Mayor Spencer read and presented the proclamation to Dr. Clem.

Mayor Spencer stated that she wanted to emphasize Walk and Roll to School Day is an international event.

Councilmember Oddie stated that he will be participating at Bay Farm School.

Councilmember Ezzy Ashcraft stated that she would love the event to be longer than just a day; the community would be healthier and have less traffic; she will be participating at Lum Elementary and Wood Middle Schools.

Dr. Clem stated Walk and Roll activities continue throughout the school year.

Councilmember Daysog stated that he will be participating at Paden Elementary School.

Mayor Spencer stated that she will participate at Maya Lin Elementary School.

(15-578) Presentation on Green Certifications for City of Alameda Buildings.

The Interim Public Works Director, Pam Evans, Alameda County, and the Public Works Program Specialist gave a brief presentation.

#### ORAL COMMUNICATIONS, NON-AGENDA

(15-579) Annette Zielinski, Alameda Renters Coalition (ARC), discussed her rental increases; urged action be taken.

(15-580) Catherine Pauling, ARC, urged Council to take action on a moratorium on notices to vacate and rent increases; expressed concern over the RRAC meeting not being held last night; stated the longer the City delays, more cities are impacted; urged the Council to take action.

(15-581) John Klein, ARC, stated California Apartment Association has indicated a 10% increase is not reasonable; 10% is the RRAC's target; urged Council to be more open and forthcoming; expressed concern over the Council having experience, yet not enacting a moratorium.

(15-582) Nikki Poosh, Alameda, discussed her rental increases; stated something has to be done; urged a moratorium be adopted.

### CONSENT CALENDAR

Mayor Spencer announced that the minutes [paragraph no. 15-583] and the recommendation to reject bids [paragraph no. 15-585] were removed from the Consent Calendar for discussion.

Councilmember Ezzy Ashcraft moved approval of the remainder of the Consent Calendar.

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

(15-583) Minutes of the Special and Regular City Council Meetings Held on September 1, 2015.

The City Clerk noted Council was provided expanded language for a motion in the September 1, 2015 regular meeting minutes.

Councilmember Oddie moved adoption of the minutes as corrected.

Vice Mayor Matarrese seconded the motion.

Under discussion, Councilmember Ezzy Ashcraft requested task be pluralized in the second paragraph.

On the call for the question, the motion carried by unanimous voice vote – 5.

(15-584) Bills ratified in the amount of \$3,488,873.91.

(15-585) Recommendation to Reject All Bids and Authorize a Call for Rebid for the Demolition and Clean-up of Vacant Apartment Buildings Located at Orion Street, West Tower Avenue and Stardust Place at Alameda Point.

Councilmember Ezzy Ashcraft inquired what will be done differently in issuing the request for proposal (RFP) to avoid non-responsive bids.

The Economic Development Division Manager responded the redrafted bid language has more, clear detail on what would disqualify a bidder.

In response to Councilmember Ezzy Ashcraft's inquiry, the Economic Development Division Manager stated bids were deemed non-responsive because disposal costs

were not included; the City experienced contract problems in the past regarding disposal; some bidders wanted to revise bids; staff decided to issue a new RFP with very clear criteria about what would disqualify a bidder.

Councilmember Ezzy Ashcraft inquired how the buildings would be secured during demolition, to which the Economic Development Division Manager the buildings have all been fenced; fencing will be taken down in phases when demolition takes place.

Councilmember Ezzy Ashcraft stated that she does not want to make the demolition areas an attractive nuisance; inquired how fast the demolition would be done and whether higher fences or more patrol would be present.

The Economic Development Division Manager responded demolition sites have been cleaned out a lot; debris has been removed and trash has not re-accumulated; stated extra security patrol will be in place during demolition.

Councilmember Ezzy Ashcraft moved approval of the staff recommendation.

Vice Mayor Matarrese seconded the motion.

Under discussion, Councilmember Oddie inquired whether spending \$1 million on the demolition is anticipated, to which the Economic Development Division Manager responded bids will come back near \$500,000.

In response to Councilmember Oddie's inquiry, the Economic Development Division Manager stated staff will know whether the Alameda Point fund balance could cover the demolition project when the contract is awarded and it comes to Council for approval.

On the call for the question, the motion carried by unanimous voice vote – 5.

(15-586) Recommendation to Award a Contract in the Amount of \$2,350,385, Including Contingency, to Mountain Cascade, Inc., for Construction of Group 2 - Sewer Pump Station Renovations for Reliability and Safety Improvements Project, No. P.W.03-14-10. Accepted.

(15-587) Resolution No. 15090, "Authorizing the Interim City Manager to Submit a Request to the Metropolitan Transportation Commission for the Allocation of \$65,000 in Fiscal Year 2015-16 per Transportation Development Act Article 3 for Pedestrian/Bicycle Project Funding and to Execute All Necessary Documents." Adopted.

## REGULAR AGENDA ITEMS

(15-588) Presentation of Alameda Free Library Fiscal Year 2014-15 Annual Report.

The Library Director gave a Power Point presentation.

(15-589) Recommendation to Accept \$2,205,300 Grant from the Staffing for Adequate Fire and Emergency Response (SAFER) Program and to Amend the Fire Grants Fund Budget for Fiscal Year 2015-16.

The Fire Chief gave a brief presentation.

Vice Mayor Matarrese stated that he would like to approve acceptance of the grant; he would also like to prepare for when Alameda does not receive the grant or the full amount; there may be other more needy communities.

Councilmember Ezzy Ashcraft stated the Fire Chief confirmed the savings are \$500,000 annually; Firefighters work overtime; injuries and medical disabilities are also important costs; she is prepared to support accepting the SAFER grant.

Mayor Spencer inquired whether the 2011 SAFER grant was for 2 years, to which the Fire Chief responded in the affirmative; stated the grants are 2 years of funding; stated the Fire Department has been able to extend the funds beyond 2 years because each Fire Fighter only gets paid 40% while attending the five month Academy.

Mayor Spencer inquired whether the City applied in 2013 or 2014. The Fire Chief responded the full time Fire Fighter positions were filled in 2013 and 2014; stated the grant from 2009 and 2011 covered costs; SAFER grants expire and the City is short on people; gaps are filled with overtime costs.

Mayor Spencer inquired whether the 2014 grant was denied, to which the Fire Chief responded in the negative; stated staff has just been waiting to hear from the SAFER program.

Councilmember Oddie moved approval of the staff recommendation to accept \$2,205,300 Grant from the SAFER Program and to amend the Fire Grants Fund Budget for Fiscal Year 2015-16.

Councilmember Ezzy Ashcraft seconded the motion.

Under discussion, Councilmember Daysog stated the City has 75,000 residents and is growing slowly; demand for services continue; on the revenue side, things are not always readily available; the City is always scrambling; he supports accepting the grant.

Vice Mayor Matarrese stated that he would like to amend motion to include direction for staff to present a contingency plan to the Council if the grant is not renewed.

Councilmember Ezzy Ashcraft requested input from staff on how to move forward with Vice Mayor Matarrese's request.

The Interim City Manager stated she would discuss staffing and service level with the Fire Chief.

Councilmember Ezzy Ashcraft stated that she is concerned the motion should be cleaner.

Mayor Spencer suggested bifurcating the issues and going forward with Councilmember Oddie's motion.

Councilmember Oddie stated the proper time to discuss the issue would be during budget review.

The Fire Chief stated evaluation of the Fire Department staffing plan is ongoing; that he will draft a staffing plan with reduced personnel to show the impacts on service levels.

Mayor Spencer stated that she would like to proceed with Councilmember Oddie's motion and circle back to Vice Mayor Matarrese's request.

Councilmember Daysog stated the Fire Department had to be subject to tough staffing decisions when there is a shortfall in funding; Alameda will always need some level of staffing to accommodate 75,000 people.

On the call for the question, the motion carried by unanimous voice vote – 5.

Mayor Spencer inquired whether Vice Mayor Matarrese wanted to make a motion.

Councilmember Oddie stated that he is concerned Council is discussing staffing issues not on the agenda.

Councilmember Ezzy Ashcraft stated Council could just give direction to staff instead of making a motion.

Mayor Spencer stated she does not think Council is discussing staffing levels; requested Vice Mayor Matarrese to clarify.

Vice Mayor Matarrese stated that he does not want to wait for the budget review; he wants to be prepared with a strategy that could be analyzed in advance; he would like to avoid having to make tough staffing decisions which is the problem that arises.

Councilmember Ezzy Ashcraft concurred with Vice Mayor Matarrese; stated that she would like the issue to return to Council; she would like to hear further discussion rather than make a motion and vote on it tonight; she would support giving direction to staff.

The Interim City Manager stated a consensus is needed.

Councilmember Daysog stated staff should be able to take the time to let Council know if different funding is being contemplated; discussion about a new approach is not necessary; suggested Vice Mayor Matarrese work with staff on his idea and return to the Council.

Vice Mayor Matarrese stated he is not the expert; Council hires experts to address the issues; he just wants to be prepared.

Councilmember Daysog stated the approach would be the same in the event the Fire Department does not get the SAFER grant in 2 years; special discussion on how to deal with uncertainty is not needed.

Mayor Spencer concurred with Councilmembers Daysog and Oddie; stated there is already a process; perhaps Council could hear from staff by 2017; it is premature to prioritize the matter.

Councilmember Ezzy Ashcraft stated that she did not mean to say prioritize the issue; she just meant staff could look into the matter; celebration is in order for receiving the grant; to Vice Mayor Matarrese's point, it is good to not be complacent.

Mayor Spencer stated there is no consensus to follow Vice Mayor Matarrese's request.

(15-590) Introduction of Ordinance Amending the Alameda Municipal Code by Amending Various Sections of Article VIII (Sunshine Ordinance) in Chapter II (Administration) and Adding New Sections 2-90.3, 2-90.4 and 2-91.18 Concerning Local Standards to Ensure Public Access to Public Meetings and Public Records. Not introduced.

The Assistant City Attorney gave a Power Point presentation.

In response to Mayor Spencer's inquiry regarding Section 2-91.6(e), the Assistant City Attorney stated no matter how information is characterized, it can be seen as being more persuasive than other information and that member would not have the benefit of hearing what other members or the public have to say about the item; it would be premature to venture whether it is information or an opinion without being present or able to digest and respond to the information.

Councilmember Oddie stated the member is not present and not voting, which is the highest level of influence a policy body member has; inquired how it would be different than any other member of the public.

The Assistant City Attorney responded the policy is more restrictive than what currently exists; stated the concern is that it seems inappropriate for a board member to provide information without having the benefit of hearing all the information; the information or any additional information may have come to light may change members' opinion; the information or opinion expressed by the non-present member may get more weight than

a member of the public; it is up to the Council to decide which, if any, of the amendments should be included.

Mayor Spencer inquired whom does a member of the policy body share information with if they have information separate from an opinion and cannot attend the meeting.

The Assistant City Attorney responded under the proposal, the member may share information or have conversation with someone other than the body which is considering the matter; their information or conversation would not be part of the public record upon which the decision would be presumably made.

The City Attorney stated the non-present member could call an employee who staffs the policy body to share a factual situation; the staff member could provide the information to the entire body.

In response to Councilmember Oddie's inquiry, the City Attorney stated Councilmembers do not have proxies; the problem is opening the door for confusion; additional weight is given to a member of a body addressing fellow members than a member of the public; a member's obligation is to present, listening and debating, not to "phone it in."

Mayor Spencer stated that she did not believe that was the question.

Councilmember Daysog inquired whether the policy refers specifically to information being shared during meetings, to which the Assistant City Attorney responded in the affirmative.

In response to Councilmember Oddie's inquiry, the Assistant City Attorney stated it is certainly possible that a member who is not going to be present at a meeting could give his or her comments to a third party without indicating the source of the information; the third party could read the information at the podium before the body; the rest of the body would not know the source of the information so it could be transmitted that way; the concept is that the information would not be specifically from the absent member and therefore would not carry the same weight.

Councilmember Oddie inquired whether the issue is an existing problem.

The City Attorney responded that she is aware of one problem when a Planning Board member was told they could not submit comments if they were going to be absent from the meeting.

The Assistant City Attorney stated his office advised the department that submitting comments and being absent was not prohibited at the time; the City Attorney's office broached the matter to the Open Government Commission (OGC) as to whether it is a good or bad policy, thus the issue is before Council tonight.



Councilmember Daysog inquired whether the policy regarding “public comments by policy body members” is in the context of public meetings, to which the Assistant City Attorney responded in the affirmative; stated the policy would prohibit XYZ advisory body from adopting a resolution that contradicts a policy or position that the City Council has adopted.

Councilmember Oddie inquired whether the issue has happened.

The Assistant City Attorney responded in the affirmative; stated the context behind the policy is related to an incident involving an East Bay Regional Park District (EBRPD) issue; the Council took a position on the issue and an advisory body felt that another course of action was more appropriate; the advisory body submitted a letter that was in direct contravention to the City Council position.

Vice Mayor Matarrese stated an advisory body cannot advise if they are not allowed to disagree with, or advise, the Council.

The Assistant City Attorney stated the advisory body presenting recommendations and advising the Council about why they disagree is different than the advisory body taking action to directly contradict a Council action.

The City Attorney outlined the of Neptune Point example; stated Council had made a decision regarding the issue and the City was in litigation with EBRPD; the Recreation and Park Commission decided to opine on what Council should do differently.

Vice Mayor Matarrese stated the language in the ordinance prohibits any action by an advisory board, including giving advice.

The Assistant City Attorney stated the language could be tailored to be more specific; the intent was not to curtail advisory boards’ abilities.

In response to Councilmember Oddie’s inquiry, the City Attorney stated the Recreation and Park Commission wrote a letter to the Council about the EBRPD issue.

Mayor Spencer inquired whether the policy regarding City employees and “opinions of public concern” is included in the employee handbook, to which the Assistant City Attorney responded in the negative; stated the policy is not strongly expressed in the employee handbook but there may be some general language in the handbook or in Memorandums of Understanding.

In response to Mayor Spencer’s inquiry, the City Clerk stated anyone in the City’s conflict of interest code, including Councilmembers, employees and board and commission members, are required to read the Sunshine Ordinance annually.

Councilmember Oddie stated public employees and advisory board members are different; inquired who would be considered an advisory board member, to which the

Assistant City Attorney responded an advisory board member is anyone the Council appoints to the particular board.

Councilmember Oddie stated the point of being on an advisory board is to express personal opinion on matters of public concern.

The Assistant City Attorney concurred with Councilmember Oddie; stated the difficulty arises when the statements might be construed as the member representing the City, or the advisory board's position, and not his or her own personal opinion.

Councilmember Daysog inquired whether an advisory board member should make a declaration that his or her position is of a personal nature and not reflective of the board on which they serve when speaking before Council, to which the Assistant City Attorney responded in the affirmative; stated it would be ideal.

Councilmember Ezzy Ashcraft inquired how a provision regarding the expanded use of electronic devices would be monitored and enforced.

The Assistant City Attorney responded the provision would be based on an honor system; stated it would be assumed that the Council, and other governing bodies, would honor the provision if the Council establishes it; policing the activity would be unnecessary; complaints of violations could be filed with the OGC.

Mayor Spencer inquired whether a calculator could be used, to which the Assistant City Attorney responded in the negative.

In response to Mayor Spencer's inquiry, the Assistant City Attorney stated Google Maps could not be viewed if the map was not included in the agenda item.

Expressed concern over the 15 day timeline in Section 2-93.2 and timelines in general, including RRAC timelines: John Klein, Alameda.

Stated that he was speaking on behalf of the OGC; outlined the two items where the Commission differed from staff; expressed his personal position regarding use of electronic devices; submitted information: Paul Foreman, OGC and Alameda resident.

Mayor Spencer suggested addressing each item separately.

#### Use of Electronic Devices at Meetings:

Vice Mayor Matarrese stated the prohibition of non-public communication and private discussion should be clarified; he is fine with having limited to access to materials already posted and distributed to the public.

Councilmember Ezzy Ashcraft concurred with Vice Mayor Matarrese; stated that she is not comfortable with the expansion of restricting the use of electronic devices at

meetings; the public is entitled to know what Council bases votes on; she would not support the ability to pull up information at the meeting with no advance notice to the public; the Brown Act still governs what Council does.

Mayor Spencer stated her recollection was that the Commission did have a recommendation that staff is now contradicting.

Councilmember Oddie stated page two of the staff report describes the Commission's recommendation; that he is inclined to support the Commission's recommendation; communicating with each other using devices is inappropriate, but Council should be allowed to research information and keep phones on in case of family emergency.

Councilmember Daysog concurred with Councilmember Oddie; stated his main concern is the inability to use calculators, an Excel spreadsheet is a calculator.

Mayor Spencer concurred with Councilmembers Oddie and Daysog; stated that she disagrees with having to use notes in hardcopy which is contrary to being green; Council should be able to access calculators, emails, and notes; she supports the Commission's recommendation that communication with each other via devices should be prohibited.

Councilmember Ezzy Ashcraft concurred with Councilmember Daysog; inquired what limitation language he was considering.

Councilmember Daysog responded that he does not have specific language but was impressed with Mr. Foreman's letter because it satisfies Occam's Razor, the things that are most parsimonious are probably better.

Councilmember Ezzy Ashcraft stated texts from family about emergencies should be allowed; she would like the City Attorney to weigh in on accessing information that the public would not have access to on which the Council might be basing decisions.

Mayor Spencer inquired how retrieving information from a tablet differs from printing out the same information in hard copy to reference during a meeting.

The Assistant City Attorney stated if there is Council consensus, that language needs to be clarified, rather than wordsmithing tonight, Council can make comments, the matter will return to the OGC.

Councilmember Oddie stated that he would like to incorporate Mr. Foreman's suggestions.

The Assistant City Attorney stated staff could wordsmith the language to accomplish what the Council would like to do.

Vice Mayor Matarrese stated that he would like the OGC to consider guiding language, not prohibitive language; he would still like clarification that everyone is starting from a common place.

Mayor Spencer stated that she and Vice Mayor Matarrese are referring to the same thing; the starting point is the agenda and Council packet.

Policy body members submitting comments when not present at the meeting:

In response to Councilmember Oddie's inquiry, the Assistant City Attorney stated the policy is for information only, the Commission is not recommending substantive changes.

Councilmember Daysog stated that he likes the staff recommendation; if members want to participate, they should be present at the meeting.

Councilmember Oddie stated that he has a problem with having people check their right to speak at the door just because they are a member of a policy body.

Vice Mayor Matarrese stated it is a constitutional right to vote.

Councilmember Ezzy Ashcraft inquired whether case law speaks to the matter, to which the Assistant City Attorney responded in the negative; stated it is just a policy issue.

Councilmember Daysog stated the policy is practical; members present at meetings have the right to vote and express their opinion; if a member does not show up for a controversial item, it is not fair to insert his or her opinion for the public record and not vote.

Councilmember Oddie stated on the flip side, an opinion from a member with financial conflict should not be heard; otherwise, it is a free speech issue; free speech rights should not have to be checked at the door.

Councilmember Ezzy Ashcraft stated a couple of concepts are being mixed into one provision; a conflict is a conflict under any circumstances.

Mayor Spencer concurred with Councilmember Oddie and Vice Mayor Matarrese; stated that she does not want to quash someone's first amendment right.

The Assistant City Attorney stated the explanation indicates that a person who has a conflict of interest which would cause them to recuse themselves during a meeting has an exception which allows the person to come off the dais and address the Commission; the same exception would apply to a member in the same situation that was not present.

Mayor Spencer stated staff should work on the language and bring it back; the majority of Council agrees that assuming there is no conflict of interest and the person just happens to not be able to attend the meeting, they can submit their comments to be considered.

The Assistant City Attorney stated the current language creates an exception as to when the person could submit comments; the question is whether Council feels it is appropriate for a board member as a general principle, to be able to submit comments even if that board member cannot attend; if it is ok to submit comments, then the section does not need to be rewritten and can be deleted.

Mayor Spencer noted the consensus is to delete the section.

Public comment by policy body members:

Vice Mayor Matarrese stated the Council could remove any member of a board, and staff could provide City policy to the member during deliberations; the OGC recommendation should stand; he does not think there should be prohibition.

In response to Councilmember Ezzy Ashcraft's inquiry, the City Attorney stated the Recreation and Park letter to the Council regarding the EBRPD was publicly available; the EBRPD had the ability to see the letter.

The Interim Assistant City Manager clarified that the letter went directly to the Council and was not distributed to EBRPD individual members.

Councilmember Ezzy Ashcraft stated that she is reluctant to craft a provision which focuses on one instance that cannot be recalled clearly; in the case of litigation, things that would undermine the Council's position should not be done; there will be a variety of differing opinions; she concurred with Vice Mayor Matarrese that the Council always has the prerogative to remove a board or Commission member; stated there should be language clear enough for when the line is crossed.

Vice Mayor Matarrese stated the situation that was described was a legitimate difference of opinion, the policy seems to be trying to squash that.

In response to Councilmember Ezzy Ashcraft's inquiry, Vice Mayor Matarrese stated he does not think the policy should be part of the Sunshine Ordinance; the policy is part of the handbook for new Commissioners and should be removed.

Councilmember Oddie stated sending letters to outside organizations which undermine the Council's policy or position in litigation is inappropriate, but advisory bodies should be allowed to send letters directly to the Council with their opinions; the Council should have the ultimate decision regarding policy making.

Councilmember Daysog stated language that sets ground rules is necessary; members of policy bodies are there to vet a range of issues and submit recommendations to Council; Council makes the final decision; Council direction cannot be undermined by further contribution from the bodies that state otherwise; members should be clear regarding what is their personal view and what is the official City position.

Mayor Spencer stated that she concurs with Vice Mayor Matarrese; she is concerned about limiting free speech and the body's ability to do their job; she would want to hear from advisory boards; decisions get reviewed and changed when advisory bodies provide input.

Councilmember Oddie stated that he does not want to restrict bodies from saying something; the bodies should have the right to write a letter to Council.

In response to Councilmember Ezzy Ashcraft's inquiry, Councilmember Daysog stated an advisory board member who expresses an opinion to Council or another entity on a subject ought to be clear as to the Council's position and if the person is expressing a personal opinion on the subject.

Councilmember Ezzy Ashcraft stated the letter was written from the advisory body as a whole.

Councilmember Daysog stated expression from the body as a whole countermands the Council's position and should not be encouraged; individuals can express their personal opinions separately, once Council has made a decision, it stands.

Councilmember Oddie stated anyone should be able to complain to the Council.

Vice Mayor Matarrese stated a body sending letters as representative of the City's position should be prohibited.

Councilmember Daysog stated the simple test is determining whether the expressed opinion is from an individual or from the body as a whole and the extent of representing the City's position.

Mayor Spencer summarized the policy; inquired whether the Council agrees.

Councilmember Ezzy Ashcraft stated the policy should go back to the drafters for clarification.

Councilmember Oddie stated the Council should be open, and should not stifle any criticism; letters that are on letterhead and seem to be representative of the City is inappropriate.

The Interim City Manager stated internal dialogue is okay, external dialogue is problematic.

Mayor Spencer stated the policy body could send a letter to Council as opposed to a third party.

The City Attorney clarified it is not within the authority of the advisory body to critique the final decisions of the City Council unless asked by Council; Council is the final policy maker and the advisory body should not reagendaize the item; there is a distinction between individuals and the body as a whole.

Mayor Spencer stated staff will come back with revised language based on Council comments.

#### Opinions of public concern:

In response to Mayor Spencer's inquiry, the City Attorney stated the issue is tied into what was already discussed; unless there are additional thoughts, staff will return with revised language.

Councilmember Ezzy Ashcraft inquired why public employees and appointed officials are included in the same provision.

The Assistant City Attorney responded the section merged public employees and public officials; staff's intent was to separate the two so different standards are applicable to both; the OGC felt neither was necessary; the section is somewhat redundant to the previous section which only addressed members of the policy body.

In response to Councilmember Ezzy Ashcraft, the Assistant City Attorney stated there is case law which attempts to define the line in terms of what a public employee can or cannot do; the OGC recommends deleting the section regarding public employees to be handled under disciplinary matters elsewhere.

Mayor Spencer stated the consensus is to delete the section.

#### Responsibilities of Staff:

In response to Mayor Spencer's inquiry, the Assistant City Attorney stated the language in Subsection (d) of Section 2-92.2 would be revised to indicate the response does not come from the elected official and would come from staff designated to respond to public records requests.

In response to Councilmember Ezzy Ashcraft's inquiry, the Assistant City Attorney stated references to public officials in Subsection (d) would be removed and replaced with a more appropriate person to respond to public records act requests.

Mayor Spencer stated the responsibility of the elected official is to forward the inquiry to designated staff.

Vice Mayor Matarrese requested the OGC review timing to make sure a reasonable amount of days is allowed; stated there is a requirement in Section 2-93.6 which almost implies that there is constant monitoring of violations; he would like the OGC's thoughts on the annual report.

#### Training Requirements:

Mayor Spencer stated Council is okay with the recommendation on training requirements.

Councilmember Oddie stated there should be a deadline regarding filing complaints.

Mayor Spencer inquired whether the 15 day deadline should be expanded.

Vice Mayor Matarrese stated he would like the Commissions' view; the 15 day deadline is pretty tight; a longer period could be considered.

Councilmember Oddie stated reviewing the ordinance is the OGC's role; he would not give direction that the ordinance should be changed.

Mayor Spencer stated she is comfortable with expanding the deadline.

Councilmember Ezzy Ashcraft stated that she would like to hear what the OGC thinks; the Council should try not to manage the OGC.

Mayor Spencer stated Council comments will be shared with the OGC and return with recommendations.

Councilmember Daysog stated the Sunshine Ordinance was a game changer in Alameda, improving public dialogue and input.

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(15-591) Mayor Spencer stated a motion is required to consider the remaining items: the wetlands mitigation bank [paragraph no. 15 -592 ], the development strategy for the Enterprise District [paragraph no. 15 -593 ], a lease with CSI [paragraph no. 15 -594 ], and a lease with Power Engineering [paragraph no. 15 -595 ]; inquired which items need to be addressed tonight.

The Interim City Manager responded the leases with CSI and Power Engineering [paragraph nos. 15-594 and 15-595] need to be done; staff would like to do the development strategy for the Enterprise District [paragraph no. 15 -592 ]; the wetlands mitigation bank [paragraph no. 15 -593 ] could be moved.

Mayor Spencer noted there is a speaker on the wetlands mitigation bank and the speaker was already asked to return before.



Vice Mayor Matarrese stated that he was not going to vote for the matter, but he would like to address the Enterprise District; moved approval of continuing past 10:30 p.m.

Mayor Spencer clarified the motion would be to consider the remaining items; inquired whether Vice Mayor Matarrese's motion is to consider all remaining items, to which Vice Mayor Matarrese responded in the affirmative.

Councilmember Daysog seconded the motion, which failed by the following voice vote: Ayes: Councilmembers Daysog, Ezzy Ashcraft and Matarrese – 3. Noes: Councilmember Oddie and Mayor Spencer – 2.

Mayor Spencer inquired whether a there is motion to consider fewer items.

Vice Mayor Matarrese moved approval of continuing the meeting to cover the items expressed by the City Manager as having to be done.

Mayor Spencer clarified the items that need to be addressed tonight are the leases [paragraph nos. 15-594 and 15-595].

The Interim City Manager stated that is correct.

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

Council briefly discussed whether the Enterprise District would be addressed.

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Mayor Spencer called a recess at 10:27 p.m. and reconvened the meeting at 10:34 p.m.

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(15-592) Response to City Council Referral Regarding a Possible Wetlands Mitigation Bank at Alameda Point. Not heard.

(15-593) Recommendation to Proceed with a New Development Strategy for the Enterprise District (Formerly Site B) at Alameda Point. Not heard.

(15-594) Introduction of Ordinance Approving a Lease and Authorizing the City Manager to Execute Documents Necessary to Implement the Terms of a 3-Year Lease with CSI Mini-Storage, LLC., a California Limited Liability Company, for Buildings 338, 608, and 608A-C Collectively Located at 50 and 51 West Hornet Avenue at Alameda Point. Introduced.

The Economic Development Division Manager gave a brief presentation.

Vice Mayor Matarrese moved introduction of the ordinance.

Vice Mayor Matarrese stated the Enterprise District discussion should address short term leases.

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

(15-595) Introduction of Ordinance Approving a Lease and Authorizing the City Manager to Execute Documents Necessary to Implement the Terms of a 10-Year Lease with Power Engineering Construction Company for Building 166 located at 1501 Viking Street, Suite 200 at Alameda Point. Introduced.

The Economic Development Division Manager gave a brief presentation.

Councilmember Ezzy Ashcraft noted Power Engineering has been on a month-to-month lease due to the City's efforts around the Lawrence Livermore Labs.

Councilmember Ezzy Ashcraft moved introduction of the ordinance.

Councilmember Daysog inquired whether the lease is within the Enterprise District, to which the Economic Development Division Manager responded in the affirmative; stated the City would work around Power Engineering, which is a great tenant and asset; discussions initially included moving Power Engineering to Building 167 within the Tidelands area; however, the proposal did not pencil out for Power Engineering to do all of the building upgrades; since Power Engineering has upgraded Building 166, the building would not be included in the Enterprise District.

In response to Councilmember Daysog's inquiry about the lease covering infrastructure costs, the Economic Development Division Manager responded the lease would be subject to all of the fees that will be assessed.

Vice Mayor Matarrese seconded the motion.

Under discussion, Councilmember Ezzy Ashcraft noted the operation is amazing; clarified the motion is approval of introducing the ordinance approving a lease and authorizing the City Manager to execute documents necessary to implement the terms of a 10-year lease with Power Engineering Construction Company for Building 166 located at 1501 Viking Street, Suite 200 at Alameda Point.

On the call for the question, the motion carried by unanimous voice vote – 5.

#### CITY MANAGER COMMUNICATIONS

(15-596) The Interim City Manager stated that she has no additional communications.

As a Point of Order, Councilmember Oddie inquired whether the Enterprise District [paragraph no. 15-593] could be addressed, to which Mayor Spencer responded in the negative; stated the matter cannot be heard because the vote to hear items past 10:30 did not include the item and additional items cannot be added.

The City Attorney noted the vote at 10:30 p.m. was to take up any new action items after 10:30 p.m.; the vote at 11:00 p.m. is whether to continue past 11:00 p.m.

#### ORAL COMMUNICATIONS, NON-AGENDA

None.

#### COUNCIL REFERRALS

None.

#### COUNCIL COMMUNICATIONS

(15-597) Councilmember Daysog announced that he attended the League of California Cities annual meeting along with Mayor Spencer and Councilmember Ezzy Ashcraft; he attended sessions on share economy and AirBnb issues.

(15-598) Councilmember Ezzy Ashcraft announced that she attended different sessions at the League of California Cities Annual meeting, including workshops on emerging issues in policing, building affordable housing, and e-cigarette policy.

(15-599) Councilmember Oddie announced that he attend the September 24th Alameda County Lead Program meeting; residents could request the County to inspect, test and monitor their homes for lead.

(15-600) Mayor Spencer announced that she also attended the League of California Cities annual meeting, including a workshop on digital strategies for economic development.

(15-601) Consideration of Mayor's Nominations to the Commission on Disability Issues and Housing Authority Board of Commissioners.

Mayor Spencer nominated Kenji Tamaoki for appointment to the Housing Authority Board of Commissioners.

(15-602) Mayor Spencer announced a special City Council meeting would be held on October 7<sup>th</sup> at 7:00 p.m. to discuss the General Plan regarding Harbor Bay.

#### ADJOURNMENT

(15-603) There being no further business, Mayor Spencer adjourned the meeting at

10:50 p.m. in honor of former Councilmember Barbara Kerr.

Respectfully submitted,

Lara Weisiger  
City Clerk

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

MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
TUESDAY- -OCTOBER 6, 2015- -5:30 P.M.

Mayor Spencer convened the meeting at 5:31 p.m.

Roll Call – Present: Councilmembers Daysog, Ezzy Ashcraft, Matarrese, Oddie and Mayor Spencer – 5.

Absent: None.

The meeting was adjourned to Closed Session to consider:

(15-569) Conference with Legal Counsel – Anticipated Litigation; Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; Number of cases: One (As Defendant- City Exposure to Legal Action)

(15-570) 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)

(15-571) Conference with Labor Negotiators (54957.6); City Negotiator: Elizabeth D. Warmerdam; Employee Organizations: International Brotherhood of Electrical Workers, Local 1245; (IBEW), Electric Utility Professional Association of Alameda (EUPA), Alameda City Employees Association (ACEA), Alameda Police Officers Association, Non-Sworn (PANS), Management and Confidential Employees Association (MCEA); Under Negotiation: Salaries and terms of employment

Following the Closed Session the meeting was reconvened and Mayor Spencer announced that regarding exposure to litigation, the settlement of a dispute was discussed and direction was given to staff; regarding initiation of litigation, the Council discussed authorization to pursue litigation and direction was given to staff; and regarding labor, direction was given to staff.

Adjournment

There being no further business, Mayor Spencer adjourned the meeting at 6:47 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

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