

MINUTES OF THE REGULAR CITY COUNCIL MEETING  
TUESDAY- -JUNE 19, 2012- -7:00 P.M.

Mayor Gilmore convened the meeting at 7:08 p.m. Vice Mayor Bonta led the Pledge of Allegiance.

ROLL CALL – Present: Councilmembers Bonta, deHaan, Johnson, Tam, and Mayor Gilmore – 5.

Absent: None.

AGENDA CHANGES

(12-302) Mayor Gilmore announced that the Park Master Plan [paragraph no. 12-323] was moved to July 3<sup>rd</sup>; and announced that the Resolutions of appointment [paragraph no. 12-308] would be addressed after Oral Communications.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY & ANNOUNCEMENTS

(12-303) The City Attorney introduced the new Assistant City Attorney Stephanie Sierra.

(12-304) Presentation of Arbor Day Award from CAL FIRE Urban Forestry Program to the City.

James Scheid, CAL FIRE, gave a presentation and presented the award to Mayor Gilmore.

ORAL COMMUNICATIONS, NON-AGENDA

(12-305) Michael John Torrey, Alameda, reminded the public of the annual AWRL Field Day, June 23 – 24 at the Sequoia Arena.

(12-306) Serena Chen, American Lung Association, presented the State of Tobacco Control Report Card and submitted information.

(12-307) Ken Peterson, Alameda, stated that he appreciates budget workshops and discussed the matter of balancing the budget and the economic health of the City.

REGULAR AGENDA ITEM

(12-308) Resolution No. 14683, “Reappointing Dean Batchelor as a Member of the Civil Service Board.” Adopted;

(12-308 A) Resolution No.14684, “Appointing Jonathan Bond as a Member of the Economic Development Commission.” Adopted.

(12-308 B) Resolution No. 14685, “Reappointing Alan Ryan as a Member of the

Economic Development Commission.” Adopted;

(12-308 C) Resolution No. 14686, “Reappointing Dennis Owens as a Member of the Historical Advisory Board.” Adopted;

(12-308 D) Resolution No.14687, “Reappointing Michael Henneberry as a Member of the Planning Board.” Adopted;

(12-308 E) Resolution No.14688, “Reappointing Elizabeth Candelario as a Member of the Public Art Commission.” Adopted,

(12-308 F) Resolution No.14689, “Appointing Daniel Hoy as a Member of the Public Art Commission.” Adopted;

(12-308 G) Resolution No 14690., “Appointing Esther Mallouh as a Member of the Public Art Commission,” Adopted ;

(12-308 H) Resolution No.14691, “Appointing Mary Sutter as a Member of the Public Utilities Board.” Adopted;

(12-308 I) Resolution No.14692, “Reappointing Douglas Biggs as a Member of the Social Service Human Relations Board.” Adopted;

(12-308 J) Resolution No.14693, “Appointing Eric Schatmeier as a Member of the Transportation Commission.” Adopted;

(12-308 K) Resolution No.14694, “Reappointing Mary Orbeta as a Member of the Youth Advisory Commission.” Adopted; and

(12-308 L) Resolution No. 14695, “Appointing Luna Tilles as a Member of the Youth Advisory Commission.” Adopted.

Councilmember Tam moved adoption of the resolutions.

Vice Mayor Bonta seconded the motion, which carried by unanimous voice vote – 5.

The City Clerk administered the Oath of Office and presented Certificates of Appointment to Mr. Bond, Ms. Caldelario, Mr. Hoy, Ms. Mallouh, Ms. Sutter, Mr. Schatmeier, and Ms. Tilles.

### CONSENT CALENDAR

Mayor Gilmore announced that the Plans and Specifications for Janitorial Service [paragraph no. 12-312]; the Plans and Specifications for Annual Heating, Ventilating, and Air Conditioning Systems [paragraph no. 12-313]; the Agreement with the Alameda Unified School District [paragraph no. 12-314]; the Resolutions Approving the Memorandums of Understanding [paragraph no. 12-318]; and the Resolution Supporting Renaming the Eastshore State Park [paragraph no. 12-322] were removed from the Consent Calendar for discussion.

Councilmember Tam moved approval of the remainder of the Consent Calendar.

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

(\*12-309) Minutes of the Special and Regular City Council Meetings Held on May 15, 2012. Approved.

(\*12-310) Ratified bills in the amount of \$ 2,029,580.42.

(\*12-311) Recommendation to Adopt Plans and Specifications and Authorize a Call for Bids for Landscape Maintenance of Median Strips and Special Areas, No. P.W. 05-12-11. Accepted.

(12-312) Recommendation to Adopt Plans and Specifications and Authorize a Call for Bids for Janitorial Service in City Buildings, No. P.W. 05-12-12.

Councilmember deHaan inquired whether the Fire Department's training facility in Building 522 at Alameda Point has been vacated, to which the Public Works Director responded in the negative, stating the building is still in use.

Councilmember deHaan inquired whether there is a training facility at Alameda Point to which the Public Works Director responded in the affirmative.

Councilmember deHaan inquired whether Fire Station 5 contains administrative offices, to which the Public Works Director responded in the affirmative.

Councilmember deHaan inquired whether the building is currently being used for operations to which the Public Works Director stated the building is still being used, however it's not functioning as a fire station.

Councilmember deHaan inquired where Building 522 is located, to which the Public Works Director responded the building is across from the Red Cross and is used for training.

Councilmember deHaan stated he would like further clarification because it is listed for training use two days a week.

Councilmember deHaan moved approval of the staff recommendation.

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

(12-313) Recommendation to Adopt Plans and Specifications and Authorize a Call for Bids for Annual Heating, Ventilating, and Air Conditioning Systems Maintenance in Various City Facilities, No. P.W. 05-12-13.

Councilmember deHaan inquired for clarification that Fire Station 5 is still being used for

administrative offices, to which the Public Works Director responded in the affirmative.

Councilmember deHaan moved approval of the staff recommendation.

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

(12-314) Recommendation to Authorize the City Manager to Enter into a One-Year Agreement with the Alameda Unified School District for the Operation of the District Swimming Pools.

Councilmember deHaan expressed concern regarding the safety of the facility.

The Recreation and Parks Director stated the facility is safe and in need of repair to continue to function; the School District continues repairs to keep the safe level.

Councilmember deHaan stated the staff report indicates that the City is responsible for ongoing repair including custodian repair and maintenance; inquired whether funds are adequate to keep safe status, to which the Recreation and Parks Director responded in the affirmative.

Councilmember deHaan inquired whether additional repair would be required a later point in time, to which the Recreation and Parks Director responded not to staff's knowledge; stated there is always potential; repairs are not anticipated and capital repairs are the School District's responsibility.

Councilmember Tam stated the report indicates either party may terminate the Agreement; in the event the facility improvement costs are excessive, either party may terminate the Agreement without cause after thirty days written notice; inquired if the amount beyond the ability of a party to pay has been defined.

The Recreation and Parks Director responded a dollar amount is not defined; however, the School District is responsible for any capital improvement or repair; if the School District requests cost sharing or says they will terminate, staff would bring the matter to Council immediately.

Councilmember Tam stated if costs to replace the pumps exceed the City's contract share, Council would revisit the matter and could consider terminating the Agreement.

The Recreation and Parks Director stated the City has the ability within 30 days to terminate the Agreement without cause; the capital repair of pumps would be the School District's responsibility.

Councilmember Tam inquired if the School District could not repair the problem within budgetary constraints, the City would not have a pool, to which the Recreation and Parks Director responded it is a possibility.

Mayor Gilmore stated the School District is responsible for capital cost; inquired what kind of cost the City pays, to which the Recreation and Parks Director responded the City pays ongoing maintenance and half of the utilities.

In response to Mayor Gilmore's inquiry about an example of ongoing maintenance, the Recreation and Parks Director stated the City provides all custodial services, pool servicing, and chemicals which essentially pays for normal wear and tear of using the facility.

Mayor Gilmore inquired whether the School District is responsible if anything breaks down, to which the Recreation and Parks Director responded the City makes every attempt to fix minor repairs with band aids and duct tape, significant repairs are on the School District.

The Assistant City Manager stated the City provided the lights but the really big ticket items, like the pumps, are on the School District; the School District came to the City with a project which was not the City's responsibility; the matter was discussed and the School District ended up paying for the large item; the School District found the money in their budget but whether they will be able to find money in the future is unknown.

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Councilmember Johnson left the dais at 7:41 p.m. and returned at 7:42 p.m.

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Councilmember deHaan moved approval of the staff recommendation.

Vice Mayor Bonta seconded the motion, which carried by unanimous voice vote – 4.  
[Absent: Councilmember Johnson – 1]

(\*12-315) Recommendation to Authorize the City Manager to Execute a Contract with York Risk Services Group, Inc. for Third Party Administrator Services for the City's Workers' Compensation Program. Accepted.

(\*12-316) Recommendation to Approve an Agreement with Holland + Knight in the Amount of \$144,000 for Federal Legislative Advocacy Services. Accepted.

(\*12-317) Recommendation to Award Contract to the Alameda Journal for Legal Advertising for Fiscal Year 2012-13. Accepted.

(12-318) Resolution No. 14696, "Approving a Revised Memorandum of Understanding Between the Alameda City Employees Association (ACEA) and the City of Alameda for the Period Beginning January 1, 2012 Through December 26, 2015." Adopted;

(12-318 A) Resolution No. 14697, "Approving a Revised Memorandum of Understanding Between the Alameda Management and Confidential Employees

Association (MCEA) and the City of Alameda for the Period Beginning January 1, 2012 Through December 26, 2015.” Adopted;

(12-318 B) Resolution No. 14698, “Approving a Revised Memorandum of Understanding Between the Alameda Police Officers Association Non-Sworn Unit (PANS) and the City of Alameda for the Period Beginning January 1, 2012 Through December 26, 2015.” Adopted; and

(12-318 C) Resolution No. 14699, “Approving a Revised City of Alameda Executive Management (EXME) Compensation Plan for the Period Beginning June 17, 2012 Through December 26, 2015.” Adopted.

Councilmember deHaan requested an explanation of how the revenue sharing mechanism works.

The City Manager stated there are five revenue streams that form the basis of the general fund: property tax, sales tax, transfer occupancy tax, utility users tax and real estate transfer tax; the five revenue streams will be reviewed; if the aggregate of all five goes up 4%, the employees would be entitled to a 2% wage increase; the revenue sharing is 50% of the percentage increase; the five revenue streams were selected after a great deal of discussion with the bargaining units; the bargaining units did not want to just use the General Fund, which can be redefined by Council resolution.

The Assistant City Manager stated the increases do not take effect until 2015.

Councilmember deHaan inquired whether the amount is a gross to which the City Manager responded in the affirmative; stated the largest single expense for any municipality is wages.

Councilmember deHaan inquired whether there was a need for additional expenditures in those years does that get in consideration of this basic gross revenue increase and share?

In response to Councilmember deHaan’s inquiry, the City Manager stated the formula does not change; agreement was made with the unions; noted there is a cap and a minimum; in 2014, 1.5% is the minimum; 4% is the maximum; half of any dramatic growth in revenues is not being pledged; it is important to note there are no wage increase or cost of living adjustments in the first two years; the formula takes effect in years three and four; however, staff will begin contributing money to medical premium and PERS contributions; there are significant concessions by labor which are structural and will help the City dramatically.

The Assistant City Manager stated the staff reports show the net savings; there is no cost to the City, even once the revenue sharing proposals kick in.

Councilmember deHaan inquired whether there would be a net savings if the 4% increase occurs, to which the City Manager responded in the affirmative.

The Assistant City Manager stated even with the revenue sharing, a net savings will be recognized because the additional PERS contribution is part of the employer share and the employees are picking up part of the health care increase. f the additional PERS contribution which is part of the employer share not the employee share and the employees are picking up part of the increase in health care expenditures.

Councilmember deHaan stated that he has not heard of revenue sharing in the public sector; that he is guessing an increase around 3% a year would occur; that he has a concern because he has never seen it done.

The City Manager stated the MOUs are not merely revenue sharing but cost sharing as well; labor is picking up 50% of the medical premium increase which has been the largest exposure over the past fifteen years; the City should be proud no one else has done it; the plan is terribly innovative and creates a true partnership and an understanding between management and labor; sharing in hard times and if revenues get better the City is not committing to something that cannot be paid because the increases are tied to revenue growth; employees are picking up costs either way.

The Human Resource Director stated on the PERS side, employees will be picking up 1.868% which is the maximum which they can.

Councilmember Tam stated that she agrees with the City Manager; the revenue sharing provision is a recognition that there is a partnership; employees recognize the economic realities the City is facing; at the same time, the City recognizes that between 2008 and 2013 employees will not have any pay increases; in spite of costs such as garbage rates increasing, employees are seeing net decreases in wages; there is a mutual understanding of the fiscal constraints the City is facing and recognizing that the employees are willing to help share in the healthcare cost and in the pension obligations.

Councilmember Johnson stated the proposal is innovative; that she expects to see similar in the future; employees have made significant concessions in the MOUs; agreed with the City Manager that the City might be a leader in this front; employees have made significant concessions.

Councilmember deHaan stated that he concerned about budget difficulties and the impact on other bargaining groups.

The City Manager stated staff has already talked with the public safety units and intends to engage in bargaining as soon as possible, a meeting is scheduled with Fire in July to reopen the MOU precisely for concessions; the City will need to petition the State to allow the City to require employees to pay additional money to PERS; Council should not look at the percentage number because the miscellaneous is a different structure than public safety; employees will be paying half of the premium increases in medical and the maximum amount allowable in California for pensions; the City cannot do better

than that; bargaining units are going to pay the maximum allowable under California law assuming the City gets PERS approval.

Mayor Gilmore thanked the bargaining units for recognizing the tough times, stepping up to the plate, and being a good partner with the City; stated Council recognizes how difficult the situation may be given the fact that employees are asked to contribute more to pensions when pay increases have not been given for four years.

Councilmember deHaan stated expenditure requirements have always been increased by 3% per year; growth has not been at that rate in the last two or three years.

The City Manager stated staff is forecasting that revenue projections would yield the bottom of the ladder for what these wage increases are scheduled to be; staff is basically forecasting no growth; budget projections are at the high end on expenses, and at the dramatically low end on revenues; departments have pushed down on expenses very hard; the Assistant City Manager and Controller got the projections right on the revenues and were able to jam down on expenses; by doing so, there was actually money left over.

Speaker: Bill Garvine, MCEA, expressed his appreciation of Council recognizing MCEA's contribution to the process.

Councilmember deHaan moved for approval. Vice Mayor Bonta seconded the motion which carried by unanimous voice votes – 5 ayes.

Councilmember deHaan moved adoption of the resolutions.

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

(\*12-319) Resolution No. 14700, "Authorizing the City Manager to Submit an Application to the Metropolitan Transportation Commission for the Allocation of \$187,957 in Funding from the Lifeline Transportation Program to Continue Operation of the Estuary Crossing Shuttle, to Commit to Pursuing the Necessary Local Match for the Estuary Shuttle Program, and to Execute all Necessary Documents." Adopted.

(\*12-320) Resolution No. 14701, "Approving Parcel Map PM-10086, for the Subdivision of 55.6 Acres into Four Parcels Located Mostly South of Mitchell Avenue and East of the Coast Guard Housing Site Commonly Referred to as a Portion of the (Alameda Landing Site) and Certain Reservations, Dedications, Acceptances, and Easement Vacations." Adopted.

(\*12-321) Resolution No. 14702, "Electing to Receive a Portion of the Tax Increments from the Exchange Area of the Business and Waterfront Improvement Project and Pursuant to Health and Safety Code Section 33607.5." Adopted; and



(\*12-321 A) Resolution No. 14703, “Electing to Receive a Portion of the Tax Increments from the Original Area of the Business and Waterfront Improvement Project and the West End Community Improvement Project Area Pursuant to Health and Safety Code Section 33607.7.” Adopted.

(12-322) Resolution No. 14704, “Supporting Renaming the Eastshore State Park to the McLaughlin Eastshore State Park.” Adopted.

Speaker: Alan Carlton, Eastshore State Park Committee member, stated Ms. McLaughlin was founder of Save the Bay.

Councilmember Tam moved adoption of the resolution.

Vice Mayor Bonta seconded the motion, which carried by unanimous voice vote – 5.

### REGULAR AGENDA ITEMS

(12-323) Adoption of Resolution to Accepting Parks Master Plan and Technical Studies for Urban Greening Plan. Moved to July 3, 2012.

(12-324) Public Hearing to Consider Resolution No. 14705, “Approving the Engineer’s Report, Confirming Diagram and Assessment, and Ordering Levy of Assessments, Island City Landscaping and Lighting District 84-2, All Zones.” Adopted.

Councilmember Johnson recused herself and left the dais.

The Public Works Director gave a brief presentation.

Councilmember Tam moved adoption of the resolution.

Councilmember deHaan seconded the motion, which carried by unanimous voice vote – 4. [Absent: Councilmember Johnson – 1.]

(12-325) Public Hearing to Consider Resolution No. 14706, “Approving the Engineer’s Report, Confirming Diagram and Assessment, and Ordering Levy of Assessments, Maintenance Assessment District 01-01 (Marina Cove).” Adopted.

The Public Works Director gave a brief presentation.

Councilmember Tam moved adoption of the resolution.

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

(12-326) Public Hearing to Consider Resolution No. 14707, “Establishing Integrated Waste Collection Ceiling Rates and Service Fees for Alameda County Industries, Inc.,

for Rate Period 11 (July 2012 to June 2013).” Adopted.

The Public Works Director gave a brief presentation.

Vice Mayor Bonta moved adoption of the resolution.

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

(12-327) Public Hearing to Consider Collection of Delinquent Administrative Citation Fees, Vacant Building Monitoring Fees, Administrative Penalties and Abatement Costs Via the Property Tax Bills for Subject Properties.

The Building Official gave a brief presentation.

Mayor Gilmore requested the Building Official provide a general overview of the noticing and time line.

The Building Official gave a brief review of the procedure.

Mayor Gilmore inquired whether the amount is placed on the property tax, to which the Building Official responded in the affirmative.

In response to Mayor Gilmore’s inquiry whether the properties have been in the system for over a year, the Chief Building Official stated the properties have been in the system for more than a year; one has been in the system for 20 years.

Councilmember Johnson stated including the time period in the staff report would be helpful.

William Petzel, Attorney for 1710 Jay Street, provided a history of the property; requested Council not make a decision for 45 days in order to allow the property owner to file a demolition permit or apply for a variance; the City could place the lien on the property if the property owner does not do so in 45 days.

Mayor Gilmore inquired about the time line to lien the property, to which the Chief Building Official responded July 1<sup>st</sup>.

Mayor Gilmore stated granting 45 days would not allow an opportunity to lien the property until next year.

The Chief Building Official noted the citations have been assessed regardless of whether or not a permit or variance is done in the future.

Mr. Petzel stated the property owner is not objecting to the amount of the assessment, but objects to a lien being placed on the property.

Mayor Gilmore suggested Mr. Petzel contact the Planning and Building Department to pay the lien.

Randolph Villapando, 1523 Pacific Avenue, introduced the property owner's new attorney, Amy Harrington.

Ms. Harrington provided background information on the property and owner; stated the owner and her family plan to bring the property into compliance within 90 days; requested the lien not be issued at this time.

Mayor Gilmore inquired whether the plan to bring the property into compliance has been shared with the City, to which Ms. Harrington responded in the affirmative; stated the spirit of the law is to gain compliance, which the property owner is trying to do.

Mayor Gilmore inquired whether Ms. Harrington would see the matter through until the issue is resolved, to which Ms. Harrington responded absolutely.

Councilmember Johnson inquired when the structure not in compliance was built, to which Ms. Harrington responded 1976.

In response to Councilmember Johnson's inquiry regarding the issue coming up in 2010, Ms. Harrington stated the neighbor complained when repairs were done on a rotting rear deck in 2010.

Vice Mayor Bonta inquired what would happen during the 90 days, to which Ms. Harrington responded that she understands there are two issues: 1) electrical work completed around the house, which now has a signed off permit; 2) whether a permit was taken out to build the rooms downstairs; stated the client has copies of the 1976 register showing permits were taken out; that she does not know whether or not the permit was approved [at the end of the project].

Councilmember Tam inquired whether a waiver of the citation is being requested, to which Ms. Harrington responded in the affirmative; stated the waiver would be a hardship waiver; the property owner cannot complete the repairs and pay the assessment.

The City Attorney stated a lien would be placed on the property for past due assessment and delinquencies; the lien would be leveraged when the property is sold and the resident would not be displaced; the City will continue to work with the owner to correct the health and safety issues.

Councilmember Johnson inquired whether there is a defined process for issuing citations, to which the Chief Building Official responded guidelines do not include a set timeframe; stated time, normally 30 days, is permitted to allow the matter to be fixed before the citation becomes effective; the citations can be appealed; none were appealed.

Councilmember Johnson inquired whether communications were going on when citations were issued, to which the Chief Building Official responded in the affirmative.

Councilmember Johnson inquired whether citations continued to be issued at the same time.

The Chief Building Official responded staff held off on issuing citations due to an agreement with the attorney; outlined the significant recent work.

In response to Councilmember deHaan's inquiry regarding the realistic time line between citations, the Chief Building Official stated the time line is seldom fewer than 30 days and is often 60 days; the time line is based on the significance of the violation; significant electrical work was done in large portions of the house presenting a significant fire danger; repairs were in the interest of the property owner and the City; citations are the mechanism for gaining compliance and making the building safe; the process is not used lightly.

Councilmember deHaan inquired whether staff was in contact with the lawyer, to which the Chief Building Official responded in the affirmative; stated the property was not brought to Council last year because the attorney indicated he would work with the City, which did not occur.

Ms. Harrington noted the prior attorney only worked 12 hours on the matter in two years, which is not significant; read the letter from the City outlining the violations; stated the property is not in great disrepair.

Councilmember Johnson inquired about the fines and citations issued for 500 Central to provide comparison, to which the Chief Building Official responded that he does not have said information.

In response to Councilmember Johnson's further inquiry, the Chief Building Official stated five citations were issued for 1523 Pacific Avenue in the past 12 months.

Councilmember Johnson stated \$16,000 in citations is typical and should be compared.

Mayor Gilmore noted unpermitted electrical and water heater work is a danger to the property owner and adjacent properties.

Councilmember Johnson stated there should be a standard practice for issuing citations.

The Chief Building Official outlined the significance of the violations; noted each citation could have been appealed; stated staff moved forward to gain compliance.

Ms. Harrington noted an electrical permit was pulled on April 4, 2012; urged the City

allow the property owner to attempt to come into compliance.

The City Manager stated that he disagrees with doing so; staff has tried to negotiate with the prior attorney; placing a lien will not put anyone out of the house; maintaining a property in a way that is an eminent hazard is not fair to adjacent property owners; questioned how Council would determine which cases require mercy; exercising discretion that might result in a pattern could make the City subject to accusations about why cases were selected.

Councilmember Johnson stated that she agrees with the City Manager that there should be no discretion, which is why she wants to ensure internal policies do not put enforcement at the discretion of individual staff members; particular properties should not be zeroed in on.

The City Manager stated that he has no objection to suspending the accrual of additional fines and penalties for 90 days; urged the amount not be waived.

Ms. Harrington stated Council has discretion and should use it.

In response to Vice Mayor Bonta's inquiry regarding Ms. Harrington's concern with the fine being assessed, Ms. Harrington stated the property owner is struggling financially and cannot tolerate the expenses associated with the situation; the lien would accrue interest.

The City Manager stated regardless of interest, the amount would not be payable and would not impact the property owner's cash flow; noted no appeals were filed.

In response to Councilmember Johnson's inquiry regarding appeals, the Chief Building Official stated appeals are heard by the Appeals Officer, who is a Building Official from another city.

Councilmember Johnson inquired whether the notice includes information about the right to appeal, to which the Chief Building Official responded in the affirmative.

Vice Mayor Bonta inquired when Ms. Harrington became involved, to which Ms. Harrington responded last week.

Vice Mayor Bonta inquired whether not assessing the lien for 90 days would effectively delay the lien for one year, to which the Chief Building Official responded in the affirmative.

Anita Longoria, 1523 Pacific Avenue, provided additional background on the permits.

The Chief Building Official stated the 2010 inspection record indicates everything appeared to be very new and was not 25 year old work.

Ms. Harrington stated correspondence from the City reflects there is an illegal unit and rooms that were never permitted; there is a discrepancy.

John Lopes, Jr., 2053 Lincoln Avenue, outlined the issues with the property; requested the lien not be issued.

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Councilmember Tam left the dais at 9:13 p.m. and returned at 9:15 p.m.

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Mayor Gilmore inquired when the work was done, to which Mr. Lopes responded 2007.

Mayor Gilmore inquired whether Mr. Lopes did work on another property with permits, to which Mr. Lopes responded in the affirmative; stated work was also done at 2053 Lincoln Avenue with permits.

Mayor Gilmore stated Mr. Lopes is seasoned and aware permits are needed for most work.

In response to Councilmember Johnson's inquiry regarding the back unit, Mr. Lopes stated his daughter lives in the back unit.

Vice Mayor Bonta inquired whether the City offers installment plans, to which the Chief Building Official responded in the affirmative; stated in cases where the work was done by a contractor, the City advises the property owner to go to the contractor to request payment of the permit fees; noted the case is gas lines installed without a permit, which is a significant health and safety issue.

Mr. Lopes expressed objection to the project being called a safety issue.

In response to Councilmember Johnson's inquiry regarding the name of the contractor, Mr. Lopes responded Olson Plumbing.

Councilmember Johnson inquired whether citations are always issued when the City learns of unpermitted work, to which the Chief Building Official responded in the negative; stated a series of requests are made prior to issuing a citation, which is a last resort; the citation was issued after a fourth notice and three months.

Councilmember Johnson inquired whether no citations or penalties would have been assessed if the property owner applied for a permit after receiving the notices, to which the Chief Building Official responded investigation fees would have been charged, which is four times the permit amount.

Councilmember Johnson inquired whether there is an opportunity to avoid citations, to which the Chief Building Official responded in the affirmative.

Mr. Lopes stated he was told he had to pay four times the amount, to which the Chief Building Official responded said amount is the investigation fee; stated the investigation fee is assessed once a complaint is filed for work without a permit.

In response to Vice Mayor Bonta's inquiry regarding the permit cost, the Chief Building Official stated the permit cost is around \$150.

Mr. Lopes stated the total fine is around \$2,000 now.

Vice Mayor Bonta inquired whether the citations are mailed to the residence, to which the Chief Building Official responded in the affirmative.

Mr. Lopes outlined his financial hardship; stated that he is sorry he made the mistake; he would rather go to jail or find another way to pay the City.

Mayor Gilmore inquired whether the permit and investigation fee was around \$1,000 when Mr. Lopes was first noticed.

Mr. Lopes stated there are two gas lines, so the amount is double.

Mayor Gilmore stated the amount would have been \$2,000 as opposed to \$14,000; a payment schedule could have been worked out if Mr. Lopes talked to the Building Official.

Mr. Lopes stated staff always told him he had to pay the full amount; he was never told he could make payments; further stated that he thought the meeting tonight was the appeal process.

Councilmember Johnson inquired whether Mr. Lopes was aware of the appeal process on the citation, to which Mr. Lopes responded that he tried to talk to staff.

Councilmember Johnson inquired whether Mr. Lopes knew the appeal process was described on the citation, to which Mr. Lopes responded that he cannot recall; stated the citation looks like a traffic ticket; he asked about the next steps in the process.

Councilmember Johnson inquired whether Mr. Lopes knows how many citations he received, to which Mr. Lopes responded approximately 13 or 14.

Councilmember deHaan inquired how many times the liens have come to Council, to which the Chief Building Official responded the past three years.

Councilmember deHaan stated some cases have been over 5 years; inquired why liens were not brought to Council sooner and whether a threshold needs to be met.

The Chief Building Official responded the threshold is when it appears the property owner is no longer interested in working with staff; stated some properties have prior

liens and new liens are being proposed, such as the Roosevelt property.

Mark Cederborg, 2319 Santa Clara Avenue Trustee, gave background information on the trust; stated citations were issued prior to the transfer; outlined current activities; stated said activities show the trust wants to cooperate with the City.

Mayor Gilmore inquired if citations have stopped being issued since Mr. Cederborg's client is attempting to come into compliance, to which the Chief Building Official responded the last citation was issued March 1<sup>st</sup> and the first contact with the trustee was May 1<sup>st</sup>; stated the City has stopped issuing citations.

In response to Mayor Gilmore's inquiry whether \$5,000 for the compliance inspection is under discussion, the Chief Building Official stated the \$5,000 is due before a permit can be issued; all outstanding amounts, including citations, have to be paid before a permit can be issued.

Mr. Cederborg stated the last property tax bill included a special assessment of over \$7,000, which cannot be paid; the liens are not just assessed when the property is sold and have to be paid on the property tax bill.

Mayor Gilmore inquired whether the amount is a City lien, to which the Chief Building Official responded the amount might be an assessment from a previous year.

Mayor Gilmore inquired whether the liens are paid yearly or when the property is sold.

The Chief Building Official responded that his understanding is that the amount is collected when the property is sold; stated the County pays the City half three months after the lien is filed and the other half six months after; that he does not know if the County charges the property owner that year or at time of sale; that he understood it was at the time of sale.

The City Manager noted in the case, the amount could be included because the property transferred.

There was a brief discussion about the divorce case and the trust.

In response to Councilmember Johnson's inquiry about whether property owners cannot take out permits to do the required work once a citation is issued, the Chief Building Official stated all fees due must be paid before a permit is issued; exceptions are made for life safety issues; an exception was made in this case to allow electrical repairs.

Councilmember Johnson inquired whether staff negotiates penalties and fees, to which the Chief Building Official stated only payment plans are negotiated; stated staff does not have authority to waive the fee once a citation has been assessed and the appeal period has passed.



In response to Councilmember Johnson's further inquiry, the Chief Building Official stated the ordinance is clear that people be given the opportunity to correct once a citation has been issued; a penalty is not assessed if the matter is appealed or corrected in the timeframe, which is usually 30 days.

Councilmember Johnson inquired whether there is no penalty, to which the Chief Building Official responded in the affirmative; stated only the permit and investigation fee are charged.

Councilmember Johnson inquired how the citation amount is set, to which the Chief Building Official responded the amount is set in the ordinance; the first citation is \$250, the second is \$750, and the third and subsequent are \$1,000.

Councilmember Johnson inquired why 14 citations are only \$5,000, to which the Chief Building Official responded the City has placed prior liens on the property.

In response to Councilmember deHaan's inquiry, the Chief Building Official stated the liens would be submitted to the County by July 1<sup>st</sup>; property owners have until the end of the day on June 28<sup>th</sup> to pay.

The City Attorney noted the lien is released if the debt is paid.

Councilmember Johnson inquired whether there is a resource to help property owners; stated property owners get frightened and shut down; information needs to be clear; the citations look like parking tickets; the appeal process needs to be made clear on the notice; the ordinance has been in place for a while and should be reviewed and improved.

Mayor Gilmore inquired whether citations continue once a lien has been placed on a property, to which the Chief Building Official responded in the affirmative.

Vice Mayor Bonta stated that he would recuse himself from 1710 Jay Street and 2319 Santa Clara Avenue in an abundance of caution because he has a relationship with the interested parties; that he would vote, but would also like to address 1523 Pacific Avenue separately from the rest.

Councilmember Tam stated that she should recuse herself from 2319 Santa Clara Avenue.

Mayor Gilmore stated that she should recuse herself as well, which makes three members.

The City Attorney stated one person is allowed to vote if a quorum is lost.

Councilmember Johnson inquired whether someone discussed another property, to which the City Attorney responded 2053 Lincoln Avenue.

Councilmember Tam moved approval of the staff recommendation, except for 1710 Jay Street, 2319 Santa Clara Avenue, 1523 Pacific Avenue, and 2053 Lincoln Avenue.

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

Councilmember deHaan inquired whether the total of all the fines is around \$170,000, to which the Chief Building Official responded in the affirmative.

In response to Councilmember deHaan's inquiry regarding timeframes, the Chief Building Official stated cases have been in Code Enforcement for years; however, citations are all more recent.

Councilmember deHaan inquired whether staff has considered doing grandfathering again.

The Chief Building Official responded the amnesty program is still in place; property owners can voluntary comply before the case becomes a Code Enforcement matter.

Councilmember Johnson stated information about amnesty should be on the website.

The Chief Building Official stated the information is on the City's website and could be highlighted.

Mayor Gilmore stated the property owner of 1710 Jay Street is not arguing about the \$5,000 amount due and does not have a hardship.

Councilmember Tam moved approval of the staff recommendation for 1710 Jay Street.

Councilmember Johnson seconded the motion, which carried by the following voice vote: Ayes: Councilmembers deHaan, Johnson, Tam and Mayor Gilmore – 4. Abstention: Vice Mayor Bonta – 1.

Mayor Gilmore summarized the 1523 Pacific Avenue case.

Councilmember Johnson inquired whether staff is clear whether items go back to the 1970's, the Chief Building Official responded only current issues have been cited.

In response to Councilmember Tam's inquiry regarding hardship, the Chief Building Official stated the County may have a process if property owners have hardships and cannot pay property taxes; the City is not a part of said process.

Mayor Gilmore stated there seems to be some confusion; inquired whether the liens are part of the property tax paid twice per year or whether the amount is paid when the property is sold.

The Chief Building Official stated that his understanding is the amount is assessed at the time of sale; the County pays the City in advance of collecting the money.

The City Attorney stated liens typically have to be cleared when the property is sold, but property can be foreclosed on due to liens.

Councilmember Johnson stated the City needs to check with the County.

The Chief Building Official stated that he would contact the County.

The City Attorney stated there are many different types of liens; assessments are paid as part of property taxes; a lien is not an assessment.

Vice Mayor Bonta stated the attorney indicated the County has a process for reviewing hardships.

Ms. Harrington stated as an example, San Francisco County places a lien and forecloses on property if taxes are not paid for 5 years; whether or not the property would be foreclosed upon is not clear.

Vice Mayor Bonta inquired what is the City's process for hardships, to which the Chief Building Official responded staff works with property owners willing to make payments; stated enforcement is not stopped until the property is in compliance.

Vice Mayor Bonta inquired whether enforcement means additional citations, to which the Chief Building Official responded in the affirmative.

In response to Councilmember Johnson's inquiry regarding the first letter, the Chief Building Official stated the first letter informs the property owner that the City needs to investigate a complaint; if a violation is found, the second letter states the property owner needs to comply and pay the permit and fees; citations are brought up after there is no compliance; three to four letters are sent prior to issuing the first citation; there are many Code Enforcement cases and only a 13 are being brought to Council.

The City Manager reminded Council the issues are health and safety issues that could impact surrounding properties.

Vice Mayor Bonta moved approval of providing a 90 day moratorium for 1523 Pacific Avenue whereby there will be no additional fines imposed and giving an opportunity for the attorney to work out a plan with staff.

Mayor Gilmore inquired what happens to the \$16,750, to which Vice Mayor Bonta stated the attorney would discuss the amount with staff.

Mayor Gilmore inquired whether Vice Mayor Bonta is referring to how the amount would

be paid, to which Vice Mayor Bonta responded a payment plan or lump sum.

Councilmember Tam inquired whether the motion is to approve a 90 day moratorium for 1523 Pacific Avenue and allow a payment plan where the City does not impose the lien; if the property owner does not pay up, the matter would come back next year, to which Vice Mayor Bonta responded in the affirmative.

Councilmember Tam seconded the motion.

Under discussion, Councilmember Johnson inquired whether the intent of the motion is to allow discussion of the penalty amount, to which Councilmember Tam responded the intent is to allow the property owner to work out an installment plan with staff.

Councilmember Johnson inquired whether the motion fixes the amount, to which Vice Mayor Bonta responded the motion does not contemplate the fixing of the amount or how it is paid, which he leaves to staff; it is fine if agreement is reached and staff holds the line and requests the whole amount be paid; that he is not saying one way or the other and is giving flexibility; the time and process are the most important component.

The City Manager stated the woman is elderly and does not have income; that he does not see how an installment plan will happen.

Vice Mayor Bonta stated family members are willing to pay.

The City Attorney stated the attorney indicated the property owner is willing to fix the problem; requested clarification about whether the amount owed would be paid.

Ms. Harrington responded the amount of the citation should be lowered; that she would want to review the amount of the fee; the family is willing to do whatever it takes to save the property.

Councilmember Johnson inquired whether Ms. Harrington believes the citations are all for current work, to which Ms. Harrington responded in the negative.

Councilmember Johnson stated the wiping out the past work should make the case easier to resolve; that she would like the matter included in the motion.

Councilmember Tam inquired whether the motion allows working out the amount and whether there should be abatement based on when work was done and prior permits; stated the flexibility does not need to be discussed.

Vice Mayor Bonta stated that he would like to delegate the flexibility to staff.

Mayor Gilmore stated that she would support the motion because in this case there is a discrepancy whether the work was old work or new work, which is different from other cases.

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

Mayor Gilmore provided an overview of 2053 Lincoln Avenue.

Councilmember deHaan stated a payment plan was not offered; inquired whether the property owner would move forward with a payment schedule.

Mr. Lopes' daughter stated that she is willing to pay \$1,000 for the next two months to get the permit and following that, will make payments on the \$12,000; begged the lien not be placed on the house.

Councilmember deHaan inquired whether 2053 Lincoln Avenue should be sent back to staff to give time to set up requirements for payment.

Mayor Gilmore stated there is a promise on the record to make payments.

Councilmember deHaan moved approval of 90 days and direction to staff to work out a payment schedule.

Mayor Gilmore inquired whether the motion is to give 90 days to work out a plan for coming into compliance and a payment schedule.

Vice Mayor Bonta clarified there would be a moratorium during the 90 days so that no additional citations would be imposed.

The City Manager stated Mr. Lopes indicated PG&E said the gas lines are fine.

Mr. Lopes stated that he does not have a problem with putting in the valves; City staff saw pictures and said the material was not good, however, PG&E indicated that the materials is being used everywhere instead of metal pipe.

Mayor Gilmore requested the motion be amended to include that the gas valve and material of the piping to ensure City requirements are met.

The Chief Building Official stated said matter would be addressed as part of the inspection process once a permit is issued; the gas lines have to be unburied to do the inspection; a test is done to ensure the gas line does not leak and the material is proper and will not rot.

Mayor Gilmore inquired whether Mr. Lopes will not come back and argue that PG&E said the material is fine, to which Mr. Lopes responded that he understands.

Vice Mayor Bonta seconded the motion.

Under discussion, Councilmember Johnson inquired whether there is an indication that

the pipes do not meet standards.

Mr. Lopes responded staff told him everything would have to be replaced, which he does not believe; inspection will pass once the valves are installed.

Mayor Gilmore stated the motion includes that there will be a complete inspection of the gas lines, including the valves and material composition of the lines.

Mr. Lopes stated a couple of spots would be uncovered to check the material, depth and test pressure.

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

In response to Mayor Gilmore's inquiry whether a relationship constitutes a conflict, the City Attorney responded not unless the Councilmember declares bias.

Vice Mayor Bonta stated that he does not believe he technically has a conflict, he just did so out of an abundance of caution.

The City Attorney stated the rule of necessity allows for a drawing to be held to make a quorum; Vice Mayor Bonta does not appear to have a true conflict.

Mayor Gilmore and Councilmember Tam expressed they do not have a true conflict either.

Vice Mayor Bonta and Councilmember Tam voluntarily recused themselves and left the dais.

Councilmember deHaan inquired whether the County required payment of a prior assessment due to the property transfer, to which Mr. Cederborg responded in the affirmative; stated the amount is \$7,800.

Council discussed whether or not the amount could be the School District parcel tax.

Councilmember Johnson inquired whether the amount is not being disputed, to which Mr. Cederborg responded the property owner has worked in good faith and citations have continued to accrue.

Councilmember Johnson stated health and safety concerns are greater for commercial space.

\* \* \*

(12-328) Councilmember Johnson moved approval of considering the next three ordinances [paragraph nos. 12-329, 12-330, and 12-331] after 10:30 p.m.

Councilmember Tam seconded the motion, which carried by unanimous voice vote – 4.

[Absent: Vice Mayor Bonta – 1.]

\* \* \*

Councilmember Johnson inquired whether the property owner needs to go forward with the work to allow a tenant to move in, to which Mr. Cederborg responded in the affirmative.

The Chief Building Official stated once the lien has been filed, the \$5,000 goes away and permit fees could be discussed.

Mayor Gilmore stated placing a lien on the property wipes the slate clean and allows the property owners to obtain the permits needed.

The City Manager stated the property is out of compliance; staff can be directed to work with the property owner to get into compliance; the \$5,000 lien is not operative now.

Mayor Gilmore stated placing the lien would allow the property owner to go back to court and explain there was misrepresentation.

Councilmember Johnson moved approval of the staff recommendation regarding 2319 Santa Clara Avenue.

Councilmember deHaan seconded the motion, which carried by unanimous voice vote – 3. [Absent: Councilmembers Bonta and Tam – 2.]

Councilmember Johnson stated implementation of the ordinance should be brought back to Council.

Councilmember deHaan concurred with the suggestion; stated more information is needed.

(12-329) Introduction of Ordinance Amending the Alameda Municipal Code by Amending Article II (Boards And Commissions) of Chapter II (Administration) and by Amending Section 2-12.2(A) to Revise the Membership of the Recreation and Park Commission.

The Recreation and Parks Director gave a brief presentation.

Speaker: Jon Spangler, Alameda, encouraged the Commission continue with seven members.

Councilmember deHaan moved introduction of the ordinance.

Councilmember Johnson stated that she would prefer to keep the membership at seven, which ensures representation of different views.

Councilmember deHaan started the matter is a continuing step in the review process.

Mayor Gilmore stated having five members makes having a quorum easier.

In response to Vice Mayor Bonta's inquiry regarding other Boards and Commissions with five members, the City Clerk listed seven bodies: Civil Service Board, Historical Advisory Board, Housing and Building Code Hearing and Appeals Commission, Library Board, Open Government Commission, Public Art Commission and Public Utilities Board.

Councilmember Johnson stated the two open spots have made having a quorum difficult.

Councilmember Tam noted the Recreation and Park Commission President was directed to have the Commission consider the matter and come back to Council.

Councilmember Tam seconded the motion, which carried by the following voice vote: Ayes: Councilmembers Bonta, deHaan, Tam and Mayor Gilmore – 4. Noes: Councilmember Johnson – 1.

(12-330) Introduction of Ordinance Amending the Alameda Municipal Code by Adding Section 2-67 Relating to Prevailing Wages.

The Assistant City Attorney gave a brief presentation.

Speaker: Andy Slivka, Carpenters Union/Building Trades, stated that the one thing he disagrees with is the staff report indication that there would be 15% increase in cost; urged adoption of the ordinance.

Vice Mayor Bonta moved introduction of the ordinance.

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

(12-331) Ordinance No. 3048 "Amending the Alameda Municipal Code by Repealing Subsections 18-5.10 (Lateral Testing Upon Sale), 18-5.11 (Private Sewer Lateral Testing Procedures and Requirements), 18-5.12 (Failure of Test), 18-5.13 (Lateral Certification), 18-5.14 (Condominium and Cooperative Apartment Buildings) of Section 18-5 (Abatement of Improper Sewer Connections) in their Entirety, and by Adding Section 18-6 (Sewer Lateral Testing) to Article 1 (Sewers) of Chapter XVIII (Sewer and Water)." Finally passed.

The City Engineer gave a brief presentation.

Vice Mayor Bonta moved final passage of the ordinance.

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



### CITY MANAGER COMMUNICATIONS

(12-332) The City Manager announced that two members of Council provided potential frequently asked questions regarding pension and labor issues, for a total of 16 questions ; requested the remaining Councilmembers submit questions.

Councilmember Johnson suggested the City Auditor and City Treasurer be invited to submit potential questions.

The City Manager agreed to do so.

### ORAL COMMUNICATIONS, NON-AGENDA

(12-333) Dr. Carol Gottstein, Alameda, discussed the June 6<sup>th</sup> minutes and requested to view the A&B Tow contract.

### COUNCIL REFERRALS

None.

### COUNCIL COMMUNICATIONS

(12-334) Councilmember Tam made announced that she attended a League of California Cities meeting on June 14<sup>th</sup>.

### ADJOURNMENT

There being no further business, Mayor Gilmore adjourned the meeting at 10:55 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 CITY COUNCIL MEETING  
TUESDAY- -JUNE 19, 2012- - 6:00 P.M.

Mayor Gilmore convened the meeting at 6:01 p.m.

ROLL CALL – Present: Councilmembers Bonta, deHaan, Johnson, Tam and Mayor Gilmore – 5.

[Note: Councilmember Johnson arrived at 6:07 p.m. and Vice Mayor Bonta arrived at 6:10 p.m.]

Absent: None.

The meeting was adjourned to Closed Session to consider:

(12-300) Workers' Compensation Claim (54956.95); Claimant: David Ellis; Agency Claimed Against: City of Alameda

(12-301) Conference with Legal Counsel – Existing Litigation; (54956.9) Name of Case: Robert Zack, Bernice Jolliff, The Estate of Raymond Zack vs. City of Alameda, County of Alameda, and DOES 1 through 50, inclusive; Superior Court of California, Alameda County; Case No. RG12632015; this lawsuit stems from the tragic drowning of Raymond Zack at Crown Beach in May 2011. Family members are seeking unspecified monetary damages.

Following the Closed Session, the meeting was reconvened and Mayor Gilmore announced that regarding Workers' Compensation Claim, the Council gave direction to staff; and regarding Existing Litigation, Council gave direction to staff.

Adjournment

There being no further business, Mayor Gilmore adjourned the meeting at 7:04 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

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