

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

October 20, 2015

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: Mary Sessom, George Gastil, Jerry Jones, Jennifer Mendoza, and Racquel Vasquez.

City Staff present: Kathi Henry, Interim City Manager, Carol Dick, Development Services Director; Mike James, Public Works Director; Lt. May, Sheriff's Department; Laureen Ryan Ojeda, Administrative Analyst; Rick Sitta, Fire Chief; and James P. Lough, City Attorney.

Call to Order: Remove closed session item on Anticipated Litigation
Move Item No. 5 up on Agenda before Item No. 2

Public Comment

John L. Wood mentioned attending the Water District Board Meeting.

Bob Jones commented on the fire engines going out on Friday, October 9th, the Coop's West Texas BBQ restaurant fire, and what a great job the Heartland Fire and Rescue did at the Coop's fire.

Walt Oliwa commented that he is working with THRIVE Lemon Grove on a plan for starting a Community Garden. He asked if City Council would consider a vacant property in the City for this project.

Robert Durson mentioned the El Prado and possible zoning violations and that he would like the City to follow-up with his request.

1. Consent Calendar

A. Approval of City Council Minutes

October 6, 2015 Regular Meeting

October 11, 2015 Regular Meeting

B. Ratification of Payment Demands

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

D. Approval of City Hall Roof Replacement Project

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

Ayes: Sessom, Gastil, Jones, Mendoza, Vasquez

Resolution No. 2015-3365: Resolution of the City Council of Lemon Grove approving the City Hall Roof Replacement Project.

5. Interim City Engineer and Engineering Services Agreement

The vacancies in the Engineering Division have created an emergency need to augment staff. In June 2015, the Interim City Engineer left her post at a time when there was an existing vacancy in the department. After her departure, the City Engineer and Associate Engineer full time positions were vacant. The City initially contracted Rick Engineering with a limited scope of work and time that could be authorized by staff in an effort to preserve important projects and to continue to serve the community. These agreements are due to expire. The services are needed for at least the next six coming months as the new City Manager becomes accustomed to Lemon Grove and decides how the organization should and can be structured. In order to continue to adequately address critical development projects and schedules, staff recommends that Rick Engineering continue as the Interim City Engineer and provide staff augmentation as necessary.

The attached agreement includes the City Council approved job description for the City Engineer position with one addendum (consistency with the Government Code) and is provided the ability to request additional staffing augmentation from Rick Engineering. The agreement also specifically includes a Project Manager for the Lemon Grove Realignment Project, provided it continues to be a viable project.

The fully burdened amounts currently allocated for the City Engineer and Associate Engineer positions in the FY 2015-2016 General Fund are approximately \$237,000. The City has expended \$30,000 for Engineering Services to date and with the approval of this contract, there is appropriate funding in the budget.

Action: Motion by Councilmember Jones, seconded by Councilmember Gastil, to approve resolution:

Ayes: Sessom, Gastil, Jones, Mendoza, Vasquez

Resolution No. 2015-3366: Resolution of the City Council of Lemon Grove approving the Interim City Engineer and Engineering Services Contract.

2. Public Hearing – Appeal of the Planning Commission Disapproval of Planned Development Permit PDP15-0001 Authorizing a 16 Unit Residential Apartment Development on 0.5 Vacant Acres at 8465 Broadway

On June 22, 2015, the Planning Commission conducted a public hearing and voted unanimously to disapprove PDP 150-0001. The proposed project is located at 8465 Broadway on a 0.51 acre vacant site in the Residential Medium/High Zone. The project consists of a 16 unit apartment development utilizing density bonus provisions with design incentives and minor modifications related to front setback, building height, open space and vehicle parking requirements and subject to affordability restrictions.

Public Speaker(s)

The following people spoke in opposition to the project: Robert Kryheid, Brian Brennan, Brian Mundt, James Comeau, Gina Vattuone, Lorna Stafford-Bentley, Kelly & Michael Fialho, Fredrick Long, Joe Baldonado, Theresa Bailey, Murray Tenney, Vanessa Alfaro, Deborah Flam, Garry Flam, Rebecca McElyen, Garth Crawford, Peegoon Vryheid, Beth Bailey, Jake Christie, and Elizabeth Martins. The following consultants were available for questions: Beri Varol, architect working on project, Nicholas Gines, Suncrest Residential LLC – Co-manager of project, Larry Walsh, Walsh Engineering – project engineer, Steve Hutter, Hutter Designs-Landscape Architects – project landscape architect, Paul Roberts – Soils Geologist. Beri Varol provided a presentation of the project.

Action: Motion by Mayor Pro Tem Vasquez, seconded by Councilmember Jones, to continue to November 17, 2015 to review design issues related to the balconies facing

the adjoining residential neighborhood including screening and related open space issues.

Ayes: Sessom, Gastil, Jones, Mendoza, Vasquez

3. Ordinance 434 - Ordinance Changes to Title 17 (Zoning) of the Lemon Grove Municipal Code to refocus Planning Authority from the Planning Commission to the City Council and to include Clerical Changes

On September 15, 2015, the City Council adopted an Ordinance to assign Planning Commission jurisdiction to the City Council, which establishes the City Council as the City's primary Planning Agency. Changes need to be made throughout the Municipal Code to eliminate references to the Planning Commission and make sure that it is clear that the City Council has authority over various planning agency matters. This Agenda Item makes changes to Title 17 (Zoning) to implement Council direction. Some clerical and clarifying changes are also made to update the code in other respects.

The Ordinance has specific sections that cover adjustments that must be made to ensure there is consistency in the land use approval process. The references to the Planning Commission, if left in the code, will be inconsistent with the legal process put in place under Ordinance Number 431. This Ordinance eliminated the Planning Commission. With Ord. No. 431 in effect, the City Council is now the Planning Agency for the City.

Redline version of changes to certain definitions found under Lemon Grove Municipal Code § 17.08.010 (Definitions). While most definitions in this section will remain the same, language will be added that clarifies definitions needed to update the code's legal structure and to update the language on other land use issues.

The Ordinance amends the term "advisory body" to reflect the elimination of the Planning Commission. The definition now includes a reference to the "Community Advisory Commission", which, on a discretionary basis, may be called upon by the City Council to play an advisory role on a land use matter. The Council would adopt a resolution to delegate a land use matter to the Community Advisory Commission seeking an advisory recommendation. The resolution would contain findings to demonstrate the reasoning of the City Council for seeking an advisory recommendation from the Commission.

The Ordinance amends the definition of "condominium" to update the reference to reflect current state laws. There have been changes in the state codes applicable to local condo regulations and this definition reflects those changes. Attachment "C" also adds a new definition of "condominium project". This new definition helps differentiate an individual condominium unit from an overall project. Staff will be bringing forward changes to the Subdivision Title to reflect both changes to implement the shift in legal authority to the City Council and to bring the Subdivision Title up to date on condominium issues. The additions of updated condo language in the Subdivision Title will implement changes recommended in the recently adopted Housing Element to the General Plan.

Correct the title of the Development Services Director. Throughout the code are references to "planning director", "community development director" and other variations. These code changes have been correcting these inconsistencies in sections that are being amended. This definition makes clear both the title and the duties of the Development Services Director in the land use role under the Zoning Title.

Amendment of Chapters 17.12 (Zoning District Provisions) and 17.16 (Zoning Districts) to reflect the change in legal authority of the City Council, and the change in legal title of the Development Services Director. Under LGMC § 17.12.070, the changes reflect that the City Council interprets the appropriateness of a particular use in a zone when there is a question about the application of the code.

The remaining sections reflect that the initial interpretation (zoning clearance) of the applicability of the land uses in the Zoning Title is made by the Development Services Director, eliminating references to the "community services director". All of the changes Chapter 17.16 are to subdivision (B) of the various sections that establish "permitted uses" in each zone within the City. There are no other changes to Chapter 17.16 except retitling the Development Services Director reference in each section.

Amendments to Chapter 17.20 (Special Overlay Districts): these areas are where the City Council has adopted special regulations that "overlay" the underlying zoning districts. In Lemon Grove, these are called Special Treatment Areas (STAs).

Amend sections, 17.20.010 (Special Treatment Overlay Zones) and 17.20.040 (Special Sign Districts). The first one, Overlay Zones, has changes in subsections (B)-(I). There are three types of changes. (1) Changes of Planning Commission to City Council. (2) Changes to the Development Services Department designation. (3) Changes dealing with references to the former redevelopment project areas downtown.

Leave in references showing that Section 17.20.010 has coterminous boundaries with the downtown redevelopment project area. These references are left in to help define the area's boundaries. It removes other references to redevelopment regulations because of the dissolution of the Lemon Grove Community Development Agency.

17.20.040 amends subsections (C) and (G), to make similar changes to reflect that the redevelopment agency is dissolved and changes related the Development Services Department.

Amendment of the Chapter containing general zoning district regulations: 17.24.010 (Off Street Parking) has changes in subdivision (C) granting authority to the City Council. 17.24.030(B) (Yards and Setbacks) has a grammatical change and a change granting authority to the City Council. 17.24.050(J) (Landscaping and screening) has a change related to the title "Development Services Director." 17.24.060(B) is amended to remove a City Health Department reference and 17.24.060(C) has a grammatical change. Attachment "F" amends 17.24.060(D) to reflect the authority of the City Council. Attachment "F" amends 17.24.080(F) to change references to the Development Services Director. 17.24.081 removes references to the redevelopment agency and makes changes to reference new City Council authority and the Development Services Department. Finally, Attachment "F" makes similar changes to 17.24.090 (Nonconforming uses, structures and lots) to reflect City Council authority and the name change of the Development Services Department.

Amendment of Chapter 17.28 (Procedure and Administration): 17.28.010 (Administration) to restructure the process to have all appeals of staff determinations go to the City Council. All recommendations made by staff will go from the staff directly to the City Council. Most of the changes to Chapter 17.28 deal with the appeal process for various types of entitlements. Without a Planning Commission, the City Council now hears matters either through appeal from a staff determination or because it has original approval authority. In legislative matters, the City Council always had the final approval. The Planning Commission did not approve legislative items (i.e. zoning changes (17.28.080), specific plans (17.28.090), variances (17.28.060) and general plan amendments (Government Code 65800 *et. seq.*)), but made recommendations to the City Council. The changes in Chapter 17.28 reflect that change with the Development Services Director making recommendations to the City Council directly on legislative matters.

One type of administrative (quasi-judicial) approval, involved Planned Development Permits. If the PDP involves a major subdivision or a condominium map, final approval authority rested with the City Council. (17.28.030.) Approval authority will remain with the City Council, but recommendations will come directly from the Development Services Director.

For other non-legislative approvals (administrative entitlements), the City previously used two methods. In both methods, the Council only heard matters through appeal. (17.28.020.) In one type of procedure, the Planning Commission made the original decision. These included PDPs for minor subdivisions or projects that fit the criteria set out in 17.28.030(B).¹ In addition, conditional use permits (17.28.050) and variances (17.28.060) now will only require staff recommendation and City Council approval.

The City Council and Planning Commission only heard other administrative approvals on appeal. The Development Services Director has approved all temporary use permits (17.28.040), minor use permits (17.28.052), minor modifications (17.28.060) and zoning clearances (17.29.070). Now the appeals of these matters will go directly to the City Council. Attachment "G" brings the administrative procedure sections into line with the reorganization of land use authority.

One other significant change under Attachment "G" deals with hearing notices. Under 17.28.020(F)(2), public notices will be mailed to property owners that live within 500 feet of a project. This is a change from the 300-foot notice for all projects in the past and the change is based on City Council direction.

The City Council retains all authority it had before the reorganization. The City Council assumes all authority previously held by the Planning Commission. The Development Services Director retains all authority she had before the changes. However, the appeal structure now requires that the Development Services Director decisions either be subject to appeal directly to the City Council or be a recommendation to the City Council.

Environmental Impact:

Pursuant to Public Resources Code Section 21065, this action does not constitute a "project" within the meaning of CEQA. The action has no potential to cause either a direct change in the environment, or a reasonably foreseeable indirect physical change in the environment, and therefore does not require environmental review.

Based on previous direction given by the City Council, Staff recommends that the City Council introduce Ordinance No. 434 by title to make conforming amendments to LGMC Chapter 17 and allow the publication of a Summary of the Ordinance in a newspaper of general circulation.

Councilmember Mendoza presented Attorney Lough with clerical or possibly substantive changes for review and to include as appropriate prior to the second reading.

Action: No reportable action

4. Ordinance No. 433 – Changes to Titles 2, 12, 13 & 15 of the Lemon Grove Municipal Code to refocus planning authority from the Planning Commission to the City Council

On September 15, 2015, the City Council adopted an Ordinance to assign Planning Commission jurisdiction to the City Council and establish the City Council as the City's primary Planning Agency. Changes need to be made throughout the Municipal Code to eliminate references to the Planning Commission and to make sure that it is clear that the City Council has authority over various planning agency matters.

The attachments ("C" – "F") to the Ordinance are four Chapters that cover all references to the Planning Commission in Titles 2, 12, 13 and 15 of the Lemon Grove Municipal Code (LGMC).

¹ A PDP is required for: 1. Development that includes five or more principal dwelling units, a major subdivision and/or a condominium map; 2. Development that includes three or more principal buildings on one site; 3. Development of principal uses on commercial, industrial, and/or mixed use sites of one acre or more; 4. Development in the Downtown Village specific plan area; or 5. Uses outlined in specific zoning districts.

This Ordinance updates those references to cover the shift in legal authority from the Planning Commission to the City Council.

LGMC Chapter 2.04 governs the City Council-City Manager relationship. This Chapter establishes the Office of City Manager and delegates management to the Manager of day-to-day operations of the City. The changes contained in are clerical and remove references to the Planning Commission regarding responsibilities of the City Manager. It also expands authority of the City Manager to include liaisons to focus groups and other permanent and temporary bodies that the City Council may form.

LGMC Chapter 12.10 governs Public Streets, Dedications and Improvements. The changes here are clerical and redirect authority to the City Council. LGMC Chapter 13.32 governs Construction and Demolition Debris. The changes here clerical and redirect authority to the City Council. LGMC Chapter 15.44 governs moving and storage of buildings. The changes here clerical and redirect authority to the City Council.

The Staff will return with more changes to the Zoning, Subdivisions and the Citywide Regulation Titles. Each will follow the same format as this Agenda Item unless otherwise directed by the City Council.

The Commission shall have all of the powers and duties established by state law, ordinances and resolutions, which the Council may enact. The City Council, acting as the Planning Commission in all matters, may delegate to the Commission advisory functions on a case-by-case basis by Resolution. It is the duty of the Commission to advise the City Council upon the amendment or revision of the General Plan when requested by the City Council.

Pursuant to Public Resources Code Section 21065, this action does not constitute a “project” within the meaning of CEQA. The action has no potential to cause either a direct change in the environment, or a reasonably foreseeable indirect physical change in the environment, and therefore does not require environmental review.

Action: Motion by Councilmember Jones, seconded by Councilmember Gastil, to conduct second reading and adopt Ordinance No. 433:

Ayes: Sessom, Gastil, Jones, Mendoza,

No: Vasquez

Ordinance No. 433: An Ordinance of the City Council of the City of Lemon Grove, California amending Sections 2.04.070, 12.10.010, 12.10.040, 13.32.160, 15.44.010, 15.44.030 & 15.44.050 of the Lemon Grove Municipal Code to Reassign Planning Duties to the City Council.

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

Councilmember Jones attended the Red Ribbon Luncheon.

Councilmember Mendoza was sponsored by the Helix Water District and attended a 2-day water tour; she also attended the SANDAG Regional Planning Committee meeting and the League of California Cities luncheon with a presentation by SANDAG.

Councilmember Gastil – no meetings attended.

Mayor Pro Tem Vasquez attended the Heartland Fire Training Authority Commission Meeting, American Public Works Association Annual Gala, human trafficking meeting at Mt. Miguel High School, CHIP 20th Anniversary at the 5th Annual Crew Rendezvous, the San Diego City-County Reinvestment Task Force meeting and the annual Red Ribbon Luncheon.

Mayor Sessom attended the SANDAG Regional Planning Committee meeting.

City Manager and Department Directors Report

Carol Dick mentioned that the focus group and the Cal Poly students had a very successful meeting last Saturday. There are 14 members and 14 students. The students are ready to conduct public outreach.

Mike James reported that the first Recreation Services Focus Group meeting was held last Thursday. Also, fall clean-up is this Saturday October 24th, from 7am – 2pm at 3232 Main Street.

Chief Sitta commented that Engine 10 participated in a local benefit.

Lt. May commented that there are currently 25 deputies running an operation on Buena Vista Avenue

Closed Session

Conference with Legal Counsel – Existing Litigation (Paragraph (1) of subdivision (d) of Section 54956.9) City of Lemon Grove, et al. vs. California Department of Finance, et al. 34-2013-80001480-CU-WM-GDS

Public Employee Appointment Government Code Section 54957
Title: City Manager

Closed Session Report: No reportable actions were made.

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 9:30 p.m.

Susan Garcia

Susan Garcia, City Clerk