A. CONVENE, PLEDGE OF ALLEGIANCE, AND ROLL CALL

Present: Mayor Eklund
         Mayor Pro Tem Athas
         Councilmember Drew
         Councilmember Fryday
Absent: Councilmember Lucan

Also Present: City Manager Regan Calendario, Assistant City Manager Cathy Capriola, Finance Manager Brian Cochran, Community Development Director Bob Brown, Assistant Engineer Gosia Woodfin, City Attorney Jeffrey Walter and Deputy City Clerk Laura McDowall.

B. CLOSED SESSION ANNOUNCEMENT

No closed session was scheduled.

C. CEREMONIAL MATTERS/PRESENTATIONS

No items were listed for this section.

D. APPROVAL OF FINAL AGENDA, WAIVER OF THE READING OF ORDINANCES AND NOTICES OF INTENT

Mayor Pro Tem Athas moved, Seconded by Councilmember Drew, to approve the Final Agenda, Waiver of the Reading of Ordinances and Notices of Intent. The motion carried 4-0-1 with Councilmember Lucan being absent.

E. PUBLIC COMMENTS

1. Mike Mourgos
2. Marc Denarie
3. Greg Hanna
4. Don Foster
5. Kathy Lehman
6. Margaret Kapranos

City Manager Regan Candelario and City Attorney Jeffrey Walter briefly responded to items brought up during Public Comment.
F. CONSENT CALENDAR

1. APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE BID ADVERTISEMENT FOR MEASURE A GROUP 8 & 9 PAVEMENT REHABILITATION CONTRACT 1: ROADWAY PREPARATION AND CONCRETE WORK

CEQA: CEQA EXEMPTION - 15301 (c) EXISTING FACILITIES

Consider approving the plans and specifications and authorizing a bid advertisement for the Measure A Group 8 & 9 Pavement Rehabilitation Contract 1: Roadway Preparation and Concrete Work, CIP Project No. 16-001 & 17-001.

This item was pulled from the Consent Calendar and placed under General Business after item I-7.

2. ADOPT A RESOLUTION APPROVING GRANTS OF ACCESS AND UTILITY EASEMENTS TO EAH, INC. AND NORTH MARIN SENIOR HOUSING CORPORATION OVER A CITY OWNED PARCEL ON ELMVIEW WAY

Council adopted Resolution No. 2016-070 authorizing the City Manager to execute a Grants of Access and Utility Easements to both EAH, Inc. and North Marin Senior Housing Corporation over a City owned parcel on Elmview Way to confirm continued legal access from Elmview Way to their properties.

3. ADOPT A RESOLUTION RATIFYING AND CONFIRMING THE CITY COUNCIL’S ACTIONS AMENDING THE CITY COUNCIL POLICY MANUAL

Council adopted Resolution No. 2016-071 ratifying and confirming the City Council's actions amending the City Council Policy Manual at its meeting of October 4, 2016.

4. SECOND READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NOVATO ADOPTING AMENDMENTS TO THE MASTER PLAN (CONSISTING OF THE HAMILTON FIELD MASTER PLAN ADOPTED BY CITY OF NOVATO ORDINANCE NO. 1298 AND AMENDED BY ORDINANCES 1311, 1322, 1335, 1344, 1413, AND 1434) TO 1.) CHANGE THE HOUSING UNIT ASSIGNMENT FOR PLANNING AREA 19 FROM AT LEAST 25 LOW AND VERY-LOW INCOME, AFFORDABLE SENIOR RENTAL HOUSING UNITS TO 14 MARKET RATE AND 2 AFFORDABLE (ONE MODERATE AND ONE LOW INCOME) FOR-SALE SENIOR HOUSING UNITS, 2.) REDUCE A REQUIRED 150-FOOT SETBACK FROM NEARBY PG&E POWERLINES TO 100-FEET AND ELIMINATE A REQUIREMENT TO DISTRIBUTE LITERATURE DESCRIBING BEST PRACTICES TO MINIMIZE EXPOSURE TO INTERIOR EMFS, AND 3.)
ALLOW LOT COVERAGE FOR PLANNING AREA 19 TO BE AS INDICATED ON THE PRECISE DEVELOPMENT PLAN EXHIBIT FOR THE HAMILTON COTTAGES PROJECT

Council adopted Ordinance No. 1608 adopting amendments to the Master Plan (consisting of the Hamilton Field Master Plan adopted by City of Novato Ordinance No. 1298 and amended by ordinances 1311, 1322, 1335, 1344, 1413, and 1434) to 1.) change the housing unity assignment for Planning Area 19 from at least 25 low and very-low income affordable senior rental housing units to 14 market rate and 2 affordable (one moderate and one low income) for-sale senior housing units, 2.) reduce a required 150-foot setback from nearby PG&E powerlines to 100-feet and eliminate a requirement to minimize exposure to interior EMFs and 3.) allow lot coverage for Planning Area 19 to be as indicated on the Precise Development Plan exhibit for the Hamilton Cottages project.

Councilmember Drew moved, Seconded by Councilmember Fryday, to approve the Consent Calendar with Item F-1 being pulled and placed under General Business after item I-7, and Mayor Eklund abstaining from item F-2. The motion carried 4-0-1 with Councilmember Lucan being absent.

G. UNFINISHED AND OTHER BUSINESS

No items were listed for this section

H. PUBLIC HEARINGS

5. REINTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 19 OF THE MUNICIPAL CODE TO REGULATE MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS AND FINDING THAT ADOPTION THEREOF IS EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), PURSUANT TO CEQA GUIDELINES SECTION 15061(B)(3)

Consider reintroducing an ordinance amending Chapter 19 of the Novato Municipal Code adding large massage establishments employing three or more massage therapists as a Conditional Use in all commercial and industrial zoning districts, establishing parking requirements, adding definitions of "massage" and "massage establishment" and establishing zoning regulations for massage establishments, and finding that the proposed ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15061(B)(3).

City Manager Regan M. Candelario opened the item and turned it over to Community Development Director Bob Brown who presented the updated ordinance. It was clarified that the principal change to the updated ordinance was that massage establishments would be redefined into large and small. Large massage establishments with 3 or more practitioners would require a use permit, while small massage establishments with a single proprietor or 2 practitioners would not.
PUBLIC COMMENT

7. Stacy DeGoyer spoke in opposition of the ordinance, questioning parking requirements and outreach, and suggested that the number practitioners defining a large massage establishment be increased to 4 or more.

Mr. Brown responded that three letters had been sent to all holders of massage establishment permits in the City, in addition to notices being placed in the newspaper. He further stated that the parking requirements for massage establishments were the same as for other businesses in the same category.

It was questioned whether the number of practitioners defining a large massage establishment could be increased from 3 or more practitioners to 4 or more practitioners, to which Mr. Brown responded that it could. It was further questioned how the cost of the use permit was calculated. Mr. Brown replied that the use permit cost came about from a cost study that had been done previously, and that the use permit costs were a deposit for the estimated costs associated with processing the application. If the actual amount to process the application was less than the deposit charged, then the difference would be refunded. If the actual cost to process the application was higher than anticipated, then additional funds would be due.

Councilmember Fryday moved, Seconded by Mayor Pro Tem Athas, to approve reintroducing an ordinance amending Chapter 19 of the municipal code to regulate massage establishments and massage technicians and finding that adoption thereof is exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to CEQA guidelines section 15061(b)(3), with the amendment that large massage establishments would be defined as having 4 or more practitioners.

At this time City Attorney Jeffrey Walter asked for clarification that the motion would change the ordinance from massage establishments with 3 or more practitioners needing a use permit to massage establishments with 4 or more practitioners needing a use permit. Discussion then ensued on whether the number of practitioners defining a large massage establishment should be increased further.

Councilmember Fryday withdrew his motion.

Mayor Eklund then re-opened Public Comment and the following people spoke:

8. Elizabeth Zuzel spoke in support of having 5 or more practitioners define a large massage establishment.
9. Silke Valentine asked for confirmation that there were no changes to home occupations in the ordinance.

Mr. Brown responded that home occupations were allowed with a business license and a massage therapist permit, provided that the practitioner was someone that was residing in the home with no employees, and that there was one client at a time.

Mayor Eklund moved, Seconded by Councilmember Drew, to approve reintroducing an ordinance amending Chapter 19 of the municipal code to regulate massage establishments and massage technicians and finding that adoption thereof is exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to CEQA guidelines Section 15061(b)(3), with the amendment that large massage establishments would be defined as having 5 or more practitioners. The motion was carried 4-0-1 with Councilmember Lucan being absent.
I. GENERAL BUSINESS

6. PRESENTATION BY NORTH MARIN WATER DISTRICT REGARDING THE PROPOSED CENTRAL SERVICE AREA EXPANSION OF THE RECLAIMED WATER SYSTEM

Consider receiving a presentation from the North Marin Water District on their plans to expand their reclaimed water distribution system within the "Central Service Area".

Drew McIntyre, Assistant General Manager and Chief Engineer for the North Marin Water District gave a brief presentation.

PUBLIC COMMENT: None

7. DOWNTOWN NOVATO BUSINESS IMPROVEMENT DISTRICT ANNUAL RENEWAL FOR THE 2017 CALENDAR YEAR -- RESOLUTION OF INTENTION TO LEVY AN ANNUAL ASSESSMENT AND SET PUBLIC HEARING FOR NOVEMBER 29, 2016

Consider beginning the annual assessment process for the Downtown Novato Business Improvement District (BID) in a partnership with the Downtown Novato Business Association (DNBA), and adopting a resolution of intention to levy an annual assessment and set a public hearing for November 29, 2016.

A. Hear a presentation from the BID Advisory Board regarding the proposed 2017 Budget and Annual Report.

B. Review, including making any changes if desired, and approve the 2016 Downtown Novato Business Improvement District (BID) Annual Report and 2017 Budget to begin January 1, 2017.

C. Adopt Resolution of Intention to Levy an Annual Assessment and set a public hearing for November 29, 2016.

Assistant City Manager Cathy Capriola opened the item and Board President Andy Podshadley gave a brief presentation.

It was clarified that the report, the Resolution of Intention to Levy an Annual Assessment and the proposed budget would be approved at this Council meeting. At a future meeting a Public Hearing would be held, a resolution would be passed to levy the assessment, and the final budget would be approved.

PUBLIC COMMENT

10. Hutch Turner

Councilmember Drew moved, Seconded by Councilmember Fryday, to approve Resolution No. 2016-072 declaring the intention to levy and annual assessment within the Downtown Novato Business Improvement District, and approve setting the Public Hearing for November 29, 2016. The motion carried 4-0-1 with Councilmember Lucan being absent.
F-1. APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE BID
ADVERTISEMENT FOR MEASURE A GROUP 8 & 9 PAVEMENT
REHABILITATION CONTRACT 1: ROADWAY PREPARATION AND
CONCRETE WORK

CEQA: CEQA EXEMPTION - 15301 (c) EXISTING FACILITIES

Consider approving the plans and specifications and authorizing a bid
advertisement for the Measure A Group 8 & 9 Pavement Rehabilitation Contract
1: Roadway Preparation and Concrete Work, CIP Project No. 16-001 & 17-001.

Mayor Eklund stated that she had pulled this item due to concerns that the
removal of trees on Olive Ave would adversely affect an existing retaining wall, and that removal of the trees could
compromise the retaining wall as portions of the wall relied on the trees to hold it up. Assistant
Engineer Gosia Woodfin explained that the retaining wall in question was on private property,
and that public funds were prohibited from being spent on private property. It was further
explained that normally when street trees behind a sidewalk were removed, the stumps were
ground down to 24 inches below the finished grade, however the current plan on Olive Ave was
to cut the trees at the height of the retaining wall, apply herbicide and return to remove the
stumps at a later date. This would give homeowners a time frame of approximately 1 year to
make repairs to the retaining wall before the stumps were removed.

PUBLIC COMMENT

11. Marc Denarie
12. Mike Mourgos

It was generally felt that the City could work with the affected residents to address the issues
with the retaining wall, but that the project should proceed as planned.

Mayor Pro Tem Athas moved, Seconded by Councilmember Fryday, to approve the plans and
specifications and authorize the bid advertisement for Measure A Group 8 & 9 Pavement
Rehabilitation Contract 1: Roadway Preparation and Concrete Work. The motion carried 3-1-1
with Councilmember Lucan being absent and Mayor Eklund voting No.

8. INTRODUCE AN ORDINANCE AMENDING THE NOVATO MUNICIPAL
CODE TO INCORPORATE THE 2016 CALIFORNIA BUILDING
STANDARDS CODE WITH LOCAL AMENDMENTS, SET PUBLIC
HEARING DATE, AND ADOPT A RESOLUTION RATIFYING NOVATO
FIRE PROTECTION DISTRICT’S ORDINANCE 2016-1 AMENDING THE
2016 FIRE CODE

Consider 1) Introducing and waiving further reading of an ordinance amending
section 4-1 and deleting sections 4-13, 4-16, 4-17 of Chapter IV of the Novato
Municipal Code to adopt the 2016 California Building Standards Code with local
amendment; 2) Setting a public hearing on the adoption by reference of the 2016
California Building Standards Code with local amendments for the same date as
the second reading of the ordinance on November 29, 2016; and 3) Adopting a resolution ratifying Novato Fire Protection District Ordinance 2016-1 adopting the 2016 California Fire Code with local amendments.

Community Development Director Bob Brown gave a brief presentation on the proposed amendments.

PUBLIC COMMENT: None

Mayor Pro Tem Athas moved, Seconded by Councilmember Fryday, to approve introducing an ordinance amending the Novato Municipal Code to incorporate the 2016 California Building Standards Code with local amendments, and to set the public hearing date. The motion carried 4-0-1 with Councilmember Lucan being absent.

At 9:03 p.m. the Council took a brief recess, and reconvened at 9:13 p.m.

9. ADOPTING URGENCY ORDINANCES ADDRESSING CULTIVATION OF NONMEDICAL MARIJUANA FOR PERSONAL USE

Consider adopting two interim, urgency ordinances imposing temporary moratoria on the (a) outdoor cultivation of nonmedical marijuana for personal use; and (b) indoor cultivation of nonmedical marijuana for personal use, except under certain conditions and making findings that the adoption of same is exempt under CEQA because, among other things, there is no possibility that their adoption may have a significant, negative, physical impact on the environment.

1. Adopt interim ordinance imposing a moratorium on the outdoor cultivation of nonmedical marijuana and make findings that said adoption is exempt under CEQA.

2. Adopt interim ordinance imposing moratorium on the indoor cultivation of nonmedical marijuana, except under certain conditions, and make findings that the adoption of said ordinance is exempt under CEQA.

City Attorney Jeff Walter opened the item and gave a brief outline of the proposed urgency ordinances. It was explained that these would be temporary ordinances in place for 45 days. After 45 days, the Council could extend the urgency ordinances for an additional 10 months plus 15 days, and then extend them one last time for an additional 1 year, for a total of 2 years. It was clarified that during this time staff would be working on permanent ordinances, and that the Council could move forward with the permanent ordinances at any time.

PUBLIC COMMENT: None

Mayor Pro Tem Athas moved, Seconded by Councilmember Fryday, to approve adopting Ordinance No. 1609, an interim ordinance imposing a moratorium on the outdoor cultivation of nonmedical marijuana and making findings that said adoption is exempt under CEQA. The motion carried 4-0-1 with Councilmember Lucan being absent.
Mayor Pro Tem Athas moved, Seconded by Councilmember Fryday, to approve adopting Ordinance No. 1610, an interim ordinance imposing moratorium on the indoor cultivation of nonmedical marijuana, except under certain conditions, and making findings that the adoption of said ordinance is exempt under CEQA. The motion carried 4-0-1 with Councilmember Lucan being absent.

10. POLICE CHIEF SELECTION PROCESS

Consider appointing two Councilmembers to serve on a selection/interview panel for the Novato Chief of Police.

City Manager Regan Candelario opened the item and gave a brief outline of the Police Chief selection process. Discussion ensued, and it was generally felt that the full Council would like to have the opportunity to give input if the process allowed.

PUBLIC COMMENT

13. Hutch Turner

It was suggested that Mayor Pro Tem Athas and Mayor Eklund serve on the selection/interview panel for the Police Chief.

Councilmember Fryday moved, Seconded by Mayor Eklund, to approve appointing Mayor Pro Tem Athas and Mayor Eklund to serve on the selection/interview panel for the Police Chief. The motion carried 4-0-1 with Councilmember Lucan being absent.

J. COMMISSIONS, COMMITTEES AND BOARDS (CCB's) APPOINTMENTS

No appointments were made to fill vacancy/vacancies on Council Commissions, Committees or Boards.

K. COUNCILMEMBER/CITY MANAGER REPORTS

11. Request from Councilmember Drew to agendize for a future meeting a discussion of an amendment to the Council Policy Manual changing the notification to staff for proposed new agenda items from 7 days in advance to 6 days in advance.

Councilmember Drew requested to agendize for a future meeting a discussion of an amendment to the Council Policy Manual changing the notification to staff for proposed new agenda items from 7 days in advance to 6 days in advance

PUBLIC COMMENT: None

Councilmember Drew moved, Seconded by Councilmember Fryday, to approve agendizing for a future meeting a discussion of an amendment to the Council Policy Manual changing the notification to staff for proposed new agenda items from 7 days in advance to 6 days in advance. The motion carried 4-0-1 with Councilmember Lucan being absent.
12. Request from Mayor Eklund to agendize for a future meeting a discussion of placing on the Consent Calendar a list of contracts entered into and purchases made without specific prior City Council approval for information to the public and the Council.

Mayor Eklund requested to agendize for a future meeting an item regarding the placement of a list of contracts entered into and purchases made without specific prior City Council approval on the Consent Calendar for information to the public and the Council.

PUBLIC COMMENT

14. Hutch Turner

Mayor Eklund moved, Seconded by Councilmember Drew, to approve agendizing for a future meeting an item regarding the placement of a list of contracts entered into and purchases made without specific prior City Council approval on the Consent Calendar for information to the public and the Council. The motion carried 4-0-1 with Councilmember Lucan being absent.

13. City Manager report and Councilmember reports on conferences and meetings.

Councilmember Drew reported that she had attended two enjoyable events, the Bahia Mini Parks Groundbreaking Ceremony and the Hamilton Coast Guard Exhibit put together by Megan Gimple.

Mayor Pro Tem Athas reported that she had attended the League of California Cities Leaders Strategic Planning meeting, where they established the following 4 goals for the League to focus on as priorities: 1.) Increase Funding for Critical Transportation and Water Infrastructure, 2.) Develop Realistic Responses to the Homeless Crisis, 3.) Improve the Affordability of Workforce Housing and Secure Additional Funds for Affordable Housing, 4.) Address Public Safety Impacts of Reduced Sentencing Laws, Protect Local Priorities in the Implementation of the Adult Use of Marijuana Act and Preserve the City Rights to Deliver Emergency Medical Services. She further reported on her recent attendance of a Community Development Block Grant (CDBG) meeting.

Councilmember Fryday expressed his desire that all members of the community feel valued, appreciated and protected.

Mayor Eklund reported that she had also attended the Bahia Mini Parks Groundbreaking Ceremony and the Coast Guard exhibit at Hamilton, and commended Megan Gimple on her work on the exhibit. She also stated that she had attended the Association of Bay Area Governments (ABAG) Bay Area Confluence Conference which focused on resilience and earthquake preparedness. She further reported that she had attended an ABAG and Marin Transportation Commission (MTC) meeting on the final Preferred Scenario for Plan Bay Area.
L. WORK STUDY SESSION

No items were listed for this section.

M. ADJOURNMENT

At 10:24 p.m. the meeting was adjourned in memory of Eleanor Angulo and Ian Gillis.

I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the Novato City Council

________________________________________
Laura McDowall, Deputy City Clerk