



**BURLINGAME CITY COUNCIL
Unapproved Minutes
Regular Meeting on March 18, 2019**

STUDY SESSION (6:15 P.M.)

**a. UPDATE ON NEGOTIATIONS REGARDING BURLINGAME AQUATIC CENTER
CONSTRUCTION PROJECT**

City Manager Goldman stated that the City and the San Mateo Union High School District (“District”) have had an agreement since 1997 for the Burlingame Aquatic Center. The original agreement was to jointly fund the construction and ongoing repair, improvements, and operations of a new 25-yard pool at Burlingame High School. She noted that the agreement included terms regarding scheduling of the facility, maintenance, record keeping, and the distribution of costs. She explained that a few years later, an anonymous donor provided funding to upgrade the 25-yard pool to a 50-meter pool. As a result, the City and the District approved an amendment to the agreement that expanded the hours that the facility could be open and made various other changes. She noted that the parties wanted to make the pool a community asset that was well used by the public, students, seniors. The total project cost at the time was approximately \$2.7 million with the anonymous donor paying \$1.2 million, the City paying \$1.2 million, and the District paying \$300,000.

City Manager Goldman stated that between the time the pool opened and 2011, the City operated the pool’s community programs at the pool and managed the scheduling. The community programs including recreational swimming, lap swimming, swim lessons, and fitness classes. In 2011, the City contracted with the Burlingame Aquatic Club (“BAC”) to operate these programs on the City’s behalf.

City Manager Goldman stated that in 2016, the City and the District approved a new pool agreement that extended the term by three years, to January 1, 2026. She explained that the agreement also covers how maintenance and operating expenses are split. The City pays 78%, while the District pays 22%, which is approximately equivalent to how much time each parties’ users are in the pool. Additionally, the agreement covers capital expenses, which are split 50-50. She explained that the current agreement includes language related to when the City has exclusive use of the pool, when it is shared with the District, and when the pool can be closed for annual maintenance and where BAC is to be relocated during closure periods.

City Manager Goldman explained that included in the 2016 agreement was a 2015 District-commissioned audit of the aquatic center. The intent of the audit was to help the City and the District jointly develop a capital replacement program. The audit included a five-year timeframe of projects to be undertaken

including: removal and replacement of the pool deck and drainage and removal and replacement of the pool finish in the competition pool.

City Manager Goldman stated that in 2018, the parties decided to undertake renovations of the aquatic center. The renovations were to include removal and replacement of the deck, removal and replacement of the pool finish, and the replacement of the interior lights with LED fixtures. This project was scheduled to begin June 1, 2018 with a projected budget of \$1.9 million. She noted that the City's portion of the cost was \$951,330. However, due to a variety of factors including the need for the District's projects to obtain approval from the Department of the State Architect, demolition of the deck began on July 2, 2018. She stated that BAC moved its programs out in May 2018 to ensure that they were up and running in satellite facilities.

City Manager Goldman stated that as demolition began on the pool, it was discovered that the pool shell contained problems related to rebar, waterproofing, and electrical work. She explained that the cost of the electrical repairs exceeded the limits that the District could follow under the Public Contract Code, and the repair work needed to be formally bid, delaying any progress on the pool. She stated that in August 2018, additional issues were uncovered. Therefore, in September 2018, the District requested that its pool engineer draft an existing conditions report to highlight the various challenges with the pool. The report concluded that the pool shell was comprised and should be replaced, rather than repaired.

City Manager Goldman explained that on September 28, 2018, City staff and District staff met to discuss whether the pool should be repaired or replaced. She noted that there was some confusion about the total cost to replace the pool shell as one of the District's slides mentioned that it would cost \$4.9 million. However, it was later determined that this number didn't include costs to-date, contract termination fee, or the need for mechanical room upgrades.

City Manager Goldman stated that at the District's October 2018 Board meeting, the decision was made to replace the pool shell rather than repair it.

City Manager Goldman stated that throughout these discussions, she has been meeting with the City's pool subcommittee (then-Mayor Brownrigg and then-Vice Mayor Colson) to discuss the City's proposed terms for a new agreement. The matter was then brought to the Council during a study session on November 19, 2018. At the time the City proposed contributing \$2.5 million to what they believed was a \$5 million cost. The City also proposed a long-term lease and a 50-50 split on operating expenditures for the first three years. She stated that the 50-50 split was important because initially when the pool reopens, BAC won't be operating at full capacity. Additionally, the Master's program is no longer being offered. She explained that after three years, the split would be reevaluated based on actual usage. She noted that the City also wanted an opportunity to evaluate how the locker room building can be rebuilt to improve the locker rooms and make space to accommodate transgender pool users and employees.

Mayor Colson stated that rebuilding the locker room was also to ensure that there was a family changing room. City Manager Goldman replied in the affirmative.

City Manager Goldman stated that in December 2018, the District's Board received an update on the pool and discussed the City's proposal. She noted that it was at this point that she discovered that the estimated cost was not \$5 million but \$6.5 million. She added that at the December meeting, the District rejected the City's offer of \$2.5 million but did not come to a consensus on what they expected the City to contribute.

City Manager Goldman stated that in February 2019, she and Mayor Colson, Councilmember Brownrigg, and Parks and Recreation Director Glomstad met with the School Superintendent and the District's subcommittee to develop a new term sheet. The District Board subsequently considered the new term sheet at their meeting on February 21 but did not agree to it. However, there was a consensus at the meeting on some of the items, including the City's new offer of a \$2.7 million contribution toward the capital costs. She explained that since the February 21 meeting she has continued to work with the School Superintendent on the term sheet. The proposed terms on the most recent version of the term sheet included:

Payment

The City would pay \$2.7 million with approximately \$1.27 million paid in 2019. The remainder would be paid after the Community Center is completed but no later than June 2023. She noted that the Superintendent included the following language in the draft term sheet: "The City's contribution of \$2.7 million shall be divided such that \$1,000,000 is for the cost of the deck, \$250,000 is for the mechanical room cost, and \$1,450,000 is for the new pool shell. Note – the reason for this division is that it corresponds to roughly the same proportion of the cost of the components of the reconstruction as the City is contributing, in total."

Term

The term of the agreement will be extended from January 1, 2026 to January 1, 2040. She noted that in 2035, either party can give the other party five years' notice that it does not intend to negotiate a continuation of the agreement. She added that if either party ends the agreement, there is a reimbursement requirement for the unamortized costs of the various components. She explained that this is why the School Superintendent split out the costs of the components. The School Superintendent included in the draft term sheet a schedule for amortization of the components based on the following expected lifespans:

- Mechanical Room – 16 years
- Pool Shell – 50 years
- Pool Deck – 27.5 years

Locker Room Facility

City Manager Goldman explained that the City wants to have the ability to make changes but does not have a cost estimate. She stated that because the facility is on the high school campus, everything must go through the Department of the State Architect. She noted that the high school students do not use the locker room, and therefore the District wouldn't be contributing to this portion of the project.

Operating Expenses

The City's share of maintenance and operations expenses would change from 78% to 50% for one year. After the one-year period, the pool usage formula will be reviewed and revised based on usage.

Annual Pool Maintenance Closure and Usage Allocation

The language in the existing agreement would remain in place, allowing BAC exclusive use of the pool at certain times of the day, and shared use in the early mornings, weekday afternoons, and Saturday mornings except during high school competition times. She noted that one of the only changes would be in splitting lanes as the new pool would have 19 lanes instead of the previous 20.

City Manager Goldman noted that the School Superintendent plans to bring the revised term sheet to the District on March 28, 2019.

Councilmember Brownrigg stated that once this became a complete re-build it gave all parties a chance to see if this is how a public pool should be operated. He noted that the operating expenses to run a 50-meter pool are about \$400,000 a year, and \$250,000 for a 25-meter pool. He stated that after conversations with the Parks and Recreation Director, he believes if the City were to build a municipal pool, it would only need a 25-meter pool.

Councilmember Brownrigg discussed the need to evaluate the City's share of the \$400,000 subsidy to run the pool. He explained that prior to the pool's closure, BAC had been running a great program, but these numbers would be hard to immediately return to when the pool reopens. He noted the departure of the Master's program that helped with the subsidy. However, he explained that BAC is cautiously optimistic that if the pool comes back online within 12 to 18 months, they will be able to hold a steady number for the youth programs. He stated that from his point of view, if the City didn't feel like BAC was going to succeed and therefore the City would have to bear more of the expenses, he isn't sure this is would a good deal for the City.

Councilmember Keighran asked if she was correct that there wasn't a true estimate of the cost of the project. City Manager Goldman replied in the affirmative but stated that the City's contribution is capped at \$2.7 million.

Councilmember Ortiz asked what the City's previous annual subsidy was for the pool. Parks and Recreation Director Glomstad stated that it ranges from \$100,000 to \$150,000.

City Manager Goldman stated that the District has decided to make the pool shallower and therefore it will be around 7 to 7.5 feet deep. This means a little bit less water, less need for heating, and a decrease in the amount of chemicals used. She added that the District is making changes to the mechanical room that should decrease the amount of water that is dumped. Therefore, there will be marginal improvements in the operating costs.

Vice Mayor Beach asked if there would be any renovations to the small shallow pool. City Manager Goldman replied in the negative.

Vice Mayor Beach stated that she had noticed that the expected lifespan of the pool shell is 50 years and the pool deck is 27.5 years. She asked about the term length of the agreement going for 20 years and if there had

been discussion for it to go a little longer. She noted that the City could be without a pool in 20 years.

Councilmember Brownrigg discussed the five-year notice for termination of the agreement by either party. He stated that it was enough time for the City to identify land, capital, or a partnership for future pool uses.

City Manager Goldman stated that it is a large pool that the District would be paying full freight on if there was not an agreement with the City. Additionally, organizations like BAC aren't waiting in the wings to take over, and if they go away, the District still has to operate the pool.

Councilmember Ortiz asked if there was a sense that the draft term sheet would be acceptable to the District Board. City Manager Goldman stated that the School Superintendent is optimistic.

Councilmember Keighran asked if there were Board members present at the last meeting that the City had with the School Superintendent. City Manager Goldman replied in the affirmative. She stated that Board President Greg Land and Clerk Robert Griffin were part of the negotiating team that came up with the last iteration of the draft term sheet.

Councilmember Brownrigg asked his colleagues what their feelings were on the \$2.7 million cap. He noted that he thought this was an appropriate number.

Mayor Colson asked what happens if in the future there is another issue with construction of the pool and the District requests additional funds. She stated that \$2.7 million should be the cap and it should extend out through the life expectancies of the pool shell and deck. She noted that there would be exceptions to this cap for natural disasters.

City Manager Goldman stated that she would try to come up with some language to cover the Mayor's concerns. She noted that the exception would be the mechanical room, where equipment can break through no one's fault.

Councilmember Ortiz and Councilmember Keighran concurred with Mayor Colson.

Councilmember Keighran stated that she would like the City to be able to review the pool's maintenance records on a quarterly or annual basis to ensure that guidelines are being followed. City Manager Goldman stated that the existing agreement has maintenance standards, and the City worked with the District's maintenance staff to develop standard operating procedures. She noted that she would confirm that this was part of the existing agreement.

Councilmember Ortiz stated that he would like to add language to the agreement that if there are flaws with the construction, then the City is not held responsible.

Vice Mayor Beach agreed with her colleagues. She asked the subcommittee to have a conversation about the small shallow pool and its maintenance needs.

Mayor Colson stated that the \$2.7 million doesn't include locker room renovations.

Councilmember Brownrigg stated that the locker room is the District's asset, and the City should ask them to contribute to the cost of the locker room.

City Manager Goldman stated that because the District will be discussing this on March 28, staff would most likely be putting it on the Council's April 15 agenda.

1. CALL TO ORDER

A duly noticed meeting of the Burlingame City Council was held on the above date in the City Hall Council Chambers at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The pledge of allegiance was led by Elaine Breeze.

3. ROLL CALL

MEMBERS PRESENT: Beach, Brownrigg, Colson, Keighran, Ortiz

MEMBERS ABSENT: None

4. REPORT OUT FROM CLOSED SESSION

There was no closed session.

5. UPCOMING EVENTS

Mayor Colson reviewed the upcoming events taking place in the City.

6. PRESENTATIONS

There were no presentations.

7. PUBLIC COMMENT

There were no public comments.

8. CONSENT CALENDAR

Mayor Colson asked the Councilmembers and the public if they wished to remove any item from the Consent Calendar. Vice Mayor Beach pulled item 8b.

Councilmember Brownrigg made a motion to approve 8a; seconded by Councilmember Ortiz. The motion passed unanimously by voice vote, 5-0.

a. APPROVAL OF CITY COUNCIL MEETING MINUTES FOR MARCH 4, 2019

City Clerk Hassel-Shearer requested Council adopt the City Council Meeting Minutes for March 4, 2019.

b. CITY COUNCIL APPOINTMENT OF ROSALIE O'MAHONY TO REPRESENT THE CITY OF BURLINGAME ON THE BOARDS OF THE BAY AREA WATER CONSERVATION AGENCY AND THE BAY AREA REGIONAL WATER FINANCING AUTHORITY

Vice Mayor Beach thanked former Mayor Rosalie O'Mahony for representing the City and stated that she does a wonderful job on the Bay Area Water Supply and Conservation Agency (BAWSCA) and the Bay Area Regional Water Financing Authority and is always diligent in reporting back to Council.

Councilmember Brownrigg stated that Mayor O'Mahony is eminently qualified to represent the City on BAWSCA. He noted that for the first time, there are issues that go beyond negotiating with the County of San Francisco about water rates and water availability. He explained that there is a growing question about the allocation of water. He stated that if the community thinks this should be discussed, the Council will agendaize a discussion.

Mayor Colson opened the item up for public comment.

Former Mayor Rosalie O'Mahony stated that she would be delighted to serve the City on the Boards. She discussed the issues Councilmember Brownrigg raised of water distribution and water rights. She stated that she would keep the Council informed on discussions surrounding these issues.

Councilmember Ortiz moved to approve the appointment of Rosalie O'Mahony to represent the City of Burlingame on the Boards of the Bay Area Water Supply and Conservation Agency and the Bay Area Regional Water Financing Authority; seconded by Councilmember Keighran. The motion passed unanimously by voice vote, 5-0.

9. PUBLIC HEARINGS

a. PUBLIC HEARING AND INTRODUCTION OF AN ORDINANCE ESTABLISHING RESIDENTIAL IMPACT FEES ON NEW RESIDENTIAL DEVELOPMENT TO SUPPORT WORKFORCE HOUSING

CDD Gardiner stated that at the March 4, 2019 City Council meeting, staff introduced the residential impact fee ordinance. He highlighted the changes that were made to the proposed ordinance in response to Council suggestions.

CDD Gardiner stated that Council requested clarification to the section of the ordinance that addresses State density bonus. He stated that staff amended the proposed ordinance so that units provided through State density bonus provisions are not subject to residential impact fees.

CDD Gardiner stated that the Council requested clarification on the uses of the funds collected from impact fees. He explained that staff amended the proposed ordinance so that impact fees can be utilized to support a variety of programs that benefit the workforce including flex support to provide emergency assistance to workforce households experiencing unanticipated short-term income destructions. He noted that the proposed ordinance was also amended to highlight that impact fees can be used to preserve existing affordable rental stock.

CDD Gardiner stated that the Council requested clarification on the fees applicable to rental units that are converted to condominiums with 10 years of completion of the project. He explained that staff amended the proposed ordinance so that the applicable fee would be based on the for-sale condominium fee at the time of conversion minus the fees previously submitted.

Councilmember Keighran stated that under discussion in the staff report it states that the jobs-housing gap ratio is 1 to 16. She noted that this gap has improved to 1 to 12. She asked that this be corrected in the next staff report.

Mayor Colson stated that she thought the ratio was now 1 to 7. CDD Gardiner stated that he would research the correct ratio.

Mayor Colson asked the City Clerk to read the title of the proposed ordinance. City Clerk Hassel-Shearer read the title.

Councilmember Keighran made a motion to waive further reading and introduce the proposed ordinance; seconded by Vice Mayor Beach. The motion passed unanimously by voice vote, 5-0.

Mayor Colson opened the public hearing. No one spoke.

Councilmember Brownrigg asked about the Council having a discussion on how the funds will be spent. City Manager Goldman stated that she is in the process of hiring a consultant to assist with this process and that it would be brought to Council for discussion in the future.

Councilmember Brownrigg stated it would be helpful to reflect on the process in a year to see if the residential impact fees tilt towards one type of development. He noted that a developer told him that given the different types of fees, in his proposed six story building, the best decision would be for four floors of office space and two floors of housing. He stated that he didn't believe this was the ratio Council was hoping would come from the adoption of impact fee ordinances.

Mayor Colson stated that part of the analysis will be what got built, fees generated, and observations and conversations with developers.

Vice Mayor Beach made a motion to adopt Resolution Number 028-2019; seconded by Councilmember Brownrigg. The motion passed unanimously by voice vote, 5-0.

b. INTRODUCTION OF AN ORDINANCE AMENDING MUNICIPAL CODE SECTION 10.55.030 REGARDING PROMULGATION OF PARK RULES

City Attorney Kane stated that this proposed ordinance arose from the need to respond in a more expeditious way to changing circumstances in the parks. She gave the example of if people start skateboarding next to the tot lot, the Director of Parks and Recreation is unable to post rules under the existing ordinances.

City Attorney Kane stated that under the Burlingame Municipal Code Chapter 10.55, there is an elaborate discussion of various rules and regulations for conduct in the parks. In Section 10.55.030, there is a provision that states that the Parks and Recreation Commission can suggest additional rules and then seek adoption of the rules from the Council.

City Attorney Kane stated that she worked with the Parks and Recreation department to revise Section 10.55.030 to allow for the Director of Parks and Recreation to suggest rules to the Parks and Recreation Commission for conduct in parks that are consistent with the ordinance. She stated that staff would need to provide public notice so that the Council and community could review the proposed rules. Thereafter, the Council could request that the proposed rules be brought before Council for review.

City Attorney Kane stated the proposed amendment would allow for a balance between the operational need to be responsive on a drilled down level while still preserving the Council's ability to weigh in.

Mayor Colson asked the City Clerk to read the title of the proposed ordinance. City Clerk Hassel-Shearer read the title.

Councilmember Ortiz made a motion to waive further reading and introduce the proposed ordinance; seconded by Councilmember Brownrigg. The motion passed unanimously by voice vote, 5-0.

Mayor Colson opened the public hearing. No one spoke.

Mayor Colson stated that she believed this is a terrific way to use the Commissions, creates efficiencies, and takes something off the Council's plate.

10. STAFF REPORTS

a. CONSIDERATION OF APPOINTMENT TO THE PLANNING COMMISSION

City Manager Goldman stated that there is an impending vacancy on the Planning Commission due to the expiring term of Commissioner Michael Gaul. The vacancy was publicized, and notification letters were

sent to past Commission applicants. The Council interviewed the two candidates, Michael Gaul and Steve Pariani, on March 12, 2019.

City Manager Goldman noted that the appointment was for a four-year term, which would end on April 7, 2023.

Mayor Colson opened the item up for public comment. No one spoke.

Councilmember Brownrigg noted that he was not present at the interviews but was able to listen to the recorded interviews.

The Council voted and handed their ballots to the City Clerk. City Clerk Hassel-Shearer read the ballots.

The Council voted to reappoint Commissioner Michael Gaul.

Congratulations to Michael Gaul and thank you to both candidates for applying to the Planning Commission.

11. COUNCIL COMMITTEE AND ACTIVITIES REPORTS AND ANNOUNCEMENTS

a. MAYOR COLSON'S COMMITTEE REPORT

b. VICE MAYOR BEACH'S COMMITTEE REPORT

12. FUTURE AGENDA ITEMS

There were no future agenda items.

13. ACKNOWLEDGEMENTS

The agendas, packets, and meeting minutes for the Planning Commission, Traffic, Safety & Parking Commission, Beautification Commission, Parks and Recreation Commission, and Library Board of Trustees are available online at www.burlingame.org.

14. ADJOURNMENT

Mayor Colson adjourned meeting at 7:49 p.m. in memory of Brian Murphy.

Respectfully submitted,

Meaghan Hassel-Shearer
City Clerk