

MINUTES - FINAL

City of Orange

City Council

November 10, 2020

The City Council of the City of Orange, California convened on November 10, 2020, at 5:00 p.m. in a Regular Meeting via various teleconference locations.

5:00 PM CLOSED SESSION

1. ROLL CALL

Present: Murphy, Alvarez, Nichols, and Monaco

Absent: None

2. PUBLIC COMMENTS

None

3. RECESS TO CLOSED SESSION

The City Council recessed to Closed Session at 5:00 p.m. with all Members present to discuss the following:

- a. Conference with Legal Counsel – Existing litigation pursuant to Government Code Section 54956.9(a) & (d)(1).
 - 1) Case: Hosler v. Patel, et al.
Orange County Superior Court Case No. 30-2019-01080694
- b. Conference with Legal Counsel – Anticipated litigation pursuant to Government Code Section 54956.9(d)(2)-(4). (One case)
- c. Conference with Labor Negotiator pursuant to Government Code Section 54957.6:
City Negotiators: Rick Otto, City Manager
Employee Organizations: City of Orange Police Association.
- d. Public Employee Appointment pursuant to Government Code Section 54957(b):
Title: Community Development Director

4. ADJOURNMENT

Closed Session was adjourned at 5:32 p.m.

6:00 PM REGULAR SESSION**1. OPENING**

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

1.1 INVOCATION

Given by Pastor Pete Shambrook from Cedarhouse.

1.2 PLEDGE OF ALLEGIANCE

Led by Councilmember Kimberlee Nichols.

1.3 ROLL CALL

Present: Murphy, Alvarez, Nichols, and Monaco

Absent: None

1.4 PRESENTATIONS/ ANNOUNCEMENTS/ INTRODUCTIONS

Mayor Murphy announced a Veterans Day virtual program will be held on November 11, and a virtual Tree Lighting and Musical Program celebration on Sunday, December 6. More information can be found on the City's website.

2. PUBLIC COMMENTS

The following people submitted written comments, which were read into the record by staff:

Jessica Barber emailed regarding the use of pesticides in City parks.

Janice Brownfield emailed encouraging the City to study and pursue community choice energy in the City of Orange.

Cecilia Bustamante, St. Joseph Hospital, emailed encouraging the City to pursue community choice energy in the City of Orange.

Jerome Ryan emailed in support of reinstating Councilmembers' salaries.

3. CONSENT CALENDAR

All items on the Consent Calendar are considered routine and are enacted by one motion approving the recommended action listed on the Agenda. Any member of the City Council, staff or the public may request an item be removed from the Consent Calendar for discussion or separate action. Unless otherwise specified in the request to remove an item from the Consent Calendar, all items removed shall be considered immediately following action on the remaining items on the Consent Calendar.

3.1. Waive reading in full of all ordinances on the Agenda.

ACTION: Approved.

3.2. Confirmation of warrant registers dated October 9, 15, 23, and 29, 2020.

ACTION: Approved.

3.3. Approval of meeting minutes of the City Council of the City of Orange for the October 13, 2020, Regular Meeting.

ACTION: Approved minutes as presented.

3.4. Agreement with Triad Consulting & System Design Group, L.L.C. for security consulting services. (AGR-7069)

ACTION: 1) Approved the agreement with Triad Consulting & System Design Group, L.L.C. in the total amount of \$57,585, representing an original agreement amount of \$52,350, plus a 10% contingency of \$5,235, for security consulting services and authorized the Mayor and City Clerk to execute on behalf of the City; and 2) Authorized the appropriation of \$57,585 from the Capital Bond Proceeds unreserved fund balance to expenditure account number 553.1601.56033.20347, Capital Bond Proceeds - Enterprise Access System.

3.5. Appropriation of \$35,318.98 in revenue for sports field maintenance at Santiago Canyon College.

ACTION: Authorized the appropriation of \$35,318.98 from revenue account 100.7022.42480.00000, General Fund - User Group Maintenance Fees to expenditure account number 100.7022.51424.00000, General Fund - User Group Maintenance.

3.6. Appropriation of \$8,694 in disbursement funding received from Santiago Library System.

ACTION: 1) Accepted into the City's revenue budget \$8,694 in disbursement funding from Santiago Library System, into revenue account number 100.2001.48390.19988, Santiago Library System; and 2) Authorized the appropriation of \$8,694 to expenditure account number 100.2001.53301.19988, Santiago Library System - Library Books.

3.7. Approval of plans and specifications and authorization to advertise for bids for Installation of Radar Feedback Signs at Various Locations; Highway Safety Improvement Program L-5073(089); Bid No. 20-21.03.

ACTION: Approved plans and specifications and authorized advertising for bids for the Installation of Radar Feedback Signs at Various Locations; Highway Safety Improvement Program L-5073(089), SP-4037.

3.8. Approval of plans and specifications for Annual Concrete Replacement Fiscal Year 2020-2021; and authorization to advertise Bid No. 20-21.24.

ACTION: Approved plans and specifications and authorized advertising for bids for Annual Concrete Replacement Fiscal Year 2020-2021, SP-4150.

3.9. Approval of plans and specifications for Community Development Block Grant Fiscal Year 2020-2021 Hoover Neighborhood Street Rehabilitation Project and authorization to advertise Bid No. 20-21.26.

ACTION: Approved plans and specifications and authorized advertising for bids for the Community Development Block Grant Fiscal Year 2020-21 Hoover Neighborhood Street Rehabilitation Project; SP-4142.

3.10. Final Acceptance of Bid No. 190-33, Annual Slurry Seal at Various Locations Fiscal Year 2019-2020; and authorization to file Notice of Completion.

ACTION: Accepted the Annual Slurry Seal at Various Locations Fiscal Year 2019-2020 as complete; and authorized staff to file Notice of Completion with the County Recorder.

3.11. Final Acceptance of Bid No. 190-46; SP-4137; Roof Improvements of Fire Station 5; and authorization to file Notice of Completion.

ACTION: Accepted Roof Improvements of Fire Station 5 as complete; and authorized staff to file the Notice of Completion with the County Recorder.

3.12. Claims for Damages.

ACTION: Denied the following claims and referred to City Attorney and Claims Adjuster:

1. Tom Feldner
2. Patricia Covin
3. Bill Morton
4. Bristol West Insurance a/s/o Rubi Jacinto
5. Robert Jenkins

3.13. Award of Contract to KASA Construction, Inc. for construction services for the Handy Park Maintenance Renovation project; Bid No. 20-21.13. (AGR-7070)

ACTION: Approved contract with KASA Construction, Inc. in the amount of \$1,483,350 for construction services for the Handy Park Maintenance Renovation (20370); and authorized the Mayor and City Clerk to execute on behalf of the City.

3.14. Historic Preservation Agreements (Mills Act Contracts) for 28 qualified historic properties.

ACTION: Approved 28 Mills Act Contracts between the City of Orange and the identified property owners for the preservation and rehabilitation of qualified historic properties, and authorized the Mayor and City Clerk to execute on behalf of the City.

3.15. Second Amendment to Contract with West Coast Arborists, Inc. for tree maintenance services in parks, City facilities, assessment districts, medians, and rights of ways. (AGR-6294.2)

ACTION: Approved Second Amendment with West Coast Arborists, Inc. in an amount not to exceed \$572,137.50 for tree maintenance services for park, City facilities, assessment districts, medians, and rights of way and authorized the Mayor and City Clerk to execute on behalf of the City.

3.16. Third Amendment to Contract with West Coast Arborists, Inc. for City Street Tree Services. (AGR-6299.3)

ACTION: 1) Approved Third Amendment with West Coast Arborists, Inc. in an amount not to exceed \$1,214,813 for City Street Tree Services and authorized the Mayor and City Clerk to execute on behalf of the City; and 2) Authorized the appropriation of \$20,000 from the Sanitation (220) Unreserved Fund Balance to expenditure account number 220.5025.51700.00000 - Tree Services Contractual Services.

3.17. Final Contract Change Order and Final Acceptance of Bid No. 190-44; Community Development Block Grant Fiscal Year 2019-2020 Street Rehabilitation, Sacramento Street, Clinton Street, Olive Street, and Shaffer Street with R.J. Noble Company, and authorization to file Notice of Completion.

ACTION: 1) Approved the transfer of \$15,000 from expenditure account 310.9645.56330.20411, Sacramento Neighborhood Street Rehabilitation to expenditure account 310.9645.56330.20409, Olive Street Rehabilitation; and 2) Accepted Community Development Block Grant Fiscal Year 2019-2020 Street Rehabilitation, Sacramento Street, Clinton Street, Olive Street, and Shaffer Street (SP-4110) as complete and authorized staff to file Notice of Completion with the County Recorder.

3.18. Purchase of traffic control devices, signs, and street name signs for the Street Maintenance Division from various vendors.

ACTION: 1) Approved purchase order for traffic control devices and signs with BC Traffic Specialist in the amount of \$60,000; 2) Approved purchase order for traffic control devices and signs with ZAP Manufacturing in the amount of \$50,000; and 3) Approved purchase order for traffic control devices and signs with Zumar Industries, Inc. in the amount of \$50,000.

3.19. Purchase of vehicle parts, materials and services from Irv Seaver BMW, Inc., Pete's Road Service, and 911 Vehicle as sole source vendors.

ACTION: Approved the purchase of parts, materials and services from the following sole source vendors for an annual not to exceed amount of \$60,000 each, on an as needed basis: Irv Seaver Motorcycles, Pete's Road Service, and 911 Vehicle.

3.20. Purchase of one vehicle, one forklift, and two trailers for various departments.

ACTION: 1) Approved the purchase of one 2021 F-350 Service Truck from National Auto Fleet Group in the amount of \$39,886; 2) Approved the purchase of one forklift from Southwest Material Handling in the amount of \$49,913.; 3) Approved the purchase of one backhoe trailer from Scott Equipment, Inc. in the amount of \$26,431; and 4) Approved the purchase of one shoring trailer from TPD Trailer in the amount of \$39,682.

3.21. Sale of real property along 331-353 S. Main Street to St. Joseph Hospital of Orange.

ACTION: Approved the sale of real property along 331-353 S. Main Street to St. Joseph Hospital of Orange, and authorized the Mayor and City Clerk to execute the grant deed and related escrow documents on behalf of the City.

3.22. Water rate pass-through notice for Calendar Year 2021.

ACTION: Item was removed from the agenda and continued to December 8, 2020

3.23. Monthly Treasurer's Reports for July, August, and September 2020

ACTION: Received and filed.

3.24. Submittal of annual financial reports for development impact fees for Fiscal Year 2019-2020.

ACTION: Received and filed the annual financial reports relating to Transportation System Improvement Program Fees, Park Infill Fees, Fire Protection Facilities Fees, Police Facility Development Fees, and Library Facilities Development Fees.

3.25. Memoranda of Understanding between the City of Orange and all bargaining groups.

ACTION: 1) Approved Resolution No. 11272. A Resolution of the City Council of the City of Orange repealing Resolution No. 11056 and approving the Memorandum of Understanding between the City of Orange and the Orange Management Association concerning wages, hours, and other conditions of employment effective January 1, 2020, through and including December 31, 2023;

2) Approved Resolution No. 11273. A Resolution of the City Council of the City of Orange repealing Resolution No. 11110 and amendments thereto approving the Memorandum of Understanding between the City of Orange and the City of Orange Police Management Association bargaining unit concerning wages, hours, and other terms and conditions of employment effective July 1, 2019, through June 30, 2023;

3) Approved Resolution No. 11274. A Resolution of the City Council of the City of Orange repealing Resolution No. 11079 and all amendments thereto and approving the Memorandum of Understanding between the City of Orange and the Orange City Firefighters, Inc. Local 2384 of the International Association of Fire Fighters, AFL-CIO concerning wages, hours, and other conditions of employment effective July 1, 2019, through June 30, 2023;

4) Approved Resolution No. 11275. A Resolution of the City Council of the City of Orange repealing Resolution No. 11108 and all amendments thereto and approving the Memorandum of Understanding between the City of Orange and the Orange Fire Management Association concerning wages, hours, and other conditions of employment effective July 1, 2019, through June 30, 2023;

5) Approved Resolution No. 11277. A Resolution of the City Council of the City of Orange repealing Resolution No. 11093 and all amendments thereto and approving the Memorandum of Understanding between the City of Orange and the City of Orange Police Association concerning wages, hours, and other terms and conditions of employment effective July 1, 2019, through June 30, 2023;

6) Approved amended Resolution No. 11278. A Resolution of the City Council of the City of Orange repealing Resolution No. 11059 and approving the Memorandum of Understanding between the City of Orange and the Water Division Employees' Association concerning wages, hours, and other conditions of employment effective January 1, 2020, through and including December 31, 2023;

7) Approved Resolution No. 11279. A Resolution of the City Council of the City of Orange repealing Resolution No. 11058 and approving the Memorandum of Understanding between the City of Orange and the Orange Maintenance and Crafts Employees' Association concerning wages, hours, and other conditions of employment effective January 1, 2020, through December 31, 2023; and

8) Approved Resolution No. 11285. A Resolution of the City Council of the City of Orange repealing Resolution No. 11057 and approving the Memorandum of Understanding between the City of Orange and the Orange Municipal Employees' Association concerning wages, hours, and other conditions of employment effective January 1, 2020, through and including December 31, 2023.

3.26. Classification, compensation, and terms of employment of Part-Time and Seasonal employees, and amendment of the Citywide Pay Schedule. Resolution Nos. 11280 and 11284.

ACTION: 1) Adopted Resolution No. 11280. A Resolution of the City Council of the City of Orange relating to the classification, compensation, and terms of employment for Part-Time and Seasonal employees of the City of Orange effective July 1, 2020, through and including June 30, 2021, and repealing Resolution No. 11183 and amendments thereto; and 2) Adopted Resolution No. 11284. A Resolution of the City Council of the City of Orange amending the Citywide Pay Schedule in accordance with the requirements of California Code of Regulations, Title 2, Section 570.5.

3.27. Adoption of Fiscal Year Ended June 30, 2020, Measure M2 Expenditure Report. Resolution No. 11286.

ACTION: Adopted Resolution No. 11286. A Resolution of the City Council of the City of Orange concerning the Fiscal Year Ended June 30, 2020, Measure M2 Expenditure Report.

Approval of the Consent Calendar

Item 3.22 was removed from the Consent Calendar and continued to December 8, 2020. Item 3.25 was approved with submitted amended Resolution No. 11278. All other items on the Consent Calendar were approved as recommended.

A motion was made by Mayor Pro Tem Alvarez, seconded by Councilmember Nichols, to approve the Consent Agenda. The motion carried by the following vote:

Ayes: Murphy, Alvarez, Nichols, and Monaco

Noes: None

Absent: None

END OF CONSENT CALENDAR

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4. REPORTS FROM MAYOR MURPHY

None

5. REPORTS FROM COUNCILMEMBERS

None

6. REPORTS FROM BOARDS, COMMITTEES, AND COMMISSIONS

None

7. ADMINISTRATIVE REPORTS

Items 7.1 and 7.2 were heard concurrently as they both relate to Fire Station No. 1 and Headquarters project.

Public Works Director Christopher Cash provided an overview of the project noting that the bid came in 42% lower than the engineer's estimate. The bids received, with the exception of the high bid, were all within 7% of each other leading staff to conclude that the bid is competitive and reflects current market conditions.

7.1. Award of Contract to Robert Clapper Construction Services, Inc. for Fire Station No. 1 and Headquarters; Bid No. 20-21.07. (AGR-7099)

A motion was made by Mayor Pro Tem Alvarez, seconded by Councilmember Monaco, to: 1) Award the contract to Robert Clapper Construction Services, Inc. in the total amount of \$19,052,908, representing an original bid amount of \$17,320,825, plus a 10% contingency of \$1,732,083, for SP-4071 Fire Station No. 1 and Headquarters; and authorize the Mayor and City Clerk to execute on behalf of the City; and 2) Authorize the appropriation of \$19,052,908 from the Capital Bond Proceeds unreserved fund balance to expenditure account 553.5011.56020.20400 - Capital Bond Proceeds - Fire Station No. 1 and Headquarters. The motion carried by the following vote:

Ayes: Murphy, Alvarez, Nichols, and Monaco

Noes: None

Absent: None

7.2. Agreement with Griffin Structures, Inc. for Construction Management Services for Fire Station No. 1 and Headquarters project. (AGR-7100)

A motion was made by Councilmember Nichols, seconded by Mayor Murphy, to: 1) Approve the agreement with Griffin Structures, Inc. in the amount of \$788,700, representing an original amount of \$717,000 plus a 10% contingency of \$71,700 for Construction Management Services for Fire Station No. 1 and Headquarters project (SP-4071); and authorize the Mayor and City Clerk to execute on behalf of the City; and 2) Authorize the appropriation of \$788,700 from the Capital Bond Proceeds unreserved fund balance to expenditure account 553.5011.56020.20400 - Capital Bond Proceeds - Fire Station No. 1 and Headquarters. The motion carried by the following vote:

Ayes: Murphy, Alvarez, Nichols, and Monaco

Noes: None

Absent: None

7.3. First Amendments to Affordable Housing Agreement and Agreement Containing Covenants for The Knolls affordable housing complex. (AGR-2467.1 and 2467.0.4.1)

A motion was made by Councilmember Monaco, seconded by Councilmember Nichols, to approve the following amendments to agreements and authorize the Mayor and City Clerk to execute on behalf of the City:

1. First Amendment to Affordable Housing Agreement by and between City of Orange and F.C. Orange Associates, LLC
2. First Amendment to Agreement Containing Covenants by and between City of Orange and F.C. Orange Associates, LLC

The motion carried by the following vote:

Ayes: Murphy, Alvarez, Nichols, and Monaco

Noes: None

Absent: None

7.4. Appropriation of \$9,600 in designated donation funding received from the Orange Public Library Foundation.

Library Services Director Dave Curtis provided a brief staff report noting the donated funds will rehabilitate the Children's Courtyard into a Children's Garden space at the Orange Public Library & History Center. The Tannas Family's cumulative donations grant them naming rights for that project.

Public Comment

Steven Freeman, Library Board of Trustees Chair, submitted a written comment expressing the Library Board's gratitude for the Tannas Family's years of support and generous donations.

A motion was made by Councilmember Nichols, seconded by Mayor Murphy, to: 1) Accept into the City's revenue budget a \$9,600 donation from the Orange Public Library Foundation into revenue account number 500.2001.48390.19322, Capital Projects - Orange Public Library Foundation; and 2) Authorize the appropriation of \$9,600 to expenditure account number 500.2017.56020.20446, Capital Projects - Children's Courtyard Rehabilitation Support. The motion carried by the following vote:

Ayes: Murphy, Alvarez, Nichols, and Monaco

Noes: None

Absent: None

8. REPORTS FROM CITY MANAGER

8.1. Recap of the Silverado and Blue Ridge Fires.

Fire Chief Sean de Metropolis provided the Council with a recap of the Blue Ridge and Silverado fires. Chief de Metropolis reported that both fires are 100% contained. The Silverado fire ended up burning 12,466 acres, and the Blue Ridge fire ended up burning 13,964 acres.

9. LEGAL AFFAIRS**9.1. Introduction and First Reading of an Ordinance of the City Council of the City of Orange adding Chapter 2.11 requiring electronic filing of Campaign Statements and Statements of Economic Interests.**

A motion was made by Councilmember Monaco, seconded by Mayor Pro Tem Alvarez, to introduce and approve Ordinance No. 18-20 for First Reading and set the Second Reading for December 8, 2020. The motion carried by the following vote:

Ayes: Murphy, Alvarez, Nichols, and Monaco

Noes: None

Absent: None

10. ITEMS RELATING TO THE SUCCESSOR AGENCY OF THE ORANGE REDEVELOPMENT AGENCY

None

11. PUBLIC HEARINGS**11.1. Participation Agreement between the City of Orange and Providence Procurement Company, LLC.**

A motion was made by Mayor Murphy, seconded by Councilmember Monaco, to continue Item 11.1 to the December 8, 2020, Regular City Council meeting. The motion carried by the following vote:

Ayes: Murphy, Alvarez, Nichols, and Monaco

Noes: None

Absent: None

11.2. Public Hearing to consider Introduction and first reading of an Ordinance of the City Council of the City of Orange Amending Title 5 of the Orange Municipal Code by Adding Chapter 5.94 regulating the licensing and establishment of short term rental businesses in the City and amending Title 17 by adding a definition, zoning requirements, and conditions for short term rental use.

Senior Administrative Analyst Schulze provided the staff report and reviewed the provisions contained within the proposed ordinance.

Mayor Murphy opened the Public Hearing at 7:12 p.m.

Public Comments

The following people submitted comments in support of approving Ordinance No. 08-20, which were read into the record by staff:

Susan Tillou, Kathryn Levassieur, Kasra Jafroodi, and Michael MacIsaac.

The following people submitted comments in opposition of approving Ordinance No. 08-20, which were read into the record by staff:

Betsy Davis, Patricia Boatright, Wendy Ann Miller, Greg and Sarah Krstich, Lirio Sanchez, Regina Mundekis, Dean Cahill, and Al and Sandy Valdez.

In addition, two telephone messages in opposition from Janet Stapleton and Jacqueline Slauter, and one in support from Norbert Koeller were received and distributed to Council; and one written comment in support and three in opposition were received after the deadline and were distributed to Council for their consideration.

Mayor Murphy closed the Public Hearing at 7:41 p.m.

During deliberations, Mayor pro tem Alvarez and Councilmember Monaco stated they were not in support of approving the proposed ordinance as they believe short term rentals to be a commercial use and should not be allowed in the City's neighborhoods. Council discussed the process of banning short term rentals and the potential need for professional services to enforce the ban beyond the City's current resources.

City Attorney Sheatz clarified that short term rentals are not a permitted use in the existing Orange Municipal Code. Therefore, there is no need for the Council to take further action by adopting an ordinance prohibiting short term rentals as they are currently not an approved use.

A motion was made by Mayor Murphy, seconded by Councilmember Monaco, to direct staff to retain appropriate professional services to initiate the ban and restriction of short term rentals with a report back to Council at the January 12, 2021, Regular Council meeting on any recommended actions including a recommended wind-down period of existing short term rentals. The motion carried by the following vote:

Ayes: Murphy, Alvarez, Nichols, and Monaco

Noes: None

Absent: None

11.3. Continued Public Hearing to consider Introduction and First Reading of an Ordinance amending sections of Title 12 (Streets, Sidewalks and Public Places), Title 16 (Subdivisions) and Title 17 (Zoning) of the Orange Municipal Code related to the Design Review Committee. Ordinance No. 13-20. (Continued from 10/13/20)

Mayor Murphy opened the Public Hearing at 8:38 p.m.

Public Comments

The following people submitted comments in opposition of approving Ordinance No. 13-20, which were read into the record by staff:

Jeannette McClain, J.P. McDermott, Sandy Frankel, Dave and Sabrina Schaffer, Chris Glos, Diana and Gary Zdenek, Dot Ronan, Phil Menard, Mary Anne Skorpanich, Peggy Calvert, Gail and Roland Sevilla, Glory Johnson, Jeff Frankel, Ron Brown, Robert Imboden, Krista Nicholds, Teri Lepe, and Old Towne Preservation Association.

Dave Simpson submitted a comment in support of approving Ordinance No. 13-20, which was read into the record by staff.

In addition, a telephone message in opposition was received from Bonnie Robinson and distributed to Council; and a written comment requesting that Council table the item was received after the deadline and distributed to Council for their consideration.

Mayor Murphy closed the Public Hearing at 9:18 p.m.

During deliberation, Council discussed the need for a policy decision about the roles and responsibilities of each of the City's current Boards, Commissions, and Committees before revising the Ordinance. In addition, Council directed staff to assign the appropriate staffing level to the DRC to include a senior level employee and legal counsel.

After further discussion, it was Council consensus to table the item until the newly elected Councilmembers have been sworn in.

A motion was made by Mayor Murphy, seconded by Councilmember Nichols, to continue Item 11.3 to a date uncertain. The motion carried by the following vote:

Ayes: Murphy, Alvarez, Nichols, and Monaco

Noes: None

Absent: None

12. ADJOURNMENT

There being no further business, the meeting was adjourned at 9:50 p.m. to an Adjourned Regular Meeting on Tuesday, December 1, 2020, at 5:00 p.m., with Closed Session beginning at 4:00 p.m. if necessary, via various teleconference locations.

The next Regular City Council meeting will be held on Tuesday, December 8, 2020, at 6:00 p.m., with Closed Session beginning at 5:00 p.m. if necessary, via various teleconference locations.

s/Pamela Coleman

PAMELA COLEMAN
CITY CLERK

s/Mark A. Murphy

MARK A. MURPHY
MAYOR