

CITY OF DALY CITY
MINUTES – REGULAR MEETING - CITY COUNCIL
MARCH 27, 2017

The meeting was called to order by Mayor Sylvester at 7:04 P.M.

ROLL CALL: Councilmembers Present:

Glenn R. Sylvester, Mayor
Raymond A. Buenaventura
Judith A. Christensen
Michael P. Guingona

Staff Present:

Patricia E. Martel, City Manager
Rose L. Zimmerman, City Attorney
K. Annette Hipona, City Clerk

Absent:

Juslyn C. Manalo, Vice Mayor

PRESENTATIONS:

Proclaiming March as American Red Cross Month 2017 (Colleen Sasso, American Red Cross Volunteer)

Mayor Sylvester presented a proclamation to Ms. Sasso supporting the American Red Cross on its noble humanitarian mission. Ms. Sasso stated it is an honor to serve the organization, and thanked the Council.

Proclaiming the Week of April 9 through 15 National Library Week in Daly City (Jessica Diaz)

President of the Library Board of Trustees William Lex and Director of Library and Recreation Services Joseph Curran presented the proclamation to Ms. Diaz. Ms. Diaz invited everyone to the Passport to Your Library Adventure events, encouraging residents to try out different services at San Mateo's libraries. Dr. Lex commended library staff for all their work under difficult circumstances. He welcomed anyone in the community to contact Library Board Trustees for any concerns or issues.

Informational Presentation on San Mateo County Home For All Initiative (Jessica Stanfill Mullin)

San Mateo County Sustainability Program Manager Mullin gave a presentation on their Home For All Initiative, which focuses its efforts on the jobs-housing gap in the county. The Jobs-Housing Gap Task Force comes together to find solutions for San Mateo County's housing crisis. Ms. Mullin discussed the following topics regarding the crisis: the land use challenge, market rents, increases in house and condo prices, traffic congestion, business impacts, funding

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for affordable housing, community workshops, policies and solutions, task force outcomes, and action plans. Ms. Mullin asked Council to support the Home For All Initiative resolution on tonight's agenda. The Council thanked Ms. Mullin for her work on the task force.

APPROVAL OF MINUTES:

Regular Meeting of March 13, 2017

It was moved by Councilmember Christensen, seconded by Councilmember Guingona, and carried to accept the minutes of March 13, 2017.

APPROVAL OF AGENDA:

It was moved by Councilmember Buenaventura, seconded by Councilmember Christensen and carried to approve the agenda.

CONSENT AGENDA

Mayor Sylvester requested to remove Item #6 from the consent agenda for further discussion. It was moved by Councilmember Christensen, seconded by Councilmember Buenaventura and carried to approve the consent agenda, as amended.

Resolutions:

Authorizing Use of Board of State and Community Corrections Grant Funds to Train Police Officers in Crisis Intervention

Resolution 17-42, Authorizing Use of Board of State and Community Corrections Grant Funds to Train Officers in Crisis Intervention

Authorizing the City Manager to Execute an Inter-Local Contract Under the National Joint Powers Alliance and Approve the Purchase of one New 2018 Freightliner M2 106 Chassis with 10 Cubic Yard Dump Body

Resolution 17-43, Authorizing Execution of an Inter-Local Contract Under the National Joint Powers Alliance and Approving Purchase of One New 2018 Freightliner M2 106 Chassis with 10 Cubic Yard Dump Body

Amending Traffic Regulations to: (1) Install Stop Signs on Abbot Avenue at East Moltke Street (TSR 17/55); and (2) Remove 25-ft. No Parking (red) Zone in Front of 482 Wellington Avenue (TSR 17/56)

Resolution 17-44, Establishing Traffic Regulations

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Approving Support for San Mateo County Home For All Initiative

Resolution 17-45, Authorizing the City of Daly City to Continue to work with Other Jurisdictions in the County to Address the Housing Crisis on a Regional Basis, Including Through Ongoing Support for the Home for All San Mateo County Initiative

Setting Time and Place for a Hearing on Proposed Zone Change ZC-4-16-12036, Allowing the Conversion of Retail Space to Seven Condominium Units at 2665 Geneva Avenue (Set Hearing 4/24/17)

Resolution 17-46, Setting Time and Place of Public Hearing Regarding Proposed Zone Change ZC-4-16-12036 to Allow the Conversion of Retail Space to Seven Condominium Units at 2665 Geneva Avenue

Check Registers:

Check Registers for the Month of February 2017

Mayor Sylvester stated he had requested a year-to-date total, but has not seen the information. Ms. Martel referred to page 2 of the check registers, which had a check-run summary of the year-to-date total. Mayor Sylvester requested a categorized year-to-date total. Ms. Martel clarified the function of check registers vs. budget report documents. Mayor Sylvester requested expenditure and revenue update reviews every other month.

Discussion ensued with Council debating whether a motion and consensus was required in the direction of staff and information requests, and whether the request is reasonable.

Gabriella Makstman, resident, reported she has made herself available to the Mayor for financial advice, but has not been contacted. She did not believe six-month updates were sufficient time to understand the City's budget progress, and recommended learning financial lingo in order to obtain the correct answers. She suggested the creation of a budget commission, and requested to be its Chair.

It was moved by Councilmember Christensen, seconded by Councilmember Guingona and carried to approve the check registers for the month of February 2017.

END OF CONSENT AGENDA

COMMUNICATIONS:

CalPERS Actuarial Valuation Update and Issues - Informational Presentation by John Bartel, President, Bartel Associates, LLC

Mr. Bartel gave a presentation on CalPERS changes in the upcoming years which included contribution policy changes, assumption changes, and the discount rate decreasing to 7% in 2020-2021. He covered risk mitigation strategy, investment return, demographic

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information, actuarial accrued liability vs. unfunded liability, City vs. member contribution rates, and the debt service on the pension obligation bond (POB). According to Mr. Bartel, the City should consider setting money aside to mitigate the spike in contributions due to its unfunded liability, and to hedge against the discount rate if investment return is poor. Mr. Bartel discussed the Irrevocable Supplemental (§115) Pension Trust, a tool that can be used by the City to save for later years. According to Mr. Bartel, the City can ultimately save in the millions over the duration of the trust.

Discussion ensued with Mr. Bartel addressing Council's questions regarding money going into a trust, and who would make decisions regarding the investment in the trust. Mr. Bartel stated the Council would decide how conservative or aggressive the investment mix will be, or, delegate this task to staff. He mentioned that Council could move the money to another trust if it did not like the performance in the recommended trust.

Ms. Martel stated that Mr. Bartel's presentation laid the foundation as to why it is in the City's best interest to set aside funds in a trust fund. The next agenda item is related to the recommendation made by staff, and the means by which the City can address impacts on the unfunded liability made by pension rate increases.

Participation in the Public Agencies Post-Employment Benefits Section 115 Trust Program to Pre-Fund Pension and Other Post-Employment Benefits

Director of Finance and Administrative Services Lawrence Chiu presented the Section 115 Trust Fund to pre-fund Other Post-Employment Benefits (OPEB) and the pension liability. Mr. Chiu covered three sources of funding for CalPERS pension: employer contributions, employee contributions and investment returns. The CalPERS Board of Administration voted to lower the discount rate from 7.5 % to 7 % over the next three fiscal years, meaning employers will see increases in normal costs and unfunded pension actuarial liabilities. Section 115 Trust Fund is a tool public agencies use to pre-fund CalPERS unfunded liability. The Trust would allow the City to set aside funds and manage unfunded pension and OPEB liabilities. He highlighted benefits of the trust including local control of assets and investment flexibility. Fiscal impact to the City would start at 0.60% for assets under \$5 million and will become lower as assets in the program increase.

Staff recommended authorizing participation in the Section 115 Trust Program administered by Public Agency Retirement Services (PARS) to pre-fund Pension and OPEB, and authorizing the City Manager to execute contract documents.

Mr. Chiu addressed the Mayor's question as to who would pay into the system, and potential impacts to the current contributions. Ms. Martel stated that tonight's proposal is to provide an alternative plan to the City. As an employer, the City would be able to invest additional sums of money, and to diversify the investments that allow more benefit through this particular trust fund.

Mitch Barker, Executive Vice President of PARS, addressed the Mayor's questions and stated that PARS is looking at a combination trust known as a post-employment benefit trust for

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the City. According to Mr. Barker, City staff would determine allocations within the trust. Mr. Barker addressed Councilmember Buenaventura's questions and provided figures on the rate of returns based on different types of investment strategies being offered by PARS based on risk tolerance levels. Mr. Barker also answered questions on the following: where investment decisions lay, how often PARS would report to Council regarding the investment, what commitments the City must make, and costs to terminating the service. Mr. Barker addressed the Mayor's questions and stated he did not know of similar companies that are IRS-approved. Mr. Barker also stated the company has been in business for 30 years.

Ms. Martel addressed the Mayor's question regarding the type of portfolio the City is considering for the trust – one that is on the moderate-conservative side. She confirmed the amount of the seed money to be \$1 million, and stated the Council would have the opportunity to change the recommendations made by staff.

Discussion ensued with Council discussing the meaning of tonight's vote. Mr. Barker gave a brief summary of PARS' history with the Section 115 Trust, and offered to provide any information requests from Council.

Councilmember Guingona was convinced by the figures provided and felt the City did not risk much by acting now. Mayor Sylvester felt comfortable with the information presented, but requested more time for deliberation and for the information regarding competitors to be submitted in writing. He wondered why not more cities in the County participated in this program. Ms. Martel stated that many of the cities do not face the unfunded liability that Daly City does.

Gabriella Makstman, resident, questioned the time period for the rate of return, and questioned how well the firm did during the recession. She mentioned that the City is currently looking at a 0.7% return vs. a 4 - 7% return based on a moderately conservative plan should it participate in the trust. She was concerned with the current budget deficit and suggested the City have a Plan B to fund the trust.

It was moved by Councilmember Christensen, seconded by Councilmember Guingona to participate in the Public Agencies Post-Employment Benefits Section 115 Trust Program to Pre-Fund Pension and OPEB.

Mayor Sylvester requested to perform due diligence, and to receive the information about competitors who do the same work and who possess the IRS-approved letter. Ms. Zimmerman confirmed that the item can be continued to a future Council meeting.

The motion failed by the following roll call vote.

Ayes: Christensen, Guingona

Noes: Buenaventura, Sylvester

It was moved by Councilmember Christensen, seconded by Councilmember Guingona and carried by unanimous roll call vote to continue the item to the next City Council meeting of April 10, 2017.

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FY 2017 Mid-Year Budget Update

Mr. Chiu gave a presentation on the fiscal year 2017 General Fund (GF) budget, the GF projected revenues and expenditures, and the GF reserve. GF expenditures are projected to exceed revenues, resulting in a deficit of \$1.6 million based on the first six months of the fiscal year. Total GF revenues are projected to be \$77.3 million and projected net revenue growth is 4.9% or \$3.6 million. For the current year, the projected Excess Educational Revenue Fund (ERAF) is \$3.1 million. Given the future of ERAF is uncertain, revenue from excess ERAF is one-time revenue, it should not be used to fund ongoing expenses. Property, sales and utility users tax (UUT) make up 63% of total GF revenues. While property tax remained flat over the past 10 years, FY 2017 projected UUT remains 10% below peak levels in FY 2008. Total GF expenditures are projected to be \$78.9 million, or \$1.8 million above the budget, which is due to the higher than anticipated expenditures in salary, benefit and fixed charges. The GF Reserve for FY 2017 is projected at \$16.7 million, and projected at \$14.1 million for FY 2018. In the case of an emergency or disaster, the City has to maintain a GF reserve of no less than two months of regular GF operating revenues or operating expenditures.

Gabriella Makstman, resident, asked how there was a budget deficit of over \$1 million, and requested to see a greater projection. She mentioned that when a City taps into its general reserves, the City may not have those funds later, when they are really needed.

Sylvia Alvarez-Lynch, resident, stated Daly City is in a dire monetary situation, where it seems there is no money for libraries, social services, and recreational services. She encouraged Council to work together and to work with the City Manager. Ms. Alvarez-Lynch suggested several ways the City could manage the crisis including writing federal and state grants, having no wage increases, and not using its resources on street fairs.

It was moved by Councilmember Christensen, seconded by Councilmember Guingona and carried by unanimous roll call vote to adopt the following resolution:

Resolution 17- 47, Authorizing Mid-Year Revenue and Expenditure Budget Adjustments to Biennial Budget for Fiscal Year 2017

Use Permit UPR-1-17- 12539 — Virtual Reality Arcade in Mixed-Use Building at 198 Los Banos Avenue

Associate Planner Corey Alvin gave an overview of the subject project to establish a virtual reality arcade on the ground floor of a two-story mixed-use building at 198 Los Banos Avenue. The arcade would consist of 4 play stations, which could accommodate 4 players each. Mr. Alvin discussed the site location, floor plan, parking lot provisions, environmental assessments, and special conditions for the use permit. The Planning Commission recommended the Council adopt findings and approve the use permit subject to the conditions of approval.

Mr. Alvin Addressed Council's questions regarding the number of players allowed at each computer, noise impacts, parking designations, and the parking availability in the surrounding area.

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Paul Santiago, applicant, addressed Council's questions on: whether the games would be age-appropriate for all customers, appointment planning, noise and loitering issues in the parking lot, pick-up and drop-off concerns, parking issues on weekends, and the distance from the business to nearby residential buildings.

Councilmember Buenaventura left chambers at 9:42 PM and returned at 9:45 PM.

The following residents supported approval of the use permit:

Gabriella Makstman	Leslie Santiago
Olivia Dizon	Lydia Herari
Etanna Sack	William A. Little
Helen Lu	Lynn Khan, owner
Karl Lee	Dana Smith

The following residents opposed approval of the use permit:

Steve Li	Rosanna Tse
Susanna Tse	W. Lehle
Jesusa C. Yap	Sylvia Alvarez-Lynch
Daniel Ko	

Planning Manager Michael Van Lonkhuysen addressed Council's questions and stated that if the conditions are not being met, the Council could always revoke the permit. Discussion ensued with Council addressing the community's comments and concerns with a general consensus of support for the business.

Council agreed to add the following to the conditions of approval: add a no-smoking sign to the no-loitering signs; to reserve four parking spaces for patrons; that windows and doors are closed for noise-control; and for arcade time to be made by appointment only.

It was moved by Councilmember Guingona, seconded by Councilmember Buenaventura and carried by unanimous roll call vote to adopt the following resolution with the agreed-upon conditions.

Resolution 17-48, Adopting Findings of Fact and Imposing Conditions of Approval on Use Permit UPR-1-17-12539, to Establish a Virtual Reality Arcade in a Mixed-Use Building at 198 Los Banos Avenue

Use Permit UPR-12-16-12501 — Temporary New Auto Storage on Vacant Drive In-Theater Site at 607 Carter Street

Associate Planner Alvin presented the applicant's proposal to establish a temporary new vehicle storage lot on a vacant lot formerly used as a drive-in theater. He gave an overview of the project vicinity, the site plan, environmental assessment, and special conditions to the use permit. The Planning Commission recommended the Council to adopt the findings outlined by staff,

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approve the use permit, and accept revised language to the condition of approval.

Robert Atkinson, representing Sywest Properties and Syufy Enterprises, gave a brief background of the site as well as his company. He mentioned the subject parcel is land locked between State property and City property. According to Mr. Atkinson, the request from Sywest is for a five-year term, since they need that time to recoup such a large investment.

Ms. Martel reported she and staff did not recommend a 5-year term, because she did not believe the project is the best use for the property in the Bayshore neighborhood. She stated it would take time to unravel a 5-year lease, which might inhibit future developments in that area. Hence, staff is recommending only a 2-year term, with the option of renewing annually.

Discussion ensued with Council expressing opposition to a 5-year term for the property, because they would like to have development in that area. Mr. Atkinson addressed the Mayor's question regarding reducing damage to vehicles and the stabilization of dusts. Mr. Atkinson mentioned that the property is land-locked, which means they don't have full control in terms of developing the property. He requested the 5-year term. The Mayor hoped the limited 2-year term would encourage others to come help develop the property.

Gabriella Makstman, resident, reported she was at the Planning meeting and agreed that a 5-year term for the property is too long. She hoped the Council would drive the discussion and work with Sywest and Assemblymember Phil Ting to develop that land.

Mayor Sylvester motioned to approve the use permit with the 2-year term and the option to renew annually thereafter. There was no second. The motion failed.

For the record, Ms. Zimmerman requested an affirmative vote to determine whether the use permit is denied, since the item will be a City resolution.

Ms. Hipona conducted a roll call vote:

Ayes: None

Noes: Buenaventura, Christensen, Guingona, Sylvester

Resolution 17-49, Adopting Findings of Fact Following Denial of Use Permit UPR-12-16-12501, to Establish a Temporary New Auto Storage on Vacant Drive-In Theater Site at 607 Carter Street

PUBLIC APPEARANCES/ORAL COMMUNICATIONS:

The following individuals expressed concern with Councilmembers who voted against re-appointing Pauline Fong-Martinez to the Art & Culture Commission, its former Chairperson. Speakers praised Ms. Fong-Martinez for her leadership during the "Light Up Our World" art festival in Daly City, which attracted more than 1,000 participants, and for writing the grants which made the event possible. Other raised issues of abuse of power on how votes are cast, and questioned what this outstanding member did to receive such a thankless review. A speaker also

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brought up one Councilmember's questionable treatment of staff.

Gabriella Makstman
Bill Lex

Dana Smith
Sylvia Alvarez-Lynch

Marian Mann stated that Syufy (applicant for Use Permit UPR-12-16-12501) is willing to clean up the enclosed property in the Bayshore area in order to develop it. She also reported that citizens are making negative remarks about the Council meetings.

APPOINTMENTS:

There were no appointments.

REPORTS:

Council Committee

Council Committee Meetings, March 13-26, 2017

Sister City Council Committee Meeting (Manalo/Christensen)

Peninsula Clean Energy (Sylvester)

City Council

Special request was made by Councilmember Christensen that the following comments she made be included in the minutes of this March 27, 2017 City Council meeting:

“At the last Council meeting [March, 13, 2017], I voted to reappoint the current chair of the Arts & Culture Commission for another 3 years. As part of my vote, I attempted to give these few words of explanation and I quote. ‘This is a woman who has stepped up and done magical things with that commission. Anyone who attended that lights festival that we had here, this was astounding. I most firmly vote yes because Pauline Fong Martinez is the absolute best person for this job.’ Councilmembers have made statements as part of their vote for at least the past 20 years that I know of. Frequently, for the sake of transparency and so the community can hold us fully accountable for our votes, Councilmembers will give a short explanation as part of our vote and that has always been the practice on this Council. During my attempt to vote and give the reason for my vote with the 46 words I just quoted, Mayor Sylvester felt the need to break with a 20 plus year practice and tradition and chose to interrupt me 14 times by calling my name, calling me out of order and ordering me to desist. He did so with an arrogant and condescending tone of voice. I am very upset by what happened here that evening -- the lack of respect for our community and for my right to speak.”

Councilmember Guingona stated he appointed Ms. Pauline Fong-Martinez to the Arts & Culture Commission, because he wanted someone without any political baggage, and someone who was not necessarily a personal friend. He said there has been nothing but accolades for her, which culminated with Ms. Fong-Martinez receiving the 2016 Citizen of the Year Award.

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Councilmember Guingona questioned the lack of transparency of why Councilmembers voted against her re-appointment, and believed it was because he had made the request. He felt that the situation gives citizens a negative view of what it means to serve as a voluntary commissioner in Daly City.

Mayor Sylvester stated he would not air any dirty laundry about other Councilmembers, and preferred to leave it to the community to divulge the facts. He mentioned that he had offered his colleagues to rescind the vote for Ms. Fong-Martinez for a later time, and have discussions before voting. The Mayor requested a retreat for the Council to work on their issues, and hoped it would help the Council get along and become a more cohesive unit. In the matter of the Arts & Culture Commission votes, Mayor Sylvester read Municipal Code 2.32.010 regarding vacancies on boards and commissions: “All appointments to the boards and commissions of the city by the city council shall be for the time prescribed by law or this code. Vacancies, for whatever reason, shall be filled for the remaining portion of the term and members of the board or commission shall serve until their successors are appointed and qualified.” He interpreted the code to mean that there is a vacancy in the Arts & Culture Commission, which means Ms. Fong-Martinez shall continue to serve until the Council can decide who should fill the position. Mayor Sylvester respected tradition, but believed the City needed an ordinance to create answers. He requested a Study Session for Council to discuss the passing of such an ordinance.

The Mayor reported attending the following events: the Skyline President’s Council, the 12th Annual National Women’s History Month, the Daly City/Colma Chamber of Commerce Crab Feed, the Daly City Partnership Forum, the Get Healthy Initiative, Supervisor David Canepa’s District 5 Event, and the Village in the Park Homeowners Association with the Vice Mayor. Mayor Sylvester received a request from Ms. Francesca Wentworth to put the Daly City adult school as a resource on the City’s website.

Staff

There were no reports

ADJOURNMENT:

Mayor Sylvester requested a moment of silence and adjourned the meeting in memory of Colonel Antonio Mendoza, Carol Stipinovich and Georgia Donatelli at 11:47 P.M.

K. Annette Hipona
City Clerk

Approved as submitted, this 10th
day of April, 2017.

Glenn R. Sylvester
Mayor