



BRISBANE CITY COUNCIL

ACTION MINUTES

**DRAFT**

THURSDAY, OCTOBER 15, 2015

*BRISBANE CITY HALL, 50 PARK PLACE, BRISBANE*

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

- A. Conference for Real Property Negotiations under Government Code, section 54956.8; APN# 007-165-06, 600 Sierra Point Pkwy; Negotiator Clay Holstine, City Manager; Property Lessee: Opus; regarding price and terms of payment concerning a lease**

Deputy City Attorney Stricker reported that Council directed staff to enter into negotiations on the subject property.

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

Mayor O'Connell called the meeting to order and led the 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, Deputy City Attorney Stricker, Deputy Finance Director Cooper, Public Works Director Breault, Police Chief Macias, Community Principal Analyst Saguisag-Sid, Senior Management Analyst Cheung

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

CM Conway asked to close the meeting in memory of Former Mayor and Fire Chief Cyril Bologoff and long-time resident Harold Ham Marshall. He then made a motion, seconded by CM Miller, to adopt the agenda as amended. The motion carried unanimously by all present.

**ORAL COMMUNICATIONS NO. 1 (Taken out of order)**

Dr. Raymond Liu said that as the Chief of Oncology at San Francisco Kaiser, he sees the ravages of smoking and effects of second hand smoke. He encouraged the Council to consider making

the smoking ordinance as strict as possible to protect non-smokers, reduce the number of new smokers, and encourage those who do smoke, to quit.

## **PRESENTATION & PROCLAMATION**

### **A. Official Receipt of New Brisbane History Book – 1986-2011**

Principal Analyst Saguisag-Sid presented the New Brisbane History Book and read a letter from the author, Adrian Kinnane, who was unable to attend the meeting.

### **B. Parkside Plan Community Pop Up Event Saturday, Oct. 24<sup>th</sup>, 2015 10 am -12:30 pm at Old County and Park Lane**

Senior Management Analyst Cheung presented the general schedule for the Parkside Plan Community Pop Up Event and noted the various other events happening concurrently, specifically the Lion's Flu Shot Clinic and the Pumpkin Patch Event. She said that information signs would be in place to inform drivers about the road closure and also noted the Brisbane Police Department will be on-site all day to direct traffic.

### **C. Robert Maynard, San Mateo County Mosquito Abatement District Representative Update on Disease/Vectors**

Robert Maynard, Brisbane's representative on the San Mateo County Mosquito Abatement District Board reported on the status of various pest control programs and requested the public contact the District if they see a large quantity of mosquitos, deceased rodents, or yellow jacket nests. He invited the public to an Open House at the District offices in Burlingame on Jan 6, 2016 for a tour of the facility.

### **D. Fire Safety Proclamation**

Mayor O'Connell read the Fire Safety Proclamation and presented it to Deputy Fire Chief Clyde Preston. Mr. Preston spoke about the importance of smoke alarms and making sure batteries were changed on a regular basis.

## **CONSENT CALENDAR**

CM Conway made a motion, seconded by Miller, to approve the items on the Consent Calendar as proposed. The motion carried unanimously by all present.

### **A. Approve City Council Minutes of September 17, 2015**

### **B. Approval of Resolutions 2015-41 and 2015-42, amending the Classification of Recreation Coordinator in the Class Specification Manual and to Abolish Assistant Director of Peninsula TV Classification from the Specification Manual**

- C. Adopt Resolution 2015-43 Authorizing Execution of Grant Agreements with the State of California of Division of Boating and Waterway Funding**
- D. Award Construction Contract for the Bayshore Blvd South Sewer Force Main to Casey Construction, Inc. for \$384,700, and Authorize the Mayor to Sign Agreement on the City's Behalf**
- E. Approve Co-Sponsorship of the Friends of the Brisbane Library 2016 Chamber Concert Series**

**CONTINUED PUBLIC HEARING** *(Cont'd from September 17, 2015 meeting)*

- A. Consider the adoption of Ordinance No. 599 (Zoning Text Amendment RZ-2-15) to amend Brisbane Municipal Code (BMC) Chapter 17.20 (M-1 Manufacturing District) to expand the permitted and conditionally permitted uses and make related amendments to BMC Chapter 17.02 (Definitions) (This item is being continued until November 5, 2015 pending further information.)**

This item was continued until the City Council Meeting of November 5, 2015.

**NEW BUSINESS**

- A. Consider introduction of Ordinance No. 601, waiving first reading, Adding a New Chapter 2.02 to the Brisbane Municipal Code (City Council), Adding a New Section 2.02.010 Concerning City Council Salaries and Repealing Ordinance No. 281**

City Manager Holstine reported that it has been thirty three years since the salary for City Council members has been raised. He indicated that the Council discussed this item at their September 17, 2015 City Council meeting and directed staff to bring back an ordinance which would increase the monthly salary from \$165 per month to \$400 per month, an amount which is below the maximum allowed by law and is below the median salary of cities in San Mateo County. He indicated that if the Council approves the first reading at this meeting, the second reading would be on the November 5, 2015 City Council agenda and the change would take effect thirty days after that.

CM Miller made a motion, seconded by CM Lentz, to introduce Ordinance No. 601 as presented. The motion carried unanimously by all present.

- B. Consider introduction of Ordinance No. 602, waiving first reading, Consider legislation that would (1) restrict or limit the use of tobacco products and/or e-cigarettes in various public places, businesses patronized by the public and in common areas and individual units of multi-unit dwellings, (2) ban the sale of tobacco products and/or e-cigarettes sales when such products are not in the manufacturer's original packaging or are sold from vending machines or self-**

**service displays and consider whether to authorize the City Attorney to work with the Committee to explore options that other municipalities are using to regulate the establishment of retail businesses primarily engaged in selling e-cigarette products (“vape shops”)**

Deputy City Attorney Stricker reported that the purpose of this item was to determine whether to follow the recommendation of the Health & Safety Committee to (1) introduce an ordinance regulating smoking and vaporizing of a wide variety of substances, imposing certain restrictions on the sale and distribution of tobacco products including e-cigarettes, and bringing the City’s existing tobacco retailer permit requirements into conformity with the County’s parallel permitting requirements by extending the City’s requirements to retailers of e-cigarettes, and (2) authorize the City Attorney to work with the Committee to explore options that other municipalities are using to regulate retail businesses that primarily engage in the selling of tobacco products.

She said that the proposed ordinance, if adopted, would impose a variety of new regulations in Brisbane. She indicated that the proposed ordinance would ban smoking of tobacco products and other products in many public places, places patronized by the public, and in common areas and individual units of multi-unit residences. She also indicated that the smoking ban would apply to the use of e-cigarettes, and the smoking or vaporizing of medical marijuana. She further reported that the proposed ordinance would impose certain restrictions on the distribution and sale of tobacco products, including e-cigarettes, and that lastly, the proposed ordinance would extend the City’s existing tobacco retail permit requirements to e-cigarettes.

Deputy City Attorney Stricker then indicated that Ms. Shaundra Scruggs, Director of Tobacco Prevention in San Mateo County, was in attendance and available to answer any questions.

After Councilmember initial questions and clarifications of Ms. Stricker and Ms. Scruggs, they decided to take public testimony.

Carolyn Kernberger expressed agreement that second hand smoke is dangerous to public health. She also wanted to make a note that the petition that her daughter started on Change.org was for the purpose of encouraging Council to adopt an ordinance that models the smoke free multi-unit housing ordinance adopted by San Mateo County. She clarified that the people who signed the petition were signing specifically in reference to prohibiting the smoking of tobacco near or in multi-unit housing, and that they were not asked about e-cigarettes, vaping, or medical marijuana.

Madison Davis inquired if the issue of hooka lounges had been addressed. Deputy City Attorney Stricker responded that under the proposed ordinance hooka lounges would not be allowed.

Tony Verreos said that all forms of smoke should be dealt with in one ordinance and urged the Council to take their time on crafting the ordinance to get it done right.

Danny Ames expressed his opinion that vaping is not as strong as regular tobacco smoke and urged the Council not to overreach in the proposed regulations.

Joel Diaz said that he strongly discourages smoking because second hand smoke is not good for children, but cautioned the Council to be careful on impinging on upon private property owners' rights. He also advocated for other alternatives for enforcement outside of fines and jail time.

Mayor O'Connell read a letter from Carolyn Parker suggesting there be a letter of notification given to all the homeowner associations.

After further Councilmember questions and discussion of their concerns, they directed staff to amend the findings in the proposed ordinance to clarify that they are using the County's findings and research data, to notify homeowner associations and condo/townhome owners about the proposed ordinance, and to work with the Council Health and Safety Subcommittee on which City-owned properties should be listed in the proposed ordinance, including a careful review of different areas out at the Brisbane Marina. They concurred that a revised ordinance would come back before Council after further consideration by the Council Health and Safety Subcommittee.

Councilmembers further directed staff to bring back an ordinance imposing a one-year moratorium on vape shops until further study on the subject.

### **C. Receive Staff Report on Local Hazard Mitigation Plan (LHMP) Update**

Public Works Director Breault said that this was just an informational item to the Council and that no action was necessary. He explained that the Local Hazard Mitigation Plan and update is a part of ongoing outreach efforts to keep the community informed and a prerequisite for the community to be eligible for FEMA Hazard Mitigation Assistance Grant Funds.

After Councilmember questions, they thanked Mr. Breault for his efforts.

### **D. Consider Authorizing the Mayor to Execute an Agreement for Professional Services with Alta Planning+ Designs in the amount of \$50,000 for the development of the Bicycle and Pedestrian Master Plan**

Public Works Director Breault said that the Council first considered the development of a Bicycle and Pedestrian Master Plan at its meeting of April 2, 2015 and then staff brought back a Request for Proposals at its June 18, 2015 Council meeting. He said that proposals were received from three firms and that Alta Planning + Design submitted the most responsive proposal which staff was recommending that the Council authorize entering into an agreement with them.

After Councilmember questions and clarifications, CM Conway made a motion, seconded by CM Lentz, to authorize execution of the agreement as proposed. The motion carried unanimously by all present.

## **STAFF REPORTS**

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

- Update on various transportation issues

City Manager Holstine gave a brief status report on the Relocation of the CalTrain Railyard and the High Speed Railyard.

## **MAYOR/COUNCIL MATTERS**

- A. County-wide Assignments/Subcommittee Reports**
- B. Consider setting Monday, October 26, 2015 at 7:30 pm as a Special Council meeting for Presentation of Baylands Survey Results**

Councilmembers decided to set Tuesday, October 27<sup>th</sup> at 7:30 pm as the date for the Presentation of the Baylands Survey Results.

- C. Written Communications**
  - Notice of Election of President and Vice President for the Association of Bay Area Governments**

Councilmembers noted that there was no action needed on this item.

- Letter from Kamala Harris, Attorney General State of California regarding Proposed Change in Control and Governance of Charity Health System including Seton Medical Center**

CM Lentz noted that he would be attending a meeting on this issue in Half Moon Bay on October 16<sup>th</sup>. CM Miller noted that he received a letter from the Metropolitan Transportation Commission regarding the Association of Bay Area Governments and Mayor O'Connell noted that she received a communication from Dolores Gomez on the late night Council meetings.

## **ORAL COMMUNICATIONS 2**

There were no members of the public wishing to speak.

## **ADJOURNMENT**

The Council meeting was adjourned at 11:15 p.m. in memory of Cyril Bologoff and Harold Marshall.