



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/Successor Agency to the Redevelopment Agency

Monday, February 6, 2023

6:00 PM

A. CLOSED SESSION ROLL CALL

Present: 7 - Mayor Matthew Serratto, Mayor Pro Tempore Bertha Perez, Council Member Jesse Ornelas, Council Member Sarah Boyle, Council Member Ronnie DeAnda, Council Member Shane Smith, and Council Member Fue Xiong

Absent: 0

B. CLOSED SESSION

Mayor SERRATTO called the Closed Session to order at 5:02 PM.

Clerk's Note: Council Member SMITH arrived to Closed Session at 5:02 PM.

- B.1.** **SUBJECT:** PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: Finance Officer; Authority: Government Code Section 54957
- B.2.** **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Pursuant to Paragraph (1) of Subdivision (d) of Government Code section 54956.9, Name of Case: City of Merced, City of Los Banos, and City of Atwater, Petitioners, vs. Merced County Association of Governments, Respondents
- B.3.** **SUBJECT:** CONFERENCE WITH REAL PROPERTY NEGOTIATORS - Properties: APN #'s 049-200-005, 049-200-020, 049-200-022, 049-200-019, 049-200-023, 049-200-017, 049-200-021, 049-200-024, 049-200-025, 049-220-018, 049-220-019, 049-220-016, 049-220-020, 049-220-015, 065-030-004, 049-240-016, 049-240-017; Agency Negotiator: Stephanie Dietz, City Manager; Negotiating Parties: Robert C. Rice, Sandton Capital Partners and City of Merced; Under Negotiation: Price and Terms of Payment
- B.4.** **SUBJECT:** CONFERENCE WITH LABOR NEGOTIATORS -- Agency Designated Representative: City Manager Stephanie Dietz;

Unrepresented Management AUTHORITY: Government Code Section
54957.6

B.5. SUBJECT: CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED
LITIGATION Significant Exposure to Litigation Pursuant to Paragraph
(2) or (3) of Subdivision (d) of Government Code section 54956.9: One
(1) Potential Case

B.6. SUBJECT: CONFERENCE WITH LEGAL COUNSEL - EXISTING
LITIGATION Pursuant to Paragraph (1) of Subdivision (d) of
Government Code section 54956.9, Name of Cases: Appeal #1 & #2 of
the Planning Commission's Approval of Commercial Cannabis
Business Permit (CCBP) #22-02R for Retail Cannabis at 1111 Motel
Drive by JIVA MCE, LLC. and Edwin Kainth

Clerk's Note: Council adjourned from Closed Session at 6:04 PM.

C. CALL TO ORDER

Mayor SERRATTO called the Regular Meeting to order at 6:07 PM.

Invocation - Joel Dorman, First Baptist Church

The Invocation was delivered by Pastor Joel DORMAN of the First Baptist Church.

Pledge of Allegiance to the Flag

Pastor Joel DORMAN led the Pledge of Allegiance to the Flag.

D. ROLL CALL

Present: 7 - Mayor Matthew Serratto, Mayor Pro Tempore Bertha Perez, Council Member Jesse Ornelas, Council Member Sarah Boyle, Council Member Ronnie DeAnda, Council Member Shane Smith, and Council Member Fue Xiong

Absent: 0

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 \$400.00 by Charter for sitting as the City Council; and the Mayor receives an additional \$100.00 each month as a part of the adopted budget and Resolution 2020-86. 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 - Black History Month

REPORT IN BRIEF

Received by a Representative of the NAACP.

Mayor SERRATTO presented the Black History Month Proclamation to Allen BROOKS and other representatives of the National Association for the Advancement of Colored People.

G. WRITTEN PETITIONS AND COMMUNICATIONS

Clerk's Note: Emails were received for the following agenda item and forwarded to Council prior to the meeting.

Oral Communications: Barigye MCCOY.

Agenda Item I.5.: Belinda BURNETT.

Agenda Item K.1.: Steve TIETJEN.

Agenda Item L.1.: Steven DONAHUE and Barbara HUNT.

H. ORAL COMMUNICATIONS

Belinda BURNETT, Merced - thanked City employees that assisted during the flood and asked Council to consider funds needed for public safety.

Reinetta BAZEMORE, Friends of Sober Grad, Merced - spoke on details of Friends of Sober Grad event and asked for sponsorship, donations, and support.

April GUTIERREZ, Friends of Sober Grad, Merced - spoke on details of Friends of Sober Grad event and shared a touching story.

Rick WENDLING, Merced - spoke on affordable housing.

Lynda LUCKENBOOTH, Merced - thanked City staff for assistance during the floods, spoke on homelessness, affordable housing, and rehabilitation.

Nick GOMES, Federal Representative of Congressman John DUARTE,

Merced - offered federal assistance to City citizens from Congressman John DUARTE.

Russ SPEER, Merced - spoke on recent flood events and offered assistance to those affected.

I. CONSENT CALENDAR

Agenda Items I.5. Adoption of a Resolution to Display the Council Approved Commemorative Flags at Bob Hart Square per City Council Policy C-7, I.15. Approval of Street Closure Request #23-03 by the Merced County Hispanic Chamber of Commerce to Host a Vendor Fair Event (El Mercado), Located on W. Main Street Between M and K Streets, Canal Street Between Main Street and W. 18th Street, Including Bob Hart Square on Thursday, March 2, 2023, From 3:00 p.m. to 10:00 p.m. and Approval of a Request for a City of Merced Sponsorship, I.17. Adoption of Resolution 2023-09 Extending the Proclamation of a Local Emergency Within the Territorial Limits of the City of Merced as Proclaimed by the Director of Emergency Services on January 7, 2023 and Again on January 14, 2023 Pursuant to Merced Municipal Code Section 8.20.070, and I.18. Second Reading and Final Adoption of an Ordinance to Approve Zone Change #431, Initiated By Sam Sahota, Property Owner; this Application is a Request for a Zone Change from an Urban Transition (U-T) Zone to a Low Density Residential (R-1-5) Zone at 385 S. Coffee Street to Develop a Future Subdivision with 45 Single-Family Home Lots at 385 S. Coffee Street; and, the Approximate 9.91-Acre Subject Site is Generally Located at the West Side of S. Coffee Street, 300 Feet North of E. Gerard Avenue; were pulled for separate consideration.

Approval of the Consent Agenda

A motion was made to approve the Consent Agenda. The motion carried by the following vote:

Aye: 7 - Mayor Serratto, Mayor Pro Tempore Perez, Council Member Ornelas, Council Member Boyle, Council Member DeAnda, Council Member Smith, and Council Member Xiong

No: 0

Absent: 0

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 Contracts for the Month of January 2023**

REPORT IN BRIEF

Notification of awarded Non-Public Works contracts under \$36,000 and of Public Works contracts under \$82,718.

This Consent Item was approved.

- I.3.** **SUBJECT: Information Only - Building and Housing Board of Appeal Minutes of March 3, 2022**

RECOMMENDATION

For information only.

This Consent Item was approved.

- I.4.** **SUBJECT: Approval of City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of September 19, 2022**

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 September 19, 2022.

This Consent Item was approved.

- I.6.** **SUBJECT: Approval of Street Closure Request and Use of City Owned Real Estate by the Martin Luther King Jr. Celebration**

Committee for the Annual Martin Luther King Jr. Community March and Celebration on February 18, 2023, Along Martin Luther King Jr Way from West 24th Street to West Main Street and the Use of a Portion of Parking Lot #14 Located at 1739 Martin Luther King Jr. Way

REPORT IN BRIEF

Authorizes the use and closure of Martin Luther King Jr. Way from West 24th Street to West Main Street and a portion of the City Parking Lot #14 located at 1739 Martin Luther King Jr. Way on Saturday, February 18, 2023, to hold a march, parade and food preparation for the annual Martin Luther King, Jr. celebration.

RECOMMENDATION

City Council - Adopt a motion approving the request by Tamara Cobb and the Martin Luther King Jr. Celebration Committee to close Martin Luther King Jr. Way from West 24th Street to West Main Street and to cone off a portion of the City Parking Lot #14 located at 1739 Martin Luther King Jr. Way on Saturday, February 18, 2023, to hold the march and prepare food as part of a community celebration.

This Consent Item was approved.

I.7.

SUBJECT: Approval of Allocation of U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant Program Resources and Approval of Associated Subrecipient Agreement with Symple Equazion for the Program Approved with the Adopted 2021 Annual Action Plan

REPORT IN BRIEF

Considers authorizing the execution of the Community Development Block Grant (CDBG) Subrecipient Agreement with Symple Equazion (\$61,310)

RECOMMENDATION

City Council - Adopt a motion:

A. Approving the agreement for the program identified in the 2021 HUD Annual Action Plan using Fiscal Year 2021-22 CDBG funds with Symple Equazion in the amount of \$61,310 for their "Symple Soul Employment Readiness Program"; and,

B. Authorizing the City Manager or the Deputy City Manager to execute, and if necessary, direct staff to make minor modifications to the agreements described above and as attached, and all associated documents and exhibits; and,

C. Authorizing the Finance Officer to make necessary budget adjustments.

This Consent Item was approved.

I.8.

SUBJECT: Waiving the Competitive Bidding Requirement and Approval of Professional Services Agreement with San Bernardino Regional Emergency Training Center for Aircraft Rescue and Firefighting Part 139 Live Fire Training

REPORT IN BRIEF

Considers waiving the competitive bidding requirement and approving a professional services agreement with San Bernardino Regional Emergency Training Center for Aircraft Rescue and Firefighting Part 139 Live Fire Training.

RECOMMENDATION

City Council - Adopt a motion:

A. Waiving the City's competitive bidding requirement as permitted by Merced Municipal Code Section 3.04.210 due sole sourcing since SBRETC is the only facility in California capable of providing this training; and,

B. Approving Professional Services Agreement with San Bernardino Regional Emergency Training Center for Aircraft Rescue and Firefighting Part 139 Live Fire Training in the amount not to exceed \$56,145; and,

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

This Consent Item was approved.

I.9.

SUBJECT: Second Amendment to the Professional Services Agreement with Total Online Protection, LLC for the Replacement of Data Center HVAC and Uninterruptable Power Supply Systems, Project No. 120066 to Extend the Term of the Agreement to

December 31, 2023

REPORT IN BRIEF

Considers extending the term of the agreement for professional services with Total Online Protection, LLC from December 31, 2022, to December 31, 2023. This extension is due to supply chain issues with the HVAC system for the project.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving the Second Amendment to Agreement for Professional Services with Total Online Protection, LLC to extend the term of the agreement to December 31, 2023; and,

B. Authorizing the City Manager or Deputy City Manager to execute the necessary documents.

This Consent Item was approved.

I.10.

SUBJECT: First Amendment to the Professional Services Agreement with HerSchy Environmental, Inc., in the Amount of \$44,555.47 to Conduct Additional Laboratory Analysis of Groundwater Samples for Per- and Poly-Fluorinated Substances During the First Quarter 2023 at the Airport Hazardous Waste Site and Perform an Updated Sensitive Receptor Survey

REPORT IN BRIEF

Considers approving the First Amendment to Professional Services Agreement with HerSchy Environmental, Inc., to perform groundwater analysis and an updated Sensitive Receptor Survey in support of the Airport Hazardous Waste Site investigation. The amendment is necessary to ensure that the City of Merced remain in compliance with the Regional Water Quality Control Board (Regional Board) requirements.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving the First Amendment to Professional Services Agreement with HerSchy Environmental, Inc. for additional groundwater sampling, laboratory analysis, and updated Sensitive Receptor Survey

and the additional compensation in the amount of \$44,555.47, for a total contract amount of \$74,527.47; and,

B. Authorizing the City Manager or Deputy City Manager to execute the necessary documents.

This Consent Item was approved.

I.11.

SUBJECT: Assignment and Restatement of Ground Lease for a Private Hangar at the Merced Yosemite Regional Airport with Hangar # 42, LLC

REPORT IN BRIEF

Assignment and Restatement of a private hangar ground lease for Corporate Hangar #42 at the Merced Yosemite Regional Airport with Hangar # 42, LLC.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving the lease Assignment and Restatement between Hangar # 42, LLC. and the City of Merced; and,

B. Authorizing the City Manager or the Deputy City Manager to execute all necessary documents.

This Consent Item was approved.

I.12.

SUBJECT: Accept and File Community Facilities District (CFD) Nos. 2003-1 (Bellevue Ranch East), 2003-2 (Services), 2005-1 (Bellevue Ranch West), 2006-1 (Moraga of Merced) Annual Disclosure Reports for Fiscal Year 2021-2022

REPORT IN BRIEF

The continuing annual disclosure reports contain certain CFD information required to be filed annually by the City per Security and Exchange Commission (SEC) rule 15c2-12(b) and Government Code sections 50075-50077 and 53410-53412.

RECOMMENDATION

City Council - Adopt a motion accepting and filing the CFD Annual Disclosure Reports for Fiscal Year 2021-2022 for CFD Nos. 2003-1

(Bellevue Ranch East), 2003-2 (Services), 2005-1 (Bellevue Ranch West), 2006-1 (Moraga of Merced).

This Consent Item was approved.

I.13.

SUBJECT: Approval of a First Amendment to an Agreement for Legal Services with Best, Best & Krieger in an Amount not to Exceed \$80,000

REPORT IN BRIEF

Considers approving a first amendment to an agreement for legal services with Best, Best & Krieger in an amount not to exceed \$80,000.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving a First Amendment to an agreement for legal services with Best, Best & Krieger in an amount not to exceed \$80,000; and,
- B. Approving Inter-Fund Transfers in the amount of \$55,000 from Fund 672-Support Services Professional Services expense to General Fund-City Attorney department and appropriating the same in the City Attorney's Professional Services account line; and,
- C. Authorizing the City Manager or designee to execute the necessary documents.

This Consent Item was approved.

I.14.

SUBJECT: Approval of Street Closure Request #22-13 by Velo Promo, LLC, with Golden Chain Cyclists, to Host the 36th Annual Merced Criterium Bicycle Race, to Include M Street, From W. 21st to W. 18th Streets; W. 18th Street, From M to N Streets; and N Street, From W. 18th Street and Including the Merced County Courthouse Loop on Sunday, February 26, 2023, from 6:00 a.m. to 5:00 p.m.

REPORT IN BRIEF

Considers approving a request by Velo Promo, LLC, with Golden Chain Cyclists, for the closure and use of City streets on Sunday, February 26, 2023, for the 36th Annual Merced Criterium Bicycle Race. The request seeks approval to close M Street, between W. 21st and W.

18th Streets; W. 18th Street, between M and N Streets; and N Street, from W. 18th Street to include the Merced County Courthouse loop, from 6:00 a.m. to 5:00 p.m.

RECOMMENDATION

City Council - Adopt a motion approving the street closure of M Street, between W. 21st and W. 18th Streets; W. 18th Street, between M and N Streets; and N Street, from W. 18th Street to include the Merced County Courthouse loop, on Sunday, February 26, 2023, from 6:00 a.m. to 5:00 p.m., subject to the details and conditions outlined in the Administrative Staff Report.

This Consent Item was approved.

I.16.

SUBJECT: Approval of a Supplemental Appropriation in the Amount of \$50,000 From the Unreserved, Unencumbered Fund Balance of the General Fund, Transferring to Fund 450-Streets & Signals CIP and Appropriating the Same in Fund 450-Streets and Signals CIP to Support City Improvements as Outlined in the Arbor Walkway Settlement Agreement and Amended and Restated Easement

REPORT IN BRIEF

Considers approving a Supplemental Appropriation in the amount of \$50,000 from the unreserved, unencumbered fund balance of the General Fund, transferring to Fund 450-Streets and Signals CIP and appropriating the same in Fund 450-Streets & Signals CIP to support City improvements as outlined in the Arbor Walkway Settlement Agreement and Amended and Restated Easement.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving a Supplemental Appropriation in the amount of \$50,000 from the unreserved, unencumbered fund balance of the General Fund, transferring to Fund 450-Streets and Signals CIP and appropriating the same in Fund 450-Streets & Signals CIP to support City improvements as outlined in the Arbor Walkway Settlement Agreement Amended; and,

B. Authorizing the Finance Officer to make the necessary budget adjustments.

This Consent Item was approved.

I.5.

SUBJECT: Adoption of a Resolution to Display the Council
Approved Commemorative Flags at Bob Hart Square per City
Council Policy C-7

REPORT IN BRIEF

Considers adopting a Resolution to display Council approved commemorative flags in Bob Hart Square per the City Council Policy C-7.

RECOMMENDATION

City Council - Adopt a motion approving **Resolution 2023-10**, a Resolution of the City Council of the City of Merced, California, authorizing the display of a commemorative flags on the City flagpole in Bob Hart Square for the months of May, June, and September 2023.

Mayor SERRATTO pulled this item at the request of the public.

Belinda BURNETT, Merced - spoke on a different ways to promote organizations equally, rather than flying flags.

Rick WENDLING, Merced - spoke on a second petition to display the Straight People's Commemorative Flag on City property.

Council Member SMITH discussed the process of organizations without a proper flag and the straight flag.

Lynda LUCKENBOOTH, Merced - spoke on the events from previous Council meeting pertaining to the Flag Policy.

A motion was made by Council Member Ornelas, seconded by Council Member Smith, that this agenda item be approved. The motion carried by the following vote:

Aye: 6 - Mayor Serratto, Mayor Pro Tempore Perez, Council Member Ornelas, Council Member DeAnda, Council Member Smith, and Council Member Xiong

No: 0

Absent: 0

Abstain: 1 - Council Member Boyle

I.15.

SUBJECT: Approval of Street Closure Request #23-03 by the

Merced County Hispanic Chamber of Commerce to Host a Vendor Fair Event (El Mercado), Located on W. Main Street Between M and K Streets, Canal Street Between Main Street and W. 18th Street, Including Bob Hart Square on Thursday, March 2, 2023, From 3:00 p.m. to 10:00 p.m. and Approval of a Request for a City of Merced Sponsorship

REPORT IN BRIEF

Considers approving a request by the Merced County Hispanic Chamber of Commerce for the closure and use of City streets and Bob Hart Square on Thursday, March 2, 2023, for a Vendor Fair Event (El Mercado). The request seeks approval to close W. Main Street, between M and K Streets, Canal Street between Main Street and W. 18th Street, including Bob Hart Square from 3:00 p.m. to 10:00 p.m. The application also includes a request for City of Merced Sponsorship.

RECOMMENDATION

City Council - Adopt a motion

A. Approving the street closure of W. Main Street between M and K Streets, Canal Street between Main Street and W. 18th Street, and the use of Bob Hart Square on Thursday, March 2, 2023, from 3:00 p.m. to 10:00 p.m.; and,

B. Approving City of Merced Sponsorship; and,

C. Authorizing the Director of Development Services to approve the future event dates for the year 2023, with or without a change of location contingent upon the availability of W. Main Street between M and K Streets, Canal Street between Main Street and W. 18th Street, and the use of Bob Hart Square, subject to the details and conditions outlined in the Administrative Staff Report.

Mayor SERRATTO pulled this item at the request of the public.

Annissa FRAGOSO, Merced - asked Council to approve all five future street closures requested made by Hispanic Chamber of Commerce on March 2nd, May 4th, July 2nd, September 7th, and November 2nd.

Director of Development Services Scott MCBRIDE spoke on conflicts with projects from the Engineering Department.

Annissa FRAGOSO, Merced - spoke on a proposed back-up plan in case conflicts arise.

A motion was made by Council Member Boyle, seconded by Council Member Smith, that this agenda item be approved. The motion carried by the following vote:

Aye: 7 - Mayor Serratto, Mayor Pro Tempore Perez, Council Member Ornelas, Council Member Boyle, Council Member DeAnda, Council Member Smith, and Council Member Xiong

No: 0

Absent: 0

I.17.

SUBJECT: Adoption of Resolution 2023-09 Extending the Proclamation of a Local Emergency Within the Territorial Limits of the City of Merced as Proclaimed by the Director of Emergency Services on January 7, 2023 and Again on January 14, 2023 Pursuant to Merced Municipal Code Section 8.20.070

REPORT IN BRIEF

Asking the City Council to continue the State of Emergency due to severe storms and potential flooding.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2023-09**, a Resolution of the City Council of the City of Merced, California, extending the proclamation of a local emergency.

Mayor SERRATTO pulled this item at the request of the public.

City Manager Stephanie DIETZ gave a slideshow presentation on extending the Proclamation on a local emergency.

Irma ADAME, Merced - spoke on being displaced due to floods, a letter received from her landlord, and asked for assistance.

Mayor SERRATTO asked Ms. ADAME to leave her contact information.

Maria MEZA, Merced - spoke on the family members displaced due to floods, the same letter as previous speaker, and asked for assistance.

Mayor SERRATTO asked Ms. MEZA to leave her contact information.

Council Member XIONG spoke on tenant protections.

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

Aye: 7 - Mayor Serratto, Mayor Pro Tempore Perez, Council Member Ornelas, Council Member Boyle, Council Member DeAnda, Council Member Smith, and Council Member Xiong

No: 0

Absent: 0

I.18.

SUBJECT: Second Reading and Final Adoption of an Ordinance to Approve Zone Change #431, Initiated By Sam Sahota, Property Owner; this Application is a Request for a Zone Change from an Urban Transition (U-T) Zone to a Low Density Residential (R-1-5) Zone at 385 S. Coffee Street to Develop a Future Subdivision with 45 Single-Family Home Lots at 385 S. Coffee Street; and, the Approximate 9.91-Acre Subject Site is Generally Located at the West Side of S. Coffee Street, 300 Feet North of E. Gerard Avenue

REPORT IN BRIEF

Second reading and final adoption of an Ordinance to approve a Zone Change from Urban Transition (U-T) to Low Density Residential (R-1-5) for one approximate 9.91-acre parcel located at 385 S. Coffee Street.

RECOMMENDATION

City Council - Adopt a motion adopting **Ordinance 2546**, An Ordinance of the City Council of the City of Merced, California, amending the official Zoning Map by rezoning approximately 9.91 acres of land at 385 South Coffee Street, generally located on the west side of South Coffee Street, 300 feet North of East Gerard Avenue, from Urban Transition (U-T) to Low-Density Residential (R-1-5).

Mayor SERRATTO pulled this item at the request of Jean OKUYE.

Jean OKUYE, Valley Land Alliance - spoke in opposition of the proposed change of zoning and affordable housing.

Council discussed affordable housing, the City's RHNA, and the productive farmland surrounding.

A motion was made by Council Member Boyle, seconded by Mayor Pro Tempore Perez, that this agenda item be approved. The motion carried by

the following vote:

Aye: 6 - Mayor Serratto, Mayor Pro Tempore Perez, Council Member Ornelas, Council Member Boyle, Council Member DeAnda, and Council Member Smith

No: 1 - Council Member Xiong

Absent: 0

J. PUBLIC HEARINGS

J.1.

SUBJECT: Appeal #1 & #2 of the Planning Commission's Approval of Commercial Cannabis Business Permit (CCBP) #22-02R for Retail Cannabis at 1111 Motel Drive by JIVA MCE, LLC. and Edwin Kainth

REPORT IN BRIEF

JIVA MCE, LLC, and Edwin Kainth have separately appealed the Planning Commission's approval of Commercial Cannabis Business Permit #22-02R (Culture Merced Dispensary) for a retail cannabis facility at 1111 Motel Drive.

RECOMMENDATION

City Council - Adopt a motion:

- A. Granting or denying the appeal of JIVA MCE, LLC.; and,
- B. Granting or denying the appeal of Edwin Kainth; and,
- C. Providing direction to staff regarding findings to grant or deny each appeal, with or without prejudice; and,
- D. Directing staff to proceed with either the approval of CCBP #22-02R or the continuation of the retail cannabis selection process, including direction on how to proceed with the tied score for second-highest scoring application.

Clerk's Note: Council Member DEANDA recused himself due to previously being on the Planning Commission.

Acting City Attorney Travis LINDSEY and Mayor SERRATTO stated both appellants requested continuance.

Jim SANDERS, Hotel Motel Association, Merced - requested continuance of hearing to the first meeting in March due to members not being available

to speak and if both appeals can be heard separately.

Nicole PHYLLIS, JIVA MCE - requested a continuance of hearing to the first meeting in April and if both appeals can be heard separately.

Devon JULIAN, Applicant from Culture Cannabis, Merced - spoke on continuance requests from appellants, consequences of delaying the approval, land use approval, and asked Council to continue the Public Hearing at this meeting.

Council and Mr. JULIAN spoke on issues that would arise if the approval was delayed, proposed backup plan for a different location, options to discuss and take action for a continuance.

Council disclosed meetings with different organizations regarding cannabis related items, discussed the request for a continuance, and to adjourn to Closed Session for further discussion.

Clerk's Note: Council adjourned to Closed Session at 7:29 PM.

A motion was made by Mayor Pro Tempore Perez, seconded by Council Member Ornelas, adjourned to Closed Session for discussion. The motion carried by the following vote:

Aye: 5 - Mayor Serratto, Mayor Pro Tempore Perez, Council Member Ornelas, Council Member Boyle, and Council Member Xiong

No: 1 - Council Member Smith

Absent: 0

Abstain: 1 - Council Member DeAnda

Clerk's Note: Council adjourned from Closed Session at 7:48 PM.

Clerk's Note: Council reconvened Open Session at 7:49 PM.

No further Council discussion.

A motion was made by Council Member Smith, seconded by Council Member Boyle, to continue both appeals on separate days, Motel Hotel Association's appeal to be heard on April 3rd and JIVA MCE's appeal to be heard on April 17. The motion carried by the following vote:

Aye: 5 - Council Member Ornelas, Council Member Boyle, Council Member DeAnda, Council Member Smith, and Council Member Xiong

No: 2 - Mayor Serratto, and Mayor Pro Tempore Perez

Absent: 0

K. REPORTS

K.1. **SUBJECT: Wastewater Collection System Master Plan (WCSMP)**

REPORT IN BRIEF

Seeks Council direction on finalizing the draft Wastewater Collection Master Plan.

RECOMMENDATION

City Council - Provide direction to staff on finalization of the draft Wastewater Collection Master Plan, provide direction to begin the CEQA environmental process.

Director of Public Works Ken ELWIN and Senior Principal with Stantec Consulting Services Steven BECK gave a slideshow presentation on the City of Merced Wastewater Collection System Master Plan.

Council and Mr. BECK discussed the geological dividing line between North and South Merced, areas of priority, and traffic congestion.

Steve TEITJEN, Superintendent of Merced County Office of Education, Merced - thanked City staff for their assistance during floods, and spoke in support of directing staff to continue with this plan.

Council and City Manager Stephanie DIETZ discussed details of SB 244 and amending the Wastewater Collection System Master Plan to include the feasibility study.

A motion was made by Council Member Ornelas, seconded by Council Member Boyle, that this agenda item be approved. The motion carried by the following vote:

Aye: 7 - Mayor Serratto, Mayor Pro Tempore Perez, Council Member Ornelas, Council Member Boyle, Council Member DeAnda, Council Member Smith, and Council Member Xiong

No: 0

Absent: 0

L. BUSINESS

L.1.

SUBJECT: Direction Regarding Advanced Air's Request to Change Southern California Flight Service from Los Angeles International Airport to Hawthorne Municipal Airport

REPORT IN BRIEF

Advanced Air's CEO Levi Stockton submitted a letter requesting that the City of Merced consider allowing the airline to transfer its Southern California flight from Los Angeles International Airport (LAX) to Hawthorne Municipal Airport (HHM). The request was previously heard by Council on December 5, 2022.

RECOMMENDATION:

City Council - Provide staff direction regarding Advanced Air's request to change flight service from Los Angeles International Airport to Hawthorne Municipal Airport.

Council discussed the request to bring more information on Advanced Air's request to change Southern Flight Service from Los Angeles International Airport to Hawthorne Municipal Airport.

Clerk's Note: The following comment was received via voicemail.

Steven DONAHUE, Merced - expressed safety concerns of Hawthorne Municipal Airport.

Clerk's Note: The following speakers appeared in person.

Donny SANDUSKY, Applicant from Advanced Air - explained details of the request to switch from Los Angeles Airport Terminal (LAX) to Hawthorne Municipal Airport, lack of revenue, details of the Transportation Security Administration (TSA), and safety and security measures of Hawthorne Municipal Airport.

Barbara HUNT, Applicant from Advanced Air - explained the security check points that are enforced by the Department of Transportation (DOT), operation of contract with DOT, price of fuel and salaries rising, the sustainability of the company's operation, and the potential of going out to bid.

Council, Mr. SANDUSKY, and Ms. HUNT discussed the potential safety risk, profits of Advanced Air, DOT's requirement for the operator to arrive

to a medium or large hub, the shuttle bus, large corporations flying with the Advanced Air, details of safety and security measures, the bid process, original recommendation made by Council, amount of savings and profit, fees paid to LAX, percentage of community support, and the cost-saving for residents.

A motion was made by Council Member Smith, seconded by Council Member Boyle, to approve the recommendation as presented. The motion carried by the following vote:

Aye: 5 - Mayor Serratto, Council Member Ornelas, Council Member Boyle, Council Member DeAnda, and Council Member Smith

No: 2 - Mayor Pro Tempore Perez, and Council Member Xiong

Absent: 0

L.2. SUBJECT: Selection of Council Members to Attend the One Voice Trip

REPORT IN BRIEF

Council to decide who will attend the One Voice trip.

Council discussed which members would attend the annual One Voice Trip delegation to Washington DC.

A motion was made by Council Member Ornelas, seconded by Council Member Smith, that Mayor Serratto and Council Member Boyle attend the One Voice delegation to Washington DC with Council Member Xiong as the first alternate. The motion carried by the following vote:

Aye: 7 - Mayor Serratto, Mayor Pro Tempore Perez, Council Member Ornelas, Council Member Boyle, Council Member DeAnda, Council Member Smith, and Council Member Xiong

No: 0

Absent: 0

L.3. SUBJECT: Council Member Xiong's Request to Discuss Public Comments and Voicemails

REPORT IN BRIEF

Council Member Xiong's request to discuss public comments and voicemails for City Council meetings pursuant to City Council Administrative Policies and Procedures C-1.

RECOMMENDATION

Provide direction to staff on next steps.

Council Member XIONG gave a brief presentation on extending the time of public comments (in-person speakers and voicemails) and reading emails out loud during Council meetings.

Clerk's Note: The following comments were received via voicemail.

Crissy G, Merced - spoke in support of reading emails out loud, extending voicemails to three minutes, and the needs of the community.

Nellie, Merced - asked Council to consider bringing back three minute voicemails and spoke in support of the community's voice.

Jazz DIAZ, Merced - spoke on the ability to attend meetings and the helpfulness of leaving a public comment through voicemail or email.

Clerk's Note: The following speakers appeared in person.

Rick WENDLING, Merced - spoke in favor of increasing time of voicemails and reading emails.

Josue HERRERA, Merced - spoke in support of in person and remote participation by increasing the voicemail time, reading emails out loud, and the difficulties of transportation.

Council discussed the increase of community participation for those unable to attend, reading emails out loud and increasing the word count, increasing the time of voicemails to three minutes, the amount of voicemails, the efficiency of Council meetings, the availability of Council Members, paying a living wage to Council Members, repetitive messages from concerned citizens, conditions of the pandemic, and the needs of the community.

A motion was made by Mayor Pro Tempore Perez, seconded by Council Member Ornelas, to allow three minute voicemails, 300 word emails, and reading emails out loud during Council meetings. The motion failed by the following vote:

Aye: 3 - Mayor Pro Tempore Perez, Council Member Ornelas, and Council Member Xiong

No: 4 - Mayor Serratto, Council Member Boyle, Council Member DeAnda, and Council Member Smith

Absent: 0

L.4.

SUBJECT: Request to Add Item to Future Agenda

REPORT IN BRIEF

Provides members of the City Council to request that an item be placed on a future City Council agenda for initial consideration by the City Council.

Clerk's Note: No future items were added.

L.5.

SUBJECT: City Council Comments

REPORT IN BRIEF

Provides an opportunity for the Mayor and/or Council Member(s) to make a brief announcement on any activity(ies) she/he has attended on behalf of the City and to make a brief announcement on future community events and/or activities. The Brown Act does not allow discussion or action by the legislative body under this section.

Council Member BOYLE thanked everyone for attending the Town Halls and looked forward to the Strategic Planning session.

Council Member XIONG reminded everyone of the last Town Hall Meeting and Strategic Planning Session.

Council Member DEANDA thanked everyone for helpful during Town Hall Meeting and reported on attending the High Speed Rail meeting at the Senior Center.

Mayor SERRATTO reminded everyone of the Town Hall Meeting and the Strategic Planning Session.

M. ADJOURNMENT

Clerk's Note: The Regular Meeting was adjourned at 9:12 PM.

A motion was made by Council Member Boyle, seconded by Council Member Smith, that the Regular Meeting be adjourned. The motion carried by the following vote:

Aye: 7 - Mayor Serratto, Mayor Pro Tempore Perez, Council Member Ornelas, Council Member Boyle, Council Member DeAnda, Council Member Smith, and Council Member Xiong

No: 0

Absent: 0