



**BRISBANE CITY COUNCIL**

**ACTION MINUTES**

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**CITY COUNCIL MEETING**

**THURSDAY, MAY 19, 2022**

*VIRTUAL MEETING*

**CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Mackin called the meeting to order at 7:34 P.M. and led the Pledge of Allegiance.

**ROLL CALL**

Councilmembers present: Councilmembers Cunningham, Davis, Lentz, O'Connell and Mayor Mackin

Councilmembers absent: None

Staff Present: City Manager Holstine, City Clerk Padilla, City Attorney McMorrow, Assistant City Manager Schillinger, Finance Director Yuen, City Engineer Breault, Deputy Director of Public Works Kinser, Community Development Director Swiecki, Senior Planner Johnson, Deputy City Clerk Ibarra, Police Commander Garcia and Legal Counsel Roush.

**REPORT OUT OF CLOSED SESSION**

City Attorney McMorrow reported that updates were provided to Council, direction was given to staff and no action was taken at Closed Session regarding Closed Session Items D and E.

**ADOPTION OF AGENDA**

CM Davis made a motion, seconded by CM Lentz, to adopt the agenda as it stands. The motion was carried unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

## **AWARDS AND PRESENTATIONS**

### **A. Proclaiming May 2022 as Mental Health Month**

Mayor Mackin declared May 2022 as Mental Health Month, to increase public awareness, to help end the stigma, and encourage members of our community to utilize professional and self-help resources available in our county.

Chris Rasmussen, Commissioner for the San Mateo County Mental Health and Substance Abuse Recovery Commission accepted the proclamation and emphasized the important work the County is doing to increase Mental Health awareness.

### **B. Proclaiming May 2022 as Asian American Pacific Islander Heritage Month**

Mayor Mackin declared May 2022 as Asian American and Pacific Islander Heritage Month and encouraged our residents, to explore Asian American Pacific Islander history, culture, and accomplishments and to support local events commemorating this rich heritage.

Ingrid Padilla, City Clerk for the City of Brisbane accepted the proclamation and her personal story of immigrating from the Philippines to the United States for more opportunities and for a safe and healthy community to call home. She shared she was grateful for the opportunity to proudly serve as the City Clerk of the City of Brisbane.

## **ORAL COMMUNICATIONS NO. 1**

No member of the public wished to speak.

## **CONSENT CALENDAR**

### **C. Approve Minutes of City Council Meeting of May 5, 2022**

### **D. Approve Minutes of City Council Closed Session of May 5, 2022**

### **E. Adopt Ordinance, waiving second reading, to amend Brisbane Municipal Code Title 17 (Zoning Ordinance) to achieve consistency with housing-related state legislation**

(Proposed amendments include: establishing objective design and development standards for housing development projects; allowing multiple family dwellings in the SCRO-1 District by right; and establishing procedures and requirements for an administrative Housing Development Permit for qualifying housing development projects. This Ordinance has been revised to eliminate proposed amendments to the NCRO-2 District.)

### **F. Approve Plan for Community Park Festival Tree Replacement**

(The recommendation is to plant a small grove of Douglas Fir trees. The fiscal impact of planting of the three recommended trees and modification of the irrigation system is expected to cost approximately

\$6,000.)

**I. Approve Intended Use of FY 2022-23 TDA Article 3 Funding**

(The purpose of this item is to adopt the resolution required by the Metropolitan Transportation Commission (MTC) as a condition to receive transportation funding in the amount of \$240,000, from the Transportation Development Act Article 3 (TDA 3) to improve a section of the central Brisbane alley between Alvarado St. and San Benito Rd., and to obtain a supplemental appropriation of \$60,000 from the General Fund to provide the required local match)

- J. Approve Construction Contract for Sierra Point Parkway Cape Seal (Project No. 922D) to American Pavement Systems, Inc. in the amount of \$339,000, and Authorize the Mayor to Sign the Agreement**
- K. Approve Project and Adopt a Resolution required by the San Mateo County Transportation Authority as a condition to receive Alternative Congestion Relief and Transportation Demand Management Measure A and Measure W funds for Shuttle Stop Improvements along Commute.org's Routes in Crocker Park, and to Obtain a Supplemental Appropriation of \$25,000 from the General Fund to Provide the Required local match.**

Mayor Mackin added that members of the public wanted to pull Consent Items G and H for discussion.

CM O'Connell made a motion, seconded by CM Cunningham, to approve Consent Calendar Items C-F and I-K. The motion was carried unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

- G. Adopt a City Resolution and a Guadalupe Valley Municipal Improvement District Resolution Approving the 2021 Amended and Restated Water Supply Agreement Between the City and County of San Francisco Wholesale Customers in Alameda County, San Mateo County, and Santa Clara County and authorize the City Mayor and the Board Chair to execute such Agreement**

- H. Adopt a City Resolution and a Guadalupe Valley Municipal Improvement District Resolution Approving a Minimum Purchase Transfer from the City of Mountain View to the City of East Palo Alto**

City Engineer Breault discussed Consent Calendar Items G and H and proceeded to answer council questions. CM Cunningham made a motion, seconded by CM Davis, to approve Consent Calendar Items G and H. The motion was carried unanimously by all present.

Ayes: Councilmembers/Board Members Cunningham, Davis, Lentz, O'Connell and Mayor/Chair Mackin

Noes: None

Absent: None

Abstain: None

## PUBLIC HEARING

### **L. Applicant Appeal of the Planning Commission's April 4, 2022 Decision Denying the Modification of Interim Use Permit 2021-UP-3 to Allow the Use of a Vacant Site On the Baylands To Be Used For a Google Bus Staging Yard**

(City Council will consider applicant appeal of the Planning Commission's April 4, 2022 decision denying the modification of Interim Use Permit 2021-Up-3 to allow the use of a vacant site on the Baylands to be used for a Google Bus staging yard (Planning Commission Resolution 2021-UP-3-M) and revoking Interim Use Permit 2021-UP-3 (Planning Commission Resolution 2021-UP-3-R); Eric Aronsohn, applicant; Oyster Point Properties Inc, applicant/owner.)

Councilmember Cunningham recused herself due to a conflict of interest and left the Zoom Webinar.

Senior Planner Johnson recapped the Planning Commission on April 4, 2022 denying the modification of Interim Use Permit 2021-Up-3 to allow the use of a vacant site on the Baylands to be used for a Google Bus staging yard (Planning Commission Resolution 2021-UP-3-M) and revoking Interim Use Permit 2021-UP-3 (Planning Commission Resolution 2021-UP-3-R).

After council questions, Mayor Mackin opened the public hearing.

Eric Aronsohn, Director - Strategic Finance, Sustainability, Asset Management of Baylands Development Inc. and Ross Benson, Transportation Manager from Google appealed to the Council to reverse the Planning Commission's decision.

City Clerk Padilla noted for the record that correspondence regarding this item was received from Dana Dillworth and a recent email was sent by Transdev Bus Operation.

Kim Follien was in support of the use permit asking the Council to decide based on facts.

Michele Salmon spoke in favor of the Planning Commission's decision to revoke the Interim Use Permit and showed video clips.

Prem Lall was concerned about light pollution and asked that the lights in the bus yard be pointed down to the concrete.

Mary Rogers stated that Google was given many chances to fix the issues and they have not fixed them.

Barbara Ebel supported the Commission's decision because the appellant was not good at keeping promises and proposed a bond program for fines.

CM Lentz made a motion, seconded by CM Davis, to close the public hearing. The motion was carried unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

Recused: Councilmember Cunningham

After more clarifying questions directed to staff, Fehr and Peers the appellant's traffic consultants, and Mr. Aronsohn and Mr. Benson, Councilmember Lentz asked to continue the public hearing until Mr. Aronsohn can discuss with BDI about Tunnel Road safety and upgrades.

Councilmembers agreed with Councilmember Lentz. CM O'Connell made a motion, seconded by CM Davis, to continue the public hearing until the July 14 and provide more information on implementing roadway improvements on Tunnel Avenue (including northern and southern routes as well as the possibility of incorporating a bicycle lane). The motion was carried unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

Recused: Councilmember Cunningham

CM O'Connell made a motion, seconded by CM Lentz to continue the Interim Use Permit for another 60 days. The motion was carried unanimously by all present. CM Davis also requested for the appellant to provide more current bus yard usage data during those 60 days.

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

Noes: None

Absent: None

Abstain: None

Recused: Councilmember Cunningham

**M. Consider Approval of Use Permit 2022-UP-2; 1000 Sierra Point Parkway; SP-CRO Sierra Point Commercial District; Use Permit application to allow the use of minipigs in medical research and development (R&D) by Bristol-Myers Squibb in the existing, approximately 9,000 square foot vivarium; Ricardo Garcia, applicant; HCP LS Brisbane LLC, owner**

Senior Planner Johnson reported that the purpose of this public hearing item is for the Council to consider the proposed use permit application for Bristol-Myers Squibb (BMS) to conduct research on minipigs for cardiovascular research. It is being recommended that the City Council approve the requested use permit application 2022-UP-2.

After council questions, Mayor Mackin opened the public hearing. Dr. Ricardo Garcia Senior Director, Cardiovascular Drug Discovery from Bristol Myers Squibb and Dr. Beth Geist, Senior Staff Veterinarian from Bristol Myers Squibb asked for Council to approve the Use Permit Application as they will conduct research

following the Guide for the Care and Use of Laboratory Animals (Institute for Laboratory Animal Research, National Research Council).

Prem Lall was concerned about the smell coming from the facility.

Barbara Ebel was not in support of the use permit application because it is not consistent with the City's values.

Michele Salmon stated that this is a difficult decision for Council.

CM Davis made a motion, seconded by CM Cunningham, to close the public hearing. The motion was carried unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

After some clarifying questions and discussion, and with the applicant's consent, CM Cunningham made a motion, seconded by CM Lentz to continue the public hearing to June 16 to provide Council more information on how the minipigs were to be cared for (i.e., are they always alone and caged or do they get a chance to with other pigs?), especially the size of the proposed enclosure and the number of pigs to be housed in it, and additionally the specifics of the Guide for the Care and Use of Laboratory Animals (Institute for Laboratory Animal Research, National Research Council) regarding these matters. The motion was carried unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

Recused: Councilmember Cunningham

#### **N. Consider Introduction of an Ordinance Amending Chapters 15.01 (Grading Ordinance) and Section 17.32.220, Brisbane Municipal Code (Review of Grading Permits)**

Legal Counsel Roush reported that the proposed changes to the Grading Ordinance was reviewed by the Infrastructure and Utilities Subcommittee and has recommended the Ordinance be introduced. The changes in the grading ordinance satisfy the recommendations coming out of the settlement of the lawsuit in 2007, continue the role of the Planning Commission and the public in reviewing certain grading permit applications, clarify the procedures to be followed when grading occurs in an HCP area, and provide financial incentives for persons not to violate the Grading Ordinance.

CM Cunningham, made a motion, seconded by CM Lentz to continue the meeting until 11:00 A.M. and take a five-minute break. The motion was carried unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

After a brief break, Council questions and discussion, Councilmember O'Connell requested to modify the language in paragraph 2 of subsection A of Section 15.01.110 regarding when a public hearing will be triggered.

Mayor Mackin opened the public hearing and no member of the public wished to speak.

CM O'Connell made a motion, seconded by CM Lentz to close the public hearing. The motion was carried unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

CM O'Connell made a motion, seconded by CM Davis, to introduce Ordinance Amending Chapters 15.01 (Grading Ordinance) and Section 17.32.220, Brisbane Municipal Code (Review of Grading Permits) with an amendment to modify the language revise paragraph 2 of subsection A of Section 15.01.110 accordingly:

More than fifty (50) cubic yards of material are to be moved or planned to be moved in any single grading or excavation operation and the parcel or parcels of land on which the grading or excavation is to be performed is located within any of the following zoning districts as defined by the City's most current Zoning Map--Brisbane Acres, Southwest Bayshore, Central Brisbane, Northeast Ridge, and Northwest Bayshore--or the Quarry.

The motion was carried unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

## **NEW BUSINESS**

### **O. Receive Mid-Year Budget Report and Consider Adoption of Resolution Amending the Annual Budget for Fiscal Year 2021-22 and Making Appropriations for the Amount Budgeted**

Finance Director Yuen reported that the Ending Fund Balance for FY 2021/22 is anticipated to be higher than originally projected and will be approximately \$16,185,795. Based on fund commitments and the Reserve Policy adopted by Council to set money aside for recessions, unanticipated events and annual fluctuations in the budget, the City will have \$1,954,701 in available reserves. Staff recommends rolling over these funds to be considered for use in FY22/23.

After some council questions and no public comment, CM Cunningham, made a motion, seconded by CM

O'Connell to continue the meeting until 11:15 A.M. The motion was carried unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

After some council questions and no public comment, CM Cunningham, made a motion, seconded by CM Davis to adopt a resolution amending the Annual Budget for Fiscal Year 2021-22 and making appropriations for the amount budgeted. The motion was carried unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

## **STAFF REPORTS**

### **P. City Manager's Report on upcoming activities**

City Manager Holstine reported that there will be a special meeting on June 9, 2022 for a budget workshop. City Attorney McMorrow provided an update on a legal issue pertaining to holding Monsanto Corporation accountable for the massive costs to remove polychlorinated biphenyls (PCBs) contamination from the San Mateo County jurisdictions and the San Francisco Bay.

## **MAYOR/COUNCIL MATTERS**

### **Q. Updating the County-Wide and Subcommittee Assignments**

Councilmember Cunningham will be the new representative for the Education Ad Hoc Subcommittee and the School /City Subcommittee 2x2 replacing Mayor Mackin. Mayor Mackin will be the new Council Liaison to the Open Space and Ecology Committee replacing Councilmember Cunningham.

### **R. Countywide Assignments and Subcommittee Reports**

No reports were given due to the late hour.

### **S. Written Communications**

Council received the following written correspondences from May 6-May 19, 2022:

Dana Dillworth (May 19, 2022) Comments on UP-2

Dana Dillworth (May 19, 2022) Items G and H Consent Calendar

Ross Benson (May 18, 2022) Written Comments for 5/19 Meeting

Dana Dillworth (May 9, 2022) For Lisa Macias, BPD, and council



**ORAL COMMUNICATIONS NO. 2**

No members of the public wished to speak.

**ADJOURNMENT**

Mayor Mackin adjourned the meeting at 11:11 P.M.



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Ingrid Padilla, City Clerk