



BRISBANE CITY COUNCIL
ACTION MINUTES

DRAFT

MONDAY, SEPTEMBER 17, 2012

BRISBANE CITY HALL, 50 PARK PLACE, BRISBANE

6:30 P.M. CLOSED SESSION

- A. Public Employee Performance Evaluation: City Manager, pursuant to Government Code Section 54957**
- B. Conference with real property negotiator regarding "Lot 2" (former SPRR easement) of parcel 005-300-050 pursuant to Government Code Section 54956.8**

CALL TO ORDER – FLAG SALUTE

The meeting was called to order at 7:30 p.m. and Mayor Lentz led the flag salute.

ROLL CALL

Councilmember's present:	Conway, Miller, O'Connell, Richardson, and Mayor Lentz
Councilmember's absent:	None
Staff present:	City Manager Holstine, Administrative Services Director Schillinger, City Clerk Spediacci, City Attorney Toppel, Police Chief Macias, Public Works Director Breault

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

CM Miller made a motion, seconded by CM Conway, to adopt the agenda as proposed. The motion was carried unanimously by all present.

ORAL COMMUNICATIONS NO. 1

Jorge Jaramillo, of the San Mateo County Hispanic Chamber of Commerce, advised the Council of the upcoming event on October 30th recognizing community leaders and invited the Councilmembers to attend.

Dolores Gomez expressed her concern about the ever increasing scavenger bills.

Clara Johnson, expressed concerns about the Recology fees being included in the budget.

Staff responded to each of the concerns.

PRESENTATIONS

A. Brisbane Library Annual Report – Carine Risley, Library Manager

Ms. Risley handed out the Library Annual Report and gave a short presentation highlighting their accomplishments and programs. She answered Councilmember questions and clarifications.

Clara Johnson asked the Council to encourage the library to keep City records on site for projects such as the Baylands and the Northeast Ridge so that the public would have greater access to them.

B. Proclamation declaring October, 2012 as Fire Prevention Month

Mayor Lentz read and presented the proclamation to Deputy Fire Chief Johnson.

CONSENT CALENDAR

CM O'Connell asked to remove items A & B from the Consent Calendar and Mayor Lentz asked to remove item E.

C. Adopt Resolution No. 2012-20 setting November 5, 2012 as the date for the public hearing of the proposed amendments to the Brisbane Municipal Code, Title 16, Subdivisions, regarding Chapter 16.12, Tentative and Final Parcel Maps and Subdivision Maps – where required (Merger Ordinance)

D. Approve Community Park Day Use Permit Application – BEST/PTO Movie Night on Saturday, October 20, 2012

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

A. Approve City Council Minutes of August 27, 2012

CM O'Connell asked that language be added to Item D of the minutes to reflect that two Councilmembers had concerns with the Caltrain sign proposal. She also questioned the reporting out of Closed Session items. CM O'Connell made a motion, seconded by CM Conway, to approve the minutes as amended. The motion was carried unanimously by all present.

B. Approve Monthly Investment Report as of July 31, 2012

CM O'Connell asked for an update on the Baylands hauling fees. Administrative Services Director Schillinger advised that there was an item later on the agenda that would give that information.

CM O'Connell made a motion, seconded by CM Richardson, to approve the Investment Report as proposed. The motion was carried unanimously by all present.

Clara Johnson asked about the Baylands revolving account and whether Universal Paragon was up to date on their fees, and whether there was a payment schedule. Mayor Lentz advised that this issue would be discussed later on the agenda.

E. Approve Community Park Day Use Permit Application – Latino Commission Walkathon Fundraising event on Saturday, November 3, 2012

Mayor Lentz asked about whether the non-profit was from Brisbane and what their funds would be used for. City Manager Holstine indicated that the Latino Commission has a facility located in Brisbane but that the City didn't audit where fundraising profits were used.

CM Lentz made a motion, seconded by CM Miller, to approve the use permit application as proposed. The motion was carried unanimously by all present.

NEW BUSINESS

A. Approve Term Sheet with Oakdale Irrigation District for Water Transfer

Public Works Director Breault outlined the purpose of obtaining Council's approval of a Term Sheet with the Oakdale Irrigation district. He talked about the general framework for a possible future agreement that would provide potable water to the Baylands development, and possibly also to undeveloped parcels in Sierra Point. He noted that this future agreement would not be entered into unless and until the completion and certification of the required CEQA analyses, and not until the conclusion of agreements with other entities not a party to the Term Sheet, but whose concurrence is required for an ultimate water transfer.

He stressed that the Term Sheet was not a binding agreement between the agencies and that the proposed document lays out a framework negotiated between the parties, and informs the public of the goals and principles that would guide any ultimate transfer that might be approved.

He explained that the Term Sheet provides a basic project definition so that CEQA review may be commenced and completed on the Baylands and he noted that the costs for the environmental review and any costs for delivered water would be borne entirely by Universal Paragon Corporation (UPC), the developer.

Public Works Director Breault and City Attorney Toppel answered many questions and concerns from Councilmembers relating to the wording and intent of the proposed Term Sheet.

City Manager Holstine suggested eliminating the words "mixed use" from the third paragraph of the recitals, and inserting the word "brownfield" in its place.

Councilmembers also stressed that the Term Sheet make it clear that the developer is responsible for all costs, ultimate funding responsibility, and make it very clear that the term sheet is non-binding.

Clara Johnson spoke about the cost of water after processing and transport, the tripling of gallons-used-per-day in relation to the capital costs, the amount of water that was determined by developer

proposal, and future agreements with the developer regarding the water. She urged that any approved term sheet make it clear that there would be no agreement until after project approval.

Michele Salmon expressed her concerns about whether UPC had explored other water options, she asked about the raw cost of water undelivered, about where the water was coming from, and what the City would do if the developer walked away from their development proposal.

Carolyn Parker asked that additional language be added to protect the City if the development doesn't go forward.

Michael Barnes spoke about the climate change and the Baylands development. He urged the Council to approve this Term Sheet.

Michele Salmon referred to paragraph number thirteen of the draft term sheet and asked if Brisbane would be paying for this EIR.

Michael Warburton, Executive Director of the Public Trust Alliance, spoke about water rights in the State of California and questioned why this transferred water is not subject to the State Water Quality Control Board Act, and the nature of the contract time. He expressed his concerns that water is being over appropriated.

John Christopher Burr expressed his concerns with the proposed Term Sheet and asked that the contract clearly state that it was non-binding and legally unenforceable.

Barbara Ebel expressed her concerns with the wording in the Term Sheet and asked that wording be added to make sure that UPC would be responsible for the payment of water. She also questioned whether UPC could purchase water directly.

Public Works Director Breault and City Attorney Toppel answered and addressed the concerns that were raised by each speaker.

Jonathan Sharfman, General Manager of Universal Paragon Corporation, spoke about the water supply assessments on any proposals that were submitted. He also spoke about desalination and the current technology and its costs. In response to CM Miller question on timing of the water transfer agreement, he indicated that he felt assured that discussions would be held between UPC and the City that would meet the timing deadlines.

After the discussion of many Councilmember concerns about the wording of the Term Sheet, Mayor Lentz made a motion, seconded by CM Conway to establish an Ad-Hoc Council Subcommittee consisting of CM Miller and CM O'Connell to review the wording of the Term Sheet and the information and concerns that were expressed and work with staff to bring back a modified Term Sheet for the Council to consider. The motion was carried unanimously by all present.

B. Consider directing staff to begin the process of placing an increase in the business license tax on tank farms on the November, 2013 ballot

Due to the late hour, item B. under New Business was continued to the next City Council Meeting

on October 1, 2012.

STAFF REPORTS

A. City Manager's Report on upcoming activities

B. Update on Water & Sewer Rate Annual Increase

Due to the late hour, all items under Staff Reports were continued to the next City Council Meeting on October 1, 2012.

MAYOR/COUNCIL MATTERS

A. Subcommittee Report

- **Report on attendance at Annual League of California Cities Conference**

B. Communications

- **Report on status of billings with Universal Paragon Corporation**
- **Memo from City Attorney on Councilmember Participation on Brsnet**

Due to the late hour, all items under Mayor/Council Matters were continued to the next City Council Meeting on October 1, 2012.

ORAL COMMUNICATIONS

There were no members of the public wishing to speak.

ADJOURNMENT

The meeting was adjourned at 11:37 p.m.

Sheri Marie Spediacci
City Clerk