

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

Monday, August 05, 2013

APPROVED: These minutes were approved on August 19, 2013.

ADJOURNED REGULAR MEETING:

CALL TO ORDER: Mayor Espinoza called to order the Adjourned Regular Meeting of the City Council at 5:30 p.m. in the Administrative Conference Room 106, located at 201 E. La Habra Boulevard, La Habra, California.

COUNCILMEMBERS PRESENT: Mayor Espinoza, Mayor Pro Tem Beamish,
Councilmember Gomez, Councilmember Blazey,
Councilmember Shaw

COUNCILMEMBERS ABSENT: None

OTHER OFFICIALS PRESENT: City Manager Hannah
City Attorney Jones
City Clerk Mason

I. ORAL COMMUNICATIONS FROM THE PUBLIC FOR CLOSED SESSION MATTERS:
None

II. CLOSED SESSION:

- a. Public employee evaluation per Government Code Section 54957 - Title: City Manager.
- b. Public employee evaluation per Government Code Section 54957 - Title: City Attorney.

III. ADJOURNED: Council reconvened from Closed Session at 6:12 p.m. There were no announcements. Mayor Espinoza adjourned the Adjourned Regular Meeting at 6:12 p.m.

REGULAR MEETING:

CALL TO ORDER: Mayor Espinoza called the Regular Meeting of the City Council of the City of La Habra to order at 6:31 p.m. in the City Council Chambers, located at 201 E. La Habra Boulevard, La Habra, California.

INVOCATION: City Attorney Jones

PLEDGE OF ALLEGIANCE: Councilmember Shaw

COUNCILMEMBERS PRESENT: Mayor Espinoza, Mayor Pro Tem Beamish,
Councilmember Gomez, Councilmember Blazey,
Councilmember Shaw

COUNCILMEMBERS ABSENT: None

OTHER OFFICIALS PRESENT: City Manager Hannah
City Attorney Jones
City Clerk Mason
Deputy City Clerk Swindell

CLOSED SESSION ANNOUNCEMENT: None

I. PROCLAMATIONS/PRESENTATIONS:

- a. Beautification Award Flavio Salazar, 205 Hillcrest Street. - Flavio Salazar was not present to receive award.
- b. Beautification Award Chick Fil-A, 1801 W. Imperial Highway.
- c. Beautification Award Mac Auto, 351 W. Imperial Highway.

The following Beautification Committee members assisted with presentations: Elizabeth Steves, Jackie Gonzalez, Kim Praster, Vanna Sharp, and Vanessa Perkins.

II. PUBLIC COMMENTS: None

III. CONSENT CALENDAR:

City Manager Hannah announced corrections to the Agenda Face Sheet as follows:

- a. Items 6 and 7 should be corrected to read "City of Anaheim" to replace the words "City of Santa Ana"
- b. Item 9 should read "Accept and authorize the recordation of a Grant Deed for street and other purposes across the southerly portion of the lot at 1501 E. Lambert Road."
- c. Item 11 should read "Approve and authorize City Manager to enter into a professional service agreement with Blue Violet Networks in the amount of \$196,900.73 for the purchase and installation of a new citywide telecommunication system with three (3) years full maintenance support, and appropriate an additional \$21,900.00 from the IT Fund for this project."

Mayor Pro Tem Beamish noted an abstention on Item III.10 due to his prior work history as a Southern California Edison employee.

Moved by Councilmember Gomez, seconded by Councilmember Blazey, and CARRIED UNANIMOUSLY 5-0 TO APPROVE CONSENT CALENDAR ITEMS III.A.1 THROUGH III.A.12 WITH CORRECTIONS.

Said motion CARRIED by the following roll call vote:

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

NOES: None

ABSTAIN: None

ABSENT: None

A. PROPOSED ITEMS:

1. PROCEDURAL WAIVER: Waive reading in full of resolutions and ordinances and approval and adoption of same by reading title only.
2. Approve Community Services Commission Minutes:
 - a. May 8, 2013
 - b. June 12, 2013
3. Approve denial of claims filed by:
 - a. Dan Dreher alleging property damage and bodily injury.
 - b. Colleen Ford-McDonough and Joe McDonough alleging personal injury.
 - c. Amended claim of Gina Camacho on behalf of her minor son alleging bodily injury.
4. Receive and file Planning Commission Minutes of:
 - a. May 13, 2013
 - b. May 28, 2013
 - c. June 10, 2013
5. Approve the Notice of Completion for the Idaho Street Rehabilitation from Lambert Road to Imperial Highway Project No. 2-R-12.
6. Approve and authorize City Manager to execute agreements with the City of ~~Santa Ana~~ **Anaheim** for equipment, training cost reimbursement and overtime backfill for Homeland Security training as outlined in the FY2010 Urban Area Security Initiative (UASI) grant. (Approved as corrected)
7. Approve and authorize City Manager to execute agreements with the City of ~~Santa Ana~~ **Anaheim** for equipment, training cost reimbursement and overtime backfill for Homeland Security training as outlined in the FY 2012 Urban Area Security Initiative (UASI) grant. (Approved as corrected)
8. Waive formal bid requirements per La Habra Municipal Code Section 4.20.050 (C) and authorize staff to issue a Purchase Order to Merrimac Energy Group of Long Beach in the amount of \$450,000 for FY2013-2014 for annual fuel purchases, and waive formal bid requirements per La Habra Municipal Code Section 4.20.050 (D) and authorize staff to obtain quotes for the purchase of fuel and determine availability through various fuel supply vendors and make purchases for fuel at the lowest price in the event a quote from a vendor is found to be lower than the cooperative bid contract with Saddleback Valley Unified School District (Agreement Bid #11-04) for fuel purchases through Merrimac Energy Group of Long Beach, CA, and not to exceed the total amount of \$450,000 budgeted for FY2013-2014 annual fuel purchases.

9. ~~Approve, accept, and authorize the recordation of a grant deed for 1501 E. Lambert Road.~~ Accept and authorize the recordation of a Grant Deed for street and other purposes across the southerly portion of the lot at 1501 E. Lambert Road.”
(Approved as corrected)
10. Approve and authorize an advance payment to Southern California Edison to relocate a transmission pole in connection with the Harbor Boulevard and Lambert Road Intersection Improvement Project.
11. ~~Approve, and authorize agreement with Blue Violet Networks for the purchase and installation of a new telephone system for all city facilities.~~ Approve and authorize City Manager to enter into a professional service agreement with Blue Violet Networks in the amount of \$196,900.73 for the purchase and installation of a new citywide telecommunication system with three (3) years full maintenance support, and appropriate an additional \$21,900.00 from the IT Fund for this project.”
(Approved as corrected)
12. WARRANTS: Approve Nos. 00092117 through 00092504 totaling \$7,085,659.60.

IV. CONSENT CALENDAR ITEMS REMOVED FOR SEPARATE DISCUSSION: None

V. PUBLIC HEARINGS:

1. Duly noticed public hearing to consider appeal of approval of Design Review 13-02 for Facade and Site Improvements to a Commercial Retail Center at 100-156 West La Habra Boulevard and Modification 13-01 to Conditional Use Permit 81-10 for the Off-Sale of Alcoholic Beverages at 100 West La Habra Boulevard.

Gomez explained that through his employment he had entered into a lease agreement with Mr. Jones in which they had a disagreement. He stated that to avoid any perceived conflicts, he would abstain. Councilmember Gomez left the dais during this item.

Community Development Director Haack presented the staff report. He reported that Councilmember Blazey appealed this item on behalf of the applicant Mr. Greg Jones, and that a letter was received from Mr. Jones regarding the nature and purpose of the appeal. He reported that the Planning Commission voted 2-1 to approve Design Review 13-02 with additional conditions; and by a 3-0 vote to approve Modifications 13-01 to Conditional Use Permit 81-10 with no additional conditions.

Community Development Director Haack reviewed each of Mr. Jones' concerns outlined in his letter dated June 19, 2013, and staff's recommendations regarding the same that included the following conditions:

- Condition 17 regarding the placement of any additional outdoor lighting,
- Condition 21 regarding requiring the Planned Sign Program be submitted to all tenants within the shopping center,
- Condition 27 regarding repainting the aluminum store front window frames to an earth tone color,
- Condition 29 regarding requirements for installation of a grease interceptor,

- Condition 36 regarding installation of a 6 foot high block wall along the western property line,
- Condition 37 which grants the City the right to place a mural on the east-facing building wall with the agreement of the property owner,
- Condition 38 regarding the removal of the free-standing pole sign at the northeast corner of the property on or before October 1, 2015,
- Condition 40 regarding a segment of this condition that requires the placement of two diamond-shaped tree wells within the center of the parking lot.

City Council discussion included: confirmation that Mr. Jones, Community Development Director Haack, and two of the five Planning Commissioners were not present at the May 28, 2013, Planning Commission meeting during the public hearing for the consideration of the Design Review 13-02 and Modification 13-01 to Conditional Use Permit 81-10; that Condition 17 does not require the installation of additional lighting; clarifications that the requirement of a grease interceptor is regulated by the Fats, Oil, and Grease Ordinance is based on State law and also provides a review and appeal process for the applicant through the Building Official; confirmed that the resident adjacent to the property was not contacted regarding the placement of a block wall along the western property line; inquired as to why Condition 37 was added and verified that no particular mural was in mind; reviewed the history regarding the removal of the free-standing pole sign; the effectiveness of a monument sign versus a pole sign; concerns regarding the diamond-shaped tree wells to be placed in the center of the parking lot that included reducing parking spaces, the possibility of damage to the parking lot caused by the roots, irrigation costs, and maintenance; review of costs for a block wall and a monument sign; useful life of aluminum windows; and acknowledgement that conditions may be costly to applicant and should therefore be reasonable.

Mayor Espinoza opened the public hearing at 7:25 p.m.

Mr. Greg Jones with Jones Real Estate, the applicant/appellant, presented his concerns. He stated that his primary concern was with the removal of the free-standing pole sign, to be replaced by a monument sign. He explained his commitment to the tenants whose names are on the pole sign, and expressed his concerns regarding the line-of sight issue relating to a monument sign. He reviewed the history regarding the removal of the free-standing pole sign and stated that it was his understanding that the pole would be allowed to remain until 2075. He submitted to Council a representation of the proposed refurbished sign. He expressed his opposition to the additional landscaping requirement of the diamond-shaped tree wells and the relating costs. He expressed his opposition to Condition 37 regarding the mural. He expressed his desire to work through the more significant conditions with Council this evening. However, he stated that he was certain he could work with City staff regarding the other conditions.

City Attorney Jones reported that the correspondence relating to the removal of the free-standing pole sign had been reviewed by his office. He clarified that the City did not commit to allow the sign to remain there until 2075. He stated that it was not the intent of former Community Development Director Heep to allow a 50-year-old sign to remain another 50 years.

Attorney Jeff Goldfarb with Rutan & Tucker, representing Mr. Greg Jones, spoke in support of the appeal and Mr. Jones' issues; discussing property rights and the nexus between the subject conditions and the existing project that began with an application for the sale of off-site alcohol. Attorney Goldfarb spoke against the various conditions noted in the appeal. He argued against

the removal of the free-standing pole sign, noting that it was the most significant condition. He indicated a First Amendment violation relating to the mural.

City Council discussion included: the potential for refurbishing the existing free-standing pole sign as opposed to removing it; reviewed the history regarding the removal of the free-standing pole sign; the confirmation that there is a potential for line-of-sight issues with regards to a monument sign; confirmation that the free-standing pole sign is a non-conforming sign; Council expressed their dissatisfaction with staff for not enforcing the code for seven years regarding the pole sign; confirmation again that the resident adjacent to the property was not contacted regarding the placement of a block wall along the western property line and did not attend the Planning Commission Meeting held May 28, 2013; painting and/or polishing of the aluminum store front windows and colors available at time of purchase; determination that the diamond-shaped tree wells were unnecessary; and confirmation that the placement of the mural by the City was unjustified.

Mr. Jones summarized that Conditions 17, 21, 35, and 39 were acceptable to him and that he could work with City staff regarding these conditions. He stated that he disagreed with Condition 36, 38, and a portion of Condition 40 regarding the tree wells.

Mayor Espinoza supported removal of the sign on or before October 1, 2015.

Councilmember Shaw noted the conflict with the dates for the removal of the free-standing pole sign and reiterated that the sign was non-conforming.

MOVED BY MAYOR PRO TEM BEAMISH, SECONDED BY COUNCILMEMBER BLAZEY, AND CARRIED (4-0) TO REMOVE CONDITION NO. 36 RELATING TO THE 6 FOOT HIGH BLOCK WALL ALONG THE WEST PROPERTY LINE OF 121 WEST FIRST AVENUE, CONDITION NO. 37 REGARDING A MURAL ON THE EAST-FACING BUILDING WALL, AND A PORTION OF CONDITION NO. 40 REGARDING THE PLACEMENT OF TWO DIAMOND-SHAPED TREE WELLS IN THE CENTER OF THE PARKING LOT.

Said motion CARRIED by the following roll call vote:

AYES: Mayor Pro Tem Beamish, Councilmember Blazey, Councilmember Shaw, Mayor Espinoza
NOES: None
ABSTAIN: Councilmember Gomez
ABSENT: None

Moved by Mayor Pro Tem Beamish, seconded by Councilmember Blazey, and CARRIED (3-1) TO REMOVE CONDITION NO. 38 RELATING TO REMOVING THE FREE-STANDING SIGN LOCATED AT THE NORTHEAST CORNER OF THE PROPERTY.

Said motion CARRIED by the following roll call vote:

AYES: Mayor Pro Tem Beamish, Councilmember Blazey, Councilmember Shaw
NOES: Mayor Espinoza
ABSTAIN: Councilmember Gomez
ABSENT: None

MOVED by Mayor Pro Tem Beamish, seconded by Councilmember Blazey, and PASSED 3-1 TO APPROVED THE FOLLOWING RESOLUTIONS AS AMENDED:

- a. APPROVE AND ADOPT **RESOLUTION NO. 5594** ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA HABRA UPHOLDING THE PLANNING COMMISSION APPROVAL OF DESIGN REVIEW 13-02 FOR FAÇADE AND SITE IMPROVEMENTS TO THE COMMERCIAL RETAIL CENTER AT 100-156 WEST LA HABRA BOULEVARD, MAKING THE APPROPRIATE FINDINGS AND SUBJECT TO CONDITIONS.
- b. APPROVE AND ADOPT **RESOLUTION NO. 5595** ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA HABRA UPHOLDING THE PLANNING COMMISSION APPROVAL OF MODIFICATION 13-01 TO CONDITIONAL USE PERMIT 81-10 FOR THE SALE OF ALCOHOLIC BEVERAGES (LICENSE TYPE 20, OFF-SALE BEER AND WINE) IN CONJUNCTION WITH A CONVENIENCE STORE AT 100 WEST LA HABRA BOULEVARD, MAKING THE APPROPRIATE FINDINGS INCLUDING PUBLIC CONVENIENCE OR NECESSITY, AS PER THE APPROVED PLANS AND SUBJECT TO CONDITIONS.

Said motion CARRIED by the following roll call vote:

AYES: Mayor Pro Tem Beamish, Councilmember Blazey, Councilmember Shaw
NOES: Mayor Espinoza
ABSTAIN: Councilmember Gomez
ABSENT: None

VI. CONSIDERATION ITEMS:

1. Consider the Orange County Grand Jury's report titled, "The Goal of Equal Employment Opportunity: NO VICTIMS," and authorize staff to send the attached response on behalf of the City to the Grand Jury.

Director of Finance and Administrative Services presented the staff report. He reported that staff was in agreement with the findings and three recommendations of the Grand Jury. He clarified that the City was in compliance with the State mandated training for managers and supervisors, but would need to implement training for all employees every two to three years as recommended by the Grand Jury. He stated that the City was also already in compliance with the last two Grand Jury recommendations that included a review of Self Insured Retention aggregate limits every five years, and continuing efforts to utilize best practices with respect to harassment, discrimination, and retaliation.

Council questions included: confirmation that the response to the Grand Jury was due by September 25th; and uncertain if web-based training is available.

Mayor Espinoza invited the public to testify at 8:35 p.m. There was no public testimony.

Councilmember Blazey noted the following corrections for the Response Letter to the Grand Jury:

On page 2, paragraph 5, the sentence should be corrected to read “In compliance with State law, the City of La Habra provides funding for and training of managers and supervisors every two years. Training for line staff has been conducted on an as-needed basis.”

On page 2, paragraph 7, the sentence should be corrected to read “City staff review SIR aggregate limits on an annual basis, ~~which~~ not only ~~complies~~ complying with, but ~~exceeds~~ exceeding the Grand Jury’s recommendation on this issue. The City will continue with its current annual review of SIR aggregate limits.”

Moved by Councilmember Blazey, seconded by Mayor Pro Tem Beamish, and CARRIED UNANIMOUSLY 5-0 TO APPROVE RECEIVE AND FILE THE ORANGE COUNTY GRAND JURY’S REPORT TITLED, "THE GOAL OF EQUAL EMPLOYMENT OPPORTUNITY: NO VICTIMS" AND AUTHORIZE STAFF TO SEND THE ATTACHED RESPONSE ON BEHALF OF THE CITY TO THE GRAND JURY AS CORRECTED.

Said motion CARRIED by the following roll call vote:

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

NOES: None

ABSTAIN: None

ABSENT: None

VII. MAYOR'S COMMUNITY CALENDAR:

Mayor Espinoza made the following announcements:

- The “Mayor’s Community Hours” will be hosted on Friday, August 9th at Jamba Juice located at 1040 West Imperial Highway and Saturday, August 10th at the La Habra Library located at 221 East La Habra Boulevard from 11:00 a.m. to 1:00 p.m. The Mayor is also available by appointment.
- Children’s Museum at La Habra Target Free Sunday is September 1st from 1:00 p.m. to 5:00 p.m. The theme is “Latin Rhythms.”
- Smartphone users can now report problems or concerns, make information requests, attach photos and receive status updates through the City’s new Contact La Habra app which is available for both Android users and iPhones users.
- The City Council will meet again on Monday, August 19th and Tuesday, September 3rd at 6:30 p.m. here in the City Council Chambers.

VIII. COMMENTS FROM STAFF: None

IX. COMMENTS FROM COUNCILMEMBERS:

Councilmember Shaw spoke regarding the Bridenbecker Avenue dedication, a tribute to former City Manager Brad Bridenbecker. He stated it was good to see the Bridenbecker family again. He expressed his satisfaction with the Corn Festival and parade; and complimented those involved.

Councilmember Blazey congratulated Roy Ramsland and the La Habra Host Lions Club on the success of the Corn Festival. He asked that Acting Police Chief Price, Public Works Director Saykali, and Community Services Director Failla extend his appreciation to their staff for their hard work during the festival. He noted that he was unable to attend the "Wall that Heals" and thanked his colleagues for their participation. He thanked Public Works Director Saykali for his staff's immediate attention to repairs of a fire-hydrant located near Perpetual Vogue on 230 E. Whittier Boulevard.

Councilmember Gomez congratulated Roy Ramsland and the La Habra Host Lions Club on the success of the Corn Festival.

Mayor Pro Tem Beamish concurred with his colleagues and congratulated all those involved with the Corn Festival. He spoke regarding the dedication of Bridenbecker Avenue. He asked staff to provide him with the date that the moratorium on medical marijuana dispensary would be brought back to Council.

Mayor Espinoza stated that she attended the Corn Festival and the parade. She thanked Linda Padilla-Smyth and Sandi Baltes for their participation in the parade and noted that they won First Prize for their category. She extended her appreciation to the La Habra Host Lions Club for the success of the Corn Festival. She stated that she attended the Concerts in the Park and the dedication of Bridenbecker Avenue, and extended her appreciation to all involved.

X. ADJOURNMENT: Mayor Espinoza adjourned the meeting at 8:45 p.m. to Monday, August 19, 2013, at 5:30 p.m. in the Administrative Conference Room 106, followed by the Regular Meeting at 6:30 p.m. in the City Council Chambers.

Respectfully submitted,

Tamara D. Mason, MMC
City Clerk