

CITY COUNCIL QUESTIONS

May 23, 2019 Council Meeting

ITEM 5.1 ADOPT RESOLUTIONS OF NECESSITY AND AUTHORIZE THE INITIATION OF EMINENT DOMAIN PROCEEDINGS

1. When did the city last use eminent domain? How many times have we used it in the past 20 years?

The last time the City exercised its powers of eminent domain was in 2014 when the City filed to “quiet title” on a segment of Washington Alley (immediately north of and parallel to Central Expressway and west of Moffett Boulevard) we were vacating for the 100 Moffett residential development. In that case, all of the streets and alleys in the immediate neighborhood were dedicated to all 65 of the original lot owners within a Subdivision Map filed for record in 1903. (The streets and alleys have never been dedicated to the City.) We had to get all 65 owners to quitclaim their interest in this segment of the alley and managed to find most of the owners and obtain Quitclaim Deeds from them, but were unable to locate a few absentee owners. Eminent Domain was our only recourse. It is important to note this was not a “taking” of title, but only the “quieting” of 1/65th interest in this portion of the alley.

In the 14 years since the current Real Property Program Administrator has been in this position, we have only used eminent domain one other time (other than the above instance) and that was to acquire a 180 square foot corner of the Extended Stay Hotel property at 190 El Camino Real for an extension of the Stevens Creek Trail. The eminent domain action was only taken because the hotel corporation, located in South Carolina, never responded to numerous communications and we needed the property to construct the trail extension. The hotel corporation finally responded shortly after we filed the condemnation and the matter was settled before going to court.

2. How will street trees be effected by the project and will any new ones be planted?

The project will result in the removal of 16 Heritage trees, which will be replaced at a 2:1 ratio with 24” box trees.

ITEM 6.1 CONSIDER ADOPTION OF AMENDMENTS TO THE CANNABIS REGULATIONS

1. The staff report notes: “The addition of 1.0 FTE Police Officer position and 0.5 FTE Community Services Officer position for administration and enforcement of cannabis business regulations.” Did you arrive at this number to serve four cannabis businesses and will the needs change if there are fewer or will these new staff hours still serve the City fairly well?

The addition of FTEs was recommended based on the estimated workload to regulate four cannabis businesses. A reduction in the number of businesses would likely require fewer new positions, but some of the workload would be distributed to existing resources. The Police Department recommends retaining a 1.0 FTE Police Officer position for two to four cannabis businesses, based on feedback from other agencies regarding workload, the need for subject

matter expertise, and the challenges with investigating and enforcing the illicit cannabis market. Should the maximum number of businesses be decreased to two or fewer, the 0.5 FTE Community Services Officer position would no longer be required.

2. The staff report also notes: “In addition to taxes, the City will collect fees from the cannabis businesses, including an annual Police Department Cannabis Business Registration Renewal Fee of \$85,000 per business and annual registration renewal for each cannabis business owner, manager, employee, contractor, and delivery vehicle of \$1,680.” If there are fewer businesses will these fees cover the additional staffing costs to serve cannabis businesses?

The annual Police Department Cannabis Business Registration Renewal Fee of \$85,000 was calculated to cover the entire cost of the 1.5 FTE positions between four businesses. If the number of cannabis businesses and/or the Police Department positions is reduced, the annual business registration fee would be recalculated to recover the entire cost of the positions. The resolution to amend these fees would be brought to the City Council at a later date.

The registration renewal fee for each owner, manager, employee, contractor and delivery vehicle of \$1,680.00 would remain unchanged.

3. Will the businesses have armed guards on the street? Do any other businesses on our walkable streets have armed guards on those streets? We currently have guards at banks and bouncers at bars, but I don’t know whether they are armed and the bouncers are only there in the evening.

The City Code does not require nor prohibit cannabis businesses from hiring armed security. Regulations require businesses to have and comply with security plans, and have security in identifiable attire. Cannabis businesses in other jurisdictions do not typically deploy armed security in public places. Security for banks and bars could be armed, but any armed guards would need to be licensed by the state.