



# City of Fort Bragg

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## Meeting Minutes City Council

*THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY  
AS THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT  
NO. 1 AND THE FORT BRAGG REDEVELOPMENT  
SUCCESSOR AGENCY*

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Monday, September 14, 2015

6:00 PM

Town Hall, 363 N. Main Street

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### AMENDED

### MEETING CALLED TO ORDER

Mayor Turner called the meeting to order at 6:00 PM.

### PLEDGE OF ALLEGIANCE

### ROLL CALL

**Present:** 5 - Vice Mayor Lindy Peters, Councilmember Michael Cimolino, Councilmember Scott Deitz, Councilmember Doug Hammerstrom and Mayor Dave Turner

### AGENDA REVIEW

#### 1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

- 1A. [15-362](#)** Receive Presentation from Economic Development Finance Corporation (EDFC) Executive Director John Kuhry

Economic Development Finance Corporation (EDFC) Executive Director John Kuhry made a presentation to the Council on how EDFC can benefit the City of Fort Bragg by supporting entrepreneurs. EDFC's grant funding has helped Mendocino County businesses grow and create jobs. Local investors are encouraged to contact EDFC to take advantage of opportunities to strengthen and diversify the local economy.

- 1B. [15-366](#)** Appoint Acting Finance Director Victor Damiani to Serve as City Employee Representative on Oversight Board to Fort Bragg Redevelopment Successor Agency

Mayor Turner appointed Victor Damiani as City Employee Representative to the Oversight Board to Fort Bragg Redevelopment Successor Agency.

#### 2. STAFF COMMENTS

Community Development Director Jones reported that a grant to fund the middle section of the Coastal Trail is on the Consent Calendar tonight. This \$1.2 million grant is for construction of a mile of walking path around the mill pond and over the beach berm.

Administrative Services Director Schneider gave an update on PEG (Public Education and Government) TV, which is scheduled to go live in one or two weeks.

### **3. MATTERS FROM COUNCILMEMBERS**

Mayor Turner called for a moment of silence for Zeke Grader, Jere Melo and those who have lost their lives or homes due to fire. He reported on the Paul Bunyan Parade and Mexican Independence Day.

Vice Mayor Peters asked staff to explore whether the City can start a fund to donate money directly to cities affected by the Lake County fires to spend as they see fit. Peters reported on the recent Public Safety Committee meeting.

Councilmember Cimolino suggested a mutual aid mechanism be established to help cities share resources when devastated by fire or other natural disaster. He reported on the Coalition of Gang Awareness and Prevention Week and the upcoming Take Back Drugs event at Fort Bragg Police Department.

Councilmember Deitz reported that firemen are back in town.

Councilmember Hammerstrom mentioned his attendance at Paul Bunyan Days and gave his appreciation for the firefighters.

### **4A. PUBLIC COMMENTS ON NON-AGENDA, CONSENT CALENDAR & CLOSED SESSION ITEMS (30 Minutes)**

- Charles Brandenburg spoke about a recent drug overdose death, stating that this is a real problem. He also said he is not a bigot or discriminatory.
- Maryann McGee suggested that community members wishing to donate to Lake County residents affected by recent fires should go through Mendocino County Community Foundation.

### **5. PUBLIC HEARING**

### **6. CONDUCT OF BUSINESS**

#### **6A. [15-367](#)      Receive Presentation Regarding Fort Bragg Police Department's Biennial Report**

Chief Lizarraga gave a report citing statistics on crime, arrests, citations, and number of police calls, among other information. Responding to a question from Councilmember Hammerstrom regarding traffic collisions caused by blocked visibility or need for signage, the Chief said that there is an internal process for collecting and reviewing such information. The Traffic Committee makes an assessment and takes action, if needed. Vice Mayor Peters asked if DUI (Driving Under the Influence) statistics could be included in future reports. Chief Lizarraga said this information will be included in the future, and he intends to make the report an annual report instead of biennial, beginning in 2016.

#### **6B. [15-364](#)      Receive Report and Provide Direction to Staff Regarding Placing Citizen Initiative to Prohibit Social Service Organizations in the Central Business District on the Ballot**

Vice Mayor Peters clarified that he requested this item be put on the agenda, as the Council was unable to deliberate on the matter when comments on non-agenda items are received.

City Attorney Zutler presented her staff report, recommending that the Council decline to place the

measure on the ballot because the retroactivity of it is unenforceable. She explained that retroactive zoning is frowned upon in the law, and people have a right to rely on what the zoning is when they make a purchase or pull a permit. She briefly mentioned complying with CEQA and talked about the City's options if the measure passes. She concluded her report by saying that she cannot advise putting a measure on the ballot that will almost certainly involve litigation.

Discussion: Councilmembers Deitz and Cimolino asked questions regarding vesting. Attorney Zutler explained that a vested right is created when a permit is pulled and work is done; vested rights do not mature with time or amount of money spent. Community Development Director Jones clarified the definition of a legal nonconforming use and that if passed, the measure would affect any social services wishing to expand or move into the Central Business District (CBD).

Public Comment on this agenda item was received from:

- Chriss Zaida read a statement signed by several community members urging the Fort Bragg City Council to oppose the measure banning social service organizations in the CBD.
- Joe Wagner said calling people bigots for having a different opinion is tasteless. He spoke in support of having social services located in the Affinito building on South Franklin Street.
- Richard Mack related that he is being denied housing because of his medical marijuana use and he thinks cannabis should be embraced as a medication.
- Rex Gressett stated that the ballot measure proponents and their attorney disagree with City Attorney Zutler and that the Mendocino Coast Hospitality Center homeless services at Old Coast Hotel has been crammed down people's throats. He said Hospitality House, City government, the mayor and City Manager Ruffing are all corrupt.
- Crystal Clements thinks that if the City is sued over the initiative, they deserve what they get. She said no one would agree to that location and the block grant was passed too quickly without business owners being notified.
- Charles Brandenburg noted he is tired of drunk and druggy people bringing the city down. He knows that many people need help -- just not at the Old Coast Hotel, an historic iconic building in Fort Bragg. He mentioned that Concerned Citizens of Fort Bragg boycotted the meeting tonight.
- Gary Johnson, board member of Mendocino Coast Hospitality Center, asked the Council to heed the recommendation of staff and the City Attorney and not place the measure on the ballot, as it is not enforceable.
- Bill Baker lives in the Central Business District and he is proud of this town because of its service agencies such as Big Brothers & Big Sisters, Project Sanctuary, Parents & Friends, the Food Bank and Hospitality House.
- Simon Eliot Smith strongly encouraged the Council not to place the measure on the ballot as it is discriminatory. He stated that the downtown provides a central area for homeless people to become active members of the community and isolating people sends a negative message not in keeping with American values.
- Linda Jupiter said that the outpouring of care by Fort Bragg for those affected by the fires is a prime example of our caring community, that we may all need support of social services at some time, and we should not isolate those who need those services now. She urged the Council not to put the measure on the ballot.
- Patricia Tudics, a resident of Hospitality House, has been enrolled in transitional housing and is being given an opportunity to get back on her feet. She said without this opportunity, she never would have gotten off the street.
- Mara Thomas, president of the board of Art Explorers, opposes the ban on social services in the CBD. She urged the Council to refrain from supporting a throw-away culture that renders not only things but people disposable.
- Mayor Turner read comments submitted by Allen Bufardeci, stating that he was homeless and

Hospitality Center was there for him when he really needed help. He is now clean and sober because of the services they provided.

- Christopher Cisper asked the Council to brainstorm on how to make Fort Bragg a better place to live. Most of the services provided to homeless people are being done by non-governmental organizations and Cisper thinks the government could help aid these people.
- Kendall Smith found the attorney staff report meaningful in regard to key issues and strongly encouraged the Council to heed the attorney's advice, as it could cost the taxpayers significant exposure if litigation ensues.
- Valerie Rode asked people to drop ego and drama and come together as a community, because there is a lot of intelligence, compassion and heart here.
- Katie Turner-Carr said this ban is wrong. It is not just about the Old Coast Hotel; the initiative would ban all social services from the CBD. She stated she has a downtown business and is not worried that homeless people will affect her business. She is not afraid to shop downtown but is afraid to allow people to be treated so unjustly.
- Mayor Turner read the first paragraph of a letter submitted by Kristin Otwell, Co-Director of Art Explorers, expressing opposition to the proposed initiative to ban social services in the CBD.
- Susan Kelley of the Renewable Energy Development Institute, said her offices are right next door to the Old Coast Hotel and as they provide education in water and energy conservation, they are considered a social service and would be affected by this measure, too.
- Russell Hopf said he is very much for programs, but the director of Hospitality House is petty, manipulative and cruel. He recommended spending money on housing, not on people to babysit the homeless.
- Terri Lee Gentry thanked the City Attorney for sharing her legal analysis.
- Marianne McGee said the measure is unenforceable, would cost the City a lot of money, and the consequences would be devastating to the community. She encouraged people to spend their energy in trying to keep the local hospital from falling apart or going bankrupt.
- Heidi Kraut said that everyone has a right to participate fully in the downtown and urged the Council not to move the ordinance closer to a vote. She said she does not want the City embroiled in lawsuits, because if the City is sued, we all get hurt.
- Eric Dwyer said the Council would be nuts to pass an illegal referendum. He added that the discussion should have been longer before authorizing the grant.
- Michael Mayhew, new Fort Bragg resident, said he has been in the downtown every day and he cannot see a problem. He thinks the City would be crazy to pass this and it would be better to direct the money and effort into a compromise. He recommends working it out, rather than fighting it out.

**Mayor Turner recessed the meeting at 8:22 PM; the meeting reconvened at 8:29 PM.**

City Attorney Zutler said that she has not received any legal authority from the proponents of the initiative or their attorney that is contrary to her analysis, but she is always willing to entertain and review that should they wish to submit it. She clarified that potential lawsuits that may arise from the passing of the measure would be to determine that the measure is unenforceable.

Further Discussion:

- Vice Mayor Peters said this measure divides the community and if it were to pass on the ballot, it would punish other social services organizations like Parents & Friends, Art Explorers and Project Sanctuary. He does not discourage anyone from gathering signatures for an initiative, but he thinks Fort Bragg voters will study what problems this law would cause and the money it would cost and decide not to support it. He said he cannot support putting the measure on the ballot, because it is not a good idea from a legal or social perspective.

- Councilmember Cimolino also does not support including the measure on the ballot, as it could become a quagmire, costing taxpayers hundreds of thousands of dollars. He recognizes the right of the proponents to bring the measure to the ballot if they want to do so, but he does not support it.
- Councilmember Deitz said he cannot support this measure for many reasons, including the cost of lawsuits. He thinks time, energy and money can be spent in a more positive way. He concluded his comments by stating that he is definitely against putting this on the ballot.
- Councilmember Hammerstrom said to pass this initiative would be to take the word "civic" out of civic center. These organizations provide the services that give meaning to the word and he does not want to associate himself with discriminatory measures. He asked that people think about whether they really want to circulate and sign such a petition. Hammerstrom also noted that zoning is difficult to do by initiative, as it is a very technical issue. One of the tenets of zoning is that it is fair to everyone and this initiative on its face is not fair to all. For all those reasons, he is not in support of putting this on the ballot.
- Mayor Turner concurred that he is not in favor of putting this measure on the ballot. He said it is the wrong law, attacks the wrong problem, and does not achieve the goal of what the proponents want. He said he does not think that Fort Bragg will support the measure and hopes the community can move on. He said Fort Bragg is about helping people.

**6C. [15-363](#)** Receive Report and Consider Introduction, by Title Only, and Waive Further Reading of Ordinance 921-2015 Repealing and Replacing Section 10.20.150 and 10.20.155 of Chapter 10.20 (Stopping, Standing and Parking) of the Fort Bragg Municipal Code

Community Development Director Jones reorganized the proposed ordinance so it is easier to read and summarized each section for the Councilmembers.

Discussion: Vice Mayor Peters asked if any potential mobile vendors had expressed an interest in the ordinance. Jones responded that at least two or three vendors are waiting for the ordinance to be passed so they can get a permit. The Councilmembers discussed the timing of resolutions affecting vending locations and hours of operation so they could be adopted prior to the ordinance taking effect. The length of vending trucks and how many parking spaces they would occupy was also discussed.

Public Comment on this agenda item was received from:

- Director Jones read comments from Amy Wynn saying that the ordinance looked good to her.
- Scott Menzies is in support of mobile vending trucks and carts, as they add a little diversity to the city's streets.

Further Discussion: After brief discussion, the Council directed staff to strike provision 11(b) from the ordinance and bring it back for introduction at the next Council meeting.

**This Ordinance was referred to staff for revisions prior to introduction at the next Council meeting.**

**6D. [15-365](#)** Receive Report on Results of Customer Satisfaction Improvement Efforts

Acting City Clerk Lemos gave a synopsis of her staff report regarding Customer Satisfaction Survey results. Community Development Director Jones noted that the City's turnaround time for building and planning permits is much faster than the County's. Councilmember Cimolino said the survey is a good way to provide feedback to staff and to establish better protocols. He

recommended doing this type of survey for different departments at the City.

#### **4B. PUBLIC COMMENTS ON NON-AGENDA, CONSENT CALENDAR & CLOSED SESSION ITEMS (30 Minutes, If Necessary)**

Although an additional public comment on non-agenda item period was not necessary, Mayor Turner agreed to allow two members of the public to make additional comments.

- Joe Wagner commented on speaker cards, food truck parking, a potential leak near the strip mall next to Redwood Avenue, and Whispering Pines water at City Hall.
- Jay McMartin Rosenquist commented on speaker cards.

### **7. CONSENT CALENDAR**

#### **Approval of the Consent Calendar**

**A motion was made by Vice Mayor Peters, seconded by Councilmember Cimolino, to approve the Consent Calendar. The motion carried by the following vote:**

**Aye:** 5 - Vice Mayor Peters, Councilmember Cimolino, Councilmember Deitz, Councilmember Hammerstrom and Mayor Turner

- 7A. [15-305](#)** Adopt City Council Resolution Approving Agreement with Cold Creek Compost and Authorizing City Manager to Execute the Same

Enactment No: RES 3846-2015

- 7B. [15-335](#)** Adopt City Council Resolution Amending the FY 2015/16 Budget for the Community Development Department to Transfer \$10,000 from the Salaries & Wages Line Item to Professional Services (Budget Amendment No. 2016-06; Amount Not to Exceed \$10,000; Transfer from Account No. 110-4320-0101 to Account No. 110-4320-0319)

**This Resolution was adopted on the Consent Calendar.**

Enactment No: RES 3847-2015

- 7C. [15-344](#)** Adopt City Council Resolution Approving Second Amendment to Professional Services Agreement with LACO Associates, Inc. for Green Alley Project Phase II Design and Budget Amendment 2016-10 (Amount Not to Exceed \$7,400; Account No. 409-5011-0731)

**This Resolution was adopted on the Consent Calendar.**

Enactment No: RES 3848-2015

- 7D. [15-345](#)** Adopt City Council Resolution Amending the FY 2015/16 Budget to Appropriate \$799.58 from Fund 610-4612-0351 (Water Enterprise Equipment Repair And Maintenance) to Fund 521-4394-0351 (Technology Maintenance and Replacement Internal Service Fund) (Budget Amendment 2016-07; Amount not to Exceed \$799.58; Transfer from Fund 610-4612-0351 to Fund 521-4394-0351)

**This Resolution was adopted on the Consent Calendar.**

Enactment No: RES 3849-2015

- 7E. [15-346](#) Adopt City Council Resolution Amending the Compensation Plan for Non-Bargaining & Confidential Employees to Add Grants Assistant (Part-Time) and Audio-Visual Technician (Part-Time) Classifications

**This Resolution was adopted on the Consent Calendar.**

Enactment No: RES 3850-2015

- 7F. [15-347](#) Adopt City Council Resolution Approving the Application for Grant Funds from the Recreational Trails Program

**This Resolution was adopted on the Consent Calendar.**

Enactment No: RES 3851-2015

- 7G. [15-360](#) Adopt City Council Resolution Appointing June Lemos as City Clerk

**This Resolution was adopted on the Consent Calendar.**

Enactment No: RES 3852-2015

- 7I. [15-352](#) Approve Minutes of August 24, 2015

**These Minutes were approved on the Consent Calendar.**

### **ITEMS REMOVED FROM CONSENT CALENDAR**

- 7H. [15-356](#) Approve Scope of Work for Consultant Contract for ATP/Safe Routes to School Coordinator

Councilmember Deitz asked when the monies for the project would need to be expended.  
Community Development Director Jones clarified the timeframes for the two different projects.

**This scope of work was approved on the Consent Calendar.**

**Mayor Turner recessed the meeting at 9:38 PM; the meeting was reconvened to closed session at 9:45 PM.**

### **8. CLOSED SESSION**

- 8A. [15-368](#) **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:**  
Significant Exposure to Litigation Pursuant to Paragraph (2) or (3) of Subdivision (d) of California Government Code Section 54956.9:  
Number of potential cases: 1

**Mayor Turner reconvened the meeting to open session at 10:15 PM and reported that no reportable action was taken.**

### **ADJOURNMENT**

**Mayor Turner adjourned the meeting at 10:15 PM.**