

REGULAR MEETING OF THE
CONCORD CITY COUNCIL/CITY
COUNCIL SITTING AS THE LOCAL
REUSE AUTHORITY
CITY COUNCIL CHAMBER
1950 PARKSIDE DRIVE
CONCORD, CALIFORNIA
TUESDAY, JULY 12, 2016

The Concord City Council met in a regular meeting in the City Council Conference Room located in Wing A at 1950 Parkside Drive at 5:30 p.m. on Tuesday, July 12, 2016, with Mayor Hoffmeister presiding. All Councilmembers were present. The meeting was recessed and immediately reconvened in a closed session to confer with labor negotiators pursuant to Government Code Section 54957.6. City Negotiators: Valerie Barone, City Manager and Jovan Grogan, Deputy City Manager. Employee Organizations: Administrative, Technical & Clerical Representation Unit and Field & Operations Representation Unit of International Brotherhood of Teamsters Local 856; Professional Representation Unit of OPEIU Local 29; Peace Officer Representation Unit of Concord Police Officers Association and Police Managerial Representation Unit of Police Management Association. Unrepresented Units: Executive, Management & Confidential Employees.

The meeting recessed at 6:45 p.m. to reconvene in regular session in the Council Chamber.

The Concord City Council met in a regular meeting in the Council Chamber located at 1950 Parkside Drive at 7:00 p.m. on Tuesday, July 12, 2016, with Mayor Hoffmeister presiding. The pledge of allegiance was led by Councilmember Grayson. Minutes follow in abbreviated form per Resolution 3361 and Council Minutes of September 26, 1966.

ROLL CALL

COUNCILMEMBERS PRESENT: Edi Birsan, Tim Grayson, Dan Helix, Ron Leone, Laura Hoffmeister

STAFF PRESENT: Valerie Barone, City Manager; Susanne Brown, City Attorney; Tim McGallian, City Treasurer, Joelle Fockler, City Clerk; Jovan Grogan, Deputy City Manager; Guy Swanger, Chief of Police; Justin Ezell, Director of Public Works; Guy Bjerke, Director of Community Reuse Planning; Karan Reid, Director of Finance, Josh Clendenin, Deputy City Attorney; Joan Ryan, Senior Planner; Jeff Rogers, Infrastructure Manager; Leslye Asera, Community Relations Manager

MEMBERS OF THE PUBLIC WHO ADDRESSED THE COUNCIL: Joe Partansky, Concord; Howard Herrold, Concord; George Fulmore, Concord; Dr. Harmesh Kumar, Concord; Jeff Koertzen, Concord; Hope Johnson, Concord; Rosanne Nieto, Concord; Juan Pablo Galvan, Save Mt. Diablo; Matt Leber, East Bay Housing Coalition; Paul Poston, Concord; Andre Nguyen, Concord; Carlyn Obringer, Concord

PUBLIC COMMENT PERIOD

Joe Partansky, Concord, spoke of the Americans with Disabilities Act.

Howard Herrold, Concord, spoke of his frustration with the Neighborhood Services Division and PG&E and his desire to raise the tree height to 14 feet.

George Fulmore, Concord, spoke of the spray park and play structures at Meadow Homes Park.

Dr. Harmesh Kumar, Concord, spoke of the recent tragedy in Dallas and his support of the Concord Police Department.

PRESENTATIONS – None

ANNOUNCEMENTS

Vice Mayor Leone read a statement into the record regarding the Community Reuse Project at the former Concord Naval Weapons Station stating that now that a Master Developer has been selected and the Term Sheet for the project has been approved, he is able to resume his place on the City Council in decisions related to the project. He noted that if decisions must be made by the Council regarding the green belt, he will again recuse himself from the discussion and the vote.

APPROVAL OF MINUTES

Motion was made by Helix and seconded by Birsan to approve the minutes of April 13, 2016. Motion passed by unanimous vote of the Council.

ADOPTION OF ORDINANCE NO. 16-4

Motion was made by Helix and seconded by Birsan to adopt Ordinance No. 16-4 entitled, "AN ORDINANCE APPROVING AND ADOPTING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF CONCORD AND SWIFT REALTY PARTNERS, LLC, REGARDING THE DEVELOPMENT OF PROPERTY LOCATED IN DOWNTOWN CONCORD DESCRIBED AS ASSESSOR'S PARCEL NUMBERS: 126-103-001, 126-103-015, 126-103-016, AND 126-123-017." Ordinance No. 16-4 was introduced on June 6, 2017 by reading of the title only and waiving further reading. Motion passed by unanimous vote of the Council.

ADOPTION OF RESOLUTION NO. 16-48

This item was removed from consideration by staff to return at a later date.

MATTER TO BE SET FOR PUBLIC HEARING

Motion was made by Helix and seconded by Birsan to set a public hearing on Tuesday, August 2, 2016, at 6:30 p.m. (or as soon as the item can be heard) in the Council Chamber to consider an amendment to Concord Development Code Chapters 18.20 (General Terms) and 18.180 (Signs) to allow for freeway-oriented signs including digital pylon signs, Use Permit, Tree Removal and Design Review to construct a shopping center with up to 375,000 square feet of floor area on a 30-acre site located at 2001-2003 Diamond Boulevard. Anticipated shopping center uses include a grocery store, theater, restaurants (including drive-through restaurant), general retail, general office/medical office, health club, and financial services. An Environmental Impact Report (EIR) was prepared for the project pursuant to the California Environmental Quality Act and the EIR and the related Statement of Overriding Considerations will be considered concurrently. The General Plan designation is West Concord Mixed Use; Zoning classification is WMX (West Concord Mixed Use); APN 126-440-001. Motion passed by unanimous vote of the Council.

MATTER TO BE SET FOR PUBLIC HEARING

Motion was made by Helix and seconded by Birsan to set a public hearing on Tuesday, August 2, 2016, at 6:30 p.m. (or as soon as the item can be heard) in the Council Chamber to consider a amendment to the General Plan, Development Code Section 18.45(c), and a change of zoning from Downtown Mixed Use (DTMU/DMX) to West Concord Mixed Use (WCMU/WMX) for six parcels located on the north side of Concord Avenue between State Highway 242 and Bonifacio Street. Pursuant to the California Environmental Quality Act (CEQA) of 1970, as amended, an Addendum to the 2012 Supplemental Environmental Impact Report for the 2030 Concord General Plan (SEIR) dated May 2016 has been prepared for consideration with the proposed actions. As there are no new significant changes identified with this amendment, the City Council will consider adopting the Addendum and reaffirming the Statement of Overriding Considerations. Motion passed by unanimous vote of the Council.

MATTER TO BE SET FOR PUBLIC HEARING

Motion was made by Helix and seconded by Birsan to set a public hearing on Tuesday, August 2, 2016, at 6:30 p.m. (or as soon as the item can be heard) in the Council Chamber to consider a review of proposed amendment to the Solid Waste Franchise Agreement with Concord Disposal Services to incorporate a rate increase and modifications to the franchise fee and proposed amendments to Exhibit A to Resolution No. 78-6042 establishing Fees and Charges for Various Municipal Services in the City of Concord to increase residential solid waste fees. Motion passed by unanimous vote of the Council.

RESOLUTION NO. 16-4735.7 – Office and Professional Employees International Union (OPEIU) Local 29

Motion was made by Helix and seconded by Birsan to adopt Resolution No. 16-4735.7 entitled, "A RESOLUTION APPROVING THE JUNE 30, 2016, TENTATIVE AGREEMENT AUTHORIZING THE CITY MANAGER TO PREPARE A SUCCESSOR MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF CONCORD AND THE OFFICE AND PROFESSIONAL EMPLOYEES INTERNATIONAL UNION (OPEIU) LOCAL 29 FOR THE PERIOD MAY 1, 2015 THROUGH JUNE 30, 2019; AND AUTHORIZING CORRESPONDING BUDGET APPROPRIATIONS, EXPENDITURES, AND FUNDING TO BE INCORPORATED INTO THE NEXT TWO-YEAR BIENNIAL BUDGET." Motion passed by unanimous vote of the Council.

RESOLUTION NO. 16-56 – PEMCHA for OPEIU Local 29

Motion was made by Helix and seconded by Birsan to adopt Resolution No. 16-56 entitled, "A RESOLUTION FIXING THE EMPLOYER'S CONTRIBUTION AT AN EQUAL AMOUNT FOR EMPLOYEES AND ANNUITANTS UNDER THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT WITH RESPECT TO A RECOGNIZED EMPLOYEE ORGANIZATION (OFFICE AND PROFESSIONAL EMPLOYEES INTERNATIONAL UNION (OPEIU LOCAL 29))." Motion passed by unanimous vote of the Council.

AGREEMENT FOR PROFESSIONAL SERVICES – Environmental Science Associates (ESA)

Motion was made by Helix and seconded by Birsan to approve an Agreement for Professional Services with Environmental Services Associates (ESA) associated with preparation of conceptual flood management plans and creek restoration plans in support of site wide permits for sensitive habitat and species on the Concord Naval Weapons Station in an amount not to exceed \$40,000. Motion passed by unanimous vote of the Council sitting as the Local Reuse Authority.

AGREEMENT FOR PROFESSIONAL SERVICES – H.T. Harvey & Associates (HTH)

Motion was made by Helix and seconded by Birsan to approve an Agreement for Professional Services with H.T. Harvey & Associates (HTH) associated with preparation of site wide permits for sensitive habitat and species on the Concord Naval Weapons Station in an amount not to exceed \$225,000. Motion passed by unanimous vote of the Council sitting as the Local Reuse Authority.

AGREEMENT FOR LEGAL PROFESSIONAL SERVICES – Burke, Williams & Sorensen, LLP

Motion was made by Helix and seconded by Birsan to approve an Agreement for Legal Professional Services with Burke, Williams & Sorensen, LLP, in the amount of \$270,000 in connection with transactional legal support for the Community Reuse Project at the former Concord Naval Weapons Station (CNWS.) Motion passed by unanimous vote of the Council sitting as the Local Reuse Authority.

AGREEMENT FOR LEGAL PROFESSIONAL SERVICES – Garrity and Knisely

Motion was made by Helix and seconded by Birsan to approve an Agreement for Legal Professional Services with Garrity and Knisely regarding property transfer and remediation for the Community Reuse Project at the former Concord Naval Weapons Station (CNWS) in an amount not to exceed \$130,000. Motion passed by unanimous vote of the Council sitting as the Local Reuse Authority.

AGREEMENT FOR PROFESSIONAL SERVICES – Johnson Marigot Consulting, LLC

Motion was made by Helix and seconded by Birsan to approve an Agreement for Professional Services with Johnson Marigot Consulting, LLC for preparation of materials to support an application for a 404 Permit under the Clean Water Act and regulatory Support Services for the Community Reuse Project at the former Concord Naval Weapons Station (CNWS) in the amount not to exceed \$18,000. Motion passed by unanimous vote of the Council sitting as the Local Reuse Authority.

AGREEMENT FOR PROFESSIONAL SERVICES – Environmental Risk Services Corporation (ERS)

Motion was made by Helix and seconded by Birsan to approve an Agreement for Professional Services with Environmental Risk Services Corporation (ERS) for the Community Reuse Project at the former Concord Naval Weapons Station (CNWS) in an amount not to exceed \$170,000. Motion passed by unanimous vote of the Council sitting as the Local Reuse Authority.

AGREEMENT FOR LEGAL PROFESSIONAL SERVICES – Ebbin Moser +Skaggs, LLP

Motion was made by Helix and seconded by Birsan to approve an Agreement for Legal Professional Services with Ebbin Moser +Skaggs, LLP in the amount of \$175,000 for work with the Community Reuse Project. Motion passed by unanimous vote of the Council sitting as the Local Reuse Authority.

AGREEMENT FOR PROFESSIONAL SERVICES – ARUP North America Ltd.

Motion was made by Helix and seconded by Birsan to approve an Agreement for Professionals Services with ARUP North America Ltd. Associated with land transfer/development planning for the Community Reuse Project at the former Concord Naval Weapons Station in an

amount not to exceed \$365,000. Motion passed by unanimous vote of the Council sitting as the Local Reuse Authority.

AGREEMENT FOR PROFESSIONAL SERVICES – HR&A Advisors, Inc.

This item was removed from the Consent Calendar by Vice Mayor Leone.

Motion was made by Helix and seconded by Birsan to approve an Agreement for Professional Services with HR&A Advisors, Inc. for the Community Reuse Project at the Concord Naval Weapons Station (CNWS) in an amount not to exceed \$85,000. Motion passed by the following vote of the Council sitting as the Local Reuse Authority:

AYES: Birsan, Grayson, Helix, Hoffmeister NOES: None ABSTAIN: Leone

AGREEMENT FOR PROFESSIONAL SERVICES – The Wright Group

This item was removed from the Consent Calendar by Vice Mayor Leone.

Motion was made by Helix and seconded by Birsan to approve an agreement for Professional Services with the Wright Group for services associated with the former Concord Naval Weapons Station (CNWS) in an amount not to exceed \$36,000. Motion passed by the following vote of the Council sitting as the Local Reuse Authority:

AYES: Birsan, Grayson, Helix, Hoffmeister NOES: None ABSTAIN: Leone

POLICY AND PROCEDURE NO. 171 – Sidewalk Inspection and Repair

Director of Public Works Justin Ezell presented a report stating that staff is working to implement the On-Call Sidewalk Replacement Pilot Program that was approved by the City Council in September 2015, and that the Program is intended to streamline the repair of sidewalk areas which are the responsibility of property owners by allowing them to use the City's authorized sidewalk repair contractors and waive the requirement to obtain individual encroachment permits for the repairs.

Director Ezell reported that staff is proposing a formal policy and procedure on the permanent and temporary repairs of sidewalks to complement the pilot program, and noted that developing a formal sidewalk policy will aid staff in the decision-making and notification process when sidewalk defects are found. He recommended adoption of a formal City policy on sidewalk repairs and noted that the pilot program is scheduled to begin in the upcoming 2016-17 Fiscal Year.

Following questions by the City Council, Mayor Hoffmeister opened a public comment period.

Joe Partansky, Concord, suggested that the title of the Policy and Procedure be "Sidewalk, Parking Strip, and Curb Inspection Repair."

George Fulmore, Concord, stated that the problem is with trees, and you cannot do sidewalk repair without removing the trees.

Dr. Harmesh Kumar, Concord, spoke of frustration with the cost of encroachment permits.

Jeff Koertzen, Concord, stated that he felt that historical trees should be the responsibility of the City.

Mayor Hoffmeister closed the public comment period.

Motion was made by Councilmember Helix and seconded by Leone to adopt Policy and Procedure No. 171, "Sidewalk Inspection and Repair." Motion passed by unanimous vote of the Council.

APPOINTMENT TO THE CITY OF CONCORD PLANNING COMMISSION

Following Councilmembers ballot vote, a motion was made by Leone and seconded by Grayson to appoint Dominic Aliano to the City of Concord Planning Commission for a term ending February 28, 2017. Motion passed by unanimous vote of the Council.

RESOLUTION NO. 16-14 – Community Advisory Committee

Director of Community Reuse Planning Guy Bjerke reported that after a two year evaluation and negotiation process the City Council, sitting as the Local Reuse Authority, accepted a Term Sheet and chose Lennar Concord LLC as the Master Developer for the Development Phase One Property for the Community Reuse Project. He noted that before development can occur on the property Lennar and the LRA must prepare a Specific Plan for Development Phase One with an associated Infrastructure Master Plan consistent with the Reuse Area Plan and appropriately evaluated under the California Environmental Quality Act.

Director Bjerke stated that proposed Resolution No. 16-14 addresses the LRA's expressed desire for robust community outreach and engagement in the Specific Plan process by establishing a Community Advisory Committee for that purpose. He recommended adoption of Resolution No. 16-14 establishing a Community Advisory Committee to encourage and provide public input into the Specific Plan process for the Development Phase One Property of the Community Reuse Project at the former Concord Naval Weapons Station.

Following questions by the Council, Mayor Hoffmeister opened a public comment period.

Joe Partanksy, Concord, spoke of not being able to find the Local Reuse Authority on the City of Concord website and stated that the Community Advisory Committee meetings should be televised.

Hope Johnson, Concord, stated that three to four seats on the Committee be designated to specific long established neighborhoods to ensure that the entire City is represented and that the meetings should be either audio or video recorded.

Rosanne Nieto, Concord, spoke of the importance of community involvement in a project of this magnitude.

Juan Pablo Galvan, Save Mt. Diablo, stated that the Committee should be diverse and have professional members that can speak to environmental concerns.

Matt Leber, East Bay Housing Coalition, spoke of Monument Corridor representation on the Committee.

George Fulmore, Concord, spoke of holding a workshop on forming a Community Advisory Committee before the Committee is formed.

Paul Poston, Concord, stated that this is a Concord project and that Concord residents should make up the Committee. He spoke of concerns of the timeline of the Committee.

Andre Nguyen, Concord, stated that members of the CAC should live near the Project.

Mayor Hoffmeister closed the public comment period.

Director Bjerke answered questions about staffing of the CAC and how the meetings will be conducted, the purpose of the CAC, the impact of the Project on the surrounding neighborhoods, and stated that the meetings would be held in the Council Chamber so they can be recorded.

Motion was made by Grayson and seconded by Helix to adopt LRA Resolution No. 16-14 establishing a Community Advisory Committee of 11 members and 3 alternates to encourage and provide public input into the Specific Plan process for the Development Phase One Property of the Community Reuse Project at the former Concord Naval Weapons Station.

Motion was amended by Birsan and seconded by Leone to state that the three alternates be voting members so they can vote in the absence of a member. The motion failed by the following vote:

AYES: Birsan, Leone NOES: Grayson, Helix, Hoffmeister ABSENT: None

The original motion made by Grayson and seconded by Helix to adopt Resolution No. 16-14 establishing a Community Advisory Committee of 11 members and 3 alternates to encourage and provide public input into the Specific Plan process for the Development Phase One Property of the Community Reuse Project at the former Concord Naval Weapons Station. Motion passed by unanimous vote of the Council.

Mayor Hoffmeister called a recess at 9:05 p.m. The meeting reconvened at 9:15 p.m.

AMENDED AND RESTATED AGREEMENT TO NEGOTIATE – Lennar Concord LLC

Director of Community Reuse Planning Guy Bjerke reported that the proposed Restated Agreement clarifies certain terms and eliminates irrelevant provisions of the Existing Agreement to Negotiate that covered both the Preliminary Stage and Disposition and Development Agreement Stage of the negotiations.

He confirmed that the proposed Restated Agreement provides a 24 month negotiation period for the DDA Stage negotiations and allows for the granting of administrative extensions based on the achievement of specified performance milestones, and reported that the Restated Agreement clarifies the financial obligations of the parties and the communication restrictions, including the prohibition of campaign contributions, applicable to this stage of the negotiations.

Mr. Bjerke requested approval of the Amended and Restated Agreement to Negotiate between the LRA and Lennar Concord, LLC and the authorization for the City Manager to execute the agreement.

Following questions by the City Council, Mayor Hoffmeister opened a public comment period.

Hope Johnson, Concord, spoke of her disappointment with the LRA entering an agreement without having more than one potential Master Developer and spoke of lack of affordable housing at the Mare Island and Bay View Hunters Point projects. She requested to have the no campaign contributions clause extended to November 2016 Council candidates as well as City Council members.

Carlyn Obringer, Concord, requested a line item expenditure list of the \$250,000 funds deposited by Lennar so the public can see how the funds have been spent and are going to be spent going forward.

Mayor Hoffmeister closed the public comment period.

Motion was made by Hoffmeister and seconded by Helix to approve the Amended and Restated Agreement to Negotiate to include the language "10 business days" in Section 7, Progress Reports and Information and "any candidate running for elected City office" in Section 11.2, Campaign Contribution Restrictions. The motion passed by the following vote of the Council:

AYES: Grayson, Helix, Leone, Hoffmeister NOES: None ABSTAIN: Birsan

CORRESPONDENCE

- a. PowerPoint Presentation for Item No. 10.a – Policy and Procedure No. 171
- b. Benched Item No. 10.a – Policy and Procedure No. 171

CLOSED SESSION REPORTS – None

COUNCIL AND STAFF REPORTS

Councilmembers shared information on events and activities in which they had participated since the last meeting and commented on items of interest.

By order of the Mayor, the meeting was adjourned at 9:43 p.m.



LAURA M. HOFFMEISTER
MAYOR



JOELLE FOCKLER, MMC
CITY CLERK