



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 18, 2019

6:00 PM

A. CLOSED SESSION ROLL CALL

Present: 7 - Mayor Pro Tempore Anthony Martinez, Mayor Mike Murphy, Council Member Kevin Blake, Council Member Jill McLeod, Council Member Matthew Serratto, Council Member Delray Shelton, and Council Member Fernando Echevarria

Absent: 0

B. CLOSED SESSION

Mayor MURPHY called the Closed Session to order at 5:01 PM.

B.1. **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Significant Exposure to Litigation pursuant to Government Code section 54956.9(d)(2): (1) case

B.2. **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION; Joseph Deliman v. City of Merced; Workers Compensation Appeals Board Case Nos. FRE-ADJ 10823278; FRE-ADJ 10823228; FRE-ADJ 10823337; AUTHORITY: Government Code Section 54956.9(d)(1)

B.3. **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION; Englert, et. al. v. City of Merced; Case No. 1:18-CV-01239-LJO-EPG; AUTHORITY: Government Code Section 54956.9(d)(1)

B.4. **SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION; McKinnon, et. al. v. City of Merced; Case No. 1:18-CV-01124-LJO-SAB; AUTHORITY: Government Code Section 54956.9(d)(1)

Clerk's Note: Council adjourned from Closed Session at 5:40 PM.

C. CALL TO ORDER

Mayor MURPHY called the Regular Meeting to order at 6:01 PM.

C.1. Invocation - Monika Grasley, Lifeline Community Development

The invocation was delivered by Monika GRASLEY from Lifeline Community Development.

C.2. Pledge of Allegiance to the Flag

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

D. ROLL CALL

Present: 7 - Mayor Pro Tempore Anthony Martinez, Mayor Mike Murphy, Council Member Kevin Blake, Council Member Jill McLeod, Council Member Matthew Serratto, Council Member Delray Shelton, and Council Member Fernando Echevarria

Absent: 0

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. SPECIAL PRESENTATIONS

F.1. Kiki Raina Tahiti Fete Performance

The South Pacific Dance Company performed a Tahitian dance.

F.2. Aerial Apparatus (Tiller) Dedication

Fire Chief Billy ALCORN gave a slide show presentation on the new Aerial Apparatus (Tiller) Dedication.

G. WRITTEN PETITIONS AND COMMUNICATIONS

The Clerk's Office received a letter from Stacey WIEBE regarding Agenda Item J.1. the Site Utilization Plan Revision #6 Public Hearing Item that was printed and placed on the dais.

H. ORAL COMMUNICATIONS

Monica VILLA, Merced - spoke on first responders and the bathrooms at Steven Leonard Park.

Deborah BENNETT, Merced - spoke on her concerns with crime in the downtown area.

Nancy Young BERGMAN, Merced - spoke on the Merced CASA fundraiser event.

I. CONSENT CALENDAR

Items I.9. Award of Bid and Approval of Construction Agreement with Rolfe Construction Company in the Amount of \$968,802 for the Re-Bid of the Yosemite Avenue Leaf Collection Site, Project No. 116017 and I.10. Approval of Professional Services Agreement with Precision Engineering, Inc., for the the Not to Exceed Amount of \$175,000, to Provide Personnel to Temporarily Serve in the Capacity of City Engineer; were pulled for separate consideration.

Approval of the Consent Agenda

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

Aye: 7 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member McLeod, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

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-Planning Commission Minutes of February 6, 2019**

RECOMMENDATION

Information only.

This Consent Item was approved.

- I.3.** **SUBJECT:** Information Only-Site Plan Committee Minutes of January 24 and 31, 2019

RECOMMENDATION

For information only.

This Consent Item was approved.

- I.4.** **SUBJECT:** Authorization to Apply for and Accept Reimbursable Grant Funding from the State of California, Office of Emergency Services for Equipment, Supplies and Training Related to the City's Upgrade to its Emergency Communications Center and Geographical Information System (GIS) in an Amount Not to Exceed \$128,000; and Approval to Use Pooled Cash Pending the Receipt of Reimbursed Funds From the State

REPORT IN BRIEF

Authorizes the City to apply for and accept additional grant funding in an amount not to exceed \$128,000 from the State of California for the purchase of additional equipment, supplies and training for upgrades to the City's Emergency Communications Center and GIS. Also authorizes the use of pooled cash to pay for the purchases pending reimbursement from the State.

RECOMMENDATION

City Council - Adopt a motion:

- A. Upon approval of additional grant funding from the State of California, Office of Emergency Services, Increasing State Grant revenue account 001-1002-324.02-00 in an amount not to exceed \$128,000 and appropriating the same to Police Operations Machinery/Equipment expense account 001-1002-523.43-00; and,
- B. Authorizing the use of pooled cash for purchases until the City receives reimbursement of funds; and,
- C. Authorizing the City Manager or the Assistant City Manager to execute any necessary documents.

This Consent Item was approved.

- I.5. **SUBJECT:** Approval of Reduction of Per Session Fees Charged for Swimming Lessons from the Established Rate of \$35 to \$10 for Swimming Lessons Offered from June 17 to August 1, 2019

REPORT IN BRIEF

Considers temporarily lowering swim lesson fees charged by the City from \$35 per session to \$10 per session for its Water Safety and Swimming Lessons Programs offered from June 17 to August 1, 2019.

RECOMMENDATION

City Council - Adopt a motion approving the temporary reduction in the fees charged for swimming lessons from \$35 to \$10 per session during the summer of 2019; and, authorizing the City Manager or the Assistant City Manager to execute the necessary documents.

This Consent Item was approved.

- I.6. **SUBJECT:** Adoption of Resolution Establishing a Policy for the Distribution of Tickets and Passes Pursuant to Fair Political Practices Commission Regulation 18944.1

REPORT IN BRIEF

Considers the adoption of a Resolution establishing a Policy regarding the distribution of complimentary tickets and passes received by the City, pursuant to Fair Political Practices Commission (FPPC) Regulation 18944.1.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2019-10**, a Resolution of the City Council of the City of Merced, California, adopting a policy for the distribution of tickets and passes in accordance with FPPC Regulation 18944.1.

This Consent Item was approved.

- I.7. **SUBJECT:** Approval of Supplemental Appropriations / Budget Modifications Totaling \$300,000 for Fuel Fund Shortages from Various Division Budgets to Fund 670-Fleet Management Vehicle Fuel Expense Account to Cover the Funding Shortage Through June 30, 2019

REPORT IN BRIEF

Considers transferring \$300,000 from various divisions to the Fund 670-Fleet Management Vehicle Fuel expense account to cover the funding shortage through June 30, 2019.

RECOMMENDATION

City Council - Adopt a motion approving the transfer of \$300,000 from various divisions to Fleet Fund 670 and appropriating the same to Vehicle Fuel expense account 670-1103-532.33-00 and authorizing the Finance Officer to make the necessary budget adjustments.

This Consent Item was approved.

I.8.

SUBJECT: Approval of Consulting and Professional Services Contracts with Benchmark Engineering, Inc., BKF Engineers, Carollo Engineers, Golden Valley Engineering, Interwest Consulting Group, Michael K. Nunley & Associates, Precision Civil Engineering, Inc., Quad Knopf, Inc., and VVH Consulting Engineers to Provide Design and Engineering Support Services for the City's Capital Improvement Projects at the Rates Not to Exceed the Consultant Hourly Rates Listed within Attachment B of Each Respective Agreement for the Contract Period Ending June 30, 2022

REPORT IN BRIEF

Considers approving multiple Consulting and Professional Services Contracts for engineering and design services for the City's Capital Improvement Projects. The services provided under these agreements will be funded from individual Capital Improvement Project budgets as the projects occur through the contract period ending June 30, 2022, at the hourly rates set forth in Attachment B of each respective agreement.

RECOMMENDATION

City Council - Adopt a motion approving the Consulting and Professional Services Agreements, for a contract period ending June 30, 2022, with Benchmark Engineering, Inc., BKF Engineers, Carollo Engineers, Golden Valley Engineering, Interwest Consulting Group, Michael K. Nunley & Associates, Precision Civil Engineering, Inc., Quad Knopf, Inc., and VVH Consulting Engineers, for professional engineering design services.

This Consent Item was approved.

- I.11. **SUBJECT:** Second Reading - 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.

This Consent Item was approved.

- I.12. **SUBJECT:** Second Reading - Adoption 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

Adoption of previously introduced 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 adopting **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.

This Consent Item was approved.

I.9.

SUBJECT: Award of Bid and Approval of Construction Agreement with Rolfe Construction Company in the Amount of \$968,802 for the Re-Bid of the Yosemite Avenue Leaf Collection Site, Project No. 116017

REPORT IN BRIEF

Considers awarding a bid and approving an agreement in the amount of \$968,802 with Rolfe Construction Company for City Project No. 116017 - Yosemite Avenue Leaf Collection Site.

RECOMMENDATION

City Council - Adopt a motion:

- A. Awarding the Yosemite Avenue Leaf Collection Site, Project 116017 to Rolfe Construction Company of Atwater, Ca, in the amount of \$968,802.00; and,
- B. Authorizing the City Manager or the Assistant City Manager to execute the necessary documents and to approve change orders not to exceed 10% of the total contract; and,
- C. Authorizing the Finance Director to make necessary budget adjustments.

Mayor MURPHY pulled this item to discuss the Leaf Collection Site project.

Director of Public Works Ken ELWIN discussed the necessity of the Leaf Collection site and the benefits of its location.

Council and Mr. ELWIN discussed the planning investment of the site, possible commercial development, long term plans for site locations, and a possible South Merced location. They also spoke on site location efficiency for the Public Works Department and the need to expand the Public Works Corporate Yard.

Martha ARMAS-KELLY, Merced - asked about the number of trips that the trucks would make in and out of the site location, pollution, and traffic congestion.

Mr. ELWIN explained the site operation days and times as well as lowering vehicle idling times.

Fong XIONG, Merced - spoke on his concerns with traffic congestion at the proposed collection site.

City Surveyor Joe CARDOSO spoke on the challenges of renting the site and what to do with the property.

Jesus RODRIGUEZ, Merced - spoke on his concerns of the proposed collection site.

Monika GRASLEY, Merced - spoke in support for this project.

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: 4 - Mayor Pro Tempore Martinez, Council Member Blake, Council Member McLeod, and Council Member Serratto

No: 3 - Mayor Murphy, Council Member Shelton, and Council Member Echevarria

Absent: 0

I.10.

SUBJECT: Approval of Professional Services Agreement with Precision Engineering, Inc., for the Not to Exceed Amount of \$175,000, to Provide Personnel to Temporarily Serve in the Capacity of City Engineer

REPORT IN BRIEF

Considers approving a Professional Services Agreement with Precision Engineering, Inc., for the not to exceed amount of \$175,000 to provide City Engineer services while the City recruits for a permanent City Engineer.

RECOMMENDATION

City Council - Adopt a motion approving the agreement for professional services with Precision Engineering, Inc., to provide City Engineer Services in an amount not to exceed \$175,000; and, authorizing the City Manager or the Assistant City Manager to execute the necessary documents.

Mayor Pro Tempore MARTINEZ pulled this item to ask about the length of the contract.

Council, Director of Public Works Ken ELWIN, and City Manager Steve CARRIGAN spoke on the length of the Engineer consultant contract, using salary savings to cover the cost, and the recruitment process.

A motion was made by Mayor Pro Tempore Martinez, seconded by Council Member Blake, 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 McLeod, Council Member Serratto, and Council Member Shelton

No: 1 - Council Member Echevarria

Absent: 0

J. PUBLIC HEARINGS

J.1.

SUBJECT: Public Hearing - Introduction of Ordinance No. 2500 Approving Site Utilization Plan Revision #6 to Planned Development (P-D) #46; and Adoption of Resolution 2019-09, Approving a Negative Declaration for Environmental Review #18-60, General Plan Amendment #18-03, Specific Plan Revision #4 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #6 to Planned Development (P-D) #46 to Allow Between 164 and 176 Apartments on a 10.73 Acre Site, Generally Located on the West Side of San Augustine Avenue, at Pacific Drive

REPORT IN BRIEF

Introduces Ordinance No. 2500 and considers approving a Negative Declaration for Environmental Review #18-60, General Plan Amendment #18-03, Specific Plan Revision #4 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #6 to Planned Development (P-D) #46 to allow between 164 and 176 apartments on a 10.73 acre site, generally located on the west side of San Augustine Avenue, at Pacific Drive.

RECOMMENDATION

City Council - Adopt a motion:

A. Adopting **Resolution 2019-09**, a Resolution of the City Council of the City of Merced, California, approving a Negative Declaration for General Plan Amendment #18-03, Revision #4 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #6 to Planned Development (P-D) #46 for 10.73 acres of land generally located on the west side of San Augustine Avenue at Pacific Drive and approving General Plan Amendment #18-03 for the same property changing the General Plan designation from Business Park (BP) to High-Medium Density Residential (HMD) and approving revision #4 to the Fahrens Creek specific plan changing the land use designation from "Mini-Storage" to "Multi-Family"; and,

B. Introducing **Ordinance 2500**, an Ordinance of the City Council of the

City of Merced, California, approving Site Utilization Plan Revision #6 to Planned Development (P-D) #46 changing the land use designation from "Business Park" (BP) to "High-Medium Density Residential" (HMD) for 10.73 acres of land, generally located on the west side of San Augustine Avenue at Pacific Drive; and,

C. 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 Revision #4 to the Fahrens Creek Specific Plan and Site Utilization Plan Revision #6 to Planned Development.

Council and Ms. NELSON discussed a noise barrier between the houses adjacent from the proposed apartment complex.

Mayor MURPHY disclosed conversations he had with the developer and a concerned resident.

Mayor MURPHY opened the Public Hearing at 7:26 PM.

Tony BRUNO, Project Developer - spoke on the development of the proposed apartment complex and the cost for a noise barrier wall. He also spoke on adding a landscaping barrier and a chain link fence.

Council and Mr. BRUNO discussed the chain link fence barrier, the apartment floorplans, requirements of masonry walls, traffic noise, video surveillance, and landscaping. They also spoke on the cost and the length of the masonry wall.

Fong XIONG, Merced - stated his support for the project and stated his concerns with traffic, noise, graffiti, and damage to homeowner property. He asked the City Council to make a condition to the project to add a masonry wall.

Rick STANDFORD, Merced - spoke on his concerns about safety on the property site and property values.

Jesus ENRIQUES, Merced - spoke on his concerns about traffic, cars speeding, and noise.

Mayor MURPHY closed the Public Hearing at 7:49 PM.

Council discussed building a masonry wall to alleviate residents concerns.

A motion was made by Council Member Blake, seconded by Council Member

Shelton, to approve Resolution 2019-09, with a condition to build a masonry wall on the residential side of the complex, and introduce Ordinance 2500 . The motion carried by the following vote:

Aye: 7 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member McLeod, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 0

J.2.

SUBJECT: Continued Public Hearing - Vacation No. 18-03 for the Adoption of Resolution Ordering the Vacation of a 20-Foot Wide Temporary Access Easement Located on a Portion of 7 Lots within the Summer Creek Subdivision

REPORT IN BRIEF

The City Council will consider approving a Resolution ordering the vacation of a 20-foot wide temporary access easement located on a portion of 7 lots within the Summer Creek Subdivision, generally located west of McKee Road at Silverstone Drive.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2019-07**, a Resolution of the City Council of the City of Merced, California, ordering the vacation of a 20-foot-wide Temporary Emergency Access Easement on Lots 5, 6, 7, 17, 18, 29, and 130 within the Summer Creek, Phase One Subdivision (Vacation #18-03).

Council Member BLAKE recused himself from this item due to the proximity of his residence.

Associate Planner Julie NELSON gave a slide show presentation on Vacation #18-03, Vacation of Emergency Vehicle Access in Summer Creek Subdivision.

Council and Ms. NELSON discussed the cost of the paved access easement, maintenance of the access easement, and the conditions removing the "temporary" verbiage of the easement.

Mayor MURPHY opened the Public Hearing at 8:13 PM.

Dave BUTZ, Bright Homes - spoke on the development history and stated that Bright Homes will continue to develop whether or not the access easement is vacated.

Council and Mr. BUTZ discussed the current use of the access easement and the benefits of abandoning the easement.

Mary BROOKS, Merced - spoke on the history of the access easement and her interest in the property next to the access easement.

Casey STEED, Merced - spoke on other access points in and out of the Moraga development.

Mayor MURPHY and Ms. BROOKS discussed allowing an easement on her property.

Mayor MURPHY closed the Public Hearing at 8:32 PM.

Council and City Attorney Phaedra NORTON discussed the definition of an easement.

Council and Mr. BUTZ continued discussing the access easement and the use of the land next to the easement.

Council, Ms. NELSON, and Director of Development Services Scott MCBRIDE continued to discuss the temporary emergency access easement.

Clerk's Note: Council took no action on Lots 5,6,7,17,18,and 29.

A motion was made by Council Member McLeod, seconded by Council Member Echevarria, to amend Resolution 2019-07, to order the vacation of a temporary emergency access easement on lot 130 within Summer Creek, Phase 1 Subdivision. The motion carried by the following vote:

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

No: 0

Absent: 0

Abstain: 1 - Council Member Blake

Clerk's Note: Council recessed at 8:50 PM and returned at 8:58 PM.

Clerk's Note: Council Member MCLEOD left the Regular Meeting during the recess.

K. BUSINESS

K.1. **SUBJECT:** Approving the City Council FY 2019/20 Goals and Priorities

REPORT IN BRIEF

Staff will provide a summary overview of initial comments received from Council to approve the FY 2019/20 Goals and Priorities.

RECOMMENDATION

City Council - Adopt a motion approving FY 2019/20 Goals and Priorities.

City Manager Steve CARRIGAN and Assistant City Manager Stephanie DIETZ gave a slide show presentation on the FY 2019/20 Council Goals and Priorities.

Council, Mr. CARRIGAN and Ms. DIETZ discussed progress on current projects, youth programs, staffing, public safety, and a sign ordinance.

K.2. **SUBJECT:** Mayor Murphy's Request to Discuss Amending the City of Merced Charter

REPORT IN BRIEF

This item is in response to Mayor Murphy's request to discuss amending the City of Merced Charter pursuant to City Council Administrative Policies and Procedures C-1.

RECOMMENDATION

It is requested Council give staff direction on this item.

Mayor MURPHY discussed amending the Cash Flow and the term length for the Mayor in the City Charter and developing a Charter Review Sub-Committee.

Council directed Staff to bring back a report with information on the timeline for the Charter Review for the March Primary ballot.

K.3. City Council Comments

Council Member SERRATTO reported on reading a book to an elementary class at Farmdale School. He spoke on the upcoming projects going on in Merced. He also reported on attending downtown tours of the City of Modesto, Turlock, and Visalia.

Mayor Pro Tempore MARTINEZ reported on reading to an elementary class at the Farmdale School. He also reported on attending the Arts and Culture Advisory Commission meeting, the Multicultural Arts Center art show, and a Band Festival at El Capitan High School.

Council Member ECHEVARRIA reported on attending the 2019 Regional Conference for Migrant Families, Caring for Our Black Children Graduation Program, and Parent Cafe at Steven Lenard Park.

Council Member BLAKE reported on attending downtown tours of the City of Modesto, Turlock, and Visalia.

Mayor MURPHY reported on attending a High Speed Rail meeting, the Neighbors United for South Merced meeting, a Ribbon Cutting for Yosemite Realty, and the Greater Merced Chamber of Commerce Eggs and Issues event.

K.4. Request to Add Item to Future Agenda

Council Member SERRATTO requested to add an item to provide an update from the Downtown Sub-Committee.

L. ADJOURNMENT

Clerk's Note: The Regular Meeting was adjourned at 9:58 PM.

A motion was made by Council Member Echevarria, seconded by Council Member Blake, to adjourn the Regular Meeting in memory of Ethan Morse. The motion carried by the following vote:

Aye: 7 - Mayor Pro Tempore Martinez, Mayor Murphy, Council Member Blake, Council Member McLeod, Council Member Serratto, Council Member Shelton, and Council Member Echevarria

No: 0

Absent: 0