

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

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REGULAR MEETING

&
Monday, November 02, 2020

PRELIMINARY: These Minutes to be considered for approval on April 5, 2021.

ADJOURNED REGULAR MEETING 5:30 P.M.:

CALL TO ORDER: Mayor Beamish called the Adjourned Regular Meeting of the City Council of the City of La Habra to order at 5:31 p.m. in the Closed Session Room 112c, located at 100 East La Habra Boulevard, La Habra, California.

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

COUNCILMEMBERS ABSENT: None

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

ORAL COMMUNICATIONS FROM THE PUBLIC FOR CLOSED SESSION MATTERS: None

CLOSED SESSION:

1. Conference with Labor Negotiator per Government Code Section 54957.6 - Agency Representative: Jim Sadro, City Manager; Employee Organizations: Police Sworn Employees, Police Civilian Employees, La Habra Municipal Employees Association, General Services Employees, Professional Employees, and Management and Executive Management Groups.

Director of Finance Shannon, Director of Human Resources Balderrama, and Assistant to the City Manager Ferrier were present for this item.

ADJOURNMENT: The City Council reconvened at 5:44 p.m. There were no Closed Session announcements. Mayor Beamish adjourned the Adjourned Regular Meeting at 5:44 p.m.

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 to order at 6:30 p.m. in the Council Chamber, located at 100 East La Habra Boulevard in La Habra, California.

INVOCATION: City Attorney Jones

PLEDGE OF ALLEGIANCE: Councilmember Gomez

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

COUNCILMEMBERS ABSENT: None

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

CLOSED SESSION ANNOUNCEMENT: None

PROCLAMATIONS/PRESENTATIONS:

1. PROCLAIM NOVEMBER 8-14, 2020, AS "NATIONAL NURSE PRACTITIONER WEEK" IN THE CITY OF LA HABRA

Mayor Beamish presented the proclamation to Nurse Practitioner Andrea Vazquez.

2. PROCLAIM NOVEMBER 2-9, 2020, AS "LAW ENFORCEMENT RECORDS AND SUPPORT PERSONNEL WEEK" IN THE CITY OF LA HABRA

Mayor Beamish presented the proclamation to Chief of Police Price.

PUBLIC COMMENTS:

Tim Nally, Whittier resident, spoke regarding street improvements on Hacienda Avenue and Whittier Boulevard. Public Works Director Saykali confirmed the project should be completed in January 2021.

Matt Grippi, La Habra resident, spoke regarding the helmet requirement and the liability risk, safety guidelines, and police enforcement regulations posted at the City's skatepark. Mayor Beamish stated that Community Services Director Fujio would contact Mr. Grippi regarding this matter.

RECESS: Mayor Beamish called a recess at 6:41 p.m.

RECONVENED: City Council reconvened at 6:51 p.m. All Councilmembers were present.

PUBLIC COMMENTS (Con't):

Stefan Hefner, La Habra resident, spoke regarding the helmet requirement and the liability risk, safety guidelines, and police enforcement regulations posted at the City skatepark. He spoke in opposition to the restrictions of visiting the parks in La Habra due to COVID-19, as citizens need to exercise.

CONSENT CALENDAR:

City Attorney Jones stated that he would abstain from acting as legal counsel regarding Consent Calendar Items 7 and 12 due to a conflict of interest as he is on the California Domestic Water Company Board of Directors and he lives adjacent to the proposed project respectively. He noted that Attorney Craig Steele with Richards Watson Gershon is present as Acting Attorney on Consent Calendar Item 12.

City Attorney Jones left the Council Chamber at 6:53 p.m.

Councilmember Gomez stated that he would abstain from voting on Consent Calendar Item 12.

Councilmember Shaw stated that he would abstain from voting on Consent Calendar Item 12.

Moved by Councilmember Gomez, seconded by Councilmember Medrano, and CARRIED UNANIMOUSLY (5-0) TO APPROVE CONSENT CALENDAR ITEMS 1 THROUGH 13, WITH THE EXCEPTION OF ABSTENTION OF COUNCILMEMBER GOMEZ AND COUNCILMEMBER SHAW REGARDING CONSENT CALENDAR ITEM 12.

Said motion CARRIED by the following roll call vote:

AYES: Mayor Beamish, Mayor Pro Tem Espinoza,
Councilmember Gomez, Councilmember Shaw, Councilmember Medrano
NOES: NONE
ABSENT: NONE
ABSTAIN: Councilmember Gomez, Councilmember Shaw (Item 12 only)

1. PROCEDURAL WAIVER: Waive reading in full of resolutions and ordinances and approval and adoption of same by reading title only.
2. APPROVE CITY COUNCIL MINUTES

That the City Council approve City Council minutes of August 3, 2020.

3. RECEIVE AND FILE PLANNING COMMISSION MEETING MINUTES

That the City Council receive and file the Planning Commission Minutes of:

- March 23, 2020
- June 8, 2020
- June 22, 2020
- July 13, 2020

4. APPROVE DENIAL OF LIABILITY CLAIM OF JOSEPH ALEXANDER ECHEVERRIA FORBODILY INJURY

That the City Council deny the claim of Mr. Joseph Alexander Echeverria (a minor) in order to set a definite six-month Statute of Limitations date.

5. APPROVE DENIAL OF LIABILITY CLAIM OF MERCURY INSURANCE FOR PROPERTYDAMAGE

That the City Council deny the claim of Mercury Insurance in order to set a definite six-month Statute of Limitations date.

6. APPROVE THE REAFFIRMATION OF THE LOCAL EMERGENCY DECLARATION

That the City Council:

A. Receive this report; and

B. APPROVE AND ADOPT **RESOLUTION NO. 5976** 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.

7. APPROVE THE CALIFORNIA DOMESTIC WATER COMPANY (CDWC) PROXY NOMINATION

That the City Council:

A. Approve and authorize the City Manager to execute the Notice of Nomination of Directors to nominate Richard Jones for the office of Director; and

B. Approve and authorize the Mayor and City Clerk to execute proxy votes for the election of Directors to the California Domestic Water Company (CDWC) Board for the election to be held at its Annual Meeting of Shareholders scheduled on November 20, 2020.

8. APPROVE NOTICE OF COMPLETION FOR THE RUSSELL STREET STORM DRAIN IMPROVEMENT FROM VALLEY HOME AVENUE TO ROANOKE STREET, CITY PROJECT NO. 3-D-19

That the City Council approve the Notice of Completion for the Russell Street Storm Drain Improvement from Valley Home Avenue to Roanoke Street, City Project No. 3-D-19, and authorize staff to submit the Notice of Completion for recordation.

9. APPROVE AMENDMENT NO. 1 TO TREE MAINTENANCE AGREEMENT WITH WEST COAST ARBORISTS, INC. (WCA)

That the City Council:

A. Approve and authorize the City Manager to execute Amendment No. 1 to the City's tree maintenance agreement with West Coast Arborists, Inc.; and

B. Authorize staff to issue a purchase order to West Coast Arborists, Inc. in the amount of \$321,882.

10. APPROVE THE CYBERSECURITY SOFTWARE SUPPORT AGREEMENT WITH NYOTRONUSA

That the City Council:

- A. Approve and authorize the City Manager to enter into a cybersecurity support agreement with Nyotron USA for \$49,500; and
- B. Approve to appropriate \$32,800 from the City's available Information Technology fund balance to fund the cost of this agreement.

11. APPROVE SCHOOL RESOURCE OFFICER AGREEMENT BETWEEN THE FULLERTON JOINT HIGH SCHOOL DISTRICT AND THE CITY OF LA HABRA

That the City Council approve and authorize the City Manager to execute an agreement between the City of La Habra (City) and the Fullerton Joint Union High School District (District) to participate in the School Resource Officer (SRO) program at La Habra High School and Sonora High School for Fiscal Year 2020-2021.

12. APPROVE AND ADOPT A RESOLUTION FOR THE DENIAL OF:

- GENERAL PLAN AMENDMENT 18-01 TO CHANGE THE LAND USE DESIGNATION FROM OPEN SPACE TO RESIDENTIAL MULTI-FAMILY 1 (15-24 UNITS/ACRE) FOR PLANNING AREA 1, TO LOW DENSITY RESIDENTIAL (0-8 UNITS/ACRE) FOR PLANNING AREAS 2, 3 AND 4, AND TO MIXED USE 1 FOR PLANNING AREA 5, OF THE RANCHO LA HABRA SPECIFIC PLAN, ALONG WITH TEXT AMENDMENTS TO CHAPTER 2, COMMUNITY DEVELOPMENT, CHAPTER 5, COMMUNITY SERVICES, CHAPTER 6, CONSERVATION/NATURAL RESOURCES;
- ZONE CHANGE 18-01 AMENDING THE OFFICIAL LAND USE ZONING MAP BY REMOVING THE AREA GENERALLY KNOWN AS "THE WESTRIDGE GOLF COURSE" FROM THE LAND USE DESIGNATION FOR THE SUBJECT SITE;
- AMENDMENT #3 TO THE LA HABRA HILLS SPECIFIC PLAN;
- ADOPTION OF THE RANCHO LA HABRA SPECIFIC PLAN;
- DESIGN REVIEW 18-01 THROUGH 18-05 FOR RANCHO LA HABRA SPECIFIC PLAN AREAS 1, 2, 3, 4, 6, & 7;
- DEVELOPMENT AGREEMENT 18-01 FOR THE RANCHO LA HABRA SPECIFIC PLAN AT 1400 SOUTH LA HABRA HILLS DRIVE; AND
- THE APPEAL OF THE PLANNING COMMISSION'S DENIAL OF VESTING TENTATIVE TRACT MAP 17845; AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

That the City Council:

- A. APPROVE AND ADOPT **RESOLUTION NO. 5977** ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA HABRA DENYING: (1) GENERAL PLAN AMENDMENT 18-01 TO CHANGE THE LAND USE DESIGNATION FROM OPEN SPACE TO RESIDENTIAL MULTI-FAMILY 1 (15-24 UNITS/ACRE) FOR PLANNING AREA 1, TO LOW DENSITY RESIDENTIAL (0-8 UNIT/ACRE) FOR PLANNING AREAS 2, 3 AND 4, AND TO MIXED USE 1 FOR PLANNING AREA 5, ALL OF THE RANCHO LA HABRA SPECIFIC PLAN, ALONG WITH TEXT AMENDMENTS TO CHAPTER 2,

COMMUNITY DEVELOPMENT, CHAPTER 5, COMMUNITY SERVICES, CHAPTER 6, CONSERVATION/NATURAL RESOURCES; (2) ZONE CHANGE 18-01 AMENDING THE OFFICIAL LAND USE ZONING MAP BY REMOVING THE AREA GENERALLY KNOWN AS "THE WESTRIDGE GOLF COURSE" FROM THE LA HABRA HILLS SPECIFIC PLAN AND ADOPTING THE RANCHO LA HABRA SPECIFIC PLAN AS THE LAND USE DESIGNATION FOR THE SUBJECT SITE; (3) AMENDMENT #3 TO THE LA HABRA HILLS SPECIFIC PLAN; (4) ADOPTION OF THE RANCHO LA HABRA SPECIFIC PLAN; (5) DESIGN REVIEW 18-01 THROUGH 18-05 FOR RANCHO LA HABRA SPECIFIC PLAN AREAS 1, 2, 3, 4, 6, and 7; (6) DEVELOPMENT AGREEMENT 18-01 FOR THE RANCHO LA HABRA SPECIFIC PLAN AT 1400 SOUTH LA HABRA HILLS DRIVE ; AND (7) THE APPEAL OF THE PLANNING COMMISSION'S DENIAL OF VESTING TENTATIVE TRACTMAP 17845; AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

(Councilmember Gomez and Councilmember Shaw abstained on Item No. 12 only.)

13. WARRANTS: APPROVE NOS. 00127518 THROUGH 00127685 TOTALING \$2,175,601.93

That the City Council approve Nos. 00127518 through 00127685 totaling \$2,175,601.93.

CONSENT CALENDAR ITEMS REMOVED FOR SEPARATE DISCUSSION: None

PUBLIC HEARINGS: None at this time.

City Attorney Jones returned to the City Council Chamber at 6:55 p.m.

CONSIDERATION ITEMS:

1. CONSIDER LETTERS TO THE ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE AND CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION

City Attorney Jones noted that after analyzing the facts and determined that Councilmember Shaw had a conflict of interest, but may participate in the item as a resident if he chooses. City Attorney Jones stated that there was an indirect conflict due to economic consequences of this item in terms of fines and attorney fees, and a common law conflict of interest regarding the personal interest of Councilmember Shaw. City Attorney Jones recommended that Councilmember Shaw recuse himself from this item due to the conflict of interest.

Councilmember Shaw recused himself from this item and indicated he would reserve his right to speak during public testimony as a citizen. He left the dais at 6:57 p.m.

City Attorney Jones presented the staff report. He expressed concern with respect to the best evidence rule because the tape in question appeared to be edited, and the goal would be to obtain the original version of the tape, which was part of the investigation process, to verify that the editing did not misconstrue Councilmember Shaw's words, or that it had been edited to make a false impression. He stated that regarding any criminal culpability regarding conduct, the City Attorney's office, nor staff, had made any determination.

Mayor Beamish invited the public to testify at 6:51 p.m.

Shannon Shaw, La Habra resident, spoke regarding the purported audio recordings of her husband, Councilmember Shaw.

Tim Shaw, La Habra resident, spoke in opposition to this item.

Councilmember Shaw left the meeting at 7:07 p.m.

Mayor Beamish closed public testimony at 7:07 p.m.

Council discussion included: the intent of the proposed District Attorney Office letter and that the matter was a jurisdictional issue; a request that the last paragraph of the letter be amended to read, "The City of La Habra City Council hereby requests the District Attorney's office open an investigation into the matter for potential criminal violations stemming from the content of the audio file itself;" that this action would assist in exonerating Councilmember Shaw and show the community that the City Council believed in transparency; and confirmation that residents had requested that the letters not be submitted to the Orange County District Attorney's office or the FPPC.

City Attorney Jones stated that the District Attorney's office would determine whether or not there would be a basis to the claim, and would conduct the investigation.

Moved by Councilmember Gomez, and failed due to the lack of a second THAT COUNCILMEMBER MEDRANO AND COUNCILMEMBER SHAW PARTICIPATE IN A COUNSELING SESSION WITH CITY ATTORNEY JONES AND POLICE CHAPLAIN MIKE MURPHY TO RESOLVE THEIR ISSUES AND TO BRING THE ITEM BACK TO CITY COUNCIL IF THEIR ISSUES ARE NOT RESOLVED.

Mayor Pro Tem Espinoza stated that she would vote in favor of this item so that an investigation could be done in order to clear up any questions and exonerate those who should be exonerated. She stated that she did not receive an apology from Councilmember Shaw. Mayor Beamish and Councilmember Gomez confirmed that Councilmember Shaw had attempted to reach out to her numerous times.

Mayor Beamish stated that he felt that comments made by Councilmember Shaw were inappropriate and on the potential editing of the audio recording. He stated that he had received and accepted an apology from Councilmember Shaw and that Councilmember Shaw had previously apologized to everyone. He indicated that he would vote in opposition to this item and if approved he would defer to Mayor Pro Tem Espinoza to sign the letter(s). He complimented Councilmember Medrano on his professionalism.

Councilmember Medrano stated that he had received, accepted, and appreciated an apology from Councilmember Shaw. He expressed empathy towards Shannon Shaw, wife of Councilmember Shaw.

Moved by Mayor Pro Tem Espinoza, seconded by Councilmember Medrano THAT THE CITY COUNCIL DIRECT STAFF TO SUBMIT LETTERS TO THE ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE AND TO THE CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION WITH THE REMOVAL OF "RECORDING AND DISSEMINATION OF THE AUDIO FILE AND STEMMING FROM THE CONTENT OF THE AUDIO FILE ITSELF" VERBIAGE FROM THE LAST PARAGRAPH OF THE LETTER.

Motion replaced by the substitute motion made below.

SUBSTITUTE MOTION: Moved by Councilmember Medrano, Seconded by Mayor Pro Tem Espinoza, and failed (2-2) THAT THE CITY COUNCIL DIRECT STAFF TO SUBMIT LETTERS TO THE ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE AND THE CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION TO OPEN SEPARATE INVESTIGATIONS AS IT RELATED TO A PURPORTED AUDIO RECORDING OF COUNCILMEMBER SHAW THAT HAD BEEN MADE PUBLIC ON SOCIAL MEDIA.

Said motion FAILED by the following roll call vote:

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

MAYOR'S COMMUNITY CALENDAR:

Mayor Beamish made the following announcements:

- Blueprint for a Safer Economy.
- Coronavirus Informational Updates.
- Wear a Mask and Slow the Spread of COVID-19.
- City Facilities Open/Closure to the public during the COVID-19 "Shelter in Place" order. City operations would continue and staff was available by phone and email. Park playgrounds and skateparks are open.
- The 2020 General Municipal Election was tomorrow, November 3, 2020.

COMMENTS FROM STAFF: None

COMMENTS FROM COUNCILMEMBERS:

Councilmember Medrano stated that he attended the drive-thru Halloween Spooktacular event on October 31, 2020, at City Hall.

Councilmember Gomez stated that he attended the Northgate Market La Habra Town Center Halloween event, and the drive-thru Halloween Spooktacular event at City Hall. He thanked Community Services Director Fujio, Recreation Manager DeLeon, Assistant Recreation Manager Elmore, and Recreation Specialist Nolan for their work on the event. He thanked Senator Ling Ling Chang for attending the event. He thanked the La Habra Police Bicycle Patrol for their assistance on Halloween. He thanked Mayor Beamish for the recent support he provided to his family.

Mayor Pro Tem Espinoza stated that she attended the drive-thru Halloween Spooktacular event on October 31, 2020, at City Hall. She thanked Mayor Beamish for his service as Mayor. She noted that she had been unaware of internal City Council conflicts. She commented that Councilmember Medrano had always acted in a professional manner and that City Council would continue to rise up.

Mayor Beamish stated that he respected Councilmember Medrano's comments on the Councilmember Shaw audio recording matter. He spoke regarding negativity that could be associated with social media posts, and comments made without proper knowledge and/or content. He stressed the importance of City Council to have open communication with the public, and meeting with constituents. He noted that he would be adjourning the meeting in memory of retired Corporal Steve Polley, who passed away on October 13, 2020, after a courageous battle with cancer, and in memory of Theresa Lorraine Jaramillo, loving wife of Deputy Director of Community & Economic Development Department Jaramillo, passed away peacefully in her home on October 17, 2020, at the age of 58 after a long-fought battle with cancer. Mayor Beamish expressed condolences on behalf of himself and City Council to the Polley family and the Jaramillo family.

ADJOURNMENT: Mayor Beamish adjourned the City Council meeting in memory of Retired La Habra Police Corporal Steve Polley and Theresa Loraine Jaramillo at 7:43 p.m., to Monday, November 16, 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