



Minutes of the Regular Meeting of the San Pablo City Council

Monday, November 5, 2018

ROLL CALL

The meeting convened in the Council Chambers at 5:01 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, Assistant City Manager Reina Schwartz, and Deputy City Clerk Lehny Corbin.

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.

Cordell Hindler spoke regarding the first closed session item regarding negotiations with employee organizations. He indicated his support for unions.

Felix Mario Huerta Jr., Business Agent for Operating Engineers Local Union #3, also spoke regarding the closed session item regarding negotiations with employee organizations and indicated that five outstanding issues still remain, which include wages, binding arbitration, uniforms, and health care, among other things.

The Closed Session adjourned to the Council Conference Room at 5:04 pm.

CLOSED SESSION

1. CLOSED SESSION (#18-366)
CONFERENCE WITH LABOR NEGOTIATORS
(Pursuant to Govt. Code section 54957.6)
AGENCY DESIGNATED REPRESENTATIVES: Matt Rodriguez, Reina Schwartz, Tina Gallegos, Kelly Sessions, Kelly Tuffo
EMPLOYEE ORGANIZATIONS: San Pablo Police Employees Association and Operating Engineers Local #3
2. CLOSED SESSION OF CITY OF SAN PABLO (HOUSING SUCCESSOR)
(#18-375)
CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Pursuant to Govt. Code Section 54956.8:
PROPERTY: Giant Road Apartments, 2832 Giant Road, San Pablo
(APN 412-060-005-3)
AGENCY NEGOTIATORS: Matt Rodriguez, Reina Schwartz, Charles Ching, Kelly Sessions, Jennifer Luong
NEGOTIATING PARTIES: Giant Development, LP (East Bay Asian Local Development Corporation "EBALDC")
UNDER NEGOTIATION: Price and terms of payment of existing note/loan (originally with the former Redevelopment Agency of the City of San Pablo)

ROLL CALL

The meeting reconvened at 6:02 pm in the Council Chambers. Present in the Council Chambers were Mayor Genoveva Garcia Calloway, Vice Mayor Paul Morris and Councilmembers Rich Kinney and Arturo Cruz who participated via teleconference. Absent was Councilmember Cecilia Valdez. Also present were City Manager Matt Rodriguez, City Attorney Lynn Tracy Nerland, Assistant City Manager Reina Schwartz, Police Chief Ron Raman, Public Works Director Jill Mercurio, City Treasurer Viviana Toledo, City Clerk Elizabeth Pabon-Alvarado, and Deputy City Clerk Lehny Corbin.

Councilmember Cruz confirmed that the agenda for the meeting was posted at his front door and that no members of the public were present at his location who wished to comment.

City Attorney Nerland reported on the Closed Session items:

Closed Session #1 – Direction was given to labor negotiators

Closed Session #2 – Vice Mayor Morris did not participate in discussion of this item as his residence is within 500 feet of Giant Road. The remaining Council Members discussed the item, but no action was taken as the item is under Consent Calendar for consideration by the City Council.

ORAL COMMUNICATIONS

Cordell Hindler requested a representative from Community Violence Solutions present to the City Council regarding human trafficking and other presentation regarding CalPERS pension liability. He also mentioned a show called “Ripcord.”

The following members of the San Pablo Youth Commission reported on their participation in the events held by the Youth Commission: Ignacio Mendoza, Kimberly Mata and Valentino Cooper.

Felix Mario Huerta Jr., Business Agent for Operating Engineers Local Union #3, spoke and asked the City Council to consider that there is a conflict of interest with the City Manager being the final arbitrator for grievance processes under the MOU with Local #3.

CEREMONIAL MATTERS

3. Police Chief Raman acknowledged Lieutenant Mike Gancasz for his involvement in the deployment of the vehicle tracking technology and reported that the City was recognized at an event in Virginia with the StarChase Award along with six other police agencies in the nation. (#18-371)

PRESENTATIONS

4. Gia Paolini, Community Library Manager for the San Pablo Library, updated the City Council on the attendance, events and usage for the first year of the new Library (2017-18). She reported on the increase of new library card registrations, computer usage (laptop lending), as well as the door counts. (#18-365)

CITY MANAGER REMARKS

City Manager Rodriguez announced the following:

- Elections – drop-off ballot location at City Hall
- The success of the 4th Annual City Hall-o-Ween event held on October 25
- November 10 Veteran's Day event at City Hall
- Closure of City Hall and Police Department lobbies on Monday, November 12 in observance of the Veteran's Day Holiday
- November 15 Annual Police Awards Ceremony at the College's Performing Arts Center

CONSENT CALENDAR

Vice Mayor Morris announced that he would not participate on agenda item #7 (Giant Road Apartments) as he lives within 500 feet of the apartments. It was moved by Vice Mayor Morris, seconded by Councilmember Cruz, and passed by vote of those present to adopt all items in the Consent Calendar, with the exception of agenda items #7. The motion passed as follows:

AYES: Cruz, Kinney, Morris and Calloway

NOES: None

ABSENT: Valdez

ABSTAIN: None

MINUTES

5. By adoption of the Consent Calendar, the Minutes of the meeting of October 15, 2018 were approved. (#18-355)

MISCELLANEOUS

6. By adoption of the Consent Calendar, **Resolution 2018-140** as adopted, a Resolution of the City Council of the City of San Pablo approving Youth Commission appointments. (#18-336)
7. By separate motion by Council Member Kinney and seconded by Mayor Calloway, **Resolution 2018-141** was adopted, a Resolution of the City Council of the City of San Pablo as Housing Successor approving and authorizing the deferral of annual payments due to the City from Giant Development, L.P., attributable to loans made for the Giant Road Apartments in order to allow repairs caused by the water intrusion. The motion passed as follows: (#18-368)
AYES: Cruz, Kinney and Calloway
NOES: None
ABSENT: Valdez
DISQUALIFICATION for Conflict of Interest: Morris

BOARDS AND COMMISSIONS

8. By adoption of the Consent Calendar, the term of Evalinda Lucas was renewed for two-year term, and Dr. RanaLee Berman was appointed to a two-year term on the Advisory Committee on Aging was authorized by Minute Order. (#18-357)

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

ORDINANCES

9. City Manager introduced the item and explained that tobacco has been a policy item on the Council Priority Workplan and referred to the last minute supplemental agenda correspondence which included the following six communications related to the tobacco ordinance:
- 1) E-Transmittal/Letter dated 11/02/18 from Amanda Gutzmiller, Advocacy Manager, Greater Bay Area of American Lung Association
 - 2) E-Transmittal/Letter dated 11/02/18 from Phillip Gardiner, Dr. P.H., Co-Chair of African-American Tobacco Control Leadership Council
 - 3) E-Transmittal/Letter dated 11/02/18 from Cynthia Hallet, President/CEO, Americans for Non-Smokers' Rights
 - 4) Hand-delivered 11/5/18/Letter dated 11/4/18 from Rocio Elisa Hernandez, PhD, LMFT, LPCC
 - 5) E-Transmittal/Letter dated 11/5/18 from Alexina Rogers, Center Director for West County First 5 Center
 - 6) E-Transmittal/Letter dated 11/5/18 from Mary Jaccodine, MPH, Coalition Co-Chair of Contra Costa County Tobacco Prevention Coalition

Mayor Calloway also acknowledged receipt of an email from Hollywood Smoke Shop opposing the proposed menthol ban and the financial effect on the business.

Planning Manager Elizabeth Dunn gave a PowerPoint presentation and provided an overview of the proposed tobacco ordinance, the research conducted, the details of the proposed ban of flavored tobacco products, the definitions of "Electronic Smoking Device" and "Flavored Tobacco," the types and different flavors of tobacco products, and the rationale for proposing a city-wide ban and staff recommendations.

City Manager Rodriguez mentioned that the Department of Justice awarded the City \$612,000 tobacco grant to be used for community education.

Police Officer Chelsea Douglas reported on the community outreach conducted to date. City Manager also reported that 61 tobacco retailers within the city were notified of the proposed ordinance.

The following speakers spoke against the proposed ban:

- Elaine Almeida, Adobe Liquors
- Ali Ibrahim, San Pablo Chevron
- Yusef Shariff, Golden 7 Food

The following spoke in favor of the proposed ban:

- Irene Nikkah, American Cancer Society
- Jennifer Grand, Contra Costa County Tobacco Prevention Program
- Kwesi Wilkerson, African-American Tobacco Control Leadership Council
- Karina Guadalupe, YTAPP
- Nancy Ybarra, BACR/YTAPP
- Jose Torres, YTAPP
- Phillip Banks, YTAPP

- Norma Perez, YTAPP
- Ali Wohlgemuth, BACR
- Amreen Akhtar, YTAPP
- Aileen Delgado, YTAPP (City Clerk Pabon-Alvarado read Ms. Delgado's statement)
- Tiffani Mason, San Pablo resident

Councilmember Kinney thanked the speakers and expressed his desire that the City not lose businesses and that the City not legislate how adults purchase products.

Vice Mayor Morris stated he was in favor of banning fruit-flavored tobacco products but not in favor of banning menthol. Mayor Calloway stated she supports the total ban, including menthol.

It was moved by Councilmember Cruz to introduce the ordinance as presented by staff, and Mayor Calloway seconded the motion.

Councilmember Kinney asked that the motion be amended to not have any ban but to increase prevention of youth accessing tobacco products.

Councilmember Cruz did not agree to this amendment.

It was moved by Councilmember Cruz, seconded by Mayor Calloway, and passed by vote to waive the first reading and introduce an Ordinance of the City Council of the City of San Pablo amending Chapter 5.06 of the San Pablo Municipal Code 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, as presented by staff and if approved would be presented under Consent Calendar at the next City Council meeting. The motion passed as follows: (#18-373)

AYES: Cruz, Morris and Calloway

NOES: Kinney

ABSENT: Valdez

ABSTAIN: None

The meeting took a five-minute recess and the reconvened with Genoveva Garcia Calloway, Vice Mayor Paul Morris and Councilmember Rich Kinney. Council Member Cruz participated via teleconference. Councilmember Cecilia Valdez was absent.

RESOLUTIONS

10. City Manager Rodriguez introduced the item regarding a Citywide Noise and Traffic Study and provided some background on bringing the item for consideration for placement on the Council Priority Workplan.

Margaret Judkins and Annabel Peterson spoke and thanked the City Council for considering the item. It was moved by Councilmember Kinney, seconded by Vice Mayor Morris, and passed by vote of those present to adopt **Resolution 2018-14**, a Resolution of the City Council of the City of San Pablo amending the FY 2018-21

Council Priority Workplan to authorize citywide noise and traffic studies to be incorporated into the General Plan Update 2020 process. The motion passed as follows: (#18-361)

AYES: Cruz, Kinney, Morris and Calloway

NOES: None

ABSENT: Valdez

ABSTAIN: None

PUBLIC HEARINGS

11. City Manager stated the reason for the request for continuance of a possible amendment to the Safety and Noise Element of the General Plan. Planning Manager Dunn provided some background information on the proposed amendments and the time needed to conduct research in order to implement the amendments. Ms. Dunn and City Manager Rodriguez addressed Councilmember Kinney's query regarding noise and air quality.

The public hearing was opened and closed at 8:03 p.m. as no one spoke for or against the item. City Attorney Nerland stated that another public hearing notice would be sent out when the item comes back for Council consideration.

It was moved by Vice Mayor Morris, seconded by Mayor Calloway, and passed by vote of those present to continue the item regarding an amendment to the safety and noise element of the City of San Pablo General Plan to adopt all of Volume 1 and the City of San Pablo portion of Volume 2 of the Contra Costa County Operational Area Hazard Mitigation Plan (HMP) Update. The motion passed as follows: (#18-374)

AYES: Cruz, Kinney, Morris and Calloway

NOES: None

ABSENT: Valdez

ABSTAIN: None

MAYOR AND CITY COUNCIL ASSIGNMENTS REPORTS

The City Council reported on their recent activities.

It was moved by Mayor Calloway, seconded by Councilmember Cruz, and passed by vote of those present, to hold a special meeting on Wednesday, November 7, 2018 at 5:00 pm to discuss Senate Bill 54 (California Values Act) and consider joining the *Amicus Curiae*, "friend of the court" brief. Councilmember Kinney stated he is unavailable and would not be present for the meeting. The motion passed as follows:

AYES: Cruz, Kinney, Morris and Calloway

NOES: None

ABSENT: Valdez

ABSTAIN: None

ADJOURNMENT

The meeting adjourned at 8:11 pm to Monday, November 19, 2018 at 6:00 pm, in memory of the 11 people slain at the Tree of Life Synagogue in Pittsburgh.

Respectfully submitted,

Elizabeth Pabon-Alvarado, City Clerk

Genoveva Garcia Calloway, Mayor