



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

Tuesday, September 3, 2019

6:00 PM

A. CLOSED SESSION ROLL CALL

Present: 5 - Mayor Mike Murphy, Council Member Kevin Blake, Council Member Matthew Serratto, Council Member Delray Shelton, and Council Member Fernando Echevarria

Absent: 2 - Mayor Pro Tempore Anthony Martinez, and Council Member Jill McLeod

B. CLOSED SESSION

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

Clerk's Note: Mayor Pro Tempore MARTINEZ arrived to Closed Session at 5:03 PM.

B.1. **SUBJECT:** CONFERENCE WITH REAL PROPERTY NEGOTIATORS - Property: APN 059-240-081; Agency Negotiator: Frank Quintero, Director, Economic Development; Negotiating Parties: Mark Persico, Merced Designated Local Authority and City of Merced and; Under Negotiation: Price and Terms of Payment

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

Clerk's Note: Council adjourned from Closed Session at 5:34 PM.

C. CALL TO ORDER

Mayor MURPHY called the Regular Meeting to order at 6:00 PM.

C.1. Invocation - Al Schaap, Gateway Church

The invocation was delivered by Al SCHAAP from Gateway Church.

C.2. Pledge of Allegiance to the Flag

Council Member ECHEVARRIA 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. WRITTEN PETITIONS AND COMMUNICATIONS

The Clerk's Office received a letter from Michael BELLUOMINI regarding item J.2. Citizens Advisory Charter Review Final Report to City Council to Place Possible Amendments to Sections 400, 402, 604, 7xx, 707, 711, and 1112 of the City of Merced Charter on the March 2020 Primary Ballot and a letter from Patricia VAZQUEZ-TOPETE regarding item H.8. Adoption of Resolution Recognizing the Importance of the 2020 Census and Ensuring a Complete, Fair, and Accurate Count of all Californians; copies were placed at the dais and are available in the Clerk's Office.

G. ORAL COMMUNICATIONS

Necola ADAMS, Merced - spoke on the first annual Merced County Nut Festival.

Sair LARA, Merced - spoke on the improvements with the homeless issue at Applegate Park but also stated some issues the neighbors are still having.

Clerk's Note: Council Member MCLEOD arrived to the Regular Meeting at 6:10 PM.

Fernando AGUILAR, Merced - invited Council to the 209th Mexican Independence Celebration.

H. CONSENT CALENDAR

Items H.8. Adoption of Resolution Recognizing the Importance of the 2020 Census and Ensuring a Complete, Fair, and Accurate Count of all

Californians and H.11. Authorization to Purchase Nine Budgeted Fleet Vehicles, Including One Caterpillar Backhoe from Holt of California for \$131,128.90, Two Articulating Overcenter Aerial Devices (Tree Trimming Trucks) from Altec Industries for \$144,515 each, One Street Sweeper from Municipal Maintenance Equipment for \$299,992.14, One Front Loader Refuse Truck and Four Side Loader Refuse Trucks from Ruckstell for \$1,415,798.13; and to Waive the Competitive Bidding Requirement to Allow the Purchases to be Made Through a Cooperative Purchasing Agreement with Sourcewell; were pulled for separate consideration.

Approval of the Consent Agenda

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

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.2. **SUBJECT: Information-Only Contracts for the Month of August 2019**

REPORT IN BRIEF

Notification of awarded Non-Public Works contracts under \$32,000 and of Public Works contracts under \$70,939.

This Consent Item was approved.

H.3. **SUBJECT: Approval of City Council/Public Financing and**

Economic Development/Parking Authority Meeting Minutes of
August 5, 2019

REPORT IN BRIEF

Official adoption of previously held meeting minutes.

RECOMMENDATION

City Council/Public Financing and Economic

Development/Parking Authority - Adopt a motion approving the meeting minutes of August 5, 2019.

This Consent Item was approved.

H.4.

SUBJECT: Approval of a Three (3) Year Lease Agreement with James G. Moulton, Trustee, and Lynda S. Moulton, Trustee, for a 9,000 Square Foot Facility with Initial Base Rent of \$5,475/NNN Per Month and the Option to Extend for an Additional Three (3) Years

REPORT IN BRIEF

Considers approving a three-year lease agreement with James G. Moulton and Lynda S. Moulton for property to be utilized by the Merced Police Department.

RECOMMENDATION

City Council - Adopt a motion approving the lease agreement between the City of Merced and James G. Moulton, Trustee, and Lynda S. Moulton, Trustee and authorizing the City Manager, the Assistant City Manager, or the Finance Office to make necessary adjustments and execute the document.

This Consent Item was approved.

H.5.

SUBJECT: Adoption of Resolution Extending the Participation in the Abandoned Vehicle Abatement Program (AVA) with Merced County Association of Governments (MCAG) for the Period of August 1, 2020 Through July 31, 2030

REPORT IN BRIEF

Considers approving a resolution between the Merced County Association of Governments (MCAG) and the City of Merced to continue to participate in the Abandoned Vehicle Abatement program (AVA) for an additional 10 year period. (See attachment 1)

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving **Resolution 2019-45**, a Resolution of the City Council of the City of Merced, California, establishing service authority for abandoned vehicle abatement; and,
- B. Authorizing the City Manager or the Assistant City Manager to execute the agreement; and,
- C. Authorizing the Finance Officer to make the appropriate budget adjustments.

This Consent Item was approved.

H.6.

SUBJECT: Approval of a Pooled Cash Loan Not to Exceed \$7,720,000 and Current Year Payment Amount, in Order to Repay the Department of Finance (DOF) Based on the Approved Settlement Agreement Related to the Dissolution of the City of Merced Redevelopment Agency

REPORT IN BRIEF

Considers approving a pooled cash loan not to exceed \$7,720,000 and current year payment amounts in order to repay the Department of Finance based on the approved Settlement Agreement related to the dissolution of the City of Merced Redevelopment Agency.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving a pooled cash loan not to exceed \$7,720,000; and,
- B. Approving the use of RDA residual in the amount of \$1,297,953 plus interest towards the first payment; and,
- C. Approving the use of \$500,000 from Fund 017 Development Services towards the first payment; and,
- D. Authorizing the City Manager or the Assistant City Manager to the execute all necessary documents; and,
- E. Authorizing the Finance Officer to make the necessary budget adjustments.

This Consent Item was approved.

H.7.

SUBJECT: Authorization to Submit a Formal Letter of Intent to Purchase for the Property Located at the Corner of Childs Avenue and B Street from the County of Merced for the Childs Court Apartments

REPORT IN BRIEF

Considers approving the formal letter of intent to purchase the property located at the corner of Childs Avenue and B Street from the County of Merced to support the Childs Court Apartment development.

RECOMMENDATION

City Council - Adopt a motion authorizing the City Manager or the Assistant City Manager to sign the formal "Notice of Intent" letter to purchase the property located at 1137 B Street from the County of Merced.

This Consent Item was approved.

H.9.

SUBJECT: Adoption of Resolution Declaring the Intent to Abandon a Sewer Easement and Working Easement at 3600 G Street, Generally Located on the Northeast Corner of G Street and Yosemite Avenue, and Setting a Public Hearing for October 7, 2019 (Vacation #19-04)

REPORT IN BRIEF

Considers the abandonment of an old sewer easement and working easement at 3600 G Street.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2019-55**, a Resolution of the City Council of the City of Merced, California, declaring its intention to vacate a sewer easement and working easement at 3600 G Street, generally located on the northeast corner of G Street and Yosemite Avenue (Vacation #19-04) and setting time and place for Public Hearing.

This Consent Item was approved.

H.10.

SUBJECT: Adoption of Resolution Approving the Cypress Terrace 6, Phase A - Final Map 5366 for 18 Single-Family Lots, Generally Located on the West Side of N Street, North of Gerard Avenue, and

the Approval of the Subdivision Agreement for Cypress Terrace 6,
Phase A

REPORT IN BRIEF

Considers the approval of Final Map #5366 for 18 single-family lots, generally located on the west side of N Street (extended), north of Gerard Avenue (extended), and the Subdivision Agreement for Cypress Terrace 6, Phase A.

RECOMMENDATION

City Council - Adopt a motion:

A. Approving **Resolution 2019-57**, a Resolution of the City Council of the City of Merced, California, approving the final subdivision map for the Cypress Terrace 6, Phase A Subdivision (#5366); and,

B. Approving the subdivision agreement for Cypress Terrace 6, Phase A; and,

C. Authorizing the City Manager or the Assistant City Manager to execute the subdivision agreement.

This Consent Item was approved.

H.12.

SUBJECT: Adoption of Motion Receiving and Filing the Biennial Audit of the Sewer System Management Plan as Required by the State Water Resources Control Board

REPORT IN BRIEF

Considers the filing of the biennial audit of the Sewer System Management Plan.

RECOMMENDATION

City Council - Adopt a motion receiving and filing the biennial audit of the Sewer System Management Plan as required by the State Water Resources Control Board.

This Consent Item was approved.

H.8.

SUBJECT: Adoption of Resolution Recognizing the Importance of the 2020 Census and Ensuring a Complete, Fair, and Accurate Count of all Californians

REPORT IN BRIEF

The City Council of the City of Merced is asked to recognize the importance of the 2020 U.S. Census and support helping to ensure a complete, fair, and accurate count of all Californians.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2019-53**, a Resolution of the City Council of the City of Merced, California, recognizing the importance of the 2020 Census and supporting the efforts to help ensure a complete, fair, and accurate count of all Californians.

Patricia RAMOS-ANDERSON, Merced - requested to pull this item to discuss the 2020 Census.

Council Member MCLEOD and Ms. RAMOS-ANDERSON discussed the importance of the Census count and how the data is evaluated.

A motion was made by Council Member McLeod, seconded by Mayor Pro Tempore Martinez, that this agenda item be approved. 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

H.11.

SUBJECT: Authorization to Purchase Nine Budgeted Fleet Vehicles, Including One Caterpillar Backhoe from Holt of California for \$131,128.90, Two Articulating Overcenter Aerial Devices (Tree Trimming Trucks) from Altec Industries for \$144,515 each, One Street Sweeper from Municipal Maintenance Equipment for \$299,992.14, One Front Loader Refuse Truck and Four Side Loader Refuse Trucks from Ruckstell for \$1,415,798.13; and to Waive the Competitive Bidding Requirement to Allow the Purchases to be Made Through a Cooperative Purchasing Agreement with Sourcewell

REPORT IN BRIEF

Considers authorizing a waiver of competitive bidding requirement pursuant to Merced Municipal Code Section 3.04.210 to purchase nine currently budgeted and Council approved fleet vehicles through the government procurement program Sourcewell.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving the purchase of one Caterpillar Backhoe Loader in the amount of \$131,428.90 from Holt of California; and,
- B. Approving the purchase of two Articulating Overcenter Aerial Devices (Tree Trimming Trucks) in the amount of \$144,515.00 each from Altec Industries; and,
- C. Approving the purchase of one Schwarze Street Sweeper in the amount of \$299,992.14 from Municipal Maintenance Equipment; and,
- D. Approving the purchase of one Front Loader Refuse Truck in the amount of \$256,307.28 and Four Side Loader Refuse Trucks in the amount of \$1,159,490.85 from Ruckstell California Sales Co, Inc.; and,
- E. Waiving the City's competitive bidding requirement as permitted by Merced Municipal Code section 3.04.210 and authorizing the purchases to be made with cooperative purchase agreements through Sourcewell, a government procurement program; and,
- F. Authorizing the City Manager or the Assistant Manager to execute any necessary documents for the purchases specified above, the Finance Officer to make the appropriate budget adjustments and City Buyer to issue the Purchase Orders.

Council Member SERRATTO pulled this item to ask about the number of tree trimming crews the City has.

Public Works Operations Manager Wallace BROUGHTON stated that the City has multiple tree trimming crews.

A motion was made by Council Member Serratto, seconded by Council Member Blake, that this agenda item be approved. 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. PUBLIC HEARINGS

- I.1. **SUBJECT:** Public Hearing Regarding Appeal of Planning Commission Approval of Commercial Cannabis Business Permit #18-14R Filed by Jiva Life, LLC

REPORT IN BRIEF

Request by Jiva Life, LLC. to appeal and reverse the Planning Commission's approval of Commercial Cannabis Business Permit (CCBP) #18-14R for Harvest of Merced.

RECOMMENDATION

City Council - Adopt a motion:

- A. Option A - To affirm the Planning Commission's approval of CCBP #18-14R:

Adopting **Resolution 2019-__**, a Resolution of the City Council of the City of Merced, California, granting commercial cannabis business permit #18-14R to allow Harvest of Merced, LLC. to operate a retail dispensary for medicinal and adult use cannabis and cannabis-related products, including delivery services, at 863 W. 15th Street, and making certain findings in connection therewith; or,

- B. Option B - To reverse the Planning Commission's approval of CCBP #18-14R:

Adopting **Resolution 2019-__**, a Resolution of the City Council of the City of Merced, California, denying commercial cannabis business permit #18-14R to allow Harvest of Merced, LLC. to operate a retail dispensary for medicinal and adult use cannabis and cannabis-related products, including delivery services, at 863 W. 15th Street, and making certain findings in connection therewith.

Principal Planner Michael HREN gave a slide show presentation on the Commercial Cannabis Business Permit #18-14R.

Mayor MURPHY opened the Public Hearing at 6:33 PM.

Mayor MURPHY explained the time limits and protocol for the hearing to the appellant and applicant.

Appellant Jiva Life LLC was represented by Chad WENKE and Nathan

PUTNEY.

Mr. WENKE and Mr. PUTNEY stated that they are appealing to preserve their right to continue an ongoing discussion with the City and to discuss their concerns regarding the legitimacy and transparency of the appeal and permit process.

Applicant Harvest of Merced was represented by Douglas SMURR.

Mr. SMURR spoke in response to the appellant and requested Council approve Harvest of Merced the Commercial Cannabis Business Permit.

Jiva Life LLC rebuttal:

Mr. PUTNEY reiterated that he would like Council to consider either reversing the Planning Commission's approval of Commercial Cannabis Business Permit #18-14R to Harvest of Merced or to continue this item for further discussion.

Harvest of Merced rebuttal:

Mr. SMURR spoke on the timeliness of the appeal and encouraged Council to approve the Commercial Cannabis Permit to Harvest of Merced.

Mayor MURPHY closed the Public Hearing at 6:48 PM.

Council discussed the Cannabis Ordinance, navigating the process of Commercial Cannabis Permits, and the grounds of the appeal.

A motion was made by Council Member Blake, seconded by Council Member McLeod, to approve Option A to affirm the Planning Commission's approval of Commercial Cannabis Business Permit #18-14R and adoption of Resolution 2019-56. 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. REPORTS

J.1.

SUBJECT: Acceptance of Court Approved Receivership Reimbursements, Appropriation of \$29,341 to the Substandard

Housing Special Recovery Fund for Fiscal Year 19/20, and
Authorization for Continuous Appropriation to Said Fund of Costs
Recovered by the Code Enforcement Task Force

REPORT IN BRIEF

Authorizes acceptance and appropriation of reimbursements for City costs and fees from Court-approved receiverships for public nuisance abatement pursuant to the Substandard Building Abatement Program in FY 19/20.

RECOMMENDATION

City Council - Adopt a motion:

A. Accepting reimbursements from the Court appointed Receiver and authorizing appropriation of \$29,341 to account 077-1005-522-29-00 (Substandard Housing Special Recovery) for FY 19/20; and,

B. Authorizing any receipts of Substandard, Dangerous, or Nuisance abatement and cost recovery funds for FY 19/20 to be approved for appropriation on a continuous basis to the Substandard Housing Fund; and,

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

City Attorney Phaedra NORTON, Code Enforcement Officers Jackie HICKS, and Ruby SANTIAGO gave a slide show presentation on Code Enforcement and Task Force.

Council, Police Lieutenant Alan WARD, and Ms. NORTON discussed the impact of the work that has been done, an update on a blighted property, the commonalities of those who are not in compliance, and services for those in need.

A motion was made by Council Member McLeod, seconded by Council Member Blake, that this agenda item be approved. 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: Citizens Advisory Charter Review Committee Final Report to City Council to Place Possible Amendments to Sections 400, 402,

604, 7XX, 707, 711, and 1112 of the City of Merced Charter on the
March 2020 Primary Ballot

REPORT IN BRIEF

Considers the final report from the Citizens Advisory Charter Review Committee for possible placement of recommended amendments to the City of Merced Charter on the March 2020 Primary Ballot.

RECOMMENDATION

City Council - Adopt a motion:

A. Accepting the final report and recommendations of the Citizens Advisory Charter Review Committee to amend various sections of the City of Merced Charter and directing staff to return to the October 7, 2019 City Council Meeting with the ballot question(s) and Resolutions for calling an election; or,

B. Accepting the final report with Council suggested changes to the recommendations of the Citizens Advisory Charter Review Committee to amend various sections of the City of Merced Charter and directing staff to return to the October 7, 2019 City Council Meeting with the ballot question(s) and Resolutions for calling an election.

Charter Review Committee Chair Shane SMITH gave a slide show presentation on the Charter Review Final Report.

Council Member ECHEVARRIA and Mr. SMITH discussed the Council compensation and district representation.

Eric MOORE, Merced - spoke on adding a mission statement as part of the Charter, Council compensation, adding language in the Charter regarding a licensed California CPA requirement for the Finance Officer, adding an internal auditor, adding all Boards and Commissions to the Charter, and adding a Police Commission to the Charter as well.

Patricia RAMOS-ANDERSON, Merced - spoke on the importance of District representation and Council compensation.

Council Member MCLEOD discussed representation and the Charter Officers roles.

Council thanked the Committee Members for their time and effort.

Clerk's Note: After the motion was made, Council continued discussing

the proposed amendments to the Charter and the number of ballot questions that should be proposed.

A motion was made by Mayor Murphy, seconded by Council Member Blake, to bring a single ballot question to the October 7, 2019 meeting for the March Primary election. The motion carried by the following vote:

Aye: 5 - Mayor Murphy, Council Member Blake, Council Member McLeod, Council Member Shelton, and Council Member Echevarria

No: 2 - Mayor Pro Tempore Martinez, and Council Member Serratto

Absent: 0

K. BUSINESS

K.1. **SUBJECT: Personnel Board Appointment (1)**

REPORT IN BRIEF

Consider appointing one individual to the Personnel Board.

RECOMMENDATION

City Council - Adopt a motion appointing Dorothea "Lynn" White to serve as a member of the Personnel Board to a seat with a term expiration of July 1, 2022.

Applicant Dorothea Lynn WHITE, Merced - spoke on her interest in being appointed to the Personnel Board.

A motion was made by Council Member Blake, seconded by Council Member Shelton, to appoint Dorothea Lynn White to the Personnel Board. 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

K.2. **SUBJECT: Request to Add Item to Future Agenda**

REPORT IN BRIEF

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

Council Member BLAKE requested an update on the Park Hours Ordinance.

Assistant City Manager Stephanie DIETZ stated that the Park Hours Ordinance will be placed on the October 7th Council Meeting for Council consideration.

Mayor MURPHY requested to add an item on hosting a Bike Race in Merced and the naming of a Merced Park after someone from the Hmong Community.

K.3.

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 MARTINEZ reported on attending the UC Merced Town Hall Meeting and the Recreation and Parks Commission Meeting.

Council Member SHELTON reported on attending a lunch meeting with Moua TAO from the Lao Family, the Playhouse Merced Gala, meeting with NAACP President Allen BROOKS, and the Measure V meeting.

Council Member ECHEVARRIA reported on meeting with the City Manager Steve CARRIGAN and meeting with Congressman COSTA.

Mayor MURPHY reported on attending a follow up meeting on establishing a Sister City, the Charter Review meeting, a Rotary BBQ, the Merced County Association of Governments workshop, the Cat Crawl event, and the Project Endure event. He spoke on the upcoming Police Officer Swearing-In event and the upcoming Merced Feast event.

L. ADJOURNMENT

Clerk's Note: The Regular Meeting adjourned at 8:32 PM.

A motion was made by Council Member McLeod, seconded by Council Member Blake, to adjourn the Regular Meeting. 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