

REGULAR MEETING OF THE  
CONCORD CITY COUNCIL  
CITY COUNCIL CHAMBER  
1950 PARKSIDE DRIVE  
CONCORD, CALIFORNIA  
TUESDAY, FEBRUARY 23, 2016

The Concord City Council met in a regular meeting in the City Council Conference Room located in Wing A at 1950 Parkside Drive at 5:30 p.m. on Tuesday, February 23, 2016, with Mayor Hoffmeister presiding. All Councilmembers were present. The meeting was recessed and immediately reconvened in a closed session to a) confer with labor negotiators pursuant to Government Code Section 54957.6. City Negotiators: Valerie Barone, City Manager; Kay Winer, Interim Director of Human Resources - Negotiations; Charles Sakai, Esq. and Don Turko of Renne, Sloan, Holtzman & Sakai. Employee Organizations: Administrative, Technical & Clerical Representation Unit and Field & Operations Representation Unit of International Brotherhood of Teamsters Local 856; Professional Representation Unit of OPEIU Local 29; Peace Officer Representation Unit of Concord Police Officers Association and Police Managerial Representation Unit of Police Management Association. Unrepresented Units: Executive, Management & Confidential Employees.

The meeting recessed at 6:30 p.m. to reconvene in regular session in the Council Chamber.

The Concord City Council met in a regular meeting in the Council Chamber located at 1950 Parkside Drive at 6:30 p.m. on Tuesday, February 23, 2016, with Mayor Hoffmeister presiding. The pledge of allegiance was led by Councilmember Grayson. Minutes follow in abbreviated form per Resolution 3361 and Council Minutes of September 26, 1966.

ROLL CALL

COUNCILMEMBERS PRESENT:

Edi Birsan, Tim Grayson, Dan Helix, Ron Leone,  
Laura Hoffmeister

STAFF PRESENT:

Valerie Barone, City Manager; Brian Libow, Interim City Attorney; Tim McGallian, City Treasurer; Joelle Fockler, City Clerk; Jovan Grogan, Deputy City Attorney; Guy Bjerke, Director of Community Reuse Planning; Victoria Walker, Director of Community and Economic Development; Karan Reid, Director of Finance; Jeff Lewis, Director of Information Technology; Robert Ovadia, City Engineer; Kevin Marstall, G. Ryan Lenhardt, Senior Planner; Doug Elloway, Computer Operations Manager; Leslye Asera, Community Relations Manager

MEMBERS OF THE PUBLIC  
WHO ADDRESSED THE COUNCIL:

Ben Hornstein, Concord; Ajit Kaushal, Concord; Charles Lindquist, Concord; Olga Chan, Concord; Betty Gabaldon, Concord; Dr. Harmesh Kumar, Concord; Devlyn Sewell, Concord

PUBLIC COMMENT PERIOD

Ben Hornstein, Concord Commission on Aging, invited the Council and the public to the Age Strong Live Long Health Expo to be held on Friday, February 26, 2016, from 9 a.m. – 1 p.m. at the Concord Senior Center.

Ajit Kaushal, Concord, spoke of the recent typhoon in Fiji, and requested the community's help with fundraising.

Charles Lindquist, Concord, spoke of the closed rePLANET Recycling Center located at 1600 Concord Avenue and his preference that a recycling center not be allowed for future use at the site.

Olga Chen, Concord, spoke of rent increases at the Virginia Lane apartments in Concord.

Betty Gabaldon, Concord, spoke of rent increases and requested assistance from the City Council.

Dr. Harmesh Kumar, Concord, commented that the system is broken and attention needs to be made to people's needs.

Devlyn Sewell, Concord, commented on the recent negative articles about Concord in newspapers all over the Bay Area.

PRESENTATIONS

OUTGOING CONTRA COSTA WATER DISTRICT PRESIDENT AND BOARD MEMBER – Joe Campbell

Mayor Hoffmeister presented Contra Costa Water District President and Board Member Joe Campbell with a gift from the City Council and a proclamation declaring Friday, February 26, 2016, as Joe Campbell Day in Concord.

JOHN MUIR HEALTH COMMUNITY BENEFITS PROGRAM

Mike Thomas, President and CAO, and Diana Camacho, Program Director, Community Benefits, gave a presentation on the John Muir Health Community Benefits Program.

ANNOUNCEMENTS – None

CITY COUNCIL  
MATTERS

APPROVAL OF MINUTES

Motion was made by Leone and seconded by Birsan to approve the minutes from the meetings of January 26 and February 2, 2016. Motion passed by unanimous vote of the Council.

ACCEPT IMPROVEMENTS – Centre Concord Movable Walls and Coverings, Project No. 2182

Motion was made by Leone and seconded by Birsan to accept the improvements for Centre Concord Movable Walls and Covering, Project No. 2182, constructed by J-Walt

Construction of Woodland; and direct the City Clerk to file a notice of completion. Motion passed by unanimous vote of the Council.

**AWARD CONSTRUCTION CONTRACT PROJECT NO. 2325 – Rosas Brothers Construction**

Motion was made by Leone and seconded by Birsan to award a construction contract in the amount of \$253,940.40 (Base Bid plus Additive Bid 1 for Project No. 2325) to Rosas Brothers Construction to construct accessibility improvements at various locations, reject a bid protest submitted by Sposeto Engineering, Inc.; and authorize the use of project contingency funds. Motion passed by unanimous vote of the Council.

**CERTIFIED FARMERS' MARKET AT TODOS SANTOS PLAZA – Pacific Coast Farmers' Market**

Motion was made by Leone and seconded by Birsan to enter into a three-year agreement with Pacific Coast Farmer's Market to continue operating a Certified Farmers' Market at Todos Santos Plaza; and authorize the City Manager to execute the agreement. Motion passed by unanimous vote of the Council.

**APPROVE 18 MASTER SERVICES AGREEMENTS FOR INFORMATION TECHNOLOGY SUPPORT**

Motion was made by Leone and seconded by Birsan to approve Master Services Agreements with AMS, NET Inc.; Apex Technology Management, Inc.; Axiom Technologies LLC; Botts Strategic Solutions; Entisys Solutions, Inc.; Geographic Technologies Group; Interwest Consulting Group; Kimley-Horn & Associates, Inc.; NetXperts, Inc.; Dimension Data; Precision IT Consulting; Quest Systems (Questys); Quorum Technologies; RPI Consultants LLC; Spatial Focus LLC; THOR Inc.; TruePoint Solutions; and VIVA USA Inc. for various products and consultant services for Information Technology Support; and City Manager authorized to execute agreements. Motion passed by unanimous vote of the Council.

**QUARTERLY TREASURER'S REPORT – October 1 – December 31, 2015**

This item was pulled from the Consent Calendar by City Treasurer Tim McGallian who presented the report to the City Council.

Motion was made by Helix and seconded by Grayson to accept the Treasurer's Report for the period October 1 – December 31, 2015. Motion passed by unanimous vote of the Council.

**CITY RESPONSE TO INVESTIGATIVE REPORT BY MICHAEL JENKINS – Master Developer Selection Process for the Concord Naval Weapons Station Project**

Vice Mayor Leone recused himself from this item because he lives within 500 feet of the Concord Naval Weapons Project and left the meeting.

Councilmember Grayson recused himself from this item for the best interest of the community and the Master Developer Selection process.

Director of Community Reuse Planning Guy Bjerke presented a report, referring to the staff report dated February 23, 2016, and noting that staff was recommending that the City Council receive the investigative report by Michael Jenkins and respond to the report's two primary findings by:

1. Determining that Lennar Concord, LLC's violation of the Agreement to Negotiate by soliciting campaign contributions to Councilmember Tim Grayson's Assembly campaign does not merit the firm's disqualification from the Master Developer selection process because, among other reasons set

- forth in this report: (1) There is a public benefit to continuing with a competitive process and having both finalists considered by Council and the public as part of a robust public discussion; and (2) there is no evidence that Councilmember Grayson was aware of the source of the campaign contributions and he has indicated he was not; he returned the contributions as soon as he became aware of their possible connection to Lennar, and he has now recused himself from further participation in the selection process.
2. Responding to the report's finding of a Brown Act violation by directing staff to issue a new staff report that incorporates the staff recommendation in favor of Catellus that was removed prior to publishing the September 29, 2015 staff report.
  3. Directing staff to inform both Catellus and Lennar that the Council intends to apply the ordinary meaning of the word "lobbying" in Section 11 of the Agreement to Negotiate and that campaign contributions fall within that definition.
  4. Committing as individual Councilmembers and as a Council to approach the Master Developer selection dispassionately, disregard previous history, proceed impartially, consider all public testimony, and adhere to a merit-based evaluation focused on the Term Sheets and what is in the best interests for the City of Concord.
  5. Directing staff to calendar a public meeting for selecting the Phase 1 Master Developer.
  6. Moving forward with advanced Brown Act training for itself and hold the training in an open and public meeting.
  7. Directing the City Manager to schedule advanced Brown Act training for the Executive Team and key staff who support the City's Boards and Commissions.
  8. Directing staff to provide updates to the Council and the public on the status of the reuse of the Concord Naval Weapons Station on a regular basis.

Following Mr. Bjerke's report, Jonathan Jaffe, Chief Operating Officer, Lennar Corporation, thanked the City Council and staff for the opportunity to be at the meeting and sent regrets from Lennar President Kofi Bonner who could not attend due to a previous commitment. Mr. Jaffe requested that the Council carefully consider the matter, commented that Lennar's reputation is very important to the company and that the company has worked very hard to build a good reputation, and did not agree with Michael Jenkin's findings, which Mr. Jaffe conveyed were Mr. Jenkin's personal perceptions. Mr. Jaffe requested the Council make its decision by considering the facts and the law, not rumors or innuendo.

Lennar attorney David Marroso thanked the Council for the opportunity to comment, and spoke of the meaning and understanding of the word lobbying.

Steve Buster, Vice President Development, Catellus, thanked the Council and staff for hiring a third party investigator to prepare an investigative report, and noted that the intention of the no lobbying clause in the Negotiating Agreements was clear.

Following a five minute recess, Mayor Hoffmeister opened a public comment period.

Mike Conklin, San Ramon, spoke in support of Lennar's proposal.

Norma Roles, Concord, requested that Council issue a Request for Proposals and begin the process over again.

Steve Weir, Concord, spoke of the Council rebuilding trust in the community and moving forward with the process of choosing a Master Developer.

Roseanne Nieto, Concord, urged the Council to make decisions with fairness and honesty.

Ralph Oliver, Concord, stated that he agreed with the Jenkins report and its definition of lobbying.

Matt Leber, East Bay Housing Organizations, urged the Council to use the competitive process to develop a world class community.

Margaret Hanlon-Gradie, Contra Costa AFLCIO, urged the Council to use the competitive process to extract the best community benefit and move forward on a Master Developer selection.

Jeff Koertzen, Concord, spoke of the public's perception of the City Council and the importance of moving forward with the selection of a Master Developer.

Dr. Harmesh Kumar, Concord, spoke of corruption.

Paul Poston, Concord, stated that people that live in Concord should comment on how the Council should proceed with choosing a Master Developer.

John Loague, Concord, felt that three bidders should have been involved in the process of selecting a Master Developer and that Lennar acted in an unprofessional manner and should be disqualified from the process.

Rebecca Alvarez, Concord, spoke of corruption and scandal associated with the selection of a Master Developer.

Hope Johnson, Concord, spoke in favor of disqualifying Lennar as a candidate for Master Developer.

John Dorsett, Concord, stated that he felt that the general public should know exactly what is going on with the selection of the Master Developer.

Suzanne Delbou, Concord, spoke in favor of disqualifying Lennar as a candidate for Master Developer.

Mayor Hoffmeister closed the public comment period.

Following questions and comments by the City Council, a motion was made by Helix and seconded by Birsan determining that Lennar Concord, LLC's violation of the Agreement to Negotiate by soliciting campaign contributions to Councilmember Tim Grayson's Assembly campaign does not merit the firm's disqualification from the Master Developer selection process because 1) There is a public benefit to continuing with a competitive process and having both finalists considered by Council and the public as part of a robust public discussion; and (2) there is no evidence that Councilmember Grayson was aware of the source of the campaign contributions and he has indicated he was not; he returned the contributions as soon as he became aware of their possible connection to Lennar, and he has now recused himself from further participation in the selection process. Motion carried by the following vote of the Council:

AYES: Birsan, Helix, Hoffmeister

NOES: None

ABSTAIN: Grayson, Leone

A motion was made by Helix and seconded by Grayson responding to the report's finding of a Brown Act violation by directing staff to issue a new staff report that incorporates the staff recommendation in favor of Catellus that was removed prior to publishing the September 29, 2015 staff report; directing staff to inform both Catellus and Lennar that the Council intends to apply the ordinary meaning of the word "lobbying" in Section 11 of the Agreement to Negotiate and that campaign contributions fall within that definition; committing as individual Councilmembers and as a Council to approach the Master Developer selection dispassionately, disregard previous history, proceed impartially, consider all public testimony, and adhere to a merit-based evaluation focused on the Term Sheets and what is in the best interests for the City of Concord; directing staff to calendar a public meeting for selecting the Phase 1 Master Developer; moving forward with advanced Brown Act training for itself and hold the training in an open and public meeting; directing the City Manager to schedule advanced Brown Act training for the Executive Team and key staff who support the City's Boards and Commissions; and directing staff to provide updates to the Council and the public on the status of the reuse of the Concord Naval Weapons Station at least on a quarterly basis. Motion carried by the following vote of the Council:

AYES: Birsan, Grayson, Helix, Hoffmeister      NOES: None      ABSTAIN: Leone

Mayor Hoffmeister called a five minute recess.

**AUTHORIZE THE MAYOR TO SEND CEASE AND DESIST RESPONSE LETTER UNDER THE BROWN ACT FOR INADVERTENT VIOLATION OF ACT ON DECEMBER 8, 2015**

Vice Mayor Leone returned to the dais.

Interim City Attorney Brian Libow gave a report, referring to the staff report dated February 23, 2016, and noting that on December 8, 2015, a member of the public was inadvertently not allowed to speak on an agenda item. Mr. Libow recommended that the Mayor send a letter to the complainant, warranting that the Council will adhere to its long-standing commitment to allow members of the public to speak on each agendized item.

Mayor Hoffmeister opened a public comment period.

Hope Johnson, Concord, requested that the response letter be changed to include the Council not discussing unagendized matters at Council meetings.

Joe Partansky, Concord, spoke of the Little Hoover Commission Report on the Brown Act.

Mayor Hoffmeister closed the public comment period.

Following comments by the Council, a motion was made by Leone and seconded by Grayson to authorize the Mayor to send a cease and desist response letter for inadvertent violation of the Brown Act on December 8, 2015. Motion carried by unanimous vote of the Council.

**INTRODUCE ORDINANCE NO. 16-1 – Water Efficient Landscaping**

Principal Planner Andrew Mogensen presented a report, referring to the staff report dated February 23, 2016, noting that the item was continued from January 23, 2016, and addressing the questions Council asked at the January 23 hearing.

Mayor Hoffmeister opened a public comment period, and upon receiving no comment, closed the public comment period.

Motion by Leone and second by Helix to introduce Ordinance No. 16-1 entitled, "AN ORDINANCE AMENDING THE CONCORD MUNICIPAL CODE, TITLE 18, DEVELOPMENT CODE, CHAPTER 18.170 (WATER EFFICIENT LANDSCAPING)," by reading of the title only and waiving further readings. Motion carried by unanimous vote of the Council.

AUTUMN BROOK EIGHT-LOT, SINGLE FAMILY RESIDENTIAL SUBDIVISION – 1890 Risdon Road

Senior Planner Ryan Lenhardt presented a report, referring to the staff report dated February 23, 2016, and reporting that requested approval included adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, approving a rezoning from RS-7 (Single Family Residential) to RL (Residential Low Density), approving a Tentative Subdivision Map, Design Review, Minor Exception, and Tree Removal, and approving the "Autumn Brook Lane" street name for the Autumn Brook eight-lot, single family residential subdivision located at 1890 Risdon Road.

Following questions by the Council, Mayor Hoffmeister opened a public comment period.

Jim Parsons, Design Resources Walnut Creek, representing the applicant, spoke of the community outreach and the modifications to the plans that were made due to community outreach. He noted that they aimed to provide a project that complemented the area.

Vincent Steele, Concord, objected to 5,000 square foot lots on the project.

Mayor Hoffmeister closed the public comment period.

Motion by Helix and second by Leone to adopt Resolution No. 16-10 entitled, "A RESOLUTION ADOPTING THE AUTUMN BROOK SUBDIVISION MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM," introduce Ordinance No. 16-425.1 entitled, "AN ORDINANCE AMENDING THE ZONING MAP AS FOLLOWS: AUTUMN BROOK RESIDENTIAL SUBDIVISION REZONING (PL140280-RZ) OF PARCEL 147-350-003 FROM RS-7 (SINGLE-FAMILY RESIDENTIAL; 7,000 SQUARE FOOT MINIMUM LOT SIZE) TO RL (RESIDENTIAL LOW DENSITY)," by reading of the title only and waiving further readings, and adopt Resolution No. 16-8 entitled, "A RESOLUTION APPROVING THE AUTUMN BROOK SUBDIVISION TENTATIVE SUBDIVISION MAP, DESIGN REVIEW, MINOR EXCEPTION, AND TREE REMOVAL (PL140280-TM, DR, AA, RT)," and approve the proposed street name of "Autumn Brook Lane" for the private street serving the subdivision. Motion carried by unanimous vote of the Council.

CORRESPONDENCE

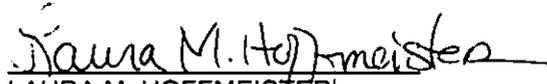
- a. Correspondence received for City Council/Local Reuse Authority Agenda Item No. 4.a.
- b. Postcard on the Age Strong, Live Long Health Expo.
- c. Written comments submitted by Olga Chan.
- d. Newspaper articles about Concord submitted by Devlin Sewell.
- e. John Muir Health PowerPoint Presentation.
- f. Autumn Brook Residential Subdivision Rezoning PowerPoint Presentation.

CLOSED SESSION REPORTS – None

COUNCIL AND STAFF REPORTS

Councilmembers shared information on events and activities in which they had participated since the last meeting and commented on items of interest.

By order of the Mayor, the meeting was adjourned at 11:18 p.m.

  
LAURA M. HOFFMEISTER  
MAYOR

  
JOELLE FOCKLER, MMC  
CITY CLERK