



Minutes of the Regular Meeting of the San Pablo City Council and the Local Successor Agency

Monday, December 16, 2019

ROLL CALL

The meeting convened in the Council Chambers at 5:03 pm. Present were Mayor/Chair Arturo Cruz, Vice Mayor/Vice Chair Elizabeth Pabon-Alvarado, and Councilmember/Director Rita Xavier. Councilmembers/Directors Rich Kinney arrived at 5:04 pm, and Abel Pineda arrived at 5:07 pm. Also present were City Attorney Lynn Tracy Nerland, Community & Economic Development Director Charles Ching, and Deputy City Clerk Lehnny Corbin.

City Attorney read for the record the four Closed Session items. Cordell Hindler spoke regarding Closed Session agenda #1 and his desire to see 2600 Moraga Road be an activity center. The Council recessed to the Council Conference Room.

CLOSED SESSION

1. CLOSED SESSION (#19-501)
CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Pursuant to Gov't Code Section 54956.8:
PROPERTY: 2600 Moraga Rd, San Pablo, CA 94806 (APN 416-140-050)
AGENCY NEGOTIATORS: Matt Rodriguez, Reina Schwartz, Charles Ching
NEGOTIATING PARTIES: American Recess and The Mullholland Drive Company
UNDER NEGOTIATION: Price and terms of payment for disposition of property after declaration of surplus and notice to entities pursuant to the Government Code
2. CLOSED SESSION (#19-521)
CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Pursuant to Gov't Code Section 54956.8:
PROPERTY: Block E of Plaza San Pablo on Chattleton Lane near Luna Lane APN 417-310-004
AGENCY NEGOTIATORS: Matt Rodriguez, Reina Schwartz, Charles Ching
NEGOTIATING PARTIES: BV Builders, Inc.
UNDER NEGOTIATION: Price and terms of payment for disposition of property
3. CLOSED SESSION (#19-540)
CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to California Government Code Section 54956.9(d)(2): Claim of W.E. Lyons Construction Co.
4. CLOSED SESSION (#19-541)
CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to California Government Code Section 54956.9(d)(2): Claim of Donahue Schriber Realty Group

ROLL CALL

The meeting reconvened in the Council Chambers at 6:05 pm. Present were Mayor/Chair Arturo Cruz, Vice Mayor/Vice Chair Elizabeth Pabon-Alvarado, and Councilmembers/Directors Rita Xavier, Abel Pineda and Rich Kinney. 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, City Clerk Patricia Ponce, and Deputy City Clerk Lehnny Corbin.

City Attorney Nerland announced that direction was given to the Real Property Negotiators on items 1 and 2; that item 3 was on the consent calendar for consideration; and there was no reportable action on item 4 from the Closed Session.

ORAL COMMUNICATIONS

Cordell Hindler spoke of the Salesian High School February 7 Pasta Dinner and requested two future agenda placement requests for Andy Katz to report on hospital shortage and the closure of Alta Bates Hospital and the school superintendent with an update on the budget deficit. He also spoke on the high cost of commercial property in San Pablo.

The following speakers spoke against rental increases and evictions in the community that could be related to the enactment of Assembly Bill 1482, including at the El Porto apartments that are owned by the La Strada Restaurant owner:

- Valerie Jameson of Richmond LAND
- Melvin Willis of Alliance of Californians for Community Empowerment (ACCE)
- Veronica Martinez
- Guadalupe Morales
- Anita Mendoza

They encouraged the City to consider greater rent control and eviction protections.

In addition, Debbie Toth, the Executive Director of the nonprofit Choice in Aging, spoke about the increase in seniors being homeless and for most it is their first time.

PRESENTATIONS

5. Annual Update from San Pablo Youth Commission (SPYC). (#19-300)
Community Services Coordinator Elise Veliz introduced the item. The following youth presented Service Learning, Youth Leadership, Professional Development, Community Engagement and 2.0 Goals and activities in which they participated:
 - Lester Parada
 - Ignacio Mendoza
 - Dana Reyes
 - Ruby Gallegos
 - Jonathan Gonzalez

The City Council thanked the youth for their work and participation. They also asked for copies of the San Pablo Youth Commission Newsletter.

During public comments, Cordell Hindler also supported the efforts of the Youth Commission.

CITY MANAGER REMARKS

City Manager Rodriguez reported on the following:

December 6 – Successful and well-attended Holiday Tree Lighting

December 14 – Police Department Annual Holiday Toy Drive and Car Show

December 14 – Dumpster Day

December 23 through January 1, 2020 – City Hall Closure

CONSENT CALENDAR

Councilmember/Director Kinney announced he must recuse himself from discussion of agenda item #25 regarding the San Pablo Economic Development Corporation (EDC) as he is a member of the Board of EDC. Agenda item #29 (Brookdale) was also pulled from the Consent Calendar for discussion. It was moved by Councilmember/Director Pineda, seconded by Councilmember/Director Xavier, and passed by vote to adopt all remaining items in the Consent Calendar, with the exception of items #25 and #29.

MINUTES

6. By adoption of the Consent Calendar, the Minutes of the meetings of November 18, 2019, December 2, 2019 and December 9, 2019 were approved. (#19-512)

PERIODIC REPORTS

7. By adoption of the Consent Calendar, the Vendor Check Register Report for the month of November 2019 was approved. (#19-525)
8. By adoption of the Consent Calendar, the Investment Report/Treasurer's Report for the month of November 2019 was received and filed. (#19-528)
9. By adoption of the Consent Calendar, the Summary of the 2019 NPDES Annual Report as Recommended by Grand Jury Report No. 1907 "Stormwater Trash Reduction" by the 2018-2019 Contra Costa Grand Jury was received and filed. (#19-454)
10. By adoption of the Consent Calendar, the SB 341 Housing Activities Annual Report for 2019 was received and filed. (#19-509)

LIABILITY CLAIMS

11. By adoption of the Consent Calendar, the liability claims of Ivan Calderon (DOL 03/02/19), John Libsansky (DOL 05/25/19), Erendria Martinez Alvarado (DOL 7/21/19), Anhel Gonzalez (DOL 7/21/19), and Micheline Valencia (DOL 10/24/19) were denied. (#19-504)

MISCELLANEOUS

12. By adoption of the Consent Calendar, **Resolution 2019-168** was adopted, a Resolution of the City Council of the City of San Pablo authorizing the sale of San Pablo Police Canine "Mowgly." (#19-502)
13. By adoption of the Consent Calendar, **Resolution 2019-169** was adopted, a Resolution of the City Council of the City of San Pablo authorizing the waiver of fees for use of El Portal Soccer Field and Rumrill Sports Park Kiosk, and a 2/3rd reduced fee at Rumrill Sports Park for Fields 1 and 2 (totaling \$24,590) for the San Pablo United Youth Soccer Club (SPUYSC) for the 2020 Winter/Spring Season. (#19-479)

14. By adoption of the Consent Calendar, **Resolution 2019-170** was adopted, a Resolution of the City Council of the City of San Pablo authorizing a fee waiver in the amount of \$12,890 for the San Pablo Baseball Association (SPBA) use of Davis Park Sports Fields and Concession Stand for the 2020 Spring Season. (#19-480)
15. By adoption of the Consent Calendar, **Resolution 2019-171** was adopted, a Resolution of the City Council of the City of San Pablo authorizing the City Manager to execute a three-year agreement with AT&T in the amount of \$17,280 annually for internet broadband service for a total contract cost of \$51,840. (#19-494)
16. By adoption of the Consent Calendar, **Resolution 2019-172** was adopted, a Resolution of the City Council of the City of San Pablo adopting an updated Community Services Department Fee Schedule for Programs, Services and Facility Rental Rates, and approving the addition of a new rental room at the San Pablo Community Center. (#19-503)
17. By adoption of the Consent Calendar, **Resolution 2019-173** was adopted, a Resolution of the City Council of the City of San Pablo authorizing the City Manager to appropriate \$94,748 from the FY 2018/19 General Fund Designated Reserves (Fordham & El Portal Stabilization/Repairs) to the El Portal/Fordham Road Stabilization Project (Phase II) and to transfer \$118,260 from Phase I Project Funding to Phase II. (#19-507)
18. By adoption of the Consent Calendar, **Resolution 2019-174** was adopted, a Resolution of the City Council of the City of San Pablo authorizing the City Manager to enter into an agreement with Earth Team for waste reduction and data collection services in the amount of \$13,200. (#19-511)
19. By adoption of the Consent Calendar, **Resolution 2019-175** was adopted, a Resolution of the City Council of the City of San Pablo (1) approving and adopting the plans and specifications for the Bird Nesting Trees Removal Project; (2) rejecting the Bird Nesting Trees Removal Project bid from Arborist Now, Inc., and (3) awarding a contract for the Bird Nesting Trees Removal Project and authorizing the City Manager to execute a contract with the lowest responsive and responsible bidder, the Professional Tree Care Company, in the amount of \$109,240 with a 15% contingency for a total contract authorization of \$125,626 to be transferred from Wildcat Creek Trail Project (WCC-TRL to Project No. 0201). (#19-522)
20. By adoption of the Consent Calendar, **Resolution 2019-176** was adopted, a Resolution of the City Council of the City of San Pablo approving and ratifying an application for the State of California Office of Emergency Services for Public Safety Power Shutoff (PSPS) Resiliency Grant Funds and authorizing the City Manager to execute any agreements related to this grant. (#19-526)
21. By adoption of the Consent Calendar, **Resolution 2019-177** was adopted, a Resolution of the City Council of the City of San Pablo authorizing the City Manager to enter into any grant agreements for the Highway Safety Improvement Program (HSIP) with the Department of Transportation (Caltrans) for the Church Lane/Willow Road and El Portal Drive/Mission Bell Road Intersection Improvements Project. (#19-527)

22. By adoption of the Consent Calendar, **Resolution 2019-178** was adopted, a Resolution of the City Council of the City of San Pablo authorizing the City Manager to execute a Quit Claim Deed and Transfer of Right-of-Way Properties to the State of California, Department of Transportation for properties related to the I-80/San Pablo Dam Road Interchange Project. (#19-530)
23. By adoption of the Consent Calendar, **Resolution 2019-179** was adopted, a Resolution of the City Council of the City of San Pablo approving and authorizing execution of a Mutual Release and Settlement Agreement between the City of San Pablo and W.E. Lyons Construction Company for the Women, Infants and Children (WIC) Program Building. (#19-533)
Recommendation: Adopt Resolution
24. By adoption of the Consent Calendar, **Resolution LSA2019-003** was adopted, a Resolution of the Local Successor Agency of the Former Redevelopment Agency of the City of San Pablo approving an Administrative Budget and adopting the Recognized Obligations Payment Schedule for Fiscal Year 2020-21 ("ROPS 20-21"). (#19-510)
25. This item was pulled from the Consent Calendar and discussed separately. As disclosed by Director Kinney, he recused himself from discussion of this item as he is a board member of the San Pablo Economic Development Corporation. City Manager Rodriguez introduced the item. Community & Economic Development Director Charles Ching provided background information on the sale of the subject property by the EDC to a private party and the request for a partial reconveyance of the deed of trust. It was moved by Vice-Chair Pabon-Alvarado, seconded by Director Xavier, and passed by vote, to adopt **Resolution LSA2019-004**, a Resolution of the Local Successor Agency of the Former Redevelopment Agency of the City of San Pablo approving and authorizing the execution of a Partial Reconveyance Deed, releasing a portion of the Mission Plaza property from the Deed of Trust securing the Promissory Note executed by the San Pablo Economic Development Corporation in connection with its purchase of that property from the San Pablo Local Successor Agency. The motion passed as follows: (#19-532)
AYES: Pineda, Xavier, Pabon-Alvarado and Cruz
NOES: None
ABSENT: None
ABSTAIN: None
RECUSED: Kinney

BOARDS AND COMMISSIONS

26. By adoption of the Consent Calendar, **Resolution 2019-180** was adopted, a Resolution of the City Council of the City of San Pablo formalizing San Pablo Youth Commission (SPYC) appointments. (#19-299)
27. By adoption of the Consent Calendar, Mirna Bymaster was appointed to a four-year term on the San Pablo Safety Commission (one vacancy). (#19-496)
28. By adoption of the Consent Calendar, the City Council authorized the posting of Local Appointments List pursuant to the Maddy Act. (#19-543)

CITY COUNCIL CONSIDERATION/AUTHORIZATION

29. This item related to Brookdale Senior Housing was pulled from the Consent Calendar and discussed separately. City Manager Rodriguez introduced the item and provided background information on the impending closure of Brookdale Residential Senior Living Facility and the transmittal of the correspondence signed by the County Supervisor John Gioia, State Senator Nancy Skinner, State Assemblymember Buffy Wicks, San Pablo Mayor Arturo Cruz, Vice Mayor Elizabeth Pabon-Alvarado, and Councilmembers Rita Xavier, Abel Pineda and Rich Kinney.

The following members of the audience spoke against the sudden closure of Brookdale, some of whom were residents and others who had family members at Brookdale:

Alex Angell submitted as a public record a document entitled "Manifesto")

- Elsa Stevens
- Tappoly Mills
- Julian Dunn
- Vincent Dunn
- Nancy Adler
- Claudine Jones
- John Ladd
- Annie Prutzman
- Melvin Willis
- Martha Kapla
- Susan Singh
- Carley Angell

Nicole Howell, the Executive Director for Ombudsman Services of Contra Costa, Solano and Alameda, talked about the lack of independent and assisted living facilities within 60 miles and the desire to find a licensed operator to take over Brookdale. She has been in contact with the California Advocates for Nursing Home Reform and Legal Aid.

At the City Council's request, City Manager Rodriguez clarified that no rezoning or repurpose application for the Brookdale facility has been received to date; indicated that the action before the City Council was to ratify the letter already sent to the property owner and operator of Brookdale; emphasized that it was a State-regulated facility; and indicated that there was a meeting scheduled with stakeholders on Thursday facilitated by County Supervisor John Gioia. He further reported that the State has rescinded the closure plan, but urged the residents to contact the State legislators to look into recent activities by Brookdale.

At the Mayor's request, Veronica Rivera of Love Apparent spoke of her meeting with Mayor Cruz and offered her assistance to Brookdale residents as she would be interested in operating it.

City Council expressed their concerns and empathized with the seniors. City Manager Rodriguez reinforced that Brookdale is a State-regulated facility with a dispute between the property owner and tenant.

It was moved by Councilmember Kinney, seconded by Councilmember Xavier, and unanimously passed to ratify by Minute Order the joint correspondence from San Pablo City Council, along with other local and state elected officials, regarding the planned closure and eviction of senior residents from the Brookdale Residential Senior Living Facility, located at 13956 San Pablo Avenue in San Pablo, and to authorize its transmittal to Dr. Steven Arnold (property owner) and Brookdale Senior Living, Inc. (tenant/operator). (#19-542)

ORDINANCES

30. By adoption of the Consent Calendar, the second reading was waived and **Ordinance 2019-002** was adopted, an Ordinance of the City Council of the City of San Pablo amending San Pablo Municipal Code Chapter 8.40, "Stormwater Management and Discharge Control," and Chapter 16.02, "General Provisions" related to subdivisions. (#19-458)

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

PUBLIC HEARINGS

31. City Manager Rodriguez introduced the item regarding El Mexicano's request for a conditional use permit and provided background information on the public hearing and its continuance concerning Use Permit #1386. Assistant Planner Sandra Marquez gave a PowerPoint presentation showing the location of El Mexicano Bar as well as the project description, the background of the existing use permit, and the Planning Commission's recommendation of denial of the request for extended hours and sale of alcohol and staff's recommendation to deny the request for extended hours, the sale of alcohol and live music. Ms. Marquez also indicated that following the City Council's direction at the last Council meeting, staff contacted the Bureau of Alcohol Beverage Control (ABC), but ABC does not issue provisional licenses to sell hard alcohol.

Lt. John Benone presented the statistics regarding the over-concentration of alcohol uses in San Pablo and calls for service within the 400-foot radius of El Mexicano's location, including arrests and drug-related incidents. He expressed his concerns for public safety if the expanded liquor license and extended hours were approved.

Ms. Marquez continued her presentation of analysis and findings, as well as the proposed recommendations to deny the request to amend the use permit to expand the liquor license from Type 42 to Type 48 liquor license; to extend the hours of operation from midnight to 2:00 am with live acoustic entertainment. City Attorney Nerland advised that with the new information presented, staff recommends that the City Council allow the applicant to speak as well as any members of the public, even if they spoke at the prior City Council meeting.

The public hearing was opened at 8:22 pm.

Rosa Lara, consultant for El Mexicano Bar, stated the applicants want to be good neighbors and to work with the Police Department, so they no longer want to amend the liquor license, but would like extended hours and acoustic music.

The following members of the public spoke in support of El Mexicano Bar's request explaining that the owners ran a good and safe business for the local community:

- Kelly Clinton, bookkeeper for El Mexicano
- Joe Schlemmer, former San Pablo and Richmond police officer
- Rafael Delgado (comments in Spanish summarized by the Councilmember Pabon-Alvarado and City Clerk Patricia Ponce)
- Jorge Taman, member of 23rd Street Merchants Association comments in Spanish summarized by the Vice Mayor Pabon-Alvarado and City Clerk Patricia Ponce)
- Yvet Castro
- Melva Gamez, owner of El Mexicano Bar (comments in Spanish summarized by the Vice Mayor Pabon-Alvarado and City Clerk Patricia Ponce), indicated that they run a responsible business that doesn't require the Police Department to come inside
- Raul Gomez
- Fidel Gonzalez
- Jose Castro, son of the owner of El Mexicano Bar, questioned the statistics

City Clerk Ponce read for the record the email Cordell Hindler sent to Ms. Sandra Marquez on December 12, 2019, stating *"Hello, Sandra, I had looked at the Agenda in Regarding the time extended of El Mexicano Bar, but I agree with the San Pablo PD, there has been a number of issues that are related I the Staff Report. Sincerely Cordell"*.

Speaker Kelly Clinton also questioned the statistical data and the time from when the data was taken. Chief Raman reiterated that the concern is for public safety.

The public hearing closed at 8:44 pm.

After some Council discussion about the hours and sale of alcohol, the applicant's representative, Rosa Lara, indicated that El Mexicano would announce "last call" at 1:15 am, stop selling alcohol at 1:30 am, and close at 2:00 am.

It was moved by Councilmember Xavier, seconded by Mayor Cruz, and passed by vote, to adopt **Resolution 2019-181**, a Resolution of the City Council of the City of San Pablo approving the request to amend the Use Permit #1386 to add non-amplified acoustic live entertainment and denying the request to expand the liquor license from Type 42 to Type 48 and to extend the hours of operation from midnight to 2:00 am, at El Mexicano Bar, located at 1835 23rd Street, San Pablo, California, APN 411-090-023 with the findings and conditions of approval in the Planning Commission resolution. The motion passed as follows: (#19-515)

AYES: Pineda, Xavier and Cruz

NOES: Kinney and Pabon-Alvarado

ABSENT: None

ABSTAIN: None

MAYOR AND CITY COUNCIL ASSIGNMENTS REPORTS

City Council reported on their recent activities.

It was moved by Councilmember Pineda, seconded by Mayor Cruz, and unanimously passed, to direct the City Manager on behalf of the City and Housing Successor to: 1) explore applicable policy options after the December 19th joint meeting between the property owner and the tenant Brookdale to support an extension of the operations at Brookdale to ensure the safe and compassionate transition of the senior residents; and 2) place on the agenda at the next regular meeting or special meeting in January if necessary the appropriation of low/mod housing funds not to exceed \$41,000 to be used for providing a one-time \$500 per resident housing relocation assistance to eligible low-income senior residents in the event a resolution cannot be reached by the property owner and operator of Brookdale.

City Manager clarified with Councilmember Pineda that the resolution gives staff authority to schedule a special meeting if evictions were to occur before January 21, 2020.

Vice Mayor Pabon-Alvarado asked whether the amount had to be capped. The City Attorney indicated that the agenda item could be written to allow a broader discussion. Councilmember Pineda and Mayor Cruz concurred.

Accordingly, it was moved by Councilmember Pineda, seconded by Mayor Cruz, and unanimously passed, to direct the City Manager on behalf of the City and Housing Successor to: 1) explore applicable policy options after the December 19th joint meeting between the property owner and the tenant Brookdale to support an extension of the operations at Brookdale to ensure the safe and compassionate transition of the senior residents; and 2) place on the agenda at the next regular meeting, or special meeting in January if necessary, the appropriation of low/mod housing funds to be used for providing a one-time housing relocation assistance of \$500 to eligible low-income senior Brookdale residents in the event a resolution cannot be reached by the property owner and operator of Brookdale to extend operations.

It was moved by Mayor Cruz, seconded by Councilmember Pineda, and unanimously passed to direct staff to determine if the San Pablo Cowboys football and cheer groups and San Pablo Youth Soccer group participated in State competitions and if so, to agendize at a future Council meeting in recognition of their accomplishment with a plaque.

ADJOURNMENT

The meeting adjourned at 9:13 pm, to Tuesday, January 21, 2020, at 6:00 pm.

Respectfully submitted,

Patricia Ponce, City Clerk

Arturo M. Cruz, Mayor