

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

November 1, 2016

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

Members present: Mayor Mary Sessom, Mayor Pro Tem George Gastil, Councilmember Jerry Jones, Councilmember Jennifer Mendoza, and Councilmember Racquel Vasquez.

Members absent:

City Staff present: Lydia Romero, City Manager, David DeVries, Development Services Director; Daryn Drum, Division Fire Chief; Arron Goodman, Building Official; Mike James, Assistant City Manager/Public Works Director; Chris Jenson, Fire Marshall; James P. Lough, City Attorney; and Lt. May, Sheriff's Department.

Public Comment

Teresa Tablas, Senator Anderson's office, provided an invitation to the Holiday Legislative Open House on December 7, 2016.

Teresa Rosiak-Proffitt commented on the homeless population living in Lemon Grove and urged the City Council to assist with this issue.

John L. Wood commented on the Trolley's arrival intervals along with below grade tracks, and overall Trolley impacts to Lemon Grove.

Stephen Browne expressed concerns related construction of the realignment project and the proposed traffic signals at that intersection.

1. Consent Calendar

A. Approval of City Council Minutes

October 18, 2016 Regular Meeting

B. Ratification of Payment Demands

C. Waive Full Text Reading of All Ordinances and Resolutions on the Agenda

D. Annual Local Appointments List Update

Action: Motion by Councilmember Jones, seconded by Mayor Pro Tem Gastil, to approve the Consent Calendar passed, by the following vote:

Councilmember Mendoza asked for clarification regarding the Traffic Advisory Committee community representative appointment that is vacant.

Lydia Romero reported that Traffic Advisory Committee hasn't met in years, but there are plans to revitalize the committee in the near future.

Ayes: Sessom, Gastil, Jones, Mendoza

Abstain: Vasquez

2. Public Hearing to Consider Ordinance No. 441 - Zoning Amendment ZA1-600-0002, Amending the Buildings and Construction Regulations (Title 15 of the Lemon Grove Municipal Code)

Eric Craig explained that the California Government Code (CBSC) is generally updated every three years and adopted by the State of California Building Standards Commission. Local jurisdictions are subsequently required to adopt and implement the Building Standards Code as the minimum standards for construction. The City is required to utilize the newest version of the codes for building permit review and inspections. The City may modify the construction codes based upon local climatic, geologic, or topographic conditions provided the modifications are more restrictive, however, local amendments to administrative procedures do not require a justification. If a City does not adopt the revised CBSC with local amendments, the revised CBSC goes into effect regardless and local amendments cannot be considered until adopted by the City Council. The 2016 CBSC effective date is January 1, 2017. Title 15 of the Municipal Code was last updated in 2013 to reflect the updated 2013 CBSC. No significant changes were a part of the 2016 CBSC update.

Amendments to the Municipal Code require adoption of an ordinance by the City Council and require a 1st and 2nd reading and are effective 30 days after the date of the second reading. Since the State does not allow local jurisdictions to utilize the 2016 CBSC until January 1, 2017, the effective date proposed in the ordinance will also be January 1, 2017.

The draft ordinance amends various chapters within Title 15 (Building and Construction) of the Lemon Grove Municipal Code (LGMC) to incorporate by reference the latest (2016) edition of the CBSC. Moreover, it includes the City's local amendments.

The proposed Title 15 amendments of the LGMC change the order in which the chapters of Title 15 are listed to reflect the order in which the associated codes appear in Title 24. The Housing Code is being deleted from Title 15 because the Housing Code was deleted for the 2016 edition of Title 24. Likewise, two new chapters are being added to Title 15, which correspond to new codes in Title 24 (the Existing Building Code and the Historic Building Code). These sections govern building permits involving existing structures. The California Historical Building Code provides regulations and standards for the rehabilitation, preservation, restoration or relocation of historical buildings. The standards are intended to allow the restoration or change of occupancy so as to preserve the historical building's original or restored elements and features. A historically designated building would be exempt from some building code requirements, and/or may be able to meet code requirements using alternative means and methods. Historic buildings as referenced would include those listed in the City's General Plan or other historic registry.

In addition to the required Title 24 requirements, the attached ordinance proposes changes not mandated by Title 24. Specifically, the proposed local amendments include local administrative procedures as they exist, the deletion of existing regulations for swimming pools that are already addressed in the building code, and diverting enforcement authority to the development services director for the abatement of dangerous buildings. These local amendments are further described below. The findings required to make these local amendments are also described.

Currently, LGMC Title 15 incorporates the 1997 version of the Uniform Administrative Code with local amendments. The proposed revisions include replacing the 1997 Uniform Administrative Code with the 2016 California Administrative Code, which is part of Title 24. The proposed revisions also include relocating the local administrative procedural amendments from LGMC Chapter 15.06 (Administration) to LGMC Chapter 15.08 (Building Code).

Unlike local amendments to the technical codes (Building Code, Fire Code, etc.), local amendments to administrative procedures do not need to be justified or based upon geologic, climatic, and topographic conditions. Lemon Grove's proposed local administrative amendments generally include the following which are consistent with existing provisions:

Authorizes the City Engineer to delay issuance of a building permit until grading work and required public improvements are completed.

Authorizes the City Engineer to deny issuance of a building permit based upon unsafe geologic conditions or upon a project's location within a flood prone area.

Authorizes the Building Official to deny a permit based upon the presence of unsafe or substandard conditions at the project site.

Establishes a time limit for the completion of work associated with a permit and allows for expiration of a permit not diligently pursued to completion.

Generally exempts government agencies and school districts from permit fees.

Establishes authority to charge additional fees for major changes to plans during plan check.

Authorizes the Building Official to determine the valuation of construction work for the purpose of assessing building permit fees. Standard valuation methods will be used to estimate the valuation of building projects and applicants can still submit valuations for consideration.

Authorizes the Building Official to refund permit fees that were erroneously collected.

Designates unpermitted construction as a public nuisance.

The City may amend the technical and construction requirements of Title 24 as long as those amendments are more restrictive than Title 24 and are based upon local climatic, geologic, or topographic conditions.

Mr. Craig noted that the draft ordinance includes detailed findings or justifications for the proposed local amendments of the technical codes. In general, those findings reflect the fact that Lemon Grove is located in the seismically active Southern California Region where earthquakes can cause severe destruction on a regional scale (a geologic condition). Moreover, in Lemon Grove the dry hot climate, the seasonal Santa Ana winds, the hilly terrain, and the extremely fire-prone local vegetation combine to create the potential for catastrophic wildfires (climatic and topographic conditions). After the fires, rains can create landslides on the slopes stripped bare of vegetation by the wildfires.

The LGMC currently includes adoption of the 1997 Uniform Code for the Abatement of Dangerous Buildings. The only existing local amendments to that code are the deletion of Chapter 1 (Title and Scope), and Chapter 2 (Enforcement). The attached ordinance retains the 1997 Uniform Code for the Abatement of Dangerous Buildings, but also includes more specific local amendments which are mostly procedural in nature.

In conjunction with other sections of the LGMC, the abatement code provides a method to abate dangerous structures which threaten public health and safety, or disturb the public peace, or are contradictory to public morals. The proposed local amendments in the draft ordinance generally accomplish the following:

Authorizes the development services director (Director) to enforce the abatement code provisions;

Authorizes the Director or a representative to enter a premises in order to inspect or enforce the provisions of the abatement code;

Establishes procedures for the issuance of notices and orders to repair, vacate, or demolish dangerous structures;

Establishes procedures for the timing and consideration of appeals;

Establishes procedures for the issuance, timing, and payment of fines; and

Establishes procedures for cost recovery.

Chapter 15.40, Swimming Pools

Currently, LGMC Chapter 15.40, Swimming Pools, contains regulations for public pools and makes references to outdated State regulations. For the 2016 Title 24 update, regulations for public pools are contained in the California Building Code. Since Chapter 15.40 refers to an outdated permit process and the regulations are contained within the updated codes to be adopted, staff recommends deleting this Chapter.

Findings to Amend the Lemon Grove Municipal Code

In order to amend the LGMC, Council must find that the proposed amendments are consistent with the General Plan and that they preserve public health, safety, and general welfare. The Lemon Grove General Plan Safety Element acknowledges the applicability of the codes contained within Title 24 as reflected in LGMC Title 15. Furthermore, it acknowledges their intended purpose to reduce the risk of injuries, death, and property damage. Since the primary purpose of Title 24 is to promote public health and safety through the application of minimum construction standards, Council can make findings in support of the proposed LGMC amendments.

Chris Jensen, Fire Marshall, reported that their recommendation does not exceed minimum requirements, however, they are requesting amendments that are related to road widths.

Mayor Sessom asked for clarification regarding the fire sprinklers requirements.

Chris Jensen, Fire Marshall, explained in order to address the fire sprinkler issue there is a review process, regarding if the alteration is 50 percent or greater of a proposed building alteration and fire hydrant distance, will determine whether or not fire sprinklers will be required.

Mayor Sessom recommended consistency regarding with the auxiliary and accessory dwelling to the definitions.

Mayor Sessom opened the public hearing.

Public Speaker(s)

There were no requests from the public to speak.

Action: Motion by Mayor Pro Tem Gastil, seconded by Councilmember Jones, to close the public hearing and introduce Ordinance No. 441 for first reading, with amendment to “accessory” instead of “auxiliary in the Fire Code passed, by the following vote:

Ayes: Sessom, Gastil, Jones, Mendoza, Vasquez

Ordinance No. 441: An Ordinance of the City Council of the City of Lemon Grove, California Rescinding Chapters 15.04, 15.06, 15.08, 15.10, 15.12, 15.20, 15.24, 15.28, 15.32, 15.34, 15.36, 15.38, and 15.40 of Title 15 of the Lemon Grove Municipal Code, Entitled “Buildings and Construction”, in their Entirety, and Adopting New Chapters 15.04, 15.06, 15.08, 15.10, 15.14, 15.18, 15.20, 15.22, 15.24, 15.26, 15.28, 15.30, 15.32, and 15.38 Adopting the 2016 California Building Standards Code, Including the 2016 California Administrative Code, the 2016 California Building Code, the 2016 California Residential Code, the 2016 California Electrical Code, the 2016 California Mechanical Code, the 2016 California Plumbing Code, the 2016 California Energy Code, the 2016 California Historical Building Code, the 2016 California Existing Building Code, the 2016 California Green Building Code and the 2016 California Reference Standards Code, and Local Amendments and Related Findings and Adopting the 1997 Uniform Code for the Abatement of Dangerous Buildings and Local Amendments

3. Ordinance No. 442: Amending Title II (Administration and Personnel), Chapter 2.04 (City Manager) Reorganizing Authority of City Officer

James Lough stated that the purpose of this both reorganize and clarify duties. The City of Lemon Grove uses the most common form of city government (Council-Manager). It has a City Manager to manage the day-to-day operations of the City under the direction and control of the City Council. Under the Council-Manager form of government, the City Council gives direction to the City Manager who, in turn, has the responsibility of managing the city workforce in a manner consistent with Council direction. He noted that City Council has not conducted personnel evaluations for the Treasure and City Clerk positions.

Over the years, the titles and responsibilities of various city officers has changed and the current chapter governing roles and responsibilities has not changed to reflect these shifts. One example is the assumption of the duties of Treasurer by the Finance Manager

Under Lemon Grove Municipal Code (“LGMC”) Section 2.04.060(C) (Power of Appointment and Removal) and Section 2.04.070(B) (Internal Relations and Coordination of Intergovernmental Services), there are three officers that are not subject to the direction and control of the City Manager. The City Treasurer, City Clerk and City Attorney are under the supervisory control of the City Council. Except for the City Attorney who is governed by a contract with a law firm, the other two offices are city employees. The attached ordinance places control of these employee positions under the city manager’s authority in a manner consistent with the council-manager form of governance applicable to all other employees. The City Council, as part-time body using the Council-Manager Form of Government, does not manage the day-to-day operations of the City. This amendment is consistent with the method of city management of all other city employees.

A second change under the Ordinance reflects the increase in intergovernmental involvement in the day-to-day operations of the City. Under LGMC Section 2.04.060(L) and 2.04.070(C), there is a recognition in the role of the city manager in managing contracts with other governments. Section 2.04.070(C) addresses the various types of cooperative agreements (*i.e.* Heartland Fire and Rescue) and the City Manager role in managing these agreements. This subsection recognizes how the City Manager manages the Sheriff’s contract and the Lemon Grove portion of Heartland Fire and Rescue. This subsection states as follows:

C. Subject to the direction and control of the City Council, the city manager, or designee, shall manage all intergovernmental contracts, grant agreements and joint powers agreements on behalf of the City of Lemon Grove, or its subsidiary agencies, with other governmental agencies. The city manager, or designee, shall manage contracts with agencies including, but not limited to, the State of California, County of San Diego, Heartland Communications Authority, Heartland Fire and Rescue, San Diego County Sheriff’s Department, San Diego Metropolitan Wastewater Authority, and the San Diego Association of Governments. For the purposes of providing public safety services to the citizens of Lemon Grove, the city manager shall supervise the appointed Fire Chief of Heartland Fire and Rescue as to all matters involving the City of Lemon Grove. The city manager shall work with the commanding officer of the Lemon Grove substation of the county of San Diego Sheriff’s department in the implementation of the contract providing police services to the City of Lemon Grove. All references to “police” services in this Municipal Code shall mean the services provided by the San Diego Sheriff’s department to the City of Lemon Grove. The City Manager, or designee, shall also provide support and assistance to Council-appointed members of

Joint Powers Authorities and Intergovernmental Agencies in the performance of their duties.

The changes to 2.04.070(C) also reflect the governance roles of councilmembers who sit on various intergovernmental entities. These are referenced to make clear that the city manager role in managing local contracts or grants with other agencies are different than the respective governance roles held by city councilmembers appointed to regional bodies. The Ordinance adds this subsection to recognize the changing role played by the city manager and the evolving role of local government that includes significant participation in intergovernmental arrangements.

2.04.070(C) clarifies inconsistencies in the Lemon Grove Municipal Code it identifies law enforcement as “police” or “sheriff”. This subsection clarifies that the references all apply to the contracted services from the San Diego County Sheriff’s Department.

Overall, the changes clear up management inconsistencies to reinforce the Council-Manager Form of Government. Further, new reliance on regional governmental partnerships is consistent with the Council - Manager management model.

Councilmember Mendoza commented on research she conducted regarding other cities Code and did not find similar language. She asked if this changes current operation.

James Lough stated that this does not change what the City is currently doing and this was literally tailored to Lemon Grove.

Councilmember Mendoza noted that the Finance Director serves as the Treasurer and recommended that under definitions the City Clerk should be part of the City management team. She suggested that is perhaps not the right time related to exposure and personnel and noting the only thing this changes is appointment and removal of the City Clerk.

Councilmember Vasquez commented on the City of San Diego’s structure with the City Clerk position and agreed with Councilmember Mendoza that this matter should be revisited at another time.

Mayor Sessom stated that the City Council has not managed the City Clerk position as stated under the municipal code.

Councilmember Jones added that the City Council has not conducted an evaluation of the City Clerk in 23 years.

Lydia Romero stated that she does not evaluate the City Clerk.

Councilmember Vasquez recommended that the new City Council be given an opportunity to make this decision.

Mayor Pro Tem Gastil stated that he supports the City Attorney’s recommendations that would limit exposure and protect the City.

Public Speaker(s)

There were no requests from the public to speak.

Action: Motion by Mayor Pro Tem Gastil, seconded by Councilmember Jones, to introduce Ordinance No. 442 for first reading passed, by the following vote:

Ayes: Sessom, Gastil, Jones

Noes: Mendoza, Vazquez

Ordinance No. 442: An Ordinance of the City Council of the City of Lemon Grove, California Amending Sections 2.04.060 (Power of Appointment and Removal) and 2.04.070 (Internal Relations and Coordination of Intergovernmental Services) of the Lemon Grove Municipal Code

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

Councilmember Jones reported on recent on meetings related to wastewater along with a meeting representatives from the City San Diego Mayor's office.

Councilmember Mendoza attended the Grossmont/Cuyamaca Community College Chancellor's breakfast, participated in the City clean-up, attended Lemon Grove Soroptimist Annual Chili Cook-Off fund raising event, and commented on Assemblywoman Weber's Youth Advisory Council.

Mayor Pro Tem Gastil attended a Facilitated Access to Coordinated Transportation meeting where he was nominated as secretary, a San Diego Housing Federation workshop, and the Lemon Grove Soroptimist Annual Chili Cook-Off fund raising event.

In addition, Mayor Pro Tem Gastil noted that Councilmember Jones attended a MTS meeting.

Councilmember Vasquez attended the Girl Scout Journey Badge event, a Taekwondo competition, the Mt. Vernon School Fall Festival, the Lemon Grove Soroptimist Annual Chili Cook-Off fund raising event, and she was presented with the Community Excellence Award by Fidelity Lodge No. 10.

Mayor Sessom reported on SANDAG and Airport Authority meetings, along with the City clean-up event. She expressed appreciation to the City's new Park Ranger.

City Manager and Department Director Reports

Lt May reported on a recent San Diego County Sheriff's Department collaborative law enforcement event in Lemon Grove.

Continued Public Comment

Veronica Franco expressed concerns regarding safety in Lemon Grove.

Closed Session

Pursuant to Government Code Section 54957: Public Employee Performance Evaluation
Title: City Manager

Closed Session Report: No reportable action was taken.

Adjournment

There being no further business to come before the City Council, Housing Authority, Sanitation District Board, Lemon Grove Roadway Lighting District Board, and the Lemon Grove Successor Agency the meeting was adjourned at 8:25 p.m.

Susan Garcia
Susan Garcia, City Clerk