

REGULAR MEETING OF THE  
CONCORD CITY COUNCIL  
CITY COUNCIL CHAMBER  
1950 PARKSIDE DRIVE  
CONCORD, CALIFORNIA  
TUESDAY, DECEMBER 13, 2016

The Concord City Council met in a regular meeting in the Council Chamber located at 1950 Parkside Drive at 6:30 p.m. on Tuesday, December 13, 2016, with Mayor Hoffmeister presiding. The pledge of allegiance was led by Boy Scout Troup 266. Minutes follow in abbreviated form per Resolution 3361 and Council Minutes of September 26, 1966.

ROLL CALL

COUNCILMEMBERS PRESENT: Edi Birsan, Ron Leone, Carlyn Obringer, Laura Hoffmeister

STAFF PRESENT: Valerie Barone, City Manager; Susanne Brown, City Attorney; Tim McGallian, City Treasurer; Joelle Fockler, City Clerk; Chief of Police Guy Swanger; Victoria Walker, Director of Community and Economic Development; Jeff Lewis, Director of Information Technology; Steve Voorhies, Director of Parks and Recreation; Laura Simpson, Planning Manager; Bob Hardie, Facilities Manager; Michael Cass, Principal Planner; Kevin Marstall, Senior Civil Engineer; Mark Migliore, Associate Civil Engineer; Leslye Asera, Community Relations Manager

MEMBERS OF THE PUBLIC WHO ADDRESSED THE COUNCIL: Dr. Harmesh Kumar, Concord; Joe Partansky, Concord; Greg Colley, Concord

PUBLIC COMMENT PERIOD

There was no public comment.

PRESENTATIONS

MAYOR'S COMMUNITY SERVICE AWARD

This item was continued to the January 10, 2017 meeting.

COUNTYWIDE COORDINATED ENTRY PROGRAM

Community Services Program Manager Brenda Kain introduced Jaime Jenett, Continuum of Care Planning and Policy Manager, Health, Housing and Homeless Division, who gave a presentation on the Countywide Coordinated Entry Program for homeless services.

Dr. Harmesh Kumar, Concord, commented on the importance of collaboration between different agencies on this issue.

Joe Partansky, Concord, commented on the presentation.

50<sup>th</sup> ANNIVERSARY OF CONCORD CIVIC CENTER

Mayor Hoffmeister introduced Community and Economic Development Director Victoria Walker who gave a presentation on the 50<sup>th</sup> Anniversary of the Farrell A. Stewart Civic Center.

Mayor Hoffmeister called a recess at 7:20 p.m. The meeting resumed at 7:35 p.m.

ANNOUNCEMENTS – none.

APPROVAL OF MINUTES – September 13 and 27, 2016

Motion was made by Leone and seconded by Birsan to approve the minutes of September 13 and 27, 2016. The motion passed by the following vote of the Council:

AYES: Birsan, Leone, Hoffmeister      NOES: None      ABSTAIN: Obringer

ADOPTION OF ORDINANCE NO. 16-8 – Multiple Family Rental Dwelling Unit Inspection and Maintenance

Motion was made by Leone and seconded by Birsan to adopt Ordinance No. 16-8 entitled, "AN ORDINANCE AMENDING CONCORD MUNICIPAL CODE TITLE 15 (BUILDINGS AND BUILDING REGULATIONS), CHAPTER 15.50 (MULTIPLE FAMILY RENTAL DWELLING UNIT INSPECTION AND MAINTENANCE CODE), SECTIONS 15.50.010 THROUGH 15.50.180." Ordinance No. 16-8 was introduced on November 29, 2016. The motion passed by the following vote of the Council:

AYES: Birsan, Leone, Hoffmeister      NOES: None      ABSTAIN: Obringer

APPROVAL OF AGREEMENT FOR PROFESSIONAL SERVICES – Pavement Engineering, Inc.

Motion was made by Leone and seconded by Birsan to approve an Agreement for Professional Services with Pavement Engineering, Inc. in the amount of \$96,710 to provide for design and related services for Measure Q Pavement Maintenance Project #5 – Zones 4 and 5, Project No. 2332, subject to the approval of the City Attorney; and authorize the City Manager to execute the Agreement. The motion passed by unanimous vote of the Council.

APPROVAL OF AGREEMENT FOR PROFESSIONAL SERVICES – Municipal Resource Group, LLC

Motion was made by Leone and seconded by Birsan to approve an Agreement for Professional Services with Municipal Resource Group, LLC in an amount not to exceed \$133,500 to provide financial consulting services in connection with development of the Fiscal Years 2017-18 and 2018-19 Municipal Budget. Motion passed by unanimous vote of the Council.

RESOLUTION NO. 16-88 – Accepting Grant Funding from the Brenden Mann Foundation

Motion was made by Leone and seconded by Birsan to adopt Resolution No. 16-88 entitled, "A RESOLUTION ACCEPTING GRANT FUNDING FROM THE BRENDEN MANN FOUNDATION FOR THE ENHANCEMENT OF PUBLIC SAFETY IN THE AMOUNT OF \$24,000 AND APPROPRIATION OF THE FUNDS AND APPROVAL FOR USE ON THE GARAGE SECURITY CAMERA CAPITAL IMPROVEMENT PROJECT 2275 THEREBY AMENDING THE CAPITAL IMPROVEMENT BUDGET FOR FISCAL YEAR 2016-17." Motion passed by unanimous vote of the Council.

AFFIRMATION OF THE 2017 COUNCIL MEETING CALENDAR

Motion was made by Leone and seconded by Birsan to affirm the 2017 Council Meeting Calendar. Motion passed by unanimous vote of the Council.

RESOLUTION NO. 16-83 – Finding that there Remains a Reasonable Relationship between Current Needs for the Offsite Street Improvement Program (OSIP), Art in Public Places and Master Storm Drain Fees

Motion was made by Leone and seconded by Birsan to adopt Resolution No. 16-83 entitled, "A RESOLUTION FINDING THAT THERE REMAINS A REASONABLE RELATIONSHIP BETWEEN CURRENT NEEDS FOR THE OFFSITE STREET IMPROVEMENT PROGRAM (OSIP), ART IN PUBLIC PLACES AND MASTER STORM DRAIN FEES AND THE PURPOSES FOR WHICH THEY WERE ORIGINALLY CHARGED (GOVERNMENT CODE SECTION 66000 ET. SEQ.) Motion passed by unanimous vote of the Council.

RESOLUTION NO. 16-82 – Ordering Summary Vacation of Excess Public Right-of-Way Located at 2111 Kirker Pass Road

This item was pulled from the Consent Calendar, and Councilmember Obringer recused herself from this item stating that the Planning Commission considered the item while she was serving on the Planning Commission. Councilmember Obringer left the Council Chamber.

Motion was made by and seconded by to adopt Resolution No. 16-82 entitled, "A RESOLUTION ORDERING SUMMARY VACATION OF 8,060 SQ. FT. OF EXCESS PUBLIC RIGHT-OF-WAY LOCATED AT 2111 KIRKER PASS ROAD, CONCORD, CALIFORNIA, 94521, APN 117-070-027. Motion passed by the following vote of the Council:

AYES: Birsan, Leone, Hoffmeister      NOES: None      ABSTAIN: None

Councilmember Obringer returned to the dais.

CONSIDERATION OF REVISIONS TO CITY COUNCIL MEETING PROCEDURES (continued from November 29, 2016

City Clerk Joelle Fockler presented a report stating that in accordance with direction from the Committee on Policy Development and Internal Operations, staff drafted changes to the City Council Meeting Procedures, Concord Policy and Procedure No. 2, to revise meeting process and conduct matters. She noted that given time constraints at the November 29 City Council meeting, the item was continued to December 13.

Ms. Fockler specified the proposed changes as written in the staff report, and indicated that the redline changes not discussed in the staff report are generally cleanup or administrative matters.

Mayor Hoffmeister opened a public comment period.

Joe Partanksy, Concord, requested a definition of ex parte communication.

Mayor Hoffmeister closed the public comment period.

A motion was made by Birsan and seconded by Leone, for purposes of discussion, to make amendments to Section 4.42 to delete "other" from line one and replace with "all" and delete "addressing the City Council" from line one and replace with "speaking." Following discussion by Council, Leone withdrew his second. It was the consensus of the Council to bring Section 4.42 back to the Committee on Policy Development and Internal Operations.

A motion was made by Leone and seconded by Obringer to revise Section 4.53(a) to delete "citizen speaking" and replace with speaker; Section 4.53(d) to add "and regional bodies" at the end of line four after "standing committees;" and add Section 4.53(e) – "The Mayor may make declarations of special days and recognition awards on behalf of the City. Such declarations to be detailed in the subsequent correspondence and reports to Council." Motion passed by unanimous vote of the Council.

A motion was made by Birsan and seconded by Leone, for purposes of discussion, that under Section 5.1, Preparation of Agenda, future agenda items may be added by the City Manager, the Mayor (one per future agenda or a time certain), the unanimous vote of a standing committee to bring an item to the Council (one per meeting) at a time certain, and the vote of two or more of the Council in a Council session to bring the item to a future or date certain meeting for discussion and action. Following discussion by Council, Leone withdrew his second. It was the consensus of the Council to bring Section 5.1 back to the Committee on Policy Development and Internal Operations.

A motion was made by Birsan to add to Section 8.4, Selection of the Mayor, "if there is only one candidate Councilmember for the office, that candidate will be selected automatically. If there is more than one candidate, then the senior Councilmember (in consecutive years or portions thereof) who has not yet been Mayor will automatically become Mayor. In the case of a seniority tie, then the Councilmember with the most votes in that election will be designated as the Mayor. The outgoing Mayor will automatically drop to the bottom of the seniority list that will be maintained by the City Clerk as a public document;" add to Section 8.5, Selection of the Vice Mayor, "if there is only one candidate Councilmember for the office, that candidate will be selected automatically. If there is more than one candidate, then the senior Councilmember (in consecutive years or portions thereof) who has not yet been Vice Mayor will automatically become Vice Mayor. In the case of a seniority tie, the Councilmember with the most votes in that election will be designated as the Vice Mayor. The outgoing Vice Mayor will automatically drop to the bottom of the seniority list that will be maintained by the City Clerk as a public document;" and add a sentence stating, "modifications of this section may be done after a public hearing with 45 days advance notice." Motion failed due to lack of a second.

A motion was made by Birsan and seconded by Leone to add to Section 8.1, Term of Mayor, "the term of Mayor selected in December 2017 shall be for only one year. Thereafter the two year term of the Mayor will start effective with the reorganization of December 2018." Motion passed by unanimous vote of the Council.

A motion was made by Birsan to add the Section "Vacancy on the Council" to the Policy stating, "if the Council is to fill the vacancy by appointment within six months of an election for Council where there was a runner up, then the runner up will automatically be selected to fill the term of the vacancy provided that 1) the runner up had at least 70 percent of the next highest successful candidate, and 2) the runner up is still qualified to hold office. If the runner up does not qualify, then the next highest vote getting candidate that make the provision of 70 percent shall be assigned. In all other situations the default shall be the general law provisions of the state code. This provision may be changed after a 45 day public noticed hearing and a unanimous vote of the Council." Motion failed due to lack of a second.

#### APPROVAL PROCESS TO FILL THE COUNCILMEMBER VACANCY CREATED BY THE RESIGNATION OF COUNCILMEMBER GRAYSON – RESOLUTION NO. 16-93

City Clerk Joelle Fockler presented a report, stating that the Council has three options available to fill the vacancy created by the resignation of Councilmember Grayson. The options include appointing an individual to the vacant position, either through a direct appointment or following an application and interview process; or call for a special election. She recommended the Council consider the alternatives and select one by adoption of the related resolution.

Following questions by the City Council, Mayor Hoffmeister opened a public comment period.

Greg Colley, Concord, stated that the runner up in the election should be seated on the City Council.

Mayor Hoffmeister closed the public comment period.

Following discussion by Council, a motion was made by Leone and seconded by Obringer to adopt Resolution No. 16-93 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CONCORD TO APPOINT A CITIZEN TO FILL THE OFFICE OF CITY COUNCILMEMBER VACATED BY THE RESIGNATION OF TIMOTHY S. GRAYSON WAIVING THE OPTION OF A SPECIAL ELECTION." Motion passed by unanimous vote of the Council.

#### INTRODUCTION OF ORDINANCE NO. 16-9 – Marijuana

Planning Manager Laura Simpson introduced Principal Planner Michael Cass who presented a report on the consideration of the introduction of Ordinance No. 16-9 amending Concord Municipal Code Chapter 5.05 (Business Licenses), Section 5.05.020 (Article Intended as Revenue Measure) to specify that a stamp, signature, or other notation on approved plans, business license, or similar does not constitute a Zoning Clearance, Administrative Permit, Minor Use Permit, or other regulatory approval; 5.80 (Medical Marijuana Dispensaries) to rename Chapter and add Section 5.80.030 prohibiting outdoor marijuana cultivation; and Chapter 9.05 (Offenses and Miscellaneous Provisions), Section 9.05.020 (Sale and Display of Narcotics and other Paraphernalia) to rename Section and clarify the enforcement of sale and display of prohibited substances or paraphernalia. Mr. Cass reviewed Proposition No. 64: Control, Regulate & Tax Adult Use of Marijuana Act (AUMA) and its relation to Ordinance No. 16-9. Mr. Cass recommended that the City Council introduce Ordinance No. 16-9 by reading of the title only and waiving further reading.

Following questions by the Council, Mayor Hoffmeister opened a public comment period, and upon receiving no public comment, closed the public comment period.

Motion was made by Leone and seconded by Obringer to introduce Ordinance No. 16-9 entitled, "AN ORDINANCE AMENDING CONCORD MUNICIPAL CODE SECTION 5.05.020 (ARTICLE INTENDED AS REVENUE MEASURE) TO SPECIFY THAT A STAMP, SIGNATURE, OR OTHER NOTATION ON APPROVED PLANS, BUSINESS LICENSE, OR SIMILAR DOES NOT CONSTITUTE A ZONING CLEARANCE, ADMINISTRATIVE PERMIT, MINOR USE PERMIT, USE PERMIT, OR OTHER REGULATORY APPROVAL; CHAPTER 5.80 (MEDICAL MARIJUANA DISPENSARIES) TO RENAME CHAPTER AND ADD SECTION 5.80.030 PROHIBITING OUTDOOR MARIJUANA CULTIVATION; AND SECTION 9.05.020 (SALE AND DISPLAY OF NARCOTICS AND OTHER PARAPHERNALIA) TO RENAME SECTION AND CLARIFY THE ENFORCEMENT OF SALE AND DISPLAY OF PROHIBITED SUBSTANCES OR PARAPHERNALIA" by reading of the title only and waiving further reading. Motion passed by unanimous vote of the Council.

#### CORRESPONDENCE

- a. Transforming the Homeless System of Care PowerPoint Presentation
- b. Concord Civic Center 50<sup>th</sup> Anniversary Pamphlet
- c. City Council Meeting Procedures Policy and Procedure No. 2 PowerPoint Presentation
- d. City Council Vacancy PowerPoint Presentation
- e. Benched Item No. 6.b Attachment 4 – City Council Application
- f. Benched Item No. 7.a Exhibit B – Marijuana
- g. Marijuana Regulations PowerPoint Presentation

- h. Benched Item No. 9.a Attachments 1 and 2 – Standing Committees and External Appointments

CLOSED SESSION REPORTS – None

COUNCIL AND STAFF REPORTS

Motion was made by Birsan and seconded by Leone to ratify the composition of City Council Standing Committees and confirming representation on external agencies as proposed by Mayor Hoffmeister as follows:

Standing Committee appointments made:

Committee	Chair	Member
Policy Development & Internal Operations	Hoffmeister	Birsan
Infrastructure and Franchise	Birsan	Hoffmeister
Housing and Economic Development	Leone	Obringer
Recreation, Cultural Affairs & Community Services	Obringer	Vacant
Youth and Education	Vacant	Leone

City Representatives to External Agencies:

Organization	Member	Alternate
Association of Bay Area Governments (ABAG) General Assembly	Birsan	Vacant
Central Contra Costa Transit Authority (The County Connection)	Hoffmeister	Birsan
East Bay Division of League of CA Cities Board of Directors	Leone	Obringer
Transportation Partnership and Cooperation Regional Committee (TRANSPAC)	Leone	Obringer
Citizen Corps Community Emergency Response Team (CERT)	Birsan	Vacant
Central County Literacy Coalition	Vacant	Vacant

Other Appointments	Appointing Entity	Appointee
East Bay Economic Development Alliance (EDA)	Mayors' Conference	Hoffmeister
Contra Costa Airport Land Use Commission (ALUC)	Mayors' Conference	Leone
Contra Costa County Mayors' Conference Executive Committee	Mayors' Conference	Hoffmeister
John Muir/Mt. Diablo Community Health Fund Board of Directors	Concord City Council	Hoffmeister Birsan
League of California Cities Housing & Economic Development Committee	East Bay Chapter League of California Cities	Leone
League of California Cities Governance, Transparency and Labor Relations Policy Committee	League of California Cities	Birsan

Councilmembers shared information on events and activities in which they had participated since the last meeting and commented on items of interest.

By order of the Mayor, the meeting was adjourned at 9:41 p.m.



LAURA M. HOFFMEISTER  
MAYOR



JOELLE FOCKLER, MMC  
CITY CLERK

