

CITY COUNCIL MINUTES

City of Campbell, 70 N. First St., Campbell, California



CITY COUNCIL EXECUTIVE SESSION

Tuesday, June 1, 2021 – 5:30 p.m.

City Hall – 70 N. First Street

- A. **Personnel**
- B. **Litigation**
- C. **Real Property** - Conference with Real Property Negotiators – Campbell Community Center, 1 West Campbell Avenue, Campbell CA 95008
City Negotiator: City Manager, Brian Loventhal
Negotiating Parties: Old Orchard School
Under Negotiation: Lease
- D. **Labor Negotiations** - Pursuant to G.C. Section 54957.6: Conference with Labor Negotiator - Agency Designated Representatives: City Council, City Manager Brian Loventhal
Employee Organizations: Campbell Municipal Employees Association (CMEA); Campbell Police Civilian Employees Association (CPCEA); Campbell Peace Officers' Association (CPOA); Carpenters; Management Employees; and Confidential Employees

The City Council met in Executive Session to discuss items C and D. City Manager Loventhal and City Attorney Seligmann were in attendance. Acting Recreation and Community Services Director Bissell was in attendance for Item C. City Manager Loventhal, City Attorney Seligmann, Acting Human Resources Manager Flores, Finance Director Fuentes and attorneys Lisa Charbonneau and Rick Bolanos of Liebert Cassidy Whitmore were in attendance for item D. Executive Session adjourned at 6:57 p.m.

REGULAR MEETING OF THE CAMPBELL CITY COUNCIL

Tuesday, June 1, 2021 – 7:30 p.m.

City Hall – 70 N. First Street

This City Council meeting was conducted pursuant to the Governor's Executive Order N-29-20.

This meeting was recorded and can be viewed in its entirety at: <https://campbellca.gov/agendacenter> and <https://www.youtube.com/user/CityofCampbell>.

CALL TO ORDER

The City Council of the City of Campbell convened on the regularly scheduled day of June 1, 2021, via telecommunication.

Mayor Gibbons stated that this City Council meeting was conducted pursuant to provisions of the Brown Act and an Executive Order issued by the Governor to facilitate teleconferencing to reduce the risk of COVID-19 transmission at public meetings.

ROLL CALL

Attendee Name	Title	Status
Elizabeth 'Liz' Gibbons	Mayor	Remote
Paul Resnikoff	Vice Mayor	Remote
Anne Bybee	Councilmember	Remote
Susan M. Landry	Councilmember	Remote
Sergio Lopez	Councilmember	Remote

PLEDGE OF ALLEGIANCE

Mayor Gibbons welcomed newly appointed City Clerk Dusty Christopherson to the City of Campbell.

Dusty Christopherson, City Clerk led the Pledge of Allegiance.

SPECIAL PRESENTATIONS AND PROCLAMATIONS

There were no special presentations and proclamations.

COMMUNICATIONS AND PETITIONS

There were no communications or petitions.

ORAL REQUESTS

There were no oral requests.

COUNCIL ANNOUNCEMENTS

El Camino Health is offering free COVID-19 vaccinations to anyone 12 years of age and older at its Sunnyvale location at 1030 W. Maude Avenue, Monday - Friday 9:00 a.m. to 3:00 p.m. Walk-ins are allowed, but appointments are strongly encouraged to ensure vaccination on the preferred date and time. More details and to schedule an appointment are available www.ElCaminoHealth.org.

The Santa Clara County Public Health Department and the Santa Clara Valley Medical Center “Ask the Doctor” event is on Wednesday, June 2, 2021, from 4:00 p.m. to 7:00 p.m. Doctors will be available by phone to answer questions about the COVID-19 vaccine. To ask a question please call 408-970-2999.

Joint Venture Silicon Valley and the Silicon Valley Economic Development Alliance (SVEDA) are hosting a free commercial real estate eviction moratorium webinar on June 2, 2021 from 9:00 a.m. to 10:30 a.m. The webinar will feature a land use attorney who will discuss how businesses and property owners can work together to find a fair agreement to reconcile rent arrears and renegotiate leases as well as what the legal protections are for tenants and the ramifications for property owners. Visit www.CampbellCA.gov for details and to register.

The City Clerk’s Office is currently accepting applications for vacancies on the Civic Improvement and Planning Commissions. To be eligible for appointment for these volunteer advisory commissions applicants must reside within Campbell City limits and be at least eighteen years of age. For more information, please contact the City Clerk’s Office at (408) 866-2117 or visit www.campbellca.gov. The application deadline is 5:00 p.m., Friday, July 30, 2021.

The Campbell Community Center family recreation swim is available by reservation only, Sundays during the summer. Reservations are for one hour and will accommodate up to four people per reservation. Summer programs are also filling up quickly. To register for a summer program or family recreation swim, go to www.campbellca.gov/recreation.

The City of Campbell offers reservable picnic areas at both the John D. Morgan Park and the Edith Morley Park. To learn more, or to reserve a picnic site, please go to www.campbellca.gov/picnic.

The Campbell Museum continues to host online zoom programs, Membership Mondays and History at Home series. Join us for the next History at Home event on June 18, 2021, at 6:00 p.m., to learn about the history of the California gold rush from historian Jerrie Beard from the Marshall Gold State Historic Park. Reservations can be made for this event, as well as other 2021 zoom events, at www.campbellmuseums.com. Do not miss exploring the Campbell Museums’ collections and the fascinating history behind the objects in the Campbell Museums’ YouTube Series: “What’s in the Box?” Videos can be found on the Campbell Museum’s website or YouTube channel.

The Campbell Library’s new temporary facility located at One W. Campbell Avenue in Building E, next to the Orchard City Banquet Hall, is now open. Service hours are Monday – Thursday, 10:00 a.m. – 9:00 p.m. and Friday – Saturday, 10:00 a.m. – 6:00 p.m. The library is closed on Sunday and on all county holidays. Patrons can pick up holds, browse a limited collection and use the public computer and printer. Items can be returned through a book drop at the front of the building. For more information, please visit www.scclld.org.

CONSENT CALENDAR

No items were pulled from the Consent Calendar.

The Consent Calendar was considered as follows:

1. **Minutes of City Council Study Session Meeting of May 18, 2021.**
Recommended Action: Approve the Study Session meeting minutes of May 18, 2021.

This action approves the Study Session meeting minutes of May 18, 2021.

2. **Minutes of City Council Regular Meeting of May 18, 2021.**
Recommended Action: Approve the Regular meeting minutes of May 18, 2021.

This action approves the Regular meeting minutes of May 18, 2021.

3. **Approving Bills and Claims**
Recommended Action: Approve the bills and claims in the amount of \$1,281,283.51.

This action approves the bills and claims in the amount of \$1,281,283.51 as follows: payroll checks dated April 29, 2021, in the amount of \$39,845.39; bills and claims checks dated May 3, 2021, in the amount of \$364,365.51; and bills and claims checks dated May 10, 2021, in the amount of \$877,072.61.

4. **Adopt a Resolution Authorizing the Use of FY21/22 RMRA Funds for the Annual Street Maintenance Project 22-BB: Collector and Residential Street Resurfacing Program (Resolution/Roll Call Vote)**

Recommended Action: That the City Council adopt a resolution authorizing the use of Fiscal Year (FY) 21/22 Road Maintenance and Rehabilitation Account (RMRA) Funds for the Annual Street Maintenance Project 22-BB: Collector and Residential Street Resurfacing Program.

Resolution 12714 authorizes the use of FY 21/22 RMRA Funds for the Annual Street Maintenance Project 22-BB: Collector and Residential Street Resurfacing Program.

5. **Second Reading of Ordinance 2273 Adding Section 3.20.110 to the Campbell Municipal Code to Establish a Standard Procedure for Hearings on Contractor Responsibility. (Ordinance/Roll Call Vote)**

Recommended Action: That the City Council approve the second reading and adopt ordinance 2273 adding section 3.20.110 to the Campbell Municipal Code, which subjects subcontractors to the non-responsibility process.

Ordinance 2273 adds section 3.20.110 to the Campbell Municipal Code, which subjects subcontractors to the non-responsibility process.

6. **Accept the Resignation of Taylor Chase from the Civic Improvement Commission.**

Recommended Action: That the City Council accept the resignation of Taylor Chase from the Civic Improvement Commission and direct the City Clerk to advertise the vacancy and prepare the appropriate recognition of service.

This action accepts the resignation of Taylor Chase from the Civic Improvement Commission and directs the City Clerk to advertise the vacancy and prepare the appropriate recognition of serve.

7. **Destruction of Certain City Records (Resolution/Roll Call Vote)**

Recommended Action: That the City Council adopt a resolution authorizing the destruction of certain City records pursuant to the California Government Code Section 34090; and authorize the implementation of the revised Administrative Use of Technology Policy to destroy email correspondence.

Resolution 12715 authorizes the destruction of certain City records pursuant to the California Government Code Section 34090 and authorizes the implementation of the revised Administrative Use of Technology Policy to destroy email correspondence.

8. **Preliminary Approval of Engineer's Report and Adoption of Resolution of Intention, Lighting and Landscaping District LLA-1, Fiscal Year 2021-22 and Set Time and Place for Public Hearing (Resolution/Roll Call Vote)**

Recommended Action: Adopt Resolutions preliminarily approving the Engineer's Report for the annual levy and collection of assessments for City of Campbell Lighting and Landscaping District LLA-1 for Fiscal Year (FY) 2021-22; and declaring Council's intention to levy and collect assessments within the City of Campbell Lighting and Landscaping District LLA-1 for FY 2021-22 and setting forth the time and place for required Public Hearing. (Resolutions/Roll Call Vote)

Resolution 12716 preliminarily approves the Engineer's Report for the annual levy and collection of assessments for City of Campbell Lighting and Landscaping District LLA-1 for FY2021-22; and Resolution 12717 declares Council's intention to levy and collect assessments within the City of Campbell Lighting and Landscaping District LLA-1 for FY2021-22 and sets forth the time and place for a required Public Hearing.

9. **Extension of Declaration of Local Emergency (Resolution/Roll Call Vote)**

Recommended Action: That the City Council adopt a resolution extending the April 6, 2021, City Council proclamation declaring the existence of a local emergency resulting from community spread of COVID-19 in the City of Campbell to August 11, 2021.

Resolution 12718 extends the April 6, 2021, City Council proclamation declaring the existence of a local emergency resulting from community spread of COVID-19 in the City of Campbell to August 11, 2021.

M/S: Landry/Resnikoff – That the City Council approve the consent calendar. The motion was adopted by the following roll call vote:

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Landry
SECONDER:	Resnikoff
AYES:	Gibbons, Resnikoff, Bybee, Landry, Lopez

PUBLIC HEARINGS AND INTRODUCTION OF ORDINANCES

10. Introduction of Proposed Fiscal Year (FY) 2022 Operating Budget and 2022 – 2026 Five-Year Capital Improvement Plan (CIP)

Recommended Action: That the City Council review the Proposed Fiscal Year (FY) 2022 Operating Budget and 2022-2026 Capital Improvement Plan (CIP) as presented; provide direction to staff to proceed with finalizing the budget; and establish June 15, 2021 as the date for a public hearing and adoption of the FY 2022 Operating Budget and CIP, as well as the Gann Appropriations Limit.

This is the time and place for a public hearing to consider the Proposed FY 2022 Operating Budget and 2022-2026 CIP and provide direction to staff to proceed with finalizing the budget; and establishing June 15, 2021 as the date for a second public hearing and adoption of the FY 2022 Operating Budget and CIP, as well as the Gann Appropriations Limit.

City Manager Loventhal gave an introduction on the FY 2022 Operating Budget noting that Staff has added partial funding for the Crossing Guard Program and has been in contact with neighboring school districts to encourage their participation on the remaining portion of the funding. City Manager Loventhal also noted that funding has been added for the Community Emergency Response Team (CERT) Program and that non-departmental expenses have been moved out of the Finance Department into a separate line item to increase clarity. There was a Community Meeting held on May 20, 2021 on the proposed budget, 23 community members attended, most community member comments expressed support for the continued support of the Heritage Theatre. City Manager Loventhal clarified that the proposed budget does not propose any reductions to the Heritage Theatre. City Manager Loventhal noted that the target reserve policy is estimated to be met by 2025 and that Staff has accelerated the hiring of the Measure O Project Manager.

Finance Manager Vong gave an introduction on the 2022-2026 Five-Year Capital Improvement Plan (CIP) noting that the CIP includes just over \$87 million for the total five-year plan with FY 2022 year one projects totaling just under \$19 million. Finance Manager Vong noted that the CIP was amended slightly to show the year one appropriation schedule with a carryover column, and those that are in need of additional appropriations, as well as providing additional detail on the traffic calming projects.

Mayor Gibbons opened the public hearing. There being no one wishing to speak, Mayor Gibbons closed the public hearing.

Councilmembers expressed appreciation to Staff for their thoughtful edits, being responsive to Council feedback and hard work in preparing the proposed budgets and Capital Improvement Plan for the coming fiscal year.

Councilmember Bybee stated her desire to include the departmental performance measures in the final document and requested a review of the Police Department IT Administrator job specification.

Mayor Gibbons expressed concerns that there was not Council support for considering a review of the Public Employee's Retirement System (PERS) reserve fund in this year's operating budget rather than utilizing the entire American Rescue Plan (ARP) funding.

In response to an inquiry from Mayor Gibbons, Finance Director Fuentes noted that the current budget proposal is to replenish the emergency reserve fund with last fiscal year's surplus funds as well as the projected surplus funds from this coming fiscal year and the next, by FY 2025 the emergency reserve fund should be back up to the maximum policy level. ARP funds are being directed to the general fund and are not assigned to a particular purpose.

M/S: Resnikoff/Landry – That the City Council direct staff to proceed with finalizing the budget; and establishing June 15, 2021 as the date for a public hearing and adoption of the Fiscal Year 2022 Operating Budget and the 2022-2026 Capital Improvement Plan as well as the Gann Appropriations Limit. The motion was adopted by the following roll call vote:

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Resnikoff
SECONDER:	Landry
AYES:	Gibbons, Resnikoff, Bybee, Landry, Lopez

NEW BUSINESS

11. Amendment to Heritage Theatre Management Agreement (Resolution/Roll Call Vote)

Recommended Action: That the City Council adopt a resolution authorizing the City Manager to amend the existing agreement for management and consulting services of the Heritage Theatre with VenueTech Management Group, LLC.

Acting Recreation and Community Services Director Bissell, presented a staff report dated June 1, 2021. Noting that the original agreement with VenueTech expires on June 30, 2021 and given the fact that 2020 and the shut-down by COVID-19’s community spread was a very difficult year for live arts and the City in supporting the Heritage Theatre, it provided an opportunity to renegotiate the contract with VenueTech prior to renewal. A good faith negotiation took place over several months to develop a mutually agreed upon amendment to address the issue of future closures due to a public health crisis enacting an Emergency Fee Reduction should a public health crisis occur again and restart the initial term of the agreement for five years with an additional two subsequent terms of three years each.

Mayor Gibbons expressed concerns about the template contract form being used, would like to see an updated contract in use for new agreements, and suggested a temporary 6-month extension to the contract to allow an updated contract to be drawn up.

Councilmember Bybee expressed concerns about the need for the contract to address natural disasters as well as public health emergencies and concerns relating to the length of the contract period and whether the City should be conducting a full Request for Proposals (RFP) sooner.

Vice Mayor Resnikoff also expressed concerns about including natural disasters in the contract and noted that the allowed extensions in the contract are not automatic.

Acting Recreation and Community Services Director Bissell, noted that the Heritage Theatre has been retrofitted recently and if the building were to be red tagged as a result of a natural disaster, closing of the building could go through the formal winddown process as allowed in the contract, for public health emergencies that may not be an option. The winddown process includes separating software, databases, staffing concerns, and other duties to close all of the operations at the Heritage Theatre. However, the City will continue to realize

some maintenance costs in support of the building itself.

Vice Mayor Resnikoff expressed his support for an initial 3-year term with an additional two subsequent terms of three years each.

After discussion, Councilmember Landry made a motion to adopt an amended resolution authorizing the City Manager to extend the existing agreement for 6-months to allow time to draw up an updated contract.

Motion failed due to lack of a second.

Council consensus was confirmed for an initial 3-year term, with a requirement that all subsequent renewals come before Council for formal approval.

M/S: Resnikoff/Bybee – That the City Council adopt amended Resolution 12719 authorizing the City Manager to amend the existing agreement for management and consulting services of the Heritage Theatre with VenueTech Management Group, LLC for a 3-year initial term and requiring all renewal periods to be approved by Council. The motion was adopted by the following roll call vote:

RESULT:	ADOPTED [4 TO 1]
MOVER:	Resnikoff
SECONDER:	Bybee
AYES:	Gibbons, Resnikoff, Bybee, Lopez
NOES:	Landry

12. **Consider the Adoption of a Resolution to Authorize the City Manager to Execute a Professional Services Agreement with HouseKeys, Inc. (Resolution/Roll Call Vote)**

Recommended Action: That the City Council take the following actions: (1) Adopt a Resolution, authorizing the City Manager to execute a one-year Professional Services Agreement (expiring June 30, 2022) with HouseKeys, Inc. to serve as the City’s Below-Market Rate Program Administrator; and (2) Direct staff to hold a separate public hearing, to discuss opportunities to improve the City’s Below-Market Rate Housing Program.

City Manager Loventhal introduced the new Community Development Director, Rob Eastwood and welcomed him to the City.

Senior Planner Rose, presented a staff report dated June 1, 2021. Noting HouseKeys, Inc., was originally hired in 2016 to manage the City’s Below Market Rate Housing Program, the proposed contract is for one year and maintains the same fee structure. The program has netted \$176,000 in proceeds and requires quarterly performance measures. HouseKeys, Inc. has met or exceeded all performance measures to date. The Community Development Department has included in the upcoming fiscal year departmental workplan to evaluate

certification compliance and enforcement and to evaluate alternative options for administering the City's Below Market Rate Housing Program.

Senior Planner Rose noted that Staff made a concerted effort to limit the number of underperforming units and at the end of the contract period had two underperforming units which will be reviewed with Council in closed session. Senior Planner Rose noted that due to the annual recertification process and tight requirements the City has adopted, Campbell realizes a higher rate of turnover than jurisdictions with bi-annual recertification time frames.

Councilmember Lopez disclosed that he met with one complainant of the program who expressed frustration with the timeframe it takes to fill a vacancy.

Julius Nyanda, HouseKey's Inc., representative explained that the complainant was a new property owner who purchased a building already in the program and was not fully aware of the program rules and that some federal guidelines, such as the reasonable accommodation process, can lengthen the time it takes to fill a vacancy.

Councilmembers expressed appreciation to HouseKey's, Inc., and the Community Development Department staff for their hard work on the City's Below Market Rate Program and for meeting or exceeding the performance measures.

Following discussions, Councilmembers confirmed consensus for clarifying the process and timeframe for filling a vacancy and expressed support for changing the recertification process from annually to bi-annually.

M/S: Lopez/Bybee – That the City Council adopt Resolution 12720 authorizing the City Manager to execute a one-year Professional Services Agreement (expiring June 30, 2022) with HouseKeys, Inc. to serve as the City's Below-Market Rate Program Administrator, clarifying that performance measures with Housekey's Inc., which references days, are meant as calendar days except where otherwise specified or where required by Federal or State law; and to direct staff to hold a public hearing to discuss opportunities to improve the City's Below-Market Rate Housing Program. The motion was adopted by the following roll call vote:

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Lopez
SECONDER:	Bybee
AYES:	Gibbons, Resnikoff, Bybee, Landry, Lopez

UNFINISHED BUSINESS

13. **Receive an Update on the Status of the Downtown Campbell Parklet Program and Adopt a Resolution Extending the Duration of the Parklet Program (Resolution/Roll Call Vote)**

Recommended Action: That the City Council adopt a resolution extending the Downtown Campbell Parklet program through September 30, 2021 to allow for continued expansion of outdoor restaurant dining and business operations to support the economic recovery of Downtown businesses.

Public Works Director Capurso presented a staff report dated June 1, 2021, providing an update to Council on the Downtown Campbell Parklet Program noting that throughout the pandemic the City had experimented with identifying the best set up and usage of the parklets to help the downtown businesses, from closing streets, to reopening streets, publishing guidelines and moving the Farmer's Market. Last December staff recommended continuing the program through the Spring and at this time staff is recommending continuing the program through September 30, 2021 and extending the funding for the K-rail set up as well. A survey of downtown businesses showed most were in favor of extending the program, however there is also a desire to have the farmer's market and festivals return to the area. Parklets are most often used by restaurant businesses and less so by retail, however there have been no further complaints from the retail businesses relating to the parklets or their usage.

In response to an inquiry from Vice Mayor Resnikoff, Public Works Director Capurso noted that having the Farmer's Market return to the downtown area with the current parklet set up would not be feasible as there are ingress and egress concerns and parking concerns. However, staff also noted that with the reopening process at the Community Center and as programs and classes resume, there will be parking concerns at the Community Center as well because the Farmer's Market takes up a significant amount of that parking area.

Ken Johnson, Executive Director, Campbell Chamber of Commerce spoke in support of extending the parklet program and welcomed further conversations on what a permanent parklet program could look like, taking into account all unintended consequences. Mr. Johnson noted that the Campbell Chamber of Commerce is in agreement that the best place for the Farmer's Market is at the Community Center while the parklets are in place and stated that holding a festival with the parklets in place would also not be feasible.

In response to an inquiry from Councilmember Lopez, Mr. Johnson stated that the Campbell Chamber of Commerce is excited about the possibility of holding an Oktoberfest this year and that closing side streets in the downtown area may be an option for accommodating the needs of the festival and downtown businesses.

In response to an inquiry from Councilmember Lopez relating to Americans with Disabilities Act (ADA) compliance, Public Works Director Capurso stated that parklets can prove challenging in terms of ADA compliance. Those businesses with sidewalk dining areas could accommodate ADA access but those in the street would be challenged. Some businesses may be more willing to invest in their parklet to enhance ADA compliance, but they would want them to remain for a longer period of time to recover the costs of those enhancements. Council could consider ADA compliance needs as part of the program extension conversations and as a requirement for the permit renewal process.

Councilmember Bybee expressed her support for the extension of the program through September 30, 2021, but requested a further analysis including the Farmer's Market placement, public parking losses (including the impacts of Measure O construction), safety concerns, noise, and ADA concerns before committing to a permanent program.

Councilmember Lopez expressed support for the extension of the program, for requiring ADA compliance, and for a possible tiered permit fee structure based on square footage of the parklet. Councilmember Lopez expressed support for the downtown businesses and sees this as a big benefit to them.

Council consensus was confirmed for an informational memo to Council prior to the September 30, 2021 expiration date with a full analysis of what a permanent parklet program could look like, including the unintended consequences, and options for the Farmer's Market placement.

M/S: Bybee/Landry – That the City Council adopt Resolution 12721 extending the Downtown Campbell Parklet program through September 30, 2021 to allow for continued expansion of outdoor restaurant dining and business operations to support the economic recovery of Downtown businesses. The motion was adopted by the following roll call vote:

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bybee
SECONDER:	Landry
AYES:	Gibbons, Resnikoff, Bybee, Landry, Lopez

COUNCIL COMMITTEE REPORTS

14. Council Committee Reports

Recommended Action: Report on committee assignments and general comments.

--Councilmembers Lopez and Landry attended the Education Subcommittee meeting where mental health issues were discussed with County of Santa Clara Supervisor Ellenberg's office.

--Mayor Gibbons reported that the West Valley Mayors and Manager's meeting convened and received an economic outlook update from Santa Clara County Assessor Larry Stone; reminded the Community that as of June 1, 2021, the Time of Use power rates are in effect with the Silicon Valley Clean Energy Authority.

Council consensus was confirmed for bringing forward a City policy relating to suicide prevention.

ADJOURN

Mayor Gibbons adjourned the meeting at 10:59 p.m.

APPROVED:

ATTEST:

Elizabeth 'Liz' Gibbons, Mayor

Dusty Christopherson, City Clerk