

**CITY COUNCIL MEETING**

**11/20/2018**

**SUMMARY OF ACTIONS**

**Item**

**Staff**

**CLOSED SESSION**

Seth Merewitz

City Attorney Seth Merewitz announced that the City Council had come to agreement on side letters with 3 employee groups: MEA, ProTech and Mid-Con regarding holiday closure/work furlough dates in December 2018.

**PUBLIC FORUM**

- 1) Ha Phan
- 2) Van Lan Truong
- 3) Rob Means
- 4) Tom Valore
- 5) Joseph Weinstein
- 6) rep. from Lyon, The District 1
- 7) Robert Marini
- 8) Voltaire Montemayor
- 9) a Fremont resident

**ANNOUNCEMENTS**

Councilmember Phan announced he would recuse himself from agenda item no. 20 (public hearing), out of an abundance of caution. He would seek a letter of advice from FPPC regarding a question of conflict of interest.

- \*1. **ACCEPT SCHEDULES OF MEETINGS/CITY COUNCIL CALENDARS - NOVEMBER AND DECEMBER 2018** Mary Lavelle  
Received and accepted City Council calendars of meetings for November and December 2018.  
VOTE: 5-0
- \*2. **APPROVE CITY COUNCIL MEETING MINUTES OF OCTOBER 16 AND 23, 2018** Mary Lavelle  
Approved October 16 and 23, 2018 City Council meeting minutes.  
VOTE: 5-0
- \*3. **AUTHORIZE THE PURCHASING AGENT TO DISPOSE OF SURPLUS FIRE PUMPER ENGINE NO. 42 FOR \$1.00 TO THE PALO ALTO NEIGHBORS ABROAD NON-PROFIT ORGANIZATION FOR DONATION TO THE STATE OF OAXACA, MEXICO** Chris Schroeder  
Richard Frawley  
Authorized the Purchasing Agent to dispose of surplus fire pumper engine No. 42 for \$1.00 to the Palo Alto Neighbors Abroad non-profit organization for donation to the State of Oaxaca, Mexico.  
VOTE: 5-0
- \*4. **ACCEPT THE 2018 BULLETPROOF VEST PARTNERSHIP GRANT AND APPROVE A BUDGET AMENDMENT** Daryl Sequeira  
Accepted the 2018 Bulletproof Vest Partnership (BVP) grant and approved a budget amendment to appropriate \$13,309.73 into the Police Department's operating budget.  
VOTE: 5-0

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5. **AUTHORIZE THE POLICE DEPARTMENT TO ACCEPT A COMMUNITY FOUNDATION GRANT TO THE MOLLY ANN BROWN FUND CANINE UNIT AND APPROVE A BUDGET AMENDMENT** Kevin Moscuza
1. Accepted the Molly Ann Brown Fund Canine Unit donation from the Nuñez Community Foundation in the amount of \$5,000 to be used for training of a Police Department police service dog and handler.
2. Approved a budget amendment to appropriate \$5,000 to the Police Department FY 2018-19 operating budget.
- VOTE: 5-0
- \*6. **RECEIVE A REPORT ON EMERGENCY REPAIR/REPLACEMENT OF UNINTERRUPTABLE POWER SUPPLY (UPS) UNIT AT THE POLICE/PUBLIC WORKS BUILDING AND AUTHORIZE STAFF TO PAY INVOICES ASSOCIATED WITH THE REPAIR/REPLACEMENT WORK** Tony Ndah and Mike Luu
1. Received a report from Public Works Director on the emergency repair and replacement of the uninterruptable power supply unit at the Police Department/ Public Works building.
2. Authorized staff to pay invoices in the amount of \$242,738.08, including a contingency amount of \$24,273.81 (10%), for a total amount of \$267,011.89.
- VOTE: 5-0
- \*7. **RECEIVE REPORT ON THE EMERGENCY REPAIR OF THE ROADWAY ON CALIFORNIA CIRCLE. APPROVE THE APPROPRIATION OF \$113,812.44 FROM THE WATER FUND, AND AUTHORIZE STAFF TO PAY INVOICES TO JOSEPH J. ALBANESE, INC.** Tony Ndah
1. Received a report from the Public Works Director on the emergency repair of the water main on California Circle.
2. Approved a budget appropriation from the Water Fund to the Public Works Utility Maintenance operating budget in the amount of \$113,812.44.
3. Authorized staff to pay invoices of \$113,812.44 to Joseph J. Albanese, Inc.
- VOTE: 5-0
8. **WAIVE THE SECOND READING AND ADOPT ORDINANCE NO. 38.831 TO REZONE A 2.14-GROSS ACRE SITE AT 1380 & 1400 SO MAIN ST FROM R4-TOD, MULTI-FAMILY RESIDENTIAL VERY HIGH DENSITY ZONING DISTRICT WITH A TRANSIT-ORIENTED DEVELOPMENT OVERLAY TO R5-TOD URBAN RESIDENTIAL ZONING DISTRICT WITH A TRANSIT-ORIENTED DEVELOPMENT OVERLAY WITH CEQA FINDING OF CONSISTENCY WITH THE TRANSIT AREA SPECIFIC PLAN FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT, AS AMENDED** Michael Fossati
- Waived the second reading and adopted Ordinance No. 38.381 amending the City of Milpitas Zoning Map, as described per Milpitas Municipal Code XI-10-3.03 related to development on South Main Street.
- VOTE: 4 Ayes and 1 No (Tran)

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- \*9. **ADOPT A RESOLUTION GRANTING FINAL ACCEPTANCE OF PUBLIC IMPROVEMENTS AND APPROVE RELEASE OF FAITHFUL PERFORMANCE SECURITY FOR PUBLIC IMPROVEMENTS FOR THE ORCHID SUBDIVISION AT 31 LOS COCHES STREET BY DR HORTON BAY, INC.** Steve Erickson
- Adopted Resolution No. 8824 granting final acceptance of public improvements for the Orchid Subdivision project at 31 Los Cochés Street, Tract No. 10192, Public Improvement Plan No. 2-1180 and release of remaining faithful performance security.  
VOTE: 5-0
- \*10. **ADOPT A RESOLUTION GRANTING ACCEPTANCE OF PUBLIC IMPROVEMENTS AND APPROVE REDUCTION OF FAITHFUL PERFORMANCE BOND FOR PUBLIC IMPROVEMENTS FOR THE DISTRICT 2 SUBDIVISION AT 1315 – 1600 MCCANDLESS DRIVE BY TAYLOR MORRISON, LLC AND GRANTING AUTHORIZATION TO THE CITY ENGINEER TO RELEASE THE PERFORMANCE BOND AFTER THE ONE-YEAR WARRANTY PERIOD** Steve Erickson
1. Adopted Resolution No. 8825 granting acceptance of public improvements for The District 2 Subdivision at 1315 – 1600 McCandless Drive, Tracts No. 10141, 10145, 10148 and 10149, Public Improvement Plan No. 2-1165 and approve a reduction in the performance bond, subject to a one-year warranty period and reduction of the faith performance bond to \$330,000 which shall be in effect for the duration of the warranty period.  
2. Granted authorization to the City Engineer to release the performance bond after the one-year warranty period, without further City Council action provided all required warranty work is completed to the satisfaction of the City Engineer.  
VOTE: 5-0
- \*11. **ADOPT A RESOLUTION GRANTING ACCEPTANCE OF THE MARYLINN DRIVE SANITARY SEWER REHABILITATION, PROJECTS NO. 6115 AND NO. 6116, AND GRANTING AUTHORIZATION TO THE CITY ENGINEER TO ISSUE THE NOTICE OF FINAL ACCEPTANCE AFTER THE ONE-YEAR WARRANTY PERIOD** Steve Erickson
- Adopted Resolution No. 8826 granting acceptance of the Marylinn Drive Sanitary Sewer Rehabilitation, Projects No. 6115 and No. 6116, and granting authorization to the City Engineer to issue the notice of final acceptance after 1-year warranty period, without further City Council action.  
VOTE: 5-0
- \*12. **ADOPT A RESOLUTION APPOINTING THE DIRECTOR OF FINANCIAL SERVICES TO THE POOLED LIABILITY ASSURANCE NETWORK JOINT POWERS AUTHORITY BOARD OF DIRECTORS** Will Fuentes
- Adopted Resolution No. 8827 appointing the Director of Financial Services (Will Fuentes) as a Board Member and the Budget Manager (Feliser Lee) as Alternate Board Member to the Pooled Liability Assurance Network Joint Powers Authority (PLAN JPA) Board of Directors.  
VOTE: 5-0

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<b>Item</b>		<b>Staff</b>
*13.	<p><b><u>AUTHORIZE THE CITY MANAGER TO EXECUTE A STORMWATER MANAGEMENT FACILITIES OPERATION AND MAINTENANCE AGREEMENT WITH D.R. HORTON CA3, INC. FOR DEVELOPMENT AT 1515, 1557 AND 1585 CENTRE POINTE DRIVE</u></b></p> <p>Authorized the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement for D.R. Horton CA3, Inc. for its new residential development at 1515, 1557 and 1585 Centre Pointe Drive.</p> <p>VOTE: 5-0</p>	Steve Erickson
*14.	<p><b><u>APPROVE AND AUTHORIZE THE CITY MANAGER TO EXECUTE A DESIGN SERVICES AGREEMENT WITH MIG INC. FOR CARLO PARK PROJECT NO. 5112</u></b></p> <p>Approved and authorized the City Manager to execute a Design Services Agreement with MIG Inc. in the amount not to exceed \$199,780 for the Carlo Park Project No. 5112, subject to any changes deemed legally necessary by the City Attorney.</p> <p>VOTE: 5-0</p>	Steve Erickson
*15.	<p><b><u>AUTHORIZE THE CITY MANAGER TO EXECUTE A DESIGN SERVICES AGREEMENT WITH CSG CONSULTANTS, INC. IN THE AMOUNT OF \$346,544 FOR THE DESIGN AND CONSTRUCTION SUPPORT SERVICES FOR STREET RESURFACING 2019 PROJECT NO. 4291</u></b></p> <p>Authorized the City Manager to execute a Design Services Agreement with CSG Consultants, Inc. in an amount not to exceed \$346,544 for design and construction support services for the 2019 Street Resurfacing Project, CIP No. 4291.</p> <p>VOTE: 5-0</p>	Steve Erickson
*16.	<p><b><u>APPROVE THE CONCEPTUAL DESIGN FOR MCCANDLESS PARK; AND AUTHORIZE THE CITY MANAGER TO EXECUTE AMENDMENT NO. 2 TO THE AGREEMENT WITH IBI GROUP ARCHITECTURE PLANNING TO EXTEND THE TERM AND INCREASE CONTRACT AMOUNT BY \$69,040 FOR MCCANDLESS PARK, PROJECT NO. 5102</u></b></p> <p>1. Approved updated conceptual design for McCandless Park, Project No. 5102. 2. Authorized the City Manager to execute Amendment No. 2 to the Agreement with IBI Group Architecture Planning to extend the term and increase the contract amount by not to exceed \$69,040 for additional design services for McCandless Park, Project No. 5102.</p> <p>VOTE: 5-0</p>	Renee Lorentzen Steve Erickson
*17.	<p><b><u>AUTHORIZE THE CITY MANAGER TO EXECUTE A STORMWATER MANAGEMENT FACILITIES OPERATION AND MAINTENANCE AGREEMENT WITH EASTSIDE SAN RAMON PARTNERS, LLC FOR DEVELOPMENT AT 260 SOUTH MAIN STREET IN THE MIDTOWN</u></b></p> <p>Authorized the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement with Eastside San Ramon Partners, LLC for new mixed use development at 260 South Main Street in the MidTown Specific Plan area.</p> <p>VOTE: 5-0</p>	Steve Erickson

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18. **APPROVE AN AMENDMENT TO THE SUBDIVISION IMPROVEMENT AGREEMENT WITH MILPITAS – DISTRICT 1 ASSOCIATES, LLC FOR THE DISTRICT - LOT 1 BUILDING DEVELOPMENT AT 1315 MCCANDLESS DRIVE** Michael Fossati  
Steve McHarris
1. Heard request from developer Lyon’s representatives Nathan Tuttle and Douglas Murray.  
2. Received legal advice and options from City Attorney Seth Merewitz.  
3. Considered exemption per California Environmental Quality Act (CEQA)  
4. Affirmed an amendment to Subdivision Improvement Agreement between the City and Milpitas– District 1 Associates, LLC for public improvements re: Final Tract Map No. 10140 (The District 1, Building 1 development) - with condition of approval related to requirement for a grocery store lease remaining - and allowing occupancy of 15 units beyond the maximum number allowed in the agreement, and  
5. Directed staff to return to Council with an Amended Subdivision Improvement Agreement for The District - Lot 2, including amended conditions adding the requirement for grocery market lease.  
VOTE: 4 Ayes and 1 No (Barbadillo)
- \*19. **DIRECT THE CITY MANAGER TO CONDUCT A STUDY OF POTENTIAL LOCATIONS AND REGULATIONS FOR DIGITAL OFF-SITE ADVERTISING (ELECTRONIC BILLBOARDS) ACROSS THE CITY AND RE-EVALUATE THE CURRENT BILLBOARD APPLICATION AT THE CONCLUSION OF THE STUDY** Michael Fossati
- Directed the City Manager to conduct a study of potential locations and regulations for digital off-site advertising (electronic billboards) across the City and re-evaluate the current billboard application at the conclusion of the study.  
VOTE: 5-0
20. **CONDUCT A PUBLIC HEARING AND CONSIDER INTRODUCTION OF ORDINANCE NO. 38.832 FOR ZONING AND ORDINANCE NO. 298 FOR REGULATION OF COMMERCIAL CANNABIS IN THE CITY AND PROVIDE DIRECTION TO STAFF ON THE APPLICATION PROCESS FOR A CANNABIS BUSINESS PERMIT AND TIMELINE FOR ORDINANCE IMPLEMENTATION** Ashwini Kantak  
City Attorney
- 1) Conducted a public hearing, heard 101 speakers and moved to close the hearing.  
2) Considered exemption from environmental review under CEQA.  
3) Directed staff to return to City Council with ordinances to permanently ban ommercial marijuana businesses, via both an urgency ordinance and a regular ordinance, to be effective prior to the expiration of the current moratorium (which was due to occur on Jan. 16, 2019).  
VOTE: 4 AYES and 1 Absent (Phan)
21. **RECEIVE A REPORT AND CONSIDER INTRODUCTION OF ORDINANCE 218.4 ADDING SECTION 3.02 TO CHAPTER 13 OF TITLE III OF THE MILPITAS MUNICIPAL CODE SETTING THE CITY OF MILPITAS TRANSIENT OCCUPANCY TAX RATE EFFECTIVE JANUARY 3, 2019 IN ANTICIPATION OF SANTA CLARA CO. REGISTRAR OF VOTERS CERTIFYING RESULTS OF THE NOVEMBER 6, 2018 ELECTION INCLUDING ADOPTION OF MILPITAS MEASURE R** Will Fuentes
- 1) Received a report from City staff and consultant.  
2) City Attorney read aloud the title of Ordinance No. 218.4.  
3) Waived the first reading beyond the title and introduced Uncodified Ordinance No. 218 setting the Transient Occupancy Tax Rate (14%) effective January 3, 2019 in anticipation of Santa Clara Co Registrar of Voters certifying results of the November 6, 2018 municipal election including adoption of Measure R.  
VOTE: 4 AYES and 1 Absent (Phan)