



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

Monday, January 14, 2019

### **ROLL CALL**

The meeting convened in the Council Chambers at 4:00 pm. Present in the Council Chambers were Mayor Rich Kinney, Vice Mayor Arturo Cruz and Councilmembers Elizabeth Pabon-Alvarado and Rita Xavier. 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 Executive Assistant LaTanya Fisher.

### **ORAL COMMUNICATIONS**

Cordell Hindler requested Council to invite representatives from BART to give an update of any additions to the BART system and from Republic Services to give an update on new innovation to the recycle system, and also commented on the Council reorganization held in December 2018.

### **CITY COUNCIL VACANCY**

1. City Manager Rodriguez provided background on the City Council interviews and appointive process. He reported that at the special meeting of December 20, 2018, the City Council adopted Resolution 2018-166 that initiated the appointive process to fill the Council vacancy as a result of Councilmember Cecilia Valdez's retirement effective January 2, 2019. City Manager Rodriguez explained the interview and deliberation processes and stated applicants Paul Morris, Abel Pineda, Milyn Sanchez and Brett Thomas Ryland were eligible to be interviewed but that Mr. Abdula Dabwan would not be able to participate due to residence ineligibility. He further stated that immediately following appointment of a councilmember, said appointee would be seated at the dais in order to proceed with the rest of City Council business. (#19-020)

Cordell Hindler commented on the interview process. The following spoke in support of Abel Pineda: Genoveva Garcia Calloway, Joan Carpenter, Leonard McNeil, Maria Alegria, Mary Nicely, Tony Thurmond, and Valerie Jameson.

City Council interviewed Paul V. Morris, Abel Pineda and Brett Thomas Ryland. Although Ms. Milyn Sanchez was not present for the interview, City Manager informed Council that she is still eligible and her application could be taken into consideration.

Mayor Kinney thanked the candidates for their interest in serving the City and reminded those candidates who are not appointed that they would have an opportunity to run in the November 2020 election. Councilmember Cruz thanked candidates for their dedication to the City.

It was moved by Mayor Kinney, seconded by Councilmember Pabon-Alvarado, to appoint Paul V. Morris to the vacant City Council seat. The motion failed as follows:

AYES: Kinney and Pabon-Alvarado

NOES: Xavier and Cruz

ABSENT: None

ABSTAIN: None

City Attorney Nerland informed the City Council that the motion failed and the Mayor could either entertain another motion with three affirmative votes to appoint someone to the position and, if not filled by appointive process, then Council would have to call for a special election pursuant to California state law.

It was moved by Councilmember Xavier, seconded by Vice Mayor Cruz, to appoint Abel Pineda to the vacant City Council seat. The motion passed as follows:

AYES: Xavier, Pabon-Alvarado and Cruz

NOES: Kinney

ABSENT: None

ABSTAIN: None

The Oath of Office was administered to Mr. Abel Pineda by City Clerk Ponce, and Councilmember Pineda joined the City Council at the dais.

#### **PLANNING COMMISSION VACANCY**

2. City Manager Rodriguez reported the City Clerk's office received one eligible application for the Planning Commission vacancy position. City Council conducted the interview process for applicant Paul V. Morris. City Manager Rodriguez stated that the appointment would be effective immediately and with the term expiring in September 2021 (#19-006).

Cordell Hindler spoke regarding the appointment of Planning Commission applicant.

It was moved by Councilmember Pabon-Alvarado, seconded by Councilmember Xavier, to appoint Paul V. Morris to the Planning Commission. The motion passed as follows:

AYES: Pineda, Xavier, Pabon-Alvarado, Cruz and Kinney

NOES: None

ABSENT: None

ABSTAIN: None

Paul Morris thanked the City Council and the Oath of Office was administered by City Clerk Ponce.

Ali Ibrahim, a business retailer spoke against the recently adopted tobacco ordinance, which bans flavored tobacco and restricts pack size and pricing of cigars, little cigars and cigarillos.

## **CLOSED SESSION**

Cordell Hindler spoke on the City Attorney evaluation.

City Council recessed to the Council Conference Room for Closed Session at 5:40 pm. on the following topics listed on the agenda:

3. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION (#19-001)  
Initiation of litigation pursuant to California Government Code section 54956.9(d)(4): 2 cases
4. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION (TORT CLAIMS) (#19-002)  
Anticipated litigation against the City of San Pablo pursuant to California Government Code Sections 54956.9(d)(2) and 54956.95:
  1. Donohue Schriber Realty Group (Princeton Plaza): DOL 6/1/16
  2. Nunes, David: DOL 3/30/18
  3. Phasavath, Phouthalom: DOL 9/11/18
  4. Ramirez, Maria: DOL 9/26/18
  5. Romey, Joe: DOL 9/23/16
  6. Saechao, Yao: DOL 12/5/16
  7. Salgado, Edgar Eli Mendez: DOL 2/1/18
  8. Solanki, Kiran/Ohmsai Investment, Inc.: DOL 10/12/17
  9. Walker, Dawnya: DOL 10/15/18
  10. Watts II, Eddie C: DOL 10/5/17
  11. Zamira, Eric Jason: DOL 6/28/18
5. CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION (#19-003)  
Existing litigation against the City of San Pablo pursuant to California Government Code Section 94596.9(d)(1):
  1. C.D.D.S. by and through his guardian ad litem *Lahoma DosSantos v. City of San Pablo*, US District Court, Northern District of California, case number 17-cv-00414 DMR (dismissed without prejudice)
  2. *Noe Silva et al v. City of San Pablo*, US District Court, Northern District of California, case number 16-cv-04360; Contra Costa County Superior Court, case number C18-01588
  3. *Al D. Jones et al. v. City of San Pablo et. al.*, Small Claims Action RSC18-0622
6. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION (#19-004)  
Anticipated litigation pursuant to California Government Code Section 54956.9(d)(2)
  1. W.E. Lyons Construction Claim regarding WIC Design-Build Building
  2. Ascent Builders regarding new City Hall contract process
  3. One potential case pursuant to Government Code section 54956.9(e) (1)

7. CLOSED SESSION pursuant to Gov't Code section 54957:  
PUBLIC EMPLOYEE PERFORMANCE EVALUATION (#19-005)  
Title: City Attorney

City Council returned to the Council Chambers at 8:37 pm.

City Attorney Nerland reported that City Council provided direction to City Attorney for item 6 (one potential case) that involves the utility users tax and the West Contra Costa Unified School District's request for a refund and no other action was taken on the other items.

It was moved by Mayor Kinney, seconded by Vice Mayor Cruz, and unanimously passed, to get feedback and an enforcement timeline update for the flavored tobacco ordinance. City Manager Rodriguez reminded Council that staff is working on a compliance plan and enforcement timeline and that this item would be presented to the Public Safety Standing Committee and placed on a future City Council agenda.

**ADJOURNMENT**

The meeting adjourned at 8:45 pm to Tuesday, January 22, 2019 at 6:00 pm, in memory of Newman Corporal Ronil Singh and Davis Police Officer Natalie Corona.

Respectfully submitted,

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Patricia Ponce, City Clerk

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Rich Kinney, Mayor