



BRISBANE CITY COUNCIL

ACTION MINUTES

**JOINT CITY OF BRISBANE CITY COUNCIL/ HOUSING AUTHORITY/
GUADALUPE VALLEY MUNICIPAL IMPROVEMENT DISTRICT**

MEETING AGENDA

THURSDAY, JUNE 6, 2019

BRISBANE CITY HALL, 50 PARK PLACE, BRISBANE

7:00 P.M. CLOSED SESSION (To Be Held in the Large Conference Room)

- A. Approval of the Closed Session Agenda
- B. Public Comment. Members of the public may address the Councilmembers on any item on the closed session agenda
- C. Adjournment into Closed Session
- D. Conference with Legal Counsel—Initiation of Litigation. Potential initiation of litigation pursuant to Government Code, section 54956.9 (d) (4) Number of Cases: One

CALL TO ORDER – PLEDGE OF ALLEGIANCE

Mayor Davis called the meeting to order at 7:30 P.M. and led the Pledge of Allegiance.

ROLL CALL

Councilmembers present: Councilmembers Cunningham, Lentz, O’Connell, and Mayor Davis

Councilmembers absent: Councilmember Conway (on medical leave of absence per Council approval)

Staff present: City Clerk Padilla, City Manager Holstine, Interim City Attorney McMorro, Administrative Services Director Schillinger, Community Development Director Swiecki, City Engineer Breault, Police Chief Macias

Mayor Davis reported that Councilmember Conway requested and was granted from City Council a ninety-day medical leave of absence.

REPORT OUT OF CLOSED SESSION

Interim City Attorney McMorrow reported that no action was taken by Council regarding the initiation of litigation.

ADOPTION OF AGENDA

CM O'Connell made a motion, seconded by CM Cunningham, to adopt the agenda as it stands.

ORAL COMMUNICATIONS NO. 1

No members of the public wished to speak.

PRESENTATION

A. Home for All's Community Engagement

Pat Brown, representative of San Mateo County's Home for All, provided an update on the Home for All's Community Engagement work. Home for All is a community collaborative addressing the housing challenge in San Mateo County. In partnership with the City of Brisbane, Home for All facilitated Community Conversations to achieve the following goals:

- Bring the community together
- Identify common values and principles
- Broaden understanding from previous outreach
- Create positive conditions for future efforts in the Baylands and greater Brisbane community

At the first Community Conversation held on March 21, 2019, attendees discussed community values and principles and their hopes and concerns for the future. At the second Community Conversation held on May 4, 2019, attendees discussed information needed for the Baylands planning process and ideas for nine topics of community interest. Ms. Brown thanked the community for all their input and hope they will continue to be engaged in future activities.

After some council discussion and questions, Council thanked Ms. Brown for her presentation.

CONSENT CALENDAR

- A. Adopt City Council Minutes of May 2, 2019**
- B. Accept Investment Report as of March 2019**
- C. Accept Investment Report as of April 2019**
- D. Adopt Resolution No. 2019-19 Adopting the Annual Rate Increase For Solid Waste Services for Recology Effective July 1, 2019**

- E. Adopt Resolution No. 2019-20 Adopting the Annual Rate Increase for Solid Waste Services for South San Francisco Scavenger Co., Inc. Effective July 1, 2019**
- F. Adopt Resolution No. 2019-21 Amending the Franchise Agreement between the City of Brisbane and South San Francisco Scavenger Co., Inc. Effective December 1, 2019**

(It is being recommended to Approve Resolution 2019-21, authorizing the Mayor to sign Amendment No. 2 to the franchise agreement between the City of Brisbane and South San Francisco Scavengers to extend term of Zone 2 coverage to November 30, 2024.)

- G. Adopt Resolution 2019-12 Establishing the Business License Tax for Liquid Storage Facilities for 2019 as to Kinder Morgan/SFPP**
- H. Approve Sierra Point Landscaping and Lighting District Annual Appointments, Preliminary Approval of Engineer's Report and Intention to Order the Levy and Collection of Assessments**
 - 1. Approve Resolution No. 2019-13, "Appointing Attorney for the Sierra Point Landscaping and Lighting District for the Fiscal Year 2019-2020"**
 - 2. Approve Resolution No. 2019-14, "Appointing Engineer for the Sierra Point Landscaping and Lighting District for the Fiscal Year 2019-2020"**
 - 3. Approve Resolution No. 2019-15, "A Resolution of Preliminary Approval of Engineer's Report - Fiscal Year 2019-2020 - Sierra Point Landscaping and Lighting District"**
 - 4. Resolution No. 2019-16, "A Resolution of Intention to order the levy and collection of assessments pursuant to the Landscaping and Lighting Act of 1972 - Fiscal Year 2019-2020 - Sierra Point Landscaping and Lighting District"**
- I. Approve Agreement with HCP LS Concerning Payment of Inspection and Emergency Response Costs**
- K. Approve the publication of the Notice Inviting Bids for the Fire Station 81 Standby Generator Upgrade, Job No. 9I01.**
- L. Adopt Resolution 2019-22 Adopting Declaration of Restrictions Concerning City Owned Property Within Brisbane Acres**
- M. Approve the Plans and Specifications and Authorize Publication of the Notice Inviting Bids for the Fire Main Replacement Project - Phase 2 (Project No. 9F08)**

(Fiscal Impact: On April 16, 2015, the City Council adopted Resolution No. 2015-11 authorizing the issuance and sale of \$5M of revenue bonds to finance improvements to the city's public utilities, including the Annis Road PRV Station and Fire Main Replacement Project. The current engineer's estimate for the Fire Main Replacement Project - Phase 2 is \$3,855,000.)

- N. Approve the Introduction of Ordinance 639 Repealing Ordinance Nos. 42 And 546, and Chapters 3.12 And 15.22 of the Brisbane Municipal Code, (Purchase of Supplies and Equipment; Informal Bidding Procedures) and Adding to the Brisbane Municipal Code a Revised Chapter 3.12 Concerning Procurement Procedures for the City of Brisbane**

CM O'Connell made a request to pull Consent Calendar Item J for a brief discussion.

CM O'Connell made a motion, seconded by CM Lentz, to adopt Consent Calendar A-I and K-N.

Ayes: Councilmembers Cunningham, Lentz, O'Connell and Mayor Davis

Noes: None

Absent: Councilmember Conway

- J. Approve the Water Supply Agreement with Ashford Kelton I, LLC and Alpha Flight US, Inc. regarding 100 West Hill**

After some questions directed to City Engineer Breault and Interim City Attorney McMorro, CM O'Connell made a motion, seconded by CM Cunningham, to adopt Consent Calendar Item J.

Ayes: Councilmembers Cunningham, Lentz, O'Connell and Mayor Davis

Noes: None

Absent: Councilmember Conway

NEW BUSINESS

- A. Consider Adoption of Resolution 2019-27 Calling for a Special Municipal Election to be Consolidated With the General Election on November 5, 2019 Revising and Potentially Increasing the Business License Tax for Liquid Storage Facilities**

City Manager Holstine reported out Resolution 2019-27 calls for a special election to be consolidated with the municipal election on November 5, 2019 to increase (potentially) the business license tax for liquid storage facilities but in no case, as to the Kinder Morgan facility, more than \$400,000 annually. If a majority of the voters voting on the ballot measure approve it, it will go into effect.

City Manager Holstine added that if this ballot measure is approved, the tax will be calculated at 6 cents per "over the rack" barrel but in no event, as to the Kinder Morgan facility, more than \$400,000 annually. If this amount had been applied in 2017, 2018 and 2019, the City would have received \$400,000. It is anticipated that the City will continue to receive this same amount in the future.

After some Council questions and discussion, CM O'Connell made a motion, seconded by CM Cunningham, to adopt Resolution No. 2019-27 calling for a special municipal election to be consolidated with the general election on November 5, 2019 revising and potentially increasing the business license tax for liquid storage facilities.

Ayes: Councilmembers Cunningham, Lentz, O'Connell and Mayor Davis

Noes: None

Absent: Councilmember Conway

B. Consider Adoption of Resolution 2019-28 Calling for a Special Municipal Election to be Consolidated With the General Election on November 5, 2019 Increasing the Transient Occupancy Tax From 12% to 14%

Mayor Davis recused herself from New Business Item B due to a conflict of interest and left the dais.

City Manager Holstine reported out that the attached resolution calls for a special election to be consolidated with the municipal election on November 5, 2019 to increase the TOT from 12% to 14%. If a majority of the voters voting on the ballot measure approve it, it will go into effect. He added that if this ballot measure is approved, it is anticipated that the City will receive \$ 3.1 million annually in TOT, an increase of \$400,000.

After some Council questions and discussion, CM Cunningham made a motion, seconded by CM Lentz, to adopt of Resolution No. 2019-28 calling for a special municipal election to be consolidated with the general election on November 5, 2019 increasing the transient occupancy tax from 12% to 14% . Resolution 2019-28 was approved on a 3-1-1 vote.

Ayes: Councilmembers Cunningham, Lentz, and O'Connell

Noes: None

Absent: Councilmember Conway

Recused: Mayor Davis

C. Consider Adoption of Resolution 2019-29 Calling for a Special Municipal Election to be Consolidated With the General Election on November 5, 2019 Establishing a Business License Tax on Cannabis Businesses

City Manager Holstine reported that Resolution 2019-29 calls for a special election to be consolidated with the municipal election on November 5, 2019 to establish a business license tax of up to 6% on cannabis businesses.

If approved by the voters, this measure would authorize the City Council to impose a special excise tax on the gross receipts of City-licensed cannabis businesses, in lieu of the business license tax imposed on other Brisbane businesses. The measure sets a maximum cannabis business tax rate of six percent (6%) of the business' gross receipts. Subject to this maximum, the City Council would be authorized to establish the exact rate by resolution without further voter approval, and to set different tax rates for different types of cannabis businesses. The City Council may decrease or increase the tax rates, up to the maximum rate, as often as every two years. As legal cannabis

businesses are new, the City anticipates that it may take some time for the revenues from the cannabis business tax to reach their estimated potential of approximately \$300,000 per year.

After some Council discussion and questions of Cannabis Issues Ad Hoc Subcommittee members, CM Cunningham made a motion, seconded by CM O'Connell, to adopt Resolution 2019-29 Calling for a Special Municipal Election to be Consolidated With the General Election on November 5, 2019 Establishing a Business License Tax on Cannabis Businesses.

Ayes: Councilmembers Cunningham, Lentz, O'Connell and Mayor Davis

Noes: None

Absent: Councilmember Conway

D. Consider Adoption of Resolution HA 2019-01 Adopting Amendments to the Brisbane Housing Authority First Time Homebuyer Loan Program

(This item was pulled from the Joint Brisbane City Council/Housing Authority Meeting of May 2, 2019)

Community Development Director Swiecki reported that the purpose of Resolution HA 2019-01 is to revise the Brisbane First Time Homebuyer Program ("Program") and the Resale Restriction Agreement and Option to Purchase ("Resale Agreement") to ensure successful purchase and resale transactions of properties subject to the Program's provisions based on current administration practices, mortgage lending standards, and applicable State affordable housing laws.

The proposed revisions to the program include the following:

1. Consistency with First Mortgage Lender Requirements.
2. Source of Down Payment Funds.
3. Adjust Net Assets for Income Calculation and Reserve Fund Requirements.
4. Expand Eligibility Criteria
5. Allow the Authority to Reduce or Waive its Share of Shared Appreciation.
6. Flexibility in Sales Price.

After further Council questions and discussion, the Council directed staff not to the expand the eligibility criteria, and made the following amendments to the Program Manual's Section 1C Household's Eligibility Requirements:

- Restore section 3 Title
- Restore section 3 A and B
- Strike all the lines under section 3b
- Restore section 4 and 5
- Restore section Qualify for a First Mortgage back to section 6
- Add language stating that the policies apply to all properties currently owned by the program and properties owned by the program in the future

CM O'Connell made a motion, seconded by CM Lentz, to adopt Resolution HA 2019-01 Adopting Amendments to the Brisbane Housing Authority First Time Homebuyer Loan Program as amended.

Ayes: Councilmembers Cunningham, Lentz, O'Connell and Mayor Davis

Noes: None

Absent: Councilmember Conway

E. Consider Appointments of Representatives for the City and the Guadalupe Valley Municipal Improvement District (GVMID) Water Systems to the Bay Area Water Supply & Conservation Agency (BAWSCA) and Bay Area Regional Water System Financing Authority (RFA) Appointments

(The Council will decide on who should represent the City and GVMID on both BAWSCA and RFA. Currently Public Works Director Breault is the GVMID representative and former Mayor and Councilmember Sepi Richardson is the City representative.)

City Engineer Breault reported that the Council must decide on who should represent the City the Guadalupe Valley Municipal Improvement District (GVMID) Water Systems to the Bay Area Water Supply & Conservation Agency (BAWSCA) and Bay Area Regional Water System Financing Authority (RFA). Currently, Public Works Director Breault is the GVMID representative and former Mayor and Councilmember Sepi Richardson Wood is the City representative. Both are interested in being reappointed and their terms are up on June 30, 2019.

After some Council discussion and questions of staff and current City Representative Sepi Richardson Wood, CM O'Connell made a motion, seconded by CM Lentz, to reappoint Public Works Director Breault as the GVMID representative and former Mayor and Councilmember Sepi Richardson Wood as the City representative to the Bay Area Water Supply & Conservation Agency (BAWSCA) and Bay Area Regional Water System Financing Authority (RFA).

Ayes: Councilmembers Cunningham, Lentz, O'Connell and Mayor Davis

Noes: None

Absent: Councilmember Conway

STAFF REPORTS

A. City Manager's Report on upcoming activities

City Manager Holstine reported out on the upcoming events and activities happening later in the week.

MAYOR/COUNCIL MATTERS

A. Create a Tree Ordinance Ad Hoc Subcommittee and Assign Councilmembers to the Ad Hoc Subcommittee

City Manager Holstine reported that an Ad Hoc Subcommittee was needed to review and discuss the proposed amendments to the City's Tree Ordinance.

CM Cunningham and CM O'Connell volunteered and to be members of the Tree Ordinance Ad Hoc Subcommittee. Since both CM Cunningham and O'Connell were members of the Planning Issues Subcommittee, City Manager will add the Tree Ordinance to Planning Issues Subcommittee agenda in lieu of establish a Tree Ordinance Ad Hoc Subcommittee.

B. Countywide Assignments/Subcommittee Reports

Mayor Davis and Councilmembers reported their activities in the following Countywide Assignments and Council Subcommittees:

- Brisbane Baylands Community Advisory Group (BBCAG)
- Baylands Subcommittee
- School/City 2x2 Subcommittee (Bayshore School District)
- Sierra Point Design Guidelines Ad Hoc Subcommittee
- Airport Community Roundtable

CM Cunningham also directed staff to provide more information regarding Floor Area Ratio policies in the City and how it impacts smaller and odd-shaped properties.

C. City Council Meeting Schedule

Mayor Davis reported that the next City Council Meeting is scheduled for June 20, 2019.

D. Written Communications

Written correspondences were received from the following members of the public from May 3, 2019 through June 6, 2019 at 5 P.M.:

- Jeff Gee, (5/7/19) San Mateo County API Caucus Launch
- Glenn Fieldman (6/4/19), Invite to Sign Letter to Phase out Fossil Fuel Production
- Arthur Sun (6/4/19), Resignation from the Complete Streets Safety Committee

Mayor Davis reported that since the Council received a resignation letter from Complete Streets Safety Committee Member Arthur Sun, whose term is up January 2020, City Clerk Padilla can go ahead and notice the resignation.

Mayor Davis also added that since the Council conducted three interviews for Complete Streets Safety Committee vacancies at their special City Council Meeting on June 3, 2019, the Council will not need to advertise or interview for the vacant seat. The Council will appoint all three of the applicants who were interviewed. City Clerk Padilla was directed to draft a Resolution to appoint Cristian Cabrera for the Complete Streets Safety Committee term through January 2020 to replace the newly vacant seat.

ORAL COMMUNICATIONS NO. 2

Sepi Richardson Wood shared her concern about how resident can help the City meet the State's housing requirement. She is also concerned with Lyft and Uber drivers breaking speed limits on the City streets.

ADJOURNMENT

CM O'Connell made a motion, seconded by CM Lentz, to adjourn the meeting. Mayor Davis adjourned the meeting at 9:07 P.M.

PUBLIC MEETING VIDEOS

The replay schedule for public meetings can be found on the Live Streaming page <http://brisbaneca.org/live-streaming>. Past meetings will be replayed on Comcast Channel 27 and at <http://brisbaneca.org/live-streaming> and can be found on the All Meetings page (<http://brisbaneca.org/city-government/meetings>) once the video has been archived

Ingrid Padilla
City Clerk