



City of Hercules

111 Civic Drive
Hercules, CA 94547

Meeting Minutes

City Council

Mayor Dan Romero
Vice Mayor Roland Esquivias
Council Member Chris Kelley
Council Member Gerard Boulanger
Council Member Dion Bailey

David Biggs, City Manager
Patrick Tang, City Attorney
Lori Martin, City Clerk

Tuesday, July 23, 2019

6:00 PM

Council Chambers

Closed Session - 6:00 P.M.

Regular Session - 7:00 P.M.

I. SPECIAL MEETING - CLOSED SESSION – 6:00 P.M. CALL TO ORDER - ROLL CALL

Mayor Romero called the meeting to order at 6:00 p.m.

Council Member Bailey arrived at 6:05 p.m.

Present: 3 - Mayor D. Romero, Vice Mayor R. Esquivias, and Council Member G. Boulanger

Absent: 2 - Council Member C. Kelley, and Council Member D. Bailey

II. PUBLIC COMMUNICATION - CLOSED SESSION ITEMS

Speaker: Pil Orbison.

III. CONVENE INTO CLOSED SESSION

City Attorney Tang announced the items to be discussed in closed session.

Mayor Romero recessed the meeting at 6:05 p.m.

1. [19-671](#) Pursuant to Government Code Section 54957.6 Conference With Labor Negotiators - City Negotiators: David Biggs, City Manager; Edwin Gato, Director of Finance; Lori Martin, Director of Administrative Services relative to the following employee groups:
 - a. Teamsters Local 315 Employee Organizations
 - b. Hercules Police Officers Association
 - c. Hercules Senior Manager Employee Group
 - d. Confidential Unrepresented Employee Group
 - e. Mid Management Employee Group

2. [19-672](#) Pursuant to Government Code Section 54956.9(a), Conference with Legal Counsel - Pending/Existing Litigation: Successor Agency to the Hercules Redevelopment Agency and City of Hercules v. California Department of Finance, et al, Sacramento Superior Court Case No. 34-2018-80003038
3. [19-673](#) Conference with Legal Counsel - Anticipated Litigation Pursuant to Government Code Section 54956.9(d)(2): In one (1) matter: Hercules Development Partners, LP / Ledcor Corporation
4. [19-674](#) Pursuant to Government Code Section 54956.9 (d)(1), Conference with Legal Counsel - Pending/Existing Litigation - Taylor Morrison of California, LLC, entitled *Taylor Morrison of California, LLC v. City of Hercules*, Superior Court for the County of Contra Costa, Case No. C19-00366.

IV. REGULAR MEETING – 7:00 P.M. CALL TO ORDER - ROLL CALL

Mayor Romero called the meeting to order at 7:06 p.m.

Present: 4 - Mayor D. Romero, Vice Mayor R. Esquivias, Council Member G. Boulanger, and Council Member D. Bailey

Absent: 1 - Council Member C. Kelley

V. REPORT ON ACTION TAKEN IN CLOSED SESSION

City Attorney Tang announced the items which were discussed in closed session. City Attorney Tang reported that there were no final or reportable actions taken in closed session.

VI. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Bailey.

VII. MOMENT OF SILENCE

Mayor Romero called for a moment of silence for the passing of former Supreme Court Justice John Paul Stevens who passed away on July 16, 2019 at the age of 99.

VIII. INTRODUCTIONS/PRESENTATIONS/COMMISSION REPORTS

1. [19-676](#) Energy Savings Opportunities Introduction - Kelly Fergusson, Engie

Kelly Fergusson of Engie gave a presentation on energy savings opportunities for the City of Hercules. Ms. Fergusson introduced Steve Ramirez of Engie who was available to help answer questions.

City Council asked questions and provided comments.

IX. AGENDA ADDITIONS/DELETIONS

City Manager Biggs stated that Item XIII.2 will be deleted from this agenda and will come back for City Council to review in September. City Manager Biggs stated that there was a correction made to an incorrect date in the POA MOU on page 12 and a corrected page 12 has been provided to City Council with a copy at the side table for the public.

X. PUBLIC COMMUNICATIONS

Speakers: Madolyn Dean; Robin Byrd; Steve Fox; Nick Berry.

XI. PUBLIC HEARINGS

1. [19-661](#) **Landscaping and Lighting Assessment District No. 83-2 - Continue the Public Hearing to Declare the Results of the Property Owner Protest Balloting Proceedings Conducted for Proposed Assessment Increases in Benefit Zones 1 and 7, Adopt a Resolution Declaring the Same, and Adopt a Resolution Approving the Final Engineer's Report, Confirming Diagrams and Assessments and Ordering Levy of Assessments for Fiscal Year 2019-20**
Recommendations:
 1. Open the Continued Public Hearing, declare the results of the property owner protest balloting proceedings conducted for a proposed increase in the maximum assessment rate for Benefit Zones 1 and 7, within the Hercules Landscaping and Lighting Assessment District (LLAD) No. 83-2 commencing Fiscal Year 2019-20, take any additional Public Testimony, and Close the Public Hearing; and
 2. Adopt a Resolution declaring the results of the property owner protest balloting proceedings conducted for a proposed increase in the maximum assessment rate for Benefit Zones 1 and 7 within the Hercules Landscaping and Lighting Assessment District No. 83-2 commencing Fiscal Year 2019-20; and
 3. Adopt a Resolution approving the Final Engineer's Report, Confirming Diagram and Assessments and Ordering Levy of Assessments for FY 2019-20 for the Hercules Landscaping and Lighting Assessment District No. 83-2 commencing Fiscal Year 2019-20 pursuant to the Landscaping and Lighting Act of 1972.

City Manager Biggs introduced the item and provided a staff report. City Manager Biggs reported that the balloting for increased assessments in Zone 1 and Zone 7 for LLAD 83-2 were approved by the property owners in those Zone's. City Council asked questions and provided comments.

Mayor Romero opened the public hearing at 7:31 p.m.

City Council asked questions and provided comments.

Mayor Romero closed the public hearing at 7:34 p.m. with no comments offered from the public.

MOTION: A motion was made by Vice Mayor Esquivias, seconded by Council Member Boulanger, to adopt Resolution 19-042. The motion carried by the following vote:

Aye: 4 - Mayor D. Romero, Vice Mayor R. Esquivias, Council Member G. Boulanger, and Council Member D. Bailey

Absent: 1 - Council Member C. Kelley

MOTION: A motion was made by Council Member Bailey, seconded by Council Member Boulanger, to adopt Resolution 19-043. The motion carried by the following vote:

Aye: 4 - Mayor D. Romero, Vice Mayor R. Esquivias, Council Member G. Boulanger, and Council Member D. Bailey

Absent: 1 - Council Member C. Kelley

2. [19-668](#)

Public Hearing Appeal of Planning Commission's Approval of Bayfront Blocks M-O-P Design Review Permit #19-01 (continued from City Council meeting of July 9, 2019)

Recommendation: Continue the public hearing from July 9, 2019, to modify Reversing the Planning Commission's Resolution #19-03 approving Design Review Permit #19-01 and its related environmental determination for Bayfront Blocks M, O, and P to allow Hercules Development Partners, LP/Ledcor Corporation to construct 473 apartments (including 30 affordable housing units) and related amenities in three structures up to six stories tall, with 552 on-site parking spaces, on a portion of Assessor Parcel Number 404-730-005-0.

City Manager Biggs introduced the item and provided a staff report.

Mayor Romero opened the continued public hearing at 7:39 p.m.

City Council discussed the proposed MOU and expressed concerns. There was a consensus among the Council Members to delete the MOU in its entirety and just incorporate language into the conditions of approval which addresses the City Council's concerns regarding having an implementation agreement or a public parking district established prior to the issuance of building permits or by October 31, 2020, whichever occurs first.

Mayor Romero recommended modifications to the Resolution and to delete all language related to the proposed MOU and to amend Section 2 on page 2 of the Resolution.

Mayor Romero closed the continued public hearing at 7:55 p.m. with no comments offered from the public.

MOTION: A motion was made by Vice Mayor Esquivias, seconded by Council Member Boulanger, to adopt Resolution 19-044, as amended. The motion carried by the following vote:

Aye: 4 - Mayor D. Romero, Vice Mayor R. Esquivias, Council Member G. Boulanger, and Council Member D. Bailey

Absent: 1 - Council Member C. Kelley

3. [19-666](#)

Mandatory Garbage/Solid Waste Disposal - Delinquent Accounts

Recommendation: Conduct a Public Hearing and upon conclusion, consider adopting a Resolution confirming the report of delinquent accounts and placing liens on said properties and special assessments upon property taxes pursuant to City of Hercules Municipal Code Section 5-2.01 to 5-2.16, Mandatory Garbage/Solid Waste Disposal.

City Manager Biggs introduced the item and City Clerk Martin provided a staff report. Ms. Janna Coverston from Republic Services provided additional information.

Mayor Romero opened the public hearing at 8:00 p.m.

City Council asked questions and provided comments. City Council discussed changing the amount of public hearings held each year on this item from 3 meetings per year to 2 meetings per year.

By consensus, City Council gave direction to staff to meet with Republic Services to determine what times of the year will work best to conduct two public hearings instead of 3.

Mayor Romero closed the public hearing at 8:16 p.m. with no comments offered from the public.

MOTION: A motion was made by Council Member Boulanger, seconded by Vice Mayor Esquivias, to adopt Resolution 19-045. The motion carried by the following vote:

Aye: 4 - Mayor D. Romero, Vice Mayor R. Esquivias, Council Member G. Boulanger, and Council Member D. Bailey

Absent: 1 - Council Member C. Kelley

XII. CONSENT CALENDAR

MOTION: A motion was made by Council Member Boulanger, seconded by Vice Mayor Esquivias, to adopt the Consent Calendar. The motion carried by the following vote:

Aye: 4 - Mayor D. Romero, Vice Mayor R. Esquivias, Council Member G. Boulanger, and Council Member D. Bailey

Absent: 1 - Council Member C. Kelley

1. [19-667](#) **Meeting Minutes**
Recommendation: Approve the regular meeting minutes of July 9, 2019.
Approved.
2. [19-640](#) **Grand Jury Report No. 1907 on Stormwater**
Recommendation: Review Report No. 1907 on Stormwater and Approve a Response Letter.
Approved.
3. [19-657](#) **Resolution Requesting Capital Corridor Joint Powers Authority Designation of the Hercules Intermodal Transportation Center as a Candidate Station**
Recommendation: Adopt a Resolution of the City Council of the City of Hercules requesting designation and confirming the commitment required for Capital Corridor Candidate Station Status for the Hercules Regional Intermodal Transportation Center.
Approved.
4. [19-664](#) **Receive the Finance Commission's Annual Report on Measures B and C for FY 2017-18**
Recommendation: Receive the Finance Commission's Annual Report on Measure B and C for FY 2017-18.
Approved.
5. [19-675](#) **First Amendment of Umbrella Facilities Joint Use Agreement between West Contra Costa Unified District and the City of Hercules**
Recommendation: Adopt a resolution authorizing the City Manager to execute a first amendment to the agreement with West Contra Costa Unified District for an Umbrella Facilities Joint Use Agreement.
Approved.

XIII. DISCUSSION AND/OR ACTION ITEMS

1. [19-669](#) **Approve Memorandum of Understanding with the Hercules Police Officers Association and Management & Non-Represented Pay Plans**

Recommendation: Adopt a Resolution Approving a Memorandum of Understanding with the Hercules Police Officers Association and Pay Plans for Management and Non-Represented Employees.

City Manager Biggs introduced the item and provided a staff report. City Council asked questions and provided comments.

MOTION: A motion was made by Vice Mayor Esquivias, seconded by Council Member Boulanger, to adopt Resolution 19-048, as amended. The motion carried by the following vote:

Aye: 4 - Mayor D. Romero, Vice Mayor R. Esquivias, Council Member G. Boulanger, and Council Member D. Bailey

Absent: 1 - Council Member C. Kelley

2. [19-659](#) **Review Upcoming Council Agenda Items List**

Recommendation: Review, discuss and provide direction, if any.

This item was deleted from the agenda and rescheduled for September 2019.

3. [19-660](#) **Update on Waterfront/Bayfront Parking Study and Future Steps**

Recommendation: Receive report, discuss, provide feedback and direction, if any.

City Manager Biggs introduced the item and provided a staff report. City Council discussed the study and provided comments. Sean Beale from CDM Smith provided additional information.

Public Speaker: Stephen Walker

City Council provided a list of questions identified below to be incorporated as the study is further developed.

- 1) Table 3 of the parking report needs to better define the developer's proposal.
- 2) Ask developer's to substantiate how they determined 10% shared parking.
- 3) Look at 5% increments of what additional shared parking would provide in the study.
- 4) Look at options of flex-space used as listed in the EIR.
- 5) Look at the impact if less or additional restaurant business was used to develop the shared parking number.

- 6) Incorporate the use of Uber and Lyft.
- 7) Actively reach out to Mr. Curry for his input into the study.
- 8) Clarify if 2 per 1,000 or 3/1,000 was used in assumed parking for non-residential.
- 9) Clarify how the visitor portion is being handled as part of the 176 spaces being offered as shared parking.

4. [19-663](#)

Designation of Voting Delegate and Alternates for the League of California Cities Annual Conference and Business Meeting

Recommendation: Designate voting delegate and alternates for the League of California Cities Annual Conference and Business Meeting to be held October 16-18 in Long Beach, CA.

City Manager Biggs introduced the item and provided a staff report. City Council discussed and by consensus designated Council Member Kelley to attend the League's annual conference and business meeting as the City's voting delegate. Vice Mayor Esquivias was designated as alternate voting delegate #1 if needed, and Council Member Bailey was designated to be voting delegate #2 if needed.

XIV. PUBLIC COMMUNICATIONS

None.

XV. CITY COUNCIL/CITY MANAGER/CITY ATTORNEY ANNOUNCEMENTS, COMMITTEE, SUB-COMMITTEE AND INTERGOVERNMENTAL COMMITTEE REPORTS AND FUTURE AGENDA ITEMS

City staff and Council Members reported on attendance at events and community and regional meetings.

Council Member Boulanger requested a future agenda item to provide more financial data in regards to Engie's Solar proposal. There was a consensus among City Council to add this item to the 2nd meeting in September.

XVI. ADJOURNMENT

Mayor Romero made a request to staff to have code enforcement send letters to residents that have homes at street corners that have tall hedges and/or fences causing a visibility issue to drivers. Mayor Romero requested that staff report their findings back to City Council at a future meeting.

Mayor Romero pointed out a heroic event where Fremont Police Officer Jason Trzewieczynski recently saved a life by pulling a person from a car that caught on fire on July 20, 2019 at 10:30 p.m.

Mayor Romero recessed the meeting at 9:35 p.m. to reconvene Closed

Session. Mayor Romero to adjourn the regular City Council meeting directly following closed session.

Mayor Romero adjourned the meeting at 10:14 p.m.

Dan Romero, Mayor

Attest:

Lori Martin, MMC
Administrative Services Director/City Clerk