



BRISBANE CITY COUNCIL

ACTION MINUTES

**DRAFT**

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**THURSDAY, AUGUST 20, 2015**

*BRISBANE CITY HALL, 50 PARK PLACE, BRISBANE*

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

- A. Conference with legal Counsel regarding one case of potential litigation, pursuant to Government Code Section 54956.9**

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

**ROLL CALL**

Councilmembers present: Conway, Lentz, Liu, Miller, and Mayor O’Connell  
Councilmembers absent: None  
Staff present: City Manager Holstine, City Clerk Spediacci, City Attorney Roush, Assistant City Attorney Stricker, Administrative Services Director Schillinger, Community Development Director Swiecki, Deputy Finance Director Cooper, Deputy Public Works Director Kinser, Police Commander Meisner

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

CM Conway made a motion to adopt the agenda as proposed. Mayor O’Connell asked that the City Manager’s Staff Report on the Climate Friendly Purchasing Guide be moved to immediately following Oral Communications. With that change, CM Conway amended his motion, which was seconded by CM Miller. The motion carried unanimously by all present.

**ORAL COMMUNICATIONS NO. 1**

Jamie Dunn – referred to the pre-proposal meeting for the new library and noted that one of the presentations given highlighted the services for youth in the community but noted the lack of senior services especially the transportation needs.

Principal Analyst Saguisag-Sid clarified the varied shuttle services that are available to all members of the community.

CM Conway asked that staff provide information in upcoming publications so that people are aware of what is available.

Public Works Director Breault clarified that the document and presentation Ms. Dunn was referring to was provided by an architect proposing to do the library project. He said that their information was not entirely accurate.

Clara Johnson spoke about the anti-business environment in the past and about not wanting to lose community character with the proposed change of use in Crocker Park. She advocated for more affordable housing verses market rate housing and also questioned the timing of the Crocker Park Precise Plan when the City was facing the Baylands development process.

Anja Miller spoke about energy and the legislation in Sacramento. She said she was a member of Community Choice Advocacy Group that the Council has supported. She said that AB 1110, which would be heard on Monday, was brought forward by PG&E and the electrical union. She encouraged the Council to send a letter to Assemblyman Ting asking him to propose an amendment to the bill.

Mayor O'Connell asked that they talk about that proposed letter under Mayor Council Matters.

Colleen Mackin spoke about her concerns with the upcoming community survey being conducted in the middle of the Planning Commission hearings on the Baylands EIR. She asked whether the results of the survey would be made public. She questioned the short time frame outlined in the Baylands White Paper which indicated that the EIR process could be final by the end of the year.

CM Miller noted that a report would be given during the City Manager's Report later in the meeting. CM Holstine noted that the survey results would be available to the public.

Mayor O'Connell stated that the Baylands White Paper was a goal, not a mandate.

Dana Dillworth, spoke about her concerns regarding the shipping vessels on the bay and the environmental issues as a result. She asked that the City consider adding its name to the letter written by the Sierra Club regarding better control of transportation of coal over rail lines.

Michelle Salmon asked that the City mobilize its website for easier mobile reading. She also questioned the height of dirt piles out at the Baylands and whether the soil being deposited there was safe. She spoke about a dangerous tree near the bicentennial walkway and showed a picture of a rotting dock at the Brisbane Marina.

Mayor O'Connell reminded that any dangerous condition should be immediately reported to public works. She also indicated that the Baylands Dirt Piles would be reported on later in the meeting. Public Works Director Breault said he would look into the rotting pier at the Marina.

Samantha Liu spoke against smoking due to cancer risk.

Raymond Liu also spoke of his work as an oncologist and the dangers of smoking.

Barbara Ebel said that she had just returned from a Climate Action Planning Conference and the transformation about how power would be used on a daily basis. She also spoke in favor of sending the legislative letter that Anja Miller referred to earlier.

Tony Verreos spoke about the negative impacts of smoking, especially to children in households of people who smoke. He urged the Council to adopt an ordinance dealing with second-hand smoke.

Clara Johnson, spoke about an erosion problem that threatens a home on Tulare. She asked that the City look at the issue.

Public Works Director Breault said that he would contact Mrs. Johnson to determine the location of the issue.

Dana Dillworth questioned the City's finger printing services and whether its system was connected to the FBI.

Commander Meisner indicated that the City doesn't provide live-scan services but refers those who need it to other providers. He confirmed that Brisbane is connected to the FBI database.

City Manager Holstine then introduced Quinn Haaga, a summer intern from the University of Oregon who gave a presentation on Climate Friendly Purchases. She described the proposed program and indicated that once it was reviewed by the Open Space and Ecology Committee, it would come back to the City Council for adoption.

## **CONSENT CALENDAR**

CM Liu asked to remove Consent Calendar Item A and CM Miller asked to remove Items C & E.

- B. Approve Monthly Investment Report as of May 31, 2015**
- D. Approve Co-sponsorship of Brisbane Dance Workshop's 2016 Spring Performance**
- F. Authorize the Mayor to execute an agreement with MuniServices to provide business license processing services**
- G. Direct staff to enter into an agreement with Utility Telephone to provide service to City Hall, Corporation Yard, Fire Station, Marina, and Swimming Pool**

CM Conway made a motion to approve Consent Calendar Items B, D, F, & G. The motion carried unanimously by all present.

**A. Approve City Council Minutes of July 16, 2015**

CM Liu and CM Conway noted that their proposed changes that were highlighted on a document for the Council's consideration. Mayor O'Connell noted adding language to CM Liu's change indicating that the Council had not wanted to rush calling for an election to vote on the Airbnb issue on the upcoming November ballot.

With those changes, CM Liu made a motion, seconded by CM Conway, to adopt the minutes as amended.

**C. Consider authorizing the Mayor to execute a response letter to the San Mateo County Grand Jury Report: Flooding Ahead: Planning for Sea Level Rise**

CM Miller explained his concerns about how the responses are formulated and the areas in which he felt needed further information or clarification. CM Liu also pointed out her proposed changes that were before the Council for consideration.

After some discussion, Councilmembers decided to have CM Liu and Miller meet with staff to re-draft a more detailed response. They also noted the September 3<sup>rd</sup> deadline for response and asked that staff contact the Grand Jury Office to indicate that the Council wanted to have further input on the response letter.

Clara Johnson spoke about the technical and political nature of the Grand Jury recommendations.

**E. Adopt Resolution No. 2015-36 amending Resolution No. 2001-11 to include the classification of Code Enforcement Officer in the Class Specification Manual**

CM Miller questioned whether the proposed classification should say that prior police experience is desirable. City Manager Holstine said that staff would revise the document to include that language. With that change, CM Conway made a motion, seconded by CM Miller, to adopt Resolution No. 2015-36 as amended. The motion carried unanimously by all present.

**NEW BUSINESS**

**A. Receive report on "mini" Capital Improvement Projects (CIP) approved in the City's Fiscal Year 2014-2015 Budget**

Public Works Director Breault said that as the change in the economy improved over the last year there was funding available to complete several mini Capital Improvement Projects throughout the community. He said that his report provided those details and that there were several more projects that still need to be completed.

After Councilmember questions and clarifications, they thanked Mr. Breault for his report.

**B. Consider introduction of Ordinance No. 598, waiving first reading, amending Title 18 of the Brisbane Municipal Code concerning “Marina Regulations”**

Public Works Director Breault said that the changes to the Ordinance were mostly clean up language and that none of the changes were really substantive.

CM Conway made a motion, seconded by CM Miller, to introduce Ordinance 598 as proposed. The motion carried unanimously by all present.

**C. Consider whether to authorize the Council Health and Safety Subcommittee to continue to explore legislation related to Door-to-Door Solicitation and Businesses Publishing or Selling Newspapers in Brisbane**

Assistant City Attorney Stricker said that this item was being brought to Council to update the Council on what the Health and Safety Committee is considering. She said that the Council had indicated that if a Committee needs more than a certain amount of work, the full Council would have to give authorization. She explained why the Subcommittee was concerned with door-to-door solicitation. She said the Council Subcommittee had instructed the City Attorney to draft legislation limiting the hours of solicitation and to eliminate the exemption that currently exists that applies to newspapers.

The Council Health and Safety Subcommittee of CM Liu and CM Miller explained the problems they had heard about from residents were people were coming to their homes and their concerns with scams or safety.

Councilmembers discussed the current method of dealing with solicitation and the possible problems with making things more difficult for kids and community organizations that have been the norm in Brisbane.

Barbara Ebel, spoke about people who leave flyers on cars and then then blow around and create litter. She advocated for them having to get business licenses as a deterrent to that problem.

Colleen Mackin, said that subverse people or organizations don't follow rules anyways and that residents just have to be vigilant.

Michele Salmon, said that additional regulation will give people a false sense of security and said that people should just not answer the door if they are not sure about the person or situation.

Tony Verreos, expressed his view that the Police Department was very professional and he didn't see the need for any new law or regulation.

Clara Johnson, spoke against making changes to the current law.

After Councilmember discussion on the pros and cons of the considering new regulations on door-to-door solicitation, CM Liu made a motion, seconded by CM Miller, to authorize the City

Attorney's Office to draft changes to the existing legislation. The motion failed 2-3, CM Conway, Lentz, and Mayor O'Connell opposed.

**D. Consider whether to authorize the Council Health and Safety Subcommittee to explore legislation to regulate the use of tobacco products and/or e-cigarettes in Brisbane and to amend the City's zoning ordinance to limit the number and/or location of vapor lounges in Brisbane**

Assistant City Attorney Stricker said that the purpose of this agenda item was to update the Council about the tobacco and e-cigarette regulations that the Health and Safety Council Subcommittee was considering. She said that the Subcommittee, staff, and City Attorney were seeking general policy guidance from the full Council at this juncture before expending additional City resources on legal services on this issue.

Ms. Stricker then reviewed the background of the local, County, and State law as well as the numerous other local entities in San Mateo County.

Ms. Stricker said that at the request of CM Liu, she met recently with Shaudra Shruggs, a San Mateo County's Public Health Educator, and Karen Licavoli from Breathe California, an advocacy group that worked with San Mateo County in adopting its recent tobacco and e-cigarette regulations. She said that Ms. Shruggs provided a summary of smoking and e-cigarette policies County-wide as well as the research that supports the County's findings about the health and safety risks associated with e-cigarettes, which were all provided as an attachment to the staff report.

She reiterated that the Council is being asked to decide whether the staff should continue to work on this matter, which would be fairly minimal for the tobacco and e-cigarette issue if the City used County models. Finally, she said that the issue of regulating vapor lounges might take between 10-12 attorney hours which would not include the time spent attending any additional City meetings.

Council Subcommittee members Liu and Miller gave information about the importance of the regulations that had been discussed at the Subcommittee meetings and asked for the Council support to continue to move forward with this issue.

Councilmembers discussed the number of hours spent so far on the different issues and questioned the need to regulate vapor lounges in Brisbane.

Shaudra Scrubbs, Director of Tobacco Prevention in San Mateo County said that she is working with several jurisdictions throughout the County to provide legal and technical help in adopting ordinances that protect the people who don't smoke. She said that she has been, and would continue to be, available to assist Brisbane in adoption of these regulations.

After Councilmember discussion, questions, and clarifications, they decided to take public testimony.

Michele Salmon acknowledged that this was an important but complicated issue and stressed the need to tread carefully so smokers and non-smokers rights are protected.

Tony Verreos stressed that the focus should not be to penalize smokers but to protect those around them. He asked that the Council take the time to draft well thought out laws that include all type of harmful smoke.

After further Councilmember discussion, CM Lentz made a motion to direct the Council Subcommittee to move forward on the tobacco and e-cigarette issues but not pursue zoning regulations of vapor lounges.

CM Liu responded to some of the issues that were raised and then made a substitute motion, to direct the Subcommittee to move forward on the vapor lounge regulations as well as the tobacco and e-cigarette issues.

Mayor O'Connell clarified the first motion was seconded by CM Miller and that the substitute motion made by CM Liu was seconded by CM Conway.

After further discussion about the number of hours it would take for legal research, CM Conway called for a vote on the substitute motion, which included looking at zoning regulations regarding vapor lounges. The motion failed, 2-3, CM Lentz, Miller, and Mayor O'Connell opposed.

Mayor O'Connell then called for the vote on CM Lentz's original motion. The motion carried unanimously by all present.

Mayor O'Connell noted that the Council was not making decisions at this time on the particulars of new regulations but authorizing the Council Subcommittee to continue to work on the issue.

## **STAFF REPORTS**

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

City Manager Holstine reported on the Baylands Soil Processing incident and status on the heights of the dirt piles, the upcoming Planning Commission Hearings on the Baylands EIR, and the public outreach planned for the Brisbane at Parkside Village.

Public Works Director Breault answered Council questions on the Baylands Soil Processing issue and Community Development Director Sweicki gave further information on the proposed Planning Commission hearing dates and the public outreach planned for the Brisbane at Parkside Village Precise Plan.

Michele Salmon, questioned the height of the dirt piles and the timing of doing public outreach on the Parkside Village Precise Plan at the same time the Planning Commission Baylands hearings were being conducted.

## **MAYOR/COUNCIL MATTERS**

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

Due to the late hour there were no Subcommittee Reports given.

### **B. Written Communications**

Mayor O'Connell noted that she had received a FEMA Flood map in the mail that was also sent to the Public Works Director. She said that she would provide copies to other Councilmembers.

### **C. Discussion of whether, at this time, to increase number of Planning Commissioners from five to either six or seven**

After Councilmember discussion, it was the consensus to take no action at this time.

## **ORAL COMMUNICATIONS 2**

None.

## **ADJOURNMENT**

The meeting was adjourned at 12:17am

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Sheri Marie Spediacci, City Clerk