



City of San Leandro

Civic Center
835 East 14th Street
San Leandro, California

Minutes - Draft City Council

Welcome to your City of San Leandro City Council meeting.

Your City Councilmembers are:

*Mayor Stephen H. Cassidy
Michael Gregory, District 1
Ursula Reed, District 2
Diana Souza, District 3
Joyce Starosciak, District 4
Pauline Russo Cutter, District 5
Jim Prola, District 6*

Monday, June 18, 2012

7:00 PM

City Council Chambers

***** MINUTES ARE DRAFT UNTIL ACCEPTED BY CITY COUNCIL *****

1. CALL TO ORDER

The meeting was called to order at 7:05 p.m.

1.A. PLEDGE OF ALLEGIANCE

Councilmember Souza led the Pledge of Allegiance to the Flag.

1.B. ROLL CALL

Present 7 - Cassidy, Cutter, Gregory, Prola, Reed, Souza, Starosciak

1.C. ANNOUNCEMENTS

Mayor Cassidy announced that Item 10.C. on the agenda was removed from consideration at the request of staff, and would be brought back at a future meeting.

2. PRESENTATIONS/ RECOGNITIONS

- 2.A. 12-283** Proclamation Declaring June 2012 as "Lesbian, Gay, Bisexual, Transgender Month" in San Leandro

3. PUBLIC HEARINGS – CITY COUNCIL

None.

4. PUBLIC HEARINGS – OTHER

None.

5. PUBLIC COMMENTS

BENNY LEE, Heron Bay Homeowners Association, commented on the inadequate review period for the Halus wind turbine project, and requested an extension of the current 30-day review period.

FRED SIMON, Heron Bay Homeowners Association, requested a 120-day extension to the current review period for the Halus wind turbine project

STEPHANIE L'ARCHULETA, Heron Bay Homeowners Association, requested minimum 120-day extension of the Halus wind turbine project review period.

CHRIS SMITH, San Leandro resident, requested an extension of the Halus wind turbine project review period.

SHUDONG ZHENG, San Leandro resident, commented that he just learned of the proposed project this past Saturday, and requested an extension of the review period to further study and understand the project's impacts on the community.

DAN ZHANG, Heron Bay Homeowners Association, commented that he learned of the Halus project two days ago, and that some of his neighbors are still unaware of it. Mr. Zhang requested an extension in order to fully inform residents.

DARLENE EVANS, San Leandro resident, commented on the City's Housing Rehabilitation program, curb ramps, street sweeping, fireworks in multi-family housing and weed abatement.

6. CITY MANAGER AND CITY ATTORNEY REPORTS AND COMMENTS

City Manager Zapata stated that staff would provide the Council with a report on the Halus wind turbine project.

City Attorney Williams reported on two litigation matters that have recently been concluded:

In the U.S. District Court matter of Jane Doe, Ericka Whitmeyer, Judy Brown and Imaree Cross v. City of San Leandro: the City has reached a mutually agreeable settlement with all four plaintiffs in the total amount of \$50,000, including legal fees. Each plaintiff will receive approximately \$12,500. This was a wrongful death lawsuit against the City and individual police officers arising from an in-custody death (Gwendolyn Killings) following a felony vehicle theft and high speed pursuit instigated by the decedent on December 29, 2010. Full releases have been executed and the cases are now dismissed. (claim \$15 mil)

In the Alameda County Superior Court case of Paul and Tricia Nunn v. City of San Leandro and the American Golf Corporation: the City has been dismissed from the litigation with no payment. A settlement was reached with the American Golf Corporation and the entire case has now been dismissed. This was a wrongful death lawsuit arising out of an incident at the Monarch Bay Golf Course Wedges Restaurant in which the decedent was shot by a third party while attending an event at the facility. (claim \$5 mil)

6.A. 12-306

Report on City Manager and Assistant City Manager Reporting Assignments

- 6.B. 12-319 Report on Paperless Agenda Timeframe and Street Sweeping Parking Restrictions

7. **AMENDMENT OF CONSENT CALENDAR**

Items 8.B. and 8.F. were removed from the Consent Calendar to Item 9, Items Removed from Consent Calendar.

8. **CONSENT CALENDAR**

Approval of the Consent Calendar

A motion was made by Councilmember Reed, seconded by Councilmember Prola, to Approve the Consent Calendar. The motion carried by the following vote.

Aye: 7 - Cassidy, Cutter, Gregory, Prola, Reed, Souza, Starosciak

- 8.A. 12-282 APPROVE: Minutes of the Meeting of June 4, 2012

Approved as Submitted on the Consent Calendar.

Item 8.B. was removed from the Consent Calendar to Item 9, Items Removed from Consent Calendar.

- 8.C. 12-320 ACCEPT: Disaster Council Meeting Highlights of April 27, 2012

Accepted as Submitted on the Consent Calendar.

- 8.D. 12-318 ACCEPT: Finance Committee Meeting Highlights of June 1, 2012

COMMITTEE RECOMMENDATION: Schedule approval of the purchase of the radios and other required items for participation in the East Bay Regional Communications System Authority (listed as Consent Calendar Item 8.F.)

Accepted as Submitted on the Consent Calendar.

- 8.E. 12-287 Staff Report for Approving Community Development Block Grant (CDBG) Agreements for FY 2012-2013 Between the City of San Leandro and CDBG Subrecipients For Public Services Grants

- 12-288 ADOPT: Resolution Approving Community Development Block Grant (CDBG) Agreements for FY 2012-2013 Between the City of San Leandro and CDBG Subrecipients for Public Services Grants to Building Futures with Women and Children (San Leandro Shelter); Davis Street Family Resource Center for Basic Needs Program and Community Counseling Program; Eden Council for Hope & Opportunity for Tenant-Landlord Counseling and Rental Assistance

Program; Girls Incorporated of Alameda County; Safe Alternatives to Violent Environments (SAVE); and Service Opportunities for Seniors, Inc. (SOS) (approves 8 public services agreements in a total amount of \$84,110 from the Fiscal Year 2012-2013 CDBG funds)

Adopted on the Consent Calendar.

Enactment No: Reso 2012-068

Item 8.F. was removed from the Consent Calendar to Item 9, Items Removed from Consent Calendar.

- 8.G. 12-222** Staff Report for a Resolution Accepting the Work for the Americans with Disabilities Act (ADA) Ramp Project 2011-12, Project No. 2012.0140
- 12-223** ADOPT: Resolution Accepting the Work for the Americans with Disabilities Act (ADA) Ramp Project 2011-12, Project No. 2012.0140 (provides for the acceptance of contract work by AJW Construction including constructing ramps and installing APS pedestrian push button systems, filing of the Notice of Completion, releasing of the performance and payment bonds, and releasing of the maintenance bond upon completion of the one-year maintenance period)
- Adopted on the Consent Calendar.**
- Enactment No: Reso 2012-069
- 8.H. 12-305** Staff Report for the November 6, 2012 General Municipal Election for the City of San Leandro
- 12-307** ADOPT: Resolution Providing for the Holding of the General Municipal Election for the Election of Three City Councilmembers; Providing Notice of Election on the 6th Day of November, 2012, and Directing that Said Notice be Given; and Requesting that the Alameda County Board of Supervisors Permit the Consolidation of Said Municipal Election with the Statewide General Election to be Held on November 6, 2012 (provides for the conduct of the November 2012 General Municipal Election for Council Districts 2, 4 and 6, at an estimated cost of \$110,000 from General Fund)
- Adopted on the Consent Calendar.**
- Enactment No: Reso 2012-070
- 12-308** ADOPT: Resolution Establishing Regulations for Candidate Statements for the 2012 City of San Leandro General Municipal Election (sets the requirements for candidate statements printed in the voter pamphlet)
- Adopted on the Consent Calendar.**

Enactment No: Reso 2012-071

- 12-309** PASS TO PRINT AND ADOPT: An Ordinance Establishing Election and Nomination Procedures for the November 6, 2012 General Municipal Election (provides for the method of conducting the election pursuant to City Charter Section 610)
- Passed to Print and Adopted on the Consent Calendar.**

Enactment No: Ordinance 2012-011

- 8.I. 12-313** MOTION: Motion Nominating Kevin Leichner as District 1 Member to Planning Commission
- Adopted on the Consent Calendar.**

Enactment No: Min Order 2012-022

- 8.J. 12-321** MOTION: Motion Ratifying the Mayor's Appointment of Steve Hernandez to the Oversight Board for the Successor Agency to the Former San Leandro Redevelopment Agency
- Adopted on the Consent Calendar.**

Enactment No: Min Order 2012-023

9. ITEMS REMOVED FROM CONSENT CALENDAR

- 8.B. 12-310** ACCEPT: City and San Leandro Unified School District Liaison Committee Meeting Highlights of May 17, 2012
- A motion was made by Councilmember Souza, seconded by Vice Mayor Gregory, that the Highlights be accepted as submitted. The motion carried by the following vote.**

Aye: 7 - Cassidy, Cutter, Gregory, Prola, Reed, Souza, Starosciak

- 8.F. 12-175** Staff Report for Purchase of Radios and Necessary Equipment to Comply with the East Bay Regional Communications System Authority (EBRCSA) Interoperability Project

- 12-176** ADOPT: Resolution Authorizing the City Manager to Execute an Agreement with Red Cloud, Inc. for Purchase of Radios and Equipment to Comply with the East Bay Regional Communications System Authority Interoperability Project (authorizes an agreement in an approximate amount of \$469,300 from multiple funds)

A motion was made by Councilmember Prola, seconded by Councilmember Cutter, that this Resolution be Adopted. The motion carried by the following vote.

Aye: 7 - Cassidy, Cutter, Gregory, Prola, Reed, Souza, Starosciak

Enactment No: Reso 2012-072

10. ACTION ITEMS

- 10.A. 12-284** Staff Report for Execution of an Amended and Restated Owner Participation and Loan Agreement with Alameda Housing Associates, L.P., for an Affordable Rental Housing Project in San Leandro Crossings and Execution of the State Transit Oriented Development Housing Program (TOD) Grant Agreements and Documents for San Leandro Crossings

Public Comments on Item 10.A.:

Husband of JENNIFER YI, San Leandro resident, addressed the Council regarding the traffic impacts created by the project.

MOLLY PETTINGER, representing Saint Leander's Church, expressed concern that the property overlooks the church's playground, and about the lack of parking for the project.

VU BANG NGUYEN, Urban Habitat, spoke in support of this transit-oriented development project.

DAN MARTINEZ, Congregations Organizing for Renewal (COR), spoke in support of the Cornerstone development project, and commented on the Saint Leander's school and parking issues raised by the previous speaker.

MICHAEL WHARTON, COR, commented on TOD projects and workforce housing, and the reduced need for parking for their inhabitants.

End of Public Comments on Item 10.A.

- 12-300** ADOPT: Resolution Authorizing the Execution of an Amended and Restated Owner Participation and Loan Agreement (OPLA) and Related Documents with Alameda Housing Associates, L.P. (amends the existing OPLA for affordable rental housing located at 1400 San Leandro Boulevard, APN 075-0039-007-05, in San Leandro Crossings)

A motion was made by Vice Mayor Gregory, seconded by Councilmember Prola, that this Resolution be Adopted. The motion carried by the following vote.

Aye: 7 - Cassidy, Cutter, Gregory, Prola, Reed, Souza, Starosciak

Enactment No: Reso 2012-073

- 12-299** ADOPT: Resolution Authorizing the Acceptance of the 2008 Transit Oriented Development Housing Program (TOD) Grant Awarded by the State of California Department of Housing and Community Development, and Authorizing the Execution of a Standard Agreement and All Related Agreements and Documents Required in Connection with Such Grant (accepts the State's \$10.3 million TOD Grant for San Leandro Crossings)

A motion was made by Vice Mayor Gregory, seconded by Councilmember Prola, that this Resolution be Adopted. The motion carried by the following vote.

Aye: 7 - Cassidy, Cutter, Gregory, Prola, Reed, Souza, Starosciak

Enactment No: Reso 2012-074

10.B. 12-296

Status Report for Medical Marijuana Regulations

Public Comments on Item 10.B.:

MATTHEW WITEMYRE, United Food and Commercial Workers (UFCW) Local 5, commented that cannabis facilities can be safe and unionized. Mr. Witemyre expressed support for medical cannabis for the sick.

DIANA PROLA, San Leandro resident, commented on a friend's positive experience with medical marijuana to treat her cancer symptoms, and supported access to medical marijuana for patients who need t.

RYAN MILLER, San Leandro resident, commented on his use of medical marijuana for post-traumatic stress disorder, and urged the Council to support safe access to medical cannabis.

CLAUDIA McHENRY, San Leandro resident, spoke in opposition to the current distribution process for medical marijuana and the lack of controls and safety issues. Ms. McHenry urged the Council to prohibit dispensaries.

CHRIS CROW, San Leandro resident, spoke in support of legalizing marijuana, and commented that prohibiting dispensaries would promote illegal marijuana trafficking.

STEPHANIE L'ARCHULETA, San Leandro resident, spoke in support of a ban on medical marijuana, and of the negative effects of marijuana on individuals and their families.

CHRIS SMITH, San Leandro resident, related his personal experience with marijuana, and commented on the damaging effects of marijuana use on youth.

BENNY LEE, San Leandro resident, shared a story about a childhood friend who died at a young age from exposure to alcohol and other substances.

DAN DILLMAN, San Leandro resident, spoke regarding the history of marijuana in the U.S., and commented that allowing dispensaries would reduce illegal trafficking.

DAN RUSH, UFCW Local 5, spoke in support of unionized medical marijuana dispensaries. Mr. Rush commented that AB 2312 would resolve many of the issues surrounding dispensaries, and requested that the Council's vote be delayed until AB 2312 had passed.

BRIAN WEBSTER, Instituto Laboral, urged the City Council to delay its decision until AB 2312 passed. He supported the comments of speaker Dan Rush, and spoke in support of a taxed and regulated industry.

DEBORAH COX, San Leandro resident, spoke in opposition to allowing medical marijuana dispensaries in San Leandro, and expressed concern about a business that needed protection by armed guards. Ms. Cox expressed sympathy for patients

that need medical marijuana, and noted that there are a sufficient number of dispensaries in the Bay Area to supply those patients.

MIKE KATZ, San Leandro resident, spoke in opposition of banning medical marijuana dispensaries, and disputed the idea that marijuana is a gateway drug.

ED BRESLIN, UFCW, urged the Council to wait for the passage of AB 2312, and commented that there is no increase in crime in areas where cannabis dispensaries are located.

CINDY CATHEY, San Leandro Unified School District Superintendent, shared her concern regarding the availability of marijuana to San Leandro youth. Ms. Cathey commented that access to marijuana appears to be easier than in the past, and is becoming a larger issue than alcohol for students.

End of Public Comments on Item 10.B.

12-357

MOTION: Take no action until the Supreme Court issues a ruling in 2013 on the ability of municipalities to ban medical marijuana dispensaries.

A motion was made by Councilmember Prola, seconded by Vice Mayor Gregory, that this Minute Order be Adopted. The motion failed by the following vote.

Aye: 2 - Gregory, Prola

Nay: 5 - Cassidy, Cutter, Reed, Souza, Starosciak

12-297

MOTION: Motion Directing Staff to Prepare an Ordinance Prohibiting the Establishment and Operation of Medical Marijuana Cooperatives, Collectives, Dispensaries and Cultivation Facilities in the City of San Leandro

A motion was made by Councilmember Starosciak, seconded by Councilmember Souza, that this Minute Order be Adopted. The motion failed by the following vote.

Aye: 3 - Cutter, Souza, Starosciak

Nay: 4 - Cassidy, Gregory, Prola, Reed

12-358

MOTION: Motion Directing Staff to Prepare an Ordinance Prohibiting the Establishment and Operation of Medical Marijuana Cooperatives, Collectives, Dispensaries and Cultivation Facilities in the City of San Leandro, to Sunset on June 30, 2013

A motion was made by Councilmember Cutter, seconded by Councilmember Souza, that this Minute Order be Adopted. The motion carried by the following vote.

Aye: 6 - Cassidy, Cutter, Gregory, Reed, Souza, Starosciak

Nay: 1 - Prola

Enactment No: Min Order 2012-024

- 10.C. 12-311** Presentation by City Manager Chris Zapata and San Leandro Unified School District Superintendent Cindy Cathey on the School Based Health Clinic Concept; and Staff Report for Review and Approval of Letter of Intent from City of San Leandro to San Leandro Unified School District Related to a Loan from the City to the District to Finance the District's Purchase of the Girls, Inc. Property Located at 13666 East 14th Street, and Additional Consideration Including Transfer of District Property to City

Item was removed from consideration and will be rescheduled for a future meeting.

- 12-312** MOTION: Motion Approving Letter of Intent (LOI) from City of San Leandro to San Leandro Unified School District for City Loan to Finance District Purchase of Property Located at 13666 East 14th Street; and Directing the City Manager to Commence Negotiations of the LOI's Terms and Intentions with the San Leandro Unified School District

Item was removed from consideration and will be rescheduled for a future meeting.

- 10.D.** Report on Closed Session Actions Taken

No reportable actions taken.

11. CITY COUNCIL CALENDAR

City Councilmembers announced upcoming events and coordinated attendance.

12. CITY COUNCIL REPORTS AND ANNOUNCEMENTS

City Councilmembers reported on meetings and other local events attended since the last meeting, reported on attendance at conferences and seminars, and made brief comments on issues of concern.

13. ADJOURN

The meeting was adjourned at 11:17 p.m. in memory of Cory Lavigne, AC Transit's Director of Service Development and Planning.

RESPECTFULLY SUBMITTED:

MARIAN HANDA
City Clerk of the City of San Leandro