



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, January 4, 2016

7:00 PM

A. STUDY SESSION ROLL CALL

Clerk's Note: Council Member MURPHY arrived at 5:16 PM and Council Member BELLUOMINI arrived at 5:19 PM.

Present: 6 - Mayor Stanley P. Thurston, Mayor Pro Tempore Joshua Pedrozo, Council Member Michael Belluomini, Council Member Kevin Blake, Council Member Tony Dossetti, and Council Member Mike Murphy

Absent: 1 - Council Member Noah Lor

B. STUDY SESSION

Mayor THURSTON called the Study Session to order at 5:15 PM.

B.1. Study and Discussion on Proposed Marijuana Ordinance

Senior Deputy City Attorney Ken ROZELL provided Council with a report on existing Medical Marijuana regulations in place. He stated the latest Assembly Bills that have been introduced would take away local control unless the City adopted an Ordinance by January 29, 2016 due to a March 1, 2016 deadline imposed by the State.

Council posed questions to Mr. ROZELL regarding taxation, zone locations, enforcement and reasons for the quick turnaround needed to pass an Ordinance.

Mr. ROZELL explained that taxation would need voter approval, Council could decide on the locations for dispensaries and that Police would be able to do inspections as needed. He stated that because of deadline of March 1, 2016 written into the Bill, Council would need to act quickly to get an Ordinance in place due to the need for a first and second reading and 30-day wait for it to go into full effect. He emphasized the need to get an ordinance in place so the City can maintain control over this item.

Merced County Sheriff Sergeant Ray FRAMSTEAD, explained how the County deals with the Medical Marijuana issues. He gave information on the yield of marijuana plants and gave a brief slide presentation. He also gave a report on the crime that is involved in marijuana trade.

Speakers in favor of Medical Marijuana

Jim GREENWOOD, Merced
Karen ANN, Merced
Christopher GONZALES, Merced
Charles VEILLEUX, Merced
Arturo DERAZO, Merced

Clerk's Note: The Study Session adjourned at 6:30 PM.

C. CLOSED SESSION ROLL CALL

Present: 6 - Mayor Stanley P. Thurston, Mayor Pro Tempore Joshua Pedrozo, Council Member Michael Belluomini, Council Member Kevin Blake, Council Member Tony Dossetti, and Council Member Mike Murphy
Absent: 1 - Council Member Noah Lor

D. CLOSED SESSION

Clerk's Note: Council adjourned to Closed Session at 6:31 PM.

D.1.

SUBJECT: CONFERENCE WITH LEGAL COUNSEL - Significant Exposure to Litigation: (1) Case; Authority: Government Code Section 54956.9(d)(2)

Clerk's Note: Council adjourned from Closed Session at 6:50 PM.

E. CALL TO ORDER

Mayor THUSTON called the Regular Meeting to order at 7:00 PM.

E.1 Invocation - Pastor Doss, Merced Baptist Church

The invocation was presented by Pastor Andy Doss of Merced Baptist Church.

E.2. Pledge of Allegiance to the Flag

F. ROLL CALL

Present: 6 - Mayor Stanley P. Thurston, Mayor Pro Tempore Joshua Pedrozo, Council Member Michael Belluomini, Council Member Kevin Blake, Council Member Tony Dossetti, and Council Member Mike Murphy
Absent: 1 - Council Member Noah Lor

F.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 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 Public Financing and Economic Development Authority receive no compensation.

G. REPORT OUT OF CLOSED SESSION

There was no report.

H. WRITTEN PETITIONS AND COMMUNICATIONS

There were none.

I ORAL COMMUNICATIONS

Doug WHITE, Sacramento - provided Council with a proposal for attorney services.

Karen ANN, Merced - spoke about conflict of interest issues and thanked former Code Enforcement Officer Roberta MEDINA.

J. CONSENT CALENDAR

Approval of the Consent Agenda

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

Aye: 6 - Mayor Thurston, Mayor Pro Tempore Pedrozo, Council Member Belluomini, Council Member Blake, Council Member Dossetti, and Council Member Murphy

No: 0

Absent: 1 - Council Member Lor

J.1. **SUBJECT:** Information Only Contracts

J.2. **SUBJECT:** City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of August 17, 2015

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 August 17, 2015.

This Consent Item was approved.

J.3.

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.

J.4.

SUBJECT: First Amendment to Agreement with National Demographics Corporation for Districting Consulting Services

REPORT IN BRIEF

Consider approving an amendment to the agreement with National Demographics Corporation in the amount of \$4,750.

RECOMMENDATION

City Council - Adopt a motion approving an amendment to the agreement with National Demographics Corporation in the amount of \$4,750; and, authorizing the City Manager to execute the necessary documents.

This Consent Item was approved.

J.5.

SUBJECT: Request to Release Interest in Property Located at 1036 W. 10th Street to Allow a Short Sale

REPORT IN BRIEF

Request by the Estate of Manuel Valle to release the City's interest in property that was provided a Homeowner Rehabilitation Loan to allow for a short sale.

RECOMMENDATION

City Council - Adopt a motion authorizing the City of Merced Housing Division, second lien holder, to release interest in the property at 1036

W. 10th Street in order to allow a for short sale; and, authorizing the City Manager to execute the necessary documents.

This Consent Item was approved.

J.6. **SUBJECT: Second Reading - Ordinance Dealing with No Parking Zones and Two-Hour Parking Zones**

REPORT IN BRIEF

Second reading of previously introduced Ordinance.

RECOMMENDATION

City Council - Adopt **Ordinance 2453**, an Ordinance of the City Council of the City of Merced, California, Amending section 10.28.230, "No Parking Zones" and Section 10.28.300, "Two-Hour Parking Zones" of the Merced Municipal Code.

This Consent Item was approved.

J.7. **SUBJECT: Second Reading - Ordinances Dealing with Changes to the Massage Establishment Regulations and Specific Zoning Provisions Relating to Massage Uses**

REPORT IN BRIEF

Second reading of previously introduced Ordinance.

RECOMMENDATION

City Council - Adopt **Ordinance 2451**, an Ordinance of the City Council of the City of Merced, California, Amending Chapter 5.44, "Massage Establishments," of the Merced Municipal Code; and, adopt **Ordinance 2452**, an Ordinance of the City Council of the City of Merced, California Amending Sections 20.20.020, "Permitted Uses," 20.20.040, "Conditional Uses," 20.22.020, "Permitted Uses," 20.22.050, "Conditional Uses," 20.24.020, "Permitted Uses," 20.24.040, "Conditional Uses," 20.26.040, "Conditional Uses," and 20.28.040, "Conditional Uses," of the Merced Municipal Code Regarding the Zoning of Massage Establishments as Conditional Uses Subject to Specific Conditions.

This Consent Item was approved.

K. PUBLIC HEARINGS

K.1. **SUBJECT: Public Hearing Regarding Proposed Amendments to the**

City of Merced's Zoning Ordinance Relating to Medical Marijuana,
Medical Marijuana Dispensaries, Delivery of Medical Marijuana and
Cultivation of Medical Marijuana

REPORT IN BRIEF

Consider the adoption of an ordinance relating to medical marijuana that would either allow or ban medical marijuana dispensaries, allow or ban the delivery of medical marijuana under specific circumstances, and either allow the cultivation of small amounts of medical marijuana under specific circumstances or ban the cultivation of all medical marijuana within the City's boundaries.

RECOMMENDATION

City Council - Adopt a motion approving one of the three following options:

A. Adopt a Categorical Exemption and Introduce **Ordinance 2455** (as recommended by the Planning Commission) that would allow medical marijuana dispensaries in specific commercial zones, allow delivery of medical marijuana under specific circumstances and allow limited growth of medical marijuana (12 plants or less per lot) for a qualified patient:

"An Ordinance of the City Council of the City of Merced, California, Adding Chapter 20.84, "Medical Marijuana and Cultivation" and amending Sections 20.20.040 "Conditional Uses," 20.24.040 "Conditional Uses," and 20.28.040, "Conditional Uses," of the Merced Municipal Code regarding the zoning of medical marijuana dispensaries as conditional uses".

OR

B. Adopt a Categorical Exemption and Introduce **Ordinance 2454** (originally presented to the Planning Commission on December 9, 2015) that would prohibit all commercial medical marijuana uses and activities, including delivery, within the City of Merced and prohibit the cultivation of any amount of marijuana for medical use by a qualified patient or primary caregiver in the City of Merced:

"An Ordinance of the City Council of the City of Merced, California, adding Chapter 20.84, "Medical Marijuana and Cultivation" to the Merced Municipal Code prohibiting all commercial medical marijuana uses in the City and prohibiting cultivation for medical use by a qualified patient or primary caregiver"

OR

C. Adopt a Categorical Exemption and Introduce **Ordinance 2454** (originally presented to the Planning Commission on December 9, 2015) that (like Option B) would prohibit all commercial medical marijuana uses and activities and prohibit the cultivation of any amount of marijuana for medical use:

“An Ordinance of the City Council of the City of Merced, California, adding Chapter 20.84, “Medical Marijuana and Cultivation” to the Merced Municipal Code prohibiting all commercial medical marijuana uses in the City and prohibiting cultivation for medical use by a qualified patient or primary caregiver;”

AND

Direct staff to schedule multiple study sessions after the effective date of the ordinance to consider the City’s options relating to medical marijuana within the City (including dispensaries, delivery and cultivation).

Planning Manager Kim ESPINOSA gave a presentation on the current zoning code that prohibits marijuana dispensaries under federal law. She gave Council three options, including adopting an Ordinance as proposed by the Planning Commission, adopting an Ordinance totally banning marijuana, or adopting an ordinance that bans medical marijuana and to continue discussion on the matter at future meetings.

Ms. ESPINOSA gave a brief report on the Planning Commission meeting when this item was heard and offered their recommendation to the Council.

Council asked questions about appropriate zones to locate dispensaries.

Ms. ESPINOSA stated that most medical offices are located in Commercial Office Zones. She also noted that the Planning commission specifically stated that Residential Zones would not be allowed. Commercial Thoroughfare Zones also were deemed inappropriate.

Mayor THURSTON questioned once a number of dispensaries was decided upon, what the selection process would look like.

Sr. Deputy Attorney Ken ROZELL stated the Council could decide by lottery or other means, such as first come first serve, to select the businesses.

Council Member MURPHY questioned how a person with a Medical Marijuana card could obtain it in the City.

Mr. ROZELL stated that marijuana could not be obtained legally in the City of Merced.

Mayor THURSTON asked if this item could be placed on the November ballot for voter approval.

Mr. ROZELL stated that it could.

Mayor THURSTON opened the Public Hearing at 7:42 PM.

Speakers in favor of Medical Marijuana

Dr. Lakisha JENKINS, Merced

Sister KATE, Merced County

Adam COX, Merced Chamber of Commerce

Morgan, Merced

Roland, Merced

Kevin BAUER, Merced

Patrick WOODBURY, Merced

Arturo DERAZO, Merced

Christopher GONZALES, Merced

Dwight LARKS, Gustine

Sister DARCY, Merced County

Ryan, Merced

John MURRAY, Merced

Nathan LOPEZ, Merced

Ricky BROWNING, Merced

Chad, Merced County

Susan BOUSCAREN, Merced County

Shawnessa, Merced

Chelsea TAITANO, Atwater

Daniel PULIDO, Merced

Amanda HOUSEWRIGHT, Merced

Daniel KAZAKOS, Merced

Roland ROJAS, Merced

Victor CALDERON, Merced

Eric MOORE, Merced

Rex PETERSON, Merced

Angel DELIMAN, Merced

Daniel SABZEHZAR, Merced

Jesus SERRANO, Delhi

Janessa JUAREZ, Delhi
Stephanie PEREZ, Merced
Jim GREENWOOD, Merced
Karen ANN, Merced
Jerilyn ROGERS, Merced
Miguel CHAVEZ
Mauricio TRUJILLO, Merced

Speakers against Medical Marijuana

Susana SALDANA, Merced - spoke against backyard grows.

Neutral Speakers

Betty HUEY, Merced - asked Council to consider both sides.
Zac FOSTER, Merced - spoke on the Marijuana industry.

Mayor THURSTON called for a 10 minute recess at 9:01 PM. The meeting re-convened at 9:10 PM.

Mayor THURSTON closed the Public Hearing at 9:50 PM.

Mayor THURSTON favored a total ban until further study could be done.

Council Member BELLUOMINI stated he was in favor of medical marijuana although he had reservations as far as outdoor growing and dispensary locations.

Council Member BLAKE said he was in favor of regulation in the number of plants grown, location and number of dispensaries.

Mayor Pro-Tempore PEDROZO felt the Council needed more time to make the right decision. He stated more research should be done.

Council Member MURPHY stated that the Ordinance as written needed refining. He had concerns with backyard grows.

Council Member DOSSETTI agreed with some speakers that the Council did not have enough information to make a decision tonight and stated he liked option three.

A motion was made by Council Member Dossetti, seconded by Mayor Thurston, to approve option C as presented by staff. The motion carried by the following vote:

Aye: 6 - Mayor Thurston, Mayor Pro Tempore Pedrozo, Council Member Belluomini, Council Member Blake, Council Member Dossetti, and Council Member Murphy

No: 0

Absent: 1 - Council Member Lor

L. BUSINESS

Mayor THURSTON called for a 10 minute break before continuing to the Business portion of the Agenda.

L.1.

SUBJECT: Confirmation of the Use of Action Minutes as the Official Record of City Council

REPORT IN BRIEF

Considers the confirmation of action minutes as the official record of City Council for regular meetings and brief summary minutes for meetings such as town halls and budget sessions where Council policy direction may be given but no official actions are taken.

RECOMMENDATION

City Council - Adopt a motion confirming action minutes as the official record of City Council for regular meetings and brief summary minutes for City Council meetings when no official actions are taken; and, adding section C-5 City Council Minutes to the City Council Administrative Policies.

City Manager BRAMBLE stated this item was to confirm the use of action minutes per a previous Council discussion.

Council Member MURPHY asked if the turnaround time would improve.

Interim Assistant City Clerk John TRESIDDER said he hoped to have a one-month turnaround time for minutes approval.

Council Member BELLUOMINI stated several reasons he felt the Summary Style Minutes should be used instead of the Action Style as written in the Policy. He stated that he believed the minutes are one of the most important functions of the City Clerk.

Council Member MURPHY stated that he liked the way the video was now

indexed for easy access.

Council Member DOSSETTI was in favor of action minutes.

Council Member BELLUOMINI made a motion to approve Summary Style minutes for all Council Meetings, which failed for lack of a second.

A motion was made by Council Member Dossetti, seconded by Council Member Murphy, that action minutes be used for City Council Meeting minutes and that a free copy of the DVD video be provided to citizens requesting one. The motion carried by the following vote:

Aye: 5 - Mayor Thurston, Mayor Pro Tempore Pedrozo, Council Member Blake, Council Member Dossetti, and Council Member Murphy

No: 1 - Council Member Belluomini

Absent: 1 - Council Member Lor

L.2. City Council Seating Arrangement (Requested by Mayor Thurston)

Mayor THURSTON stated that the following meeting he would like Council to have a new seating arrangement.

L.3. Request to Add Item to Future Agenda

Council Member BELLUOMINI requested an agenda item for the February 16, 2016 meeting to have an item regarding the fostering of industrial development in the City.

L.4. City Council Comments

There were no Council comments.

M. ADJOURNMENT

Clerk's Note: The meeting was adjourned to January 19, 2016 at 5:30 PM. The time of adjournment was 11:08 PM.

A motion was made by Council Member Belluomini, seconded by Mayor Thurston, that the meeting be adjourned. The motion carried by the following vote:

Aye: 6 - Mayor Thurston, Mayor Pro Tempore Pedrozo, Council Member Belluomini, Council Member Blake, Council Member Dossetti, and Council Member Murphy

No: 0

Absent: 1 - Council Member Lor