

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

Wednesday, October 21, 2020

PRELIMINARY: These Minutes to be considered for approval on May 17, 2021.

REGULAR MEETING 6:30 P.M.:

CALL TO ORDER: Mayor Beamish called to order the adjourned Regular Meeting of the La Habra City Council of October 19, 2020 and Tuesday, October 20, 2020, on Wednesday, October 21, 2021, at 6:30 p.m. in the City Council Chamber. The previous meeting was continued with a public hearing open. All Councilmembers were present with the exception of Councilmember Gomez who previously recused himself from this item.

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

COUNCILMEMBERS ABSENT: Councilmember Gomez (recused himself on 10/19/2020)

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

PUBLIC HEARINGS:

1. CONSIDERATION OF THE PROPOSED RANCHO LA HABRA RESIDENTIAL DEVELOPMENT PROJECT AT 1400 SOUTH LA HABRA HILLS DRIVE, TO INCLUDE:
 - DRAFT ENVIRONMENTAL IMPACT REPORT;
 - GENERAL PLAN AMENDMENT 18-01 TO CHANGE THE LAND USE DESIGNATION FROM OPEN SPACE TO RESIDENTIAL MULTI-FAMILY 1 FOR PLANNING AREA 1 (15-245 UNITS/ACRE), LOW DENSITY RESIDENTIAL (0-8 UNITS/ACRE) FOR PLANNING AREAS 2, 3 & 4, AND TO MIXED USE 1 FOR PLANNING AREA 5 OF THE RANCHO LA HABRA SPECIFIC PLAN;
 - THE ADOPTION OF THE RANCHO LA HABRA SPECIFIC PLAN;
 - AMENDMENT #3 TO THE LA HABRA HILLS SPECIFIC PLAN;
 - ZONE CHANGE 18-01 FROM LA HABRA HILLS SPECIFIC PLAN TO RANCHO LA HABRA SPECIFIC PLAN FOR THE AREA OCCUPIED BY THE WESTRIDGE GOLF COURSE;
 - DESIGN REVIEW 18-01 THROUGH 18-05 FOR RANCHO LA HABRA SPECIFIC PLAN AREAS 1, 2, 3, 4, 6, AND 7;
 - DEVELOPMENT AGREEMENT 18-01 FOR THE RANCHO LA HABRA SPECIFIC PLAN; AND
 - AN APPEAL OF THE DENIAL OF VESTING TENTATIVE TRACT MAP 17845

Mayor Beamish stated that public comments must be kept brief, non-repetitive, and professional in nature, and that two public comments had been carried over from yesterday to tonight. He further indicated that the public hearing process tonight would include a rebuttal by the applicant and close of the public hearing. He reminded that any public speaker who becomes abusive or displays inappropriate behavior, will be told to stop speaking and leave the Council Chamber. He indicated the meeting would conclude by 10:30 p.m. unless extended by the Mayor, and business not completed will be continued to the next regular City Council meeting. He stated if an additional meeting becomes necessary, the meeting will be continued to the next available meeting time and be held in the Council Chamber. He indicated the City Council will take health breaks at the Mayor's discretion and recess for a short period.

The following spoke in opposition to this item:

1. Jonathan Shardlow, Attorney representing "Save La Habra"
2. James Lees

At the invitation of the Mayor, the Applicant presented a rebuttal:

Lennar Homes representative Gary Jones spoke regarding: project concept; affordable housing fee; California Department of Fish and Wildlife process; confirmation that the soil classified as not hazardous; crude oil saturated soil transport alternatives; and Vehicle Miles Traveled analysis. He introduced Steve LaMotte with the Building Industry Association of Orange County to address the fraudulent support card signature allegations.

Steve LaMotte, Executive Officer of the Building Industry Association, Southern California Region, Orange County (BIAOC) spoke regarding: local outreach activities; clarification that the support card signatures was a grass roots advocacy campaign by BIAOC and not Lennar Homes; confirmation that petition signature gatherers were paid; verified that this had been the first time they had been confronted with fraudulent signatures issue and were researching how it occurred; submitted support cards to the City Clerk as a public record via email prior to this public hearing and hard copies of them were delivered on Monday, October 19, 2020; potential for opponents to complete support cards with false information; support card database versus cards received did not match; invitation for photos of fraudulent support cards to be emailed to him at slamotte@biasc.org; investigation, remedy, identification, and pursuit of charges of those who submitted fraudulent support cards; and stated that their system was designed to prevent fraudulent activity.

Lennar Homes representative Gary Jones addressed: parking concerns; confirmed that the Westridge Golf Course water use was validated in the Environmental Impact Report (EIR); letters of support; student generation; monarch butterflies; the open space initiative; and verification that Lennar Homes was willing to increase the affordable housing fee up to \$2 million.

Mayor Beamish stated that all comments for the public hearing that the City Council would consider were concluded and he closed the public hearing at 7:31 p.m.

Director of Community and Economic Development Ho: clarified that the creation of a Communities Facilities District (CFD) was a separate and discretionary process and was not before the City Council tonight; verified the costs to the City if a CFD was not formed with an approved project; verified that the City could not condition the project on the formation of a CFD in the future because it would be pre-committing on the outcome of the CFD; clarified that it is

the City's and the developer's intention was that the City not bear any maintenance costs for the proposed community center and park even when they were deeded to the City; stated that staff's recommendation is that if the City Council approves the proposed project that they do so subject to including a Development Agreement requirement that the developer provide adequate funding for maintenance of a community center and park to be placed in escrow or in a CFD should one be formed in the future; and confirmed that the amount to be placed in trust for the community center and park was approximately \$800,000 - \$900,000. He introduced Lloyd Zola, with Metis Environmental Group.

Lloyd Zola, Metis Environmental Group (MEG): clarified that preparation of EIR was done under contract to the City of La Habra; he noted that the entirety the of EIR volumes were reviewed by the City's California Environmental Quality Act (CEQA) attorney, City staff, and that the City's Traffic Engineer and the City's consultant, Grover and Associates, reviewed the portions regarding traffic analysis and were all in concurrence that the documents are correct and legally adequate; stated that the CEQA EIR verified that traffic congestion was not a significant impact; he noted that the draft EIR was originally released for public review in February 2018 which was 10 months prior to the time the CEQA guidelines requirement of the analysis of vehicle miles traveled (VMT) and traffic congestion was adopted; the recirculated draft EIR was available for public review in December 2019 which did not reset the rules from 2018; verified that the traffic mitigation measures that were set in the EIR have been enforceable from the start and have always required payment of fair share of fees to mitigate impacts of the proposed project; reviewed the process in January 2020 and the City's receipt of a letter from California Department of Fish and Wildlife (CDFW) making certain requests; verified that in March 2020 City staff, MEG's biological consultant, and he reviewed the mitigation monitoring program which identified what the CDFW agreed to and was set forth in the modified EIR; spoke regarding an email received on August 19, 2020, that was a letter of support from CDFW regarding the mitigation measures set forth in the EIR; addressed CDFW's timing of their actions and that they could not take action before the EIR was certified by the City; the intent should the City certify the EIR and approve the project components and the process involved; that the EIR sets performance standards that bind the applicant and the CDFW to provide a functionally equivalent or better habitat; impact of the deed restriction; maintenance requirement regarding the Westridge slopes which separate the golf course from the neighborhood; soils management plan and remediation of site regarding contaminated soil; the concept and proposal by applicant to rebury the soil was reviewed and approved by OC Health Care Agency (OCHCA) and therefore was not addressed in the EIR; health risk assessment; and unavoidable impacts and the draft Statement of Overriding Considerations should the City determine that the proposed benefits of the project outweighs the project's environmental risks.

RECESS: Mayor Beamish called a recess at 7:50 p.m.

RECONVENE: City Council reconvened at 7:57 p.m. All Councilmembers were present with the exception of Councilmember Gomez who previously recused himself from this item.

Mayor Beamish expressed appreciation for all of the testimony and evidence presented during this public hearing and to everyone who participated in the Planning Commission public hearing. He noted that in the application, Lennar Homes and the property owner asked City Council to make a major change to the most important land use policy document in the City, the General Plan and whether the Westridge golf course's land use designation would be amended from Open Space to Residential to allow the proposed housing project. He stated that, given the complete

record of the public hearing, there was no need to give any weight to petition signatures, the validity of the signatures, and who signed the petitions. He indicated that after careful consideration he cannot support the requested General Plan Amendment because open space is too precious. He stated that the General Plan was updated in 2014 which included significant public input and continued to designate this property as Open Space. He noted that he respected the property owner's statements, but the proposed project would result in a significant loss of Open Space designated property. He stated that according to the EIR the proposed project would have adverse environmental impacts that could not be avoided and traffic impacts. He stated that the proposed project does not benefit the community enough to ignore the adverse impacts. He stated that more housing is needed in La Habra, but not on some of the last remaining open space in the City, and that staff noted in the staff report that there are other areas of the City that are developed and would be suitable to repurpose for housing. He announced that he would vote to deny the proposed General Plan Amendment and deny the appeal of the Planning Commission's denial of the Vesting Tentative Tract Map because all of the other requested decisions would be inconsistent with the General Plan they must be denied as well.

Mayor Pro Tem Espinoza thanked everyone involved in the proposed project. She stated that there was affordable housing in the community even if it was not in the desired areas of the City. She expressed concern regarding traffic impacts of the proposed project. She noted that the proposed project did not fulfill the Southern California Association of Governments (SCAG) requirements regarding housing for moderate, low, and very-low income individuals, and whether the proposed homes would be affordable. She stated that she concurred with Mayor Beamish and indicated that she would vote to deny the proposed project.

Councilmember Medrano thanked Community and Economic Development Director Ho and other City staff for their hard work on the proposed project for the last five years, and all of the participants and public speakers during the public hearing process. He noted that a balance between residents and businesses is key to a decision like this and was the key to a good quality of life in the City of La Habra. He stated that after reading the EIR and taking into consideration everything that had come before City Council during this public hearing that the proposed project was not the best for the community. He addressed the Kwon family and stated that the City should help their business thrive. He stated that he would vote to deny the proposed project.

Acting City Attorney Craig Steele gave advice to the Mayor and City Council regarding the motion to be made.

Moved by Mayor Beamish, seconded by Mayor Pro Tem Espinoza, and CARRIED (3-0) THAT THE CITY COUNCIL DIRECT STAFF TO RETURN TO CITY COUNCIL WITH A RESOLUTION TO DENY 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, 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; AND DIRECT STAFF TO RETURN TO CITY COUNCIL WITH A RESOLUTION TO DENY THE APPEAL OF THE PLANNING COMMISSION'S DENIAL OF VESTING TENTATIVE TRACT MAP 17845 AT 1400 SOUTH LA HABRA HILLS DRIVE.

Said motion CARRIED by the following roll call vote:

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

Mayor Beamish thanked City Manager Sadro, Community and Economic Development Director Ho, Planning Manager Ramsland, and all levels of City staff for the hard work on this item over the last five years.

Councilmember Gomez returned to the dais at 8:09 p.m.

CONSIDERATION ITEMS: None at this time.

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 are open, but courts and skatepark remain closed. Parks are also open for passive use.
- The 2020 General Municipal Election will be held on Tuesday, November 3, 2020.

COMMENTS FROM STAFF:

City Manager Sadro commented that preparation for the three-day public hearing was especially challenging due to COVID-19 restrictions, and he thanked the Community Services Department and volunteers for their support and hard work with the process. He further thanked the City Clerk's Office and Community Development Department staff for coordination of and all aspects related to the multi-day public hearing.

COMMENTS FROM COUNCILMEMBERS:

Councilmember Medrano addressed the recently released audio recording of comments made by Councilmember Shaw. Councilmember Medrano stated that the remarks regarding public safety were unprofessional and unbecoming and that they and the vital job they provide for the City and its residents are not to be undermined or disrespected. He stated that the comments about residents and belittling their efforts in exercising their right to be heard was shocking and disrespectful. He indicated that Councilmember Shaw should resign from City Council. Councilmember Medrano noted that in an effort for Councilmembers to be transparent and to communicate that transparency was valued he requested staff to draft a letter to the Orange County District Attorney's office citing the video and the link, and ask the District Attorney to weigh in on the matter in an effort to clarify and investigate for any possible criminal matters related to the comments made by Councilmember Shaw and to bring the letter before City Council at the Monday, November 2, 2020 City Council meeting. Councilmember Medrano requested staff to

do the same for the Fair Political Practices Commission (FPPC) and to bring the letter before City Council in the next 30-45 days. He urged his City Council colleagues to support his efforts and send forth letters to show transparency to residents. Mayor Pro Tem Espinoza concurred. Councilmember Medrano announced that copies of political forms were available through the City Clerk's Office. He thanked Community Services Director Fujio and her staff for organizing the public hearing, and the community for caring.

Councilmember Shaw addressed the recently released audio recordings of remarks he made at his place of work more than a year-and-a-half ago, and noted that it was highly edited and cast him in a false light. He stated that secretly recording a teacher in his class, editing the audio, and posting it online in an attempt to damage a teacher's reputation was a clear violation of college policy. He noted that the subsequent use of the edited audio recording could only be described as harassment and bullying, and that these actions should be denounced. He indicated that he regretted the comments that he made a year-and-a-half ago, and he had given private apologies and then he gave a public apology.

Mayor Pro Tem Espinoza thanked City staff and the Community Services Department for their work with the multi-day public hearing. She indicated that City Council was required to attend frequent ethics and harassment trainings.

Mayor Beamish stated that he respected Councilmember Medrano and Mayor Pro Tem Espinoza's request for letters to the Orange County District Attorney and the FPPC. He expressed belief that there was no issue to be addressed and does not expect anything to be found by these agencies. He acknowledged that Councilmember Shaw made a mistake and that he had apologized. He added that he had known Councilmember Shaw for many years and that he has served the City honorably the past 12 years. Mayor Beamish stated that he could forgive Councilmember Shaw's error in judgement, and that it was an isolated incident. Mayor Beamish noted that Councilmembers may disagree on policy issues, but they must respect and be civil with each other and respect the community they serve. He reminded that residents would have an opportunity to cast their vote at the November 3, 2020 General Municipal Election, and those results would determine if Councilmember Shaw would remain a member of the City Council. Mayor Beamish requested staff to draft an official City Council Code of Conduct in the future. Mayor Pro Tem Espinoza concurred. Mayor Beamish thanked his colleagues for their hard work the last five years regarding the public hearing item heard at this meeting.

ADJOURNMENT: Mayor Beamish adjourned the City Council meeting at 8:29 p.m. to Monday, November 2, 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