

MINUTES OF A SPECIAL MEETING
OF THE BUENA PARK CITY COUNCIL
HELD SEPTEMBER 19, 2019

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CALL TO ORDER

The City Council met in a special meeting on Thursday, September 19, 2019, at 1:05 p.m., in the Council Chamber of the Civic Center, 6650 Beach Boulevard, Buena Park, California, Mayor Brown presiding.

ROLL CALL

PRESENT: Park, Smith, Swift, Traut, Brown (Swift arrived at 1:10 p.m.)
ABSENT: None

Also present were: Jim Vanderpool, City Manager; Chris Cardinale, City Attorney; and Adria M. Jimenez, MMC, City Clerk.

ORAL COMMUNICATIONS

Mayor Brown announced the public may at this time address the members of the City Council on any matters within the jurisdiction of the City Council. There being none, Mayor Brown closed oral communications.

Keith Alan, Buena Park resident, spoke regarding a legal, personal issue concerning Council Member Park.

Mike Mahony, Buena Park resident, spoke regarding a legal, personal issue concerning Council Member Park.

STUDY SESSION (1 – 7)

1. DISCUSS AND PROVIDE DIRECTION REGARDING INTERNAL REVENUE CODE SECTION 115 TRUST FOR PENSION LIABILITIES
Presented by: Sung Hyun, Director of Finance

At the August 28, 2018, study session, the City Council directed staff to provide a comparison of Section 115 Trusts for pension liabilities offered by Public Agency Retirement Services (PARS) and by the California Public Employees' Retirement System (CalPERS). The advantage of a Section 115 Trust is that the funds deposited may be invested in higher-yielding instruments than the City's Investment Policy allows.

Currently, PARS provide Section 115 Trust services for several cities through their Pension Rate Stabilization Program (PRSP). After the approval of State legislation, CalPERS is now also offering a Section 115 Trust to pre-fund pension liabilities called the California Employers' Pension Prefunding Trust (CEPPT). The PARS PRSP allows for more flexibility and offers a greater number of investment options, but the ongoing cost is significantly higher.

The CalPERS CEPPT takes a more uniform approach and offers only two investment options, but the ongoing cost is estimated to be less than half of the PRSP. In addition, the City has participated in the CalPERS CERBT program for approximately ten years with good results. As part of creating a Section 115 Trust, staff is also recommending that the City Council consider implementing a policy to provide ongoing funding to the trust. An example may be to dedicate specific one-time revenues for deposit into the trust. Or that all or any portion of surplus amounts above the 20-25% General Fund Assignment for Economic Uncertainties be deposited into the trust.

Following discussion, the City Council directed staff to stay with CalPERS California Employers' Pension Prefunding Trust (CEPPT), Section 115 Trust to pre-fund pension liabilities and implement a policy to provide ongoing funding to the trust.

2. DISCUSS AND PROVIDE DIRECTION REGARDING NAMING OF CITY STRUCTURES AND FACILITIES

Presented by: Jim Box, Director of Community Services

Director of Community Services Box reported the criteria and eligibility for naming City structures and facilities and requested direction from City Council to name/rename City structures. The City reserves the naming of structures and facilities to those circumstances which tradition and practice have shown to serve interests of the residents and assure a worthy and enduring legacy for the City's public place. Per City Council Policy No. 30, below are the requirements for naming City structures and facilities:

At the request of City Council this item is being brought forward for discussion of the re-naming of city structures and facilities for the following:

1. Lindbergh Park to Charles A. Lindbergh Park, American aviator, military officer, author, inventor, explorer, and environmental activist, and a spokesperson for the American First Committee.
2. Liberty Hall to Ruth Walp Hall, Elementary School teacher who started the Buena Park Youth Theater and recipient of the Americana Award and was a long-time Commissioner for the City of Buena Park.
3. Rick Gomez Park to Ruby/Rick Gomez Park, both supported and participated in community programs. Rick Gomez gave generously his time and efforts in supporting community programs as an active member of the City's Park and Recreation Commission, and as a dedicated and well-loved youth sports coach. Ruby Billings Gomez gave generously her time and efforts in supporting community programs as an active member of the Senior Commission and Historical Society. Ruby spent her life helping others in her community.

Lori Deterding, Buena Park resident and friend of the Gomez family spoke about the pride and honor the family felt when the City nominated to name the park after Rick Gomez. She spoke in support of naming the park Rick Gomez and suggested naming a hall or plaza after Ruby Gomez.

Susan Sonne, Buena Park resident spoke in opposition of Lindbergh Park because of the history of Charles A. Lindbergh, due to his life actions and historical beliefs during World War II. She suggested City Council consider naming the park after Florence "Pancho" Barnes, a qualified female pilot or Willa Brown, an aviator and educator and civil rights activist.

Following discussion, the majority of the City Council (Traut dissented) supported leaving Charles A. Lindbergh Park name as is. The City Council also supported naming the new park Rick Gomez Park. The majority of the City Council (Swift dissented) supports renaming Liberty Hall at Ehlers Center, the Ruth Walp Hall.

Council Member Swift requested City Council Policy No. 30 be brought to study session for review.

3. DISCUSS AND PROVIDE DIRECTION REGARDING PUBLIC ART IN CROSSWALKS

Presented by: Imani Tolliver, Community Services Supervisor /
Deepthi Arabolu, Principal Engineer

Principal Engineer Arabolu reported that at the request of Council Member Traut, this item is brought forward for discussion to explore the possibilities of an Art in Crosswalks program. A decorative crosswalk activates public space and engages the attention of drivers and pedestrians while enhancing their commuting experience. In discussion with our Traffic Engineering Division, guidelines at both the State and Federal levels of government must be adhered to regarding the application of colored pavement treatments in crosswalks.

On May 15, 2019, this item was discussed by the Cultural and Fine Arts Commission. The Commission fully supports the proposed program. Additionally, the Commission recommends the program be implemented at one crosswalk per City Council district. Areas of concern for the Commission include the longevity of paint, design, and ongoing maintenance. Staff estimates the installation of each crosswalk to cost approximately \$5,000 to \$8,000 per location. This cost does not include ongoing maintenance costs associated with re-painting of decorative pavement treatment.

Susan Sonne, Buena Park resident, spoke in favor of art in crosswalks, the effect it has on the community, making the space inviting and encouraging for people to come outside.

Following discussion, the majority of the City Council (Swift dissented) supported an Art in Crosswalks pilot program.

4. DISCUSS AND PROVIDE DIRECTION REGARDING POTENTIAL BAN OF EXPANDED POLYSTYRENE FOAM PRODUCTS

Presented by: Doug Brodowski, Operations Manager

Operations Manager Brodowski reported that at the June 12, 2018, City Council meeting, the Beautification–Environmental Commission ('Commission') reported on the issue of banning the use of expanded polystyrene foam (EPS), more commonly referred to as Styrofoam, due to harmful effects to the environment and sea life. EPS is commonly used to manufacture foam cups and food containers. The Commission advised that, at that time, 116 cities in California had already banned the use of EPS. Following the discussion, the City Council directed staff to discontinue the purchase of EPS at City facilities and functions. In addition, the Commission was directed to bring back a plan for citywide implementation and/or an educational program to discourage the use of EPS and to recognize businesses that voluntarily cease distribution of EPS products.

The Commission has developed a cover letter and educational pamphlet targeted to restaurant and business owners, with information regarding the harmful environmental impacts of the use of EPS. If a restaurant or business is currently not utilizing, or voluntarily discontinues the use of EPS, they may apply for a Good Environmental Citizen Recognition; the honoree will be awarded a plaque to display, social media recognition, and annual acknowledgment at a City Council meeting. This program will commence soon.

Several Orange County cities have ordinances banning the use of EPS in government facilities. The City of San Diego is the largest city in California to recently enact a citywide ban on EPS and single use, take out containers. They are instating the ban in phases, as well as allowing a waiver if it is a financial hardship for businesses that earn less than \$500,000 per year. Those opposed to the ban argue that it would cost restaurants a substantial amount more to meet the requirements of either compostable or recyclable food ware. For example, if a restaurant currently utilizes an EPS cup to serve both cold and hot liquids, the ban would possibly require the purchase of two different types of cups for the two different lids as well as a paper sleeve so that the hot liquids don't burn the customers (an additional cost). Fines for violating the law will be \$200 for the first offense and \$500 for subsequent offenses. Three San Diego restaurant owners, the California Restaurant Association, and Dart Cardboard Corporation of California filed a lawsuit in March against the City of San Diego seeking to block the city's ban. The suit claims the City Council adopted the ban with "zero environmental analysis" and violated the California Environmental Quality Act.

Susan Sonne, Beautification-Environmental Commissioner brought to the City Council the desire to ban Styrofoam in Buena Park due to it causing litter and its toxicity to the environment and consumers.

City Council discussed the following: potential impact on businesses and commercial stores that sell products, economically feasible alternatives to Styrofoam containers and incentive programs to assist businesses that implement a ban of disposable food packaging in phases.

The City Council directed staff update City Council if new legislation on this topic comes forward and directed staff to move forward with educational materials as proposed.

5. DISCUSS AND PROVIDE DIRECTION REGARDING PROPOSED TEMPORARY USE PERMIT FOR THE 2019 K-CONTENT EXPO AND CONCERT HOSTED BY THE SOURCE MALL AND THE SOUTH KOREAN MINISTRY OF CULTURE, SPORTS, AND TOURISM TO BE HELD NOVEMBER 7 TO 9, 2019, AT THE SOURCE MALL LOCATED AT 6940 BEACH BOULEVARD
Presented by: Brady M. Woods, Planning Manager

Council Member Swift announced she has a conflict of interested because she owns property within 500' of the proposed event location and recused herself from the discussion.

Planning Manager Woods reported that The Source, in collaboration with the South Korean Ministry of Culture, Sports, and Tourism, is proposing to host the 2019 K-Content Expo and Concert within The Source located at 6940 Beach Boulevard. The three-day event will take place from Thursday, November 7 through Saturday, November 9, 2019, from 10:00 a.m. to 9:00 p.m. Over 10,000 people are anticipated to attend over the span of three days. The K-Content Expo is intended to showcase music, food, art and modern Korean culture. The event will feature multiple experiential and entertainment exhibits throughout The Source.

Visitor parking for the event will be located within The Source parking structure. Proposed overflow parking areas, to be used by existing Source tenants and employees during the event, will include off-site locations such as the Fairfield Inn & Suites, Target, St. Pius Church, and Buena Park City Hall (during non-business hours). Parking agreements with property owners of off-site parking areas will be required. Parking on nearby residential streets will be restricted.

Staff will assemble a working group comprised of key City departments and outside agencies (e.g. OCFA, OC Health Department) as well as event organizers and the Source to review traffic control, parking, circulation, exiting, security, noise, etc. in preparation of the event. A Temporary Use Permit approved by the Community Development Director will be required to accommodate the event. Notification to the surrounding community well in advance of the event will also be required. No City funds are requested for this event.

Following discussion, the City Council (Swift recused) supported the Temporary Use Permit for the 2019 K-Content Expo.

6. DISCUSS AND PROVIDE DIRECTION REGARDING PARKING TAX FOR CITY ATTRACTIONS
Presented by: Aaron France, Assistant City Manager

Assistant City Manager France reported that the City Council previously calendared a discussion on a parking tax for City attractions. Currently, the City does not levy a specific tax for any attraction in the City; such as parking, admissions, or ticket tax. The City, however, does have a broad constitutional authority to impose taxes for revenue purposes, subject to limitations prescribed by state and federal law.

For example, Proposition 218 requires voter approval before the City imposes new local taxes. A "general tax" (the revenues of which may be used for any municipal purpose) must be approved by a majority of voters; a "special tax" (the revenues of which are "earmarked" for a specific purpose) must be approved by two-thirds vote.

Additionally, though the specific nature and details of the tax would be subject to City Council direction and additional analysis from staff, the law imposes general parameters including:

- The apportionment of the tax (e.g. how it is calculated) must be based on a measure that fairly reflects the proportion of the tax activity that is actually carried on within the taxing jurisdiction. To provide an obvious example of this rule, the City could not impose a "parking tax" on cars parked outside of its jurisdiction.
- The tax must be applicable to all similarly situated "members of a class" (e.g. individuals or businesses), and distinctions among businesses may not be arbitrary, and instead must be reasonably based on substantial differences between the classes separately grouped. For example, a parking tax that is applicable to certain City attractions but not others would need to cite substantial between those "classes" of attractions to justify the differential treatment.

Staff has completed preliminary due diligence on this issue, and if directed by the City Council, additional review might include a survey of similarly situated communities to determine the nature, type, and amount of the proposed tax. This evaluation could also include an analysis of a tax's anticipated impact on visitor volume and economic development activities, anticipated revenues, a polling of views on the issue, or other matters directed by the City Council.

The City Council may also desire to consider alternatives to a new tax, such as the creation or expansion of public improvement/tourism districts, which could generate revenue to offset the cost of public infrastructure maintenance or improvements, or public safety services, associated with entertainment attractions. Such "assessment districts" are typically created with the consent of the subject property owners/businesses, but do not require voter approval.

Other alternatives include updates to the City's fee schedule, to incorporate increased or new fees to help offset the City's costs associated with supporting and providing public services to attractions in the City. Such fees could take the form of public safety service fees, development impact fees, and similar impositions designed to reimburse the City for its costs; as opposed to generating revenue. This report was prepared in conjunction with the City Attorney's Office.

Jon Storbeck, Knott's Berry Farm, General Manager, spoke about Knotts' love of Buena Park and the community, the adverse effect a parking tax will have on the business as well as the consumer. He also spoke about Knott's Berry Farm as the destination driver for the Buena Park Entertainment Zone in attracting visitors to the City of Buena Park annually. Moreover, adding a tax will lower overall demand, growth and returns could potentially lead to lower investments, lower employment and lower economic development to the area. Lastly, he urged the City Council to vote no on a proposed parking tax.

The City Council discussed, Knott's Berry Farm visitors per year, fees, taxes and/or assessments to other Cedar Fair Parks, sources of revenue received from each entertainment venue, how amounts have changed year per year and information regarding sales taxes, property taxes, incidental revenue generation, business license tax, utility user taxes for all entertainment venues in the City of Buena Park. The City Council also discussed the historical value of Knott's Berry Farm to Buena Park and its positive effects to the community, justification for implementing a parking tax and a plan for managing those tax funds before agreeing to said tax and the duty of the mayor to bring all potentials of revenue to council for discussion but ultimately the citizens vote for the passage of taxes.

Following discussion, a majority of City Council (Traut dissented) did not support a parking tax for city attractions. The City Council is supportive of holding a future study session to discuss items requested tonight regarding sources of revenue received from entertainment venues however it will be as a receive and file only.

7. DISCUSS AND PROVIDE DIRECTION REGARDING RESPONSIBLE CANNABIS CONTROL MEASURES

Presented by: Aaron France, Assistant City Manager

Assistant City Manager France reported that the City Council directed staff to follow and research Assembly Bill 1356 (Ting). This bill would require cities to issue licenses for the sale of retail cannabis if more than 50% of the electorate of the local jurisdiction voted in favor of The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA). In short, the bill would require one cannabis retail license for every six liquor licenses, or distribute one license for every 15,000 residents, whichever number is greater. In the City of Buena Park, there are currently 108 on-sale general alcohol licenses, and 50.23% of the electorate voted in favor of AUMA in 2016. Since that time, staff has learned AB 1356 has been ordered to the inactive file by its author, Assemblyman Phil Ting, given the bill lacked the 2/3 support required to move out of the Assembly.

A consultant, who assists cities in navigating the process of migrating toward both cannabis distribution and retail sales has been in touch with Buena Park. The consultant is spearheading a program called the Cannabis Regulation Impact Study Program, or "CRISP". The CRISP program claims to protect local authority and streamline the process by offering a less aggressive and heavily monitored approach to policy reform, with real-time Buena Park specific community impact provided by a UCLA study team that includes UCI doctoral candidates.

The City Council has previously adopted a moratorium on all cannabis sales, distribution, cultivation, and delivery. However, several cities have embarked on either distribution sites or permitting retail sales given the lucrative nature of the cannabis industry.

Erik Chan, Managing Director of Cannabis Regulation Impact Study Program, or "CRISP," spoke in favor of this item, and provided information about research and cannabis trends.

The City Council discussed: possible revenue from regulated cannabis distribution, lack of support from residents, and studies on impacts to the community.

Following discussion, the City Council was not supportive of responsible cannabis control measures.

ADJOURNMENT

There being no further business, Mayor Brown adjourned the meeting at 4:51 p.m.



Mayor

ATTEST:



City Clerk