

REGULAR MEETING OF THE  
CONCORD CITY COUNCIL  
CITY COUNCIL CHAMBER  
1950 PARKSIDE DRIVE  
CONCORD, CALIFORNIA  
TUESDAY, JANUARY 10, 2017

The Concord City Council met in a regular meeting in the City Council Conference Room located at 1950 Parkside Drive at 6:00 p.m. on Tuesday, January 10, 2017, with Mayor Hoffmeister presiding. All Councilmembers were present. The meeting was recessed and immediately reconvened in a closed session to confer with legal counsel – anticipated litigation. Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2): One potential case.

The meeting recessed at 6:20 p.m. to reconvene in regular session in the Council Chamber.

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, January 10, 2017, with Mayor Hoffmeister presiding. The pledge of allegiance was led by Vice Mayor Birsan. 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; Steve Voorhies, Director of Parks and Recreation; Karan Reid, Director of Finance; Suzanne McDonald, Financial Operations Manager; John Montagh, Economic Development and Housing Manager; Laura Simpson, Planning Manager; Robert Ovadia, City Engineer; Michael Cass, Principal Planner; G. Ryan Lenhardt, Senior Planner; Kevin Marstall, Senior Civil Engineer; Mario Camorongan, Senior Civil Engineer; Mark Migliore, Associate Civil Engineer; Pedro Garcia, Economic Development Specialist

MEMBERS OF THE PUBLIC WHO ADDRESSED THE COUNCIL: Joe Partansky, Concord; Ame Secrist, Concord; Kelly Hunt, Concord; Aman Shariati, Concord; Eric Whitaker, Fairfield; Rebecca Byars, Concord; Eloise Theisen, Concord; Tim Byars, Concord; David Asselin, Concord; Cynthia Altamirano, Concord; Ryan Doronila, Concord; Coir Reilly, Martinez; Paul Poston, Concord; Kenji Yamada, Concord; Natalie; Laura Nakamura, Concord; Ray Barbour, Concord; Dave Kamlin, Concord; Ronald Kappesser, Concord; Harry Thurston, Antioch; Carol Weed, Walnut Creek; Alexandra McGee, MCE; Alex DiGiorgio, MCE; Charles Davidson, Hercules; Jenna Famular, Walnut Creek; Dr. Harmesh Kumar, Concord

PUBLIC COMMENT PERIOD

Joe Partanksy, Concord, spoke of the Electoral College and the third runner-up in the November 2016 City of Concord election.

Ame Secrist, Concord, spoke of mail theft in the Lakeview Villas Home Owners Association.

Kelly Hunt, Concord, spoke of mail theft in the Lakeview Villas Home Owners Association.

Aman Shariati, Concord, requested removal of a cell phone antenna in his neighborhood.

PRESENTATIONS

CERTIFICATES OF RECOGNITION TO LOCAL YOUTH – California Youth Energy Services Program

Mayor Hoffmeister introduced Principal Planner Michael Cass who outlined the California Youth Energy Services Program and presented Certificates of Recognition to local youth that participated in the Program.

CONCORD PAVILION UPDATE

Mayor Hoffmeister introduced Concord Pavilion General Manager Aaron Hawkins who provided an update on Concord Pavilion activities.

ANNOUNCEMENTS

Mayor Hoffmeister announced a recruitment to fill an unscheduled vacancy for a business representative on the Measure Q Oversight Committee and set Friday, February 10, 2017 at 5 p.m. as the deadline for receipt of applications by the City Clerk.

APPROVAL OF MINUTES – November 29, 2016

Motion was made by Leone and seconded by Birsan to adopt the minutes of November 29, 2016. The motion passed by the following vote of the Council:

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

APPROVAL OF MINUTES – December 6 and 13, 2016

Motion was made by Leone and seconded by Birsan to adopt the minutes of December 6 and 13, 2016. The motion passed by unanimous vote of the Council.

ADOPTION OF RESOLUTION NO. 17-7 – Agreement with Contra Costa County

Motion was made by Leone and seconded by Birsan to adopt Resolution No. 17-7 entitled, "A RESOLUTION APPROVING AN AGREEMENT WITH CONTRA COSTA COUNTY TO JOINTLY ESTABLISH A DEVELOPMENT REVIEW PROCESS AND THE ALLOCATION OF ANY SALES TAX REVENUE FROM AN UNDEVELOPED PARCEL OF LAND THAT SHARES CITY AND COUNTY JURISDICTION ON THE NORTHWEST CORNER OF MARSH DRIVE AND SOLANO WAY (PARCEL C; APN 125-210-012.)" The motion passed by unanimous vote of the Council.

ACCEPTANCE OF IMPROVEMENTS – Concord Various Streets Preservation Project, Project No. 2292

Motion was made by Leone and seconded by Birsan to accept improvements for Concord Various Streets Preservation Project, Project No. 2292; and direct the City Clerk to file a Notice of Completion. The motion passed by unanimous vote of the Council.

PROFESSIONAL SERVICES AGREEMENT – Robert Half International, Inc.

Motion was made by Leone and seconded by Birsan to approve a Professional Services Agreement for financial and accounting services in the amount of \$50,000 with Robert Half International, Inc.; and authorize the City Manager to execute the agreement. The motion passed by unanimous vote of the Council.

ACCEPTANCE OF IMPROVEMENTS – Willow Pass Park Field Lights Replacement, Project No. 2347

Motion was made by Leone and seconded by Birsan to accept improvements for Willow Pass Park Field Lights Replacement, Project No. 2347; and direct the City Clerk to file a Notice of Completion. The motion passed by unanimous vote of the Council.

ADOPTION OF RESOLUTION NO. 17-2 – Application for Grant Funds to Support the West Concord Bikeway Improvement Project

Motion was made by Leone and seconded by Birsan to adopt Resolution No. 17-2 entitled, "A RESOLUTION APPROVING THE REQUEST TO THE METROPOLITAN TRANSPORTATION COMMISSION BY THE CITY OF CONCORD FOR AN ALLOCATION OF TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 PEDESTRIAN AND BICYCLE PROJECT FUNDING FOR FISCAL YEAR 2017-18." Motion passed by unanimous vote of the Council.

TWO-YEAR LEASE AGREEMENT WITH THE CONCORD POLICE ASSOCIATION – 5060 Avila Road

Motion was made by Leone and seconded by Birsan to approve a two-year lease agreement with the Concord Police Association (POA) for use of facilities located at 5060 Avila Road in Concord for a total two-year cost of \$78,000; and authorize the City Manager to execute the agreement. Motion passed by unanimous vote of the Council.

ADOPTION OF RESOLUTION NO. 17-4 – Mitigated Negative Declaration for Citywide Bridge Preventative Maintenance Project – Group 2 Bridges, Project No. 2060/2371

Motion was made by Leone and seconded by Birsan to adopt Resolution No. 17-4 entitled, "A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM FOR PROJECT NO. 2060, CITYWIDE BRIDGE PREVENTATIVE MAINTENANCE PROJECT (GROUP 2.)" Motion passed by unanimous vote of the Council.

ADOPTION OF ORDINANCE NO. 16-9 – Prohibiting Outdoor Marijuana Grow

This item was pulled from the consent calendar by several Concord residents.

Mayor Hoffmeister opened a public comment period.

Eric Whitaker, Fairfield, spoke of his company, ABBCO Industries, that is licensed by the FDA to administer both food and drugs, and spoke of his company's interest in the marijuana business.

Rebecca Byars, Concord, spoke of the benefits of accessible cannabis.

Eloise Theisen, Concord, spoke of the benefits of the use of cannabis as medicine for geriatric patients.

Tim Byars, Concord, spoke of the benefits of accessible cannabis.

David Asselin, Concord, spoke of how medical marijuana has helped his daughter who suffers from toxoplasmosis causing cerebral palsy, blindness, and seizures.

Natalie stated that outdoor grows are safer than indoor grows.

Joe Partansky, Concord, spoke of publicizing subcommittee meetings.

Cynthia Altamirano, Concord, spoke in support of medical marijuana as someone who suffers from multiple sclerosis who uses medical marijuana for pain.

Ryan Doronila, Concord, spoke of cultivating marijuana to grow medicine for his father and the need for a public advisory board, and offered to serve on a committee to address the issue.

Mayor Hoffmeister closed the public comment period.

Following comments by the Council, a motion was made by Leone and seconded by Obringer to adopt 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.

#### REVIEW OF DRAFT SUBDIVISION ORDINANCE

Senior Planner Ryan Lenhardt reported that an analysis of the discrepancies between the current Subdivision Ordinance and the Development Code and other pertinent State and Federal regulations had been completed, and proposed modifications developed by Ben Noble from City and Regional Planning. Mr. Lenhardt then introduced Mr. Noble who presented a summary of the proposed amendments to the Subdivision Ordinance.

Mayor Hoffmeister opened a public comment period, and upon receiving no public comment, closed the public comment period.

The Council provided staff with feedback and direction to complete the update of the Subdivision Ordinance.

ADOPTION OF RESOLUTION NO. 17-3 – Establishing a Bicycle and Pedestrian Advisory Committee

City Engineer Robert Ovadia reported that the Bicycle, Pedestrian and Safe Routes to Transit Plan that was adopted by the Council in September 2016 includes a recommendation to form a permanent Bicycle and Pedestrian Advisory Committee and the City's Complete Streets Policy adopted by Council in 2012 also outlines a role of the Bicycle and Pedestrian Advisory Committee. Mr. Ovadia stated that the Committee's role would be to review and provide input to staff on Complete Streets features in transportation projects including roadway, pedestrian and bicycle improvements; review of related project grant applications; and review of progress on citywide goals. He noted that in addition to adopting Resolution No. 17-3 establishing a Bicycle and Pedestrian Advisory Committee, the Council was also being requested to authorize the City Clerk to announce a recruitment to fill five positions on the Bicycle and Pedestrian Advisory Committee for staggered two-year and four-year terms, and set Friday, February 17, 2017 at 5 p.m. as the deadline for receipt of applications by the City Clerk.

Mr. Ovadia outlined the composition of the Committee as follows: one member must be a transportation or civil engineer; three members must be Concord residents; up to two members may be employed in Concord but not live in Concord, and members shall reflect the cross section of roadway users: pedestrians, cyclists, motorists, and include users of various ages and abilities.

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

Coir Reilly, Martinez, spoke of his pleasure with this matter coming to fruition.

Paul Poston, Concord, spoke of having a motorist represented on the Committee.

Kenji Yamada, Concord, stated that the Bicycle and Pedestrian Advisory Committee should not include a mandate for representation of motor traffic interests, which are already heavily overrepresented.

Laura Nakamura, Concord, spoke of support of Bike Concord and Bike Concord's views on the Bicycle and Pedestrian Advisory Committee.

Natalie stated that the Committee should meet more often than quarterly and that the meetings should be televised.

Ray Barbour, Concord, stated that the Committee should be made up of Concord citizens, and no one from outside of Concord should sit on the Committee.

Dave Samlin, Concord, spoke in support of Bike Concord's position for the Committee.

Ronald Kappesser, Concord, spoke of the importance of safety for residents of Concord.

City Clerk Fockler noted that seven members of the audience submitted comments in support of Bike Concord's position.

Mayor Hoffmeister closed the public comment period.

It was the consensus of the Council to revise Resolution No. 17-3 to remove the following sentence from Section 1a. "Membership criteria are that at least three members must be Concord residents, and up to two members may be employed in Concord but are not required to live in Concord. One member must be a civil or transportation engineer and the membership should represent a range of transportation interests, as well as user ages and abilities" and add

the following language, "Membership criteria are that all members must be Concord residents and must express interest and enthusiasm for Bicycle, Pedestrian and Safe Routes to Transit Plans."

Further, it was the consensus of the Council to change Section 1b. to read: "The BPAC shall be advisory to staff and review and provide input on transportation capital projects, including roadway, pedestrian and bicycle improvements, and related grant applications that are before the committee by City staff, regarding Complete Streets features. When requested by staff or the City Council, BPAC will annually review progress of the adopted Bicycle Pedestrian and Safe Routes to Transit Plan and will report back to the City Council."

Following discussion by the Council, a motion was made by Birsan and seconded by Obringer to adopt Resolution No. 17-2 entitled, "A RESOLUTION ESTABLISHING A BICYCLE AND PEDESTRIAN ADVISORY COMMITTEE" as amended. Motion passed by unanimous vote of the Council.

#### DRAFT TECHNICAL STUDY FOR COMMUNITY CHOICE AGGREGATION PROGRAM IN CONTRA COSTA COUNTY

Principal Planner Michael Cass introduced Jason Crapo, Deputy Director Department of Conservation and Development, Contra Costa County, who presented an overview of the results from the Draft Technical Study evaluating the costs benefits to establish or join a joint powers authority Community Choice Aggregation energy program prepared by MRW & Associates, LLC, Economic Development Research Group, and Sage Renewables. He explained that the Draft Technical Study analyzes alternatives for implementing community choice energy, including establishing a Contra Costa County CCE, joining another CCE, or remaining with PG&E.

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

Harry Thurston, Antioch, spoke of moving forward to lower carbon use energy and increase green energy use.

Carol Weed, Walnut Creek, spoke of the importance of Concord joining the CCE.

Alexandra McGee, Community Power Organizer, MCE, addressed governance and local buildout.

Alex DiGiorgio, MCE, stated he was available to answer any questions Council had.

Charlie Davidson, Hercules, spoke in support of Concord joining the CCE.

Jenna Famular, Walnut Creek, spoke of the issue of choice.

City Clerk Fockler read a comment into the record from Claire Linder, Concord, who supported Concord's enrollment in Community Choice Power.

Mayor Hoffmeister closed the public comment period. The Council received the presentation on the Draft Technical Study for Community Choice Aggregation Program in Contra Costa County.

ACCEPTANCE OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORT

Financial Operations Manager Suzanne McDonald introduced David Showalter, Vavrinek, Trine, Day & Co., LLP, who provided an overview of the Comprehensive Annual Financial Report with Independent Auditors' Report and Required Communications Letter for the Fiscal Year Ending June 30, 2016.

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 Birsan and seconded by Leone to accept the Comprehensive Annual Financial Report with Independent Auditors' Report and required Communications Letter for the fiscal year ending June 30, 2016. Motion passed by unanimous vote of the Council.

SELECTION PROCESS TO FILL CURRENT CITY COUNCILMEMBER VACANCY

City Clerk Joelle Fockler presented a report outlining staff's recommendation for the selection process to fill the City Councilmember vacancy due to the resignation of Timothy S. Grayson.

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

Dr. Harmesh Kumar, Concord, urged the Council to reconsider the item and appoint him to the Council, as he had the third highest number of votes in the November 2016 Election.

Mayor Hoffmeister closed the public comment period.

Motion was made by Birsan and seconded by Leone to specify the candidates to interview at the January 24 meeting and interview the applicants at a Special City Council meeting on January 31, 2017. Motion passed by unanimous vote of the Council.

It was the consensus of the Council to review all applications prior to the January 24 Council meeting. At the January 24 meeting, the Council will, in public session, declare three applicants each that they want to interview to develop the interview pool. If there are duplicate applicants and Council feels that they would like to interview more candidates, they will, in public session, choose more applicants from the applicant pool. Staff will develop a list of potential questions for the January 31 meeting, and at the beginning of that meeting Council will review the questions, choose the questions from the list developed by staff, alter the questions, or choose questions of their own. Council will interview at a Special City Council meeting on January 31, choose a candidate, and ratify the selection by resolution.

CORRESPONDENCE

- a. January 22 – 28, 2017 National School Choice Week Proclamation
- b. December 14, 2016 Mike Rose Auto Body Proclamation
- c. January 14, 2017 Kitakami 20<sup>th</sup> Anniversary of Assembly Hall Proclamation
- d. Article on Marijuana Legalization
- e. Concord Subdivision Ordinance Update PowerPoint Presentation
- f. Bicycle and Pedestrian Advisory Committee PowerPoint Presentation
- g. Correspondence Received on Bicycle and Pedestrian Advisory Committee
- h. Community Choice Energy in Contra Costa County PowerPoint Presentation
- i. Flyer from MCE on Clean Jobs and Public Accountability
- j. Flyer from MCE on Cleaner Energy Sources for California
- k. Independent Auditors' Required Communication for the Fiscal Year ended June 30, 2016 PowerPoint Presentation

- l. Benched Item No. 10.e - Councilmember Application
- m. Email on Potential Brown Act Violation re: Item 10.e – Selection process to fill current City of Concord Council vacancy
- n. Comments submitted by Dr. Harmesh Kumar on Council appointment
- o. Proposed questions for Councilmember applicants submitted by Vice Mayor Birsan


CLOSED SESSION REPORTS – None

COUNCIL AND STAFF REPORTS

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

Councilmember Leone requested to take the item of combining the Planning Commission and Design Review Board into one committee to the Housing and Economic Development Committee. It was the consensus of the Council to take the item to the Council's goal setting workshop scheduled for April 2017.

By order of the Mayor, the meeting was adjourned at 12:50 a.m.

  
LAURA M. HOFFMEISTER  
MAYOR

  
JOELLE FOCKLER, MMC  
CITY CLERK