



CITY OF MERCED

City Council Chamber
Merced Civic Center
2nd Floor
678 W. 18th Street
Merced, CA 95340

Minutes

City Council/Public Finance and Economic Development Authority/Parking Authority

Monday, March 4, 2019

6:00 PM

A. CLOSED SESSION ROLL CALL

Present: 6 - Mayor Pro Tempore Anthony Martinez, Mayor Mike Murphy, Council Member Kevin Blake, Council Member Matthew Serratto, Council Member Delray Shelton, and Council Member Fernando Echevarria

Absent: 1 - Council Member Jill McLeod

B. CLOSED SESSION

Mayor MURPHY called the Closed Session to order at 5:04 PM.

B.1. **SUBJECT:** CONFERENCE WITH LABOR NEGOTIATORS - Agency Designated Representative: City Manager Steve Carrigan; Employee Organizations: Merced Police Officers' Association (MPOA); Merced Association of Police Sergeants. AUTHORITY: Government Code Section 54957.6

B.2. **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Significant Exposure to Litigation pursuant to Government Code section 54956.9(d)(2): (2) cases

Clerk's Note: Council adjourned from Closed Session at 5:59 PM.

C. CALL TO ORDER

Mayor MURPHY called the Regular Meeting to order at 6:03 PM.

C.1. Invocation - Lamar Henderson, All Dads Matter

The invocation was delivered by Lamar HENDERSON from All Dads Matter.

C.2. Pledge of Allegiance to the Flag

Council Member BLAKE led the Pledge of Allegiance to the Flag.

D. ROLL CALL

- Present:** 6 - Mayor Pro Tempore Anthony Martinez, Mayor Mike Murphy, Council Member Kevin Blake, Council Member Matthew Serratto, Council Member Delray Shelton, and Council Member Fernando Echevarria
- Absent:** 1 - Council Member Jill McLeod

D.1. In accordance with Government Code 54952.3, it is hereby announced that the City Council sits either simultaneously or serially as the Parking Authority and the Public Financing and Economic Development Authority. City Council members receive a monthly stipend of \$20.00 by Charter for sitting as the City Council; and the Mayor receives an additional \$50.00 each month as a part of the adopted budget and Resolution 1975-37. The members of the Parking Authority and the Public Financing and Economic Development Authority receive no compensation.

E. REPORT OUT OF CLOSED SESSION

There was no report.

F. CEREMONIAL MATTERS

F.1. SUBJECT: Proclamation - National Women's Day

REPORT IN BRIEF

Mayor Murphy will present the proclamation to a representative of the Hispanic Chamber of Commerce.

Mayor MURPHY presented the National Women's Day Proclamation to the President of the Hispanic Chamber of Commerce, Rene GUTIERREZ.

G. WRITTEN PETITIONS AND COMMUNICATIONS

There were none.

H. ORAL COMMUNICATIONS

Wayne EISENHART, Merced - spoke on traffic issues at the intersection of 21st Street and K Street.

Diana Odom GUNN, Merced - spoke on the need for a four-way stop at the intersection of 21st Street and K Street.

Diana WESTMORELAND, Merced - spoke on possible future collaborations with State Senator Anna CABALLARO'S Office.

Monica VILLA, Merced - spoke on various topics.

Isai PALMA, Merced - invited Council to the We are Here Conference event.

I. CONSENT CALENDAR

Items I.10. Approval of Street Closure Request #19-02 (Lao Association, with Merced Main Street Association) for Use of West Main Street between L and M Streets for the Lao New Year Celebration Event on April 13, 2019 from 8:00 AM to 6:00 PM and I.12. Second Reading and Adoption of Ordinance 2498 to Amend Section 20.44.170, "Regulation of Commercial Cannabis Activities - Commercial Cannabis Business Permit Required"; were pulled for separate consideration.

Approval of the Consent Agenda

A motion was made by Council Member Blake, seconded by Mayor Pro Tempore Martinez, to approve the Consent Agenda. The motion carried by the following vote:

Aye: 6 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 1 - Council Member McLeod

I.1. **SUBJECT: Reading by Title of All Ordinances and Resolutions**

REPORT IN BRIEF

Ordinances and Resolutions which appear on the public agenda shall be determined to have been read by title and a summary title may be read with further reading waived.

RECOMMENDATION

City Council - Adopt a motion waiving the reading of Ordinances and Resolutions, pursuant to Section 412 of the Merced City Charter.

This Consent Item was approved.

I.2. **SUBJECT: Information Only - Planning Commission Meeting Minutes of January 23, 2019**

RECOMMENDATION

For information only.

This Consent Item was approved.

I.3. **SUBJECT: Information Only - Arts and Culture Advisory Commission Meeting Minutes of January 10, 2019**

RECOMMENDATION

For information only.

This Consent Item was approved.

I.4.

SUBJECT: Information-Only Contracts for the Month of February 2019

REPORT IN BRIEF

Notification of awarded Non-Public Works contracts under \$31,000 and of Public Works contracts under \$69,833.

AUTHORITY

Pursuant to the authority delegated to the City Manager on behalf of the City by Article XI, Section 1109, of the Merced City Charter to execute Public Works contracts under the adjusted FY 2018-2019 threshold of \$69,833.00, and Chapter 3.04.080 - 3.04.110 of the Merced Municipal Code to execute Non-Public Works contracts under the adjusted FY 2018-2019 threshold of \$31,000.00, the contracts listed on the attached table were entered into by the City.

This Consent Item was approved.

I.5.

SUBJECT: Approval of City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of February 4, 2019

REPORT IN BRIEF

Official adoption of previously held meeting minutes.

RECOMMENDATION

City Council/Public Financing and Economic

Development/Parking Authority - Adopt a motion approving the meeting minutes of February 4, 2019.

This Consent Item was approved.

I.6.

SUBJECT: Approval of First Amendment to the Agreement for Labor Relations Consulting to Approve an Additional \$60,000 for Labor Contract Negotiations and Employee Related Legal Services with Law Firm of Liebert Cassidy Whitmore, for the Not to Exceed Amount of \$160,000

REPORT IN BRIEF

Consider approving first amendment to the Liebert Cassidy Whitmore Agreement for the not to exceed amount of \$160,000.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving the first amendment to an agreement for professional services with Liebert Cassidy Whitmore for continuing labor relations consulting, labor contract negotiations, and employee related matters in an amount not to exceed \$160,000; and,

B. Authorizing the Finance Officer to make any necessary budget adjustments; and,

C. Authorizing the City Manager or the Assistant City Manager to execute the necessary documents.

This Consent Item was approved.

I.7.

SUBJECT: Approval of Purchase and Sale Agreement Between the City of Merced (Seller) and Valley Children's Healthcare (Buyer) for the 4.54 Acre Parcel Located at 301 W. Yosemite Ave., Merced, CA in the Amount of \$2,100,000

REPORT IN BRIEF

Considers approving a Purchase and Sales Agreement for the sale of a City owned 4.54 acre parcel located at 301 W. Yosemite Avenue to Valley Children's Healthcare for the development of a pediatric primary and specialty care medical office building. The Agreement contains escrow instructions for the sale of the property.

RECOMMENDATION

City Council - Adopt a Motion:

A. Approving the purchase and sale agreement between the City of Merced and Valley Children's Healthcare for 301 W. Yosemite Avenue (Assessor's Parcel Number 231-040-021); and,

B. Authorizing the City Manager or the Assistant City Manager to execute all the necessary documents; and,

C. Authorizing the Finance Officer to make the necessary budget

adjustments.

This Consent Item was approved.

I.8.

SUBJECT: Approval of Revenue Increase in the Amount of \$9,450 to Other Revenue/Unclassified and Authorization to Appropriate in the Same Amount to the Training Expense Accounts Associated with the Fire Department External Training Program

REPORT IN BRIEF

Consider approving a revenue increase to the Other Revenue/Unclassified account and appropriation of the same amount to the Training Expense account.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving an increase to revenue account 001-0901-360.01-01 (Other/Unclassified) of \$9,450; and,

B. Approving an appropriation of the same amount to 001-0901-522.20-00 (Training Expense); and,

C. Authorizing the Finance Officer to make budget adjustments as recommended by staff.

This Consent Item was approved.

I.9.

SUBJECT: Approval of Retention of Atkinson Farasyn, LLP as Special Counsel to Assist with the Negotiation and Preparation of Development Agreements, Including Pre-Annexation Development Agreements, for the Not to Exceed Amount of the Cost of Services Related to a Developer's Specific Project; Authorization of a Budget Amendment for Fiscal Year 2018/2019 to Accept and Appropriate Developer Deposits to Pay for the Cost of the Negotiation and Legal Review of Development Agreements, Including Pre-Annexation Development Agreements

REPORT IN BRIEF

Considers retaining the law firm of Atkinson, Farasyn, LLP as Special Counsel for pre-annexation development agreements and appropriating developer deposits to pay for the cost associated with the negotiation and legal review of said agreements.

RECOMMENDATION

City Council - Adopt a motion:

A. Amending the Fiscal Year 18/19 budget to receive the funds and increase cost recovery revenue for special counsel services and continually appropriate any funds received to pay for the costs related to the negotiation and legal review of development agreements; and,

B. Authorizing the establishment of any additional accounts and/or revenue and expenditure lines within the City Attorney's budget as determined necessary and appropriate by the City's Finance Officer; and,

C. Approving the Professional Services Agreement with Atkinson, Farasyn LLP to assist in the negotiation and legal review of Development Agreements, including Pre-Annexation Development Agreements, and authorize the City Manager or the Assistant City Manager to execute the same.

This Consent Item was approved.

I.11.

SUBJECT: Approval of Street Closure Request #19-03 by the Sacred Heart Catholic Church to Host the "Stations of the Cross" Reenactment and the Silent March for Good Friday on April 19, 2019, from 3:00 p.m. to 4:00 p.m. and from 7:00 p.m. to 8:00 p.m. on Canal Street Between West 13th and West 11th, West 11th Street Between Canal and M Streets, West 12th Street Between M and Canal Streets and the Alleyway Behind Sacred Heart Catholic Church

REPORT IN BRIEF

Considers approving a request by the Sacred Heart Catholic Church for the closure and use of City streets on April 19, 2019, for the Stations of the Cross Reenactment. The request seeks approval to close Canal Street (between West 13th Street and West 11th Street), West 11th Street (between Canal Street and M Street), M Street (between West 11th Street and West 13th Street), West 12th Street (between M Street and Canal Street) and the alleyway behind the church located between W. 13th Street and 12th Street on Friday, April 19, 2019, from 3:00 p.m. to 4:00 p.m. and from 7:00 p.m. to 8:00 p.m.

RECOMMENDATION

City Council - Adopt a motion approving the closure of Canal Street (between West 13th Street and West 11th Street), West 11th Street (between Canal Street and M Street), M Street (between West 11th Street and West 13th Street), West 12th Street (between M Street and Canal Street) and the alleyway behind the church located between W. 13th Street and 12th Street, as requested by Sacred Heart Catholic Church, on Friday, April 19, 2019, from 3:00 p.m. to 4:00 p.m. and from 7:00 p.m. to 8:00 p.m.; subject to the conditions outlined in the administrative staff report.

This Consent Item was approved.

I.10.

SUBJECT: Approval of Street Closure Request #19-02 (Lao Association, with Merced Main Street Association) for Use of West Main Street between K and M Streets for the Lao New Year Celebration Event on April 13, 2019 from 8:00 AM to 6:00 PM

REPORT IN BRIEF

The Lao Association, with co-sponsor Merced Main Street Association, is requesting the closure and use of West Main Street between K and M Streets for a celebration of the Lao culture, to include a procession, on Saturday, April 13, 2019, from 8:00 a.m. to 6:00 p.m.

RECOMMENDATION

City Council - Adopt a motion approving the street closures of W. Main Street, between K and M Streets (including Canal Street between W. Main and Arbor Lane), from 8 a.m. to 6 p.m. for the Vendor Fair event, and W. Main Street, between I and K Streets, from 8 a.m. to 1 p.m. for the float parking and set-up, on Saturday, April 13, 2019, subject to the details and conditions outlined in the administrative staff report.

Mayor Pro Tempore MARTINEZ pulled this item to have Sue EMANIVONG speak about her event.

Sue EMANIVONG, Merced - spoke on the Lao New Year Event and encouraged everyone to attend and celebrate.

Baolia XIONG and Stephanie GONZALEZ, Health Collaborative Organization, Merced - stated their support for this event.

A motion was made by Mayor Pro Tempore Martinez, seconded by Council Member Serratto, that this agenda item be approved. The motion carried by the following vote:

Aye: 6 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 1 - Council Member McLeod

I.12.

SUBJECT: Second Reading and Adoption of Ordinance 2498 to Amend Section 20.44.170, "Regulation of Commercial Cannabis Activities - Commercial Cannabis Business Permit Required"

REPORT IN BRIEF

Adoption of previously introduced Ordinance to amend section 20.44.170, "Regulation of Commercial Cannabis Activities - Commercial Cannabis Business Permit Required" of the Merced Municipal Code.

RECOMMENDATION

City Council - Adopt a motion approving **Ordinance 2498**, an Ordinance of the City Council of the City of Merced, California, Amending Section 20.44.170, "Regulation of Commercial Cannabis Activities - Commercial Cannabis Business Permit Required," of the Merced Municipal Code.

Mayor MURPHY pulled this item to suggest the Council have a denovo appeal regarding the appeals process.

City Attorney Phaedra NORTON explained the difference between denovo appeal and the current standard of appeals.

Council and Principal Planner Michael HREN discussed the appeals process.

Ms. NORTON also spoke on the definition of school.

Council discussed the definition of school.

A motion was made by Council Member Blake, seconded by Council Member Serratto, to continue this item to the March 18th Council Meeting with the language change to the appeals process and the City's definition of a school. The motion carried by the following vote:

Aye: 6 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 1 - Council Member McLeod

J. PUBLIC HEARINGS

J.1.

SUBJECT: Public Hearing - Introduction of Ordinance Approving a Mitigated Negative Declaration for Environmental Review #18-02 and Site Utilization Plan Revision #38 to Planned Development (P-D) #1 Allowing the Renovation of the Merced Mall and Theatre, Including the Possibility of Relocating the Theatre Adjacent to the Merced Mall Building

REPORT IN BRIEF

Introduces Ordinance No. 2499 and considers approving a Site Utilization Plan Revision for Planned Development (P-D) #1, a Mitigated Negative Declaration for Environmental Review #8-02 and Site Utilization Plan #38 allowing renovations to the Merced Mall located at 851 West Olive Avenue and the United Artists movie theater located at 645 Fairfield Drive, including possible relocation.

RECOMMENDATION

City Council - Adopt a motion:

A. Introducing **Ordinance 2499**, an Ordinance of the City of Merced, California approving a Mitigated Negative Declaration for Environmental Review #18-02 and Site Utilization Plan Revision #38 to Planned Development (P-D) #1 allowing the Renovation of the Merced Mall and Theatre, including the possibility of relocating the theatre adjacent to the Merced Mall building.

B. Authorizing the City Manager or the Assistant City Manager to execute the Legislative Action Agreement.

Associate Planner Julie NELSON gave a slide show presentation on the Merced Mall renovations.

Council, Ms. NELSON, and Director of Economic Development Frank QUINTERO discussed the Sears building, a timeline for the Sears building renovations, and the two options of the mall renovations.

Mayor MURPHY, Council Members SERRATTO, MARTINEZ, BLAKE, and SHELTON stated they met with Bill KENNY from Coddling Enterprises.

Mayor MURPHY opened the Public Hearing at 6:53 PM.

Coddling Enterprises Representative Bill KENNY - spoke on the mall renovations.

Council Member SERRATTO and Mr. KENNY discussed construction timeline and retail space.

Mayor MURPHY closed the Public Hearing at 7:00 PM.

A motion was made by Council Member Blake, seconded by Mayor Pro Tempore Martinez, that this agenda item be approved. The motion carried by the following vote:

Aye: 6 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 1 - Council Member McLeod

K. REPORTS

K.1. **SUBJECT: Report - Approval of Professional Services Agreement with EMC Planning Group in the Amount of \$423,136 for the Preparation of a North Merced Annexation Feasibility Study**

REPORT IN BRIEF

Considers approving a Professional Services Agreement with EMC Planning Group in the amount of \$423,136, for the preparation of a North Merced Annexation Feasibility Study.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving a Professional Services Agreement with EMC Planning Group, Inc., in the amount of \$423,136, for the preparation of a North Merced Annexation Feasibility Study; and,

B. Authorizing a Supplemental Appropriation in Fund 017-Development Services in the amount of \$220,136; and,

C. Authorizing the Finance Officer to make the necessary budget adjustments; and,

C. Authorizing the City Manager or the Assistant City Manager to execute the documents; and,

D. Directing City staff to pursue the development of a North Merced Annexation Feasibility Study Reimbursement Fee to recover the cost of the

project from future applicants for annexation within the Study Area.

Director of Community Development Scott MCBRIDE gave a slide show presentation on the North Merced Annexation Feasibility Study.

Council and Mr. MCBRIDE discussed phasing the annexation, areas to annex first, hesitant landowners, and providing services to the developing areas. They also discussed community meetings about the potential annexation and the development of the next General Plan.

A motion was made by Council Member Blake, seconded by Council Member Shelton, to approve Staff's recommendation. The motion carried by the following vote:

Aye: 6 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 1 - Council Member McLeod

K.2.

SUBJECT: Report - Update on Emergency Medical Service (EMS) and Direction on Next Steps to Evaluate the Potential of Implementing Various Levels of Advanced Life Support within the City of Merced

REPORT IN BRIEF

Provide City Council with an update on Emergency Medical Services (EMS) and obtain direction on next steps in evaluating the potential of implementing various levels of Advanced Life Support within the City of Merced.

RECOMMENDATION

Provide staff direction on next steps related to Advance Life Support implementation.

Acting Fire Chief Billy ALCORN and Fire Fighter Mickey BRUNELLI gave a slide show presentation on the Advanced Life Support (ALS) Program.

Council, Acting Fire Chief ALCORN and Mr. BRUNELLI discussed the different levels of the ALS Program and the cost associated with the program.

Clerk's Note: Council directed staff to pursue more information and come back with options.

Clerk's Note: Council took a recess at 8:11 PM and returned at 8:18 PM.

L. BUSINESS

L.1. **SUBJECT:** Council to Set FY 2019/20 Goals and Priorities

REPORT IN BRIEF

Staff will provide an update on FY 2018/19 Goals and Priorities and present summary of recent Town Hall discussion topics. Council will have an opportunity to provide input on setting Goals & Priorities for FY 2019/20.

RECOMMENDATION

Provide staff direction on Goals and Priorities for FY 2019/20.

City Manager Steve CARRIGAN and Assistant City Manager Stephanie DIETZ gave a slide show presentation on the proposed Council Priorities.

Council discussed their individual priorities.

Ronnie DEANDA, Merced - spoke on Highway 59 on the Southside of Merced.

Isai PALMA, Merced - spoke on the Childs Avenue sidewalks project and increased investment for the youth.

Clerk's Note: Council directed Staff to bring back the updated Council Goals and Priorities list.

L.2. Request to Add Item to Future Agenda

Council Member SERRATTO requested to add an item on Measure C next steps and a presentation from the Merced County Continuum of Care on Homeless.

Council Member MARTINEZ requested to add an item on criteria on awarding graduating students and an update on the Campus Parkway Project.

L.3. City Council Comments

Mayor MURPHY reported on attending the Merced County Association of Governments meeting, an appreciation gathering for Binational Health Week, reading a book Ms. MARTINEZ'S second grade class at Peterson Elementary School, the State of the State event, and meeting with Governor NEWSOM.

Mayor Pro Tempore MARTINEZ reported on attending the Recreation and Parks Commission meeting and the Weaver Middle School Mary Poppins show.

Council Member ECHEVARRIA spoke on the Town Hall meetings. He also reported on attending the Merced County Association of Governments' Unmet Transit Needs Public Hearing, the State of the City event, and the Parent Institute Dream Big conference.

Council Member SHELTON reported on attending the Downtown Association meeting and read a book to a class at Peterson Elementary School.

M. ADJOURNMENT

Clerk's Note: Council adjourned from the Regular Meeting at 9:25 PM.

A motion was made by Council Member Blake, seconded by Mayor Pro Tempore Martinez, to adjourn the Regular Meeting. The motion carried by the following vote:

Aye: 6 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 1 - Council Member McLeod