



CITY OF SIERRA MADRE
CITY COUNCIL REGULAR MEETING MINUTES

SIERRA MADRE CITY COUNCIL
SUCCESSOR AGENCY AND
PUBLIC FINANCE AUTHORITY

Tuesday, March 26, 2019 - 6:30 pm

Sierra Madre City Hall Council Chambers
232 W. Sierra Madre Blvd., Sierra Madre, CA 91024

CALL TO ORDER/ROLL CALL MEMBERS OF THE CITY COUNCIL

Mayor Denise Delmar called the meeting to order at 6:31 p.m. City Clerk Sue Spears called the roll.

Present: Mayor Denise Delmar, Mayor Pro Tem John Harabedian, and Council Members Rachele Arizmendi, John Capoccia, and Gene Goss

Absent: None

Also Present: Gabe Engeland, City Manager
Teresa Highsmith, City Attorney
Laura Aguilar, Assistant City Clerk
James Carlson, Management Analyst
Chris Cimino, Director of Public Works
Edward Delcours, Police Lieutenant
Vincent Gonzalez, Planning & Community Preservation Director
Joe Ortiz, Police Chief
Christine Smart, City Librarian
Rebecca Silva-Barrón, Community Services Manager
Sue Spears, City Clerk

PLEDGE OF ALLEGIANCE AND INVOCATION/INSPIRATION:

Council Member Arizmendi led the Pledge of Allegiance and spoke about a speech by President Jimmy Carter establishing the first Women's History Week in 1980, which was expanded in 1987 to designate March as Women's History Month. She announced that Assemblymember Chris Holden will be recognizing former City Clerk Nancy Shollenberger this Thursday for her service to Sierra Madre over the last 32 years.

APPROVAL OF AGENDA AS PRESENTED:

Mayor Delmar asked for a motion to approve the agenda as presented.

Council Member Capoccia moved to approve the agenda as presented.

Council Member Arizmendi seconded the motion to approve the agenda as presented.

Ayes: Mayor Denise Delmar, Mayor Pro Tem John Harabedian, Council Members Rachele Arizmendi, John Capoccia, and Gene Goss

Noes: None

The motion to approve the agenda as presented was passed unanimously.

REPORT ON THE CLOSED SESSION SPECIAL MEETING

City Attorney Highsmith reported that there was no Closed Session Special Meeting.

APPROVAL OF MINUTES:

Mayor Delmar asked for the approval of the Minutes of the Regular Council Meeting of March 12, 2019.

Mayor Pro Tem Harabedian noted that there was a typographical error on page 1.

Mayor Pro Tem Harabedian moved to approve the Minutes of the Regular Council Meeting of March 12, 2019 as amended.

Council Member Goss seconded the motion to approve.

Ayes: Mayor Denise Delmar, Mayor Pro Tem John Harabedian, and Council Members Rachelle Arizmendi, John Capoccia, and Gene Goss

Noes: None

Absent: None

Abstain: None

The motion to approve the Minutes of the Regular Council Meeting of March 12, 2019 as amended was passed unanimously.

MAYOR AND CITY COUNCIL REPORTS:

- A. Mayor Denise Delmar reported about the successful Wisteria Festival, which took place on such a beautiful day.
- B. Mayor Pro Tem John Harabedian did not make a report.
- C. Council Member Rachelle Arizmendi reported that (1) Nancy Shollenberger will be recognized as a Women of Distinction for the City of Sierra Madre on Thursday and encouraged people to attend the event, (2) City Treasurer Mike Amerio was recognized by Maryvale Educational Center for his work on the Maryvale Board of Directors, and (3) the Sierra Madre Chamber of Commerce, all of the groups in Sierra Madre, and volunteers deserve recognition, congratulations, and thanks for the amazing Wisteria Festival, which had a great turnout
- D. Council Member John Capoccia said that he attended a performance of "Tuesdays with Morrie" at the Sierra Madre Playhouse, which was fantastic. He encouraged people to become regular patrons of the Playhouse.
- E. Council Member Gene Goss did not make a report.

PUBLIC COMMENT ON NON-AGENDA ITEMS:

Mayor Delmar opened the meeting for Public Comment on items not on the agenda.

- Renee Cossutta, Sierra Madre, suggested eliminating the street next to Kersting Court in the Kersting Court redesign.
- Debbie Ross, Sierra Madre, expressed that she did not like the two available options for the Kersting Court redesign and requested that other options be provided.
- Marguerite Schuster, Sierra Madre, (1) complimented the Planning Commission for its work in preserving the special character of Sierra Madre while also acknowledging legitimate uses of private property and (2) suggested that more specificity in the building code language would assist the Planning Commission in making decisions.
- Liza Kerrigan, Sierra Madre, expressed that the two Kersting Court redesign options (of adding either a trellis or gazebo) detract from Kersting Court's character and suggested that natural shading be considered.
- Barbara Lee, Sierra Madre, expressed that she did not like the two available options for the Kersting Court redesign and suggested pepper trees and/or something historical be included in the redesign.
- Andrea Lin, Sierra Madre, spoke about difficulties that she has been having with her neighbors and requested accountability.
- Carol Canterbury, Sierra Madre Chamber of Commerce, thanked the City for allowing this year's successful Wisteria Festival, with about 6,000 – 7,000 people in attendance and 84 vendors/food trucks.
- Larry Torres, Sierra Madre and PUSD School Board President, invited everyone to attend the "State of the Schools" speech to be held on Thursday, April 4, 2019, @ 6:00 p.m. at Sierra Madre Middle School.

- Gary Hood, Sierra Madre, commented that side yard setbacks need to be followed closely, as it is a safety issue for first responders.

Mayor Delmar asked if anyone else would like to come forward to speak on items not on the agenda. Seeing no one come forward, Mayor Delmar closed Public Comment.

PRESENTATION – POLICE CHIEF JOE ORTIZ – RECOGNITION OF SERVICE TO SIERRA MADRE

Mayor Delmar announced that Police Chief Joe Ortiz is leaving Sierra Madre to assume the position of South Pasadena Police Chief and commented “their win is our loss.” Council Members spoke about Chief Ortiz as follows: (1) thanked him for his leadership and service to our community, (2) complimented him about the relationships that he has developed with residents and people in Sierra Madre, (3) recognized him for his commitment to the SMPD during a time in which there was staff loss and during the rebuilding, (4) expressed appreciation for his leadership of the SMPD, which is better than ever, and (5) wished him well.

Mayor Delmar read and presented a proclamation to Chief Ortiz. Chief Ortiz spoke about his nine (9) years (since 2010) with SMPD and expressed his appreciation for the support of the City Manager, City Council, residents, and the staff of the SMPD.

- De Alcorn, Sierra Madre, (1) complimented Chief Ortiz on his professionalism and his heart of the people, (2) thanked Chief Ortiz for his service, and (3) expressed his appreciation to Chief Ortiz.
- Steve Stafford, Temple City, (1) recognized Chief Ortiz has being outstanding in getting the City through some tough times, (2) expressed his appreciation to Chief Ortiz, and (3) wished him the best.

AGENDA ACTION ITEMS:

1. CONSENT CALENDAR:

City Clerk Spears gave the following reports under the Consent Calendar:

- ADOPTION OF RESOLUTION 19-08 OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE APPROVING CERTAIN DEMANDS – Recommendation that the City Council approve Resolution 19-08 for approval of payment of City warrants in aggregate amount of \$245,795.51; Library warrants in the aggregate amount of \$2,760.50, and payroll transfer in the aggregate amount of \$331,404.78 for the fiscal year ending June 2019.
- ANNUAL HOUSING ELEMENT PROGRESS REPORT - Recommendation that the City Council receive and file.
- CONSIDERATION OF AWARD OF CONSTRUCTION CONTRACT TO GENTRY BROTHERS INC. FOR CONSTRUCTION OF THE FY 2018-2019 STREET IMPROVEMENT PROJECT No. ST81901 IN AN AMOUNT NOT TO EXCEED \$720,100 - Recommendation that the City Council award a construction contract to Gentry Brothers Inc., in an amount not to exceed \$720,100 for the FY 2018-2019 Street Improvement Project.

Mayor Delmar asked if any Member of the Council had questions on Consent Items 1a – 1c. Council Members did not ask any questions.

Regarding Consent Item 1c - In a response to a question by Council Member Goss regarding how Gentry Brothers Inc. could bid so low, Public Works Director Cimino said that (1) Staff does a full spread sheet of all the bids, with no apparent rhyme or reason on how bid amounts are established, (2) we trust that contractors have studied the specifications and understand the scope of the work required, and (3) there are other cities that have successfully used Gentry Brothers Inc.

Regarding Consent Item 1b – In response to a question by Council Member Capoccia regarding the housing numbers-units constructed, Planning & Community Preservation Director Gonzalez clarified that the numbers are a compilation of various tables from a number of spreadsheets that data is entered. He displayed a table to clarify the allocation from the assignment from RHNA to where the City currently stands, with 100 units built and 18 remaining to be built. PCP Director Gonzalez said that the timeframe is through 2021, but that, with the six cycle of the regional housing needs assessment, the numbers are likely to go up, which will need to be accounted for with the updated housing element, which will probably begin in 2020.

Council Member Capoccia asked about penalties recommended by the CA Governor for cities that do not make its numbers, PCP Director Gonzalez reported that the CA Governor has filed lawsuits against non-compliant cities and expressed his opinion that larger cities are being targeted.

Mayor Delmar opened the meeting for Public Comment on the Consents Item 1a – 1c. Seeing no one, Mayor Delmar closed Public Comment and brought the matter back to the Council for discussion. No additional discussion occurred.

Mayor Pro Tem Harabedian made a motion to approve Consent Items 1a – 1c as presented.

Council Member Arizmendi seconded the motion for approval.

Ayes: Mayor Denise Delmar, Mayor Pro Tem John Harabedian, and Council Members Rachelle Arizmendi, John Capoccia, and Gene Goss
Noes: None
Absent: None
Abstain: None

The motion to approve Consent Calendar Items 1a – 1c as presented was passed unanimously.

2. **PUBLIC HEARING – ADOPTION OF AN URGENCY ORDINANCE AMENDING TITLE 17 CHAPTER 17.93 OF THE SIERRA MADRE MUNICIPAL CODE TO INCLUDE PERMIT REQUIREMENTS, PROCEDURES, STANDARDS AND LIMITATIONS FOR THE SUBMITTAL AND REVIEW OF SMALL CELL WIRELESS FACILITIES; AND INTRODUCTION OF AN ORDINANCE AMENDING TITLE 17 CHAPTER 17.93 OF THE SIERRA MADRE MUNICIPAL CODE TO INCLUDE PERMIT REQUIREMENTS, PROCEDURES, STANDARDS AND LIMITATIONS FOR THE SUBMITTAL AND REVIEW OF SMALL WIRELESS FACILITIES - Recommendation that the City Council (a) Read by title only and adopt Urgency Ordinance No. 1410-U amending Title 17, Chapter 17.93 of the Sierra Madre Municipal Code to include permit requirements, procedures, standards, and limitations for the submittal and review of small cell wireless facilities, (b) Introduce and read by title only Ordinance No. 1411 amending Title 17, Chapter 17.93 of the Sierra Madre Municipal Code to include permit requirements, procedures, standards, and limitations for the submittal and review of small cell wireless facilities, and (c) adopt Resolution 19-07: A resolution of the City of Sierra Madre establishing an application processing fee for Small Cell Wireless Facilities as contemplated by Urgency Ordinance 1410-U.**

Mayor Delmar opened this item for Public Hearing.

Planning & Community Preservation Director Gonzalez reported on this item that included a PowerPoint titled, "Small Cell Wireless Facilities", with the recommendation that the City Council take the following actions:

- a. Adopt Urgency Ordinance No. 1410-U and Ordinance 1411 amending Title 17, Chapter 17.93 (Standards and Criteria for Wireless Communications Facilities) of the Sierra Madre Municipal Code to include permit requirements, procedures, standards, and limitations for the submittal and review of small cell wireless facilities and
- b. Adopt Resolution 19-07, establishing an application processing fee for small wireless facilities.

As indicated in the Staff Report dated March 26, 2019, for this agenda item, on April 15, 2019, the Federal Communications Commission (FCC) Declaratory Ruling and Order will take effect and will change local governments' ability to regulate wireless network equipment. The new FCC Order requires the following:

- a. Shortens the "shot clock" (to review applications for siting wireless network equipment) to 60 days for permits to attach 5G small cell sites to existing structure, and 90 days for attaching equipment to new structures.
- b. Limits fees for 5G small cell applications to a "reasonable approximation" of the state and local government costs.
- c. Dictates how cities regulate aesthetics, requiring that cities publish their standards and treat wireless technology the same as other infrastructure deployments.

Mayor Delmar asked if any Member of the Council had questions on this item.

Council Member Goss asked a question about “the public notification within 500 feet” and the remedy if a person(s) or neighborhood does not want it. PCP Director Gonzalez said that there is no remedy for them, as it is a FCC mandate/requirement. City Attorney Highsmith added that (1) the Sierra Madre drafted ordinance includes “the preferred location within 250 feet” as what the City prefers, not what the cell applicant prefers, which may provide some relief for resident(s), (2) the small cell device cannot emit more than the designated EMF, (3) there is a provision that requires compliance with the City’s stealth requirements, which have been tightened in the draft ordinance, (4) this is not a discretionary review, it is ministerial, (5) the purpose of the 5G cell site is not for gap closure because people are using smartphones as mini-computers, streaming data, watching videos, etc., all of which requires more data support and speed, (6) as the 5G cell devices get smaller, they need to be placed closer together to be effective, and (7) the proposed ordinance was drafted using a similar ordinance from another city that was upheld in court.

In response to a question by Council Member Goss regarding the numbers of these 5G cell devices, PCP Director Gonzalez said that is unknown at this time because the location requirement is per carrier and their needs, which could change circumstances. He added that this may assist with coverage in the Canyon area and up the hillsides, depending how far up the carriers install and the availability of utility poles.

Mayor Pro Tem Harabedian asked about the application processing fee, as the ordinance mentions \$500 and the City Council established fee is to be \$1,000. PCP Gonzalez said that the language in the two do not conflict.

Mayor Pro Tem Harabedian expressed concern regarding the placement of these devices near schools and daycare locations because of the potential radiation. PCP Director stated that these are FCC requirements and the radio emissions from these units and other cell towers are supposed to be in compliance with the state requirements so that there is not a lot that can be done to restrict locations from specific kinds of facilities. City Attorney Highsmith confirmed that (1) there is no exception for schools and/or daycare centers and (2) it would not harm the ordinance in any way to strike the \$500 and change the sentence to read “an independent consultant fee deposit of an amount as may be established by Council by resolution, etc.” Mayor Pro Tem Harabedian suggested that change in the ordinance language.

In response to a question by Council Member Arizmendi regarding preferred location, PCP Director Gonzalez said that it is an internal process. City Attorney Highsmith suggested that written Staff guidelines be established that include what the City defines as preferred locations.

In response to a question by Council Member Capoccia regarding “stealth facilities” and why the preferred is not listed as underground, City Attorney Highsmith said that (1) underground facilities do not work for cell phone service, (2) the preferred location is either an existing or replacement light standard (which equivalent to a new light standard with the cell equipment inside it), and (3) “stealth” relates to aesthetics.

Mayor Delmar clarified that the urgency ordinance must be passed by April 15, 2019, as this is the date when the FCC requirements take effect. PCP Director added that the related non-emergency ordinance is being presented concurrently with the urgency ordinance and the non-emergency ordinance will have a second reading at the next City Council Meeting.

Mayor Delmar asked if anyone would like to come forward to comment on this item.

- Steve Stafford, Temple City, expressed the need to check the utility pole structure and its ability to hold the weight of the small cell equipment.
- Barbara Lee, Sierra Madre, expressed the need for increased cell phone service in Sierra Madre.

Mayor Delmar asked if anyone else would like to come forward to this item. Seeing no one, Mayor Delmar closed Public Comment and brought the matter back to the Council for discussion.

Council Member Goss suggested considering the condition of the utility pole structure. City Attorney Highsmith said that, as part of the application process, (1) providers must bring a site plan that shows the engineering specifications of what they are proposing to build, including the weight, (2) site plans are generally reviewed by the Planning Department and Public Works, who reviews the site plans for compliance and to ensure that the utility pole structure is adequate to hold the anticipated weight, and (3) the contractor could be compelled to replace the utility pole if it was deemed unable to hold the weight. Public Works Director Cimino added that, after the City issues a

permit, the contractor must request approval from Southern California Edison (SCE), which evaluates the condition of its poles every other year. He said that Staff is considering requiring that, as a condition for issuing the permit to actually do the work, the contractor be required to present a certification from SCE regarding the condition of the pole. PW Director Cimino said that SCE is currently in the process of replacing poles throughout Sierra Madre.

Mayor Pro Tem Harabedian made a motion to (1) adopt Urgency Ordinance No. 1410-U (effective immediately and with the discussed changes regarding the application fees), (2) adopt Ordinance 1411 (first reading only by title), (3) adopt Resolution 19-07 (setting the fees), (4) approve the recommendation that Staff Guidelines be developed, and (5) request that the City Attorney review the ordinances to ensure that the numbering is correct.

Council Member Goss seconded the motion.

Ayes: Mayor Denise Delmar, Mayor Pro Tem John Harabedian, and Council Members Rachelle Arizmendi, John Capoccia, and Gene Goss

Noes: None

Absent: None

Abstain: None

The motion to (1) adopt Urgency Ordinance No. 1410-U (effective immediately and with the discussed changes regarding the application fees), (2) adopt Ordinance 1411 (first reading only by title), (3) adopt Resolution 19-07 (setting the fees), (4) approve the recommendation that Staff Guidelines be developed, and (5) request that the City Attorney review the ordinances to ensure that the numbering is correct was passed unanimously.

3. DISCUSSION – CONSIDERATION OF YMCA LEASE RENEWAL – Recommendation that the City Council approve a lease renewal with the YMCA for a term of three years, with an effective start date upon execution of the lease agreement.

City Manager Engeland reported on this item, with a recommendation that the City Council approve a lease renewal with the YMCA for a term of three years, with an effective start date upon execution of the lease agreement. The Staff Report Summary dated March 26, 2019, says the following:

- The YMCA has continuously leased the Sierra Madre Recreation Center since January 2012 (more than seven years).
- The YMCA has been an exceptional partner to the City of Sierra Madre and provides needed services and programs to the community.
- The current lease payments by the YMCA are \$3,000 per month and Staff is not seeking an increase in the lease rate for this lease renewal.
- The proposed lease extension makes several small changes and updates, but also suggests larger changes in the following areas:
 - (a) Sierra Madre Room – the YMCA will be responsible for the rental and reservations, will retain Sierra Madre Room rental fees, and will be responsible for the care, cleaning, and maintenance of the Sierra Madre Room. The total impact to the City is anticipated to be \$2,000.
 - (2) The City of Sierra Madre, at its sole discretion, will provide the YMCA funds to create, establish, or enhance programs that are in the best interest of the community, due to lack of current program availability or community desire/demand. All revenues from such programs will be retained by the YMCA. The City will agree to subsidize the programs until they are self-sufficient, discontinued, or by providing 30 days advance written notice of intent to cancel program support. The total funds in any fiscal year provided to the YMCA shall not exceed \$10,000.
 - (3) The YMCA will be responsible for all daily and operational or routine maintenance and repair of the Community Center and all components of the building, with the exception of the lift. These components include, but are not limited to, A/C, lighting, plumbing, and heating elements.
 - (4) The City shall be responsible for all capital items, defined as items exceeding \$5,000 in cost, in addition to the expense and maintenance of the lift.

Mayor Delmar asked if any Member of the Council had questions on this item.

In response to a question by Council Member Capoccia, City Manager Engeland said that the City's use of the Sierra Madre Room for City activities will not change, with four days free of charge, with advance notice. He said that the change relates to groups contacting the YMCA directly to make a reservation.

Mayor Pro Tem Harabedian asked about the rental fees for use of the Sierra Madre Room. City Manager Engeland stated that Council currently sets the price, with fees reduced substantially two budgets ago, but with this proposal the fees would be set and collected by the YMCA.

Mayor Pro Tem Harabedian asked about plans regarding the \$10,000 set aside for new programming. City Manager Engeland shared that, from a community services standpoint, there are programs we wish were in the community that are currently not offered. He said that this is a way for the YMCA to diversify its revenue stream, while bringing needed programs to the community, and will involve input from the Community Services Commission. Rick Politte, Executive Director, Pasadena-Sierra Madre YMCA, answered that they are looking for more feedback from the community and that the Community Services Commission is a good source of communication for ideas, and their purpose is to serve the needs of the community.

In response to a question by Council Member Goss as to whether Sierra Madre residents would be given preference in use of the Sierra Madre Room, City Manager Engeland responded that, whether it is the City or the YMCA, there cannot be a price preference offered for residents and, if there is a scheduling conflict, it would be up to the YMCA to handle.

Mayor Delmar opened the meeting for Public Comment on this item.

- Pat Alcorn, Sierra Madre, asked about (1) the Sierra Madre Room rental fee for non-profits and (2) after school programs being offered with a fee that families can afford.
- De Alcorn, Sierra Madre, asked about the incentive for the YMCA to offer reasonable, viable, and quality youth programs.
- Barbara Lee, Sierra Madre, asked about (1) what the City gains by providing a subsidy to the YMCA for the establishment of new programs and (2) how many children from Sierra Madre participate.

Mayor Delmar asked City Manager Engeland to address the issues raised during Public Comment as follows:

- What's in it for the City – The fundamentals of the City have not changed about our ability to pay for and operate either a pool or the Community Center. Leasing either facility out, when you combine them, brings in about \$107,000 in annual revenue and avoids the cost of staffing the SM Pool and staffing the Community Center. Staffing the Community Center alone, should the lease not be signed, would likely be 4-6 full-time people. Without the lease, there will be lost lease revenue and increased operating expenses, including utilities, maintenance, and staffing the facility. Leasing provides the City with a substantial cost savings and substantial revenue.
- Programs – Programs were cheap when the City operated the facility because they were heavily subsidized by the City. The proposed subsidy to the YMCA is to try to build up some of the programming that was lost through the outsourcing.
- Quality of Programs – When a private business offers a program, there is an incentive to bring people to that program to increase revenue or to expose them to their mission. When the City offers a program and people do not come, there is no negative outcome for the City, it is just a program that does not break even.
- Rental Fee – The YMCA does have the ability to charge a different rate for profit versus non-profit and break it out by category, just not by residents vs non-residents. The YMCA has more flexibility in its rentals, as they have more staff that can be assigned. Under this lease, Council does not set the rates by category or for room rentals.
- After School Programs – YMCA Executive Director Politte said that, in Sierra Madre, the YMCA currently operates two after-school programs (1) licensed school-aged child care program for children Kindergarten – Grade 5 and (2) after-school recreation program for middle school students, which is a carryover from the program that the City of Sierra Madre

previously provided in the Youth Activity Center (YAC). He said that fees are charged to participate in the programs, considering that the cost is for operating a licensed program with more qualified staff and that the ratios are lower than some other providers. Mr. Politte stated that financial assistance is provided to people who are lower income. He reported that, last year, the Pasadena-Sierra Madre YMCA provided about \$50,000 in financial assistance in childcare, camps, and different programs, although not all programs were in Sierra Madre.

Mayor Delmar asked if anyone else would like to come forward to this item. Seeing no one, Mayor Delmar closed Public Comment and brought the matter back to the Council for discussion.

Council Member Arizmendi suggested that the YMCA consider differentiating rates for non-profit organizations. Mr. Politte said that, as a non-profit itself, the YMCA is not in a position to subsidize other non-profits but is also not looking to make a profit from other non-profits. He stated that the YMCA would have to look at the exact cost for renting the facility to determine the rate to a non-profit organization for a specific event.

Discussion occurred and Council Members concurred with approving a lease renewal with the YMCA as recommended.

Council Member Arizmendi made a motion to approve a lease renewal with the YMCA for a term of three years, with an effective start date upon execution of the lease agreement.

Council Member Goss seconded the motion to approve.

Ayes: Mayor Denise Delmar, Mayor Pro Tem John Harabedian, and Council Members Rachelle Arizmendi, John Capoccia, and Gene Goss
Noes: None
Absent: None
Abstain: None

The motion to approve a lease renewal with the YMCA for a term of three years, with an effective start date upon execution of the lease agreement was passed unanimously.

4. DISCUSSION - CONSIDERATION OF RESOLUTION 19-09 INITIATING FORMATION PROCEEDINGS THE CITY OF SIERRA MADRE DOWNTOWN AND LIGHTING MAINTENANCE DISTRICT - Recommendation that the City Council adopt Resolution 19-09 Initiating Proceedings to form the new Downtown Landscaping and Lighting Maintenance District, authorizing NBS Government Finance Group to act as the Engineer of Record for the new District, and ordering the preparation of the Engineer's Report.

Public Works Director Cimino reported on this item, with the recommendation that the City Council adopt Resolution 19-09 Initiating Proceedings to form the new Downtown Landscaping and Lighting Maintenance District, authorizing NBS Government Finance Group to act as the Engineer of Record for the new District, and ordering the preparation of the Engineer's Report.

As described in the Staff Report, an alternative was that the City Council may choose to not approve Resolution 19-09 and not authorize the formation of a new District. This would mean that the City would continue to collect special assessments via the four existing special assessment districts in the area.

- Each of the four districts was established to fund the cost of improvements and maintenance of specific benefits in the Downtown District.
- Two of the districts do not collect sufficient funds and are subsidized by expenditures from the General Fund.
- The remaining two districts collect more revenue than is required for the benefit provided and have accumulated a fund balance of \$595,000.
- City Staff has identified the need to correctly balance the amount of revenue collected within the district(s) with necessary expenditures.
- If formed, the new district would (replace the existing four districts) pay for the maintenance of the landscaping and lighting improvements put in place by these existing assessment districts and fund the implementation and associated maintenance of additional similar improvements nearby.

- The new district would collect \$22,676 less than the current combined collection of the four districts.

Mayor Delmar asked if any Member of the Council had questions on this item.

In response to a question by Council Member Arizmendi regarding Prop. 218 and the response time, PW Director Cimino said that, from the date that the ballots go out, it is 45 days. In addition, he said that business/community outreach and communication is part of the process by the consultant, which will be initiated after the engineering report. He said that the engineering report establishes the funds, identifies the necessary funds, and determines the appropriate assessment on each property.

Regarding a question by Council Member Capoccia regarding the new district boundaries, PW Director Cimino responded that the boundary definition includes East Montecito and, from the existing Downtown District, South Baldwin to Suffolk and North Baldwin to Highland. He said that the new district's boundaries include the boundaries of the current four districts plus East Montecito.

Mayor Delmar opened the meeting for Public Comment on this item.

- Barbara Lee, Sierra Madre, thanked the City Council for the new street crossing lights and the new benches in town.

Mayor Delmar asked if anyone else would like to come forward to speak on this item. Seeing no one, Mayor Delmar closed Public Comment and brought the matter back to the Council for discussion.

City Manager Engeland explained that this plan reduces the overall collection (tax burden) in the district by about 15% and better aligns the benefits to businesses with what the district can offer, while reducing the General Fund subsidy by about \$40,000 per year. In short, he summarized, "we are charging people less to provide better service and reducing a General Fund subsidy".

Discussion occurred and there was consensus among the Council Members to support the equivalent of a 15% tax cut for those in the new district and that this is definitely a win-win for everyone.

Council Member Capoccia made a motion to adopt Resolution 19-09 as presented.

Mayor Pro Tem Harabedian seconded the motion to adopt.

Ayes: Mayor Denise Delmar, Mayor Pro Tem John Harabedian, and Council Members Rachelle Arizmendi, John Capoccia, and Gene Goss
 Noes: None
 Absent: None
 Abstain: None

The motion to adopt Resolution 19-09 as presented was passed unanimously.

5. DISCUSSION – STATE AND DISTRICT SALES TAX MEASURE(S) AND STATUTORY LIMITS – Recommendation that the City Council provide direction.

City Manager Engeland reported on this item that included a PowerPoint titled, "District Sales Tax Collection", requesting that the City Council provide direction. A summary of which follows:

- Sales Tax Limit
 State Tax Cap = 10.25%
 District Tax Cap = 2.0%
- Current Collections
 State = 7.25% (3% remaining)
 District = 2.25% (.75% remaining, 1% exempted by State – Measures M & R)
- LA County (District) Tax History
 Since 2008, LA County voters have passed 10 of 11 proposed taxes.
 Meaning that, when LA County puts a tax forward for vote, it passes.
- Current Sales Tax Collection

Sierra Madre is a donor to both the State and LA County
For every dollar collected at the State level, Sierra Madre retains 20 cents.
For every dollar collected at the LA County level, Sierra Madre retains 77.5 cents.
Overall, for every dollar collected locally, only 33.6 cents is retained locally.

- Sierra Madre Sales Tax Collection – Sierra Madre retains:
 - 33.6% of all sales tax collected in City
 - 20.0% of all sales tax collected at the State level
 - 77.5% of all sales tax collected at the LA County (District) level

As noted in the report, at the City Council meeting on February 26, 2019, the City Council discussed the statutory limits of sales tax collections in taxing districts and reviewed the current sales tax authorization in Los Angeles County. At that meeting (2-26-19), City Council asked for clarifying information on the types of sales tax elections that are available should Sierra Madre decide to place a local sales tax measure on the ballot, as well as information on joining other San Gabriel Valley cities in a lobbying effort to stop additional sales tax measures from being exempted from the legal sales tax limit.

Per the Staff Report, the City Council has the following options available with regards to a potential sales tax measure:

- a. Do not propose any local sales tax measures within Sierra Madre in 2019 or 2020.
- b. Discuss and vote as the City Council to place a local sales tax measure on the November 2020 general election. A sales tax for general use would require 50% + 1 of all votes cast for approval. A sales tax for a specific use would require a 2/3rd of all votes cast for approval.
- c. Adopt a citizen initiative, should a citizen group decide to collect 15% valid signatures requesting such a local sales tax ordinance.
- d. Accept a ballot measure should a citizen group collect signatures (5% of number of voters in the last gubernatorial election) requesting a sales tax measure be placed on the ballot for a special election and call a special election in November 2019.

Mayor Delmar asked if any Member of the Council had questions on this item.

In response to a question by Council Member Goss, City Manager Engeland said that there are 18 cities that have passed a sales tax with the idea of stopping the District (LA County) or anyone within the District from collecting more, with Arcadia, Duarte, Monrovia, San Marino, South Pasadena, and others in the process of discussing this same issue.

City Attorney Highsmith clarified that the question is really a matter of what capacity is left to tax and is LA County going to take it, i.e. you are going to have to pay the tax anyway, but do you want to keep 100% of it for Sierra Madre or retain less than that. In addition, she said that the only way for Sierra Madre to keep 100% is for Sierra Madre to consider whether it wants a local sales tax and, if we wait, LA County will surely get the excess capacity, which is now only .75%.

City Attorney Highsmith explained that, if Sierra Madre waits until LA County has a sales tax initiative on the ballot (anticipated to be November 2020), the Sierra Madre vote will be very diluted because the vote will be countywide. City Manager Engeland added that there is information from LA County or Districts within LA County that at least two sales tax initiatives are likely to be on the ballot in 2020 or one in 2020 and one in 2022 so the issue is not if, but when will the tax be levied and where will the revenues go.

Regarding a local (Sierra Madre) sales tax, City Attorney Highsmith said the following:

- With a local tax for Sierra Madre, the money stays in Sierra Madre.
- Only Sierra Madre residents get to vote on it.
- It is a form of local control, although it is difficult to think about taxing.

In response to a question by Council Member Capoccia regarding a "Citizen Initiative" and the number of signatures required, City Attorney Highsmith explained that, for a local ballot initiative pertaining to taxes, (1) it would require 5% of the number of people in Sierra Madre who voted in the last gubernatorial election and (2) a tax initiative for general purposes can be on a special

election, but the City itself cannot do that, without a declaration of fiscal emergency (which Sierra Madre is not in). She said that elections code law allows that, if 15% of signatures from the registered voters in Sierra Madre were collected for a local tax initiative (submitted on time for it to be on a special election), then the City Council could adopt the local tax initiative without an election, but that this law has not been tested in court.

Mayor Delmar opened the meeting for Public Comment on this item.

- Barbara Lee, Sierra Madre, complemented City Manager Engeland and asked about what happens when the sales tax threshold is reached.

City Manager Engeland said that there are two situations in which taxes could increase, in the hypothetical world where we have reached the district sales tax limit, (1) the state has not reached its sales tax limit, the state has 3% left, and at any time can impose additional taxes and (2) tax measures that are exempted from the district cap limit. He stated that a .75% sales tax collection equals \$215,000 per year.

- Philip Crabbe, Public Affairs Manager, South Coast Air Quality Management District (South Coast AQMD), spoke about (1) AQMD's focus (including air quality issues & climate change) on a regional level, but that it really impacts local communities, (2) the upcoming AQMD's sales tax bill would be exempt from the sales tax cap, and (3) if the AQMD does not meet the required air quality standards by the next deadline in 2023, there is a risk of Federal sanctions, (4) Federal sanctions could result in the loss of billions of dollars in highway funding, stricter requirements for new businesses coming into areas, and a potential Federal takeover that could cause more draconian type of measures, such as no-drive days, business shut down days, etc., (5) AQMD is more focused on trying to incentivize as opposed to regulation, and (6) funding would be available for public and private projects so cities would likely be a major beneficiary.

Mayor Delmar asked if anyone else would like to come forward to speak on this item. Seeing no one, Mayor Delmar closed Public Comment and brought the matter back to the Council for discussion.

Mayor Delmar asked that the City Council answer Policy Question #1 – “Should Sierra Madre join with other San Gabriel Valley cities in a coordinated effort to lobby the legislature to limit or eliminate further exemptions from the sales tax district cap?”

Discussion occurred and there was consensus among the Council to answer YES and, if there is a cost involved, to spend in proportion to our population, i.e. pay only Sierra Madre's fair share.

Mayor Delmar asked that the City Council answer Policy Question #2 – “Should the City Council support a sales tax measure in Sierra Madre in an attempt to eliminate LA County from permanently foreclosing on the City's ability to collect and retain future sales tax revenues?”

Discussion occurred and there was consensus among the Council to answer YES and were in favor of exploring a Citizen Initiative with the required signatures from 5% of the last gubernatorial election to have the initiative on a special election (signature deadline is May 17, 2019) even if it costs approximately \$200,000, with the knowledge that there will be a need for the City to have new revenues in the future. Council Members were in agreement that the sales tax initiative needs to be on the ballot sooner rather than later to avoid competing with a LA County sales tax measure.

Council Members encouraged citizens to begin the process of a Citizen Initiative and gathering signatures, as this needs to happen quickly. City Manager Engeland said that City Staff cannot be involved or advocate in any way for a Citizen Initiative and Staff can only provide factual answers to questions.

City Attorney Highsmith shared that it is easy for a concerned citizen to borrow a ballot measure from the City of Barstow, which was successful in passing a local tax. She said that City Council members, as private citizens and not through their official position, can participate in a Citizen Initiative process.

Mayor Delmar summarized that the City Council was in agreement that a citizen's group is going to collect the signatures of 5% of voters in the last gubernatorial election (who voted for governor) and request that a sales tax initiative be placed on the ballot for special election (November 2019).

Mayor Delmar allowed Public Comment on this issue again.

- Gary Hood, Sierra Madre, asked if a Citizen Initiative was begun, could the tax be earmarked for a special purpose and not the General Fund.

City Manager Engeland said that would be possible, but that a special purpose tax requires a two-thirds supermajority to pass, while a general-purpose tax only requires 50% + 1 to pass. He said that the General Fund is essentially community services, fire, library, and police.

- Pat Alcorn, Sierra Madre, asked what is the amount that a Citizen Initiative should ask for.

Mayor Delmar said that the sales tax initiative would be limited to .75%, which would generate \$215,000 annually for the SM General Fund.

Mayor Delmar asked if anyone else would like to come forward to speak on this item. Seeing no one, Mayor Delmar closed Public Comment.

In closing this item, Mayor Delmar invited interested residents (1) to call any of the City Council members for advice or help regarding a Citizen Initiative or (2) contact the Assistant City Clerk regarding questions about the process, timelines, and dates.

NEW ITEMS PLACED FOR FUTURE AGENDA:

Mayor Delmar asked the members of the City Council if there are any new items for future meeting agendas.

Council Members did not suggest any new items.

ADJOURNMENT:

Mayor Delmar asked for a motion to adjourn.

Council Member Goss made a motion to adjourn the meeting.

The motion to adjourn was seconded by Mayor Pro Tem Harabedian.

Ayes: Mayor Denise Delmar, Mayor Pro Tem John Harabedian, and Council Members Rachelle Arizmendi, John Capoccia, and Gene Goss.

Noes: None

Absent: None

Abstain: None

The motion to adjourn was passed unanimously.

THIS SIERRA MADRE CITY COUNCIL REGULAR MEETING WAS ADJOURNED at 8:59 p.m. to a Regular Meeting to be held on Tuesday, April 9, 2019, in the Sierra Madre City Hall Council Chambers.



Denise Delmar, Mayor

Minutes taken and prepared by:



Sue Spears, City Clerk