

**CITY OF PLEASANTON
CITY COUNCIL MEETING MINUTES
March 2, 2021**

*This meeting was conducted in accordance with Governor Newsom's
Executive Orders N-25-20 COVID-19 pandemic protocols.*

REGULAR MEETING

Mayor Brown called the teleconferenced regular meeting of the City Council from various remote locations to order at the hour of 7:00 p.m. Councilmember Testa led the Pledge of Allegiance and provided opening remarks.

ROLL CALL

Present: Councilmembers Arkin, Balch, Narum, Testa, Mayor Brown

Absent: None

AGENDA AMENDMENTS

Councilmember Balch requested the February 2, 2021 be continued for edits.

CONSENT CALENDAR

In response to Councilmember Arkin's inquiries regarding Item 3, P21-0033, Community Development Director Ellen Clark clarified current signage does not reference the retail element of the business. The Planning Commission requested the applicant add additional signage, so the public knows the site is being utilized for its intended use, which the applicant was amenable to. She confirmed the Planning Commission recommended the Council review whether there should be changes to the City's language about active ground floor use.

In response to Councilmember Balch's inquiry, City Manager Fialho confirmed staff has looked at the February 2nd minutes but has not had a chance to fully review and make edits. He suggested that they be continued.

Mayor Brown reported Monith Ilavarsan agreed to step into the vacancy on the Housing Authority of the County of Alameda Housing Commission and noted he agreed to meet with the other interviewees and ensure their opinions are also represented.

Councilmember Balch advised he will abstain from Item 5 to eliminate the perception of conflict of interest related to campaign donations.

City Council

1. Approved the nomination of Monith Ilavarasan as Pleasanton's representative on the Housing Authority of the County of Alameda Housing Commission

City Manager

2. Approved minutes of January 19, 2021 and February 10, 2021. February 2, 2021 minutes were continued.

Community Development

3. Actions of the Zoning Administrator and Planning Commission

4. Adopted and waived full reading of **Resolution 21-1205** approving the annual progress report on implementation of the General Plan Housing Element and Growth Management report for calendar year 2020 and authorized submittal to the California Department of Housing and Community Development and the Governor's Office of Planning and Research

Engineering

5. Approved plans and specifications, reviewed bids, approved and authorized City Manager to execute a contract with Marshall Brothers Enterprises, Inc. in the amount of \$494,600 for the Koll Center Trash Capture Device Project, CIP No. 17443; authorized the Director of Engineering to approve and execute contract change orders not to exceed \$92,440; approved transfers of \$206,000 in funding from the Annual Installations of Trash Capture Devices, CIP No. 20443, and \$150,000 in funding from the Annual Installations of Trash Capture Devices, CIP No. 21443, to the Koll Center Trash Capture Device, CIP No 17443 *Councilmember Balch Abstained*
6. Approved plans and specifications, reviewed bids, approved and authorized City Manager to execute a contract with WestCal Design and Build, Inc. in the amount of \$1,020,000 for the Lift Stations 7 and 8 Ventilation and Lighting Improvements Project, CIP No. 21267; authorized the Director of Engineering to approve and execute contract change orders not to exceed \$153,000; approved and authorized City Manager execute an agreement with TJC and Associates, Inc. in the amount of \$53,500 for construction support services; and allocated \$1,260,350 in funding from the Sewer Replacement Fund (Fund 431) to the LS 7 and LS 8 Ventilation and Lighting Improvements Project, CIP No. 21267
7. Accepted public improvements performed by California Engineering Contractors, Inc. for the Bridge Improvements at Various Locations Project, CIP No. 16514 – FED ID 5101(029), and authorized the City Clerk to file a Notice of Completion and release retention in the amount of \$81,111; authorized City Manager to execute contract Amendment No. 1 with TRC Engineers, Inc. for \$31,700 for additional construction support services; authorized the transfer of \$3,184 from the Santa Rita Road/Hopyard Road Piping Improvements, CIP No. 18128, to the Bridge Improvements at Various Locations, CIP No. 16514, for water pipeline improvements required at the Santa Rita Road Bridge; appropriated \$106,286 (for a total of \$1,483,626) in HBP grant funding to the Bridge Improvements at Various Locations, CIP No. 16514 – Fed ID 5101(029), upon the expected approval by Caltrans; and authorized the transfer of the projects remaining local street funds (an anticipated \$145,548) to their respective fund sources after receiving the grant fund reimbursements
8. Adopted and waived full reading of **Resolution 21-1203** authorizing the Mayor to execute the grant of a utility distribution easement to Pacific Gas and Electric across the Livermore Pleasanton Fire Station No. 3 property located at 3200 Santa Rita Road to provide gas and electric services to the facility

Finance

9. Accepted the monthly disbursements and investment report for December 2020

MOTION: It was m/s by Narum/Testa to approve the Consent Calendar with the exception of the February 2, 2021 minutes as noted. Motion passed by the following vote:

Ayes: Councilmembers Arkin, Balch, Narum, Testa, Mayor Brown
Noes: None
Abstained: Councilmember Balch (Item 5)
Absent: None

MEETING OPEN TO THE PUBLIC

10. Public Comment

Kamal Aggarwal expressed concerns about increased noise due to the expansion of the Livermore Municipal Airport. He stated there are many signatures on a petition against the expansion signed by impacted residents of Pleasanton, Dublin, and Livermore. He requested a public hearing or agenda item on the topic along with transparency from the Airport Commission.

In response to Mayor Brown's inquiry, City Manager Fialho clarified the Airport Commission is an Advisory Commission to Livermore City Council. The proposed expansion is for a fixed-base operator hangar for KaiserAir to perform maintenance activities and advised there are several steps needed to be cleared before the plan is finalized. He confirmed Pleasanton will relay when those meetings are scheduled and encourage residents to voice their concerns. He added that staff scheduling a Livermore-Pleasanton liaison meeting in the next 60 days to better understand the timeline and expansion activities.

Isaac Elias said he is moving to Pennsylvania due to the cost of housing and obstructionist political tactics for making the community an overwhelming challenge to remain in even with a high-paying job. He urged the Council to get more affordable housing in the community so people like himself do not feel the need to leave.

Vittoria Tommasini expressed support for a city-wide mask mandate.

PUBLIC HEARINGS AND OTHER MATTERS

11. Adopt a resolution accepting the Midyear Fiscal Year 2020/21 operating budget and amending the Fiscal Year 2020/21 operating budget accordingly

Director of Finance Tina Olson advised the report covers the City's General Fund, Enterprise Funds, and Internal Service Funds. She reported the budget is typically revised mid-year based on revenue and expenditure estimates to maintain a balanced budget with reserve levels consistent with City policies.

Director Olson reported staff recommends reducing revenues by about \$9 million, counter-balanced by adding \$1.23 million to the General Fund's Livermore-Pleasanton Fire Department's (LFPD) reserve, \$2.1 million in net transfers, and \$5 million in Expenditures. She noted Property Taxes are continuing to rise but all other revenues are declining, led by a \$3.8 million decline in recreation fees and a \$3.7 million dip in Transient Occupancy Tax (TOT), both pandemic related. She advised Development Service Fees (\$900,000), Sales Tax (\$800,000), and Reimbursements Offset by Expenditure Reductions (\$500,000) are also down.

Director Olson reported General Fund revenues are up 39% since 2011, increasing from \$88 million to an estimated \$122 million, but the 2021 sum is down 3% from a 2019 peak of \$126 million and advised the drop could have been much more dramatic considering the pandemic's impacts. She reported the Property Tax trend is up 59% since 2011 and noted this is an increasingly critical component. She reported the Sales Tax trend is up 8% since 2011 but has dipped from a peak of \$23.5 million in 2016 and \$23 million in 2019 to an estimated \$20 million for 2021. She added the dip is less than expected considering the impacts of the year-long shutdown.

Director Olson elaborated on sales tax trends noting the biggest declines are in General Consumer Goods, Restaurants, Hotels, and Fuel and Service Stations which are all attributable to the pandemic closures. She advised there has been growth in Autos and Transportation echoing a statewide trend, Business and Industry, and State and County pools which include Sales Tax received from internet

sales. She noted Sales Tax received from internet sales is not up as much as General Consumer Goods Sales Tax Revenues are down, but it is helping to compensate for the lost revenue.

Director Olson provided a brief overview of the staff's plan to compensate for the \$9 million shortfall. She advised there is a \$738,153 Budget Surplus, \$2.5 million in attrition savings, \$1.9 million in non-labor budget reductions, an \$800,000 reduction in General Fund contingency of funds set aside for a return of recreation programs, a \$1 million reduction in transfers to the Capital Improvement Program Reserve (CIPR), a \$1 million reduction in the allocation to the Repair and Replacement Funds, and a \$1.1 million reduction in transfers to the Rainy-Day Fund.

Director Olson reported decreases in non-labor expenses such as reductions in equipment expenses, City travel, and canceled library and recreational events. She stated the \$1.23 million for the LPFD Workers' Compensation Reserves had to remain in the General Fund until Livermore allocated the same total which Livermore did earlier this year.

Director Olson reported the General Fund Reserves stands at about \$30.5 million, representing 27% of operating expenses, in line with the City's target of 25%.

Director Olson reported there was an adjustment of \$5,674 to the Water Operations and Maintenance Fund and a \$40,535 adjustment to the Sewer Operations and Maintenance Fund. She noted the Sewer Operations and Maintenance Fund is 58% of expenses placing it outside of the City's goal of a 40% maximum and 35% target. She stated Golf Round Revenue is up 5.4% during the pandemic but it is offset by a 22% dip in special event and restaurant sales leading to a \$260,000 decline in Golf Fund net revenue. She noted expenses are reduced because of the restaurant closure allowing the Fund to balance overall.

Director Olson reported the Internal Services Funds vary widely with reserves ranging from 21% to 5,233% but cumulatively are down \$1 million leading to the adjusting General Fund allocation.

In response to Mayor Brown's inquiry, Director Olson stated there was a decrease of \$15,000 in expenses due to fewer burials.

City Manager Fialho reported the Rainy-Day Fund is mostly intact except for the \$1 million being drawn to help balance the budget. He added it would be an excellent funding source to smooth out economic conditions over the next couple of years without drawing on other reserves such as the Section 115 Trust.

City Manager Fialho advised staff is closely following State and Federal relief legislation. He noted estimates anticipate the bill, which is likely to be passed by Congress and signed by President Biden, would provide Pleasanton with about \$7 million in relief funds which would likely come after July 1st and are not factored into this mid-year update.

In response to Councilmember Balch's inquiry, City Manager Fialho clarified attrition savings come from a soft hiring freeze noting some positions are still being filled if deemed essential or legally mandatory. He advised many positions will be backfilled when economic conditions improve and stated the City does not budget for attrition so it results in a windfall surplus which can help balance the budget.

In response to Councilmember Balch's inquiry, Director Olson confirmed the City could get back to its \$116 million 2017 budget, but it would likely require some policy decisions by the Council about which services to cut.

In response to Councilmember Narum's inquiry, Director Olson clarified Development Service Fees fluctuate greatly from year-to-year. She believes the \$900,000 decrease stems from having made too high of an estimate for this year. She noted the City is trending above last year but not significantly.

In response to Councilmember Arkin's inquiry, Director Olson clarified reducing the CIPR would not delay any current projects but could hinder future projects where bids come in over budget. She compared it to a savings account for Capital Improvement Projects.

In response to Mayor Brown's inquiry, Director of Finance Olson advised she anticipates some larger developments may request Property Tax Reassessments. She added there is typically a two-year lag before it hits the budget. She expressed her concerns over this happening but stated they will not know for sure until people go back to work full-time.

In response to Mayor Brown's inquiry, City Manager Fialho stated the current utilization of two School Resource Officers (SRO) and one Drug Abuse Resistance Education (D.A.R.E.) officer is similar to summer months when school is not in session. He stated the SRO and D.A.R.E. officers are assigned to patrols and investigations. Director of Finance Olson added the \$55,218 savings in police non-labor includes a reduced crossing guard contract.

Mayor Brown noted there were no speakers.

MOTION: It was m/s by Balch/Narum to adopt and waive full reading of **Resolution No. 21-1204** accepting the Midyear Fiscal Year 2020/21 operating budget and amending the Fiscal Year 2020/21 operating budget accordingly. Motion passed by the following vote:

Ayes: Councilmembers Arkin, Balch, Narum, Testa, Mayor Brown
Noes: None
Absent: None

12. Overview of Tri-Valley mental health resources and presentation of the Axis Community Health - Mental Health Urgent Care Pilot Program and approve Memorandum of Understanding between the Cities of Pleasanton, Dublin, and Livermore for Mental Health Urgent Care pilot program funding

City Manager Fialho explained for background that a central theme from the Summer 2020 discussions on community policing was addressing mental health needs in the Tri-Valley and treating mental health situations as a treatment opportunity instead of a law-enforcement concern. He advised the City is still working on the development of a Crisis Response Team to replace and/or augment 911 calls for police service. He stated the plan is to implement this on July 1st with details coming to the Council in the next couple of months.

City Manager Fialho advised there was also the push for the development of a mental health urgent care service in the Tri-Valley and advised there are not enough resources to meet the demand. He reported to meet the service gap staff is proposing this partnership with Axis Community Health (Axis) along with the cities of Dublin and Livermore to fund and deploy a program on July 1st available to all community members regardless of income or insurance status. He advised it is an urgent care clinic-like service staffed by Axis and partially funded by the three Tri-Valley cities. He noted there is hope Alameda County will also assist in funding. He requested approval for the partnership, including its implementation, and funding for the first year. He added first-year funding levels range from \$24,000 to \$108,000 depending on variables including potential County support.

Axis Chief Executive Officer Sue Compton reported Axis is a non-profit community health center that has served the Tri-Valley since 1972 and presently has five locations with 180 staff members. Ms. Compton advised they have seen gaps in care relative to mental health in the Tri-Valley due to challenges in access. She advised there are not enough professionals, and the pandemic has exacerbated the need for mental health care. She stated there is a particular concern for families caught in a crisis and not knowing where to turn for help.

Ms. Compton explained this service would provide families a needed lifeline in a crisis and help bridge the gap when it comes to setting up long-term plans. She noted the concept of a mental health urgent care service is unique so this one is modeled after a medical urgent care center. She hopes to offer the service to all Tri-Valley residents regardless of insurance status. She advised data from the three cities' police departments led to choosing service hours of Monday to Friday from noon to 8:00 p.m. as those are the most common windows to receive mental health calls.

Ms. Compton reported the service will operate via telehealth until the pandemic passes and then can begin in-person service at the Axis facility on West Las Positas Boulevard. She explained calls will be given to a licensed therapist who will assess the situation and develop a plan for both the immediate moment and longer-term. She noted Axis counselors are trained in de-escalation which will benefit local police departments, keep people from emergency rooms, and hopefully prevent California Welfare and Institutions Code Section 5150 (5150) holds. She advised Axis will have access to a psychiatrist to help patients with medication issues and noted Axis will have staff with case management experience.

Ms. Compton reported the program will be promoted through the local media, school districts, city officials, human service organizations, and the local health care community. She reiterated the goal is to decrease the impact on local law enforcement, emergency sites, and hospitals, along with providing a lifeline to struggling families.

Ms. Compton advised Alameda County has expressed its intent to provide \$250,000 for support of a first-year pilot program and added they are prepared to begin services July 1st, assuming the funding is approved by the three cities and County.

In response to Councilmember Narum's inquiry, Ms. Compton confirmed that it is anticipated that the program would be well utilized. She stated Dublin has agreed to take the lead and there would be conversations in September to assess the pilot program's performance assuming a July 1st launch. She advised long-range plans could involve including other players such as local hospitals and grants. City Manager Fialho advised each city has a slightly different set of desired impacts with Pleasanton's focus being less direct law enforcement interaction and stated it is a continual discussion with a pilot program once there are some metrics on usage levels. Ms. Compton noted the focus is on the prevention of crises leading to worse things occurring which can be a challenge to quantify since those worse events did not occur. She stated they can track the number of crises attended to and look for a decrease in 5150s and hospital admissions for psychiatric concerns.

In response to Councilmember Testa's inquiry, Ms. Compton confirmed Axis usually does not work with severe diagnoses and she estimated 5% will fall into this range. She advised this will provide a landing point upon first entering a crisis. She noted Axis has good connections in the industry and can help people in the middle ground before they can help them get to the next step by putting case management into the plan. She stated this plan can also give families respite until they can find a longer-term solution with or without insurance.

In response to Councilmember Testa's inquiry, Ms. Compton confirmed almost all behavioral health care has been converted to telehealth during the pandemic. She acknowledged it has been a great experience that Axis will continue even after the pandemic due to its success. She reported Axis has set up parking spaces with Wi-Fi access for patients who either feel like they do not have enough privacy at home or a dependable internet connection.

In response to Councilmember Testa's inquiry, City Manager Fialho stated the approach to the deescalating crisis-response team component has been Pleasanton-centric as it is not viewed as a priority for Dublin and Livermore. He advised Axis is trying to knit the concepts of a crisis-response team and therapeutic resource provider together. He explained the plan is still being finalized and he looks forward to bringing it to the Council in the next couple of months.

In response to Councilmember Arkin's inquiry, Ms. Compton stated there would be no limit to the amount of service an individual can receive within reason. She stated it is an intermediate service and estimated five sessions before a patient could be situated into a more long-term solution.

In response to Councilmember Arkin's inquiry, Ms. Compton confirmed they will explore a mechanism for someone requesting help for another who either may not know they need it or may not want it. She stated there are issues such as the Health Insurance Portability and Accountability Act (HIPAA), but she expects these types of calls.

In response to Councilmember Balch's inquiry, Ms. Compton stated she cannot know the proportionality of usage between the three cities until the service is in place to create the data. She confirmed overall service at Axis is close to equally proportional between Dublin, Livermore, and Pleasanton, so she anticipates this program will mirror Axis' overall balance.

Mayor Brown noted there were no speakers.

MOTION: It was m/s by Narum/Testa to approve the Memorandum of Understanding between the Cities of Pleasanton, Dublin, and Livermore for Mental Health Urgent Care pilot program funding. Motion passed by the following vote:

Ayes: Councilmembers Arkin, Balch, Narum, Testa, Mayor Brown
Noes: None
Absent: None

13. State Initiatives Update and Advocacy

- A. Review and consider the City's Legislative Framework with the 2021 Focus Areas and establish positions on selected bills, and request City staff to monitor remaining legislation throughout the 2021 legislative cycle to determine whether the City Council should take a formal position on additional legislation

Assistant to the City Manager Becky Hopkins reported the City has an established annually reviewed Legislative Framework including guiding principles, goals and strategies, and annual focus areas. She advised there is also a Tri-Valley Cities Legislative Framework, including Dublin, Livermore, San Ramon, and Danville, led by the five Mayors. She advised this group has its own focus areas and regional collaborative Housing and Policy Framework. She noted the City Council Legislative Subcommittee vets and brings forward recommendations for Council consideration and adoption of framework and policy documents as well as positions on legislation.

Assistant to the City Manager Hopkins presented a proposed change in language in the Housing Guiding Principle as an example of how the Legislative Framework guides how to advocate on behalf of the City. She advised the example was shown to demonstrate how specifying different types of infrastructure instead of leaving it vague impacts how the City would view a slew of new housing bills currently being considered at the State level.

Assistant to the City Manager Hopkins reported the legislative focus areas for 2021 are COVID-19 response and recovery, housing, fiscal sustainability, fostering economic prosperity, infrastructure, protecting local control, a safe and secure community, sustainable development, and regional collaboration. She expects COVID-19 and housing issues to take up most of the City's time. She explained the process is typically to have legislation vetted by the Legislative Subcommittee but if the matter is urgent staff can request the Mayor write a letter if the matter aligns with the Legislative Framework.

In response to Councilmember Testa's inquiry, Assistant to the City Manager Hopkins clarified the Mayors are working on updating the current Tri-Valley Cities Legislative Framework and advised it will be brought to the Council for review when updated. She clarified the five cities work in tandem with parameters that will align with each city's framework, so the regional framework meshes with the individual city frameworks. She added there are five new Mayors, so they are taking time in creating the Tri-Valley framework.

In response to Mayor Brown's inquiry, Assistant to the City Manager Hopkins confirmed there are compromises in the Tri-Valley framework, but all five cities must agree to it or it does not gain approval. City Manager Fialho clarified there can be exceptions if one city disagrees with the other four and added it is acknowledged in the final document if only four cities agree with a component. He estimated there is alignment 90% of the time.

Mayor Brown advised that when the five cities join together, the Tri-Valley becomes the 10th-largest city in California which creates additional political clout.

City Manager Fialho explained it is important that Assistant to the City Manager Hopkins' work be done early as other cities are watching Pleasanton's policy development. He explained this time frame benefits the City because it allows more alignment with a Pleasanton-centric perspective and expects the Tri-Valley framework to be completed in about a month.

Assistant to the City Manager Hopkins advised the Subcommittee reviewed 23 bills and noted there were recommended stances on several of the bills while others required further watching by the Subcommittee as they progress through committees and potentially evolve.

In response to Councilmember Testa's inquiries, Assistant to the City Manager Hopkins confirmed the deadline has passed to introduce new bills and recommended tonight's discussion only be about bills the Subcommittee has already reviewed.

In response to Councilmember Testa's inquiry, City Manager Fialho clarified the City is not trying to create a cumbersome process of always going back to the Subcommittee if bills progress rapidly and noted the Subcommittee provides a good opportunity to have a vetted conversation. He noted recommendations for tonight allow flexibility for the Mayor to act on new legislation so long as the stance falls within the Legislative Framework. He stated the City has taken this option in the past when needed due to urgency.

Townsend Public Affairs Senior Director of Northern California Niccolo De Luca stated February 26th was the last day to introduce bills. He clarified some are spot bills which are brief outlines and others are intent bills meant to change through debate. He stated bills must sit in print for 30 days before they can be sent to a committee for scheduling or be amended in their current form. He noted the Senate recently removed the 30-day window to expedite the process, but the Assembly did not.

In response to Councilmember Balch's inquiries, Assistant to the City Manager Hopkins confirmed "oppose with comment letter" is a new recommended City position category. She clarified it is a result of conversations with Townsend to have a firm position but also attempt to keep a seat at the discussion table. She noted the City just crafted a detailed four-page letter about Senate Bill 9 to engage Senate staff with Townsend's assistance. She clarified it is a method of adding a detailed reason why the City is strongly opposed to a bill as opposed to making a simple statement of opposition with a form letter. She noted bills listed as "oppose with comment letter" are those where both the Subcommittee and staff agreed to a vehement objection out of high concern. She confirmed this is an attempt to still be in the room for legislative discussions as opposed to providing a general "no" response.

City Manager Fialho clarified it may have made more sense to use an “oppose unless amended” stance pre-pandemic and noted, with the continued assault on local control, this is not unique to Pleasanton. He added there should be detailed reasons why the City opposes certain bills leading to the new “oppose with comment letter” terminology this year. He stated the SB 9 letter is an example of how staff plans to do this on other bills.

In response to Councilmember Balch’s inquiry, City Manager Fialho confirmed staff would start working on the other comment letters once this item is approved.

In response to Mayor Brown’s inquiry, City Manager Fialho recommended considering approval of this item as three separate items, Item Nos. 13A-C, procedurally for motions and voting.

In response to Mayor Brown’s inquiry, Assistant to the City Manager Hopkins clarified SB 38 models beverage container recycling after the mattress recycling program where the industry would have to create and fund the program with enforcement by the California Department of Resources, Recycling and Recovery (CalRecycle). She advised Senator Wieckowski is proposing unattended self-operated recycling machines at grocery stores and other areas. She explained the reason for the conditional support recommendation is the bill remains unclear on whether it will fully replace the existing system and what the recycling options for residents would be. Lastly, she advised it also is not mentioned in the bill how the current recycling funds would be impacted.

In response to Councilmember Testa’s inquiry, Assistant to the City Manager Hopkins clarified the City did not sign a support letter on a specific bill but rather in support of recommendations by CalRecycle on how to fix the existing problem. She noted the City is working in conjunction with other advocacy groups on legislation to rectify the problem.

Mayor Brown noted there were no speakers.

Councilmember Testa support the recommendation and requested staff monitor remaining legislation to determine whether the City Council should take a formal position on additional legislation.

Councilmember Narum noted how the Legislative Framework can effectively influence the City’s unique nature through both promoting legislation that can help Pleasanton and opposing bills that could adversely impact the City.

Councilmember Balch noted the Tri-Valley Cities Legislative Framework allows for the region to have a unified voice and expressed support for proposed language modifications such as specifying infrastructure resources.

Councilmember Arkin cited a need to move quickly on some matters and this will help in the process.

MOTION: It was m/s by Testa/Narum to approve the City’s Legislative Framework with the 2021 Focus Areas and establish positions on selected bills, and direct to monitor remaining legislation throughout the 2021 legislative cycle to determine whether the City Council should take a formal position on additional legislation. Motion passed by the following vote:

Ayes: Councilmembers Arkin, Balch, Narum, Testa, Mayor Brown
Noes: None
Absent: None

- B. Adopt a resolution expressing the City’s position as it relates to housing and protecting local control

Assistant to the City Manager Hopkins reported this item was continued from a previous Council meeting and vetted through the Legislative Subcommittee. She reported the Subcommittee recommended, based upon the Legislative Framework, drafting a resolution highlighting the need for affordable housing and local control.

In response to Councilmember Arkin's inquiry, Assistant to the City Manager Hopkins clarified the letter can be used in any type of advocacy effort.

In response to Councilmember Testa's inquiries, Mr. De Luca clarified it depends on the specific committee and legislative chamber if "opposed unless amended" and "opposed" register as the same opinion. He stated as a firm, they take a multi-prong approach to position letters, sending them to the municipality's local delegations, the bill's author, the relevant policy committee's staff, and other relevant stakeholders. He advised the letters are also uploaded into the new electronic portal system which has proven to be inconsistent. He noted that last August, 14 positions were taken by Pleasanton and only 11 were reflected in the portal.

Mayor Brown noted there were no speakers.

Councilmember Testa reiterated earlier concerns about the loss of local control and noted the draconian usurping of local authority is becoming intense referencing SB 9 and SB 10's intention to end single-family zoning statewide, which are changes Pleasanton residents would not support if they came to a local vote. She noted Senator Glazer is co-sponsoring a legislative amendment to put forth a ballot initiative stating issues of local land use are the purview of local municipalities.

MOTION: It was m/s by Testa/Narum to adopt and waive full reading of **Resolution No. 21-2105** expressing the City's position as it relates to housing and protecting local control. Motion passed by the following vote:

Ayes: Councilmembers Arkin, Balch, Narum, Testa, Mayor Brown
Noes: None
Absent: None

- C. Review information regarding the California State Governor's budget measure to add a Housing Accountability Unit to the Department of Housing and Community Development (HCD) and authorize the Mayor to send a letter of response to this measure

Assistant to the City Manager Hopkins explained for background Governor Gavin Newsom's proposed budget included a \$4.3 million Housing Accountability Unit (HAU) within the Department of Housing and Community Development (HCD) to help facilitate affordable housing by monitoring City Council, offering technical assistance to municipalities, and enforcing existing housing protection laws.

Assistant to the City Manager Hopkins noted both the Council and Legislative Subcommittee have discussed this issue and there is a revised response letter to the Governor, capturing the Councilmembers' variety of comments. She advised it acknowledges the benefits of technical assistance and outlines the City's compliance with state laws. She noted it states the City takes issue with additional monitoring, identifies existing robust reporting and compliance measures, and adds there could be a more productive use for the funds. She reported the letter would go to the budget committees in each house of the legislature in addition to the Governor and advised there will be time to advocate on this issue ahead of the May revision period as the process continues.

In response to Councilmember Testa's inquiries, Mr. De Luca stated the issue has been heard in Senate Subcommittee but has not yet passed. He advised the matter has not yet been heard in the Assembly's corresponding Subcommittee, and budgeting is vastly more elaborate than normal this year

due to the eviction moratorium, small business loans, and the school reopening proposal which all require budgetary action.

In response to Councilmember Arkin's inquiry, City Manager Fialho advised the current letter is a mix of the original letter and the suggested new language. He explained the second paragraph intends to highlight the general importance of the technical assistance benefit being offered by the State while also stating the City's opposition to other components of the proposal. He noted it can be edited if the Council so desires and admitted it may need to be reworded. He advised the technical assistance is relied on by the Community Development Director Clark.

In response to Councilmember Testa's inquiry, City Manager Fialho compared the technical assistance offered to the benefits Pleasanton residents would receive if the City had three code enforcement officers instead of one. He advised more technical assistance is good if done correctly and this concept is the reason behind the language in the letter.

In response to Councilmember Testa's inquiry, Mr. De Luca advised he has heard no talk about the actual intent of the HAU being to hire a team of attorneys to prosecute cities. He offered to reach out to contacts to explore if this is the intention.

Mayor Brown noted there were no speakers.

Councilmember Narum said she continues to struggle with the letter and expressed her belief that Councilmembers have every intent to comply with housing laws so it is irrelevant to Pleasanton if the Governor intends to prosecute cities. She expressed her belief there are bigger issues to spend the City's political capital upon citing SB 6, SB 9, and SB 10 as examples. She explained she could support such a letter coming from the collective Tri-Valley cities but questioned why Pleasanton would send a letter individually. She motioned to table the item. Councilmember Balch seconded the motion.

Councilmember Testa made a substitute motion to authorize Mayor Brown to send a letter responding to the measure on Pleasanton's behalf with edits. Councilmember Arkin seconded the substitute motion.

In response to Mayor Brown's inquiry, City Attorney Dan Sodergren stated the Council should vote on the substitute motion before the original motion.

Mayor Brown noted the point of the letter is about the policy of a lack of trust by the State on a transparent program. She explained it reflects a policy of non-partnership and finger-pointing by the State.

Councilmember Balch expressed concerns this letter may not enhance Pleasanton's standing with the State and it's yet known if this will resolve into a funded element. He explained there are many things the City would like the State to do, including respecting the just-adopted Legislative Framework. He would like State assistance for COVID-19 relief and added staff has mentioned how the HCD technical assistance can benefit the City. He advised while he would like the Governor to watch his comments, he believes it does no good for the community to write the letter and believes it could harm the City.

Councilmember Testa expressed her view of the power of the letter's final paragraph and noted this is a solid message in response to the Governor's adversarial language. She also cited the letter's language about the \$4.3 million having better usages to help cities in expressing her view that this is a good letter. She reported she has reluctance and confusion over acknowledging there is value in the HAU, but she added the overall message is clear.

Councilmember Arkin clarified the substitute motion includes edits to the second paragraph as discussed by City Manager Fialho. She commended the wording about the \$4.3 million in funding

acknowledging it is insignificant in the scope of the State budget, but remains money better spent on pandemic relief, schools, or other areas. She noted accountability already exists because the housing elements require state approval and City Council meetings are open to the public.

In response to Mayor Brown's inquiry, Councilmember Testa confirmed her substitute motion includes cleaning up the language in the second paragraph of the letter.

MOTION: It was m/s by Testa/Arkin to authorize the Mayor to send a letter of response, with edits, about the California State Governor's budget measure to add a Housing Accountability Unit to the Department of Housing and Community Development. Motion passed by the following vote:

Ayes: Councilmembers Arkin, Testa, Mayor Brown
Noes: Councilmembers Balch, Narum
Absent: None

In response to Mayor Brown's inquiry, City Attorney Sodergren clarified there is no need to vote on the original motion because the approved substitute motion was a complete substitution.

Mayor Brown recessed the meeting at 9:57 p.m. and resumed the meeting at 10:03 p.m., with all members present.

14. Adopt and waive second reading of Ordinance No. 2213 approving amendments to Chapters 18.08, 18.28, 18.32, 18.36, 18.44, 18.46, 18.84, 18.88 and 18.106 of the Pleasanton Municipal Code to comply with state legislation for accessory dwelling units ***Councilmembers Balch and Narum voted "no"**

Senior Planner Shweta Bonn reported this is a second reading to review changes to the amendments since the February 16th meeting with a staff recommendation to waive the second reading, adopt the draft ordinance to modify the Pleasanton Municipal Code (PMC), and find the amendments exempt from environmental review.

Senior Planner Bonn advised the changes include prohibiting Accessory Dwelling Units (ADU) greater than 16 feet in height, adding language to consider ADUs greater than 16 feet in height in new Planned Unit Developments (PUD), and requiring a 10-foot street setback for detached ADUs greater than 800 square feet in size. She advised other changes require landscape screening and solid fencing along rear and interior side property lines with either being acceptable along the street side of corner lots. She noted solid fencing would not be required for PUDs where open fencing is required.

Senior Planner Bonn reported the revisions also include retaining the owner-occupancy requirements for ADUs approved before 2020. She noted owner-occupancy for a Junior Accessory Dwelling Unit (JADU) and the primary residence would be required regardless of the JADU's approval date. She added deed restrictions would be required for both ADUs and JADUs and new ADUs can be a maximum of 850 square feet for a studio or one-bedroom and 1,000 square feet for an ADU with two or more bedrooms. She added the word "any" would be modified to "all" in PMC §18.106.040(C) and §18.106.045(D).

In response to Mayor Brown's inquiries, City Attorney Sodergren clarified since the ordinance has been altered after its introduction, this would be a second reading. He advised that under state law they would have to read the entire ordinance unless the reading is waived. He advised it would be appropriate to waive the second reading and adopt the ordinance at this point. He advised waiving the reading is part of the staff recommendation so moving to approve the recommendation would include it in this case.

Mayor Brown opened the public comment.

Paul Zampieren expressed concerns the language in PMC §18.106.020(F) has been modified to the extent it cannot be interpreted without written legal arguments. He clarified it is due to ambiguous language in the exceptions segment such as “result in a conflict” and “precludes ADUs which meet State standards.” He urged the Council to remove this language because the entire reason for this item is to meet State standards so there should be no exceptions. He commended the Council for keeping the owner-occupancy requirements except for the State-mandated window from 2020-25, noting an owner-occupancy requirement can be mandated in the future for consistency. He asked Council to put this future requirement into the PMC.

In response to Mayor Brown’s inquiries, Director Clark clarified the staff’s understanding is that the exemptions are necessary according to state law because the City cannot impose a standard stringent enough to preclude an ADU. She advised it would be impossible to write a universally clear standard so the language was written to allow for a case-by-case determination and believes it would not be an issue for the Council to state its intention to apply owner-occupancy restrictions after 2025 if it is permitted by the State then.

Mayor Brown closed the public comment.

Councilmember Arkin moved to approve staff recommendations. Councilmember Testa seconded the motion.

In response to Councilmember Testa’s inquiry, Director Clark confirmed staff’s original recommendation was to maintain owner-occupancy both before and after the 2020-25 window. She noted the Planning Commission decided to not support it based upon public comments.

Councilmember Balch advised he could not support the motion as currently drafted. He stated there will be a discrepancy in the owner-occupancy standard due to the period from 2020-25 when the State prohibits it so this is not fair and equitable to current residents. He advised the maximum size for an ADU in this proposal differs from the standard set by the City for 20 years and he has not found any additional knowledge offering a reason for this reduction. He advised it potentially makes currently legal ADUs non-confirming and thus illegal.

Councilmember Balch expressed his willingness to support second-floor ADUs noting it would allow for objective design standards and would follow the goals established in the 2012-13 Housing Element. He believes they can work to address parking and residents’ privacy while adding low-impact housing to Pleasanton. He noted there have only been 15 such units built in the past 10 years so he was willing to compromise.

Councilmember Narum advised she is unaware of any issues with the 1,200 square foot standard in her 15 years with the Planning Commission and City Council and advised this will lead to currently legal ADUs becoming non-conforming. She stated residents can still build a second-floor ADU but the City will force them into a two-step process and noted there can be local control through objective design standards with second-floor ADUs over a garage. She noted, instead of being part of the housing solution, the Council is instead forcing residents to design a home expansion they will later convert into a second-floor ADU. She decried the lack of consistency in deed restrictions by maintaining owner-occupancy before 2020.

Councilmember Arkin stated new state laws mandating a lack of design review are the impetus for this discussion. She advised she has no issues with ADUs or second-story ADUs except for the lack of design review and noted the ability to build an ADU remains but there are now further restrictions due to the State mandates. She advised 1,200 square feet of size removes the affordability component in the rental market.

Mayor Brown expressed her support for ADUs and how staff will work to create easy approval processes for residents putting an ADU on the ground floor, under 16 feet, and looking like it belongs in their community. She expressed support for new PUDs with ADUs, even on the second floor, because they go through a full design review.

MOTION: It was m/s by Arkin/Testa to adopt and waive second reading **Ordinance No. 2213** approving amendments to Chapters 18.08, 18.28, 18.32, 18.36, 18.44, 18.46, 18.84, 18.88 and 18.106 of the Pleasanton Municipal Code to comply with state legislation for accessory dwelling units. Motion passed by the following vote:

Ayes: Councilmembers Arkin, Testa, Mayor Brown
Noes: Councilmembers Balch, Narum
Absent: None

MATTERS INITIATED BY COUNCIL

Councilmember Arkin requested to see language in the Downtown Specific Plan (DSP) regarding active ground floor usage modified and returned to Council. She reported the League of California Cities has requested a letter be sent to US Senators regarding the COVID-19 relief bill and expressed her support for one. She discussed the prevalent Livermore Municipal Airport concerns and requested an agenda item on the airport issue when it is appropriate.

Councilmember Arkin requested an update in a month on the public education and mask-wearing signage approved in February by the Council.

City Manager Fialho stated he would like the Council to discuss the DSP language change to create a consensus to relay back to the Planning Commission.

Councilmember Narum proposed it go into the Priority Work Plan stating once a location is vacant for six months the property owner can put almost any business into the space, provided they meet some easy criteria. She expressed concerns because almost all the Main Street vacancies have been in place for over six months. She advised this needs clarification and expressed her desire to see it in the greater priority setting as opposed to a shotgun approach for not feeling a sense of urgency.

Councilmember Balch echoed Councilmember Narum's comments about including it in a work plan review stating he would hope to accomplish bigger tasks overall.

Councilmember Testa stated she would support bringing it back to Council as soon as possible for a conversation rather than waiting for it to go through the priority process. She advised one business has gotten through this loophole as an unintended consequence and would not like to see others before this issue can be addressed.

Mayor Brown stated she would like to see it come back to the Council as well and believes the priority process is for larger projects whereas this is a loophole requiring a quick closure. She expressed concern a real estate company can open an office, sell a product in the front 25 feet, and meet the DSP's active retail requirements.

City Manager Fialho reported staff will write a letter for Mayor Brown in support of the federal COVID-19 relief legislation. He advised he spoke to Livermore City Manager Marc Roberts earlier in the day and reported they are working to post the airport information Councilmember Arkin requested in the next few days. He pledged to link their information to Pleasanton's website and perhaps also send it directly to residents who have already emailed concerns about the airport expansion. He added it can certainly be discussed on the Pleasanton City Council level if appropriate once information about the project is

known. He also requested Council consensus on the mask-wearing update so it can be scheduled in the next 45-60 days.

Councilmember Balch expressed support for a mask-wearing update in 60 days.

Councilmember Narum expressed support for a white paper update regarding mask-wearing similar to the initial requested update on what Dublin and Livermore were doing. She advised it could be agendized if there are questions and concerns based upon the white paper. She echoed Councilmember Balch's sentiments about overloading staff with smaller matters amidst bigger matters like a crisis team for the Pleasanton Police Department, pandemic-related matters, and the need for a Shop Local campaign.

Councilmember Testa explained it is not a minor issue and one of significant concern for the community citing a large number of public speakers at the previous meetings.

In response to Councilmember Testa's inquiry, Councilmember Arkin advised she would like to see it come to the Council, noting she continues to receive emails on the issue.

Mayor Brown expressed support and noted everyone is following the local COVID-19 spread charts. She acknowledged the recent downward trend but noted her vote could change if numbers rocket back up again. She reported residents are interested and a brief staff report seems appropriate.

In response to Mayor Brown's inquiry, City Manager Fialho confirmed this is sufficient direction.

Councilmember Testa requested a new community survey. She stated there have been issues lately where community feedback would have been helpful.

In response to Councilmember Testa's inquiry, City Manager Fialho stated the survey is funded for this year. He advised the cycle is typically to conduct one in non-election years as not to run afoul of election laws in the City's polling. He explained the framework is laid out in early summer with results being available in September or October.

COUNCIL REPORTS

Councilmember Narum reported she was appointed to the East Bay Community Energy Finance Committee; and that she and Mayor Brown attended the Livermore Amador Valley Transit Authority (LAVTA) meeting.

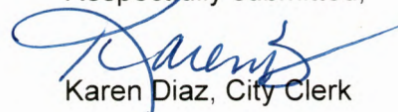
Councilmember Balch reported attendance at the February Innovation Tri-Valley Leadership Group meeting, the Economic Vitality Committee meeting.

Mayor Brown added that LAVTA is offering free bus rides to any COVID vaccination center in the Tri-Valley. She reported she will present her State of the City address in conjunction with the Chamber of Commerce's awards on March 9.

ADJOURNMENT

Councilmember Testa adjourned the meeting at 10:53 with a tribute to men and women serving in the military, honoring the memories of those who have died in defense of our country.

Respectfully submitted,



Karen Diaz, City Clerk