



**MILLBRAE CITY COUNCIL
MINUTES
October 24, 2017**

CALL TO ORDER MILLBRAE CITY COUNCIL

Mayor Holober called the meeting to order at 8:54 pm.

ROLL CALL: Mayor Reuben D. Holober, Vice Mayor Gina Papan, Councilmembers Ann Schneider, Wayne J. Lee, and Anne Oliva.

PLEDGE OF ALLEGIANCE TO THE U.S. FLAG

1. **CEREMONIAL/PRESENTATION**

- Announcement of Fire Safety Inspection Contest Winners

Fire Marshal Yballa announced that this year's grand prize winner is Jacqueline Wu from Spring Valley School. Miss Wu was unable to tonight's meeting.

- Presentation of Central County Fire Department (CCFD) Annual Report

Chief Kammeyer stated that CCFD responded to four different wildland fires this year. For the most recent Napa fire, they sent out three engines. CCFD also responded to the hurricanes in Houston and Florida. Twenty-three members of the Department are on the Federal Emergency Management Agency (FEMA) Task Force Urban Search and Rescue Team.

2. **AGENDA OVERVIEW/STAFF BRIEFING**

- Report of Bills and Claims

City Manager Raines reviewed the agenda items. She updated the Council on the following items:

- Smoke testing project started last week in the Hillcrest basin;
- Park Blvd. paving work has begun. Some liquid amber trees were removed because they caused extensive damage to pavement and sidewalk. The trees will be replaced;
- Paving work continues on Hazel, Laurel and Ashton Avenues;
- The Hillcrest storm drain project is winding down and will be completed soon;
- Sanitary sewer project work is continuing this week on Santa Teresa Way and Park Blvd.;
- The City Hall landscaping project has been completed.

She stated that on Existing Business tonight is the Confirmation of the 2017/2018 Mayor/Vice Mayor Rotation. A report was submitted with the agenda last Friday that incorrectly listed only the vote by mail ballots. Today a revised report was issued. The revised report has been distributed to the City Council, as well as, posted on the City website. The vote totals that are reflected in the revised report come directly from the Secretary of State website.

Council inquired:

- Item 9 was informational at the last meeting, why is it now an action item;
- If we move item 9 to the Consent Calendar, does it become informational again?

Staff responded:

- The Council Protocols mandate that, if the item is pulled off Consent, it comes back at the next meeting for action. Staff received a request to put this item on Consent, but this was not an option since the agenda had already been published. The City Council has the flexibility to move the item to Consent if this is the desire of the majority of the Council;
- If you look at the revised report, the action is basically to accept the report.
 - Report out from Closed Session of October 10, 2017

Deputy City Attorney Conneran stated that the Council had met in Closed Session and discussed the matter of existing litigation; no reportable action was taken.

3. **APPROVAL OF MINUTES**

- NONE

4. **ORAL REPORT FROM CITY COMMITTEE/COMMISSION CHAIRS**

- NONE

PUBLIC COMMUNICATION

Wynn Grich, resident of Hayward, spoke about breast cancer and fluoride.

CONSENT CALENDAR

5. Council Consideration of the Cancellation of the Regularly Scheduled City Council Meeting of December 26, 2017
6. Approval of Special Event Permit for the Millbrae Lions Club Monster March Event on October 28th and Street Closure of Broadway Avenue from Meadow Glen to La Cruz from 1:00 p.m. to 1:30 p.m.
7. Authorizing the City Manager to Execute Contract Change Orders with Quality Pipe Services, Inc. in Excess of 10% of the Total Project Cost for the 2017 Sanitary Sewer CCTV Inspection Project No. 141

Upon a motion/second by Papan/Oliva, Consent Calendar items 5, 6, and 7 were unanimously approved.

PUBLIC HEARING

8. An Ordinance Amending Chapter 5.120 of the Millbrae Municipal Code Limiting Recreational, Medical, and Commercial Cannabis Use and Other Activities Pending Further Evaluation and Completion of Studies of the Impacts Associated with Such Activities – ACTION
 - Waive 1st Reading
 - Introduce Ordinance

Community Development Director Ward presented the report. She stated that in July the City Council received an informational presentation from staff and MuniServices that identified a number of policy questions that arose from the passage of Proposition 64 almost a year ago. Proposition 64 legalizes cannabis for adults over the age of twenty-one and authorizes commercial cultivation and sale of cannabis for non-medical use. In each case the law allows cities to determine what type of uses and

cannabis activities should be allowed within its jurisdiction. Staff expects that the State will start issuing licenses for commercial medical and non-medical cannabis as of January 1, 2018 if cities do not implement a local program by the end of the year. A projected estimated revenue summary by MuniServices suggests a potential for up to \$30,000 for delivery only and up to \$135,000 for one dispensary on an annual basis. It is not clear what the costs of permitting and regulating these activities are. Staff recommends an ordinance banning cannabis related business and activities subject to further analysis and review. This ban would allow flexibility for the City Council to reconsider restrictions and to impose limitations whenever it chooses without the risk of giving up authority to the State.

Upon a motion/second by Papan/Lee the Council opened the public hearing.

Fran Mancina, Vice President of Governmental Relations, and Larry Bergkamp, Senior Technical Advisor, from MuniServices presented the report. They stated that information on consumption of cannabis is not clear at this point because the black market is so prevalent and the industry for so long has been underground. They expect better information in January in order to provide data on potential revenues.

Council inquired:

- If we ban pending research, when the State begins to collect taxes, whether we sell anything or not, will we still be able to potentially access some of the grant money to help build our Recreation Center or anything benefitting the City of Millbrae? Can you assure us that Millbrae will not be excluded from obtaining some of the funds from the State;
- Does it benefit the City to include a specific date in the ordinance to re-address the issue;
- The draft ordinance, under Personal Cultivation, says that a person must first obtain a permit from the City's Planning Department before cultivating personal plants. It is our understanding that the City cannot restrict personal cultivation of up to six plants. Is this correct;
- Can the City prohibit outdoor growing;
- Can the City prohibit someone from growing it in their front yard as opposed to their backyard, or near schools;
- Can landlords prohibit tenants from growing cannabis;
- Will there be Frequently Asked Questions coming forward and will they be provided to the public?

Staff responded:

- If the City decides to fully prohibit any cannabis activities eventually the City will not be able to access the grant money. At this point, we have not seen the final regulations out of the State yet on how it will be determined. Initially the funds that the State will be collecting go through various different categories to repay all the State agencies first and then they get a number of different categories of allocations for that money and then all the way at the bottom is when cities can obtain grants for various activities if they have allowed some type of cannabis operations within their city. This is still a moving target in terms of how these monies are going to be administered by the State and there is no reason to believe that by virtue of having a ban in place on any particular date in 2018 that these monies that are continuing to be collected on into the future would be made permanently unavailable if the City ultimately decides to open its doors to this type of business;
- Putting a specific date in the ordinance does not add anything. The City can re-visit this at any time. You can impose a date to sunset it. The risk then is that if the City is not ready at that date, you need to kick the can further down the road or risk the State taking control;
- Yes, that is correct about personal cultivation, but the State allows the City to reasonably regulate that activity so you can require permits to identify where the plants are and it helps with public safety;

- Yes, outdoor growing can be prohibited outright;
- Yes, the City can prohibit people from growing it in their front yards, backyards, or near schools;
- Yes, landlords can prohibit tenants from growing cannabis. Tenants need to obtain permission from their landlord to grow cannabis;
- The State is working hard to get the regulations out by the end of the year. The drafts that have come out do include language with regards to consumption and growing in multi-unit dwellings. Information will be provided when it becomes available.

Begin public comment.

Wynn Grich, resident of Hayward, spoke in favor of banning cannabis to protect kids.

End of public comment.

Council inquired:

- What is the penalty if someone breaks the ban and will that be codified? How much is the penalty;
- Is it correct that we cannot prohibit cannabis use in a place where cigarettes are not prohibited;
- What is the Sheriff Department's tactical plan for this? There may be break-ins and a lot of issues associated with the use of marijuana, including nuisance complaints;
- Can we increase our penalties?

Staff responded:

- The penalty is the standard penalty in our Municipal Code: \$100, \$200 and \$500 for each penalty;
- Yes, for example in a person's home, you could not prohibit possession and use;
- There will be concerns. This is a cash industry. This has caused increased homelessness in Colorado in places where they sell recreational marijuana. We need to do a little more research, but we will do everything we can to keep the public safe;
- Yes, we can increase penalties. We have some ability to increase the penalties rather than go with standard penalties in our Code;

Council requested that a Sub-Committee be set up to address how cannabis affects schools, day care facilities, youth centers, public safety, and all aspects.

The Mayor requested that the City also look into cigarette smoking downtown and in multi-unit structures and consider smoking restrictions in public places.

Upon a motion/second by Papan/Lee the Council closed the public hearing.

Upon a motion/second by Papan/Oliva the Council unanimously waived the first reading and introduced an Ordinance amending Chapter 5.120 of the Millbrae Municipal Code limiting recreational, medical, and commercial cannabis use and other activities pending further evaluation and completion of studies of the impacts associated with such activities.

EXISTING BUSINESS

9. Confirmation of the 2017/2018 Mayor/Vice Mayor Rotation

Council inquired if they are voting on the Protocol or are they voting that they are going to vote on the rotation next time?

Staff responded that Council is going to vote on the rotation next time. This is not an election; this is simply to accept the report. It provides Council the vote totals from the election so that you have the information you need to make the decision at the Council meeting in December when the re-organization occurs.

Upon a motion/second by Papan/Lee the Confirmation of the 2017/2018 Mayor/Vice Mayor Rotation was unanimously approved.

NEW BUSINESS

NONE

COUNCIL COMMENTS

Mayor Holober:

- Congratulated Dino DeRanieri, Man of the Year; Debbie Van Wart, Woman; and Pauline Yan, Student of the Year.

Vice Mayor Papan:

- Attended the Westin Hotel's 30th Anniversary celebration;
- Thanked the Lions Club for donating their Crab Feed funds of over \$10,000 to the fire victims.

Councilmember Schneider:

- Attended the Housing Leadership Day at the College of San Mateo;
- Announced the Lions Monster March on Saturday;
- Announced the Rotary Halloween Carnival on Sunday;
- Attended the C/CAG Board of Directors meeting.

Councilmember Lee:

- No comments.

Councilmember Oliva:

- Thanked Parks and Recreation for the Ribbon Cutting Ceremony and for doing an awesome job;
- Attended the Senior Advisory Committee meeting. She thanked the Magnolia of Millbrae for allowing the City to use their facility for the meetings.

ADJOURN CITY COUNCIL

There being no further business to discuss, the City Council adjourned at 10:21 pm.

/s/ Angela Louis
City Clerk

/s/ Gina Papan
Mayor