1. CALL TO ORDER

Mayor Anderson called regular City Council meeting to order at 5:30 p.m.

2. ROLL CALL

Present: Mayor Anderson, Vice Mayor Tatzin (arrived at 7:00 PM) Councilmembers Burks, Mitchell, and Samson (arrived at 7PM).

Absent: None

Staff Present: Steven Falk, City Manager; Tracy Robinson, Administrative Services Director; Niroop Srivatsa, Planning & Building Services Director; Greg Wolff, Assistant Planning & Building Services Director; Tony Coe, City Engineer; Jennifer Wakeman, Financial Services Manager; Mike Moran, Public Works Director; Donna Feehan, Management Analyst; Mala Subramanian, City Attorney; Joanne Robbins, City Clerk

3. ADOPTION OF AGENDA

ACTION: It was M/S/C (Mitchell/Burks) to adopt the agenda, as amended. Vote: 3-0-2 (Ayes: Anderson, Burks, and Mitchell; Absent: Samson and Tatzin).

4. PUBLIC COMMENT

CLAIRE SEBREE, stated that over 1,500 people signed the PG&E tree petition and she noted that PG&E plans to cut down over 272 trees throughout Lafayette which is completely unnecessary. The trees are not actually in the way of the utilities and even if cut down there are plenty of other ways to remove their gas line safely. She recognized that pipeline safety is important but PG&E has not reviewed any other options. The trees provide shade, home for animals, are a key part of Lafayette and to see them cut down for no reason is very upsetting. She asked that the Council mandate that PG&E look at other options, said PG&E avoided the matter for a long time and they have not communicated with the public.

KENT FICKET, Mt. Diablo Audubon Society, stated the Board voted last week pursue the PG&E tree removal issue specifically relating to the CEQA matter he raised at the last meeting. He had formally
asked that the Council reconsider this and asked about the status of this formal request, noting there was no Notice of Exemption filed by the City or PG&E on PG&E’s position that this is an emergency situation. This means there is 120 days to appeal that decision. If they had filed this it would have been 35 days, and he is not convinced PG&E has an emergency here. If an emergency exists, they would declared an emergency regarding a pipe about to fail and would have evacuated the area and fixed the problem. He attached a listing of sites to his letter and a case law wherein PG&E asserts there may be an earthquake in the future and standing water might result in a problem and therefore they must exempt themselves from CEQA. The courts found that this is not what is deemed an emergency.

PG&E should have begun the process with environmental review and people are very distrustful of the process and he did not think PG&E was complying with the law or guidelines. Lastly, the City has fallen into the same problem and using an emergency argument which he also disagrees with.

Councilmember Mitchell stated the Council is not able to respond but he thanked Mr. Ficket for the material he submitted, as well as his email.

MICHAEL DAWSON, thanked the Council for speaking about the PG&E issue at the May 8th meeting. He said he and his wife walked with PG&E with another resident and reviewed each tree along the Lafayette-Moraga Trail which was enlightening to see what is proposed to be removed as well as how little PG&E knew about the pipeline itself. He said PG&E had promised they would work closely with community organizers to answer their questions and to date, they have outstanding questions from 4 weeks ago which are simple questions like where are safety valves or how often are they installed. There has been no follow-up since that walk which is disappointing.

He encouraged the Council to read Dave Koster’s email sent today and he respectfully requested the Council to step in on the issue of posters being taken down on the Lafayette-Moraga Trail. They have evidence that both PG&E and the EBRPD are taking off posters on trees that are designating to the public which ones are proposed to be removed. He thinks for open and transparent government it is important to know which ones will be taken down and the City would be a great position to put up those posters. He also requested a special Council meeting be held, as PG&E wants to do tree-cutting in mid-June and he knows people are leaving on vacation and he wants to hold a meeting as soon as possible.

Lastly, he asked the City Council to listen to CEQA requests as it is an important step to follow, and noted that his home abuts to the trail in his backyard and he saw a white tailed kite which is a protected species fly over the trail.

Mayor Anderson stated the Council received a letter from PG&E and in their last sentence they indicate they will not be doing any work until the Council holds another meeting on this topic.

GINA DAWSON, reiterated that she and Mr. Dawson walked the trail last week and hopes this serves as an exemption framework for trees of particular community concern. They were appreciative of PG&E to join them on the 3-hour walk. She began the walk wanting to test the entirety of the list in terms of why certain trees are proposed to be removed when some are not. She ended the walk with a bigger question about the integrity of the pipeline. They walked along the trail along the creek and saw that the trails goes down to the creek at incredible angles, and she questioned PG&E as to how the pipes are even connected and how old the pipelines are, whether the pipeline goes along the bridge or buried.
under the channel which it is. There are trees along the embankments which are also near the pipeline, and she wondered what would happen to the embankment if the tree is removed which has soils integrity issues.

Other questions that came to mind were that some of the trees looked scrubby and are next to other vegetation targeted for removal, but there are actual barriers to the steep embankment and she questioned what PG&E will do to mitigate that safety factor. She was particularly concerned with the 4 feet of exposed pipeline that runs along the trail which sits 2 feet away from the trail and has a little picket fence and she asked if PG&E has even contacted anyone in the planning department. Therefore, she thinks this is more about PG&E looking at the forest of safety issues overlooking them for the City’s trees.

WESLEY HOLLIDAY, echoed Mr. Dawson’s first request regarding the flyer issue. He thinks residents should be well-informed about the PG&E and particularly should know which trees are proposed to be removed. People have been walking the trail finding out which trees will be removed and placing flyers on them, but the very day they place flyers, someone takes all of them down. He posted flyers on over 20 trees on Friday, Saturday and Sunday which were all taken down. Therefore, he asked the City to intervene here and said it would be best if the City could put the flyers up and ask PG&E not to take them down.

Mayor Anderson commented that the trail is operated by the EBRPD and he suggested checking with them to determine if they are taking the flyers down.

KELSEY LEVANTE, said she is a high school student and she is working with UC Berkeley right now with environmental engineering students and she asked them about this issue. She asked what they thought about the issue and asked them to look on the trails and the plans on the pipes PG&E has to work on trees and after a fair amount of research, they told her they do not think it would be necessary to remove the trees unless it was an emergency to get to the pipes. PG&E would probably have areas evacuated but she did not see how that could happen. Also, while just a teenager, she is passionate about the environment. She has been to over 12 countries and does a lot of work with the environment and asked the Council to reconsider the agreement to allow PG&E to remove so many trees.

5. CLOSED SESSION
The City Council adjourned to Closed Session at 5:32 p.m. to consider the following matter:

A. Conference with Legal Counsel – Anticipated Litigation
Significant exposure to litigation (Gov. Code 54956.9(d)(2) (1 case)

Memorial Day
A Time to Honor All Americans Who Have Died While in the Military Service

Bob Athayde introduced Stanley Middle School band members and school representatives, discussed their work in fundraising and concert schedule, and the band provided a series of jazz ensembles. A round of applause followed.
6. REPORT FROM CLOSED SESSION – 6:30 p.m.

   The City Council reconvened in Open Session at 6:30 p.m. and Mayor Anderson reported no action was taken.

7. PLEDGE OF ALLEGIANCE – Mayor Anderson led in the Pledge of Allegiance.

8. PUBLIC COMMENTS - None

   Noted Present:
   Vice Mayor Tatzin and Councilmember Samson arrived to the meeting and were noted as present.

9. PRESENTATIONS

   A. Proclamations recognizing Stanley Jazz Messengers - Middle School Big Band Division tied for the Second Best Middle School Jazz Band in the Nation
      Recommendation: Receive and file.

   Mayor Anderson thanked the Stanley Jazz Messengers for their music and he presented proclamations to all members of the band, recognizing Stanley Jazz Messengers who are in the middle school big band division tied for the second best middle school jazz band in the nation.

   B. Erling Horn, Public Art Committee
   Winners of the 50th Anniversary Logo Contest
   Recommendation: Discuss and direct.

   Erling Horn, Public Art Committee member, Windsor Drive, presented the 50th Anniversary Logo Contest and the logo which will be used throughout the year. In cooperation with the Lafayette Arts program, they asked three high school art departments to participate which were Acalanes, Campolindo and the Bentley School. Judges were asked to participate which were members of the Public Art Committee as well as two members from their Banner Committee.

   They unanimously selected Sophia Cruz as the winner and Mr. Horn displayed the winning logo. He also presented a display of how Ms. Cruz’s logo will fit nicely on the Love Lafayette bumper sticker. Miles Wiesenthal is their runner up and he displayed his work.

   Mr. Horn introduced Mr. Wiesenthal from Acalanes High School who said he takes Digital Design II and presented his logo. Mayor Anderson presented Mr. Wiesenthal with a $25 check and congratulated and thanked him for his work. A round of applause followed.

   Vice Mayor Tatzin stated the committee was very impressed with the entries and he thanked LPI for organizing the effort and students and teachers for participating. He asked if the Council would be interested in asking the Public Art Committee to work with a number of entrants to create a display out in the lobby sometime in the next several months like a collage.

   A round of applause followed and the Mayor and Councilmembers thanked Mr. Wiesenthal and Ms. Cruz.
C. **Tracy Robinson, Administrative Services Director**  
*Introduce Planning Technician Emily Carroll*  
**Recommendation:** Receive and file.

Administrative Services Director Tracy Robinson introduced the City’s new Planning Technician Emily Carroll and provided a background of her education and internship with the planning department where she worked on a comprehensive traffic study for the downtown. The Council, audience and staff members welcomed Ms. Carroll to the City.

D. **Steven Heinsma, Recreation Coordinator**  
*Accepting Resignations and Recognizing graduating Youth Commissioners Windy Margerum, Ryan Summerlin, Lia Swan, and Uma Unni*  
**Recommendation:** Accept resignations and recognize the contributions of the graduating Youth Commissioners.

Recreation Coordinator and Staff Liaison for the Youth Commission Steven Heinsma announced that not in attendance were Ryan Summerlin who will be going to UC Santa Barbara and Uma Unni who will be attending UC Berkeley.

He introduced senior Lia Swan and said she will be attending Oregon State University. A round of applause followed, and Ms. Swan stated being on the Youth Commission was a great experience for her and she will be sad to leave.

Mr. Heinsma then introduced Windy Margerum, the current chair of the Youth Commission who has served since 2015. She will be attending UC Berkeley. A round of applause followed, and Ms. Margerum thanked the City Council for the great opportunity to serve, said she learned a lot about leadership and working as a team.

Mr. Heinsma said the Youth Commission is a lot of fun and it is sad to see seniors go. They provide amazing things while on the Commission and taught many of the younger associate commissioners about leadership.

Mayor Anderson said he and Vice Mayor Tatzin have served as liaisons to the Youth Commission for a long time and he thanked the seniors and wished them well.

E. **Annual Update – Capital Projects Assessments Committee (CPAC)**  
**Recommendation:** Receive and file.

Gary Huisingh, Chair of CPAC, introduced member Bob McClain, Lee Thompson and Ann Farrell and said they are before the Council to provide an update on their progress. He thanked the Council for providing funds last year in the CIP budget to review metal pipes throughout the City. City Engineer Tony Coe and his team were able to review 330 segments and survey them. They included 11 high priority locations in this 2018 CIP which they are recommending on the project list for upcoming work. There are 70 more locations throughout town which they will continually monitor and assess every two years.
Mr. Huisingh stated the remainder of the CIP focuses on pavement management. There are 12 failed roads remaining to be fixed and in this upcoming 2018 CIP they are going to finish fixing 6 this year and the remaining in 2019. This year’s CIP will also focus on slurry seal work on 15 locations and overlaying a portion of Pleasant Hill Road. They are also looking forward to SB1 which passed recently which increased the gas tax which means $144,000 for Lafayette in FY 2018 and approximately $428,000 annually thereafter.

CPAC recommends the City Council continue in its historical funding levels for the CIP to satisfy the State’s maintenance of efforts requirements and consider establishing a reserve count, the purpose of which is to accumulate revenue for long-range future projects and to act as a smoothing mechanism for some of the volatile bidding seen with capital projects. Mr. Huisingh concluded his update and said they were available for questions of the Council.

Vice Mayor Tatzin thanked CPAC and the City Engineer for their work and specifically for asking the City to survey the pipes. He said he remembers when former Mayor Erling Horn spent a Saturday morning wading through a deep flood in someone’s home and by assessing this now will avoid those problems. He stated the Engineering and Public Works Subcommittee of the Council met and had some suggestions as to high priorities, and he asked if CPAC had a response to that.

Mr. Huisingh said they have not met since the study session, and Vice Mayor Tatzin suggested CPAC review what the Engineering and Public Works Subcommittee recommends as priorities for the SB1 money and provide the Council with their comments.

Mayor Anderson referred to the reserve account and asked for the amount of funding.

City Engineer Coe responded stating the Engineering and Public Works Subcommittee came up as a starting point of discussion was perhaps taking a two-tier look at the additional gas tax money with some of the higher priority projects accumulating revenues from the first 5 years and then thereafter, the second half putting those funds into the reserve.

Mayor Anderson likened this as a strategy for SB1 money, and Mr. Coe confirmed. He added that the current revenue the City has that the City Council has been historically allocating is fully committed to the on-going road and drain program in place.

Mayor Anderson recognize the importance of this work and the Council will hold discussion regarding the Stanford Study and he suggested CPAC stay and review what is discussed regarding commissions, and thanked CPAC for their work.

10. CONSENT CALENDAR

ACTION: It was M/S/C (Tatzin/Mitchell) to adopt Consent Calendar Items A, B, C and D. Vote: 5-0 (Ayes: Anderson, Tatzin, Burks, Mitchell, and Samson; Noes: None).

A. City Council Minutes
   May 8, 2017
   Recommendation: Approve.
B. **Annual Housing Report for 2016**

   **Recommendation:** Authorize staff to submit the annual report to the Department of Housing and Community Development.

C. **Declaring Surplus Property**

   **Recommendation:** Declare the two vehicles described in the staff report as surplus property.

D. **April 2017 Code Enforcement Report**

   **Recommendation:** Receive and file.

11. **OLD BUSINESS** – None

12. **STAFF REPORTS**

   A. Steven Falk, City Manager

      **Renewal of City Manager’s Employment Agreement**

      **Recommendation:** Review and approve the attached draft City Manager Employment Agreement.

City Manager Steven Falk stated the City of Lafayette operates under a Council/Manager form of government as opposed to a strong Mayor form of government wherein the City Council is elected by the people, serving as volunteers, and appoints a professional manager to carry out its policy direction. In that effort, the Council has employed a number of City Managers over the years and he has been fortunate to serve for the last 21 years and he remains enthusiastic about the position.

Before the Council tonight is an extension of the City Manager employment contract for the Council’s consideration. He noted that regardless of his enthusiasm for the job, the Council’s first responsibility is to select the City Manager best suited for the organization and to serve the members of the Lafayette public. Because he has been a long tenured manager, the Council knows his strengths, deficiencies, who he is and what he is capable of, and is fully informed about his skill set.

The contract before the Council is a 3-year contract. It mirrors the other 7 contracts he has previously engaged in and the only note he will make is that he had a conversation with the City Attorney this morning. Because the contract has been evergreen and they are in the 7th term of the contract, it has not undergone a review recently to ensure it is consistent with California State law and they both feel this is important to do. Therefore, he and the City Attorney would recommend, that the Council direct the City Attorney to review the contract for consistency with California law and return with any changes that are required.

Vice Mayor Tatzin asked and confirmed with the City Attorney that it would take no more than a couple of weeks to conduct the review of the contract. He wanted to recognize there will not be a full Council between now and the end of June.

Councilmember Burks said he received an email from Susan Candell and she provided data related to comparisons between City Managers both regionally in the Bay Area and across the state. He thanked her for her email and he looked into this. When looking at the data, it does appear that the City...
Manager’s severance of 18 month’s salary and benefits is quite a bit higher when compared to the Bay Area and statewide. He questioned if the City Manager or City Attorney could provide some context around this.

City Attorney Subramanian said it is her understanding that back in 1992 the Lafayette Finance Subcommittee made a recommendation to the Council at that time to include a severance package for the prior City Manager. At that time there was no severance in the City Manager’s agreement. The subcommittee thought this did not enable the City Manager to make strong determinations or decisions because of concern for job safety. There was a recommendation to include a severance package in the agreement and at that time it was 12 months for the prior City Manager. When the new City Manager came on board, because he did not have the same experience, severance was included at 6 months. However, the agreement was then amended in 1996 to allow for an additional month for each year of employment with the City capped at 18 months. Therefore, this is how they arrived at 18 months in the agreement.

Councilmember Burks stated in Section 4-A under Termination and Severance Pay, the language states that “provided, however, that in the event the employee is terminated because of his conviction of any felony or for willful misconduct in office due to a reasonable determination of the Council, in that event the employer shall have no obligation to pay the severance designated in this paragraph.” He asked if the City Attorney was comfortable in this language insofar as it provides the Council with reasonable discretion to make such a determination when it comes to assessing willful misconduct while in office.

City Attorney Subramanian said there is no definition of willful misconduct in the law and as seen in the agreement, there is no definition of this and it would be something the Council would need to determine should there be such a situation. The agreement provides for a pseudo hearing process. Examples could be theft or embezzlement, but again, there is no strict example in the law or in the agreement of what that would be. While flexible, it is open to interpretation.

Councilmember Burks asked and confirmed with Ms. Subramanian that the Council would be able to exercise that interpretation in a closed or open hearing depending on the employee’s preference.

Councilmember Samson asked how the Council is to evaluate the contract in the context of compensation.

Ms. Subramanian stated the compensation is not proposed to be changed. The agreement provides that compensation is considered and amended per resolution. What is only being proposed is an extension of the term of the agreement and a discussion about compensation would be undertaken after a performance evaluation and in a public meeting for consideration.

Councilmember Samson asked and confirmed that the practice has been that the City Council reviews the City Manager’s salary annually after a performance review. The performance review takes place between May and June. Typically after the performance review is completed, the Council will retire to Closed Session. Based upon the quality of the performance the Council will deliberate as to whether the City Manager should receive a pay increase or not and if so, what that amount should be. The Council will then adjourn to open session, meet with the City Manager, direct the City Manager to prepare a
resolution that would be agendized on a subsequent Council agenda typically on the Consent Calendar. This has been the practice over the last 35 years.

Ms. Subramanian added that the law had changed January 1, 2017 such that pay increases for executives could no longer be on the Consent Calendar going forward, but she confirmed that in the past it was allowed on the Consent Calendar.

Councilmember Samson echoed Councilmember Burks’ comment and concern regarding the 18 month severance pay notwithstanding the history behind it. He looked at other Bay Area cities as well as northern California special agencies and the longest severance period he could find was 9 months with a large cluster around 6 months. Therefore, 18 months gives him pause.

Councilmember Mitchell asked for clarification regarding Councilmember Samson’s question. He referred to page 5 which states, “estimate of total compensation”. It talks about the salary, bonus, housing allowance, etc. He said these items will come back, but he asked if the items in the City Manager’s employment agreement which include administrative leave and performance evaluations are things the Council will review this evening. Ms. Subramanian confirmed.

Vice Mayor Tatzin returned to Section 4-A regarding termination and severance, and asked if there have been any changes in State law that would now make what the Council did in 1996 impermissible today.

Ms. Subramanian said the maximum the Council could provide is 18 months severance and this needs to be worded carefully, so staff will be double checking the language upon review of the agreement should the Council authorize it.

Vice Mayor Tatzin said in following on from Councilmember Burks question, when it talks about willful misconduct could that include things like refusing to implement a Council direction or a Council policy that is of substance.

Ms. Subramanian said it sounds like willful refusal as opposed to inadvertent refusal is something the Council could consider. There would obviously be a counter from the City Manager should that be the case which is the process of the hearing. If there is a desire, she could provide a more definitive definition of “willful misconduct” but this obviously opens the discussion and agreement.

Councilmember Samson said he was a bit concerned that the Council was splitting the approval of the contract with the discussion of compensation. The two should be considered at the same time and he wondered if there was any downside as either a matter of law or as a matter of policy in putting the two together. He imagines it would take two separate resolutions, but they could be considered in juxtaposition at the same meeting. He said he was concerned with approving a contract that says the compensation will be determined by resolution and that may not happen until two months in the future.

Vice Mayor Tatzin stated he thinks there are two issues; one is that the current contract expires on June 30th and one reason this is on tonight’s agenda is that all 5 Councilmembers will not be present between now and any meeting by June 30th. He said the Council could extend the contract by a lesser period so
that there could be a consolidated salary discussion, but obviously there were many years that the Council adjusted salary without extending the contract so they are not always tied together.

Councilmember Samson said this may have been done, but he was not comfortable with it and he was not casting any questions or aspersions on the City Manager’s performance or pre-determining anything about the contract itself or the compensation, but he would like to have the two considered together. And, he understands the logistics problems of not having Councilmembers present for various reasons over the next month. He would prefer extending the contract for a 90 day period or some other reasonable amount until such time that the performance evaluation has been done and all Councilmembers can be present to consider it as a total package.

Mayor Anderson opened the public comment period.

Public Comments:

DR. JOEL BROISKIN, said he is a 40 year resident, has served in a number of community capacities including being elected to the Lafayette School Board and is currently a professor at UC San Francisco School of Dentistry. He asked the Council to imagine they are the City Manager sitting in their office and a citizen walks in who proposes putting a 20 ton, million dollar concrete play structure in a quiet little neighborhood park, Leigh Creekside Park (LCP), which was purchased by the City with contributions from citizens who were told the park would remain in its natural state. The solicitor asks to hire their brother to design the structure for a mere $17,000. He asked what a good City Manager would do. He asked the Council to consider words like, “are you kidding?” or “No way”. Instead, the City Manager gives it a green light, hires the brother and pays him and before long the City’s PTR Director has produced a slick report and promotional video at taxpayer’s expense and literally hundreds of hours of staff time is directed towards developing this project. It did not matter that 85% of people living within earshot of the project opposed it or that $40,000 of contributions from citizens to keep the park passive were accepted by the City. The City Manager never asked neighbors what they thought; it was “full steam ahead.”

Now there have been over 50 meetings in the last 3 years on this grotesque, unpopular, concrete edifice. He asked how much those meetings cost to taxpayers and he said in today’s budget, an additional $30,000 is earmarked for yet another park study. He said this is a public embarrassment and an example of the very worst of government practices. In the meantime, the City’s infrastructure is in disarray and the Council continues asking the public for more to fix things. He said this issue has divided the community, caused the expenditure of over $175,000 with more spending on the way. He questioned the number of potholes that could have been fixed with that money and, perhaps the greatest tragedy is the terrible loss of trust residents have in the Council for being disrespected and marginalized by the very City they love over a play structure of all things. He said this is not good city management and if this reflects the management style of the current office occupant, he recommended the Council look elsewhere.

Councilmember Mitchell commented that he respects the speaker’s ability to make his opinion known, but if he is very upset he should direct his anger towards the City Council because the City Manager implements the policies of the Council.
Dr. Broiskin stated he does not believe in this instance that the City Manager did that. In looking at the history of this issue, it appears as if he took a lot of leeway on his own prior to the Council taking any action and that influenced some of the Council’s decisions.

DAWN EAMES, said as a property owner and resident for 65 years she has seen Lafayette grow considerably. Although the City Manager lists many accomplishments, she is aware of several lawsuits filed against the City in the last two years and public outrage on issues such as allowing the water system on the east end district fall into disrepair, the Wight home lawsuit, Deer Hill Homes project lawsuits, sales tax increase failures to pass, congestion study due to over-development, Leigh Park as a natural park, PG&E tree mitigation payments going into a restricted fund for trees and plantings in east end medians rather than sides of boulevard landscaping which was negotiated without east end district input. She asked if those were considered in the City Manager’s performance in meeting the needs of the citizens, property and business owners who pay the Manager’s salary. She questioned what criteria for performance were used and asked if there is a duty statement which the public can view to measure achievements, and if so, she asked for a copy.

She said severance pay of 18 months seems to be quite long and quite high for a public servant and when calculated, it ends up being $500,000. Although the Manager’s salary may be similar to cities of similar size with vacation and a mini-sabbatical of three weeks after three years of the agreement, health, dental, life, disability insurance and retirement contributions, car benefits including transfer 1/20th of the City’s remaining equity in the Manager’s house to the Manager is quite generous as it is, and she would support 6 months versus 18 months in severance pay.

DR. PAUL MELMED, said according to the employment agreement first entered in October 1996 and amended in June 2014, his attention is drawn to Item 8 which is contingent bonus. It states, “The Council may at its sole discretion grant the employee an annual bonus payment of up to 10% of the employee’s annual base salary. Such bonus if granted either in whole or in part shall reflect performance by the employee that exceeds expectations.” City records show that the City Council did grant during this past decade the following bonus amounts: $2,114 in 2011; $731 in 2012; $5,000 in 2013; $10,000 in 2014, which has continued every year since.

He said he was trying to make sense of these facts and being an employer himself in Lafayette since 1970 and at one point having 25 professional employees, he struggled with bonuses. In fact, there are times where income was questionable and difficult for a year and he had to decide whether to expand his business and provide more services for people coming or whether he should stockpile the cash to pay out bonuses. He thinks it is a disservice to the employee and to the employer as well. It is very, very difficult once a bonus is given because there is then an expectation on the employer’s part that this will continue and the employee factors that into their own revenue and expense stream to pay for landscaping at their home, pay their kid’s tuition or do whatever else they will do with the bonus they think they will get. He proposed a change in the employee agreement to strike Item 8 and not to grant another $10,000 bonus this year, especially if the Council does not see performance that actually exceeds expectations.

Vice Mayor Tatzin commented that Lafayette is one of three cities in the State of California that does not have a defined benefit contribution plan. When reading about public agencies facing bankruptcy because of their pension obligations, Lafayette is not one of them. Employees, while they have a fairly
generous retirement plan by the standards of private enterprise, it is not as generous as compared to other public agencies. He said Dr. Melmed is correct in reading the results, but neglected to read the bonus in 2009 and 2010 which was zero. The reason for that was the City and the country was facing difficult times and the Council made cutbacks. Unlike many agencies, the City did not have to eliminate a lot of staff but they did eliminate the bonus programs for those years, and their current bonus program provides this flexibility.

The other thing the Council has done is that several years ago during difficult times, they closed City offices between Christmas and New Year’s. In calculating this as 2% of the year, if someone’s salary is $100,000, they actually receive $98,000 because employees do not get paid for that week. This practice has continued even though times have improved. He appreciates Dr. Melmed’s comments, but wanted to add this to make the record complete. Also, the Council has not considered a bonus for the current fiscal year so it now stands at zero.

SUSAN CANDELL, when she looked at the agenda item she noticed there was something to look into. There are two outliers in the current compensation package. Like Councilmember Samson said, this does not reflect on Mr. Falk’s current performance, but in general, this is a policy and compensation package that has two outliers and one is base salary. It is not a huge difference but the City Manager is paid the most of any City Manager for a city of Lafayette’s size in the State of California. He is getting paid more than cities that are far bigger than Lafayette.

The big outlier is the 18 month severance package. There are clauses regarding reasons for termination, but when compared to cities like Walnut Creek, if employment is terminated without notice, severance is 13 weeks. Moraga, San Ramon, Burbank and Los Altos all have 6 month severance packages. She believes it has been a while since this issue has been reviewed. She asked the Council not to “rubber stamp” this another year and asked to fully review it.

MIKE GRIFFITHS, thanked the Council for the great jazz performance, said he was speaking for himself as well as a couple of colleagues who could not attend the meeting tonight. He referred to performance and supported listing out some of the achievements of the City’s administration in the last 12-18 months. He has a list of 14 issues that people have provided him regarding administration over this time. The topic is that the City has been taking actions that have been upsetting residents across the entire city. In talking with Burton Valley, Reliez Valley, Spring Hill, Happy Valley, and downtown, all residents are unhappy with the City. This reflects on the City Council and on City administration. He was not being personal but it is something to consider. No one likes to get into lawsuits and openness and transparency and effective interaction prior to this would be very valuable.

The second thing about performance is that if he reads the contract correctly, the City Manager’s contract says the salary cannot go down unless all other staff under the City Manager also has reductions in their salary. If the focal point is the performance of an individual, he questioned why other staff must be taken into consideration as well. He asked that this be taken into consideration of being fair and balanced.

Lastly, some Councilmembers have brought up a good question regarding reviewing the contract and he asked if there will be a public opportunity to have this type of hearing when that reconvening occurs. This is a check point in the process and residents would like to be involved in the entire process because
it impacts residents in a serious manner. Regarding severance, Ms. Candell made some good points. The average City offers 6 months of salary and not of total package. Therefore, a salary of $240,000 produces severance of $144,000 as compared to the proposed package of roughly 3.6 times that. He thinks this is way out of line with other comparable cities, even a city like Walnut Creek who hired a manager for $254,000 in salary with severance of between 65 days and a maximum of 9 months.

Vice Mayor Tatzin asked if Mr. Griffith could provide the Council with a copy of the list of 16 points he mentioned that he gathered. With response to the other question the Council will receive advice from the City Attorney that if they re-open the contract and how this is done. He also noted some of this will be in Closed Session because it is a personnel matter and some of it may be in Open Session, but the adoption of the agreement would be at a noticed hearing similar to tonight and the public could read the contract and make comments prior to the Council acting on it.

Councilmember Samson commented to the extent Mr. Griffith feels people are upset in certain parts of the community this is one thing to take issue with the City Manager’s policies. This should be evaluated in the performance review. However, when talking about litigation over the last two years, the City has not initiated any lawsuits but has been a defendant. The City Council, City Manager or City Attorney has no control over who sues.

Mr. Griffith commented that if litigation were not deemed necessary it would not happen. Therefore, citizens would not bring lawsuits if they felt there was a good dialogue.

CHERYL MACDONALD said she lives in the east end and echoed all of Ms. Eames’ comments. She voiced respect for Councilmember Samson and Councilmember Burks for their review of the issue as much as they did. She likes the idea of having an extension and doing it in 90 days or whatever is agreed to by the Council.

Mayor Anderson said there is a sense that there may be value in continuing the item to consolidate discussion of the contract with the actual compensation, and he suggested the Council discuss this.

Councilmember Mitchell said that the Council would need to extend the terms of the existing contract. The Council has a long history of continuing an item until it has received all information. He would be comfortable adhering to this policy and thinks it is reasonable to continue the item.

Vice Mayor Tatzin said in recognizing this also involves the City Manager, he asked for his comment on the suggestion to extend the contract for something noticeably less than 18 months before the Council acts.

Mr. Falk said he and the City Attorney are reading Section 2B of the draft contract which reads, “Subject to the employer’s right to terminate employee’s employment at any time, the term of this agreement is 3 years from the effective date and shall automatically renew itself for successive 18 month periods.” So the 18 months always remains on the terms of the agreement unless employer notifies employee of its intent to terminate this agreement at least 18 months prior to the end of its 3 year term or any successive 18 month term. His understanding of that is that the Council does not need to extend the contract. It is an evergreen contract and automatically extends for 18 months every day and the purpose of bringing this to the Council every 3 years is for the parties to discuss whether they wish to amend any
terms in the contract, but his understanding is that the Council does not need to extend it, as it automatically extends.

Ms. Subramanian concurred and said if the Council does nothing at all, the contract automatically extends for the 18 month period.

Mayor Anderson said it seems there are terms in the current agreement being considered for modification. If the contract automatically extends for 18 months, he asked if this means the Council cannot modify it during that period.

Ms. Subramanian said the Council can do this and can return and amend the agreement. The term would continue but the other provisions could be modified.

Councilmember Burks asked what would occur if the Council returns, moves to amend an element of the contract and it is not acceptable by the City Manager. Ms. Subramanian said it is not amended. That is the caveat; that both parties must agree to an amendment to the agreement. If they reach an impasse the contract is not amended.

Councilmember Samson directed the City Attorney’s attention to Section 22; Other Terms and Conditions of Employment. He asked for her thoughts on whether or not this would allow the Council to continue the contract for a more limited, finite period.

Ms. Subramanian said if the Council would prefer to come back and amend it for a shorter period the Council can to bridge this gap. The Council is not prohibited from implementing a shorter 60 or 90 day provision to extend it to allow the Council to have a full Council. The alternative would be to do nothing and the contract would extend for 18 months. As Councilmember Burks pointed out, if the Council wished to amend anything both parties would need to agree. The case of both parties agreeing is the same case if the Council returned in 90 days and wanted to amend provisions of the agreement.

Mayor Anderson asked Mr. Falk if he would be amenable to a 90 day period and then have an opportunity to amend the agreement after this time. Mr. Falk said yes.

Councilmember Samson said he appreciates the City Manager’s flexibility and said he was not in any way suggesting an outcome one way or the other with regard to compensation or length of the contract. He said he thinks it is important that they both be considered together and is not comfortable with the idea of an automatic 18 month extension until such time as the Council can review.

MOTION: Councilmember Samson made a motion that pursuant to Section 22 of the City Manager’s contract that the Council extend the agreement for a period of 90 days and at sometime within that 90 day period the City Manager’s contract be returned to the Council and at the same meeting the discussion on the resolution of appropriate compensation be brought back.

Vice Mayor Tatzin seconded the motion with the provision that within the next week the City Clerk distributes the City Manager evaluation forms and that the Council schedule a Closed Session and then public hearing to discuss both the evaluation and the contract and to complete all work within the 90 days. Councilmember Samson accepted this amendment.
Councilmember Burks asked for another amendment that concurrently, the City Attorney also review the current contract in terms of its compliance with State law within that time period. Councilmember Samson and Vice Mayor Tatzin accepted the amendment.

Councilmember Mitchell clarified that the evaluation forms will be provided by the City Clerk, Councilmembers complete them and forward them to the Mayor, a Closed Session is held to discuss the results from the evaluation and in that Closed Session, the Council can also talk about the contract and return with a package within 90 days to be heard as a public recommendation after which the Council can move forward. At the same time the City Attorney will review the language so when the Manager is evaluated in Closed Session, the existing agreement will be modified to be consistent with current State language.

Vice Mayor Tatzin said 90 days from now would be the Council’s second meeting in August which they do not have. With the City Manager’s concurrence, he asked if this could be extended 120 days which would take this to the end of September. Mr. Falk stated yes as long as the terms of the employment agreement are not altered during that period, and Councilmembers agreed they would not.

Ms. Subramanian clarified further, stating that the item currently before the Council did not contemplate a shorter period. She asked if it would be more prudent to return with a simple amendment to extend it for the period being discussed. She said there would be many sections in the agreement that would need modification and she wanted to be clear on the Council’s preference.

Mayor Anderson said he was wanting simplicity, and what he has received is the City Manager’s acceptance of the fact that the Council needs time to work on the evaluation and review and if they continue the current contract for the next 120 days this should be enough time to have the Attorney’s review of the contract language for consistency, for the Council to do an evaluation and arrive at a recommendation on his upcoming compensation changes and also review the contract itself with suggested changes and compensation in one meeting where the public can be present and discuss it.

Ms. Subramanian said if the Council does not have an executed/amendment then the contract renews for 18 months which is not what she is hearing the Council wants to do. Therefore, she suggested an amendment that does not create the 18 month or 3 year extension term, but simply creates the 120 day extension.

Mayor Anderson confirmed that the Council was in concert as the City Manager as one party and the City Council as another; that they will take no more than 120 days to do what is necessary to return with a revised compensation and evaluation and possibly revisions to the contract that will then be considered from that point. He does not want to have to make this a resolution or hold a separate meeting to accomplish that.

Ms. Subramanian said it sounds as if the Council is directing her to prepare an amendment that accomplishes that. Mayor Anderson asked if the Council needs to meet again to approve that amendment. Ms. Subramanian said if the Council would like to direct her to prepare such an amendment to coordinate it with this agreement she can. If the Council would prefer seeing it, she would suggest bringing it back.
Mayor Anderson said he did not wish to bring it back. The Council has a motion and a second which is consistent, but he wanted to ensure the maker of the motion and the seconder of the motion accepted this.

ACTION: It was M/S/C (Samson/Tatzin) that pursuant to Section 22 of the City Manager’s contract that the Council extend the agreement for a period of 120 days and at sometime within that period the City Manager’s contract be returned to the Council and at the same meeting the discussion on the resolution of appropriate compensation be brought back; to direct the City Clerk to distribute the City Manager evaluation forms to Councilmembers and schedule a Closed Session and public hearing to conduct the performance evaluation; that the City Attorney concurrently review the contract to ensure compliance with State law; that the issue of compensation shall be determined at the same Council meeting as review of the contract; and to authorize the Mayor to execute that amendment. Vote: 5-0 (Ayes: Burks, Mitchell, Samson, Tatzin and Anderson; Noes: None).

13. PUBLIC HEARINGS
   A. Donna Feehan, Management Analyst

Management Analyst Donna Feehan stated the City has two assessment districts which were formed in 1979. In order to collect assessments each year the City must conduct a public hearing, approve the Engineer’s Report and resolutions to levy those assessments for each district, and she said she was available for questions.

Councilmember Burks referred to assessment methodology as it pertains to the execution of the actual plan for the Core Area Landscaping. It appears that revenue from assessments and interest earnings is staying flat while expenditures are increasing and taxpayers are paying for it out of the General Fund. This year, the City will transfer around $186,000 or $230,000 from the General Fund to support this Workplan. He asked what was transferred last year from the General Fund to bridge the gap between assessments and expenses.

Administrative Services Director Tracy Robinson stated it was $186,000 last year and it is $230,000 this year.

Councilmember Burks asked when the last time the assessment methodology was updated. Ms. Feehan said since the passage of Proposition of 218 in 1996 there have been no increases.

Councilmember Burks asked for the process to increase parcel assessments for the District. Ms. Feehan stated the City attempted an overlay district a few years ago for the Core Area Landscape and Lighting District which did not pass. It is a mailed ballot measure and a weighted assessment of each property and a majority vote is needed for passage.
Councilmember Burks confirmed with Ms. Robinson that the City went out to ballot in June 2007 or almost exactly 10 years ago.

Councilmember Burks asked why the City has not gone out since then for another ballot. He would understand given the economy during 2007 and 2008, but given the increased costs and expenses, the great job the City has been doing maintaining the district, he thinks it is of benefit to continue providing services. However, the gap is getting bigger and bigger and this money is coming from taxpayers out of the General Fund.

Mr. Falk stated it was political calculation on the part of the City Council. The City approached the business property owners in 2006 and 2007. There was support from the Chamber of Commerce, opposition from some large land owners, and the proposition failed by a wide margin. There has not been a perception that the property owners would support either a new assessment district or an increased level of assessment.

Mayor Anderson added that he spoke with Jay Lifson of the Chamber of Commerce earlier this year because he wanted to hold discussions. Mr. Lifson felt strongly that property owners would not support any increase in their assessment. His feeling was that it was a cost the City had to bear. He thinks the defeat suffered was significant and it was ironic because there would have been people who would have paid less who did not vote for it. Therefore, there is no consideration of something being changed. However, it has been 10 years and they could consider it again, but the Chamber of Commerce does not appear to be supportive as well.

Vice Mayor Tatzin said these are all good comments about the City’s attempts and there was no support. At that point, the City established a policy stating the City would supplement the assessment district up to a certain amount. Then, they would start reducing services when exceeding that amount. A Council subcommittee was appointed to determine how to implement that. The subcommittee did not return with a specific recommendation and when the Council was faced with the choice of adhering to that limit and starting to cut back services or putting more money into the fund, the majority of the Council chose to put more money into the fund which has happened ever since.

If the Council wants to make a policy decision that it will no longer supplement the fund and reduce services by the amount it supplements it, this is their choice and they could talk with staff about what kinds of changes this would result in, such as what the medians would look like, how often maintenance would occur and things like that.

Mr. Falk said in the aftermath of the dot com crisis which was two recessions ago, a City in east county faced the collapse of their downtown assessment district and at that time the City Council and City Manager made a decision to stop maintaining the median islands and landscaping in the downtown unless and until property owners stepped forward with an agreement to pay higher assessments. This went on for about 12 to 18 months and after just a few months the downtown looked shabby. It had a deleterious impact on the downtown that lasted for years where retailers and businesses refused to go there because it was viewed as a town that did not take care of itself.

Therefore, his comments to the City Council during this period where core area expenses have increased above revenues were that the City needs a way to fund it. This was the main impetus for putting
Measure C on the ballot last fall. He does not think it is a winning strategy to not maintain the downtown. This is the Town green and one part of the City everybody goes to and takes pride in, and he thinks it would reflect very poorly on the City if they chose not to maintain it.

Vice Mayor Tatzin said the counter argument was not that the City does not maintain it but that it redesigns it so they have something that does not require as much maintenance. Therefore, for what it is, it looks good but just not what the current one is like; however, they did not have the votes to do that.

Councilmember Burks thanked staff and Vice Mayor Tatzin for the history. His concern and question are when is the tipping point going to occur with costs that continue to rise. He believes there is some assumption of supplementing he would be in favor of, but when costs increase and those coming from the General Fund when there are many other things the community wants, it concerns him, but he knows it is a policy decision and he was thankful for the history provided.

Councilmember Mitchell stated the Public Works Subcommittee when he and Brandt Andersson sat on it a few years back reviewed this issue. He noted Ron Lefler did a good job of looking at how the City could re-orient maintenance work being done and there were some shifts made to types of plants and frequencies for trimming. Donna was serving at that time also. They were able to cut approximately $100,000 from the budget, but he agreed costs continue to increase and he recognized Councilmember Burks’ concerns.

Ms. Feehan stated this was $100,000 and Mr. Lefler spread that over the other Public Works budgets which include road and drain and other areas so the entire hit was not taken in the Core Area. However, prior to the recession, they had cut $50,000 from this budget at that time as well, so things have been done to keep costs down. In looking at past budgets, costs have not increased dramatically while adding inventory such as medians, plants and irrigation. They have also converted irrigation to drip irrigation which saves money as well as maintenance savings. In the past, they have had some balance at the end of the year which has kept things more in check so more funds were not being contributed to the fund each year. Now they have gotten closer to a balance with just the $100,000 which will need to be increased and more of a budget will exist at the end of this year than zero which is shown. Staff has spent a lot of time this year on storm maintenance and so the Council will see a fund balance this year even though the projection might be to spend the entire budget.

Mayor Anderson opened the public hearing and called for comments. There were none and he closed the public hearing.

Vice Mayor Tatzin said recognizing all this does is approve the levies for the Core Area Landscape and Lighting District, he made a motion for approval.

ACTION: It was M/S/C (Tatzin/Mitchell) to adopt Resolution 2017-15 Confirming the Engineer’s Report, Diagram and Assessments for Fiscal Year 2017-2018 for the Core Area Landscaping and Lighting District 1979-1. Vote: 5-0 (Ayes: Anderson, Tatzin, Burks, Mitchell, and Samson; Noes: None).


Ms. Feehan stated the Council is being asked to essentially do the same thing in approving the Engineer’s Report, diagram and assessments for the Residential Lighting District 1979-2. The District includes 12 different zones of residential lights, some small and some larger. This fund does have a balance in it of over $100,000 for anticipated costs; however, if one light is knocked down that would most likely utilize the majority of that balance.

She asked that the Council hold the public hearing and adopt Resolution 2017-16 in order to collect assessments for the Residential Lighting District 1979-2.

Mayor Anderson opened the public hearing. There were no speakers and he closed the public hearing.


B. Tracy Robinson, Administrative Services Director

Resolution 2017-14 Adopting the Proposed Budget/Workplan for FY2017-2018 and CEQA

Recommendation: 1) Conduct public hearing and adopt Resolution 2017-14 Adopting the Proposed Budget and Workplan; Appropriating Revenue and Expenses; Confirming City’s Investment Policy; Determining the Appropriation Limit for FY2017-2018; Determining Fees for all City Services and Authorizing Transfers and Expenditures, including the 2018 Capital Improvement Program; 2) Adopts CEQA findings of a categorical exemption for projects in the 2018 CIP and authorizes staff to record a Notice of Exemption.

Administrative Services Director Tracy Robinson said she would briefly cover some of the points identified on a document which was available to the public in the back of the room. She said staff expects that for FY 2016/17 which will end June 30th there will be a General Fund surplus of about $484,000. For next year FY 2017/18 staff has budgeted General Fund expenditures, transfers and reserves for a total of $16.9 million. This includes $1.4 million for pavement management and $1.3 million to complete construction of the Police Offices.

Because of the construction of the police offices, the proposed budget is out of balance by about $800,000 and reserve funds are being used to complete that construction. This means that the proposed budget reserve projected as of June 30, 2018 will be $8.9 million which translates into 59% which is $83,000 less than the 60% reserve standard the Council has adopted. However, the 5 year budget forecast estimates the City will be able to meet and maintain the 60% reserve target next year and going forward. She was also fairly confident that when the budget is revised in December, the City will most likely not see that $83,000 gap and she expects it will be made up given the City’s conservative approach to expense and revenue estimates.

Ms. Robinson noted some of the significant expenses as transferring $1.1 million from the General Fund reserve to complete construction of Police Offices. She noted that the construction budget includes a
healthy 25% contingency on design and construction which was at the suggestion of the Finance Subcommittee. The Police Services budget will be increased this year by $126,000 for the general 3% increase in the cost of officers. There will be an additional expense of $70,000 to cover about 6 months of double rent at City offices while at the same time rent is paid at the new location. There will be $25,000 for moving expenses and $115,000 for vehicles, a drone and body-worn cameras. Staff also budgeted $200,000 in additional road maintenance funds as requested by the Public Works Director to take care of some of the roads that were battered during the last round of storms. This is money in addition to the $140,000 budgeted for pothole repair. There is also $230,000 for Core Area Maintenance in which General Fund monies will be provided to fill the gap, as well as minor items which she did not name.

She said there are some changes in sinking funds the Council should be made aware of. First the City has implemented a new sinking fund for upcoming General Plan revisions. It has been about 20 years since the last update of the General Plan. Staff recommends building this fund up to about $500,000 and to do so by reserving $100,000 each year for the next 5 years. Therefore, staff added $100,000 to that sinking fund this year. Staff took the PG&E tree mitigation fees and set them aside in a separate fund and these have not been budgeted for expenditure. There was also $145,000 from a development agreement regarding Lafayette Park Terrace which is also sitting in a sinking fund and is not targeted for any expenditure at this time.

Ms. Robinson said the only other item which came in late was that last year the Council budgeted $500 for a poet laureate. The City did not use those funds and there was a request from the Public Art Committee today that if these funds are not expended this year to roll them over into next year’s budget, and this is not currently reflected in the budget before the Council. With that, she was available for questions.

Vice Mayor Tatzin confirmed with Ms. Robinson that the fund forecast for the end of this year assumes the City spent the $500 for the poet laureate, and the Council could continue that or decide not to appropriate it.

Councilmember Mitchell thanked Ms. Robinson for her work in getting the budget prepared quickly and ahead of schedule to accommodate Councilmembers’ schedule. With regard to $145,000 going into a new sinking fund for public benefit per the development agreement of Lafayette Park Terrace, he asked if there were certain restrictions on those funds. He said the funds were originally slated for a park or some public improvements in the area where the new pumping station is.

Ms. Robinson confirmed that the funds are still slated for median improvements and potential signalization and other improvements in that immediate area. There are specifics related to it; however, she did not have the details.

Councilmember Burks thanked Ms. Robinson and Ms. Wakeman for their work in preparing the budget and providing answers to his questions. He asked when the last time the City went in with a Workplan that called for less than a 60% reserve target.

Ms. Robinson said she cannot remember a time where the Council has not completely met the reserve target in the proposed budget. The reserve target had been 50% and prior to that it was 30%; however,
they always had accomplished the goal. She is very confident the City will meet that by the end of 2018 or by the time the budget is revised. As an example, there are monies in the 999 accounts which are generally not spent, but she puts them into the budget as if they will be spent.

Councilmember Burks referred to the police station, stating the original estimate was $1 million which was a placeholder figure. Now they are looking at $2.2 million. He commends the achievement of finding the space and moving into what will be a good space for the community. He questioned the degree of confidence that the $2.2 million will come in at that amount or be less.

Mr. Falk said when staff developed the original budget, they had barely been in the building for 3 hours and since that time they have hired Alan Cross, the architect from Proto Architects. This is the same firm that designed the JRB so the City has experience with them. Mr. Cross has been doing all sorts of invasive testing on the building to understand what systems are old and need to be replaced and which can remain. By and large, everything is old and needs to be replaced. They learned that the sewer line is not capable of conveying the amount of sewage that will come out of that building, so they have to saw cut throughout the center of the building and out to the street. The water main is not large enough to service two lockers rooms so they will saw cut and take a new water main out to the street.

He said police activities use an incredible amount of electricity. This building has a small thin wire that goes to the building. When the architect performed his calculations, they determined that PG&E needs to deliver a new transformer that will sit on a pad behind the building with entirely new electrical service to serve this building and all electronic equipment and electrical equipment police uses. Therefore, water, sewer and power are entirely being rebuilt.

Staff learned that the ceiling beams need to be reinforced given the redesign of the space; that the location where the current bathrooms are is not compatible with the flow of the building given where the front doors are, and they need to be moved to a different location. He said this is basically building a new building inside the envelope of an old building and on top of that, many special requirements a police station has, and as a result, costs will rise. Certain floor finishes have to be blood proof and can be easily cleaned for bodily fluids. There must be stainless steel benches police can handcuff perpetrators. There are radio requirements, a tower in the back, car lifts to hold up to 5 additional cars because of parking impacts, and he cannot provide a guarantee that they will be within the $2.2 million cap.

He spoke with the architect, the City Engineer, Senior Engineer Farzaneh Sanders who was the project manager on the Veterans Building, the Lafayette Library and Learning Center and on the JRB, so she has managed construction of 3 different buildings. She believes $2.2 million will do the job and this includes a hefty contingency. However, it has been the City’s experience that buildings typically cost more than people expect them to and they will do their best to bring it in within budget and will keep the Finance Subcommittee apprised in real time and the City Council in longer increments as they are about 75% complete with the plans and they hope to take it to bid in the next month or so. Once bids are received, they will have a firmer sense of the cost of the project and at that time, the City Council will have much more accurate information than now.

Vice Mayor Tatzin commented that when the Finance Subcommittee met a few weeks ago, the information they were given at the time, the City had asked a cost estimator to develop costs and at that
time the estimated cost was $1.8 million. Following discussion, they all concurred that since this has not been out to bid and the economy is relatively good right now for construction and they had no sense of what the bids would be, they ought to substantially increase the budget even without changing the scope of work. Therefore, his hope is that the cost estimator is correct and that the Council should seek $1.8 million and he would hope staff takes this as the goal and not what is reflected in the budget. The budget was changed to see what would happen if in fact their estimates did not work and not as simply raising the cap and spending the additional funds.

Mayor Anderson said this is a good point. He thinks given the bidding climate it will be hard to get good pricing. Everybody is very busy and the Council will see where the numbers come in.

Councilmember Burks said he appreciates it as it is a critical facility and the City needs to do it right. It is a big number and the more the public is aware of where it is heading is important.

Additionally, in regards to the projected legal fees, given on-going legal litigation and the environment the City is in, he asked if the City Attorney felt comfortable with the budget provided and reviewed.

Ms. Subramaniam stated yes they do. To the extent they get additional unexpected litigation, this could impact this figure but they would recommend an update in that case.

Councilmember Burks referred to parks facilities on page 114, Line 861 and $30,000 for contractual services for the EIR. The Leigh Creekside EIR puts the final O&M for park facilities at 2529% over. He asked if the City was supportive of this and asked if this would impact any goals or objectives the City has involving parks and facilities.

Ms. Robinson explained she did not believe the $30,000 was a transfer from the General Fund and she said she would check and deferred the question to PTR Director Jonathan Katayanagi.

PTR Director Jonathan Katayanagi said currently Fund 12, because of the development of the JRB has been running in the red, they expect in the next budget year as development fees come in for Fund 12 they will once again be in the black and end the year with enough in the fund that they can move forward with developing facilities out of this fund. There is enough to cover the focused EIR for LCP. The other fund utilized for park facilities is Fund 17 which is primarily dedicated to Deer Hill Park at this time, but they are projecting great revenue moving forward for both accounts.

Councilmember Samson said while generic, he asked what would occur if there were a significant under-estimation of the cost for legal services and asked how the account is balanced out.

Mr. Falk said the way the Lafayette Municipal Code is written is that when the City Council approves a budget for a City program, the City Manager has the authority to spend up to that amount within the program. If at some point it appears that the program is going to go over budget, whether legal services or any other program, it is the responsibility of the manager typically through the Administrative Services Director and Finance Director to approach the Council and indicate they need to adjust the budget for that program. Typically that happens in December. In the middle of the year they return and indicate they are running high and the reasons, or that there may be more than the expected number of
lawsuits, etc. and this can happen also at any time of the year and the budget is raised and staff is authorized to spend money up to that new higher ceiling.

Vice Mayor Tatzin said he and the Mayor as the Finance Subcommittee asked a lot of questions during our meeting and will not be repeating them now.

Councilmember Burks said he hears comments and questions from neighbors about situations in communities around Lafayette and questions about being able to afford sinkholes, potholes, bridges that are out, etc. He asked for brief comment on the general health of the budget.

Mr. Falk stated Lafayette is his estimation is in excellent financial health, particularly when compared to other cities and this is primarily due to the factors that Vice Mayor Tatzin mentioned earlier; that of the 500 cities in California, 497 of them are in the CalPERS system and 3 are not; Lafayette, Danville and Orinda. For that reason the City is not facing a looming crisis related to the payment of retirement benefits or other post-employment benefits. Because the City has a defined contribution program rather than a defined benefit program, the Council knows exactly what it needs to contribute towards the retirement program every year and knows with great precision what employee costs will be each year. What that allows the Council to do is to create a budget which is easily understood; one which the City can live with and which in this year will deliver a General Fund emergency reserve of $8.9 million. This is an amount that is completely and entirely unspoken for. It sits in the bank invested in the most stable investments. They return almost no interest to the City at all because they are entirely liquid.

To the question regarding what capability that provides the City, Mr. Falk said it is about 3 sinkholes. Staff knows when the Mountain View Drive culvert collapsed 3 or 4 years ago, it cost about $1.5 million and the City received reimbursement for about $400,000. In that instance, funds went straight out of the reserve to fix the culvert collapse. He believes the Orinda drain collapse is estimated at $2.5 million. He thinks the Moraga sinkhole at Rheem is estimated at $2.5 million and the bridge collapse in Moraga towards Canyon is somewhere between $2.5 and $4 million. What this suggests is the Council can feel comfortable that it can weather 3 mini-disasters at once, but in the instance of a true catastrophe, for example a 7.5 or 8.0 earthquake where freeway overpasses collapse or gas lines are broken or a massive wildfire, this will not be enough. But, a City of Lafayette’s financial and geographic size is not capable of retaining a reserve that would allow the City to repair a massive earthquake because at that point, they will be a FEMA candidate.

Mayor Anderson opened the public hearing and called for public comment.

Public Comments:

DAWN EAMES, East End Coalition member, said under Core Area Maintenance Fund 52 there will be a funding shortfall of $231,000. The City had previously set a policy to fund $100,000 for the Core Area. Assessment District 1979-1 taxes cannot be increased without a vote. The East End Coalition has had discussions with the Public Works Subcommittee for several years and the Chamber of Commerce also established that the funds were not and have not been proportionately used in the east end district for decades. She asked that the City place in the permanent Public Works Budget an amount of at least $231,000 for this year and moving forward. The City has left the water system on the east end going to disrepair, spent $180,000 for three entrance signs which started out as a public service project,
$125,000 for art for the roundabout, about $1500 every time a new banner is designed and $35,000 per year on banners alone. She would hope that money in a permanent line item designated to Public Works for the east end district maintenance can be utilized to upgrade the looks of the sides of the boulevard in the auto-oriented district in a more cost-effective and efficient manner. The budget also identifies $475,000 set aside in a new sinking fund from the new PG&E tree mitigation fees for tree planting and landscaping in median islands but makes no mention of it being restricted for medians in the east and west ends and some of Pleasant Hill Road. The east end has operated successfully with a center turn lane for decades without the congestion of the core center of town. She would like to see $475,000 not be restricted but utilized for the general maintenance by Public Works of the east end district that has long been neglected.

Two newspapers reported the City Manager was authorized to place the money in a restricted fund. She asked if the staff memo of March 27, 2017 by Megan Canales qualify as a legal agreement for mitigation fees be only for median planting and only in the three areas or she asked if it could be used elsewhere, such as on the sides of the street. The East End Coalition worked with the City in 1989 and in 2003 and agreed to a center turn lane on the east end of Mt. Diablo Boulevard and never medians with trees and plantings. The center turn lane has operated well for decades with few accidents per the Police Chief, business viability with easy access and egress left congestion in the downtown core and with autos, bicyclists and pedestrians co-existing.

The East End Coalition has been working on alternatives to the 1988 Downtown Street Improvement Master Plan center medians and will have recommendations for the master plan committee and the Council in the future. She hoped the Public Works Subcommittee will be reconvened to help accomplish this.

Councilmember Mitchell asked staff if there are restrictions on the $475,000. Ms. Robinson stated yes, but she did not know what exactly they are, but there are.

Councilmember Mitchell said it was his understanding they had to go toward landscaping and he asked what restrictions were on this and asked Ms. Robinson to follow up on this question.

MARY JO CASS, referred to Item 861 which allocates $30,000 for an EIR at LCP and said Councilmembers know that people would like to have the City stop this project because it is incrementally spending an incredible amount of money in the City on a project that 8 or 9 out of 10 residents do not want. As of February’s Council meeting over $150,000 had been spent on staff time, consultant costs, and this includes the initial environmental study. It is now May and they keep inching towards a tipping point but then nothing is done to fix the problem. The cost of an EIR will be much more than $30,000.

The attorney representing the Coalition to Save Leigh Creekside Park has expertise in CEQA law and has gone on record to say that a full EIR is required to study the impacts listed in his letters submitted to the City. Those impacts also include creek, riparian zone and trees. There are serious impacts that would be incurred with development of this project. Therefore, $30,000 is not enough for a full EIR. The attorney estimates the average cost is between $75,000 and $100,000. Additionally, if the City does amend the noise ordinance which is in the future, this will cost another $50,000. The City is looking potentially at
$300,000 over a period of time on top of the $500,000 cost estimate of the project itself which comprises of the playground equipment and structures.

Ms. Cass said she thinks this is spinning out of control on a project which residents do not want. She asked the Council in the shortest possible time to find a way to stop this project and use taxpayer monies for more important purposes.

DEBORAH CALLISTER, said as the Council is aware, a full EIR is standard protocol under CEQA when public controversy exists with potential significant environmental impacts for a proposed development. One thing everybody can agree on is that the development proposal at LCP has been contentious and controversial for about 2 years now. Thus, the City needs to do a complete EIR. Also, since the Initial Study Mitigated Negative Declaration (ISMND) was wholly flawed and inaccurate on inclusions about noise impacts and it used inaccurate data from an unqualified source. She questioned why anyone should believe the rest of the findings in the ISMND and thinks a full, complete EIR from a different, well-qualified third party on a competitive bid basis must ensue. This could cost as much as $100,000 as just heard from a previous speaker. She thinks there may be a way out of this spending spiral as Option 4 is still available. She encouraged the Council to save taxpayer monies and to stop the project. She asked to choose Option 4 to let LCP be natural and undeveloped as it was intended. As Councilmember Samson wisely stated at the February 17, 2017 City Council meeting, “If it ain’t broke, why fix it?” and she thanked the Council for their careful consideration of this matter.

CAROL SINGER, stated since the Council is talking about this in the budget, if the Council wanted to save some money, acquire some money and put to rest the terrible controversy and bad feelings among the neighbors, she has suggested before to sell the property just as the City did for the property on Olympic Boulevard and Reliez Station Road which worked perfectly. For those who can remember, they considered tennis courts, baseball, a 9-hole golf course, a rose garden, and when the property was sold the neighbors were very happy and feuding factions were gone. Therefore, she suggested the Council sell the property, return the money to those people who donated the funds for the park as it just does not work. The Council would save the cost of the EIR as well for noise study and quite a bit would be added to the City’s budget.

Mayor Anderson closed the public hearing and returned discussion to the Council.

Ms. Subramanian said Councilmember Mitchell had asked about the in-lieu payment for the tree protection ordinance. It provides in the ordinance that all in-lieu payments shall be used by the City for tree education programs or planting programs.

Vice Mayor Tatzin said in addressing some of the comments that were raised regarding the 60% reserve goal, this percentage used to be 50% and was changed over a decade ago. Since that time the City changed the policy such that some of the engineering staff were not paid for out of the General Fund so it was an effort to try to compensate for those expenditures because the City would not want to lose that staff should they be in a deficit situation. The City has been able to achieve the goal consistently and it provides a good cushion. In his view, the police station is a rational use for that cushion. It is a one-time expenditure, it goes away, the forecast states the City can overcome it and so even if the impact were greater than $83,000 assuming the City wants to implement the police station, he would support it. Hopefully, they will not have to if the initial cost of $1.8 million can be achieved.
He said the other thing he would encourage particularly new Councilmembers to look at is the stormwater drainage system. It has all of the attributes of the Core Area Maintenance District except the rules for what the City must do are set by the state and Regional Water Quality Control Board. They determine how much the City spends and the same legislature has limited what the City can collect. What the City has done is set up a reserve in advance knowing this problem was coming. He asked Ms. Robinson if it was starting to draw down on the reserve, and Ms. Robinson said it would start mostly next year. Vice Mayor Tatzin stated the City will begin to draw down that reserve and the amount they will wind up having to spend on that far exceeds what the City does for core area maintenance.

Councilmember Samson referred to speaker comments regarding LCP and said this is not the forum to be talking about the merits of the project at all, but it does raise the question he asked the City Attorney earlier with regard to increase in legal expenses. There may or may not be the need for additional funds for additional environmental studies down the road. Therefore, it is a flag as opposed to anything else.

Mayor Anderson said before the Council is a proposed Budget and Workplan for FY 2017/2018 for consideration.

Vice Tatzin recommended receiving the revised resolution 2017-14 which was before the Council which corrects one word on the first page and includes a second page which was not included in the packet.

Councilmember Mitchell asked if the Council needed to discuss review of the draft 2018 CIP. Vice Mayor Tatzin suggested doing this as a separate motion.

ACTION: It was M/S/C (Tatzin/Mitchell) to adopt Resolution 2017-14, as amended, Adopting the Proposed Budget and Workplan; Appropriating Revenue and Expenses; Confirming City’s Investment Policy; and Determining the Appropriation Limit for FY2017-2018; Determining Fees for all City Services and Authorizing Transfers and Expenditures. Vote: 5-0 (Ayes: Anderson, Tatzin, Burks, Mitchell, and Samson; Noes: None).

Mayor Anderson returned discussion to the 2018 Capital Improvement Program (CIP) and asked for questions.

Vice Mayor Tatzin stated in the CIP is the recommendation from the Engineering and Public Works Subcommittee as reflected in Mr. Coe’s report in terms of use of SB1 funds over the coming years. He suggested the Council receive feedback as to whether the Council is in general concurrence, recognizing that neither of those processes is far along enough to know what projects there are which will bubble to the top and the Council would approve specific projects at the time.

Councilmember Mitchell stated there is a small amount coming in the upcoming year of $428,000 for FY 2018/19 and likely to be that magnitude going forward. The subcommittee looked at priorities in allocating the 5-year revenue earmarked to Tier 1 and Tier 2. In Tier 1, the City addresses downtown congestion, Deer Hill Road at Brown Avenue roundabout and the Pleasant Hill Road/Reliez Valley Corridor Traffic Improvements. He questioned if there was any comment by Councilmembers regarding these. There were none.
Councilmember Samson pointed to the middle of page 2 which states the total funding for the 2018 CIP is $3,096,000. Further down that page are total program costs of exactly that same amount. He asked if the total funding is identified first and then try and develop the projects that happen to equal that amount or, did the City Engineer develop projects first and look at the funding.

City Engineer Tony Coe stated it is a bit of both; he does identify the projects first and in this case, the City has a bit of cash on hand in the capital account balances in addition to the projected revenues. He referred to the Fund Balance Summary spreadsheet on page 7 and said the Council will see a line item for Fund 14; the Capital account, as well as for Gas Tax under line item 71 and Measure J Return to Source funds under Item 72. He explained there is a little bit of the fund balance remaining at the end of the next fiscal year based on projected revenues over the coming year. Therefore, he is not budgeting all available money from those items. Therefore, he is proposing the City budget the exact amount that the project cost would be, drawing on some of the cash on hand as well. The available funding is a combination of both.

Mayor Anderson opened the public comment period. There were no speakers and he closed the public comment period.

ACTION: It was M/S/C (Mitchell/Tatzin) to adopt the 2018 Capital Improvement Program and allocate funding requested in the FY 2017/18 Municipal Budget; and 2) Adopts CEQA findings of a categorical exemption for projects in the 2018 CIP and authorizes staff to record a Notice of Exemption. Vote: 5-0 (Ayes: Anderson, Tatzin, Burks, Mitchell, and Samson; Noes: None).

Mr. Falk thanked the City’s finance team, stating the budget before the Council tonight represents a $28 million annual budget. All monies flow through 4 Finance staff who also manage payroll, manage the cutting of thousands of checks annually without complaint and with great attention to detail. Ms. Wakeman has brought the Government Finance Officer’s Award to the City and leading the team is Tracy Robinson who has worked for the City for almost 2 decades.

Ms. Robinson puts together this very complicated budget with great skill and humor. It is a challenge every year to encourage department heads to get their budget sheets to Ms. Robinson on time, but she manages to cajole everybody with humor. When the Mayor states he would like to present the budget 4 weeks earlier than planned because of vacations, she turns it around without complaint. She impresses him every day she comes to work and the City is lucky to have her.

Mayor Anderson and Councilmember recognized Ms. Robinson and the Finance team and departmental staff, as well as the Council Finance Subcommittee.

Vice Mayor Tatzin said when comparing the City’s financial situation with the cities surrounding it, they are in a different league. Mayor Anderson agreed and asked everybody to wait and see what cities do when they lower their earnings and raise rates cities pay.

14. ITEMS REMOVED FROM CONSENT CALENDAR – None

15. COUNCIL/COMMISSION REPORTS
A. Councilmembers report on activities and consideration of matters a Councilmember wishes to initiate for placement on a future agenda.

Mayor Anderson reported on the Taste of Lafayette as being very nice.

Councilmember Mitchell announced that Transportation Planner James Hinkamp will be promoting an event tomorrow night which is the Downtown Congestion Study workshop which has been noticed as a meeting and the City Clerk confirmed the meeting has been noticed such that all Councilmembers can attend.

B. Mayor Anderson

Stanford Alumni Study of City Commissions – Phase 2

Recommendation: Receive and file.

Mayor Anderson said he believes the material is a good summary of where the Council is in the process. They have feedback from all commissions and committees that provide a sense of how they feel about the general topics of term limits and conflict of interest as well as specific recommendations from the study for their particular commission or committee.

In boiling this down, he is hoping the Council can designate those commissions or committees that can continue ahead as they are currently operating without change and those which the Council wants to spend some time in a review process to check either any discrepancies of the Stanford report and the committees/commissions’ particular feedback or the study and the liaison’s response to the recommendations in the study based on the feedback received.

Mayor Anderson referred to page 3 which outlines the recommendation. There are 4 committees that would sunset which would be the Emergency Services Task Force (at completion of Fire Station), Downtown Congestion Study (at completion of consultant contract), Parking Ordinance (at completion of tasks), and the Lafayette Oversight Board (at closure of redevelopment processes).

There are 7 commissions/committees that will continue and operate without further review: Crime Prevention Commission, Emergency Preparedness Commission, Parks, Trails and Recreation Commission, Youth Commission, Banner Advisory Committee, Code Enforcement Appeals Board and the Public Art Committee.

There are 9 commissions/committees that have contradicting feedback or opinions about what came out as recommendations from the study. He referred to page 4 which is the review methodology recommended to have an ad-hoc subcommittee comprised of the Chair of the commission/committee, a staff member assigned, the Council liaison, the Mayor and then if there is another commission/committee related to the needed review, the Chair from that commission/committee would meet also and that group would meet in an ad-hoc format, work through the issues and return with a recommendation for the Council to consider before the end of this year. There are 9 commissions/committees that would fall into that grouping.
He said he hoped to at least get a designation of those which sunset, those which continue to operate as they are now and those that the City wants to have some kind of review process and talk about the methodology as necessary.

Vice Mayor Tatzin referred to the Environmental Task Force as an example and as the report states, the task force members disagreed with the Stanford recommendation that they be converted to advocacy and felt they supported the City Council in terms of giving advice about environmental policies the City should have. Therefore, he was not quite sure what subcommittee proposed would do with regards to that task force.

Mayor Anderson said his sense is that if the Council tonight feels their disagreement is enough for the Council, the Council can make no change. But, his sense would be that since there is a disagreement it may be worthwhile to meet ad-hoc to talk about what they see versus what the study said. He would be pleased if the Council can go through this and say that the Environmental Task Force should incur no change and keep them as is. If they are not made advocates they should be made a formal commission and not a task force. Therefore, this is another piece that may need discussion tonight or review ad-hoc as to whether or not they are turned into an actual commission.

He said there are 4 sunset committees and he asked if any Councilmembers have problems with those which would sunset.

Councilmember Mitchell said he did not have a question regarding these, but referred to the Lafayette Oversight Board. He asked how often they meet and he asked when they will sunset. He asked if they could be sunset more quickly. He asked if the City was mandated to keep them.

Ms. Robinson stated the City must keep them until the City turns it over to the County. She confirmed they meet once annually. Mayor Anderson therefore confirmed that 4 committees would sunset.

He then referred to the next 7 which are recommended to continue operating as is: Crime Prevention Commission, Emergency Preparedness Commission, Parks, Trails and Recreation Commission, Youth Commission, Banner Advisory Commission, Code Enforcement Commission and the Public Art Commission. He confirmed with Councilmembers there would be no change to these commissions.

Mayor Anderson said the next group could undergo a review process or if the Council feels there is enough information received from either the liaison member or from the committee that the Council can decide it likes the way they operate now or they want to follow the recommendation.

He noted the study recommended DSIMPIC sunset at plan completion. In his conversation with the committee, they seem to be willing to look at the concept to be converted to advocacy status. The main thing they needed to understand was what this looks like in terms of how they operate. They found complications with setting up as-needed meetings, preparing the agenda and posting everything and getting everyone together. If they could meet more on an ad-hoc basis with reports to the Council, they thought this would be better. He said his sense was that being an advocacy group would do that but others might feel differently, and this is why he suggested they go into a review process.
Councilmember Samson supported Mayor Anderson’s comments and said everything he said applies to his perception in meeting with the Senior Services Commission that is interested in exploring advocacy status but there are a number of unknowns there.

Mayor Anderson suggested this is a chance to undergo review and therefore both the DSIMPIC and Senior Services Commission might move into the review process phase.

He Councilmember Burks recommended continuing the Capital Projects Assessment Committee (CPAC) as is. He knows CPAC members are present. It was recommended to sunset the committee which did not make sense, so this may be an outright mis-categorization of the committee. Councilmembers Burks agreed and said they saw based on their representation tonight and with SB 1 money, the low cost, infrequency of meetings and great staff is a win for the City to continue as is. They can also get involved with additional things once the road repair and capital projects are completed.

Mayor Anderson asked if there is any sense that this direction does not work.

Councilmember Mitchell stated he was comfortable with the recommendation to keep CPAC as is, and asked if the Mayor will receive public comments.

Mayor Anderson said yes, but he would like to get a picture of where they are going and then receive comments. He said he will keep CPAC as is as the recommendation. Regarding the Bicycle and Pedestrian Advisory Committee, they were slated for advocacy status and indicated no support for it. They would prefer integration with the Circulation Commission. He said this is a situation where review would make sense because both groups can get together, discuss their relationships, discuss whether they would benefit from merging and then return with a recommendation. Councilmembers agreed with this direction and Mayor Anderson noted this will remain on the list.

Regarding the Environmental Task Force and whether or not they should become an on-going commission as opposed to going to advocacy status or remaining as a task force. He would say the first step is determining whether the Council was supportive of them continuing as a task force and possibly creating a new commission.

Vice Mayor Tatzin said having met with them without speaking to them in advance and walking into their meeting he thought there might be an opportunity to merge them into Sustainable Lafayette which would make them a potential advocacy group, and there was no interest on their part. It is not clear whether Sustainable Lafayette wants to take on some of the things they do, as Sustainable Lafayette comes to the Council rarely. He said his sense is the Council should review their charter as to the scope of what they comment on so that they do not promote things that the Council has not concurred with. But, he was happy to leave them as a task force or committee/commission.

Councilmember Samson asked and confirmed that this would be the subject of discussion and review of the charter as to what they should be called. Mayor Anderson said therefore, the Council can leave the Environmental Task Force as is with the idea of looking toward a firmer support status.

Councilmember Mitchell stated he thought the Environmental Task Force’s main task was to develop an Environmental Strategy and this is why they were called a task force. He would like to review their goals
and charter, and did not want to pre-judge where the Council was going with this. Mayor Anderson stated they will come back as a recommendation once review has taken place.

Mayor Anderson referred to Senior Services Commission and per Councilmember Samson, they will remain as is with the need for some review regarding the question of advocacy status and a better definition.

No change is recommended by Councilmember Burks regarding the Creeks Committee. Councilmember Burks said the recommendation was that they transform to an advocacy group after plan implementation. He spent a lot of time with the group and he thinks they represent a fundamental part of the City’s semi-rural environment and after this plan is eventually implemented, there will be a lot of work for them to do. They also talk about many other things they could be involved in with the planning process. Therefore, he and they felt very strongly to allow them to remain as is.

Councilmember Mitchell stated he met with the PTR Commission and one of the proposals was to merge the Creeks Committee and PTR Commission. The PTR Commission respected their work but saw the creeks as a very dissimilar goal and did not see any benefits or synergies of combining the two groups. He also has had the opportunity to meet with the Creeks Committee on several occasions and he was impressed by their expertise and enthusiasm, and he would also be supportive of Councilmember Burks’ recommendation.

Councilmember Burks noted they talked about the PTR Commission as well and there were mutual feelings.

Mayor Anderson confirmed the Creeks Committee will be recommended to remain as is.

Regarding the Circulation Commission, Councilmember Samson recommended that there needs to be better definition of the roles, goals, purpose of the Commission and the charter needs to be reviewed and updated. He thinks this will place them under the review category and he asked for thoughts.

Councilmember Mitchell stated Chair Sturm had already begun a process of reviewing their goals, and he supported this as well.

Mayor Anderson referred to the DRC who had concerns about their relationship to the Planning Commission process as well as the Planning Commission process had some concerns about them. Therefore, this puts them both for review. He thinks the DRC needs more review and discussion because they seem to feel they are having a problem with their relationship with the Planning Commission. Therefore, he would ask that the Chair of the Planning Commission, Chair of the DRC, staff and hold an ad-hoc discussion.

Councilmember Mitchell stated he put them in the same category as the Circulation Commission and would not want to see them merged or eliminated, but he does support the idea of reviewing their responsibilities and goals.

Mayor Anderson said the last is the Planning Commission who was concerned about BPAC, Creeks Committee and Circulation Commission and that they all need to be reporting to the Planning
Committee. He thinks they will stay in the review set. There are concerns about how circulation decisions are made as they affect projects the Planning Commission is working on, and possibly altering the scheme they have. The same is true for BPAC as well as Creeks Committee.

With that, Mayor Anderson said the Council is moving CPAC and the Creeks Committee up into the group of those to remain as is. There are now 9 in that group, and the balance would be put into a review process.

Councilmember Samson said it seems at some point there should be a coordinated review of the Planning Commission, the DRC and Circulation Commission given ambiguities in their jurisdiction.

Councilmember Mitchell said another point is that if the Council is defining a group as an advocacy group, they need to better define what an advocacy group is. Mayor Anderson agreed and said this is the case for DSIMPIC and the Senior Services Commission in looking for that definition and this would be under the review process.

Mayor Anderson opened the public comment period. There were no speakers and he returned discussion to the Council.

Mayor Anderson referred to the review methodology and said he has a sketch of how to proceed. If there are comments and thoughts, he will take them now.

Councilmember Samson credited Mayor Anderson for doing a good job in developing these strategies.

Ms. Subramanian clarified that the methodology of the ad-hoc committees would be subject to the Brown Act.

Councilmember Mitchell confirmed that the Council in its review is not pre-determining an outcome and not moving in any particular direction. He also asked and confirmed that the Council will return with term limits and conflicts of interest across the board for all commissions/committees.

ACTION: It was M/S/C (Tatzin/Burks) to accept the following recommendations recognizing the review methodology includes participation outlined in the Mayor’s report: 1) The following four Committees will sunset at the appropriate times: Emergency Services Task Force (at completion of Fire Station), Downtown Congestion Study (at completion of consultant contract), Parking Ordinance (at completion of tasks), Lafayette Oversight Board (at closure of redevelopment processes); 2) The following nine Commissions/Committees will continue as currently operating without further review: Crime Prevention Commission, Emergency Preparedness Commission, Parks, Trails and Recreation Commission, Youth Commission, Banner Advisory Committee, Code Enforcement Appeals Board, Public Art Committee, Capital Projects Assessment Committee (CPAC), and Creeks Committee; 3) The following seven Commissions/Committees will have further review by an ad hoc subcommittee comprised of the Commission/Committee chairperson, staff liaison, council liaison and the Mayor: Downtown Street Improvement Master Plan Implementation Committee (DISIMPIC), Bicycle and pedestrian Advisory Committee (BPAC), Environmental Task Force, Senior Services Commission, Circulation Commission, Design Review Commission and Planning Commission. Vote: 5-0 (Ayes: Burks, Tatzin, Mitchell, Samson and Anderson; Noes: None)
16. WRITTEN COMMUNICATIONS

A. Designation of Voting Delegates and Alternates for the League of California Cities Annual Conference September 13 – 15 in Sacramento

Recommendation: Discuss and direct.

Mayor Anderson stated he believes the primary voting delegate is Councilmember Mitchell and he asked for an alternate.

Councilmember Mitchell stated he attended the last conference in San Jose and what he found that if a Councilmember had particular interest in an agenda item, they needed to attend the subcommittee meetings because when people tried to make modifications on the floor, the deciding body said no. He did not see much value in attending therefore because no modifications could be made. Therefore, he would almost suggest the Council review what agenda items are coming up between now and September and then determine whether they want to go to a subcommittee meeting. The deadline is September 1st to submit the voting delegate and alternate.

Mayor Anderson supported proceeding in this fashion, but if someone will vote, he asked and confirmed that Councilmember Mitchell could serve as the voting delegate.


B. E-mail from Tara Crain resigning from the Community Center Foundation effective June 30, 2017.

Recommendation: Accept with regret.

ACTION: It was M/S/C (Tatzin/Mitchell) to accept with regret Tara Crain’s resignation from the Community Center Foundation effective June 30, 2017. Vote: 5-0 (Ayes: Anderson, Tatzin, Burks, Mitchell, and Samson; Noes: None).

C. E-mail from Jared Randolph resigning from the Bicycle Pedestrian Advisory Committee effective June 30, 2017.

Recommendation: Accept with regret.

ACTION: It was M/S/C (Tatzin/Mitchell) to accept with regret Jared Randolph’s resignation from the Bicycle Pedestrian Advisory Committee effective June 30, 2017. Vote: 5-0 (Ayes: Anderson, Burks, Mitchell, and Samson; Noes: None).

17. CLOSED SESSION

The City Council adjourned to Closed Session at 10:02 p.m. to consider the following matter:
A. Conference with Legal Counsel - Existing Litigation (Gov. Code 54956.9(d)(1.).) 
Lori Fowler, Val Davidson, Rob Davidson, Jeanne Sommer, Scott Sommer, Avon M. Wilson and 
George Paul Wilson v. City of Lafayette, Case Number N-16-2322

18. REPORT FROM CLOSED SESSION – 11:00 p.m.

The City Council reconvened in Open Session at 11:00 p.m. and Mayor Anderson reported no action was taken.

19. ADJOURNMENT 11:00 PM

APPROVED:

_____________________________
Mike Anderson, Mayor

ATTEST:

___________________________
Joanne Robbins, City Clerk