



CITY OF EL PASO DE ROBLES
"The Pass of the Oaks"

CITY COUNCIL MINUTES

ADJOURNED REGULAR MEETING

Building Board of Appeals Interviews & Appointments

Monday, January 4, 2016 6:30 PM

**MEETING LOCATION: PASO ROBLES CITY HALL LARGE CONFERENCE ROOM
1000 SPRING STREET, PASO ROBLES (2ND FLOOR)**

6:30PM – CONVENE REGULAR MEETING

ROLL CALL Councilmembers Steve Gregory, John Hamon, Jim Reed, Fred Strong, and Mayor Steve Martin

PUBLIC COMMENTS

This is the time the public may address the Council on items other than those scheduled on the agenda.

- No Public Comments

1. Advisory Body Interviews & Appointments – Building Board of Appeals

W. Frace, Community Development Director

For the City Council to conduct interviews of applicants for the Building Board of Appeals. The Appeals Board will be appointed at the January 5, 2016 City Council meeting for the purpose to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of the Code. (CBC Section 113.1). The California Building Code sets minimum qualifications for Building Board of Appeals members to be, "qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction." (CBC Section 113.3)

Mayor Martin opened the Building Board of Appeals Interviews. There were no public comments, either written or oral, and the interviews proceeded with candidates being ranked by City Council on a scale of 1-5. Ten candidates were interviewed for the Building Board of Appeals:

1. Chip Tamagni
2. Stephen Carnes
3. Nichols Gilman
4. Carl Lockridge
5. Gary Kircher
6. David Muehlhausen
7. George Davey
8. Calvin Fernandes
9. Jerry Williams
10. Bruce White

Following the interviews the Mayor tallied the candidates combined scores. Based on the applicants' qualifications, selections were made as follows and appointments will be binding after final Council approval on January 5, 2016:

Selected for 2 Year Terms:

- Bruce White
- Carl Lockridge

Selected for 4 Year Terms:

- Nick Gilman
- David Muehlhausen
- Jerry Williams

Selected as Alternates:

- George Davey
- Calvin Fernandes

ADJOURNMENT:

- REGULAR CITY COUNCIL MEETING - 6:30PM ON TUESDAY, JANUARY 5, 2016 IN THE LIBRARY/CITY HALL CONFERENCE CENTER, 1000 SPRING STREET, PASO ROBLES.
- REGULAR PLANNING COMMISSION MEETING – 6:30PM ON TUESDAY, JANUARY 12, 2015 IN THE LIBRARY/CITY HALL CONFERENCE CENTER, 1000 SPRING STREET, PASO ROBLES.

Any writing or document pertaining to an open session item on this agenda which is distributed to a majority of the City Council after the posting of this agenda will be available for public inspection at the time the subject writing or document is distributed. The writing or document will be available for public review in the City Clerk's Office, 1000 Spring Street, Paso Robles, CA, during normal business hours, and may be posted on the City's web site at <http://www.prcity.com/government/citycouncil/agendas.asp>.

All persons desiring to speak on an agenda item are asked to fill out Speaker Information Cards and place them at the Staff Table prior to public discussion of that item. Each individual speaker will be limited to a presentation total of three (3) minutes per item.

AMERICANS WITH DISABILITIES ACT Any individual, who because of a disability needs special assistance to attend or participate in this meeting, may request assistance by contacting the City Clerk's Office (805) 237-3960. Whenever possible, requests should be made four (4) working days in advance of the meeting.



CITY OF EL PASO DE ROBLES

"The Pass of the Oaks"

CITY COUNCIL MINUTES

Tuesday, January 5, 2016

Location: Paso Robles Library/City Hall Conference Center
1000 Spring Street, Paso Robles

6:30 PM – CONVENE REGULAR MEETING

Paso Robles Library/City Hall Conference Center
1000 Spring Street, Paso Robles

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION – David Leidner Atheist United representative

ROLL CALL Councilmembers Steve Gregory, John Hamon, Fred Strong, Jim Reed, and Mayor Steven Martin

STAFF INTRODUCTIONS

PRESENTATIONS

1. [Drought Conservation Progress Report](#)

D. McKinley, Director of Public Works

Director McKinley spoke about water usage as it pertains to conservation. He reported that the City was 3.9% over for the month of December. However the overall usage targets are still likely to be met.

2. [Proclamation – Main Street](#)

S. Martin, Mayor

Mayor Martin read and presented a proclamation to a group of Main Street members lead by Norma Moye.

PUBLIC COMMENTS

This is the time the public may address the Council on items other than those scheduled on the agenda.

- Karl Hansen spoke about taxing marijuana.
- Debbie Sharp spoke on behalf of the Library Board.
- John Borst spoke about the proposed water rate increases and how to protest same.

AGENDA ITEMS TO BE DEFERRED (IF ANY) – None

PUBLIC HEARINGS –

3. [Rezone 15-004 – Landscape and Irrigation Ordinance Update – Revision to Add Turf Provision](#)

W. Frace, Director of Community Development

For the City Council to consider an amendment to the recently updated Landscape and Irrigation Ordinance (Section 21.22B), to add language that would allow for the installation of up to 25-percent of turf in new and rehabilitated single family residential front yards, subject to complying with the water use and irrigation documentation requirements.

Mayor Martin opened the public Hearing. There were no comments, either written or oral, and the public hearing was closed.

A motion was made by Councilman Strong and seconded by Councilman Hamon to introduce for first reading, by Title only, a Draft Ordinance amending the Zoning Code (Amendment 15-004) to add an option for new and rehabilitated single family residential properties to have up to 25 percent turf in the front yard.

Motion passed by the following roll call vote:

AYES: Strong, Hamon, Gregory, Martin
NOES: Reed
ABSTAIN:
ABSENT:

4. Hauled Waste Septage Ordinance and Fees

D. McKinley, Director of Public Works

For the City Council to consider adoption of (i) an ordinance to amend portions of Title 14 of the Municipal Code regarding hauled septage waste; and (ii) a resolution setting tipping fees for receipt, treatment, and disposal of hauled waste.

Mayor Martin opened the public Hearing. Speaking from the public were Karl Hansen and Sheila Healy. There were no other comments, either written or oral, and the public hearing was closed.

ROLL CALL VOTE #1

A motion was made by Councilman Hamon and seconded by Councilman Gregory to introduce and waive full reading of Ordinance No. XXXX Amending Section 14.08.040 and Chapter 14.10 of the Municipal Code Regarding Hauled Waste.

Motion passed by the following roll call vote:

AYES: Hamon, Gregory, Reed, Strong, Martin
NOES:
ABSTAIN:
ABSENT:

ROLL CALL VOTE #2

A motion was made by Councilman Hamon and seconded by Councilman Gregory to approve Resolution No. 16-005, to establish septage tipping fees.

Motion passed by the following roll call vote:

AYES: Hamon, Gregory, Reed, Strong, Martin
NOES:
ABSTAIN:
ABSENT:

5. Medical Marijuana Cultivation Ordinance

W. Frace, Director of Community Development

For the City Council to consider two separate recommendations from the Planning Commission pertaining Zoning Ordinance amendment to Section 21.33 of the Zoning Code to regulate the cultivation of medical marijuana within City limits in response to the State of California's Medical Marijuana Regulation and Safety Act.

Mayor Martin opened the public hearing. Speaking from the public were Chip Tamagni, Karl Hansen, Noelle Casier, Patricia Johnson, Dale Gustin and Sherry Nelson. There were no other comments, either written or oral, and the public hearing was closed.

A motion was made by Councilman Gregory and seconded by Councilman Hamon to introduce for first reading, by title only, a Draft Ordinance Amending Section 21.33 of the Zoning Code to prohibit the cultivation of Medical Marijuana within the City.

Motion passed by the following roll call vote:

AYES: Gregory, Hamon, Reed, Strong, Martin
NOES:
ABSTAIN:
ABSENT:

CONSENT CALENDAR

ITEMS ON THE CONSENT CALENDAR ARE CONSIDERED ROUTINE, NOT REQUIRING SEPARATE DISCUSSION.

6. [Approve City Council Minutes from 12/15/20/15](#)
D. Fansler, City Clerk
7. [Approve Warrant Registers](#)
J. Throop, Director of Administrative Services
8. [Advisory Body Minutes](#)
Airport Advisory Committee (10/22/15)
Library Board of Trustees (11/12/15)
9. [Resolution 16-001 Authorizing a Four Year Billboard Lease - Smith](#)
M. Williamson, Acting City Manager
10. **PULLED FOR DISCUSSION AT END OF AGENDA**

PUBLIC COMMENT - None
ROLL CALL VOTE

Consent Calendar items 6 - 9 were approved on a single motion by Councilman Hamon and seconded by Councilman Gregory.

Motion passed by the following roll call vote:

AYES: Hamon, Gregory, Reed, Strong, Martin
NOES:
ABSTAIN:
ABSENT:

DISCUSSION

11. [Wastewater Local Limits Study](#)
D. McKinley, Director of Public Works

For the City Council to consider authorizing the City Manager to enter into an agreement with Larry Walker Associates to develop updated local limits for the City wastewater system.

Mayor Martin opened the public discussion. Speaking from the public were Karl Hansen and Dale Gustin. There were no other comments, either written or oral, and the public discussion was closed.

A motion was made by Councilman Gregory and seconded by Councilman Hamon to adopt Resolution No. 16-002, authorizing the City Manager to enter into a professional services agreement with Larry Walker Associates for development of updated local limits and assistance with a discharge permit renewal application, for an amount not to exceed \$64,770.00.

Motion passed by the following roll call vote:

AYES: Gregory, Hamon, Reed, Strong, Martin
NOES:
ABSTAIN:
ABSENT:

12. [Municipal and Centennial Park Pool Rehabilitation](#)
D. McKinley, Director of Public Works

For City Council to consider a contract to rehabilitate the Municipal and Centennial Park pool facilities.

Mayor Martin opened the public discussion. Speaking from the public were Dale Gustin, Karl Hansen, Bill Williams and Eric Newton. There were no other comments, either written or oral, and the public discussion was closed.

A motion was made by Councilman Gregory and seconded by Councilman Hamon to

A. Adopt Resolution No. 16-003:

- 1) Allocating an additional \$333,200 from Reserves (fund[s] source to be determined by date of City Council consideration) to cover construction costs.
- 2) Rejecting American Construction Engineers bid as non-responsive due to their failure to submit a complete bid in accordance with bid specifications; and
- 3) Establishing a project budget of \$673,200 and authorizing the City Manager to enter into a contract with Newton Construction & Management in the amount of \$612,000 to rehabilitate the Municipal and Centennial Park pool facilities.

Motion passed by the following roll call vote:

AYES: Gregory, Hamon, Reed, Strong, Martin
NOES:
ABSTAIN:
ABSENT:

13. National Historic Registry – Almond Growers Building

W. Frace, Director of Community Development

For the City Council to consider a letter to the State Historic Resources Commission supporting the National Register of Historic Places Nomination for the Paso Robles Almond Growers Association Warehouse (Derby Winery).

Mayor Martin opened the public discussion. Speaking from the public were Dale Gustin and Karl Hansen. There were no other comments, either written or oral, and the public discussion was closed.

A motion was made by Councilman Gregory and seconded by Councilman Strong to move to support the Mayor's signature of a letter to the State Historic Resources Commission supporting the nomination of the Almond Growers Association Warehouse for the National Historic Register.

Motion passed by the following roll call vote:

AYES: Gregory, Strong, Hamon, Reed, Martin
NOES:
ABSTAIN:
ABSENT:

14. Building Board of Appeals Appointment

W. Frace, Director of Community Development

For the City Council to form the Building Board of Appeals consistent with Section 113 of the California Building Code and Section 17.04.020.C. of the Paso Robles Municipal Code (Local Building Code), and appoint five members to the Board.

Mayor Martin opened the public discussion. Speaking from the public was Dale Gustin. There were no other comments, either written or oral, and the public discussion was closed.

A motion was made by Councilman Gregory and seconded by Councilman Hamon to

- A. Adopt Resolution 16-004 establishing the Board of Appeals, Bylaws and Appoint the following five members:
 - Nick Gilman – 4 year term
 - Dave Muehlhausen – 4 year term
 - Jerry Williams – 4 year term
 - Bruce White – 2 year term
 - Carl Lockridge – 2 year term

Note: Two Alternate selections were made at the City Council meeting of January 4, 2016. The City Attorney advised Council that the municipal code did not allow for alternates; therefore, no alternates were appointed to the Building Board of Appeals.

Motion passed by the following roll call vote:

AYES: Gregory, Hamon, Reed, Strong, Martin
NOES:
ABSTAIN:
ABSENT:

ITEMS PULLED FROM THE CONSENT AGENDA FOR DISCUSSION

10. Read, by title only, Ordinance XXXX – Policies for Private Water Well Use and Recycled Water

D. McKinley, Director of Public Works

For the City Council to consider a Municipal Code Amendment to Title 14 establishing permit requirements for the development and use of private wells, establishing policies for non-potable water, and enrolling private well usage in the City's Water Conservation and Water Shortage Contingency Plan program.

Mayor Martin opened the public discussion. Speaking from the public were Dale Gustin, Jim Pahler, Margaret Holstine, Al Crume, and Melissa Legerman. There were no other comments, either written or oral, and the public discussion was closed.

A motion was made by Councilman Strong and seconded by Councilman Hamon to read, by title only, Ordinance 1021 – Policies for Private Water Well Use and Recycled Water.

Motion passed by the following roll call vote:

AYES: Strong, Hamon, Reed, Martin
NOES:
ABSTAIN: Gregory (left the room at 8:19pm due to conflict of interest. Returned at 8:58pm)
ABSENT:

Note: Council also directed staff to bring back a proposed amendment to ordinance that would give property owners using existing private wells for residential purposes the option to have the City install meters on those wells, at City expense, rather than requiring such installation.

COUNCIL BUSINESS & COMMITTEE REPORTS

15. Current Council Committee Activities Reports (if any).

All the Councilmembers and the Mayor commented on committee activities and other topics pertinent to City business.

ADJOURNMENT OF REGULAR MEETING

A motion was by Councilman Strong and seconded by Councilman Gregory to adjourn regular meeting.

Motion passed by the following voice vote:

AYES: Strong, Gregory, Hamon, Reed, Martin

ADJOURNMENT OF REGULAR MEETING AT 9:04 PM TO:

- REGULAR PLANNING COMMISSION MEETING - 6:30PM ON TUESDAY, JANUARY 12, 2016 IN THE LIBRARY/CITY HALL CONFERENCE CENTER, 1000 SPRING STREET, PASO ROBLES.
- PASO ROBLES ROTARY MEETING – 12:00PM ON THURSDAY, JANUARY 7, 2016 IN THE PASO ROBLES INN BALLROOM, 1103 SPRING STREET, PASO ROBLES.
- CITY MANAGER SWEARING IN CEREMONY – 8:30AM ON TUESDAY, JANUARY 19, 2016 IN THE LIBRARY/CITY HALL CONFERENCE CENTER, 1000 SPRING STREET, PASO ROBLES.
- REGULAR CITY COUNCIL MEETING - 6:30PM ON TUESDAY, JANUARY 19, 2016 IN THE LIBRARY/CITY HALL CONFERENCE CENTER, 1000 SPRING STREET, PASO ROBLES.

*THESE MINUTES ARE NOT OFFICIAL OR A PERMANENT PART OF THE RECORDS UNTIL
APPROVED BY THE CITY COUNCIL AT A FUTURE REGULAR MEETING.*

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January 5, 2016

VIA PERSONAL DELIVERY MAIL

City Council
City of El Paso De Robles
c/o City Clerk
1000 Spring Street
Paso Robles, CA 93446

Re: Zoning Code Amendment 15-007, to Regulate Cultivation of Medical Marijuana (Zoning Code Sections 21.08.530 and 21.33); Compliance with California Environmental Quality Act (“CEQA”)

Dear Mayor Martin and City Councilmembers:

The Union of Medical Marijuana Patients (“UMMP”) is pleased to comment on the City of El Paso De Robles’ (“City”) proposed zoning code amendment to regulate cultivation of medical marijuana (“Ordinance”). UMMP is in receipt of the materials published for the Ordinance, in which the City erroneously concludes that the Ordinance is “not subject to the California Environmental Quality Act (CEQA).” UMMP is also in receipt of the correspondence sent to the City by Charles Tamagni related to the Ordinance. This letter notifies the City that the Ordinance is a “project” that is not exempt from CEQA and outlines the foreseeable environmental effects associated with the Ordinance requiring review and mitigation under CEQA. Because the Ordinance is subject to CEQA and is not exempt, the City must conduct an Initial Study pursuant to §15063 of the California Public Resources Code before adopting the Ordinance.

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About UMMP

I would first like to introduce my organization. UMMP is a not-for-profit civil rights organization that is devoted to defending and asserting the rights of medical cannabis patients. UMMP promotes a model of legally compliant medical cannabis patient associations and has developed a self-regulatory product, AGSite Secure, to ensure all Californians using medical cannabis and forming patient associations have the opportunity to do so with a clear and unambiguous understanding of the law. UMMP is committed to sensible regulations for patient associations and their dispensaries, responsible actions of patients and cooperation with law enforcement.

The Proposed Ordinance

As outlined in the Staff Report dated January 5, 2016 for the Ordinance, the City Council has been presented with the following two options pertaining to the regulation of medical marijuana cultivation:

- Option A: complete medical marijuana cultivation ban
- Option B: medical marijuana cultivation ban with limited cultivation exception

With regard to CEQA, the Staff Report states the following:

"The proposed Ordinance is not subject to environmental review under the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activities will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) (the activities are not "projects" as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because they have no potential for resulting in physical change to the environment, directly or indirectly and 15061(b)(3) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it can be seen with certainty that it will not have a significant effect or physical change to the environment."

Staff Report, p. 2.

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The Ordinance is a “Project” Pursuant to CEQA Guidelines Section 15378

Regardless of whether or not the City opts to adopt Option A or B, the City has incorrectly determined that regulation of medical marijuana cultivation is not a “project” under CEQA. It is an accepted legal principle that Ordinances may be a “project” under CEQA. The fact that the “project” at issue is the adoption of an ordinance as opposed to a development project proposed by an applicant does not relieve the City of the obligation to undertake a review of the project under CEQA. *Rosenthal v. Board of Supervisors* (1975) 14 Cal.App.3d 815, 823 (stating that “adopting an ordinance [is] a project”); *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 118 Cal.Rptr. 34 (impliedly holding that adoption of ordinance is a project within the meaning of CEQA); 60 Ops.Cal.Atty.Gen. 335 (1977) (“ordinances and resolutions adopted by a local agency are ‘projects’ within the meaning of CEQA”). The Attorney General Opinion issued in 1977 concluded that the following ordinances were all subject to CEQA: (1) an open-range ordinance requiring private landowners to fence out cattle; (2) an ordinance allowing construction of single family dwellings in rural areas without electricity, running water, or flush toilets; and (3) an ordinance modifying road improvement standards for new subdivisions. The bottom line is that a project need not directly affect a physical change in the environment; reasonably foreseeable indirect or secondary effects must also be analyzed. The relative inquiry is whether or not the project, or in this case, the Ordinance, will ultimately culminate in physical changes to the environment. *Id.*

Additionally, it should be emphasized that “[w]hether an activity constitutes a project subject to CEQA is a categorical question respecting whether the activity is of a general kind with which CEQA is concerned, without regard to whether the activity will actually have environmental impacts.” *Muzzy Ranch Co. v. Solano County Airport Land Use Commission* (2007) 41 Cal.4th 372, 381. It is well established that the enactment of a zoning ordinance such as the Ordinance proposed by the City is subject to environmental review under CEQA. See, e.g., *Concerned Citizens of Palm Desert v. Board of Supervisors* (1974) 38 Cal.App.3d 272, 283 (the “enactment and amendment of zoning ordinances” are subject to CEQA).

In similar circumstances, courts have rejected attempts by public agencies to forgo environmental review. In *County Sanitation District v. County of Kern*, for example, the Court of Appeal stated the following:

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“[T]he adoption of Ordinance G–6638 was a definitive action by County that completed its project and, accordingly, County had no opportunity to assess the indirect physical impacts of Ordinance G–6638 before those impacts occurred. Therefore, we reject County's attempts to use cases upholding a public agency's deferral of EIR preparation as support for its avoidance of EIR preparation.

Furthermore, in this case the CEQA ‘project’ was Ordinance G–6638 itself. (See fn. 58, ante.) The final form of that project was proposed at the time Ordinance G–6638 was proposed, and County's commitment to the project became final when it adopted that ordinance. By avoiding the preparation of an EIR, County committed to a particular approach and completed its project without the benefit of the environmental analysis and information an EIR would have contained.”

County Sanitation District v. County of Kern (2005) 127 Cal.App.4th 1544, 1602. Here, there are clearly environmental impacts associated with the regulation of medical marijuana (see letter from Charles Tamagni and exhibits dated December 26, 2015.)

Finally, the City should be aware that a recently published decision, *Rominger v. County of Colusa* (2014) 229 Cal. App. 4th 690, has confirmed that the Legislature has deemed certain activities categorically "projects" pursuant to Section 21080(a). Included in the list of activities deemed to be projects are "the enactment and amendment of zoning ordinances." Cal. Pub. Res. Code § 21080(a) (emphasis added). The *Rominger* court explained:

The answer to the county's response largely lies in the Supreme Court's recognition in *Muzzy Ranch* that “[w]hether an activity constitutes a project subject to CEQA is a categorical question respecting whether the activity is of a general kind with which CEQA is concerned, without regard to whether the activity will actually have environmental impact.” (*Muzzy Ranch*, supra, 41 Cal.4th at p. 381, 60 Cal.Rptr.3d 247, 160 P.3d 116, italics added.) In essence, by enacting subdivision (a) of section 21080 the Legislature has determined that certain activities, including the approval of tentative subdivision maps, always have at least the potential to cause a direct physical change or a reasonably foreseeable indirect physical change in the environment. *This makes sense.* Thus, the Romingers are correct that under subdivision (a) of section 21080, the approval of a tentative subdivision map is categorically a CEQA project.

Rominger v. Cnty. of Colusa (2014) 229 Cal. App. 4th 690, 702.

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The Ordinance is Not Exempt from CEQA Under the Common-Sense Exemption Pursuant to CEQA Guidelines Section 15061(b)(3)

The Ordinance is not exempt from CEQA under the so-called “common sense” exemption. CEQA Guidelines Section 15061, Subdivision(b)(3) describes the so-called “common sense exemption,” where “[t]he activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA” (emphasis added). As a result, the burden of proof rests with the City to demonstrate that the commonsense exemption applies. *Davidson Homes v. City of San Jose* (1997) 54 Cal. App.4th 106, 116 (“[T]he agency must itself provide the support for its decision before the burden shifts to the challenger. Imposing the burden on the members of the public in the first instance to prove a possibility or substantial adverse environmental impact would frustrate CEQA’s fundamental purpose of ensuring that governmental officials ‘make decisions with environmental consequences in mind.’”) Even if an agency has provided support for its decision to exempt a project under the “common sense exemption,” the “showing required of a party challenging an exemption under [the commonsense exemption] is slight, since that exemption requires the agency to be certain that there is no possibility the project may cause significant environmental impacts. If legitimate questions can be raised about whether the project might have a significant impact and there is any dispute about the possibility of such an impact, the agency cannot find with certainty that a project is exempt.” *Id.*

Here, the City has been presented with ample evidence from Mr. Charles Tamagni outlining the environmental impacts associated with adopting either of the proposed approaches to regulating medical marijuana cultivation. The City has certainly been presented with “legitimate questions” about whether or not the project might have a significant impact on the environment. Therefore, the City cannot rely on the common-sense exemption to avoid compliance with CEQA.

The Ordinance Will Result in a Direct or Indirect Change in the Environment and Therefore is Not Exempt Pursuant to CEQA Guidelines Sections 15060(c)(2)

Again, as noted above, a resident of the City, Mr. Charles Tamagni, has presented the City with a quantitative analysis of the environmental impacts associated with adopting either Option A or Option B. Mr. Tamagni calculated the carbon dioxide

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load that would be generated by either approach. There should be no dispute that the City's proposed actions will result in either a direct or indirect change in the environment. Indeed, the City has offered no evidence to the contrary. It also bears noting that the City's own Climate Action Plan ("CAP") mandates that the proposed actions be reviewed under CEQA.

Conclusion

The City has erroneously concluded that the Ordinance is not subject to CEQA. On the contrary, the Ordinance will have a significant effect on the environment and the City has failed to mitigate these impacts as required under CEQA. As such, the City is required, at a minimum, to prepare an Initial Study pursuant to §15063 of the California Public Resources Code.

Regards,

/s/ James Shaw

James Shaw
Executive Director

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