

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

Monday, October 16, 2017

APPROVED: These Minutes were approved on December 4, 2017.

ADJOURNED REGULAR MEETING: CANCELLED

REGULAR MEETING:

CALL TO ORDER: Mayor Espinoza called the Regular Meeting of the City Council of the City of La Habra to order at 6:28 p.m. in the City Council Chamber, located at 100 East La Habra Boulevard in La Habra, California.

INVOCATION: Deputy City Attorney Ryan Jones

PLEDGE OF ALLEGIANCE: Mayor Espinoza

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

COUNCILMEMBERS ABSENT: None

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

CLOSED SESSION ANNOUNCEMENT: None

I. PROCLAMATIONS/PRESENTATIONS:

- a. Presentation of the La Habra Civic Center Dedication Paver by RTC Engravers.

Mayor Espinoza invited Amy and Thor Rosendahl, and their son Ebbe Rosendahl, from RTC Engravers forward to present a special dedication paver memorializing the dedication ceremony of City Hall on June 23, 2017. Mayor Espinoza accepted the dedication paver.

II. PUBLIC COMMENTS: None

III. CONSENT CALENDAR:

Moved by Councilmember Gomez, seconded by Councilmember Beamish, and CARRIED UNANIMOUSLY (5-0) TO APPROVE CONSENT CALENDAR ITEMS III.1 THROUGH III.6.

Said motion CARRIED by the following roll call vote:

AYES: Mayor Espinoza, Mayor Pro Tem Shaw, Councilmember Gomez,
Councilmember Blazey, Councilmember Beamish
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. Authorize the City Manager to execute an Agreement for Special Services with the law firm of Liebert Cassidy Whitmore ("LCW") for consultation, representation, and legal services pertaining to labor and employment related matters, including representation in negotiations and in administrative and court proceedings. The term of the agreement is ongoing and may be modified by mutual agreement of the parties.
3. Approve staff's recommendation regarding a request for no stopping restrictions on the west side of North Idaho Street at 315 N. Idaho Street; and
 - a. APPROVE AND ADOPT **RESOLUTION NO. 5815** ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA HABRA PROHIBITING STOPPING, STANDING AND PARKING AT ALL TIMES ON THE WEST SIDE OF NORTH IDAHO STREET AT 315 N. IDAHO STREET.
4. Approve staff's recommendation regarding a request for no stopping restrictions on the west side of South Dexter Street at 429 South Dexter Street; and
 - a. APPROVE AND ADOPT **RESOLUTION NO. 5816** ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA HABRA PROHIBITING STOPPING, STANDING AND PARKING AT ALL TIMES ON THE WEST SIDE OF SOUTH DEXTER STREET AT 429 S. DEXTER STREET.
5. Approve staff's recommendation regarding a request for no stopping restrictions on the north side of West La Presa Drive at 501 West La Presa Drive; and
 - a. APPROVE AND ADOPT **RESOLUTION NO. 5817** ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA HABRA PROHIBITING STOPPING, STANDING AND PARKING AT ALL TIMES ON THE NORTH SIDE OF WEST LA PRESA DRIVE AT 501 W. LA PRESA DRIVE.
6. WARRANTS: Approve Nos. 00113549 through 00113659 totaling \$636,488.82

IV. **CONSENT CALENDAR ITEMS REMOVED FOR SEPARATE DISCUSSION:** None

V. PUBLIC HEARINGS:

1. Duly noticed public hearing to consider an appeal of the Planning Commission action on Conditional Use Permit 16-13 and Design Review 16-14 for a self-service gas station at 101 South Harbor Boulevard.
 - a. APPROVE AND ADOPT **RESOLUTION NO. XXXX** ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA HABRA UPHOLDING THE PLANNING COMMISSION AND DENYING CONDITIONAL USE PERMIT 16-13 FOR AN AUTOMOBILE SERVICE STATION AT 101 SOUTH HARBOR BOULEVARD.
 - b. APPROVE AND ADOPT **RESOLUTION NO. XXXX** ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA HABRA UPHOLDING THE PLANNING COMMISSION AND DENYING DESIGN REVIEW 16-14 FOR AN AUTOMOBILE SERVICE STATION AT 101 SOUTH HARBOR BOULEVARD.

Community and Economic Development Director Ho presented the staff report. He stated that the Specific Plan has been in place since 1999 and was most recently amended in 2016. He noted that the property is designated as Mixed Use Center 1 (MUC-1) in the La Habra General Plan 2035. He reported that the Planning Commission denied the proposed gas station because they were unable to make all the necessary findings in support of the project. He noted that the proposed use would impair the character of the zone, and that the granting of the Conditional Use Permit was not consistent with the General Plan. He explained how the project did not meet General Plan Land Use Policy Number 12 regarding live, work, and shop; and Goal Number 14 regarding land use centers. He noted that the denial was supported by several factors in the proposed resolutions. He clarified that if the Planning Commission's decision is overturned and the project is approved, the City will receive one-time revenues from building permits and inspections during construction, and an ongoing annual revenue from sales tax and gas sales once the business is in operation. He noted that if the Planning Commission's decision is upheld and the applicant elects to initiate litigation, the General Fund would be impacted with legal fees.

Council discussion included: confirmation the project is not consistent with the La Habra General Plan 2035 Land Use Designation of MUC-1, but is allowed through the La Habra Boulevard Specific Plan ("Specific Plan") with a Conditional Use Permit (CUP); explanation of a CUP and that conditions can be applied to the project by City Council; clarified the land has been vacant since 1998 and soil remediation has been completed with a vapor extraction system that was installed on the property in 2000; confirmed that per an approval letter the City received from the Orange County Health Care Agency (OCHCA) in 2013 the vapor extraction system was relocated; noted that the property has potentially been able to be redeveloped since 2013; the City received a letter from OCHCA stating the land is ready for redevelopment; clarified the vote of Planning Commission regarding this item was 4-1; noted that La Habra General Plan 2020 could not predict the increase in internet sales and the decrease of retail purchases in the City; confirmation that the policy of land use in the Specific Plan is to encourage the intensification of commercial and industrial uses in a manner which will provide for improved commercial services to the community, maximum revenue generation, and a better balance of jobs and housing which applies to the proposed gas station; clarified that Sub-area 2 of the Specific Plan is where the proposed gas station would be constructed; review land area boundaries in the Specific Plan and the characteristics of each subarea; permitted use of

highway commercial in relation to La Habra Boulevard and Harbor Boulevard; confirmed the Specific Plan changed the proposed property to MUC-1 in 2016; clarification that per the General Plan MUC-1 designation states site development or a specific plan shall be required for properties developed with a mix of uses which shall demonstrate how the project meets the objective for a unified pedestrian oriented village character; potential volume of gas sold and the annual revenue in sales tax expected by the City; potential financial benefits to surrounding businesses; requests for anchor tenants made by potential businesses regarding locations in relation to surrounding businesses; confirmed interest in the property by four other businesses; General Plan's definition of commercial service and commercial retail; potential vision of multi-residential and commercial retail mixed use facility for the former Burch Ford site; and clarification that for Council to overrule the Planning Commission's decision there has to be a significant economic and social benefit to the City.

Deputy City Attorney Jones clarified that this project and the Conditional Use Permit do not have to go back to the Planning Commission unless there are significant changes made.

Mayor Espinoza opened the public hearing at 7:00 p.m.

Larry Lazar, 110 East Walnut Avenue, Fullerton, on behalf of the applicant, spoke regarding public policy and land use issues of the proposed project. He expressed that the entire La Habra General Plan 2035 ("General Plan:") needs to be reviewed. He clarified there are 6 goals and 7 policies in the General Plan to support the applicant in the development of the proposed project. He noted that the General Plan's definition of the proposed property were as large parcels. He noted that the land associated with the project is a parcel of 19,000 square feet, which is a modest sized parcel that stands on its own, and a determination should be made accordingly.

Sean Matsler, Bennet Phelps and Phillips, the appellant and the attorney for applicant, expressed that he respectively disagrees with the staff report's findings. He noted that the property is zoned as Multi-Use Commercial 1 (MUC-1). He added that the property also has a General Plan designation which allows for uses that are characteristic of a community shopping center designation that permits a variety of commercial services serving the larger citywide area and the surrounding community's use. He noted that the Planning Commission interpreted the shopping center designation as prohibiting automobile service stations, which his firm found no basis for in General Plan or in the La Habra Boulevard Specific Plan ("Specific Plan") for a MUC-1 designation. He clarified that there is nothing in the General Plan that states commercial service uses are prohibited in the MUC-1 designation. He stated that City staff concluded that the only uses identified as commercial retail may be permitted in the MUC-1 designation which would prevent the construction of any restaurants or other uses characterized as commercial services on the parcel. He stated that the proposed project is consistent with the General Plan commercial service uses.

Jim Caiopoulos, applicant and Chief Executive Officer of Galaxy Oil Company and Best for Less 76, commended Council for doing what is best for the community. He stated that the proposal before Council matches what Council wants for the site. He spoke regarding the financial advantages and discounts of gasoline purchases to the community of the proposed 3-tier fully automated payment system. He clarified the potential yearly tax revenue benefits to the City. He noted that Best for Less 76 locations are within the top three revenue producers for any one site in the following cities in which they operate: Buena Park, Cypress, Garden Grove,

Placentia, Tustin, Norwalk, and Corona and that they are in the same retail category as fast food restaurants and Starbucks. He stated that surrounding businesses would benefit from the project because of the vehicle traffic that will come through the site. He noted that the property is owned by five people who are beneficiaries of a trust. He noted that the previous gas company, Mobil Gas, paid for the remediation of the property. He confirmed that per the City's request, there will be one employee on site to monitor 24-hours per day, seven days per week. He noted that their other sites function effectively without an employee on site. He confirmed that the Transaction Use Tax will be applicable with the proposed project. He verified the fuel storage system is a double-walled tank system that is monitored 24-hours a day, seven days per week, with technicians available within 20 minutes of sites to handle any issues that may come up.

Mayor Espinoza closed the public hearing at 7:23 p.m.

Councilmember Beamish commented regarding the General Plan vision, land use, parcel size, and aggregate of parcels versus individual parcels of land; confirmed with the applicant that he attended General Plan Amendment Committee meetings, but did not offer a request or an opinion regarding zoning of the proposed property; and noted that the Specific Plan stands the test of time and has important elements that are enhanced by the General Plan.

Councilmember Blazey commented regarding verification there were no responses received by the City to notices sent to the surrounding neighbors of the proposed site; confirmed that no alternative sites have been discussed with the applicant; noted that if based solely on the Specific Plan the proposed project's design would meet guidelines; concern regarding multiple property owners in the combined center; and noted that unification of the development of business uses will take some time. He stated that however he votes, it will be for this specific parcel, this specific area at Harbor Boulevard and La Habra Boulevard, and does not predict how he might vote on the Burch property or anywhere else with regards to the La Habra Boulevard Specific Plan.

City Manager Sadro reconfirmed that the Specific Plan was last updated in 1999 and the General Plan was updated in 2016. He noted that the General Plan would be a more contemporary viewpoint of how development and zoning is contemplated on projects or properties that the City is looking to change.

Moved by Mayor Pro Tem Shaw, seconded by Councilmember Gomez, and CARRIED (4-1) TO APPROVE TO OVERTURN THE PLANNING COMMISSION'S ACTION TO DENY CONDITIONAL USE PERMIT 16-13 FOR AN AUTOMOBILE SERVICE STATION AT 101 SOUTH HARBOR BOULEVARD.

Said motion CARRIED by the following roll call vote:

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

Community and Economic Development Director Ho confirmed that staff would need to come back at the November 6, 2017, City Council meeting with resolutions to overturn the Planning Commission's decision.

Deputy City Attorney Jones noted that Council needs to deny or approve the appeal and then bring the item back to Council at a future date to discuss the design review of the project. He confirmed that a motion was made to overturn the Planning Commission's decision. He verified that this item does not have to go back to the Planning Commission for approval.

Moved by Councilmember Gomez, seconded by Councilmember Beamish, and CARRIED UNANIMOUSLY (5-0) TO APPROVE TO DIRECT STAFF TO RETURN TO COUNCIL ON NOVEMBER 6, 2017 at 6:30 P.M. TO CONSIDER APPROVING CONDITIONAL USE PERMIT 16-13 AND DESIGN REVIEW 16-14 AT 101 SOUTH HARBOR BOULEVARD.

Said motion CARRIED by the following roll call vote:

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

Councilmember Gomez thanked the applicant for their presentation.

Mayor Espinoza called for a recess at 7:37 p.m.

The City Council Meeting reconvened at 7:46 p.m. All Councilmembers were present.

2. Duly noticed public hearing to consider an ordinance adding Chapter 15.67 "Electric Vehicle Charging Stations" to Title 15 "Buildings and Construction" of the La Habra Municipal Code to provide an expedited, streamlined permitting process for electric vehicle charging stations.

Community and Economic Development Director Ho introduced Senior Planner Schaefer who presented the staff report.

Senior Planner Schaefer stated that since 2012 the State of California has been encouraging the development and success of zero emission vehicles which includes electric vehicles with a long-term target of 1.5 million zero emission vehicles on California roadways by the year 2025. He noted that Assembly Bill 1236 (AB 1236) requires local jurisdictions to adopt ordinances to create an expedited streamline permitting process for electric vehicle charging stations. He stated that the ordinance before Council meets the requirements of Assembly Bill 1236, as well as meeting several policies of the La Habra General Plan 2035.

Council discussion included: confirmation that an electric permit is required for an electric charging station to be installed at any commercial parking lot; and clarification that the installation of an electric charging station at a multi-purpose gas station is discretionary and can be negotiated.

Mayor Espinoza opened the public hearing at 7:48 p.m. There was no testimony so the public hearing was closed.

Moved by Councilmember Gomez, seconded by Mayor Pro Tem Shaw, and CARRIED UNANIMOUSLY (5-0) TO APPROVE FIRST READING OF **ORDINANCE NO. 1787** ENTITLED: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA HABRA, ADDING CHAPTER 15.67 "ELECTRIC VEHICLE CHARGING STATIONS" TO TITLE 15 "BUILDINGS AND CONSTRUCTION" OF THE LA HABRA MUNICIPAL CODE PURSUANT TO THE REQUIREMENTS OF ASSEMBLY BILL 1236, AS PER EXHIBIT A.

Said motion CARRIED by the following roll call vote:

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

VI. CONSIDERATION ITEMS:

1. Consider a status update on the Civic Center Improvement Project and proposed modification to the scope of work for the Police station.

Community and Economic Development Director Ho presented the staff report. He stated as the La Habra Civic Center improvement project nears completion work is now focused on renovations at the La Habra Police Station. He noted that construction at the police station began in May of 2017 and will be completed in the spring of 2018. He stated that additional work, not included or anticipated in the original scope of work, has been identified resulting in the recommendation to allocate additional funds to the project. He noted that the additional scope of work at the police station includes the rehabilitation of the oldest active building, the addition of enhanced security features to better protect the police department's staff, and equipment to improve the department's long-term operations.

Council discussion included: confirmation that two years ago rehabilitation of the Police Department's interior was completed; verification work is being done on the electrical system, the roof, the air conditioning units, the chiller, and the parking lot which will lengthen the life of the building by 40 to 50 years; clarification that the gray block wall around the building will have stucco applied that is the same color as the City Hall building; and the landscaping will be the same as City Hall's landscaping.

Mayor Espinoza invited the public to testify at 7:53 p.m. There was no testimony.

Moved by Councilmember Beamish, seconded by Mayor Pro Tem Shaw, and CARRIED UNANIMOUSLY (5-0) TO APPROVE THE PROPOSED CHANGE OF SCOPE OF THE CIVIC CENTER PROJECT, IN AN AMOUNT NOT TO EXCEED \$1,235,050, WHICH INCLUDES A 10 PERCENT CONTINGENCY OF \$303,413.

Said motion CARRIED by the following roll call vote:

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

Moved by Councilmember Beamish, seconded by Mayor Pro Tem Shaw, and CARRIED UNANIMOUSLY (5-0) TO APPROVE APPROPRIATE \$1,235,050 FROM THE CAPITAL PROJECTS FUND TO COVER THE COST OF THE ADDITIONAL SCOPE OF WORK.

Said motion CARRIED by the following roll call vote:

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

VII. MAYOR'S COMMUNITY CALENDAR:

Mayor Espinoza made the following announcements:

- City of La Habra's "Hazardous Waste Collection Event" - Friday, October 20, for La Habra-based businesses and on Saturday, October 21, for La Habra residents.
- Veterans Day - Saturday, November 11 at 10:30 a.m., at the Community Center to celebrate our veterans and honor their service to our nation.
- 4th Annual La Habra Tamale Festival - Sunday, November 26, along Euclid Street between Portola and Brio Park.
- La Habra Children's Museum will host "Breakfast with Santa" – Saturday, December 2 through Sunday, December 3, with sittings each morning at 8:30 a.m., 9:45 a.m., and 11:00 a.m.

VIII. COMMENTS FROM STAFF: None

IX. COMMENTS FROM COUNCILMEMBERS:

Councilmember Beamish reported that he did not attend the La Habra Children's Museum's "Gourmet Guys" event. He asked Police Chief Price to have a crossing guard on La Habra Boulevard and Euclid Street, for those who have parked at City Hall to attend the Veteran's Day celebration being held at the Community Center on November 11.

Mayor Pro Tem Shaw reported that he attended the Fullerton Mayor's Prayer Breakfast where the keynote speaker was Mark Whitaker.

Mayor Espinoza reported that she attended the Fullerton Mayor's Prayer Breakfast, La Habra Children's Museum "Gourmet Guys," and the La Habra Police Department's Open House events. She encouraged the community to attend "Gourmet Guys" next year and the "Tip A Cop" event on Thursday evening, October 19, 2017, at Red Robin restaurant.

Councilmember Gomez asked Council to consider placing the following two items on the agenda; honoring with pavers at City Hall the former La Habra Fire Department and former La Habra Police Officer Michael Osornio. Councilmember Beamish concurred. He reported that he attended the Fullerton Mayor's Prayer Breakfast, the La Habra Children's Museum's "Gourmet Guys," and the La Habra Police Department Open House events. He commended Police Chief Price on the La Habra Police Department's Open House event. He extended his deepest sympathies to Dwayne Sims whose wife Ysabel "Ysie" Sims passed away after a long battle with cancer, and requested that the meeting be adjourned in her memory.

Councilmember Blazey amended the motion regarding the pavers to add former City Manager Brad Bridenbecker. He respectfully asked that anyone that is attending the Veteran's Day celebration on November 11, that if you can walk to please park at the City Hall parking lot and leave some parking at the Community Center parking lot for the elderly veterans who will be attending. He thanked City Manager Sadro and Police Chief Price for speaking with the residents of the North Hills Homeowner's Association and both represented the City very well. He stated that he attended the La Habra Police Department's Open House event. He reported that he attended the "Gourmet Guys" event.

- X. ADJOURNMENT:** Mayor Espinoza adjourned the Regular Meeting in memory of Ysabel "Ysie" Sims at 8:03 p.m. to Monday, November 6, 2017, at 5:30 p.m. in the Council Closed Session Room 112c, 100 East La Habra Boulevard, followed by the Regular Meeting at 6:30 p.m. in the City Council Chamber.

Respectfully submitted,

Tamara D. Mason, MMC
City Clerk