"The City With a Heart"

Jim Ruane, Mayor
Michael Salazar, Vice Mayor
Ken Ibarra, Councilmember
Rico E. Medina, Councilmember
Irene O'Connell, Councilmember

MINUTES

SAN BRUNO CITY COUNCIL

May 26, 2015

7:00 p.m.

1. CALL TO ORDER: THIS IS TO CERTIFY THAT the San Bruno City Council met on May 12, 2015 at San Bruno's Senior Center, 1555 Crystal Springs Road, San Bruno, CA. The meeting was called to order at 7:03 p.m. **Mayor Ruane** thanked the San Bruno Garden Club for the flowers.

2. ROLL CALL/PLEDGE OF ALLEGIANCE:

Presiding was Mayor Ruane, Vice Mayor Salazar, Councilmembers Ibarra, Medina and O'Connell. **Marty Medina** led the Pledge of Allegiance. Recording by City Clerk Bonner.

3. ANNOUNCEMENTS:

a. **Mayor Ruane** said the 75th Annual Posy Parade will take place on Sunday, June 7, 2015 at 1:00 p.m. to include City Parkway for a car show and lots of events. He said on the same day from 8:30 a.m. to 11:30 a.m. the Fire Department on El Camino Real is having their pancake breakfast with proceeds going to the Burn Foundation.

b. The San Bruno Community Foundation is conducting community outreach to gather input on community needs and interests. The Foundation is hosting Town Hall meetings on May 28 at Bell Air School and on June 3 at the San Bruno Senior Center beginning at 6:30 p.m.

c. The San Bruno City Council will be holding Budget Study Sessions on June 8 and 10, beginning at 5:30 p.m. at San Bruno City Hall, 567 El Camino Real, San Bruno, CA.

4. PRESENTATIONS: None.

5. REVIEW OF AGENDA: No changes.

6. APPROVAL OF MINUTES: Regular Council Meeting of May 12, 2015, approved as submitted.

7. CONSENT CALENDAR:

a. **Approve:** Accounts Payable of May 11 and 18, 2015.

b. **Approve:** Payroll of May 8, 2015.

c. **Accept:** Reconciliation of the General Ledger to the Bank Report and the Monthly Investment Report, Dated April 30, 2015.

d. **Waive:** Second Reading and Adopt Ordinance Imposing a 1.652% Rate Increase for Recology San Bruno Garbage and Recycling Services to be Effective July 1, 2015.

e. **Waive:** Second Reading, and Adopt an Ordinance Amending Chapter 8.24, Section 8.24.200 of the San Bruno Municipal Code Relating to Private Sewer Laterals.

f. **Adopt:** Resolution Authorizing the City Manager to Execute an Agreement with Turbo Data Systems, Inc. for Parking Citation Processing and Adjudicating Services for a Five (5) Year Term Expiring June 30, 2020.

g. **Adopt**: Resolution Accepting the Sidewalk Repair Project as Complete, Authorizing the Filing of a Notice of Completion with the San Mateo County Recorder's Office, and Authorizing Release of the Construction Contract Retention in the Amount of $17,867.

Councilmember Ibarra pulled 7.e.

M/S Medina/O'Connell to approved the remainder of the consent calendar and passed with all ayes.

Councilmember Ibarra said he felt it was wrong that we take this responsibility and place it on the homeowners. He said we have placed the responsibility of lower sewer laterals on all our residents. He said for one hundred years we have been taking care of the lower sewer laterals.

Councilmember Ibarra said there are members of the public who would like to speak on this.

Mike McGuirk, Santa Lucia asked if something happens to the lower lateral am I responsible or are we in limbo?

City Attorney Zafferano if this ordinance is adopted tonight the City will continue to provide emergency services and the City will continue to provide maintenance services on your lower lateral if you have a clean-out. If the lateral is damaged or needs to be repaired or replaced, the new ordinance would put that obligation on the owner. **City Manager Jackson** said this ordinance would not take affect for 30 days. **Councilmember O'Connell** said right now 75% of the people's responsibility of the lateral, both lower and upper is on them, whether it is passed or not. The only time the City can take responsibility for the lower lateral is when you have a City-approved clean-out. That is the change. **McGuirk's** concern was beyond the clean-out. He said some of the clean outs go beyond the individual's property; i.e., the neighbor's driveway. Does that become the individual's problem, **Councilmember O'Connell** said yes if the lower lateral fails and maintenance has not been done on it.

Mayor Ruane said there are a lot of cases in San Bruno where there are co-mingled laterals, and these need to be handled on a per-case basis.

Marty Medina, Garden Ave. said he was against the change. 75% of the people are not affected. If you put in a clean-out tomorrow, the City will take over from the clean-out to the street.

Russ Stines, Reid Ave. said he doesn't see anything being changed but he does see the rates being increased. **Mayor Ruane** said those repairs have been done and Public Services have been asked for an update.

Zafferano said staff will come back at the next meeting to address some of the questions asked.

Perry Peterson, Scenic Ct. said since 1986, have paid millions of dollars to be covered by this ordinance. If a clean-out is put in, the City will take care of the lower lateral from the clean-out to the main. He said if that provision were included in the utility bill, then they would know it and there is a possibility they would consider it. He urged Council to not abandon 1986-64.

Councilmember Ibarra said if a clean-out is put in tomorrow, the City will maintain the lower lateral and until this ordinance passes, the City will not replace the lower lateral. But today, until this ordinance is passed, the City will take care of that lateral no matter what happens. There are cities who have proactively come up with programs to place clean-outs on properties with the provision if the lower lateral is in good shape the City will still maintain it. He said that is what he believed the City should be responsible for. What's next, repairing potholes in the street?

M/S O'Connell/Salazar, to pass Item 7.e., three ayes, O'Connell, Salazar and Ruane and two no's, Medina and Ibarra.

8. PUBLIC HEARING:

Hold Public Hearing, Adopt Resolution Amending the General Plan to Allow Emergency Shelters for the Homeless in the Industrial Land Use Classification and Waive First Reading and Introduce Ordinance Adding Provisions to the San Bruno Municipal Code Related to Emergency Shelters for the Homeless and Amending the Zoning Map of the San Bruno Municipal Code Identifying an Emergency Shelter Overlay District.

Councilmember Medina and **Vice Mayor Salazar** recused themselves because of the conflict of where they live. **Councilmember O'Connell** also has a conflict but in a previous meeting a straw poll was taken and she was picked to stay on the dias.

Housing and Redevelopment Manager Sullivan gave an overview of the staff report and asked for questions.

Councilmember Ibarra asked how size is determined. **Sullivan** said there are a number of restrictions. He said there is a safety compatibility zone that runs through that area and those types of uses are not allowed in that zone.

Mayor Ruane opened the public hearing.

Russ Stines, Reid Ave. said he didn't get the mailer from the City and suggested distributions/notices should be within 600 feet of where the change is taking place.

A lady from 101 Atlantic Ave. said they have a mixed-use property. The capacity, generation, the age, the date of completion, what constitutes an emergency. She was concerned about the value of their property. **Mayor Ruane** said there have been no applications put in, there are no drawings, we are mandated by State to do this, but there have been no definitive plans. **Sullivan** said this is an emergency shelter for homeless people, there is no distinction between age or sex, the criteria is a homeless person.

Councilmember O'Connell said the States make the City find a property where they can build a shelter. If someone comes to San Bruno and wants to build a shelter, this is the area designated.

Pinali, Montgomery Street said it is so busy she didn't understand how an emergency home shelter could be put there.

Sullivan gave a recap of what was done to find the property. **Mayor Ruane** said they are required to designate a spot, but there has been no-one that has shown an interest.

119 Montgomery Street said this area has no services, nothing but trucks and businesses that are industrial or repairing cars.

Councilmember Ibarra asked if the Samaritan House was looking for a 32 bed homeless shelter they would probably come forward to look at an existing building to convert. He said everyone would get noticed.

M/S Ibarra/O'Connell to close the Public Hearing and passed with three ayes, Councilmembers Ibarra and O'Connell and Mayor Ruane, two councilmembers unable to vote, Salazar and Medina.

M/S O'Connell/Ibarra to waive the first reading and passed with three ayes, Councilmembers O'Connell and Ibarra and Mayor Ruane, two councilmembers unable to vote, Salazar and Medina.

Councilmember O'Connell introduced the resolution for adoption and passed with three ayes, Councilmembers O'Connell and Ibarra and Mayor Ruane, two councilmembers unable to vote, Salazar and Medina.

Councilmember O'Connell introduced the ordinance for adoption and passed with three ayes, Councilmembers O'Connell and Ibarra and Mayor Ruane, two councilmembers unable to vote, Salazar and Medina.

9. PUBLIC COMMENT ON ITEMS NOT ON AGENDA:

Robert Barnett, Williams Ave. made statements regarding the hotel at the Crossing. He said it appears the builder wants to make underground parking and they have been asked to reduce the number of rooms down to 150. He said the accessing for underground parking is not going to be secure which creates criminal activity. He also understood the builder has come to the City for additional funding because of downsizing the number of rooms. He talked about the impact that would take place.

Marty Medina, Garden Ave. thanked Mayor Ruane for the tickets to the Giants which were used as their number one prize at the picnic on May 3 put on for the school system. They raised $4,000.

Robert Riechel, 7th Ave. said they have rescheduled the helicopter treatment for mosquitos to Thursday.

10. CONDUCT OF BUSINESS:

a. Adopt Resolution Submitting a Measure to the Voters of San Bruno at the November 3, 2015 General Municipal Election to Determine Whether the Positions of City Clerk and City Treasurer Should be Changed from Elected to Appointive; Directing the City Attorney to Prepare an Impartial Analysis of Said Measure; and Authorizing Submission of Ballot Arguments Supporting the Measure on Behalf of the City Council.

City Attorney Zafferano gave an overview of the staff report and asked for questions.

Vice Mayor Salazar asked if the clerk and treasurer could be voted on separately.

Councilmember Ibarra asked why this change. What is wrong with the current situation? He didn't believe the resolution should handle both offices.

Mayor Ruane said we have been very fortunate to have people that are responsible, willing to learn and who are qualified. He said other cities have to hire an outside person to do the work.

Councilmember O'Connell echoed what Mayor Ruane said. She said she had experience with several other cities that have the same thing happen to them. She said a friend who is a financial advisor was hired by a City near to us for over two years to help out but they had to return to their regular job and the Treasurer that was elected, finally quit because they did not know what they were supposed to do. The positions are getting more complicated.

Councilmember Medina asked if they are appointed by the City Council does it become more political. If there is an election every two years and the makeup of the City Council changes does that mean by three votes we can oust the City Clerk and City Treasurer? There is a City that just filed a recall and are we going to have the impartial clerk who was appointed by the City Council to deal with a potential recall as the elections officer. I like the neutrality, the independence. If the City Treasurer had a concern with something he or she felt that is under the direction of us for the day-

to-day operations of the City Manager, would they be free to come forward at the podium to say they have a concern. Would the City Treasurer resign because they thought their things could have been different or better? There was a time that a City Manager said they wanted something done and the City Clerk said no and said they were responsible for the keeping of the books, the resolutions and the minutes. If appointed, that City Clerk could have been subject to insubordination. He said we are the only City in the County with an elected mayor. He expressed his concern of loss of independence if the Clerk is appointed.

Vice Mayor Salazar said there is not a lot of latitude. He said it has become a lot more technical, more and more regulations. There is a need to have more qualifications around the position and he believed this was a good time to put it to the voters.

Councilmember O'Connell said one of the options is to have the clerk appointed by the City Council. She also pointed out our Treasurer was appointed due to the elected Treasurer leaving office and we were lucky to get someone so knowledgeable.

Councilmember Ibarra said the question came from the dias with no opportunity to the public. He said he felt the public should have the opportunity to react to this before it goes on the ballot.

Marty Medina, Garden Ave. asked if Carol would have this seat if it were appointed. It has been shying away from the independence of that position. It is a take away from the people.

Russ Stines, Reid Ave. he said it isn't a great idea.

Councilmember Ibarra said if you appoint you are not obligated to fill the position with a resident. Because it is elected, you must be a resident of the City.

Mayor Ruane said we are giving the public a chance to say what they want and there is nothing to say that she couldn't apply to be appointed.

Carol Bonner, Glen Ave. said before she became City Clerk she had an extensive background in lots of things and thought she knew everything. After winning the position in 2005, she discovered she knew nothing. There is really a lot to the job and a person with a background in government can more readily adapt.

Perry Peterson, Scenic Ave. said the vote should be divided for one vote for the Treasurer and one vote for the City Clerk. The Treasurer he would expect to have both study and practice behind them. The clerk is a key function in making information available to the public at all times. He said with a past clerk and present clerk the information has been that way. He said if the clerk is appointed it introduces a substantial political aspect into whether the way or the speed or the kind of information available is going to be completely there. He said from time to time when he asks for information he can get it very quickly, other times when submitting a relatively simple request through the formal informational act procedure, the information is not received timely and the information he does get doesn't answer the question.

Russ Stines, Reid Ave. asked whether qualifications could be stated for an elected official. **Zafferano** said the answer no, the State law prohibits the City from imposing any qualifications on those positions when they are elective.

John Marty, Glen Ave. said he was appointed. He said in the future a Councilmember and Treasurer could be in an awkward spot if the position is appointed because the Treasurer is an internal auditor which puts them in a position to be at odds with the people who appointed them. The voters vote in the Council and the Mayor so you can trust the voters to put in the right people to do the vetting process. He wanted to make the conflict of interest clear.

Mayor Ruane confirmed they could not put qualifications on an elected City Clerk or Treasurer; however, if that position was appointed those qualifications can be specified. **Zafferano** concurred.

Councilmember O'Connell introduced the resolution with the caveat that each position be listed separately on the ballot. Three ayes, Councilmember O'Connell, Mayor Ruane and Vice Mayor Salazar, two no's, Councilmembers Ibarra and Medina.

b. Receive Staff Report and Consider Ordinance Repealing Chapter 4.40 (Massage Establishments) and Enacting New Chapter 4.40 (Massage Businesses.)

City Attorney Zafferano gave an overview of the staff report and asked for questions. He said this ordinance is similar to what was adopted before with more uniformity and coordinated efforts between the cities and counties.

Councilmember Ibarra said his only concern was illegal activity.

Council agreed this should come back.

c. Adopt Resolution Authorizing the City Manager to Execute a Contract with Moffatt & Nichol to Provide Technical Assistance for the FEMA San Francisco Bay Coastal Study in the Amount of $25,160 and Appropriating Funds in this Amount from the General Fund.

Public Services Director Tan gave an overview of the staff report in a powerpoint presentation and asked for questions.

Councilmember Ibarra asked how many properties are being discussed. **Tan** said approximately 400.

Councilmember O'Connell said if you get flood insurance before it is mandated, it is much less expensive and if it is not mandated, the insurance can be cancelled.

City Manager Jackson said FEMA intends to begin to notify.

Councilmember O'Connell said everyone needs to be notified.

Councilmember Ibarra said no one wants to be in a flood zone.

Councilmember O'Connell introduced the resolution for adoption and passed with a unanimous vote.

d. Authorize the City Manager to Enter Into a Second Exclusive Negotiating Rights Agreement with OTO Development, LLC.

City Attorney Zafferano gave an overview of the staff report and asked for authority to enter into a second exclusive negotiating rights agreement with OTO Development, LLC.

Vice Mayor Salazar asked about anguage in the agreement. **Zafferano** said he will go over it.

Councilmember Ibarra asked if we are locked into the Marriott name, or can they sell it. **Zafferano** said if they should get some sort of a windfall from a sale we should get part of that grand slam.

Marty Medina, Garden Ave. said it is amazing that we sold this property for $1.00. How much is the property worth? How did that relationship develop?

Councilmember Ibarra said we have been dealing with this property for over ten years and yes there is an education on how we invest. This hotel has been wanted for a long time and we knew there would be an investment. This is creative financing, at the best.

Mayor Ruane said our community wants this as well as needing it.

Councilmember O'Connell said they had a plan and it went on the ballot and people voted for it.

M/S O'Connell/Medina to approve authorization to the City Manager to move into a second exclusive negotiating rights agreement with OTO Development and passed with all ayes.

11. REPORT OF COMMISSIONS, BOARDS, & COMMITTEES: None.

12. COMMENTS FROM COUNCIL MEMBERS:

13. CLOSED SESSION: None.

14. ADJOURNMENT:

Mayor Ruane closed the Council meeting at 8:55, The next regular City Council Meeting will be held on June 9, 2015 at 7:00 p.m. at the Senior Center, 1555 Crystal Springs Road, San Bruno.

Respectfully submitted for approval
at the City Council Meeting of
June 9, 2015

Carol Bonner, City Clerk

Jim Ruane, Mayor