



**BRISBANE CITY COUNCIL**

**ACTION MINUTES**

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**JULY 29, 2013**

**7:00 P.M. CLOSED SESSION**

- A. Conference with legal counsel regarding existing litigation; Watkins vs. City of Brisbane, pursuant to Government Code Section 54956.9**

**7:30 P.M. CALL TO ORDER – FLAG SALUTE**

Mayor Miller called the meeting to order at 7:33 p.m. and led the flag salute.

**ROLL CALL**

Councilmember's present:	Conway, Lentz, O'Connell, and Mayor Miller
Councilmember's absent:	None
Staff present:	City Manager Holstine, Administrative Services Director Schillinger, City Clerk Spediacci, City Attorney Kahn, Public Works Director Breault, Principal Analyst Saguisag-Sid, Fire Chief Myers

**REPORT FROM CLOSED SESSION**

City Attorney Kahn indicated that direction was given to staff but no action was taken.

**ADOPTION OF AGENDA (Deletions, Additions, Changes and Adoption)**

Councilmembers asked that the meeting be closed in memory of long-time resident Anna Lou Martin and Deputy Finance Director Cooper's husband, Les Cooper. They also re-ordered the agenda to hear New Business Item B before Item A.

CM Conway made a motion, seconded by CM O'Connell, to adopt the agenda as amended. The motion carried unanimously by all present.

**V. ORAL COMMUNICATIONS NO. 1**

Michele Salmon acknowledge the contributions that Anna Lou Martin had made to Brisbane over the years.

Jim Martin son of Anna Lou Martin, thanked the Council for acknowledging his mother.

Dana Dillworth expressed her concerns with the arsenic-laden soil being transported from the Northeast Ridge site to the Baylands. She said that she had contacted the Department of Toxic Substance Control and the Bay Area Air Quality Management District to look into the matter.

Michele Salmon spoke about the Letter from Mountain Watch regarding the designation of Planned Conservation Areas, the Open Space and Ecology Committee's (OSEC) request to Council to extend the Baylands DEIR comment period, and the litter and trash around town. She asked that Council consider San Bruno Mountain Watches request, approve OSEC's request, and take action to start an anti-litter campaign.

Karen Cunningham gave an update on the success of the recent Cat Spay/Neuter Day held at the Community Park in Brisbane.

## VI. CONSENT CALENDAR

Councilmembers asked to remove Consent Calendar Items B & E.

- A. Approve City Council Minutes of May 20, 2013**
- C. Approve Monthly Investment Report as of May 31, 2013**
- D. Approve Co-sponsorship of the Brisbane Women's Club Shakespeare Event**
- F. Approve contract with SoftResources to assist with financial software needs assessment.**

CM Conway made a motion, seconded by CM Lentz, to approve Consent Calendar Items A, C, D, & F as proposed. The motion carried unanimously by all present.

### **B. Approve City Council Minutes of May 28, 2013**

Mayor Miller pointed out that the roll call portion of the minutes should reflect that CM O'Connell was present. CM O'Connell made a motion, seconded by CM Conway, to approve the minutes as amended. The motion was carried unanimously by all present.

### **E. Approval of Resolutions in order to Update Existing Job Classifications, Add New Job Classifications to Class Specification Manual, and Amend Related Memorandum of Understandings and Pay Scales**

Principal Analyst Saguisag-Sid clarified a correction to Resolution 2013-32 changing the higher education requirements in the job description.

With that change, CM Conway made a motion, seconded by CM Lentz to approve Resolution No. 2013-32 as amended and Resolution Nos. 2013-29, 2013-30, 2013-31, 2013-33, 2013-34, and 2013-35 as proposed. The motion carried 3-1, CM O'Connell opposed.

## **OLD BUSINESS**

### **A. Approve overall interim roof repair and mold remediation project at Station 81 and supplemental appropriation request for \$76,000 for the repair**

Public Works Director Breault gave a background report on the warranty with the original roofing contractor and the leaks that were discovered after the warranty period had expired. He also reviewed the 2007 options to design and replace the roof at costs exceeding \$500K. He said the high cost of replacement and the high airborne levels of mold that were noted in the apparatus bay and living quarters in August, 2010, prompted a temporary relocation of Brisbane's fire staff to Station 93, and then subsequently relocating the crew to an interim mobile trailer facility created in the parking lot.

He further explained that after the more recent Council Facility Subcommittee meetings held to study a long-term solution to the problem, the Council budgeted \$200K in Fiscal Year 2013/2014.

He then explained the cost estimate for the interim repairs, including mold remediation, which would allow the station to be occupied by the crews again. He said that if the Council desired to complete all of the interim repairs, the action would require a supplemental appropriation of \$76,000, which would bring the total cost of repair to \$276,000.

Dana Dillworth stated that she thought the Fire Station was in the wrong place and spoke against an interim repair.

Carolyn Parker spoke in support of fixing the Fire Station roof.

After Councilmember questions and clarifications, CM O'Connell made a motion, seconded by CM Conway, to continue approval of this item until the next City Council Meeting, giving CM Lentz time to meet with staff for further clarification. The motion carried unanimously by all present.

## **NEW BUSINESS**

### **B. Consider FM3 Group for Baylands Public Opinion Survey (taken out of order)**

City Manager Holstine explained the proposal before the Council and the process the Council Subcommittee and staff went through to recommend awarding the contract to FM3. He then introduced Ms. Shakari Byerly, Vice President of FM3.

Ms. Shakari Byerly, outlined the company's qualifications and the proposal for the public opinion survey. She indicated that their firm had a local office and assured their availability throughout the project and gave a summary of local experience. She then reviewed the proposal which outlined a four-phase process that included working with the City on a project timeline and a detailed approach to the survey research and development process, the use of focus groups which would

provide initial guidance and direction for the survey, the survey process itself, and the public reporting of the results of the survey.

Ms. Byerly also indicated that her partner Dave Metz would be the lead on this project and apologized that he couldn't make it to this meeting due to a family issue.

Michele Salmon questioned the purpose of the survey, who was paying for it, and how the recommended firm was chosen. She also spoke about the problems and validity of most types of surveys.

Dana Dillworth expressed her opinion that these types of surveys don't do anything to alter a pre-determined outcome.

After Councilmember clarification of concerns and extensive discussion, CM Conway made a motion, seconded by CM Lentz, to award the contract as proposed. The motion was carried unanimously by all present.

**A. Consider adoption of Resolution No. 2013-28 calling a Special Municipal Election to be consolidated with the General Election on November 5, 2013, for submission to the voters of a proposed Ordinance to increase a Business License Tax for Liquid Storage Facilities**

City Manager Holstine gave a background of the discussions that had been held with Kinder Morgan and described the action that was being considered at this meeting. He pointed out that if this measure was approved by the voters, the Council would be allowed to impose a tax "up to" \$115.28 per 1,000 cubic feet of storage capacity, allowing flexibility to impose gradual implementation, which the Council would set by another resolution. He further explained the process where a company could get credit for sales tax to "off-set" their business license tax.

He also stated that if the Council decided to place this measure on the ballot that they form a Council Subcommittee to write the ballot argument.

City Attorney Kahn explained that a letter was received from Nancy Van Burgel, Assistant General Counsel for SFPP, L.P., raising a number of concerns about the proposed tax and the impact on their company. He responded to their allegations and advised that there was no basis for delaying the approval of the resolution being considered to place this measure on the ballot.

After some discussion, the Council asked that the resolution be changed to reflect printing the full wording of the measure in the ballot pamphlet.

John Lynn Smith, Special Counsel to Kinder Morgan, stated his opinion that there are defects in the ballot measure. He explained the nature of the company's sales and their inability to control that amount to take advantage of the proposed off-set. He talked about the history of the site and the amount they currently contribute. He questioned whether the action being considered was discriminatory. He said that the letter submitted for the record stated their position and that he was there to answer any questions.

After Councilmember questions and clarifications, CM Lentz made a motion, seconded by CM Conway, to adopt Resolution No. 2013-28 as amended and to appoint Mayor Miller and CM Lentz to serve on the Council Subcommittee to write the ballot argument in favor of the measure. The motion was carried unanimously by all present.

**C. Approve contract with Soft Resources to assist with a financial software needs assessment**

Administrative Services Director Schillinger explained the need for purchasing current financial software, the need for an assessment to be completed before issuing a Request for Proposals, the difference in service and costs in the three proposals received for that needs-assessment. He explained that staff feels that ClientFirst Technology Consulting proposal was the most comprehensive and responsive. He recommended that Council approve the contract.

After Councilmember questions and clarifications, CM Conway made a motion, seconded by CM O'Connell, to approve the contract as proposed. The motion was carried unanimously by all present.

**STAFF REPORTS**

**A. City Manager's Report on upcoming activities**

City Manager Holstine said he had nothing to report.

**B. Draft Environmental Impact Report Update**

Community Development Director Swiecki explained the activities that had taken place in the last several months. He talked about the public notification process, the distribution of the DEIR to City Commission and Committee member, members of the public, and to over 50 agencies. He further explained it's availability in many formats for people to access. He said the next important milestone was the possible extension of the deadline for the comment period by the Council.

City Clerk Spediacci also gave an update from the Baylands Citizen's Committee who was reviewing and commenting on the DEIR.

Councilmember agreed to agendaize the discussion of an extension of the comment deadline at their next Council meeting.

**C. 2013 Work Plan – Mid-Year Review**

Due to the late hour, this item was continued to the next City Council Meeting.

**MAYOR/COUNCIL MATTERS**

**A. County-wide Assignments/Subcommittee Reports**

CM Conway advised the Council about an upcoming Peninsula Cities Consortium (PCC) meeting that was being held in Brisbane. He asked that the meeting be televised.

Mayor Miller gave an update about a recent meeting with the Homeowners Association for Landmark at The Ridge and talked about their concerns.

**B. Communications**

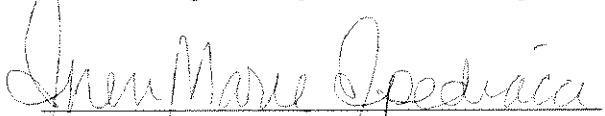
Mayor Miller stated that Council had received a letter from Kinder Morgan, three e-mails regarding the skatepark, and a letter from OSEC regarding an extension to the comment period to the Baylands DEIR.

**ORAL COMMUNICATIONS 2**

There were no members of the public wishing to speak.

**ADJOURNMENT**

The meeting was adjourned at 11:03 p.m. in memory of Anna Lou Martin and Les Cooper.



Sheri Marie Spediacci, City Clerk