

MINUTES
CITY COUNCIL OF THE CITY OF LA HABRA
ADJOURNED REGULAR MEETING
&
REGULAR MEETING

Monday, January 07, 2019

APPROVED: These Minutes were approved on March 4, 2019.

ADJOURNED REGULAR MEETING 5:30 P.M.:

CALL TO ORDER: Mayor Gomez called the Adjourned Regular Meeting of the City Council of the City of La Habra to order at 5:30 p.m. in the Council Chamber, Closed Session Room 112c, located at 100 East La Habra Boulevard in La Habra, California.

COUNCILMEMBERS PRESENT: Mayor Gomez
Mayor Pro Tem Beamish
Councilmember Espinoza
Councilmember Shaw
Councilmember Medrano

COUNCILMEMBERS ABSENT: None

OTHER OFFICIALS PRESENT: City Manager Sadro
City Attorney Jones (arrived at 5:32 p.m.)
Interim City Clerk Swindell

I. ORAL COMMUNICATIONS FROM THE PUBLIC FOR CLOSED SESSION MATTERS:

River Distributing, Inc. Owner Henry Pilger, Distribution Compliance Director Tim Moreland, and Consultant Jason Bryant spoke regarding Item II.b.

II. CLOSED SESSION:

- a. Conference with Legal Counsel - Anticipated Litigation - Significant exposure to litigation pursuant to Section 54956.9(d)(2): (One Case).

Deputy City Attorney Keith Collins, Police Chief Price, and Assistant to the City Manager Ferrier were present for this item.

- b. Conference with Legal Counsel - Anticipated Litigation - Significant exposure to litigation pursuant to Section 54956.9(d)(2): (One Case).

Acting City Attorney Craig Steele, with Richards Watson Gershon, was present for this item.

III. ADJOURNMENT: The City Council reconvened at 6:26 p.m. There were no Closed Session announcements. Mayor Gomez adjourned the Adjourned Regular Meeting at 6:26 p.m.

REGULAR MEETING 6:30 P.M.:

CALL TO ORDER: Mayor Gomez called the Regular Meeting of the City Council of the City of La Habra to order at 6:30 p.m. in the Council Chamber, located at 100 East La Habra Boulevard in La Habra, California.

INVOCATION: Mayor Gomez

PLEDGE OF ALLEGIANCE: Councilmember Shaw

COUNCILMEMBERS PRESENT: Mayor Gomez
Mayor Pro Tem Beamish
Councilmember Espinoza
Councilmember Shaw
Councilmember Medrano

COUNCILMEMBERS ABSENT: None

OTHER OFFICIALS PRESENT: City Manager Sadro
City Attorney Jones
Interim City Clerk Swindell

CLOSED SESSION ANNOUNCEMENT: City Attorney Jones stated that there were no reportable actions taken during Closed Session Item II.a. He noted that he was not present during Closed Session Item II.b due to declaring a conflict of interest. Acting City Attorney Craig Steele stated that there were no reportable actions taken during Closed Session Item II.b.

I. PROCLAMATIONS/PRESENTATIONS: None at this time.

II. PUBLIC COMMENTS: None

Motioned by Councilmember Shaw, seconded by Councilmember Medrano to hear Consideration Item VI.1 prior to Public Hearing Item V.1.

Said motion CARRIED by the following roll call vote:

AYES: Mayor Gomez, Mayor Pro Tem Beamish, Councilmember Espinoza,
Councilmember Shaw, Councilmember Medrano

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE

III. CONSENT CALENDAR: None at this time.

IV. CONSENT CALENDAR ITEMS REMOVED FOR SEPARATE DISCUSSION: None at this time.

V. PUBLIC HEARINGS:

Consideration Item VI.1 was heard prior to Public Hearings.

1. Duly noticed public hearing to consider an ordinance for Development Agreement 18-03 for a cannabis distribution facility at 1721 East Lambert Road, Unit B. This project was reviewed pursuant to the guidelines of the California Environmental Quality Act (CEQA) and determined to be Categorically Exempt pursuant to 14 CCR 15060(c)(2) and 15061(b)(3) because it can be seen with certainty that there is no possibility that the project will have a significant impact on the environment.

Community and Economic Development Director Ho presented the staff report. He noted that River Distributing, LLC was one of two applicants for cannabis distribution facilities in La Habra. He reviewed the background regarding this item, the hours of operation of the proposed cannabis distribution facility, and the proposed Development Agreement specifications. He stated that Deputy City Attorney Collins and he were available for questions.

Council discussion included: confirmation that the proposed facility was located at the required distance from any schools; clarification there were no cannabis distribution facilities in adjacent cities to La Habra, or in any other Orange County cities; verification that there were cannabis testing facilities and cannabis retail facilities in Orange County cities; confirmation that there were Orange County cities that were involved in other aspects of the cannabis business; fees paid to the City of West Sacramento from River Distributing, LLC; the number of states where cannabis was legal for medicinal and recreational use; the City's need for revenue to assist with the Public Employees Retirement System (PERS) unfunded liability; River Distributing LLC's compliance with the law; lack of outreach to local businesses; request for staff to provide a status and progress report of the cannabis distribution facility within one year of its opening, if approved; and confirmation that cannabis was illegal per federal law.

Mayor Gomez opened the public hearing at 7:45 p.m.

The following spoke in support of Development Agreement 18-03:

Applicant Henry Pilger spoke regarding River Distributing, LLC's cannabis distribution operations, banking, and security measures. He explained that cannabis businesses that comply with federal law, and within the State of California's framework/rules, were not contacted by any Federal Government agencies. He discussed the cannabis distribution center's vehicle schedule in La Habra regarding delivery and distribution trucks/vans. He confirmed that there would be no signage on the building.

Tim Moreland, River Distributing, LLC Compliance Director stated that the security measures exceed state regulations. He reviewed the vehicles to be used, trained driving staff, and hours of operation.

Jennifer, on behalf of the Internal Brotherhood of Teamsters, spoke of how River Distributing, LLC gives to the community, both financially and of their time.

Javier Montez, resident, thanked River Distributing, LLC for bringing their leadership to La Habra, addressing safety concerns, and bringing jobs to the city.

The following spoke in opposition to Development Agreement 18-03:

Sawrav Mukhersee, 1981 South Mangrum Court, spoke regarding the increase of criminal activity associated with the use of cannabis.

Doug Ernhardt, on behalf of his father, John Ernhardt, business owner at 1701 East Lambert Road, Suite B, spoke regarding the following concerns: security aspects; if approval was obtained from the original business association by River Distributing, LLC; the increased safety factors and potential negative financial effects for other tenants; and expressed his preference for the cannabis distribution center to be in a freestanding facility. He requested that the City enforce the established Covenants, Conditions, and Restrictions (CC&R's).

Christine Cook, 2001 South Mangrum Court.

Jason Ryan stated that there were currently four uses not allowed in the CC&R's. He noted that the City should not address issues between business owners.

Ron Woodward, La Habra resident.

Mayor Gomez closed the public hearing at 8:03 p.m.

Moved by Mayor Pro Tem Beamish, seconded by Councilmember Shaw, and CARRIED (3-2) TO APPROVE FIRST READING OF **ORDINANCE NO. 1802** ENTITLED AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA HABRA FINDING THAT THIS ORDINANCE IS EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADOPTING DEVELOPMENT AGREEMENT 18-03 BETWEEN THE CITY OF LA HABRA AND RIVER DISTRIBUTING CO., LLC FOR A CANNABIS DISTRIBUTION FACILITY AT 1721 EAST LAMBERT ROAD, UNIT B, AS PER ATTACHMENT "A."

Said motion CARRIED by the following roll call vote:

AYES: Mayor Pro Tem Beamish, Councilmember Espinoza, Councilmember Shaw
NOES: Mayor Gomez, Councilmember Medrano
ABSTAIN: NONE
ABSENT: NONE

Moved by Mayor Pro Tem Beamish, seconded by Councilmember Shaw, and CARRIED (5-0) TO DIRECT STAFF TO RETURN TO COUNCIL ONE YEAR AFTER RIVER DISTRIBUTING CO., LLC HAS OPENED WITH A STATUS REPORT.

Said motion CARRIED by the following roll call vote:

AYES: Mayor Gomez, Mayor Pro Tem Beamish, Councilmember Espinoza,
Councilmember Shaw, Councilmember Medrano
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE

VI. CONSIDERATION ITEMS:

Consideration Item VI.1 was heard prior to Public Hearing Item V.1.

City Attorney Jones recused himself due to a conflict of interest and left the dais at 6:34 p.m.

1. Receive and file the City Clerk's certificate of sufficiency regarding the results of the signature examination for the "Citizen's Initiative for Preservation of Open Space in La Habra;" and after reviewing the City Council's options, provide staff direction regarding whether to adopt the ordinance without alteration, submit the ordinance to the voters at a future regular or special election, or order staff to prepare a report on the effect of the proposed measure pursuant to Election Code 9212 before taking action.

Acting City Attorney Craig Steele, with the Law Firm of Richards Watson Gershon, presented the staff report. He reviewed the timeline and purpose in relation to the General Plan; confirmation that the City Clerk's Office, in conjunction with the Orange County Registrar of Voters Office, conducted a full count signature verification in December 2018, and it was determined that the petition contained 2,822 valid signatures of registered voters in the City; and that there were three options for Council to consider, per Elections Code 9212. He noted that staff recommended that a 30-day report be prepared and to return to Council with that information.

Council discussion included: confirmation that two California cities have approved similar initiatives; letters received at the dais that had not been reviewed by Council; the City's position between the Westridge home owners and the Westridge Golf Course land owner; review of the City's liability, potential legal consequences, and the goal of the initiative; pending legislation at the state level that could affect local control of land use; the need for the 30-day report to be complete and for Council to have thorough knowledge regarding the matter; and direct staff to also include the effects of the initiative on the school district, parks, and the infringement of private property rights in the 30-day report.

Mayor Gomez invited the public to testify at 5:39 p.m. He reminded the public that the item was not a Westridge item, but was regarding an initiative.

The following spoke in support of the "Citizens' Initiative for Preservation of Open Space in La Habra":

- James Lees, 2140 South Farrell Court, spoke regarding "Save La Habra's" commitment to the initiative and their proposed actions if Council's decision was not the will of the voters.
- Westridge resident suggested that the City turn the Westridge Golf Course property into park space.
- Simon Chan opposed the development of more homes in La Habra and the potential increase in traffic. He noted an alternative for the City to increase its future revenue.
- Maribelle Lopez, 1821 South Ford Court.
- Tom Blaine, 1800 South Watson Street, spoke in opposition to additional traffic and congestion from potential future home development.
- La Habra resident spoke regarding the homes built on Idaho Street and Lambert Road and on Beach Boulevard and Imperial Highway, and about increased traffic.
- Westridge resident spoke regarding the low water pressure and sand coming out of water lines in the Westridge community.
- Bill Sanders, La Habra resident, stated that the proposed Rancho La Habra homes would not be affordable.

- John Kim spoke regarding quality of life issues in respect to increased traffic from the development of new homes in La Habra.
- Darna Magpayo, 1761 South Palmer Court.
- Chris Trigueros, Westridge resident.
- Dr. Ed Rikes, spoke against Lennar Homes.
- Westridge resident stated that there was low water pressure in the Westridge community.
- Nina Kim, spoke regarding the environmental impact of the potential construction of new homes at the Westridge community.
- Westridge resident spoke regarding the increased traffic in La Habra.

The following spoke in opposition to the initiative:

- Adam Wood, from the Building Industry Association of Orange County (BIAOC), and on behalf of the Building Industry Legal Defense Foundation, suggested that a review of the initiative be conducted prior to Council making a decision.
- Chuck Krolikowski, with Newmeyer & Dillion, LLP, Attorney for the Kwon Family received confirmation that the letter he submitted had been received by the City. He spoke of alternative options to take regarding the initiative, why it was invalid, the Kwon's family right to develop their property, the City's RHNA numbers, the Subdivision Maps Act, and the vested rights attached to the map submitted by the applicant to the City for the proposed development.

Acting City Attorney Steele stated that Council could request that staff prepare the report in 30-days, but could have staff try to prepare the report sooner.

City Manager Sadro confirmed that the City Council meeting for the 30-day report to be considered would be Monday, February 4, 2019.

Moved by Mayor Pro Tem Beamish, seconded by Councilmember Espinoza, and CARRIED UNANIMOUSLY (5-0) TO:

- a. APPROVE TO RECEIVE AND FILE THE CITY CLERK'S CERTIFICATE OF SUFFICIENCY REGARDING THE RESULTS OF THE SIGNATURE EXAMINATION FOR THE "CITIZENS INITIATIVE FOR PRESERVATION OF OPEN SPACE IN LA HABRA;"
- b. DIRECT STAFF TO PREPARE A REPORT TO BE RETURNED TO COUNCIL BY FEBRUARY 4, 2019, AT 6:30 P.M. ON THE POTENTIAL EFFECTS OF THE PROPOSED INITIATIVE PURSUANT TO ELECTION CODE 9212 BEFORE TAKING ACTION; AND
- c. APPROVE BUDGET APPROPRIATION OF \$30,000 FROM GENERAL FUND RESERVES TO COVER COSTS THAT HAVE ALREADY BEEN INCURRED AND TO PROVIDE FUNDING FOR ANTICIPATED LEGAL AND CONSULTING EXPENSES.

Said motion CARRIED by the following roll call vote:

AYES: Mayor Gomez, Mayor Pro Tem Beamish, Councilmember Espinoza,
Councilmember Shaw, Councilmember Medrano

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE

Mayor Gomez thanked those who attended the meeting.

Mayor Gomez called the Meeting into Recess at 7:34 p.m.

Mayor Gomez reconvened the Meeting at 7:39 p.m.

VII. MAYOR'S COMMUNITY CALENDAR:

Mayor Gomez made the following announcements:

- If residents have used cooking oil from holiday meals that needs to be disposed of **NEVER** pour used cooking oil down the drain. La Habra residents can make a free appointment with the La Habra Public Works Department to dispose of used cooking oil through January 15, 2019.
- La Habra Children's Museum - PBS Children's Show character Daniel the Tiger - Saturday, January 26, from 10:00 a.m. – 3:00 p.m.
- La Habra Children's Museum - "Paint and Sip" Valentine Tea Party, Saturday, February 9, from 11:00 a.m. – 12:30 p.m.

VIII. COMMENTS FROM STAFF: City Manager Sadro wished everyone a Happy New Year. He expressed condolences on behalf of City staff to City Attorney Jones for the loss of his sister Barbara Lynn Caldwell.

IX. COMMENTS FROM COUNCILMEMBERS:

Councilmember Medrano stated that he attended the Dia de Los Reyes Festival at Northgate Market.

Councilmember Shaw stated that he attended the swearing in ceremony for the new Orange County Sheriff Don Barnes. He congratulated former Orange County Sheriff Sandra Hutchins on her retirement. He requested that the Council meeting be adjourned in memory of Barbara Lynn Caldwell, the sister of City Attorney Jones, who passed away on January 4 in Brea, at the age of 63, and is survived by her two sons Andy and Robert, their wives, and three grandchildren. He noted that she was a graduate of El Rancho High School; employed by PIH Hospital in Whittier for over 42 years as a Histologist in the Pathology Lab; that she loved her family, friends, and to laugh; and that her membership in the Church of Jesus Christ of Latter Day Saints was an important part of her life. He added that she was outgoing, she never met a stranger, and that she will be missed by all. Councilmember Shaw expressed his condolences to City Attorney Jones and his family.

Mayor Pro Tem Beamish stated that education, treatment, and rehabilitation is a better way to deal with drug use than to criminalize it. He noted that by legalizing cannabis the illegal activity of transporting it would decrease. He noted that he would like to give the City additional revenues towards the City's financial issues.

Councilmember Espinoza wished City staff and the community a Happy New Year. She expressed condolences to City Attorney Jones and his family. She noted that although she had previously voted against cannabis, the realization that the City would have a rough year

financially caused difficult decisions to be made by Council. She stated that she was glad that a status report on the cannabis distribution facility would be provided in a year after its opening.

Mayor Gomez spoke regarding Barbara Lynn Caldwell and the wonderful person that she was. He expressed condolences to the City Attorney's family during this difficult time. He noted that Chris Burrous, a friend of his from KTLA Channel 5 recently passed away, and that he was a wonderful person and a supporter of the City of La Habra.

- X. ADJOURNMENT:** Mayor Gomez adjourned the meeting in memory of Barbara Lynn Caldwell and Chris Burrous at 8:28 p.m. to *Tuesday, January 22, 2019, at 5:30 p.m. in the Council Closed Session Room 112c, 100 E. La Habra Boulevard, followed by the Regular Meeting at 6:30 p.m. in the City Council Chambers. (Monday, January 21, 2019, will be a holiday.)

Respectfully submitted,

Laurie Swindell, CMC
Interim City Clerk