

**MINUTES OF A MEETING OF
THE LEMON GROVE CITY COUNCIL**

July 18, 2017

The City Council also sits as the Lemon Grove Housing Authority, Lemon Grove Sanitation District Board, Lemon Grove Roadway Lighting District Board, and Lemon Grove Successor Agency

Call to Order

City Councilmembers present:

Mayor Racquel Vasquez, Mayor Pro Tem Jennifer Mendoza, Councilmember David Arambula, Councilmember Jones, and Councilmember Matt Mendoza.

City Council Members absent:

Councilmember J. Mendoza (arrived at 6:50 p.m.).

City Staff present:

City Manager, Lydia Romero; Sheriff's Department, Lt. Scott Amos; Development Services Director, David De Vries; Fire Division Chief, Daryn Drum; City Clerk, Susan Garcia; Assistant City Manager/Public Works Director; Mike James, City Attorney, James Lough; and Finance Manager, Auggie Matt.

Pledge of Allegiance

The Pledge of Allegiance was led by Councilmember Arambula.

Presentation

Mayor Vasquez presented certificates of recognition to the Lemon Grove Major League All Stars District Champions.

Changes to the Agenda

Lydia Romero stated the appellant for item No. 5 public hearing to consider appeal No. AA1-700-0002 regarding the denial of zoning clearance No. ZC1-700-0010; a request to apply for a Conditional Use Permit to establish a medical marijuana dispensary at 8249 Broadway in the General Commercial Zone has requested a continuance to August 15, 2017.

Action: Motion by Councilmember Arambula, seconded by Councilmember M. Mendoza, to approve the continuance of the public hearing to August 15, 2017, passed, by the following vote:

Ayes: Vasquez, Arambula, Jones, M. Mendoza

Absent: J. Mendoza

Public Comment

John L. Wood thanked public works for removing trash on Central Avenue and painting over the graffiti. He suggested replacement of the Community Center door and asked when the north side of Broadway will be repaired. He recommended methods to prohibit vehicles from driving over curbs and from turning into traffic along Broadway. He also reported on a storage container that has been next to the Community Center.

JoAnn Selzer and Gary Solmonson, representing Monte Vista Retirement Village, reported on their operations and expressed their desire to partner with the City and the community.

Dirk Westerhout commented on issues with homelessness in Lemon Grove.

1. Consent Calendar

- A. Approval of City Council
 - June 6, 2017 Regular Meeting
 - June 13, 2017 Special Meeting
 - June 20, 2017 Regular Meeting
- B. City of Lemon Grove Payment Demands
- C. Waive Full Text Reading of All Ordinances on the Agenda
- D. Acceptance of the Community Development Block Grant (CDBG) 2017 Golden Avenue Street Rehabilitation Project
- E. Rejection of Claim
- F. Rejection of Claim
- G. Rejection of Claim
- H. Acceptance of the FY 2016-17 Street Rehabilitation Project (Contract No. 2017-17)

Action: Motion by Councilmember Arambula seconded by Councilmember M. Mendoza, to approve the Consent Calendar passed, by the following vote:

Ayes: Vasquez, Arambula, Jones, M. Mendoza
Absent: J. Mendoza

2. Sage Project Presentation

Mike James stated in February 2016, City staff submitted a proposal to San Diego State University (SDSU) to participate in the Sage Project for Fiscal Year 2016-2017. The proposal included 14 topics and six were selected by SDSU. The six topics included: Homeless Outreach/Resources, Image Development/Gateway Improvements, Infrastructure Maintenance Methodology and Gap Analysis, Parks and Recreation Program Analysis, Place-Making, and Public Art. A seventh project was included by SDSU that included the Climate Action Plan.

Jessica Barlow, Sage Project Director, explained aspects of the Sage Project. She noted that while attending the Resilient Cities conference in Bonn, Germany, UN Habitat representatives asked her if SDSU would be interested in using a toolkit, they had developed to help guide cities create climate action plans. As a result, Lemon Grove is the first city to use the UN toolkit while creating a new climate action plan.

Dr. Barlow's presentation and overview of the Sage Project Model included the following:

Connecting existing faculty teaching existing courses with existing projects to real-world projects that address social, economic, and environmental goals for the Lemon Grove community,

Students engaging in meaningful, real-world projects,

City gets creative ideas, designs, solutions, and resources that create momentum for moving projects forward.

The student presenters were as follows:

James Davisson, representing work from Dr. Bruce Appleyard's city planning graduate class, "Envisioning a Lemon Grove Gateway," the Urban Design.

Katherine Nager, representing work from Dr. Kristen Maher's political science graduate class with the Community Gardens project.

Matthew Stroup, representing work from Dr. Maher's class, on Homelessness project.

Keagan Haight, representing work from Dr. Zohir Chowdhury's undergraduate public health class on Lemon Grove Climate Action Planning.

The "add-ons" that resulted from the partnership and collaboration are separate from the work by James Davisson and his professor Dr. Bruce Appleyard.

Photography Project - Kiku Fukushima, Sage Project Graphic Design Intern.

Installation of mural designed by SDSU student in a Sage-sponsored course.

Public Speaker(s)

Vanessa Garcia, SDG&E, reported on their energy efficiency programs in Lemon Grove.

Councilmember Arambula expressed appreciation for projects and would like to see the City capitalize on the work that has been accomplished. He asked if their reports could be provided to the City.

Mayor Pro Tem J. Mendoza expressed appreciation for the projects and noted that it will assist the City moving forward, with the Climate Action Plan.

3. Ordinance No. 446 – Zoning Amendment ZA1-500-0002 Amending the Alcoholic Beverage Sales Regulations and the General Commercial Zoning District Regulations to Allow for Light Manufacturing, Brewpubs, Wine Bars and Related Accessory Use

This ordinance specifically modifies the General Commercial Zoning District regulations in Section 17.16.070 of the LGMC to allow brewpubs and wine bars and light manufacturing businesses in conjunction with retail. Alcoholic Beverage Sales regulations in Chapter 18.27 of the LGMC are also amended to allow alcoholic beverage light manufacturing land uses as incidental alcoholic beverage sales land uses and permit by-right accessory uses that are common to breweries. The Ordinance also exempts alcoholic beverage manufacturers from the prohibition on the sale of alcohol in single-serve containers equal to or greater than 32 ounces.

Public Speaker(s)

Anita Lopez expressed concern for the possible quantities of future brewpubs in Lemon Grove.

Angeles Nelson expressed concern for these new types of businesses.

Dana Stevens, Executive Director CASA, suggested that the City require responsible alcohol sales and service training to the businesses.

Action: Motion by Mayor Pro Tem J. Mendoza, seconded by Councilmember Arambula, to waive further reading and adopt the ordinance passed, by the following vote:

Ayes: Vasquez, J. Mendoza, Arambula, Jones, M. Mendoza

Ordinance No. 446: An Ordinance of the City Council of the City of Lemon Grove, California Amending Chapter 18.27 (Alcoholic Beverage Sales Regulations) and Section 17.16.070 (General Commercial Zoning District Regulations) of the Lemon Grove Municipal Code to Allow for Light Manufacturing, Brewpubs, Wine Bars and Related Accessory Uses

4. Five-Year Agreement with San Diego County Sheriff's Department for Law Enforcement Service

Lydia Romero explained that the City of Lemon Grove, along with eight other cities in San Diego County, contracts with the County of San Diego for law enforcement services. The contract is a joint agreement between all of the contract cities and the County—taking advantage of common needs and economies of scale that result in a lower cost for law enforcement than having a municipal police department or individually contracting with the County. The previous agreement for services expired on June 30, 2017.

The Lemon Grove Sheriff's Lieutenant serves as the City's Chief of Police, providing a full range of law enforcement services that includes patrol, traffic, and investigative services. Staff at the Lemon Grove station includes 21 sworn deputies/command staff, a Community Services Officer, and 18 volunteers (SVP)—these figures do not include the support staff at the station. In 2016, within the City, there were over 12,600 calls for service dispatched and more than 7,400 deputy-initiated activities made.

Due to changes to the investment and actuarial assumptions made by the San Diego County Employee Retirement System, the retirement costs going into this contract were extremely high. In order to cover the costs related to these retirement changes and to maintain reasonable cost controls, a fixed charge for law enforcement services was agreed to, by the negotiating team representing the cities interest and the team representing Sheriff's department. The five year fixed costs will be Year 1 – 6%; Year 2 – 6%; Year 3 – 5.5%; Year 4 - 5% and Year 5 – 4.5%.

Staff recommends that the City Council approve the 5 year contact with San Diego County for Sheriff Law Enforcement Services.

Action: Motion by Mayor Pro Tem J. Mendoza, seconded by Councilmember Arambula, to adopt the resolution passed, by the following vote:

Ayes: Vasquez, J. Mendoza, Arambula, Jones, M. Mendoza

Resolution No. 2017-Resolution of the City Council of the City of Lemon Grove, California, Approving a Five-Year Agreement with the San Diego County Sheriff's Department for the Provision of General and Specialized Law Enforcement and Traffic Services within the City of Lemon Grove

Lydia Romero stated the appellant for item No. 6 Public appeal to consider appeal No. AA1-700-0002 regarding the denial of Zoning Clearance No. ZC1-700-0010; a request to apply for a Conditional Use Permit to establish a medical marijuana dispensary at 8249 Broadway in the General Commercial Zone has requested a continuance to August 15, 2017.

Action: Motion by Councilmember Jones, seconded by Mayor Pro Tem J. Mendoza, to approve a continuance for Appeal No. AA1-700-0002 to August 15, 2017, City Council meeting passed, by the following vote:

Ayes: Vasquez, J. Mendoza, Arambula, Jones, M. Mendoza

5. Public Appeal to Consider Appeal No. AA1-700-0001 Regarding the Denial of Zoning Clearance No. ZC1-700-0006 Continued from May 16, 2017; a Request to Apply for a Conditional Use Permit to Establish a Medical Marijuana Dispensary at 7309 Broadway in the General Commercial Zone

Dave De Vries explained that this appeal hearing was originally scheduled for May 16, 2017, however, the public hearing was continued to July 18, 2017, at the applicant's request.

In November 2016 voters in the City of Lemon Grove passed Measure V, an initiative removing the City's prohibition of medical marijuana dispensaries (MMDs) and establishing performance standards and a permit process by which MMDs may be established. Measure V was subsequently codified in Chapter 17.32 of the Lemon Grove Municipal Code.

The permit process for MMDs requires approval of a conditional use permit (CUP), and the performance standards prohibit MMDs on properties within 1,000 feet of certain protected uses, one of which is licensed daycare.

In order to identify and map the location of protected uses, staff relied upon on a variety of resources including, but not limited to, the website for the California Department of Social Services (DSS), which is the licensing agency for daycare throughout the State of California. As part of this research, staff discovered that DSS does not disclose the addresses of licensed family daycare homes to the general public. Such uses are conducted in private residential settings where there is an expectation of privacy and where the dissemination of such information is restricted by law. This policy is explained in the DSS Frequently Asked Questions publication. Based on a request from the City, DSS staff supplied a list of family daycare homes and their addresses to the staff at the City of Lemon Grove, provided that City staff would not disclose the list to the general public.

In order to honor the DSS provisions to protect the location of family daycare homes, while still providing the public with a map to identify potential locations for MMDs, City staff created several draft maps with 1,000 foot buffers around the parcels, where protected uses are located, then made those buffers opaque to obscure the underlying parcel geography. These map iterations were based on known protected uses, at the time of map creation.

On March 21, 2017, the appellant filed ZC1-700-0006, an application to apply for a conditional use permit to establish a MMD at the subject property. Prior to accepting the application, staff checked the location of the project site on the Medical Marijuana Zoning Map. Staff then informed the appellant that the proposed project site was within 1,000 feet of a protected use, and therefore staff would have no option but to deny the ZC application.

On April 3, 2017, the Development Services Director denied ZC1-700-0006, because the proposed project site is located within 1,000 feet of a licensed family daycare.. On April 5, 2017, the appellant filed an administrative appeal of the Director's decision. The appeal states that the City has not proven there are any licensed day care facilities within 1,000 feet of the subject property.

On April 13, 2017, staff sent a letter to the appellant acknowledging receipt of the appeal, providing information of the appeal hearing date, and advising submittal of any additional information he wished to provide prior to the hearing. As of July 12, 2017, no additional information has been provided.

On May 3, 2017, staff contacted both of the family daycare home operators and asked for permission to disclose their locations to the appellant. One of the daycare operators, Kristina Pintor, informed staff that she had been contacted by three different groups, with requests to relocate her daycare operation, in order to facilitate the establishment of a dispensary. She stated that one of the groups included the owner of the property at 7309 Broadway.

Furthermore, the proprietor of the small family daycare operation located at 3335 Citrus has complained about harassment by the owners and employees of 7309 Broadway prior to and after the appeal was filed, showing that appellants knew of this location prior to filing their application and the appeal.

On May 3, 2017, out of an abundance of caution and in order to provide a full and open opportunity, for the appellant to understand the reason staff denied the zoning clearance permit, and to allow the appellant to respond accordingly, staff sent a letter to the appellant disclosing the physical street addresses of the licensed family daycare homes located within 1,000 feet of the proposed dispensary at 7309 Broadway.

Mr. De Vries noted that the property and the owner of the property have been subject to Code Enforcement actions since April of 2015, related to the conduct of an unlicensed medical marijuana dispensary. During the conduct of the unlicensed dispensary, the City issued daily citations and multiple \$1,000 fines, which eventually totaled over \$246,000 including late payment penalties and interest. The property was released from active code enforcement on March 10, 2017, when the MMD ceased operation and vacated the premises.

Chance Hawkins, special counsel for city staff, provided an overview of the City's position related to the directives by DSS. He stated that due process has been provided, because the addresses of the daycare homes had been provided and the appellant had contacted the property owner and family daycare. He added that an illegal business had been conducted at this location for approximately two years.

Mayor Vasquez opened the public hearing.

Applicant Ebon Johnson explained his experience with the City, to establish a medical marijuana dispensary, at 7309 Broadway. He stated that La Mesa and Lemon Grove voted on measures to allow medication marijuana and Proposition 64 passed to allow recreation marijuana use. He added that Lemon Grove's processes creates barriers, discrimination, and believes that the process is flawed. He commented on the expiration dates of the day care licenses and asked for complete transparency.

Applicant Marty Frank, community liaison for Native Health, stated that he leased the property in March 2017 and was unaware of the City's code violations. He added that he has been to the property several times and has not seen a day care operation. In addition, they have not been able to conduct due diligence and want to provide what the voters intended.

Cynthia Morgan-Reed, real-estate attorney for Native Health, reported that the City has not provided necessary information, prior to their appeal being denied, and they have not been able to validate the locations of family day care providers. She added that the code enforcement violations and fines do not involve the current applicants. In addition, they have been denied due diligence opportunity and due process rights. She asked if the City Council would consider amending the municipal code definition of small day care centers.

Mayor Vasquez clarified that medical marijuana dispensaries are allowable in Lemon Grove.

James Lough noted that this appeal is whether the proposed location is within a 1000 feet of a protected use.

Donna Lynn Clabby urged the City Council to uphold City staff's recommendation.

Denise Strattman commented on Lemon Grove's medical marijuana dispensary process, protection of day care locations, and opposition to Measure V.

Cynara Valazquez, Citizens for Patient's Right and author of Measure V, commented on the City's interpretation of Measure V and that this has not played out the way that was expected.

Angeles Nelson expressed concern on the possible quantity of medical marijuana dispensaries in Lemon Grove and issues related to marijuana use in the state of Colorado.

Dana Stevens, CASA Executive Director, urged the City Council to uphold the decision of City staff, to deny this application, due to the 1000 foot disqualification stated in the City's Municipal Code.

Sapphire Blackwood, Director Community Engagement Cannabis Professionals, commented on the City's medical marijuana dispensary application process and added that she hopes to see more transparency in the future.

Action: Motion by Councilmember Jones, seconded by Mayor Pro Tem J. Mendoza, to close the public hearing passed, by the following vote:

Ayes: Vasquez, J. Mendoza, Arambula, Jones, M. Mendoza

James Lough stated that Measure V is in the municipal code and a law of the City. Regarding the list of day care businesses provided by the State, a condition was included, requiring the information remain confidential. He noted that Measure V states the City Council is not allowed to amend the ordinance for three years.

Mayor Vasquez asked how the City would know if a day care license had expired.

David De Vries answered that the list provided by the State did not include expiration dates.

Mayor Pro Tem J. Mendoza recommended that staff update the family day care information, through the State, on yearly basis. She asked what would occur if a medical marijuana dispensary was approved and then a day care business began afterwards, that is within 1000 feet.

James Lough stated that date of approval would apply to the applicant and they would have a vested right to continue and he added that a typical conditional use permit runs with the land.

Councilmember Arambula asked if the public could obtain the list of day care businesses from the State.

David De Vries answered that the State analyzes these types of requests, on a case by case basis.

James Lough added that regarding this list, there was a specific exemption of sharing confidential records between governmental agencies.

Councilmember Jones noted that the intent with the 1000 feet distance requirement, is to protect children.

Councilmember Arambula stated that he agrees with the Director's decision to deny the appeal.

Councilmember M. Mendoza noted that with a day care center nearby, he agrees with the Director's decision to deny the appeal.

Mayor Pro Tem J. Mendoza noted that Lemon Grove is mostly residential and has many day care centers. She added that there is a day care business behind the proposed dispensary location and expressed safety concerns for those children.

Mayor Vasquez reported that this is the law in the City's municipal code and the law requires that no medical marijuana dispensary will be within 1000 feet of a day care business.

Action: Motion by Mayor Pro Tem J. Mendoza, seconded by Councilmember Arambula, to adopt the resolution upholding the Development Services Director determination to deny ZC1-700-0006, and denying a request to apply for a conditional use permit to establish a medical marijuana dispensary at 7309 Broadway passed, by the following vote:

Ayes: Vasquez, J. Mendoza, Arambula, Jones, M. Mendoza

Resolution No. 2017- Resolution of the City Council of the City of Lemon Grove Upholding the Decision of the Development Services Director's Determination to Deny a Request to Apply for a Conditional Use Permit to Establish a Medical Marijuana Dispensary at 7309 Broadway, Lemon Grove, California

City Council Oral Comments and Reports on Meetings Attended at the Expense of the City. (GC 53232.3 (d))

Councilmember Jones reported on a recent SANDAG Executive Board meeting.

Councilmember Arambula had no reports this evening.

Councilmember M. Mendoza had no reports this evening.

Mayor Pro Tem J. Mendoza reported on a recent Alcohol Policy Panel meeting and plans for the City's 40th anniversary. She attended the Concerts in the Park, Heartland Fire Training JPA, and Lemon Grove clergy committee meetings.

Mayor Vasquez participated in a Cox Communications interview, attended Concerts and Movies in the Park, a fundraising event for St. John of the Cross, and met with Jeanne McAlister of the McAlister Institute.

City Manager and Department Director Reports

Dave De Vries reported on the upcoming community clean-up event.

Lt. Amos provided an update on the upcoming Lemon Grove bicycle patrol.

Lydia Romero reported on plans for the City's 40th anniversary celebration.

Adjournment

There being no further business the meeting was adjourned at 9:20 p.m.