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

Wednesday, July 5, 2017 **6:00 PM**

A. STUDY SESSION ROLL CALL

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

Planning Commissioners in attendance - CAMPER, SMITH, SMOOT, BAKER, DYLINA

Present: 5 - Council Member Michael Belluomini, Council Member Anthony Martinez, Council Member Joshua Pedrozo, Council Member Matthew Serratto, and Mayor Mike Murphy

Absent: 2 - Council Member Jill McLeod, and Mayor Pro Tempore Kevin Blake

B. STUDY SESSION

B.1.

SUBJECT: Joint Study Session with City Council/Planning Commission to Discuss Medical Marijuana

REPORT IN BRIEF

A joint Study Session with the Planning Commission and City Council to discuss Medical Marijuana.

SCI Consulting Group representative Neil HALL gave a slide show presentation on the process of implementing medical marijuana dispensaries.

Council Member PEDROZO asked about the guidelines for the merit-based system.

Mr. HALL explained that there would be collaboration with staff to develop criteria for the merit-based system.

Council Member MARTINEZ asked if a medical marijuana dispensary could also sell recreational marijuana.

Council Member BELLUOMINI asked if notifications would be sent to property owners through the Special Land Use Permit process. He also discussed recreational use and deliveries.

Council Member MARTINEZ asked if a dispensary could also deliver products.

Mayor MURPHY explained that the ordinance allows a dispensary to deliver product as well.

Planning Manager Kim ESPINOSA explained in more detail the process of the Special Land Use Permit and noted that special noticing stipulations could be put in place.

Susan BOUSCAREN, Merced - spoke on the labor peace agreement requirement.

Luke BRUNNER, Arcata - spoke on his company, Canna Group, and encouraged expanding the zoning of the ordinance.

Will SKAARUP, Eureka - spoke on cannabis and wanting to bring his business to Merced.

Zach DRIVON, Stockton - spoke on his experience with his client on the process of obtaining a cultivation business. He also offered his services as a resource.

Dwight LARKS, Merced - spoke on allowing dispensaries downtown. He also spoke on utilizing the empty warehouses and creating job opportunities.

Council Member PEDROZO discussed the Special Land Use Permit and expanding the cultivation discussion.

Planning Commissioner SMOOT encouraged the Council and fellow Commissioners to visit other cities' dispensaries.

Planning Commission Chair DYLINA asked about other types of businesses that the City places limits on and if they might request the Special Land Use Permits. He also spoke on indoor cultivation.

Council Member BELLUOMINI requested further discussion on cultivation.

Planning Commission Vice Chair BAKER asked for justification of the Special Land Use Permit. He further discussed on-site consumption.

Ms. ESPINOSA explained the difference between Conditional Use Permit

and Special Land Use Permit.

Council Members, Ms. ESPINOSA, and Planning Commissioners further discussed the Special Land Use Permit.

Clerk's Note: The City Council and the Planning Commission agreed to continue the Study Session upon completion of the Regular City Council Meeting. The Study Session was adjourned at 5:59 PM.

C. CALL TO ORDER

Mayor MURPHY called the Regular Meeting to order at 6:05 PM.

C.1. Invocation - Dr. John Strubhar, First Baptist Church

The invocation was delivered by Dr. John Strubhar from First Baptist Church.

C.2. Pledge of Allegiance to the Flag

Council Member SERRATTO led the pledge of allegiance to the flag.

D. ROLL CALL

Present: 6 - Council Member Michael Belluomini, Council Member Anthony Martinez, Council Member Jill McLeod, Council Member Joshua Pedrozo, Council Member Matthew Serratto, and Mayor Mike Murphy

Absent: 1 - Mayor Pro Tempore Kevin Blake

E. CEREMONIAL MATTERS

E.1. **SUBJECT:** Proclamation - Parks and Recreation Month

REPORT IN BRIEF

Presented to a representative from the Recreation and Parks Department.

Mayor MURPHY presented Corinne CHAVEZ from the Recreation and Parks Commission with the Parks and Recreation Month Proclamation.

F. WRITTEN PETITIONS AND COMMUNICATIONS

There were none.

G. ORAL COMMUNICATIONS

Guadalupe ALEMON and Cynthia CHAVEZ, Merced Youth Council -

spoke on the parks cleanup and their bonding trip to Yosemite Park.

Monica VILLA, Merced - spoke on housing the homeless.

H. CONSENT CALENDAR

Items H.2. Information-Only Contracts and H.4. City Council/Public Finance and Economic Development/Parking Authority Meeting Minutes of June 5, 2017 were pulled for further consideration.

Approval of the Consent Agenda

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

Aye: 6 - Council Member Belluomini, Council Member Martinez, Council Member McLeod, Council Member Pedrozo, Council Member Serratto, and Mayor Murphy

No: 0

Absent: 1 - Mayor Pro Tempore Blake

H.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.

H.3. **SUBJECT:** Information Only-Planning Commission Minutes of April 19, 2017

RECOMMENDATION

For information only.

This Consent Item was approved.

H.5. **SUBJECT:** Amendment to Agreements for Legal Services with Fulbright & Jaworski, L.L.P., to Reflect the Change in Firm Name to Norton Rose Fulbright US, LLP

REPORT IN BRIEF

Considers approving an Amendment to two Legal Services Agreements with Fulbright & Jaworski, L.L.P., to reflect a change in firm name to Norton Rose Fulbright US, LLP.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving Amendment No.1 to the two Agreements for Legal Services to reflect the change of name from Fulbright & Jaworski, L.L.P. to Norton Rose Fulbright US, LLP; and,

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

This Consent Item was approved.

H.6. **SUBJECT:** Agreement for Professional Services with THOR, Inc. for AS/400 Programming Services

REPORT IN BRIEF

Consider Authorizing a Professional Services Agreement with THOR, Inc. for $165,000 for AS/400 programming services.

RECOMMENDATION

City Council - Adopt a motion approving Professional Services Agreement with THOR, Inc.; and, authorizing the City Manager or Assistant City Manager to execute the necessary documents.

This Consent Item was approved.

H.7. **SUBJECT:** Opposition to Senate Bill 252, Water Wells

REPORT IN BRIEF

Approve opposition to Senate Bill (SB) 252, Water Wells.

RECOMMENDATION

City Council- Adopt a motion approving staff to oppose SB 252, (Dodd) Water Wells.

This Consent Item was approved.

H.8. **SUBJECT:** 2017 California Department of Alcoholic Beverage

Control Grant Assistance Program

REPORT IN BRIEF

Accept grant funds for costs associated with conducting enforcement operations to reduce underage drinking and alcohol related crimes.

RECOMMENDATION

City Council - Adopt a motion:

A. Adopting **Resolution 2017-38**, accepting a grant award from the California Department of Alcoholic Beverage Control Grant Assistance Program; and,

B. Accepting and increasing the revenue budget in account 001-1002-324.02-0 by $38,641, and appropriating the same amount in Police Operations Division 001-1002; and,

C. Authorizing the use of pooled cash until reimbursement from the grant is received; and,

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

This Consent Item was approved.

H.9. **SUBJECT:** City-Owned Real Property Request #17-05 for Use of Bob Hart Square (Merced Center for the Performing Arts and Playhouse Merced)

REPORT IN BRIEF

Consider allowing the use of Bob Hart Square from 6:00 a.m. on Saturday, August 19, 2017, to 1:00 a.m. on Sunday, August 20, 2017, by the Merced Center for the Performing Arts and Playhouse Merced for their annual fundraiser gala (includes the serving of alcohol).

RECOMMENDATION

City Council - Adopt a motion approving the use of Bob Hart Square from 6:00 a.m. on Saturday, August 19, 2017, to 1:00 a.m. on Sunday, August 20, 2017, for a fundraiser gala, to include the serving of alcohol; subject to the conditions outlined in the administrative staff report.

This Consent Item was approved.

H.10. **SUBJECT:** Two Amendments to Agreements for Professional Services

with Provost and Pritchard Engineering Group, Incorporated, Project No. 118024

REPORT IN BRIEF

Consider authorizing two separate agreements for environmental remediation services for a combined total of $268,500.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving the First Amendment to Agreement for Professional Services (cleanup contract) with Provost and Pritchard Engineering Group, Incorporated, in the amount of $210,000 for groundwater cleanup; and,

B. Approving the First Amendment to Agreement for Professional Services (reporting contract) with Provost and Pritchard Engineering Group, Incorporated, in the amount of $58,500 for report drafting; and,

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

This Consent Item was approved.

H.11. **SUBJECT:** Roadway Overlay Construction Funding Agreement with the County of Merced for Gerard Avenue

REPORT IN BRIEF

Consider approving a construction funding agreement for reimbursement of $37,135 to overlay a portion of Gerard Avenue bounded by Tyler Road and the Union Pacific Railroad.

RECOMMENDATION

City Council - Adopt a motion approving the Roadway Overlay Construction Funding Agreement with the County of Merced, and authorizing the City Manager or Assistant City Manager to execute the necessary documents.

This Consent Item was approved.

H.12. **SUBJECT:** Property, Boiler and Machinery Insurance Renewal

REPORT IN BRIEF

Consider approving the renewal of the City's policy through Alliant

Property Insurance Programs (APIP) at 8.70% premium increase, amounting to $193,426.15 for program year 2017/2018.

RECOMMENDATION

City Council - Adopt a motion ratifying the renewal of the property and boiler and machinery insurance through the Alliant Property Insurance Programs (APIP), administered by Alliant Insurance Services for the period of July 1, 2017 through June 30, 2018; and authorizing the City Manager or Assistant City Manager to execute the necessary documents.

This Consent Item was approved.

H.13.

SUBJECT: Agreement for Labor Relations Consulting, Labor Contract Negotiations and Employee Related Legal Services With the Law Firm Liebert Cassidy Whitmore

REPORT IN BRIEF

Considers approving an agreement for labor relations consulting, labor contract negotiations and employee related legal services with the law firm Liebert Cassidy Whitmore in the amount of $60,000.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving an agreement for professional services with Liebert Cassidy Whitmore for labor relations services related to negotiations with American Federation of State, County, and Municipal Employees (AFSCME), Merced Association of City Employees (MACE), International Fire Fighter's Association Local 1479 (Fire) and Management Compensation Plan, in an amount not to exceed $60,000, and;

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

This Consent Item was approved.

H.2.

SUBJECT: Information-Only Contracts

REPORT IN BRIEF

Notification of awarded Non-Public Works contracts under $29,000 and of Public Works contracts under $65,204.

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 2016-2017 threshold of $65,204.00, and Chapter 3.04.080 - 3.04.110 of the Merced Municipal Code to execute Non-Public Works contracts under the adjusted FY 2016-2017 threshold of $29,000.00, the contracts listed on the attached table were entered into by the City.

Council Member BELLUOMINI pulled this item to ask for clarification on the Columbia Avenue Storm Drainage Project contract.

Public Works Director Ken ELWIN explained the wetland issue for this project.

Dwight LARKS, Merced - asked if someone from the UC could volunteer to work on this project.

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

Aye: 6 - Council Member Belluomini, Council Member Martinez, Council Member McLeod, Council Member Pedrozo, Council Member Serratto, and Mayor Murphy

No: 0

Absent: 1 - Mayor Pro Tempore Blake

H.4.

SUBJECT: City Council/Public Financing and Economic Development/Parking Authority Meeting Minutes of June 5, 2017

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 June 5, 2017.

Council Member BELLUOMINI pulled this item to suggest minor changes to the minutes.

A motion was made by Council Member Belluomini, seconded by Council Member Martinez, to approve this item with the minor changes that were suggested. The motion carried by the following vote:

Aye: 6 - Council Member Belluomini, Council Member Martinez, Council Member McLeod, Council Member Pedrozo, Council Member Serratto, and Mayor Murphy

No: 0

Absent: 1 - Mayor Pro Tempore Blake

I. BUSINESS

I.1.

SUBJECT: Boards and Commissions Reappointments - Regional Airport Authority (1), Bicycle Advisory Commission (2), Recreation and Parks Commission (1), Personnel Board (1)

REPORT IN BRIEF

Consider reappointing currently seated individuals to an additional term.

RECOMMENDATION

City Council - Adopt a motion reappointing qualified individuals who are eligible for, and interested in, an additional term on their respective Board or Commission.

Assistant City Clerk John TRESIDDER gave a brief explanation on the reappointment of the Boards and Commissions seats.

A motion was made by Council Member Pedrozo, seconded by Council Member Serratto, to reappoint Michael Bodine to the Regional Airport Authority, Isai Palma and Thomas Hothem to the Bicycle Advisory Commission, Bianca Warren to the Recreation and Parks Commission, and Yolanda Chavez to the Personnel Board. The motion carried by the following vote:

Aye: 6 - Council Member Belluomini, Council Member Martinez, Council Member McLeod, Council Member Pedrozo, Council Member Serratto, and Mayor Murphy

No: 0

Absent: 1 - Mayor Pro Tempore Blake

I.2. Request to Add Item to Future Agenda

Council Member BELLUOMINI requested to add planning development for the Police Station, Fire Station, and Fleet Maintenance Garage Facility for the August 7th Council Meeting.

I.3. City Council Comments

Council Member BELLUOMINI reported on attending the Institute of Local Governments training session in Monterey.

Council Member PEDROZO reported on attending the League of California Cities Executive Forum and the San Joaquin Valley Rail meeting.

Council Member MARTINEZ reported on attending the League of California Cities Executive Forum.

Council Member SERRATTO reported on attending the League of California Cities Executive Forum. He thanked the Police Department for their hard work on a case he was working on.

Public Works Director Ken ELWIN introduced the City's new Deputy Director of Public Works and Acting City Engineer Steven Son.

Mayor MURPHY reported on meeting with the Standards of Cover Consultant for the Fire Department. He also reported on attending the UC Merced beam signing ceremony, the Central Valley Working Group for Rail meeting, and the Valley Voice meeting.

City Manager Steve CARRIGAN spoke on his absence and praised staff for their work in his absence.

J. CLOSED SESSION

Clerk's Note: Council adjourned to Closed Session at 6:47 PM.

J.1.

SUBJECT: CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION; California Department of Finance v. City of Merced, et al.; Sacramento County Superior Court Case No.34-2016-80002485; AUTHORITY: Government Code Section 54956.9(d)(1)

Clerk's Note: Council adjourned from Closed Session at 6:59 PM.

K. REPORT OUT OF CLOSED SESSION

There was no report.

Clerk's Note: Council Members and the Planning Commissioners adjourned to the continued Study Session at 7:05 PM.

Council Members and Planning Commissioners discussed and gave direction on the following topics:

Land Use Permitting

Council Members and Planning Commissioners directed staff to do the first review of the applications, make recommendations, and then send them to the Planning Commission for approval. An appeal would be heard by the City Council for final decision.

Selection Process

Council Members and Planning Commissioners directed staff to bring back a different process for Council and Planning Commission to review and compare that to the Merit Base, with potentially a Lottery component to it if there are more than four equally qualified applicants.

Consideration of other commercial cannabis activities

Council Members and Planning Commissioners directed staff to come back with choices that are written down and language regarding testing, manufacturing, packaging, and distribution for Council and Planning Commission to review.

Consideration of zones for commercial cannabis activies

Council Members and Planning Commissioners directed staff to expand the zoning of the ordinance to other commerical zones but give a perference to commerical office zones in an evaluation system in applications.

L. ADJOURNMENT

Clerk's Note: The Regular Meeting and Study Session were adjourned concurrently at 8:22 PM.

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

Aye: 6 - Council Member Belluomini, Council Member Martinez, Council Member McLeod, Council Member Pedrozo, Council Member Serratto, and Mayor Murphy

No: 0

Absent: 1 - Mayor Pro Tempore Blake