

REGULAR MEETING OF THE  
CONCORD CITY COUNCIL/CITY  
COUNCIL SITTING AS THE LOCAL  
REUSE AUTHORITY  
CITY COUNCIL CHAMBER  
1950 PARKSIDE DRIVE  
CONCORD, CALIFORNIA  
TUESDAY, FEBRUARY 27, 2018

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, February 27, 2018, with Vice Mayor Obringer presiding. All Councilmembers were present (Mayor Birsan arrived at 6:06 p.m.) The meeting was recessed and immediately reconvened in a closed session under Conference with Legal Counsel – Existing Litigation, Government Code Section 54956.9(d)(1) Name of case: Burns, et al. v. City of Concord, et al., United States District Court Case No. C14-00535 LB.

The meeting recessed at 6:24 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, February 27, 2018, with Mayor Birsan presiding. The pledge of allegiance was led by Vice Mayor Obringer. Minutes follow in abbreviated form per Resolution 3361 and Council Minutes of September 26, 1966.

ROLL CALL

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

STAFF PRESENT: Valerie Barone, City Manager; Susanne Brown, City Attorney; Patti Barsotti, City Treasurer; Joelle Fockler, City Clerk; Guy Swanger, Chief of Police; Guy Bjerke, Director of Local Reuse Planning; Jasmin Loi, Director of Human Resources; Justin Ezell, Director of Public Works; Steve Voorhies, Director of Parks and Recreation; Andrea Ouse, Director of Community and Economic Development; Laura Simpson, Planning and Housing Manager; Frank Abejo, Principal Planner; Leslye Asera, Community Relations Manager

MEMBERS OF THE PUBLIC  
WHO ADDRESSED THE COUNCIL: Rosario Lubbe, Pittsburg; LaMar Anderson, Concord; Laura Nakamura, Concord; Tim Carr, Concord; George Fulmore, Concord; Cindy Gershan, Mt. Diablo High School; Hope Johnson, Concord; Scott Rafferty, Walnut Creek; Kenji Yamada, Concord; Hilda Ramirez-Wong, Concord; Jaime Cader, Concord; Janet Kinney, Pittsburg; Scott Davis, Concord; Zuleika Godinez, Concord; Nicole Zapata, Concord; Alex Chavez, Central County Regional Group; Bob Lane, Pleasanton; Colleen Geraghty, Concord; Greg Colley, Concord Communities Alliance; Harmesh Kumar, Concord; Natalie; Laura Nakamura, Concord; John Haberkorn, Concord; Ady Olvera, Concord; Matthew Rodriguez, Concord

PUBLIC COMMENT PERIOD

Rosario Lubbe, Pittsburg, spoke of towing fees and regulations.

LaMar Anderson, Concord, thanked Mayor Birsan for his rendition of Black Bart at the Contra Costa County "Poetry Out Loud" competition and spoke about gun safety in schools.

Laura Nakamura, Concord, thanked the Council and staff for the improvements in the timing of posting the meeting playbacks.

Tim Carr, Concord, spoke of his concern after the tragedy in Florida and spoke of officer presence in all schools.

George Fulmore, Concord, spoke about the Concord Pioneer being a good newspaper, access to schools, and the frequency of the meetings of the Rent Review Board.

Cindy Gershan, Mt. Diablo High School, spoke about the wonderful things going on at Mt. Diablo High School.

PRESENTATIONS

STATUS OF THE COMMUNITY REUSE PROJECT

Mayor Birsan introduced Guy Bjerke, Director of Community Reuse Planning, who gave an update on the status of the Community Reuse Project.

Following questions from the Council, Mayor Birsan opened a public comment period.

Hope Johnson, Concord, spoke of the Navy's ability to come and speak in Concord and asked that the public be encouraged to attend when the Navy is present at the Restoration Advisory Board meetings.

Mayor Birsan closed the public comment period.

ANNOUNCEMENTS – none.

CITY COUNCIL CONSENT CALENDAR

APPROVAL OF MINUTES – January 16, 2018

Motion was made by Hoffmeister and seconded by McGallian to approve the minutes of the meeting of January 16, 2018. Motion passed by unanimous vote of the Council.

AWARD OF PURCHASE – 2018 FORD F450 (Stencil Truck)

Motion was made by Hoffmeister and seconded by McGallian to award purchase of a 2018 Ford F450 in the amount of \$115,942 from the National Auto Fleet Group (NAFG). Motion passed by unanimous vote of the Council.

RESOLUTION NO. 18-18 – Parcel Assessment for National Pollutant Discharge Elimination System Program

Motion was made by Hoffmeister and seconded by McGallian to adopt Resolution No. 18-18 entitled, "A Resolution Authorizing the Contra Costa County Flood Control & Water Conservation District to Establish an Annual Parcel Assessment for Fiscal Year 2018-19 for Drainage Maintenance and National Pollutant Discharge Elimination System Program." Motion passed by unanimous vote of the Council.

RESOLUTION NO. 18-3493.1 – Amendment to the Automotive Parts Worker Classification

Motion was made by a Hoffmeister and seconded by McGallian to adopt Resolution No. 18-3493.1 entitled, "A Resolution Approving the Classification Amendment of the Automotive Parts Worker Assigned to the Field & Operations (F&O) Representation Unit at Pay Grade 005 to the Automotive Parts and Services Technician Assigned to the Field & Operations (F&O) Representation Unit at Pay Grade 007." Motion passed by unanimous vote of the Council.

RESOLUTION NO. 18-25 – Accepting a Grant from the Brenden Mann Foundation

Motion was made by Hoffmeister and seconded by McGallian to adopt Resolution No. 18-25 entitled, "A Resolution Accepting a \$52,400 Grant from the Brenden Mann Foundation, Approving a Grant Letter, Authorizing and Appropriating the Grant Funds for Downtown Patrol Program Services and Office Improvements, Amending the Municipal Budget for Fiscal Year 2017-18 Accordingly; and Authorizing the City Manager and/or Designee to Execute all Associated Documents." Motion passed by unanimous vote of the Council.

LOCAL REUSE AUTHORITY CONSENT ITEMREVISED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF CONCORD AND THE CONTRA COSTA TRANSPORTATION AUTHORITY

This item was removed from consideration to return at a later date at the request of the Contra Costa Transportation Authority.

CITY COUNCIL PUBLIC HEARINGSORDINANCE NO. 18-2 - FOURTH PUBLIC HEARING – DISTRICT-BASED ELECTIONS

A notice of Public Hearing announcing the hearing date of February 27, 2018, was published in the East Bay Times on February 16, 2018, mailed to interested parties of record, and posted in the City's posting cabinet.

Planning and Housing Manager Laura Simpson presented a report, reviewing the requested Council action and background of the process to date. She explained that the Council was being requested to hold public hearing number four to receive input on the "Cobalt" map and draft ordinance establishing five Council districts, take public testimony, select a final map, and introduce Ordinance No. 18-2 by reading of the title only and waiving further reading. Ms. Simpson introduced Michael Wagaman, Wagaman Strategies, who reviewed the Cobalt map and the details of the formation of the map.

Councilmember Hoffmeister inquired about the legal vulnerability that comes with splitting census blocks, and Vice Mayor Obringer asked for a definition of census blocks. Councilmember Leone inquired about the changes to the districts required after the 2020 census.

Mayor Birsan opened a public comment period.

Scott Rafferty, Walnut Creek, felt that the Council's outreach to the Latino community was not adequate.

Kenji Yamada, Concord, spoke of the difference between opposing the map chosen and opposing the process of choosing the map, urged a shorter two-year initial term for the Monument District, and spoke of his public comment made at the February 13, 2018, Council meeting.

Hilda Ramirez-Wong, Concord, spoke of implementing an impartial committee for updating the maps after the 2020 census.

Jaime Cader, Concord, spoke of his disappointment that the process was not community driven.

Janet Kinney, Pittsburg, spoke of adding a requirement to the proposed ordinance to use an independent commission to draw district maps after the 2020 census.

Scott Davis, Concord, spoke of naming the districts instead of numbering them and provided a list of suggested names to the Council.

Zuleika Godinez, Ensuring Opportunity, spoke of adding directions to use an independent commission to draw census maps after the 2020 census to the proposed ordinance.

Hope Johnson, Concord, spoke in opposition of the Cobalt map and felt it needed to be adjusted.

Nicole Zapata, Concord, spoke of adding language to the proposed ordinance to add an independent commission to draw district maps after the 2020 census.

Alex Chavez, Central County Regional Group, spoke of the district elections process being burdensome and not representative of the entire community. He requested an independent commission be used to draw district maps after the 2020 census.

George Fulmore, Concord, urged the Council to move forward with the Cobalt map and spoke of the transparency of the process.

Bob Lane, Pleasanton, spoke of implementing an independent commission to draw district maps after the 2020 census.

Colleen Geraghty, Concord, spoke of the transparency of the process and urged the Council to move forward with the Cobalt map.

Greg Colley, Concord Communities Alliance, spoke of implementing an independent commission to draw district maps after the 2020 census, changing the number of councilmembers as population grows, and suggested mid-census redistricting because of the Naval Weapons Station.

Dr. Harmesh Kumar, Concord, felt that the districts were drawn to benefit the current Council and the process was not transparent.

Natalie, spoke of protesting in order to shift the discussion and agenda.

Laura Nakamura, Concord Communities Alliance, spoke of the decrease in the participation after the Council favored one map and the implementation of an impartial commission to draw district maps after the 2020 census.

John Haberkorn, Concord, asked who draws the census blocks and if the City has any input, and agreed with a two-year initial term in the Monument District and implementing an independent commission to draw district maps after the 2020 census. He submitted a Drafting Checklist of Local Redistricting Commission Considerations from the California Local Redistricting Project.

Ady Olvera, Concord, spoke of considering other maps besides the Cobalt map and the need for more transparency in the process.

Mayor Birsan closed the public comment period.

Mayor Birsan called a recess at 8:30 p.m. The meeting resumed at 8:40 p.m.

Councilmember McGallian stated that the entire process has not been satisfying for all involved and recognized that encompassing the entire community and laying out the building blocks prior to the first hearing was difficult due to the time constraints of the process. He outlined the five districts on the Cobalt map and his thoughts behind supporting them. He felt that a two-year term does not give the new district respect and stated his support for exploring an independent commission.

Councilmember Leone agreed with Councilmember McGallian's reasons to support the Cobalt map and felt that the Cobalt map reflects the communities of interest, business corridors, and maintains precinct boundaries. He supported exploring an independent commission and a two-year term for the Monument District for the first election.

Vice Mayor Obringer spoke of the importance of keeping together communities of interest and her disappointment that Lime Ridge cannot be included in District 5, and noted the importance of connecting with Queen of All Saints and Saint Francis churches for the distribution of information to the Latino community. She supported exploring an independent commission, the possibility of a directly-elected mayor, and would like to see the City conduct a citywide survey.

Councilmember Hoffmeister spoke of the six maps that the Council considered, the vetting process, and meeting the objective of having a balanced population in the districts. She commented that she is looking forward to the 2018 election for the Monument District, and felt the City tried to come to a reasonable conclusion to be put forward to the community. She did not support a two-year term for the Monument District first election, emphasized that the Council works for all of Concord and not just one district, and supported exploring an independent commission.

Mayor Birsan stated that he has brought up the topic of district elections and a directly elected mayor for the past 10 years. He spoke of the changes of opinions throughout the process, in support of the Cobalt map, exploring the concept of an independent commission, and exploring a directly-elected mayor.

Motion by McGallian and seconded by Leone to introduce Ordinance No. 18-2 entitled "An Ordinance of the City of Concord Amending Concord Municipal Code Chapter 2.35 (Elections) to Establish a By-District Election Process," with the addition of exploring an independent commission in 2021, after the 2020 census.

Motion by McGallian and seconded by Obringer to amend his motion to introduce Ordinance No. 18-2 entitled, "An Ordinance of the City of Concord Amending Concord Municipal Code Chapter 2.35 (Elections) to Establish a By-District Election Process," by reading of the title only and waiving further reading. Motion passed by unanimous vote of the Council.

Motion by McGallian and second by Leone to direct staff to bring back a workplan to explore an independent commission based on the 2020 census data to prepare for the 2022 election. Motion passed by the unanimous vote of the Council.

ADOPTION OF RESOLUTION NO. 18-12 AND RESOLUTION NO. 18-4283.1 AND  
INTRODUCTION OF ORDINANCE NO. 18-425.1 – Rezoning the Property at 2171 Sunshine  
Drive

A notice of Public Hearing announcing the hearing date of February 27, 2018, was published in the East Bay Times on February 14, 2018, mailed to interested parties of record, and posted in the City's posting cabinet.

Principal Planner Frank Abejo introduced the item, reporting that the subject property is a 0.93-acre property designated as Parks and Recreation by the General Plan and zoned Parks and Recreation (PR). He described the property as currently developed with a home built in 1966 and accessory structures, explaining that the existing residential use does not comply with current General Plan and Zoning and is likely the result of a mapping error.

Following clarifying questions by the Council, Mayor Birsan opened a public comment period, upon receiving no public comment he closed the public comment period.

Motion by Leone and second by Obringer to adopt Resolution No. 18-12 entitled, "A Resolution Adopting a Negative Declaration for an Amendment to the General Plan and Rezoning of Property Located at 2171 Sunshine Drive (PL17545-GP, RZ)." Motion passed by unanimous vote of the Council.

Motion by Leone and second by Obringer to adopt Resolution No. 18-4283.1 entitled, "A Resolution Amending the Concord General Plan Land Use Designation for 2171 Sunshine Drive from Parks and Recreation to Low Density Residential (PL17545-GP)." Motion passed by unanimous vote of the Council.

Motion by Leone and seconded by Obringer to introduce Ordinance No. 18-425.1 entitled, "An Ordinance Amending the Zoning Map of the City of Concord for 2171 Sunshine Drive from PR (Parks And Recreation) to RS6 (Single-Family Residential)," by reading of the title only and waiving further reading. Motion passed by unanimous vote of the Council.

Motion was made by Hoffmeister and seconded by Obringer to begin Public Hearing Item No. 10.c, Introduction of Ordinance No. 18-1, the Development Code Cleanup Amendment, past 10 p.m. Motion passed by unanimous vote of the Council.

#### INTRODUCTION OF ORDINANCE NO. 18-1 – Development Code Cleanup Amendment

A notice of Public Hearing announcing the hearing date of February 27, 2018, was published in the East Bay Times on February 14, 2018, mailed to interested parties of record, and posted in the City's posting cabinet.

Principal Planner Frank Abejo introduced the item, reporting that the City of Concord Development Code, which includes the zoning regulations, development standards, and processing requirements, is a living document within the Municipal Code that must be updated and maintained regularly in order to remain an effective instrument reflecting the evolving goals and policies of the City. He explained that Development Code updates are also necessary to comply with State legislative mandates, and the action requested by Council is an on-going effort to ensure the Development Code remains responsive to the community's needs and consistent with State law. Mr. Abejo summarized the amendments included in Ordinance No. 18-1.

Vice Mayor Obringer inquired about unattended temporary donation boxes and if Code Enforcement would enforce the regulation after the ordinance is adopted.

Councilmember Hoffmeister inquired about the donation boxes and understood that they would still be allowed.

Councilmember McGallian inquired if there was consensus of the Council to pull Section 18.200.200 regarding unattended donation boxes out of the proposed ordinance and take the item to the Committee on Policy Development and Internal Operations.

Mayor Birsan opened a public comment period.

Matthew Rodriguez, Concord, spoke in support of the five foot setback requirement for pools.

Mayor Birsan closed the public comment period.

Motion was made by McGallian and seconded by Leone to introduce Ordinance No. 18-1 entitled, "An Ordinance Amending Concord Municipal Code Title 18 (Development Code), Chapter 18.20 (General Terms), Chapter 18.35 (North Todos Santos [NTS]), Chapter 18.150 (General Development Standards), Chapter 18.200 (Standards for Specific Uses), and Chapter

18.425 (Minor Exceptions),” by reading of the title only and waiving further reading, and amending to pull 18.200.200 regarding unattended donation boxes from the ordinance (Exhibit C) and refer to the Committee on Policy Development and Internal Operations. Motion passed by unanimous vote of the Council.

#### CORRESPONDENCE

- a. Happenings at Mt. Diablo High School submitted by Cindy Gershan
- b. Mt. Diablo High School Super Bowl City 2018 Senior Project
- c. Community Reuse Project December 2017 Program Report
- d. Concord City Council Districting PowerPoint Presentation
- e. Benched Correspondence – Agenda Item No. 10.a
- f. Letter Submitted by Scott Rafferty
- g. Suggested Names of Districts submitted by Scott Davis
- h. Drafting Checklist of Local Redistricting Commission Considerations Submitted by John Haberkorn
- i. 2171 Sunshine Drive General Plan Amendment and Rezoning PowerPoint Presentation
- j. Development Code Cleanup Amendment PowerPoint Presentation
- k. Benched Correspondence – Agenda Item No. 10.c

#### CLOSED SESSION ANNOUNCEMENTS

At its February 27, 2018, Closed Session, the City Council by an unanimous 5-0 vote, authorized the City Attorney to accept the settlement offer signed by the opposing party in that certain United States District Court action entitled John Burns, et al. v. City of Concord, et al., United States District Court Case No. C14-00535 LB. The case settled for \$1.2 million, which will primarily be covered by insurance, and this settlement resolves any and all claims against the City of Concord and/or its employees arising out of that case. No liability is admitted.


#### COUNCIL REPORTS

Mayor Birsan appointed himself and Councilmember Hoffmeister to the Ad Hoc Committee on Concord/Pittsburg border issues related to the potential adoption for the Reuse Project Specific Plan and consideration of the annexation and potential approval of land use entitlements for the Faria Ranch Project.

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

#### ADJOURNMENT

By order of the Mayor, the meeting was adjourned at 10:35 p.m.



EDI E. BIRSAN  
MAYOR



JOELLE FOCKLER, MMC  
CITY CLERK