

CITY OF PASADENA  
City Council Minutes  
November 6, 2017 – 5:30 P.M.  
City Hall Council Chamber

REGULAR MEETING

Teleconference Location:  
The Gansevoort  
Business Center  
420 Park Avenue South  
New York, NY 10016

**OPENING:**

Mayor Tornek called the regular meeting to order at 5:31 p.m.  
(Absent: None)

On the order of the Mayor, the regular meeting recessed at 5:31 p.m., to discuss the following closed session:

**CITY COUNCIL CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8

**Property Location: 1055 East Colorado Ave., Suite 350, Pasadena CA**

**Agency Negotiator: Steve Mermell**

**Negotiating Party: BCSP 1055 East Colorado Property LLC**

**Under Negotiation: Rental rate and terms of Lease**

**CITY COUNCIL CONFERENCE REGARDING PUBLIC EMPLOYEE PERFORMANCE EVALUATION** pursuant to Government Code Section 54957 and **CITY COUNCIL CONFERENCE** with Labor Negotiator pursuant to Government Code Section 54957.6

**Employee Title and Unrepresented Employee: City Manager**

**City Representative: Terry Tornek**

The above closed session items were discussed, with no reportable action at this time.

On the order of the Mayor, the regular meeting reconvened at 6:31 p.m. The pledge of allegiance was led by Kim Ferreira, member of the Junior League of Pasadena, Inc.

**ROLL CALL:**

Councilmembers:

Mayor Terry Tornek  
Vice Mayor John J. Kennedy  
Councilmember Victor Gordo  
Councilmember Tyron Hampton  
Councilmember Steve Madison (participated telephonically)  
Councilmember Gene Masuda  
Councilmember Margaret McAustin  
Councilmember Andy Wilson

Staff:

City Manager Steve Mermell  
City Attorney/City Prosecutor Michele Beal Bagneris  
City Clerk Mark Jomsky

**CEREMONIAL MATTERS**

The Mayor announced that in recognition of Veteran's Day, the City will have a ceremony honoring all current and former members of the U.S. military service and their families, in front of City Hall on November 11, 2017.

**PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA**

John Odell, Pasadena resident, submitted correspondence, and asked the City Council to ban the use of fossil fuels for power after the year 2035, with exception of the Glenarm plant to prevent global warming.

In response to public comment, Councilmember Hampton requested that staff research the fiscal impact, as well as the City's ability to ban the use of fossil fuels by 2035.

Councilmember Wilson recognized and welcomed the Junior League of Pasadena, Inc., and introduced Stephanie McKibbon, Junior League of Pasadena member, who provided information on the organization and projects.

Gerda Govine, Pasadena Rose Poets, recited poetry.

**CONSENT CALENDAR**

Item pulled from the agenda, to be considered at a later date

**MODIFY CURRENT CLASSIFICATIONS AND SALARIES WITHIN PASADENA MANAGEMENT ASSOCIATION**

**PUBLIC SAFETY COMMITTEE: AUTHORIZATION TO ENTER INTO A CONTRACT WITH LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY TO PROVIDE POLICING SERVICES AT THE GOLD LINE TRAIN STATIONS IN THE CITY OF PASADENA**

**Recommendation:**

- (1) Find that acceptance of this contract is not a project subject to the California Environmental Quality Act (CEQA) pursuant to Section 21065 of CEQA and Sections 15060(c)(2), 15060(c)(3), and 15378 of the State CEQA Guidelines and, as such, no environmental document pursuant to CEQA is required for the project;
- (2) Amend the Police Department's Fiscal Year 2018 Operating Budget by recognizing revenue and appropriating expenditures of \$132,000 to provide policing services at the Gold Line Train Stations;
- (3) Authorize the City Manager to enter into a contract with the Los Angeles County Metropolitan Transportation Authority (METRO) for policing services provided by the Pasadena Police Department at the Gold Line Train Stations within the City of Pasadena in an amount not-to-exceed \$132,000 for the first year.

The City Manager is authorized to extend the contract provided all terms and conditions remain unchanged for two additional three-year extensions without further Council authorization; and  
(4) Find that neither competitive bidding nor competitive selection is required pursuant to City Charter Section 1002(H), contracts with other governmental entities or their contractors for labor, material, supplies, or services, and Pasadena Municipal Code Section 4.08.049(A)(3), contracts with other governmental entities. (Contract No. 22,866, Budget Amendment No. 2018-14)

Erika Foy, Pasadena resident, expressed concerns with the violence on the Metro Gold Line and specifically at the Fillmore train station; and asked the City to consider prohibiting sleeping or loitering within 500 feet of train stations and to reconsider its stance on Proposition 47, Reduced Penalties for Some Crimes Initiative (2014).

Chief of Police Sanchez responded to questions regarding the Pasadena Police's policing services and schedule to be provided at the Gold Line train stations in the City.

**MINUTES APPROVED**

October 16, 2017

Claim No. 12,991	Gustavo Obregon	\$	150.00
Claim No. 12,992	Michael Arya		Not stated
Claim No. 12,993	Sandra Gandara-Ortiz		25,000.00+

**PUBLIC HEARINGS SET**

**December 11, 2017, 7:00 p.m. – Zoning Code Text Amendments to Pasadena Municipal Code Section 17.50.275 to Revise the City's Accessory Dwelling Unit Regulations**

Following discussion, it was moved by Vice Mayor Kennedy, seconded by Councilmember Wilson, to approve all items on the Consent Calendar, with the exception of Item 1 (Modify Current Classifications and Salaries), which was removed from consideration to a future date:

AYES: Councilmembers Gordo, Hampton, Madison, Masuda, McAustin, Wilson, Vice Mayor Kennedy, Mayor Tornek  
NOES: None  
ABSENT: None  
ABSTAIN: None

**COUNCIL COMMENTS**

Councilmember McAustin, member of the Joint Powers Authority Governing Board for Foothill Transit, reported that the Transit's goal is to have an all-electric bus fleet by 2030 and provided information on the progress made towards achieving its goals.

The Mayor announced that on November 7, 2017, the County Supervisors will discuss the sediment removal project at Hahamongna Watershed Park, where he intends to reiterate the City's position that the project as contemplated by Los Angeles County is excessive.

Vice Mayor Kennedy spoke on the well-attended Southern California Women's Health/Beauty Conference and Expo, which he attended on November 3, 2017.

## **PUBLIC HEARINGS**

### **PUBLIC HEARING: MUNICIPAL CODE AMENDMENTS – MARIJUANA REGULATIONS**

#### **Recommendation:**

- (1) Find that the action proposed in the agenda report is not a project subject to the California Environmental Quality Act (CEQA) in accordance with Section 21065 of CEQA and State CEQA Guidelines Sections 15060(c)(2), 15060(c)(3), and 15378, and that the proposed action is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment;
- (2) Adopt the Findings of Consistency with the General Plan in Attachment A of the agenda report;
- (3) Approve the proposed Municipal Code Amendments as contained in the agenda report, which are to: 1) amend Title 17 (Zoning Code) to prohibit citywide personal outdoor cultivation of marijuana and apply reasonable regulations on personal indoor cultivation, prohibit citywide commercial marijuana activities, including retail sales and cultivation for commercial purposes, and allow the delivery of marijuana and marijuana products into the city from commercial marijuana businesses in other jurisdictions; 2) amend Title 8 (Health and Safety) to delete the current prohibition on commercial marijuana activity, and amend the tobacco prevention provisions to include marijuana; and 3) any other portion of the Municipal Code as may be necessary to implement the recommendations set forth in the agenda report;
- (4) Adopt a resolution of intent to legislate regarding disqualifying current illegal marijuana operators from any future city permitting; and
- (5) Direct the City Attorney to prepare an ordinance within 60 days amending the Pasadena Municipal Code as presented in the agenda report. (Resolution No. 9602)

The City Clerk opened the public hearing; reported that the public hearing notice was published in the Pasadena Journal and Pasadena Weekly on October 19, 2017, October 26, 2017, and November 7, 2017; and that two letters were received in favor and one letter in opposition to the item.

Steve Mermell, City Manager, and David Reyes, Director of Planning and Community Development, provided introductory comments, and Perry Banner, Contract Planner, provided a PowerPoint presentation on the item; and responded to questions.

Councilmember Gordo, Chair of the Economic Development Technology Committee, reported on the Committee's discussion and unanimous agreement to proceed cautiously on this matter and to seek to disqualify (if in the future the City decides to issue business licenses for commercial marijuana dispensary) any current unlawful marijuana operators; and expressed his opposition to the State using the Alcohol and Beverage Control (ABC) Board as a regulating model, due to the lack of enforcement regulations with ABC. In addition, Mr. Gordo clarified that a reference made by the Planning Commission to allow the delivery of marijuana and marijuana products into the City is consistent with the regulation mandated by state law.

Theresa Fuentes, Assistant City Attorney responded to questions regarding the City's ability to tax marijuana products being delivered to the City, stated that staff will return to the City Council to address that issue at a later date. She also responded to questions regarding the City's ordinance on the prohibition of marijuana, as well as the City's anti-smoking ordinance; and stated that the City's Code Enforcement division is in the process of actively shutting down illegal marijuana operators, providing code violation notices to the owners of the buildings.

Councilmember McAustin spoke on the need for staff to be vigilant on the persistent problem of unlicensed commercial marijuana operators in the City.

Councilmember Wilson suggested that staff consider how to ensure disqualified illegal marijuana operators in the City can be identified as successor or related operations when drafting the ordinance so as to prevent those operators from working around the law.

Vice Mayor Kennedy stated that he would like medicinal oral-based cannabis and cannabinoids medications for City residents who are suffering from illnesses to continue to have access and delivery options from operations that located outside the City.

Michele Beal Bagneris, City Attorney/City Prosecutor, stated that she is confident that staff will craft regulations such that property-owners will be unable to claim legal non-conforming entitled uses related to marijuana commercial activities; and stated that the City's zoning ordinance prohibiting commercial marijuana activities provides notice to said property-owners.

Councilmember Gordo stated for the record, "In whatever action taken today I would want the legislative record to be clear that this [City] Council would refute any assertion that an existing property has somehow gained a legal non-conforming use status simply because they allowed an operator to operate in violation of our Zoning Code prior to the [City] Council adopting some sort of regulatory scheme. I would like that stated somewhere in the legislative record and in the minutes."

In response to Councilmember Wilson's inquiry on reporting from the state, David Reyes, Director of Planning and Community Development, responded that he would work with the state to determine if data is available on delivery services of marijuana in order to determine best practices regarding regulatory framework.

Councilmember Madison reiterated his belief that the legalization of marijuana is bad public policy, suggested that the City adopt a policy that allows the delivery of medical marijuana and prohibit commercial marijuana deliveries; and expressed concerns with the proliferation of marijuana that is very aromatic, suggesting that staff, including the Health Department, review the City's smoking ordinance to ensure/strengthen prohibition on smoking marijuana.

Following discussion, the following individuals spoke in favor of the item and/or various aspects of the proposed recommendation, and provided comments and/or suggestions:

Nina Chomsky, Linda Vista-Annandale Association  
Erika Foy, Protect Pasadena Kids  
Miguel Dowgopoluk, Pasadena resident  
Catalina Gonzalez, Day One  
Christy Zamani, Day One  
Claudia Morales, Day One  
Kevin Hurley, Pasadena resident  
Phil Hosp, Pasadena resident  
Joyce, Residence not stated  
Jade Lewis, Group of local residents

Following discussion, the following individuals spoke in opposition to the item and/or various aspects of the proposed recommendation, and provided comments and/or suggestions:

Bianca Kim, Pasadena resident

Following public comment, it was moved by Councilmember Gordo, seconded by Councilmember McAustin, to close the public hearing:

Councilmember Madison left the meeting at 8:40 p.m. and returned at 8:57 p.m.

AYES: Councilmembers Gordo, Hampton, Masuda, McAustin, Wilson, Vice Mayor Kennedy, Mayor Tornek  
NOES: None  
ABSENT: Councilmember Madison  
ABSTAIN: None

Michele Beal Bagneris, City Attorney/City Prosecutor, clarified that the proposed ordinance that is being introduced tonight, Item 8 (Conduct first reading of "AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 8 (HEALTH AND SAFETY), CHAPTER 8.77 (PROHIBITION OF COMMERCIAL MARIJUANA ACTIVITY) OF THE PASADENA MUNICIPAL CODE TO ALLOW COMMERCIAL MARIJUANA DELIVERY INTO THE CITY"), will provide the distinction between medical cannabis versus recreational and allow for the delivery of medicinal marijuana in the City by operations located outside Pasadena.

Following discussion, it was moved by Councilmember Gordo seconded by Councilmember Wilson, to amend the Pasadena Municipal Code to allow the delivery of medicinal marijuana and cannabis from operations located outside Pasadena:

AYES: Councilmembers Gordo, Hampton, Masuda, Wilson, Mayor Tornek  
NOES: Councilmember McAustin, Vice Mayor Kennedy  
ABSENT: Councilmember Madison  
ABSTAIN: None

Councilmember Hampton spoke on correspondence submitted by Encore Lab, regarding a zoning appeals and a business license issued by the City and requested clarification on the compliance of the company, and spoke against regulating businesses conducting testing of marijuana in the City.

In response, Mr. Reyes stated that a lab testing facility (Encore Lab), which was the basis of the Board of Zoning Appeals determination that it would be a legal non-conforming use in the City.

The Mayor spoke in favor of moving in a cautious manner related to cannabis and waiting on the development of best practices in terms of surrounding municipalities and throughout California, and continue to develop information on locations that have legalized cannabis for an extended period of time (i.e. the states of Washington and Colorado).

Councilmember Gordo asked staff to consider and provide updates to the City Council as the State continues to develop its standards, and notify the State of operators who chose not to abide by the City's ordinance so that they may consider writing into their standards that operators who intentionally operated without the proper land-use or operational entitlements not be licensed at the state level.

Following further discussion, it was moved by Councilmember Gordo, seconded by Councilmember Wilson, to approve the staff recommendation, as amended to allow for the delivery of medicinal marijuana in the City by operations located outside Pasadena :

AYES: Councilmembers Gordo, Hampton, Madison, Masuda, McAustin, Wilson, Vice Mayor Kennedy, Mayor Tornek  
NOES: None  
ABSENT: None  
ABSTAIN: None

**ORDINANCE – FIRST READING**

**Conduct first reading of “AN ORDINANCE OF THE CITY OF PASADENA TO PROTECT ITS RESIDENTS AND RESIDENTIAL NEIGHBORHOODS FROM UNREGULATED AND UNTAXED COMMERCIAL MARIJUANA ACTIVITY (AMENDING TITLE 17, THE ZONING CODE)”**

The above ordinance was offered for first reading by Councilmember Gordo:

AYES: Councilmembers Gordo, Hampton, Madison, Masuda, McAustin, Wilson, Vice Mayor Kennedy, Mayor Tornek  
NOES: None  
ABSENT: None  
ABSTAIN: None

~~Conduct first reading of “AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 8 (HEALTH AND SAFETY), CHAPTER 8.77 (PROHIBITION OF COMMERCIAL MARIJUANA ACTIVITY) OF THE PASADENA MUNICIPAL CODE TO ALLOW COMMERCIAL MARIJUANA DELIVERY INTO THE CITY”~~

Theresa Fuentes, Assistant City Attorney, stated the following: As proposed by the City Council the ordinance will now read: **“AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 8 (HEALTH AND SAFETY), CHAPTER 8.77 (PROHIBITION OF COMMERCIAL MARIJUANA ACTIVITY) OF THE PASADENA MUNICIPAL CODE TO ALLOW MEDICAL MARIJUANA DELIVERY INTO THE CITY”** and Section 2 of the ordinance will include the following amended language, “Marijuana cultivation, marijuana processing, non-medical marijuana delivery originating from within the City, and marijuana dispensaries shall be



prohibited activities in the city. No entitlement, license, or permit, whether administrative or discretionary, shall be approved or issued for the activities of marijuana cultivation, marijuana processing, non-medical marijuana delivery originating from within the city, or the establishment or operation of a marijuana dispensary in the city, and no person shall otherwise establish or conduct such activities in the city. Legally permitted marijuana delivery for delivery of medical marijuana only and originating from outside the city that terminates in the city or passes through in the city shall be allowed"

The above ordinance was offered for first reading by Councilmember Gordo:

AYES: Councilmembers Gordo, Hampton, Madison, Masuda, McAustin, Wilson, Vice Mayor Kennedy, Mayor Tornek  
NOES: None  
ABSENT: None  
ABSTAIN: None

**Conduct first reading of "AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 8 (HEALTH AND SAFETY), CHAPTER 8.78 (TOBACCO USE PREVENTION) OF THE PASADENA MUNICIPAL CODE TO CLARIFY PROHIBITIONS ON THE SMOKING OF CANNABIS"**

The above ordinance was offered for first reading by Councilmember Hampton:

AYES: Councilmembers Gordo, Hampton, Madison, Masuda, McAustin, Wilson, Vice Mayor Kennedy, Mayor Tornek  
NOES: None  
ABSENT: None  
ABSTAIN: None

### **ADJOURNMENT**

On order of the Mayor, the regular meeting of the City Council adjourned at 9:04 p.m.

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Terry Tornek, Mayor  
City of Pasadena

ATTEST:

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City Clerk