



## Minutes of the Regular Meeting of the San Pablo City Council

Monday, November 19, 2018

### **ROLL CALL**

The meeting convened in the Council Chambers at 6:00 pm. Present in the Council Chambers were Mayor Genoveva Garcia Calloway, Vice Mayor Paul Morris and Councilmember Rich Kinney. Council Member Cruz participated via teleconference. Councilmember Cecilia Valdez was absent. Also present were City Manager Matt Rodriguez, City Attorney Lynn Tracy Nerland, Police Chief Ron Raman, Administrative Services Director Kelly Sessions, Public Works Director/City Engineer Jill Mercurio, Deputy City Clerk Lehny Corbin, and Executive Assistant LaTanya Fisher.

Councilmember Cruz confirmed that the agenda for the meeting had been duly posted at his front door and that no one from the public was at his location wishing to comment.

### **ORAL COMMUNICATIONS**

Lamont Randel spoke of vehicles speeding along Lake Street between Broadway and Giant Road and requested installation of speed bumps. Vice Mayor Morris agreed that speeding was a problem there. Mr. Randel was referred to staff.

### **CITY MANAGER REMARKS**

City Manager Rodriguez announced the following:

- November 20 County WIC Building Grand Opening at 3:00 pm
- November 21-23 Closure of City Hall and Police Department lobbies in observance of Thanksgiving Holiday
- December 2 Police Department Holiday Toy Drive
- December 7 Holiday Tree Lighting Event
- December 10 Special City Council meeting for City Council Reorganization

### **CONSENT CALENDAR**

City Manager Rodriguez announced there are speakers for agenda item #13 (tobacco ordinance). It was moved by Vice Mayor Morris, seconded by Councilmember Kinney, and passed by vote of those present to adopt all items in the Consent Calendar, with the exception of agenda items #13. The motion passed as follows:

AYES: Cruz, Kinney, Morris and Calloway

NOES: None

ABSENT: Valdez

ABSTAIN: None

### **MINUTES**

1. By adoption of the Consent Calendar, the Minutes of the meetings of November 5 and November 7, 2018 were approved. (#18-370)

## PERIODIC REPORTS

2. By adoption of the Consent Calendar, the Vendor Check Register Report for the month of October 2018 was approved. (#18-395)
3. By adoption of the Consent Calendar, the Investment Report / Treasurer's Report for the month of October 2018 were received and filed. (#18-398)

## MISCELLANEOUS

4. By adoption of the Consent Calendar, **Resolution 2018-143** was adopted, a Resolution of the City Council of the City of San Pablo (1) accepting work performed by Construction West Services, Inc. for the Church Lane Senior Center Entry Remodel Project, and (2) directing that a Notice of Completion be prepared and filed with the County Recorder. (#18-377)
5. By adoption of the Consent Calendar, **Resolution 2018-144** was adopted, a Resolution of the City Council of the City of San Pablo (1) accepting work performed by Construction West Services, Inc. for the Church Lane Senior Center Operable Partition Project, and (2) directing that a Notice of Completion be prepared and filed with the County Recorder. (#18-378)
6. By adoption of the Consent Calendar, **Resolution 2018-145** was adopted, a Resolution of the City Council of the City of San Pablo authorizing fee waiver request in the amount of \$559.80 from the Rotary Club of San Pablo for the use of the Davis Park Multipurpose Room and the Davis Park Senior Center for their Annual Holiday Dinner in the Park event scheduled on Tuesday, December 25, 2018. (#18-383)
7. By adoption of the Consent Calendar, **Resolution 2018-146** was adopted, a Resolution of the City Council of the City of San Pablo to (1) accept the design features and amenities selected by the community through public meetings; (2) accept and appropriate Measure WW Urban Creeks Grant Funds in the amount of \$800,000, and (3) authorize City Manager to enter into an agreement with California Conservation Corp (CCC) as part of a requirement for the California Natural Resources Agency (CNRA) Grant funding for the amount of \$49,080 with a 15% contingency for a total authorization of \$56,442 for the Wildcat Creek Restoration and Greenway Trail Project. (#18-381)
8. By adoption of the Consent Calendar, **Resolution 2018-147** was adopted, a Resolution of the City Council of the City of San Pablo authorizing Public Works to apply for the Metropolitan Transportation Commission Pavement Management Technical Assistance Program Round 20 (P-TAP 20) Grant, including authorization for the City Manager to execute any necessary agreements related to this grant. (#18-384)
9. By adoption of the Consent Calendar, **Resolution 2018-148** was adopted, a Resolution of the City Council of the City of San Pablo authorizing a one-time contribution of \$5,500 to sponsor eleven San Pablo residents and Walter T. Helms Middle School students to participate in a study trip to Washington, D.C., March 24 - 28, 2019. (#18-385)

10. By adoption of the Consent Calendar, **Resolution 2018-149** was adopted, a Resolution of the City Council of the City of San Pablo (1) accepting work performed by KBI Painting, Inc. for the painting of the Church Lane Senior Center Interior and (2) directing that a Notice of Completion be prepared and filed with the County Recorder. (#18-387)
11. By adoption of the Consent Calendar, **Resolution 2018-150** was adopted, a Resolution of the City Council of the City of San Pablo authorizing Public Works Department to apply for the EPA San Francisco Bay Water Quality Improvement Fund grant for the development of a Regional Pollutant Banking/Trading System, and authorizing the City Manager to execute the grant application. (#18-389)
12. By adoption of the Consent Calendar, **Resolution 2018-151** was adopted, a Resolution of the City Council of the City of San Pablo authorizing the City Manager to (1) execute a 67-month professional services agreement with OpenGov for software licensing for budget development, workforce deployment, budget work book deployment and budget and financial reporting at a not-to-exceed cost of \$159,996; (2) waive formal bidding requirements; and (3) approve the purchase through the State of California Software Licensing Program. (#18-399)

**ORDINANCES** (#18-396)

13. This item was pulled from the Consent Calendar and discussed separately. City Manager Rodriguez introduced the proposed ordinance relating to the citywide prohibition of the sales of flavored tobacco including menthol and e-cigarettes, establishing a minimum pack size for cigars, cigarillos and little cigars, and establishing a minimum price for cigars of \$10 per cigar, and indicated that if the ordinance was adopted on November 19, the ordinance would be effective 90 days after adoption. He also noted the last-minute supplemental agenda correspondence and referenced the email received on November 16, 2018 from Jaime Rojas, Jr., Legislative Consultant for the National Association of Tobacco Outlets, which requested clarification on the effective date, the minimum price for cigars, and definitions of cigars, cigarillos and little cigars.

City Attorney Nerland addressed Mr. Rojas' comments indicating that 90 days would allow retailers to sell current items and that the minimum price for cigars in the proposed ordinance is \$10, but did not apply to cigarillos and little cigars although the minimum pack size requirement would apply. She stated that staff recommends adoption of the ordinance after the Council considers any comments from the public and that a future ordinance could be brought forward to include these clarifications, as well as any other clarifications as the Police Department discusses enforcement with the tobacco retailers and other stakeholders.

The following San Pablo smokeshop owners spoke and expressed concern of their businesses failing if the proposed ordinance passes: Ali Dharhan, Yahya Hidais and Nadien Saleh. It was suggested by the speakers to follow the guidelines the cities of San Leandro, Berkeley, San Jose and Oakland instituted that exempted smokeshops and/or the ban on menthol.

Mayor Calloway expressed appreciation for smokeshop owners' comments, but voiced her opinion to proceed with the proposed ban.

Councilmember Kinney commented that protecting businesses is important to the City and moved not to vote until the new City Council is appointed for their consideration; Vice Mayor Morris seconded the motion.

Mayor Calloway stated the proposed ban has been in the works for six to eight months and suggested moving forward with the ordinance as written.

Mr. Cruz requested Councilmember Kinney's motion be amended to proceed to which Mr. Kinney did not agree. Mr. Kinney's motion to continue the item failed as follows:

AYES: Kinney and Morris  
NOES: Cruz and Calloway  
ABSENT: Valdez  
ABSTAIN: None

It was then moved by Mayor Calloway, seconded by Councilmember Cruz, to waive the second reading and adopt the ordinance. The motion failed as follows:

AYES: Cruz and Calloway  
NOES: Kinney and Morris  
ABSENT: Valdez  
ABSTAIN: None

**\*\*\*\*END OF CONSENT CALENDAR\*\*\*\***

### **MAYOR AND CITY COUNCIL ASSIGNMENTS REPORTS**

The City Council reported on their recent activities.

### **ADJOURNMENT**

The meeting adjourned at 6:37 pm to Monday, December 3, 2018 at 6:00 p.m. in memory of Luz Solemnidad, grandmother of Senior Services Coordinator Zee De Leon.

Respectfully submitted,

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Lehny M. Corbin, Deputy City Clerk

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Genoveva Garcia Calloway, Mayor