

REGULAR MEETING OF THE  
CONCORD CITY COUNCIL  
CITY COUNCIL CHAMBER  
1950 PARKSIDE DRIVE  
CONCORD, CALIFORNIA  
TUESDAY, JULY 11, 2017

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, July 11, 2017, with Mayor Hoffmeister presiding. The pledge of allegiance was led by Councilmember Obringer. Minutes follow in abbreviated form per Resolution 3361 and Council Minutes of September 26, 1966.

ROLL CALL

COUNCILMEMBERS PRESENT: Edi Birsan, Ron Leone, Tim McGallian, Carlyn Obringer, Laura Hoffmeister

STAFF PRESENT: Valerie Barone, City Manager; Susanne Brown, City Attorney; Kathleen Tropa, Assistant City Manager; Joelle Fockler, City Clerk; Guy Swanger, Chief of Police; Justin Ezell, Director of Public Works; Guy Bjerke, Director of Community Reuse Planning; Ray Kuzbari, Transportation Manager; John Montagh, Economic Development Manager; Brian Nunnally, Business Development Manager; Mario Camorongan, Senior Civil Engineer; Suzanne McDonald, Financial Operations Manager; Pedro Garcia, Economic Development Specialist; Kevin Marstall, Senior Civil Engineer; Leslye Asera, Community Relations Manager

MEMBERS OF THE PUBLIC WHO ADDRESSED THE COUNCIL: Maria Villacis, Concord; Ben Hornstein, Concord; Hope Johnson, Concord; George Fulmore, Concord; Ken Scoles, Bay Point; Barbara Kious, Concord; Tim Carr, Concord; JoAnn Hull, Concord

PUBLIC COMMENT PERIOD

Maria Villacis, Concord, spoke of concerns over having convenience store/liquor store, bar, and nightclub right on Meadow Lane near Monument Boulevard.

Ben Hornstein, Concord Senior Center, spoke of upcoming events at the Senior Center, including the Mad Hatter Tea Part to be held on July 22 from 10 a.m. – 12 p.m. and Hawaiian Fusion on September 9. He noted that the taxi script program that allows for reduced rates for Concord seniors is in place for any Concord resident 65 years or older.

Hope Johnson, Concord, spoke of Council comments at the end of the June 27 meeting, and asked that if the Council is close to violating the Brown Act at a meeting and the City Attorney cautions them against it, the City Attorney let the public know the reason. She stated her opposition to Five Point Lennar sponsoring City events.

George Fulmore, Concord, gave kudos to the Public Works Department for its operation of the Spray Park and spoke of the play structure at Meadow Homes Park and blocked sidewalks on Detroit Avenue.

Ken Scoles, Bay Point, Veterans of Contra Costa, spoke in favor of building a Veterans Building and Veterans Village on the former Naval Weapons Station Project.

Barbara Kious, Concord, spoke of putting together a volunteer Monument clean-up project.

PRESENTATIONSANTI-HAZING AWARENESS MONTH

Mayor Hoffmeister presented Debbie Smith, CEO, AHA Movement, a proclamation declaring July, 2017, as "Anti-Hazing Awareness Month" in the City of Concord.

BUSINESS RECOGNITION AWARDS – Elite Motor Cars, Round Table Pizza, Big C Athletic Club

Pedro Garcia, Economic Development Specialist, highlighted the Business Recognition Program and introduced Marilyn Fowler, President/CEO, Concord Greater Chamber of Commerce, who presented Business Recognition Awards to Alex Lowry, Owner, Elite Motor Cars; Jim Robertson, Vice President of Human Resources and Franchise Services, Round Table Pizza; and Michael Chiroso, Executive Director, and Brad Buchholz, General Manager, the Big C Athletic Club.

ANNOUNCEMENTS – none.CITY COUNCIL CONSENT CALENDARAPPROVAL OF MINUTES – May 9, 2017

A motion was made by Birsan and seconded by Obringer to approve the minutes from the meeting of May 9, 2017. Motion passed by unanimous vote of the Council.

APPROVAL OF AGREEMENT – AMF Media Group

A motion was made by Birsan and seconded by Obringer to approve an agreement with AMF Media Group in the amount of \$130,000 to provide marketing and public relations services in support of the City's Economic Development program; authorize the expenditure of future media buys in an amount not to exceed \$110,000, for a total agreement amount of \$240,000; and authorize the City Manager to execute the agreement. Motion passed by unanimous vote of the Council.

APPROVAL OF AGREEMENT – PAVEMENT ENGINEERING, INC.

A motion was made by Birsan and seconded by Obringer to approve an agreement with Pavement Engineering, Inc. in the amount of \$244,953 to provide for project design and related services for Measure Q Projects #7 and #8 in Pavement Management Zones 1 and 2, Project Nos. 2378 and 2379; and authorize the City Manager to execute the agreement in a form acceptable to the City Attorney. Motion passed by unanimous vote of the Council.

AWARD OF PURCHASE – SMART IRRIGATION CONTROLLERS – Horizon Distributors (continued from June 27, 2017)

A motion was made by Birsan and seconded by Obringer to award purchase of smart irrigation controllers and related equipment in the amount of \$62,777 to Horizon Distributors of Concord. Motion passed by unanimous vote of the Council.

REPRESENTATION ON MARIN CLEAN ENERGY BOARD OF DIRECTORS

A motion was made by Birsan and seconded by Obringer to affirm the appointment of Vice Mayor Birsan to represent the City of Concord on the Marin Clean Energy Board of Directors. Motion passed by unanimous vote of the Council.

AWARD OF CONSTRUCTION CONTRACT AND APPROVAL OF AGREEMENT – Ghilotti Bros., Inc. and Swinerton Management and Consulting

This item was pulled from the Consent Calendar by Concord resident George Fulmore.

A motion was made by Leone and seconded by McGallian to award a construction contract in the amount of \$2,303,652.10 to Ghilotti Bros., Inc. of San Rafael for Measure Q Pavement Repair Projects #5 and #6, Project Nos. 2332 and 2333, providing pavements repair and maintenance on various streets within the City, authorize staff to utilize the available project contingency for contract change orders up to 10 percent of the contract amount, authorize the Mayor to execute the contract in a form acceptable to the City Attorney, approve an agreement with Swinerton Management and Consulting in the amount of \$190,271 for construction management, inspection, and materials testing services for Project Nos. 2332 and 2333; and authorize the City Manager to execute the agreement in a form acceptable to the City Attorney. Motion passed by unanimous vote of the Council.

LOCAL REUSE AUTHORITY CONSENT CALENDAR

AMENDMENT TO THE AGREEMENT FOR LEGAL PROFESSIONAL SERVICES – Jarvis, Fay, Doportto & Gibson, LLP

A motion was made by Birsan and seconded by McGallian to approve an amendment to the Agreement for Legal Professional Services with Jarvis, Fay, Doportto & Gibson, LLP in the amount of \$100,000 to provide legal support for the California Environmental Quality Act (CEQA) review of the Specific Plan for the Community Reuse Project at the former Concord Naval Weapons Station; and authorize the City Attorney to execute the amendment. Motion passed by unanimous vote of the Council.

AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL SERVICES – HR&A Advisors

A motion was made by Birsan and seconded by McGallian to approve an amendment to the Agreement for Professional Services with HR&A Advisors, Inc. in an amount not to exceed \$120,000 for specialized real estate and financial advice related to the Community Reuse Project at the Concord Naval Weapons Station; and authorize the Local Reuse Authority Executive Director to execute the amendment in a form acceptable to the City Attorney. Motion passed by unanimous vote of the Council.

AGREEMENT FOR LEGAL PROFESSIONAL SERVICES – Garrity and Knisely

A motion was made by Birsan and seconded by McGallian to approve an Agreement for Legal Professional Services with Garrity and Knisely in an amount not to exceed \$150,000 regarding property transfer and remediation for the Community Reuse Project at the former Concord Naval Weapons Station; and authorize the City Attorney to execute the Agreement in a form acceptable to the City Attorney. Motion passed by unanimous vote of the Council.

AGREEMENT FOR PROFESSIONAL SERVICES – Environmental Science Associates

A motion was made by Birsan and seconded by McGallian to approve an Agreement for Professional Services with Environmental Services Associates in an amount not to exceed \$355,000 associated with preparation of conceptual flood management plans and creek restoration plans in support of site wide permits for sensitive habitat and species on the Concord Naval Weapons Station; and authorize the Local Reuse Authority Executive Director to execute the Agreement in a form acceptable to the City Attorney. Motion passed by unanimous vote of the Council.

AGREEMENT FOR PROFESSIONAL SERVICES – H. T. Harvey & Associates

A motion was made by Birsan and seconded by McGallian to approve an Agreement for Professional Services with H. T. Harvey & Associates in an amount not to exceed \$345,000 associated with preparation of site wide permits for sensitive habitat and species on the Concord Naval Weapons Station and assistance with the California Environmental Quality Act assessment of the Specific Plan; and authorize the Local Reuse Authority Executive Director to execute the Agreement in a form acceptable to the City Attorney. Motion passed by unanimous vote of the Council.

AMENDMENT TO THE AGREEMENT FOR LEGAL PROFESSIONAL SERVICES – Burke, Williams & Sorensen, LLP

A motion was made by Birsan and seconded by McGallian to approve an amendment to the Agreement for Legal Professional Services with Burke, Williams & Sorensen, LLP, in the amount of \$100,000 in connection with transactional legal support for the Community Reuse Project at the former Concord Naval Weapons Station; and authorize the City Attorney to execute the amendment in a form acceptable to the City Attorney. Motion passed by unanimous vote of the Council.

AGREEMENT FOR PROFESSIONAL SERVICES – Johnson Marigot Consulting, LLC

A motion was made by Birsan and seconded by McGallian to approve an Agreement for Professional Services with Johnson Marigot Consulting, LLC, in an amount not to exceed \$20,000 for preparation of materials to support an application for a 404 Permit under the Clean Water Act and Regulatory Support Services for the Community Reuse Project at the former Concord Naval Weapons Station; and authorize the Local Reuse Authority Executive Director to execute the Agreement in a form acceptable the City Attorney. Motion passed by unanimous vote of the Council.

AGREEMENT FOR PROFESSIONAL SERVICES – Hallmark Group

A motion was made by Birsan and seconded by McGallian to approve an Agreement for Professional Services with the Hallmark Group in an amount not to exceed \$495,000 to provide design and implementation of project controls for the Community Reuse Project at the former Concord Naval Weapons Station; and authorize the Local Reuse Authority Executive Director to execute the Agreement in a form acceptable to the City Attorney. Motion passed by unanimous vote of the Council.

LOCAL REUSE AUTHORITY RESOLUTION NO. 17-18

This item was pulled from the Local Reuse Authority Consent Calendar by Concord resident Tim Carr.

A motion was made by Obringer and seconded by Birsan to adopt Local Reuse Authority No. 17-18 entitled, "A Resolution Approving an Interfund Loan Agreement between the City of Concord (Lender) and the Local Reuse Authority (Borrower) for the temporary use of Workers' Compensation Fund Dollars to Support the Base Reuse Project." Motion passed by unanimous vote of the Council.

AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL SERVICES – Environmental Risk Services Corporation

This item was pulled from the Local Reuse Authority Consent Calendar by Concord resident Hope Johnson.

A motion was made by Birsan and seconded by Leone to approve an Amendment to the Agreement for Professional Services with Environmental Risk Services Corporation in a not to exceed amount of \$160,000 for specialized remediation services for the Community Reuse Project at the former Concord Naval Weapons Station; and authorize the Local Reuse Authority Executive Director to execute the Amendment in a form acceptable to the City Attorney. Motion passed by unanimous vote of the Council.

AGREEMENT FOR PROFESSIONAL SERVICES – Arup North America Ltd.

This item was pulled from the Consent Calendar by Councilmember Obringer who requested that Councilmember Leone recuse himself due to the comments she was going to make on this item and on Item No. 5.r, Agreement for Professional Services with ALH Urban & Regional Economics. Councilmember Leone left the dais.

Councilmember Obringer stated that she pulled the two items because the proposed agreements with Arup North America Ltd. and ALH Urban & Regional Economics involve extensive environmental and fiscal analysis of the site, and she felt that where the start of development occurs directly correlates to the analysis of the site. She requested a study session be held in July with Lennar to discuss and review a shift in acreage proposed by Lennar in May 2017.

Director of Community Reuse Planning Guy Bjerke reported that Lennar was proposing to keep the same quality and quantity in the 500 acres development program but shift the starting place. He emphasized that staff, the Planning Commission, the Community Advisory Committee (CAC), and the City Council have not weighed in on moving the starting point, that the proposals Lennar are putting forward are still forming and evolving while Lennar is soliciting feedback on them. Mr. Bjerke noted that the concept is to get additional feedback from the CAC in July and return to the CAC, Planning Commission, and the Council for feedback in late September or early October after more analysis and development has been vetted, and the Council will have the opportunity to weigh in at that point.

City Attorney Brown requested that further discussion on the item be limited to whether or not to hold a study session in July.

Councilmember McGallian asked if this information would be covered at a proposed special meeting to be held on Wednesday, October 11, and Vice Mayor Birsan asked if the work by the two consultants scheduled in the next 90 days would affect what information comes before the Council in October, to which staff replied that the information will be presented at the October 11 Special Meeting, the approval of the two agreements would not affect the analysis of the site in the next 90 days, and there will be ample time for the Council to review information and provide feedback to Lennar.

There was not consensus to hold a study session in July, and Councilmember Leone returned to the dais for the vote, as the approval of the two agreements did not require his recusal.

A motion was made by Birsan and seconded by McGallian to approve an Agreement for Professional Services with Arup North America Ltd. in an amount not to exceed \$504,000 associated with land transfer and development planning for the Community Reuse Project at the former Concord Naval Weapons Station; and authorize the Local Reuse Authority Executive Director to execute the Agreement in a form acceptable to the City Attorney. Motion passed by unanimous vote for the Council.

AGREEMENT FOR PROFESSIONAL SERVICES – ALH Urban & Regional Economics

This item was pulled from the Consent Calendar by Councilmember Obringer.

A motion was made by Birsan and seconded by McGallian to approve an Agreement for Professional Services with ALH Urban & Regional Economics in an amount not to exceed \$36,000 for economic studies and fiscal analysis related to the Community Reuse Project at the Concord Naval Weapons Station; and authorize the Local Reuse Authority Executive Director to execute the Agreement in a form acceptable to the City Attorney. Motion passed by unanimous vote of the Council.

RESOLUTION NO. 17-59 – Pilot Program with Starship Technologies Ltd.

Vice Mayor Birsan recused himself from the item and left the dais due to a member of his family being employed by Door Dash.

Economic Development Specialist Pedro Garcia reported that Starship Technologies approached the City of Concord seeking to locate a commercial pilot program for their autonomous delivery robots also known as Personal Delivery Devices (PDD) for up to 12 months while utilizing up to 12 PDDs with a service area of approximately four square miles. He stated that Starship Technologies plans to implement their pilot program with their current vendor partners, and in the future, work with local businesses directly and primarily focus on the delivery of food and parcels.

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

Joanne Hull, Concord, spoke of her concern of theft of the devices and safety of pedestrians.

Mayor Hoffmeister closed the public comment period.

Following comments by the Council, a motion was made by McGallian and seconded by Leone to adopt Resolution No. 17-59 entitled, "A Resolution Establishing a Pilot Program to Allow the Use of Autonomous Robots, also known as Personal Delivery Devices (PDD), for a Period of up to 12 Months in the City of Concord." Motion passed by the following vote of the Council:

AYES: Leone, McGallian, Obringer, Hoffmeister      NOES: None      ABSENT: Birsan

Vice Mayor Birsan returned to the dais.

APPOINTMENT OF APPLICANTS TO THE COMMISSION ON AGING

Motion was made by McGallian and seconded by Obringer to appoint David Afinowicz, Paula Johnstone, Fuad Omran, and Nancy Sansom to the Commission on Aging for terms ending June 30, 2019, and Ben Hornstein, Mei Lee, Melvin Lee, Delores Leon, and Charles Rogers to the Commission on Aging for terms ending June 30, 2021. Motion passed by unanimous vote of the Council.

APPOINTMENT OF APPLICANTS TO THE CONCORD/PLEASANT HILL HEALTH CARE DISTRICT GRANT COMMITTEE

Motion was made by McGallian and seconded by Obringer to appoint Michael Handlin to the Concord/Pleasant Hill Health Care District Grant Committee for a four-year term ending June 30, 2021. Motion passed by unanimous vote of the Council.

ADOPTION OF RESOLUTION NO. 17-55 – Purchase and Sale Agreement with Carlton Senior Living LLC for City Property located at Harrison and Sutter Street

A notice of Public Hearing announcing the hearing date of July 11, 2017, was published in the East Bay Times on June 27 and July 5, 2017, mailed to interested parties of record; and posted in the City's posting cabinet.

Economic Development Manager John Montagh reported that the City of Concord owns a 9,600 square foot vacant parcel at the corner of Sutter and Harrison Streets, and Carlton Senior Living LLC owns and operates the Carlton Concord Senior housing facility located at 1700 Broadway, adjacent to the City owned property. Mr. Montagh stated that Carlton desires to purchase the City property for its appraised full fair market value, purchase an adjacent privately-owned parcel, 2051 Harrison Street, from an unrelated party, merge the three properties into a single parcel, and expand the senior facility by developing the merged parcel into a new memory care unit for seniors.

Mr. Montagh recommended adoption of Resolution No. 17-55 approving a Purchase and Sale Agreement and authorizing the Mayor to execute all documents needed to complete the transaction and execute all documents, deeds, and similar instruments needed to complete the transaction in a form acceptable to the City Attorney.

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

Following comments by the Council, a motion was made by McGallian and seconded by Obringer to adopt Resolution No. 17-55 entitled, "A Resolution Approving an Agreement of Purchase and Sale and Initial Escrow Instructions between the City of Concord, as Seller, and Carlton Senior Living, LLC, as Buyer, for Assessor's Parcel No. 126-045-020 (Northwest Corner of Sutter Street and Harrison Street), City of Concord, CA." Motion passed by unanimous vote of the Council.

UPDATE OF THE CITY OF CONCORD'S SUBDIVISION ORDINANCE – Resolution No. 17-50 Adopting an Initial Study/Negative Declaration and Introduction of Ordinance No. 17-9 Repealing and Replacing Concord Municipal Code Title 17 (Subdivisions)

Senior Civil Engineer Kevin Marstall introduced Ben Noble, City and Regional Planning, who reviewed the Subdivision Ordinance update process and reported that on May 17, 2017, the Planning Commission recommended adoption of the Subdivision Ordinance Update and Initial Study/Negative Declaration with the following changes:

- Section 17.20.030.B.17 revised to allow the City Engineer approval of minor subdivision street names;
- Section 17.20.070.D.3 revised to read less like variance findings;
- References to Trails Master Plan added throughout the Ordinance; and
- Section 17.35.100.B.3.a revised to reflect minimum warranty periods for condominium roofs and exterior finishes

Following questions by the Council, Mayor Hoffmeister opened a public comment period, and upon receiving no public comment, closed the public comment period.

A motion was made by Birsan and seconded by McGallian to adopt Resolution No. 17-50 entitled, "A Resolution Adopting an Initial Study/Negative Declaration for the City of Concord Subdivision Ordinance Update." Motion passed by unanimous vote of the Council.

A motion was made by Birsan and seconded by Obringer to introduce Ordinance No. 17-9 entitled, "An Ordinance Repealing and Replacing Concord Municipal Code Title 17 (Subdivisions)" by reading of the title only and waiving further readings.

Following discussion by the Council regarding approval of minor subdivision street naming, City Attorney Brown proposed revising Ordinance No. 17-9 by adding text to reflect City Council approval of all subdivision street names.

Vice Mayor Birsan amended the motion to include the proposed language, Councilmember Obringer seconded the amendment, and the motion passed by unanimous vote of the Council.

#### CORRESPONDENCE

- a. Anti-Hazing Awareness Movement brochure
- b. Concord Subdivision Ordinance Update PowerPoint Presentation
- c. Correspondence received from Vice Mayor Birsan on the League of Cities Executive Seminars, June 28-29, 2017

CLOSED SESSION REPORTS – none.

#### COUNCIL AND STAFF REPORTS

Councilmember Leone requested support of adding alternates to the Concord Naval Weapons Station Community Advisory Committee. It was the consensus of the Council to have the methodology of the addition of two alternates to the Concord Naval Weapons Station Community Advisory Committee on the July 25, 2017, City Council meeting agenda.

Councilmember Obringer requested support of exploring a Styrofoam ban to the Committee on Policy Development and Internal Operations. It was the consensus of the Council to have staff explore a styrofoam ban and bring it to the Committee on Policy Development and Internal Operations.

Vice Mayor Birsan requested that the Committee on Policy Development and Internal Operations (PD&IO) review district elections in September. There was not consensus to have the PD&IO review the item; however, it was the consensus of the Council to have staff prepare a white paper on district elections.

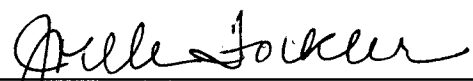
Vice Mayor Birsan requested that staff explore the formation of an Arts Commission. It was the consensus of the Council to work and support outside groups involved in the Arts at this time.

A discussion was held regarding marijuana, and it was determined that research would continue in concurrence with the development of a formal survey for citizens for their feedback on marijuana uses.

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 9:35 p.m.

  
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LAURA M. HOFFMEISTER  
MAYOR

  
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JOELLE FOCKLER, MMC  
CITY CLERK