

- a. APPROVE AND ADOPT **RESOLUTION NO. 5951** ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA HABRA APPROVING A SUMMARY VACATION TO ABANDON A PORTION OF THE NORTHERLY 248 FEET OF AN EXISTING 300 FOOT CITY OF LA HABRA EASEMENT LOCATED AT 555 SOUTH HARBOR BOULEVARD, ASSESSOR'S PARCEL NUMBERS 298-161-03 AND 298-161-11, AS DESCRIBED IN EXHIBIT "A" AND EXHIBIT "B".
7. WARRANTS: Approve Nos. 00125797 through 00125925 totaling \$2,622,308.57.

IV. CONSENT CALENDAR ITEMS REMOVED FOR SEPARATE DISCUSSION: None

Mayor Beamish requested that City Council hear Consideration Item No. VI.1 Consider and Analyze Recommendations Made by the Ad Hoc Fiscal Review Committee prior to the Public Hearing portion of the Agenda. City Council concurred.

V. PUBLIC HEARINGS:

1. Duly noticed public hearing to consider Zone Change 20-02 for an Ordinance modifying La Habra Municipal Code Title 18 ("Zoning"), chapter 18.22 ("Commercial Cannabis Activity") to reduce the number of permitted commercial cannabis distribution facilities, prohibit cannabis testing laboratories, and modifications to existing development standards. Pursuant to the provisions of the California Environmental Quality Act ("CEQA") staff has determined that the Ordinance is exempt pursuant to Business and Professions Code Section 26055(h), "Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Public Resources Code Section 21000) does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity the proposed modifications to Chapter 18.22. To qualify for this exemption, the discretionary review in any such law, ordinance, rule, or regulation shall include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. This subdivision shall become inoperative to July 1, 2021."

Community and Economic Development Director Ho presented the staff report.

City Council discussion included: recommendations made by the La Habra Planning Commission in 2018 was for two distribution facilities; confirmation that City Council increased the number of distribution facilities to four; verification that there were currently three applications in process for distribution facilities; statement that marijuana was a gateway drug; limit distribution facility licenses to three and revisit the issue in five years; federal government law regarding cannabis and the possibility that it may change in five years; establishment of a public policy for safety and quality-controlled use; clarification that cannabis testing laboratories would have no impact to neighborhoods, would guarantee a safe product, and would be revenue for the city; positive La Habra voting results for Proposition 64 in 2016; current city budget challenges and the need for additional revenue; reduction of cannabis distribution licenses would not stop the use of cannabis; concern regarding temptation of cannabis use by minors; confirmation that there had been no police or fire calls for service related to the existing distribution facility; confirmation that the Ad Hoc Fiscal Review Committee supported cannabis distribution facilities for a revenue source; opposition to walk-up retail cannabis stores; confirmation of the negative impacts to city employee

furlough hours; including police officers, productivity, and customer service levels if revenue had not been received by the existing distribution center; statement that home delivery and use of cannabis would continue; inquiry as to the number of police calls for service related to drug use and driving under the influence; question regarding money spent to battle the war on drug and if the existing distribution center had increased that number; confirmation that the cannabis distribution center(s) did not deliver to any businesses in the city; and noted that over time a decrease in the use of illegal drugs may be realized; stated that applications are not always approved; possible costs to the city if changes were made to the number of cannabis licenses with applications currently in process; and the negative perception by the public when the city changes rules in the middle of a process.

Mayor Beamish opened the public hearing at 6:56 p.m. Due to there being no public testimony the public hearing was closed.

Moved by Mayor Beamish, seconded by Councilmember Shaw, and FAILED (2-3) TO RETAIN THE CURRENT CITY LIMITS OF NO MORE THAN FOUR PERMITTED COMMERCIAL CANNABIS DISTRIBUTION FACILITY LICENSES AND FOUR PERMITTED CANNABIS TESTING LABORATORY LICENSES, AND ADD FOUR CANNABIS HOME DELIVERY LICENSES, AND MAKING MODIFICATIONS TO EXISTING DEVELOPMENT STANDARDS.

Said motion FAILED by the following roll call vote:

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

City Attorney Jones explained that the current applicants had entered into the process and paid in good faith. He noted that if this item is approved the applicant could argue in two ways: unfair detrimental harm due to the good faith actions and that they have some level of entitlement, which was a matter of right, and that they should receive approval. He stated that although there was the potential for legal consequences if changes were made by City Council, the City could argue statutory authority of City Council acting as the legislative body for the community. He confirmed that the current law remains if there was a 2-2-1 vote on the proposed ordinance, and that a majority vote was required to approve the item. He explained that if the City Council continued this item and wanted to suspend taking applications the action would need to be to place the new item on an agenda by a 4/5th's vote and discuss the possibility of a stay of the ordinance that currently existed on the books. He noted that Community and Economic Development Director Ho could inform the potential applicant(s) that the ordinance was being considered by City Council and may impact their application(s) so that they are informed; which would limit the city's exposure.

Community and Economic Development Director Ho clarified that City Council had already approved two cannabis distributors in the city, Continuum which was already in operation, and Canna America which was already in the permitting/construction process. He stated that there was a third applicant Pinnacle, in the queue, development agreement negotiations were almost completed, and was scheduled to be heard by the Planning Commission in the next month.

Moved by Councilmember Medrano, seconded by Councilmember Gomez, and FAILED (2-3) TO APPROVE FIRST READING OF **ORDINANCE NO. XXXX** ENTITLED: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA HABRA, ORANGE COUNTY, CALIFORNIA, APPROVING ZONE CHANGE 20-02 MODIFYING LA HABRA MUNICIPAL CODE TITLE 18 ("ZONING"), CHAPTER 18.22 ("COMMERCIAL CANNABIS ACTIVITY") TO REDUCE THE NUMBER OF PERMITTED COMMERCIAL CANNABIS DISTRIBUTION FACILITIES, PROHIBIT CANNABIS TESTING LABORATORIES, AND MAKING MODIFICATIONS TO EXISTING DEVELOPMENT STANDARDS.

Substitute motion moved by Mayor Pro Tem Espinoza, seconded by Mayor Beamish, and FAILED (2-3) TO APPROVE THE FIRST READING OF AN ORDINANCE THAT WOULD INCLUDE REDUCING THE CURRENT COMMERCIAL CANNABIS DISTRIBUTION FACILITY LICENSES FROM FOUR TO THREE AND REDUCING CANNABIS TESTING LABORATORY LICENSES FROM FOUR TO ONE.

Councilmember Shaw left the dais at 7:41 p.m. He returned at 7:42 p.m.

RECESS: Mayor Beamish called for a recess at 7:44 p.m. The meeting reconvened at 7:45 p.m.

Said motion FAILED by the following roll call vote:

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

Moved by Councilmember Medrano, seconded by Councilmember Gomez, and FAILED (2-3) TO APPROVE FIRST READING OF **ORDINANCE NO. XXXX** ENTITLED: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA HABRA, ORANGE COUNTY, CALIFORNIA, APPROVING ZONE CHANGE 20-02 MODIFYING LA HABRA MUNICIPAL CODE TITLE 18 ("ZONING"), CHAPTER 18.22 ("COMMERCIAL CANNABIS ACTIVITY") TO REDUCE THE NUMBER OF PERMITTED COMMERCIAL CANNABIS DISTRIBUTION FACILITIES, PROHIBIT CANNABIS TESTING LABORATORIES, AND MAKING MODIFICATIONS TO EXISTING DEVELOPMENT STANDARDS.

Said motion FAILED by the following roll call vote:

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

Moved by Councilmember Gomez, seconded by Councilmember Medrano, and CARRIED (4-1) TO CONTINUE THIS ITEM TO THE NEXT REGULAR CITY COUNCIL MEETING OF JUNE 15, 2020 AT 6:30 P.M.; AND DIRECT POLICE DEPARTMENT STAFF TO PROVIDE CITY COUNCIL WITH THE NUMBER OF CALLS RELATED TO DRUG USE AND DRIVING UNDER THE INFLUENCE (DUI); THE AMOUNT OF TIME AND EXPENDITURES COMBATTING THE WAR ON DRUGS, AND IF THERE HAD BEEN A REDUCTION IN THE WAR ON DRUGS SINCE THE OPENING OF THE CANNABIS DISTRIBUTION CENTER.

Said motion CARRIED by the following roll call vote:

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

2. Duly noticed public hearing to consider a request for Planned Unit Development Precise Plan 18-02 for an addition at 1340 South Beach Boulevard, subject to the findings and conditions in the attached ordinance. This project was reviewed pursuant to the guidelines of the California Environmental Quality Act (CEQA) and determined to be Categorically Exempt pursuant to Section 15303(c), Class 3: "New Construction or Conversion of Small Structures" of the California Environmental Quality Act Guidelines. The project consists of an addition not exceeding 10,000 square feet.

Associate Planner Lopez presented the staff report.

City Council discussion included: the current drop-off area for delivery trucks; removal of storage areas; confirmation that the parking area could facilitate curbside touchless pickup from online shoppers; and impacts to vehicle parking stalls.

Mayor Beamish left the dais at 6:51 p.m. He returned at 6:52 p.m.

Mayor Beamish opened the public hearing at 7:57 p.m. Due to there being no public testimony the public hearing was closed.

Councilmember Gomez complimented the Walmart Supercenter at 1000 East Imperial Highway, La Habra, on its curbside pick-up services.

Mayor Beamish reopened the public hearing at 7:59 p.m. for the applicant to speak.

Jacob Glaze, P.E., Kimley-Horn Project Engineer, the applicant, thanked City Council for hearing this item. He thanked staff for their work on this project.

Mayor Beamish reclosed the public hearing at 8:00 p.m.