

**MINUTES
CITY COUNCIL OF THE CITY OF LA HABRA**

**ADJOURNED REGULAR MEETING
&
REGULAR MEETING**

Monday, August 03, 2020

PRELIMINARY: These Minutes to be considered for approval on November 2, 2020.

ADJOURNED REGULAR MEETING 5:30 P.M. - CANCELED

REGULAR MEETING 6:30 P.M.:

CALL TO ORDER: Mayor Beamish called the Regular Meeting of the City Council of the City of La Habra and Regular Meeting to order at 6:30 p.m. (telephonically).

INVOCATION: City Attorney Jones

PLEDGE OF ALLEGIANCE: Councilmember Gomez

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

COUNCILMEMBERS/DIRECTORS ABSENT: None

OTHER OFFICIALS PRESENT: City Manager Sadro
City Attorney Jones
City Clerk Swindell
Assistant City Clerk Barone

CLOSED SESSION ANNOUNCEMENT: None

PROCLAMATIONS/PRESENTATIONS: None

PUBLIC COMMENTS:

Matt Grippi, La Habra resident, called in and spoke regarding the skatepark closure due to the Coronavirus COVID-19 pandemic, benefits of skate park use by youth, and requested City Council consideration for its reopening.

Art Narmy, La Habra resident, called in and spoke regarding the benefits of fireworks sales by surrounding cities' non-profit groups, and requested City Council consideration for legalizing safe and sane fireworks in the City of La Habra.

CONSENT CALENDAR:

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

Said motion CARRIED by the following roll call vote:

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

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

1. PROCEDURAL WAIVER: Waive reading in full of resolutions and ordinances and approval and adoption of same by reading title only.

2. CITY COUNCIL MEETING MINUTES

That the City Council approve the Special Meeting Minutes of June 25, 2020.

3. APPROVE DENIAL OF LIABILITY CLAIM OF MR. WILLIAM SCOTTEN FOR PROPERTY DAMAGE

That the City Council approve the claim of Mr. William Scotten be denied in order to set a definite six-month Statute of Limitations date.

4. RESPONSE TO ORANGE COUNTY GRAND JURY REPORT ENTITLED: "PROTECTING THOSE WHO PROTECT AND SERVE"

That the City Council approve and authorize the Police Chief to submit the City of La Habra Police Department's response to the 2019-2020 Orange County Grand Jury report entitled: "Protecting Those Who Protect and Serve".

5. REAFFIRMATION OF LOCAL EMERGENCY DECLARATION

That the City Council:

A. Receive the report; and

B. APPROVE AND ADOPT **RESOLUTION NO. 5967** ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA HABRA, CALIFORNIA, REAFFIRMING RESOLUTION NO. 5934, WHICH RATIFIED THE DIRECTOR OF EMERGENCY SERVICES' DECLARATION OF THE EXISTENCE OF A LOCAL EMERGENCY

6. WARRANTS: APPROVE NOS. 00126478 THROUGH 00126653 TOTALING \$5,617,803.82.

CONSENT CALENDAR ITEMS REMOVED FOR SEPARATE DISCUSSION: None

PUBLIC HEARINGS: None at this time.

CONSIDERATION ITEMS:

1. STORM DRAIN MASTER PLAN REPORT

Director of Public Works Saykali presented the staff report and PowerPoint presentation.

City Council discussion included: clarification on the potential for a flood, collapse, and capacity to handle a “10-year storm;” confirmation of the difficulty finding any federal or state funding for storm drain work/repair; and verification that the only way to obtain funding was through a bond or Mello-Roos which would take a vote of the people.

Mayor Beamish invited the public to testify at 6:50 p.m. There was no public testimony.

Moved by Mayor Pro Tem Espinoza, seconded by Mayor Beamish, and CARRIED UNANIMOUSLY (5-0) TO RECEIVE AND FILE THE STORM DRAIN MASTER PLAN REPORT.

Said motion CARRIED by the following roll call vote:

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

2. CONSIDERATION OF A CITY BALLOT MEASURE TO AUTHORIZE THE CITY COUNCIL TO ADOPT AN ORDINANCE AUTHORIZING UP TO SIX PERCENT GROSS RECEIPTS TAX ON COMMERCIAL CANNABIS ACTIVITY AND AUTHORIZE UP TO FOUR LICENSES FOR NON-STOREFRONT (DELIVERY ONLY) RETAIL CANNABIS BUSINESSES WITHIN THE CITY

Mayor Beamish explained how this item came to be placed on the agenda for consideration.

Director of Community & Economic Development Ho presented the staff report. He noted that Assistant City Attorney Keith Collins was on the Zoom call and also available for questions.

City Council discussion included: impacts and modifications to current Development Agreements; business models for home-delivered cannabis products in comparison to what percentages and profit margins other cities charge; clarification that tax amounts could be split for different uses; confirmation that cannabis businesses would pay the proposed tax on gross sales, in addition to state sales tax and city transaction use tax; potential that higher tax rates may cause businesses to leave the city; verification that the proposed tax would not be paid by residents; and determination of the proposed tax rate.

City Clerk Swindell stated that two emails in support of this item and one email asking to honor contractual support were received and distributed to City Council prior to this meeting.

Mayor Beamish invited the public to testify at 7:06 p.m.

Canna America Attorney Dana Cisneros submitted a public comment via email and called in to express opposition to the proposed up to six percent tax when Canna America had already entered into a Development Agreement with the city that had different terms and fees; including a community benefit fee and contribution of volunteer hours on community projects. She noted that Canna America would not have entered into the Development Agreement if they would have known of this proposed tax of six percent. She stated that there is already a cultivation tax charged in the supply chain which was recently increased. She requested removal of distribution from the proposed tax measure.

Canna America Owner Anthony DeSimone called in and spoke in opposition of this item. He explained the detrimental effect of the proposed tax measure to his business.

Ad Hoc Fiscal Review Committee Member Martha Leonard called in and spoke in support of this item.

Orange County NORML Executive Director Kandice Hawes submitted a public comment via email in support of this item.

Mayor Beamish closed public testimony at 7:16 p.m.

City Council questions included: feasibility to modify existing Development Agreements to include a cannabis business tax; potential to split the tax between distribution and lab businesses, and all others, and rate determination should the tax be approved by the voters; clarification that the proposed tax is specific to distribution, laboratories, and home delivery potential to grandfather-in Development Agreements; and if the tax would be negotiable.

Assistant City Attorney Collins indicated that the Development Agreements would not change, as existing language agreed to by the developers stipulated that if there was a tax approved by the voters, contractual payments would be replaced by the subsequent tax. He stated that it was not permissible for the City to selectively impose a tax on certain businesses and exempt others. He clarified that Development Agreements were defensible and legally enforceable documents. He stated that a properly worded tax that is voted in by the people is legally bullet proof.

Director of Community & Economic Development Ho stated that, based upon tax rates of surrounding cities, staff recommendation would be a tax rate of not more than 2.5%, and that staff would develop a methodology based upon City Council direction.

Councilmember Medrano emphasized that he was not advocating cannabis, but was in support of this matter being decided on by the voters. Mayor Beamish concurred with Councilmember Medrano's comments.

City Manager Sadro stated the maximum tax rate of six percent would apply to any cannabis activity approved by City Council today and in the future. He recommended a tax system for all current and future cannabis activity. He further stated that a lower tax cap would be a valid way for businesses that do not have as high of a profit margin. He indicated that staff would contact businessowners and take into consideration their concerns prior to making a recommendation to the City Council.

Mayor Pro Tem Espinoza stated that she supports local businesses and working closely with them on the potential tax. She stated that she did not support cannabis, but was in support of this matter being decided on by the voters.

Moved by Mayor Beamish, seconded by Mayor Pro Tem Espinoza, and CARRIED (4-1) TO APPROVE AND ADOPT **RESOLUTION NO. 5968** ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA HABRA, CALIFORNIA, SUBMITTING TO THE VOTERS AT THE NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION A CANNABIS BUSINESS TAX AND REGULATION MEASURE WITH A REVISION TO THE BALLOT QUESTION OF A ZERO TO 2.5 PERCENT TAX FOR CANNABIS DISTRIBUTION AND CANNABIS LABORATORIES, A ZERO TO 6 PERCENT TAX FOR ALL OTHER CANNABIS BUSINESSES, MAKING CORRESPONDING CHANGES TO THE ORDINANCE, AND TAKING CERTAIN RELATED ACTIONS.

Assistant City Attorney Collins clarified that City Council action must include making corresponding changes to the Ordinance.

Said motion CARRIED by the following roll call vote:

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

3. DESIGNATION OF VOTING DELEGATE AND ALTERNATES TO THE LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE

Assistant to the City Manager Ferrier presented the staff report.

Mayor Beamish invited the public to testify at 7:40 p.m. There was no public testimony.

Councilmember Gomez nominated Mayor Pro Tem Espinoza as voting delegate, and Mayor Beamish and Councilmember Medrano as Alternate Voting Delegates to attend the League of California Cities (LOCC) Annual Conference to occur virtually from October 7-9, 2020. There were no other nominations

Moved by Councilmember Gomez, seconded by Councilmember Medrano, and CARRIED UNANIMOUSLY (5-0) TO APPROVE TO DESIGNATE COUNCILMEMBER ESPINOZA AS VOTING DELEGATE, MAYOR BEAMISH AS FIRST ALTERNATE VOTING DELEGATE AND COUNCILMEMBER MEDRANO AS SECOND ALTERNATE VOTING DELEGATE TO ATTEND THE LEAGUE OF CALIFORNIA CITIES (LOCC) ANNUAL CONFERENCE, WHICH DUE TO THE COVID-19 PANDEMIC, WILL BE A VIRTUAL ON-LINE ONLY EVENT THIS YEAR, OCCURRING ON OCTOBER 7 THROUGH OCTOBER 9, 2020.

Said motion CARRIED by the following roll call vote:

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

MAYOR'S COMMUNITY CALENDAR:

Mayor Beamish made the following announcements:

- Coronavirus COVID-19 Informational Updates.
- Wear a Mask and Slow the Spread of COVID-19.
- City Facilities Closures to the public during the COVID-19 "Shelter in Place" order. City operations would continue and staff would be available by phone and email.
- Reminder to complete the 2020 U.S. Census by mail, phone, or online.
- "Join the Conversation" La Habra Community Survey for residents to provide service priorities in preparation for the Fiscal Year 2020-2021 City of La Habra Budget.

COMMENTS FROM STAFF: None

COMMENTS FROM COUNCILMEMBERS:

Councilmember Medrano thanked City staff and Executive staff for their hard work getting the City Council meetings held via teleconference. He requested that tonight's meeting be adjourned in memory of Whittier resident Thomas Mackey.

Councilmember Gomez offered his condolences to the Mackey family for the recent death of Thomas Mackey.

Mayor Beamish thanked City staff for their hard work on the cannabis measure. He spoke regarding the City Council action taken tonight to submit to the voters the cannabis business tax and regulation measure at the November 3, 2020, General Municipal Election.

ADJOURNMENT: Mayor Beamish adjourned the City Council Meeting in memory of Whittier resident Thomas Mackey at 7:48 p.m. to Monday, August 17, 2020, 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,

Laurie Swindell, CMC
City Clerk