

REGULAR MEETING OF THE
CONCORD CITY COUNCIL
CITY COUNCIL CHAMBER
1950 PARKSIDE DRIVE
CONCORD, CALIFORNIA
TUESDAY, OCTOBER 24, 2017

The Concord City Council met in a regular meeting in the City Council Conference Room located at 1950 Parkside Drive at 6:00 p.m. on Tuesday, October 24, 2017, with Mayor Hoffmeister presiding. All Councilmembers were present. The meeting was recessed and immediately reconvened in a closed session regarding CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Government Code Section 54956.8. Property: Area within Concord Community Reuse Plan; Agency negotiators: Valerie Barone, City Manager; Guy Bjerke, Director of Community Reuse Planning; Negotiating parties: Alan Lee, Department of the Navy; Under negotiation: Price, Terms of Payment. The meeting recessed at 6:30 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 6:30 p.m. on Tuesday, October 24, 2017, with Mayor Hoffmeister presiding. The pledge of allegiance was led by Councilmember McGallian. Minutes follow in abbreviated form per Resolution 3361 and Council Minutes of September 26, 1966.

ROLL CALL

COUNCILMEMBERS PRESENT: Edi Birsan, Ron Leone, Tim McGallian, Carlyn Obringer, Laura Hoffmeister

STAFF PRESENT: Valerie Barone, City Manager; Susanne Brown, City Attorney; Kathleen Tropa, Assistant City Manager; Joelle Fockler, City Clerk; Guy Swanger, Chief of Police; Steve Voorhies, Director of Parks and Recreation; Justin Ezell, Director of Public Works; Andrea Ouse, Director of Community and Economic Development; Laura Simpson, Planning Manager; Suzanne McDonald, Financial Operations Manager; Michael Cass, Principal Planner; Pedro Garcia, Economic Development Specialist; Jessica Gonzalez, Assistant Planner

MEMBERS OF THE PUBLIC WHO ADDRESSED THE COUNCIL: George Fulmore, Concord; Natalie; Dea Smith, Concord; Kenji Yamada, Concord; Brad Waite, Walnut Creek; Rebeca Byars, Concord; Tim Byars, Concord; Rosanne Nieto, Concord; Boaz Benzakry, Concord; Martina Ladova, Concord; Rod Herman, Martinez; Alan Brown, Rossmoor; Wendy Hershey, Concord; Dirk Mellema, Walnut Creek; Nik Grant, Walnut Creek; Clay Cahoon, Lafayette; Annette Fairbanks, Walnut Creek; Paul Holland, Walnut Creek; Sheldon Schwartz, Rossmoor; Ellen Sarbone, Walnut Creek; Anita Mataraso, Rossmoor; Linda Hudak, Clayton; Vic Pinto, Concord; Wendy Katchmar, Pleasant Hill; Jim Hudak, Clayton; Robin Kuslits, Concord; Nella Cockerham, Benicia; Kathleen Boas, Danville; David Asselin, Concord; David Rossi, Crockett; Chris Cox, Angel Care 360; Tesslyn Baker, Concord; Devlyn Sewell, Concord; Arnold Lim, Concord; Joseph Roelle, Concord; Daniel Cardinal, Concord; Diane Scofield, Walnut Creek; Mike McDermott, Concord; Nancy Martini, Concord; Steven Vercher, Concord; Joe Manns, Concord; Roger Hall,

Lafayette; Catherine Herdering, Rossmoor; EJ Koch, Rossmoor; Janette Wolf, Benecia; Dave Thiesen, Concord; Eloise Thiesen, Concord; Hope Johnson, Concord; Eric Rehn, Clayton; Gretel Tortolani, Concord; Laurie Light, Walnut Creek; Matt Light, Walnut Creek; Tess Schoenbart, Lafayette; Max Meier, MedicalKush Collective; Demetrio Ramirez, Pittsburg; Brandon Mullins, Pleasant Hill; Mark Rovai, Concord; Natalie; Kristi Palmer, Kiva Confections

PUBLIC COMMENT PERIOD

George Fulmore, Concord, spoke to having community meetings in the Monument, the need for a shuttle to the Monument; and announced a contest he was running of what Ellis Lake Park could look like.

Natalie, spoke of banning smoking in apartment complexes.

Dea Smith, Concord, asked the City to help with maintenance of the Galindo Creek Trail and crosswalks put at the trail crossings on Cobblestone and Cape Cod Way.

PRESENTATIONS – none.

ANNOUNCEMENTS

City Clerk Joelle Fockler announced that staff is performing outreach presentations to inform and encourage participation from residents for the Multi-Family Rental Inspection Program. The presentation will explain the types of substandard conditions the program is intended to address, including the recently added bed-bug enforcement service. Two meetings for tenants will be held at Monument Impact located at 2699 Monument Boulevard, Suite G, on November 4th at 8 a.m. and November 16th at 6 p.m. All multi-family residents are encouraged to attend the meetings. For more information contact Angie Garcia at (925) 671-3084 or angie.garcia@cityofconcord.org.

CITY COUNCIL CONSENT CALENDAR

APPROVAL OF MINUTES

Motion was made by Birsan and seconded by Obringer to adopt the minutes from the meeting of June 27, 2017. Motion passed by unanimous vote of the Council.

PROFESSIONAL SERVICES AGREEMENT – Seagull Ways, LLC

Motion was made by Birsan and seconded by Obringer to approve a Professional Services Agreement with Seagull Ways, LLC, for technical support and configuration of the City's Enterprise Resource Planning Software (Lawson) in a yearly not to exceed amount of \$120,000, with the option to extend for up to two additional one-year terms, for a total of three years and \$360,000 if all options are exercised; and authorize the City Manager to execute the agreement in a form acceptable to the City Attorney. Motion passed by unanimous vote of the Council.

AMENDMENTS TO POLICY & PROCEDURE NO. 37.35, PREVENTING WORKPLACE VIOLENCE

Motion was made by Birsan and seconded by Obringer to approve the proposed amendments to Policy & Procedure No. 37.35, Preventing Workplace Violence, to clarify that only sworn members of the Concord Police Department may be armed while at work with the City of Concord. Motion passed by unanimous vote of the Council.

ADOPTION OF POLICY REGARDING USE OF CLOSED CIRCUIT TELEVISION CAMERAS

Motion was made by Birsan and seconded by Obringer to adopt the proposed policy regarding use of closed circuit television (CCTV) cameras and the capture, storage, and use of images captured from the cameras. Motion passed by unanimous vote of the Council.

APPROVAL OF WEST CONCORD BIKEWAYS PROJECT, PJ 2421

Motion was made by Birsan and seconded by Obringer to approve the West Concord Bikeways Project, PJ 2421, accept and appropriate \$120,000 of Transportation Development Act – Article 3 (TDA) Grant funds from MTC, and appropriate \$30,000 for local match funds from Measure J (Fund 475). Motion passed by unanimous vote of the Council.

ACCEPTANCE OF IMPROVEMENTS – Civic Center Playground Project, Project No. 2387

This item was pulled from the Consent Calendar by Concord resident George Fulmore.

George Fulmore, Concord, spoke about the money spent and the timeline for this playground, as compared to the amount of money spent on the playgrounds in the Monument.

Motion was made by Birsan and seconded by Leone to accept the improvements for the Civic Center Playground Project, Project No. 2387, direct the City Clerk to file a Notice of Completion; and authorize the Director of Public Works to sign the Certificate of Customer Acceptance. Motion passed by unanimous vote of the Council.

CITY COUNCIL CONSIDERATION ITEMS

APPOINTMENT OF APPLICANTS TO THE RESIDENTIAL RENT REVIEW PANEL

Councilmember Leone reported that the Residential Rent Review Program was created by Ordinance No. 17-7, which was adopted in May 2017. The Program includes the option for tenants to seek non-binding arbitration through a Rent Review Panel comprised of a three member fact finding panel. A recruitment for applications was held; and on Monday, October 9, the Committee on Housing and Economic Development met to interview applicants for the Residential Rent Review Panel to fill three member and three alternate positions.

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

Kenji Yamada, Concord, requested copies of the applications for the Residential Rent Review Panel.

Mayor Hoffmeister closed the public comment period.

A motion was made by Leone and seconded by Obringer to appoint Michael Pineschi as the tenant of a Multi-family complex member, Sandeep Singh, as the neutral party member, Elena Lieberman, as the alternate landlord of a multi-family complex member, Francis Pyne as the alternate neutral party member, and announce a recruitment for the landlord of a multi-family complex member and the alternate tenant of a multi-family complex member, and set Monday, November 27, 2017, at 5 p.m. as the deadline for receipt of applications by the City Clerk's office. Motion passed by unanimous vote of the Council.

PUBLIC HEARING

RESOLUTION NO. 17-76 – Accepting the Concord Tourism Improvement District’s Annual Report and Adoption of RESOLUTION NO. 17-77 – Declaring Results of Majority Protest Proceedings and Renewing the Concord Tourism Improvement District

A motion made by Birsan and seconded by Leone to continue this item to the November 28, 2017, meeting. Motion was passed by unanimous vote of the Council.

INTRODUCTION OF ORDINANCE NO. 17-13 – Marijuana Ban

A notice of Public Hearing announcing the hearing date of October 24, 2017, was published in the East Bay Times on October 10, 2017, mailed to interested parties of record, and posted in the City’s posting cabinet.

Principal Planner Michael Cass presented an overview on the interdepartmental working group on marijuana regulations, types of marijuana uses, City Council action to date, the purpose of the proposed ban, and the Planning Commission recommendation. He introduced Economic Development Specialist Pedro Garcia, who reviewed the potential tax revenue generation, staff effort, crime and safety impacts, potential number of new jobs, and impacts by potential state or county regulations.

Mr. Cass reviewed the community outreach efforts, including a statistically valid survey, e-notification of interested parties, public meetings, and marijuana landing page on the City’s website: www.cityofconcord.org/marijuana.

Following clarifying questions by the Council, Mr. Cass introduced Michael Godbe, Godbe Research, who presented the results of the 2017 Cannabis Planning Survey.

Following Mr. Godbe’s presentation, Council asked clarifying questions. Mr. Cass then reminded the Council of staff’s recommended ban on all marijuana uses except personal indoor cultivation and delivery of medical marijuana, and requested direction on how Council would like to proceed.

Council asked Mr. Cass questions regarding what regulations are being implemented and contemplated at the state and county level.

Mayor Hoffmeister called a recess at 8:20 p.m. The meeting resumed at 8:35 p.m.

Mayor Hoffmeister opened a public comment period.

Brad Waite, Walnut Creek, spoke in support of medical marijuana and dispensaries.

Rebecca Byars, Concord, cofounder of Agathist Collective, requested permission to operate a dispensary in Concord.

Tim Byars, Concord, cofounder of Agathist Collective, spoke to the need for reasonable regulations to ensure professional and safety.

Rosanne Nieto, Concord, spoke in opposition of marijuana dispensaries.

Boaz Benzakry, Concord, stated that the City will not be able to collect a 15 percent excise tax and that there are no dispensaries delivering in Concord that are located outside of Concord.

Martina Ladova, Concord, spoke in support of outdoor grow.

Rod Herman, Martinez, spoke in support of non-storefront dispensaries.

Alan Brown, Rossmor, spoke in support of non-storefront dispensaries.

Wendy Hershey, Concord, spoke in support of dispensaries and outdoor grow.

Dirk Mellema, Walnut Creek, Rossmoor, spoke in support of non-storefront dispensaries.

Nik Grant, Walnut Creek, spoke on behalf of his wife, Jackie Grant, who died earlier this month, in support of non-storefront dispensaries and deliveries.

Clay Cahoon, Lafayette, spoke in support of non-storefront dispensaries.

Annette Fairbanks, Walnut Creek, Concord, spoke in support of non-storefront dispensaries.

Paul Holland, M.D., Walnut Creek, spoke in support of medical marijuana.

Sheldon Schwartz, Rossmoor, spoke in support of non-storefront dispensaries and deliveries.

Ellen Sarbone, Walnut Creek, spoke in support of non-storefront dispensaries and deliveries.

Anita Mataraso, Rossmoor, spoke in support of non-storefront dispensaries and deliveries.

Linda Hudak, Clayton, spoke in support of non-storefront dispensaries and deliveries.

Vic Pinto, Concord, spoke in opposition of marijuana dispensaries.

Wendy Katchmar, Pleasant Hill, spoke in support of non-storefront dispensaries and deliveries.

Jim Hudak, Clayton, spoke in support of non-storefront dispensaries and deliveries.

Robin Kuslits, Concord, spoke in support of medical marijuana dispensaries in Concord and outdoor grow.

Nella Cockerham, Benicia, spoke in support of non-storefront dispensaries and deliveries.

Kathleen Boas, Danville, spoke in support of non-storefront dispensaries and deliveries.

David Asselin, Concord, spoke in support of non-storefront dispensaries and deliveries.

David Rossi, Crockett, spoke in support of non-storefront dispensaries.

Chris Cox, Angel Care 360, spoke in support of non-storefront dispensaries.

Tesslyn Baker, Concord, spoke in support of non-storefront dispensaries.

Devlyn Sewell, Concord, spoke in support of medical marijuana dispensaries in Concord.

Arnold Lim, Concord, spoke of safe operation of non-storefront dispensaries.

Joseph Roelle, Concord, gave his perspective as a delivery driver.

Daniel Cardinal, Concord, spoke of marijuana regulation options.

Diane Scofield, Walnut Creek, spoke in support of non-storefront dispensaries and deliveries.

Mike McDermott, Concord, spoke in support of a marijuana ban; however, had no objection to delivery for medical uses.

Nancy Martini, Concord, spoke in opposition of outdoor grow.

Steven Vercher, Concord, spoke of the safety measures that dispensaries take to keep patients and employees safe.

Joe Manns, Concord, spoke in support of medical marijuana dispensaries.

Roger Hall, Lafayette, spoke in support of non-storefront dispensaries and deliveries.

Kenji Yamada, Concord, spoke of carving out an exception for the Agathist Collective from the marijuana ban.

Catherine Herdering, Rossmoor, spoke in support of dispensaries and deliveries.

EJ Koch, Rossmoor, spoke in support of medical marijuana dispensaries.

Janette Wolf, Benecia, spoke in support of non-storefront dispensaries and deliveries.

Dave Thiesen, Concord, spoke in support of non-storefront dispensaries and deliveries.

Eloise Thiesen, Concord, spoke of the negative effects on patients if access to medical marijuana was taken away.

Hope Johnson, Concord, spoke in opposition to the ban on marijuana.

Eric Rehn, Clayton, spoke of zoning for cannabis and suggested a focus on undeveloped or vacant buildings for manufacturing of marijuana products.

Gretel Tortolani, Concord, spoke of the misinformation and corruption regarding marijuana and urged the Council to rethink the ban.

Laurie Light, Walnut Creek, spoke in support of non-storefront dispensaries and deliveries and in opposition to the marijuana ban.

Matt Light, Walnut Creek, spoke in support of non-storefront dispensaries and deliveries and in opposition to the medical marijuana ban.

Tess Schoenbart, Lafayette, spoke of forming a task force to help develop regulations and the Council visiting a dispensary to see how they operate.

Max Meier, MedicalKush Collective, a delivery service in Pittsburg, spoke in support of non-storefront dispensaries and deliveries.

Demetrio Ramirez, Pittsburg, spoke in support of opening a dispensary in Concord.

Brandon Mullins, Pleasant Hill, spoke of creating a cannabis commission to help develop and implement regulations.

Mark Rovai, Concord, 5 Star Greenery, spoke of the City reaching out to people in the industry to help develop and implement regulations and in opposition to the medical marijuana ban.

Natalie, spoke of the benefits of marijuana.

Kristi Palmer, Kiva Confections, Oakland, looking to move her manufacturing company to Concord and spoke in support of non-storefront dispensaries and deliveries.

Mayor Hoffmeister closed the public comment period.

Mayor Hoffmeister called a recess at 11:10 p.m. The meeting resumed at 11:20 p.m.

The Council asked staff follow up questions.

Motion by Birsan and seconded by McGallian to support a non-storefront medical cannabis dispensary, or dispensaries, and have staff submit to the Council a recommendation as to the location and local regulations. Motion passed by the following vote of the Council:

AYES: Leone, McGallian, Birsan NOES: Obringer, Hoffmeister

Motion made by McGallian and seconded by Leone to reconsider the motion to support a non-storefront medical cannabis dispensary, or dispensaries, and have staff submit to the Council a recommendation as to the location and local regulations. Motion to reconsider passed by unanimous vote of the Council.

Motion by Birsan and seconded by McGallian to have staff research and bring back regulations on medical non-storefront dispensaries. Motion passed by unanimous vote of the Council.

Motion by Birsan to have staff research and bring back regulations on medical cannabis testing labs, medical storefront dispensaries, medical cannabis manufacturing, and medical cannabis distribution. The motion failed due to a lack of second.

Motion by McGallian and second by Obringer to introduce Ordinance No. 17-13 entitled, "An Ordinance Amending the Municipal Code and Development Code to Ban All Marijuana (Cannabis) Uses, Except for Personal Indoor Cultivation and Delivery of Medical Marijuana to Qualified Patients," by reading of the title only and waiving further reading.

Motion amended to strike the following language from Section 5.80.030, Section 5.80.040 and 18.25.060(C)1: "...which creates the risk of burglary, trespass, robbery, and armed robbery, posing the threat of serious injury or death, and requiring the expenditure of scarce police and public safety resources." Motion passed by the following vote of the Council:

AYES: Leone, McGallian, Obringer, Hoffmeister NOES: Birsan

Motion by McGallian and seconded by Birsan to direct staff to prioritize gathering information regarding a ballot measure on the November 2018 election. Motion passed by unanimous vote of the Council.

Motion by McGallian and seconded by Birsan to direct staff to research testing laboratories as second priority. Motion passed by following vote of the Council:

AYES: McGallian, Birsan, Obringer, Hoffmeister NOES: Leone

Motion by McGallian and seconded by Birsan to direct staff to research manufacturing and distribution. Motion passed by the following vote of the Council:

AYES: McGallian, Birsan, Obringer, Hoffmeister

NOES: Leone

Motion by Leone and seconded by Birsan to research a pilot program for a storefront dispensary for medical marijuana. Motion passed by unanimous vote of the Council.

Motion by Hoffmeister and seconded by Birsan to direct staff to research the microbusiness model as it relates to medical marijuana. Motion passed by unanimous vote of the Council.

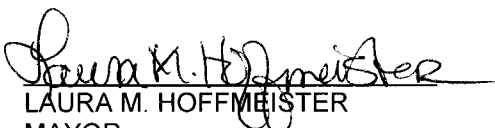
CORRESPONDENCE

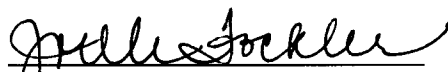
- a. Proclamation – 20th Anniversary of Central San’s Household Hazardous Waste Collection Facility, October 16, 2017
- b. Proclamation – Red Ribbon Week, October 23-31, 2017
- c. Correspondence on What-Ellis-Lake-Park-Could-Look-Like-Contest from George Fulmore
- d. Benched correspondence, Agenda Item No. 11.b
- e. Marijuana Ban, Survey Results, and Work Plan PowerPoint Presentation
- f. City of Concord 2017 Cannabis Planning Survey PowerPoint Presentation
- g. Talking points submitted by Demetrio Ramirez
- h. Nearest Cities Approving Cannabis Retail PowerPoint Presentation submitted by Chris Cox
- i. Written comments submitted by Ann Macdonald
- j. Written comments submitted by Lance and Christine Gee
- k. Letter from Kenneth Hofmann dated October 16, 2017, regarding the proposed Tournament Sports Park on the Concord Naval Weapons Station.
- l. November 2014 and November 2016 City Council Election results and maps; and, November 2016 State Proposition 64 Election results and maps.
- m. Opioids vs. Medical Marijuana white paper submitted by resident.

CLOSED SESSION REPORTS – none

COUNCIL AND STAFF REPORTS – none

By order of the Mayor, the meeting was adjourned at 12:40 a.m.


 LAURA M. HOFFMEISTER
 MAYOR


 JOELLE FOCKLER, MMC
 CITY CLERK