

Alameda Sun

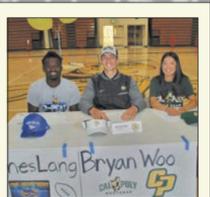
Locally Owned, Community Oriented



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Alameda Sun Almanac

Date	Rise	Set
Today	06:04	20:07
May 11	06:03	20:08
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Findings of Council Investigation Released

Ekene Ikeme

The independent investigation regarding the Alameda Fire Chief selection process revealed Councilmember Jim Oddie violated the City Charter when he wrote a letter of recommendation for Domenick Weaver to City Manager Jill Keimach.

The discovery came as part of a 100-page investigative report conducted by Michael Jenkins, an attorney for Jenkins & Login LLP. Oddie's letter of recommendation for Weaver for the Alameda Fire Department (AFD) Fire Chief was addressed to Keimach on July 31, 2017. The report, which was released to the public on Wednesday, May 2, revealed Oddie sent the letter on city letterhead and signed it. Jenkins said the letter "evidences an attempt to influence the City Manager's appointment decision. As such, in my opinion, it violates the City Charter." The City Charter Jenkins is referring to is Alameda City Charter Sec. 7-3, which prohibits Councilmembers from attempting to influence the City Manager in the making of any appointment.

However, Jenkins does place some blame on the broadness of City Charter Sec. 7-3 for the transgression. Even though councilmembers are not allowed to interfere with City Manager appointments, they do have the power to inquire about a City Manager's administrative services.

"The line between inquiry and opinion can easily and innocently be blurred," wrote Jenkins. This broadness led Jenkins to recommend Council "propose to the electors a City Charter amendment or enacting an ordinance that delineates with specificity the types of conduct that constitute a violation of this section."

Oddie agreed with Jenkins' assessment that the section is too broad.

"If I violated the Charter by writing a letter of recommendation on behalf of a man I know well and believed would be a great fire chief, then, as the investigator's report recognizes, the Charter needs to be changed," wrote Oddie in his response to the report. "There was nothing improper about writing a recommendation letter for a highly qualified candidate. I cannot apologize where the record reveals that I did nothing wrong. I never intended in any way to influence or pressure Keimach in any even slightly improper way."

The investigation was initiated after Keimach wrote a letter to Council last October ("City Must Fully Investigate City Manager's Allegations," Oct. 16) alleging two Councilmembers, revealed later to be Oddie and Vice-Mayor Malia Vella, illegally pressured her to hire Weaver as AFD Fire Chief. Jenkins & Login, LLP were hired shortly after to investigate the fire chief hiring process. Jenkins investigated six claims Keimach made in her letter. He refuted most of her allegations.

Keimach first alleged that her job performance evaluation was delayed in an attempt to tie it to her selection of the fire chief. Jenkins said the delay was due to disagreements over best procedure and similar intra-

Council considerations. Evaluations of the City Attorney and City Clerk were similarly delayed.

The City Manager's also claimed Vella and Oddie directed her to conduct untenable operations like informing Council within an hour of dispatch of all potential hate incidents and crimes. Keimach believed the purpose was to set her up to fail and create something negative to put in her evaluation. Jenkins said evidence did not support the claim that the purpose of the request was to set her up for failure.

The third allegation was that Keimach's fire chief selection would have an impact on her evaluation. Jenkins believes this to be true as Oddie and Vella did express to her that her appointment would have such an impact on her evaluation.

Keimach's also claimed that the two Councilmembers pressured her to hire Weaver because it would be in the best interest of labor peace and avoid an incident similar to what happened Raymond Zack, referring to the 2011 incident where Alameda firefighters remained ashore and looked on while Zack drowned at Crown Beach. This claim was supported in part. Oddie stated in his letter that he thinks Weaver will aid Council's policymaking involving post-retirement liability. He also explained that past city administrators benefitted when they made internal promotions, according to the report. Keimach claimed the Zack incident was brought up in a threatening manner. However, Jenkins could not identify who brought up the incident or in which context it was brought up.

The fifth claim was the councilmembers may have violated the Ralph M. Brown Act. This claim was also supported in part. Alameda Police Chief Paul Roller told Jenkins that Oddie told him "she better do the right thing" and that there were two Councilmembers ready to fire her. However, Jenkins believes Oddie thought the conversation was private. For the statement to be an attempt to influence the City Manager, there would have to be a set strategy to use Roller as a messenger. There is no evidence to this. Also, there was no evidence Councilmembers discussed firing Keimach privately, which would violate the Brown Act.

Keimach's sixth claim involved threats to potential appointees to get them to withdraw from the hiring process. Jenkins said there was no evidence to support Councilmembers were involved. However, he believes fire union members discouraged potential candidates.

Vella was cleared of any potential violations of the City Charter.

"The evidence does not support any of Ms. Keimach's baseless accusations that I improperly attempted to influence her selection of a new fire chief," said Vella in a statement.

Keimach's attorney, Therese Cannata, called the report "white-washed" but was satisfied it validated Keimach's claim she felt pressured to hire Weaver.

Twenty-two people were interviewed for the investigation.

To view the report visit the city's website, www.alamedaca.gov.



City of Alameda

The Cavallari Group will present a brand-new plan for the Shipways development to the Planning Board next Monday. The new plan has four buildings instead of the single one in the original plans.

Shipways Project Redo Before Planning Board

North Shore development adds 329 new housing units

Dennis Evanosky

The Shipways Residential Project, 1100-1250 Marina Village Pkwy, has once again come before the Planning Board. According to the city, the Cavallari Group, Inc. submitted an application for a development plan and design review on March 15, 2017. The following month, the Planning Board sent Cavallari back to the drawing boards.

The board asked the developer to distribute the units among two

or more buildings rather than the one large building Cavallari had proposed. In addition the board requested view corridors through the property to the Oakland Estuary and a reduction in the buildings' mass.

Cavallari revised its design. Instead of the single building, the proposed project includes four separate multifamily residential structures of four to six stories, containing a total of 329 residential units. This number includes

54 deed-restricted affordable-housing units, as opposed to the 2017 design of a single, large building with 292 residential units and 40 deed-restricted units.

The project still includes a 2.5-acre public waterfront park, with a dual-purpose dock for ferry shuttle service. Also held over from the 2017 plan are a public kayak launch, showers, bathrooms, waterfront amenities and an extension of the Bay Trail.

SHIPWAYS: Page 3

Judge Lets AUSD's Measure B1 Stand

Dennis Evanosky

The Alameda Unified School District announced that it had reached a stipulated agreement with the plaintiffs — Nelco, Inc., Santa Clara Investors II and Edward Hirschberg — in the lawsuit challenging Measure B1. In order to bring Measure B1 into full alignment with Measure A, which B1 is replacing, one of Superior Court Judge Ioana Petrou's stipulations requires that Measure B1 incorporate the \$299 tax on unimproved parcels provided for in Measure A. Other stipulations that Petrou approved remained unclear when the Alameda Sun went to press on Tuesday.

On March 8, 2011, 68.01 percent of Alameda voters approved Measure A, a parcel tax designed to generate some \$12 million per year for seven years. That tax is set to expire on June 30. Petrou's decision preserves Measure B1's \$12 million in bond revenue. The tax will go into effect on July 1 and will essentially serve as an extension for Measure A.

The plaintiffs filed a suit against Measure B1 in December 2016, just a month after 72.2 percent of Alameda voters approved it. The

same plaintiffs also sued the district over Measure H, a parcel tax passed in 2008 and over Measure A in 2011. "In (the 2008) lawsuit, the plaintiffs claimed that the measure's differing rates for residential and commercial property owners were not 'uniform' as required under state law," AUSD stated in a press release.

AUSD won the 2008 lawsuit at the trial court, but the plaintiffs appealed and won. The school district appealed to the state Supreme Court, which refused to hear the case. The plaintiffs and the school district settled that lawsuit in 2014, and in 2015 the district issued Measure H refunds to those property owners who applied for them consistent with applicable law.

The plaintiffs had argued a similar lack of uniformity in the lawsuit they filed against Measure A soon after it was passed in 2011. AUSD won that case at the trial-court level. Because the courts found Measure A valid, Petrou found that Measure B1, which has a nearly identical structure, was also valid as an extension of Measure A. The judge had signaled which way the trial would go, when she issued a

tentative ruling in AUSD's favor on Oct. 30, 2017.

Like Measure A, the money from Measure B1 will support a wide range of programs. These include small class sizes, neighborhood schools, high-school athletics, technology, elementary music, physical education classes and media centers. Measure B1 effectively extends the life of Measure A until June 30, 2025.

The current lawsuit went to trial on Sep. 27, 2017. At stake: Did the parcel tax structure apply the tax uniformly? State law requires that governing bodies apply parcel taxes equally to all parcels of taxable property. Measure B1 taxes all parcels at a rate of 32 cents per building square foot up to a cap of \$7,999.

The plaintiffs claimed — as they had in the two previous lawsuits — that the Measure B1 parcel tax structure was not "uniform" because of the cap and because owners of parcels without buildings would pay no tax. In the end Petrou disagreed with the plaintiffs, other than restoring Measure A's \$299 tax on unimproved property, she let B1 stand.

Contact Dennis Evanosky at editor@alamedasun.com.

Post Office Conducts Food Drive

Sun Staff Reports

The National Association of Letter Carriers will hold its 26th annual Stamp Out Hunger Food Drive this Saturday, May 12. Food banks around the country and throughout the Bay Area rely on postal letter carriers to help replenish depleted food stocks in order to continue to feed needy families.

Last year's drive resulted in carriers collecting 75.3 million pounds of food from local communities in all 50 states, the District of Columbia, Puerto Rico, Guam and the U.S. Virgin Islands. Making a donation is easy. Customers should leave their non-perishable food donations in a bag near their mailbox on Saturday, May 12, before their letter carrier arrives. In the days leading up to the food drive, letter carriers will be delivering special bags along with the mail that may be used to make donations.



File photo

This photograph by Edgar Cohen taken around 1900 is accompanied by the caption "Santa Clara Avenue cut through Indian Mound — Alameda." Native American remains have been found in the vicinity of Mound Street and Santa Clara several times throughout Alameda history. An oyster shellmound once stood in the area bordered by Court Street, Johnson Avenue, Gibbons Drive and Central Avenue. The intersection of Mound and Santa Clara sits near the center of the former mound. In the picture are likely Edgar Cohen's children, Beatrice, left, and Alfred B. Cohen, named for his grandfather, the railroad baron, Alfred A. Cohen.

Remains Found on East End

Sun Staff Reports

A construction crew discovered the remains of what is thought to be a Native American in a yard on the 1400 block of Mound Street on Tuesday, May 1. Alameda Police Department notified the Alameda County Sheriff's Department's Coroner's Bureau whose deputies took over the case.

The deputies will prepare a report for the California Native American Heritage Commission in Sacramento. Members of that commission will determine the final disposition of the remains. They will likely reinter them at the Ohlone Indians Cemetery at Washington Boulevard and Paseo Padre Parkway in Fremont.

At 9 a.m. this Saturday, May 12, Alameda Walks will explore the history of the Native American shellmound that gave Mound Street its name. Eric J. Kos will lead the one-hour, 15-minute fitness walk. No pets, please. Meet at Lincoln Park, 1450 High St.

For more information, call 747-7529, or write prussi@alamedaca.gov.