



CITY COUNCIL Agenda

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

Aug. 18, 2020, 3 p.m.

Welcome

to Your City Council Meeting

We welcome your interest and involvement in the city's legislative process. This agenda includes information about topics coming before the City Council and the action recommended by city staff. You can read about each topic in the staff reports, which are available on the city website and in the Office of the City Clerk. The City Clerk is also available to answer any questions you have about City Council meeting procedures.

How to watch



City cable channel

Charter Spectrum channel 24
AT&T U-verse channel 99.



City website

carlsbadca.gov/news/cityty.asp

Virtual meeting format

- Per California Executive Order N-29-20, and in the interest of public health and safety, we are temporarily taking actions to prevent and mitigate the effects of the COVID-19 pandemic by holding City Council and other public meetings online only.
- All public meetings will comply with public noticing requirements in the Brown Act and will be made accessible electronically to all members of the public seeking to observe and address the City Council.

How to participate

- **By phone:** Sign up at <https://www.carlsbadca.gov/cityhall/clerk/meetings/default.asp> by 2 p.m. the day of the meeting to provide comments live by phone. You will receive a confirmation email with instructions about how to call in.
- **In writing:** Email comments to clerk@carlsbadca.gov. Comments received by 2 p.m. the day of the meeting will be shared with the City Council prior to the meeting. When e-mailing comments, please identify in the subject line the agenda item to which your comments relate. All comments received will be included as part of the official record. **Written comments will not be read out loud.**
- These procedures shall remain in place during the period in which state or local health officials have imposed or recommended social distancing measures.

Reasonable accommodations

Persons with a disability may request an agenda packet in appropriate alternative formats as require by the Americans with Disabilities Act of 1990. Reasonable accommodations and auxiliary aids will be provided to effectively allow participation in the meeting. Please contact the City Manager's Office at 760-434-2821 (voice), 711 (free relay service for TTY users), 760-720-9461 (fax) or manager@carlsbadca.gov by noon on the Monday before the meeting to make arrangements.

More information about City Council meeting procedures can be found at the end of this agenda and in the Carlsbad Municipal Code chapter 1.20. PLEASE NOTE: AS A RESULT OF THE WAIVERS IN EXECUTIVE ORDER N-29-20, THE BROWN ACT PERMITS FULL PARTICIPATION BY OFFICIALS IN MEETINGS THROUGH VIDEO OR AUDIO TELECONFERENCE.

The City Council also sits as the Carlsbad Municipal Water District Board, Public Financing Authority Board, Community Development Commission and Successor Agency to the Redevelopment Agency. When considering items presented to the Carlsbad Municipal Water District Board, each member receives an additional \$100 per meeting (max \$300/month). When considering items presented to the Community Development Commission each member receives an additional \$75 per meeting (max \$150/month).

CALL TO ORDER:

ROLL CALL:

ANNOUNCEMENT OF CONCURRENT MEETINGS: City Council is serving as the Carlsbad Municipal Water District Board of Directors on Consent Calendar Item No. 4.

INVOCATION:

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES:

Minutes of the Regular Meeting held June 16, 2020
Minutes of the Special Meeting held June 23, 2020
Minutes of the Regular Meeting held June 23, 2020
Minutes of the Special Meeting held July 14, 2020
Minutes of the Regular Meeting held July 14, 2020
Minutes of the Regular Meeting held July 21, 2020
Minutes of the Special Meeting held July 28, 2020

PRESENTATIONS: None.

PUBLIC REPORT OF ANY ACTION TAKEN IN CLOSED SESSION:

PUBLIC COMMENT: *In conformance with the Brown Act and California Executive Order No. N-29-20, a total of 15 minutes is provided so members of the public participate in the meeting by submitting comments as provided on the front page of this agenda. The City Council will receive comments as requested up to a total of 15 minutes. All other comments will trail until the end of the meeting. In conformance with the Brown Act, no Council action can occur on these items.*

CONSENT CALENDAR: *The items listed under Consent Calendar are considered routine and will be enacted by one motion as listed below. There will be no separate discussion on these items prior to the time the Council votes on the motion unless members of the Council, the City Manager, or the public request specific items be discussed and/or removed from the Consent Calendar for separate action.*

WAIVER OF ORDINANCE TEXT READING:

This is a motion to waive the reading of the text of all ordinances and resolutions at this meeting.

1. **REPORT ON CITY INVESTMENTS AS OF JUNE 30, 2020** – Accept and file report on city investments as of June 30, 2020. (Staff contact: Craig Lindholm and Laura Rocha, Administrative Services)
2. **EXTENSION OF LICENSE AGREEMENT WITH COX COMMUNICATIONS CALIFORNIA, LLC TO ALLOW THE CONTINUED USE OF THE PUBLIC RIGHT-OF-WAY WITHIN THE CITY TO PROVIDE SERVICES TO THE PALOMAR AIRPORT INDUSTRIAL AREA** – Adoption of a resolution authorizing the city manager or his designee to extend the license agreement between the City of Carlsbad and Cox Communications California, LLC. (Staff contact: Maria Callander, Administrative Services)
3. **REJECTION OF ALL BIDS RECEIVED FOR THE CALAVERA HILLS COMMUNITY PARK GATEWAY IMPROVEMENTS PROJECT** – Adoption of a resolution rejecting all bids received for the Calavera Hills Community Park Gateway Improvements Project (Capital Improvement Project No. 4601). (Staff contact: Kyle Lancaster, Parks & Recreation)

4. APPROVE THE EXECUTION OF MASTER SERVICE AGREEMENTS FOR AS-NEEDED CONSTRUCTION MANAGEMENT, INSPECTION AND MATERIALS TESTING SERVICES – 1) Adoption of a resolution approving the execution of master service agreements with the City of Carlsbad for as-needed horizontal construction management and inspection services with Kleinfelder Construction Services, Inc., Infrastructure Engineering Corporation, Harris & Associates, Inc., and Valley CM Inc. dba Valley Construction Management; as-needed vertical construction management and inspection services with SchneiderCM, Inc., Griffin Structures, Inc., Kitchell/CEM, Inc., and Anser Advisory Management, LLC dba Anser Advisory; and as-needed materials testing services with Atlas Technical Consultants LLC (formerly SCST, Inc.), Leighton Consulting, Inc., Twining, Inc., and Barnett Quality Control Services dba Nova Services, Inc.; and
2) Adoption of a Carlsbad Municipal Water District (CMWD) resolution approving the execution of master service agreements with CMWD for as-needed horizontal construction management and inspection services with Kleinfelder Construction Services, Inc., Infrastructure Engineering Corporation, Harris & Associates, Inc., and Valley CM, Inc. dba Valley Construction Management; as-needed vertical construction management and inspection services with SchneiderCM, Inc., Griffin Structures, Inc., Kitchell/CEM, Inc., and Anser Advisory Management, LLC dba Anser Advisory; and as-needed materials testing services with Atlas Technical Consultants LLC (formerly SCST, Inc.), Leighton Consulting, Inc., Twining, Inc., and Barnett Quality Control Services dba Nova Services, Inc. (Staff contact: Babaq Taj, Public Works)

ORDINANCES FOR INTRODUCTION: None.

ORDINANCES FOR ADOPTION:

5. ADOPTION OF ORDINANCE NO. CS-379 – Adoption of Ordinance No. CS-379 amending the Carlsbad Corporate Plaza Specific Plan (SP 23(H)) to remove the 6,000 square-foot limitation on medical office use for existing office buildings located at 6183-6185 Paseo del Norte within the Mello II segment of the city’s Local Coastal Program and Local Facilities Management Zone 3. (Case Name: Carlsbad Corporate Plaza Parking Structure; Case No.: AMEND 2019-0002). (Staff contact: Faviola Medina, City Clerk Department)

City Manager’s Recommendation: Adopt Ordinance No. CS-379.

PUBLIC HEARINGS: None.

DEPARTMENTAL AND CITY MANAGER REPORTS:

6. COVID-19 ACTIONS AND EXPENDITURES REPORT – Receive a report on recent actions and expenditures related to the city’s response to the COVID-19 pandemic and provide direction as appropriate. (Staff contact: Geoff Patnoe, City Manager Department)

City Manager’s Recommendation: Receive the report and provide direction as appropriate.

7. ECONOMIC RECOVERY AND REVITALIZATION INITIATIVE UPDATES AND ACTIONS – 1) Adoption of a resolution approving further implementation of the economic recovery and revitalization initiative and modifications to the COVID-19 Small Business Loan Program, and
2) Provide additional direction based upon a report out by the Ad Hoc City Council Economic Revitalization Subcommittee. (Staff contact: David Graham, Administrative Services)

City Manager’s Recommendation: Adopt the resolution and provide additional direction.

8. REVIEW OF JULY 23, 2020 CLEAN ENERGY ALLIANCE JOINT POWERS AUTHORITY SPECIAL MEETING AGENDA ITEM 5 – CLEAN ENERGY ALLIANCE INCLUSIVE & SUSTAINABLE WORKFORCE POLICY – Review and discuss the July 23, 2020 Clean Energy Alliance Joint Powers Authority Board of Directors Special Meeting Agenda Item 5 – Clean Energy Alliance Inclusive & Sustainable Workforce Policy. (Staff contact: Jason Haber, City Manager Department)

City Manager’s Recommendation: Review and discuss the item.

9. PRESENTATION ON POLICE USE OF FORCE AND POLICE OFFICERS BILL OF RIGHTS AND DISCUSSION ON CITIZENS REVIEW COMMITTEE ON POLICE PRACTICES AND PROCEDURES – Receive a presentation on police use of force and Police Officers Bill of Rights and discuss background information regarding the formation of citizens review committees on police practices and procedures. (Staff contact: Celia Brewer, City Attorney Department; Mickey Williams, Police Department; Judy von Kalinowski, Human Resources Department; and Sheila Cobian, City Manager Department)

City Manager’s Recommendation: Receive the presentation and discuss the item.

COUNCIL COMMENTARY AND REQUESTS FOR CONSIDERATION OF MATTERS:

City Council Regional Assignments (Revised 4/7/20)

Matt Hall Mayor	North County Mayors and Managers City/School Committee Chamber of Commerce Liaison (primary) Clean Energy Alliance JPA (alternate) San Diego County Water Authority San Diego Regional Economic Development Corporation Board of Directors
Keith Blackburn Mayor Pro Tem	Buena Vista Lagoon JPC Encina Wastewater Authority/JAC Board of Directors North County Dispatch Joint Powers Authority Chamber of Commerce Liaison (alternate) SANDAG (1 st alternate) North County Transit District (alternate)
Priya Bhat-Patel Council Member – District 3	SANDAG (2 nd alternate) North County Transit District (primary) City/School Committee League of California Cities – SD Division Encina Wastewater Authority/JAC Board of Directors (alternate)
Cori Schumacher Council Member – District 1	SANDAG (primary) Buena Vista Lagoon JPC Clean Energy Alliance JPA (primary) Encina Wastewater Authority/JAC Board of Directors North County Dispatch Joint Powers Authority (alternate)
Vacant – At-Large Council Member	

PUBLIC COMMENT: Continuation of the Public Comments

This portion of the agenda is set aside for continuation of public comments, if necessary, due to exceeding the total time allotted in the first public comments section. In conformance with the Brown Act, no Council action can occur on these items.

ANNOUNCEMENTS:

This section of the Agenda is designated for announcements to advise the community regarding events that Members of the City Council have been invited to, and may participate in.

CITY MANAGER COMMENTS:

CITY ATTORNEY COMMENTS:

ADJOURNMENT:

This section of the Agenda is designated for announcements to advise the community regarding events that Members of the City Council have been invited to, and may participate in.

City Council Meeting Procedures (continued from page 1)

Written Materials

Written materials related to the agenda that are submitted to the City Council after the agenda packet has been published will be available for review prior to the meeting during normal business hours at the City Clerk's office, 1200 Carlsbad Village Drive and on the city website. To review these materials during the meeting, please see the City Clerk

Visual Materials

Visual materials, such as pictures, charts, maps or slides, are allowed for comments on agenda items, not general public comment. Please contact the City Manager's Office at 760-434-2820 or manager@carlsbadca.gov to make arrangements in advance. All materials must be received by the City Manager's Office no later than noon the day before the meeting. The time spent presenting visual materials is included in the maximum time limit provided to speakers. All materials exhibited to the City Council during the meeting are part of the public record. **Please note that video presentations are not allowed.**

Decorum

All participants are expected to conduct themselves with mutual respect. Loud, boisterous and unruly behavior can interfere with the ability of the City Council to conduct the people's business. That's why it is illegal to disrupt a City Council meeting. Following a warning from the presiding officer, those engaging in disruptive behavior are subject to law enforcement action.

City Council Agenda

The City Council follows a regular order of business that is specified in the Carlsbad Municipal Code. The City Council may only make decisions about topics listed on the agenda.

Presentations

The City Council often recognizes individuals and groups for achievements and contributions to the community. Well-wishers often fill the chamber during presentations to show their support and perhaps get a photo. If you don't see an open seat when you arrive, there will likely be one once the presentations are over.

Consent Items

Consent items are considered routine and may be enacted together by one motion and vote. Any City Council member may remove or "pull" an item from the "consent calendar" for a separate vote. Members of the public may pull an item from the consent calendar by requesting to speak about that item. A speaker request form must be submitted to the clerk prior to the start of the consent portion of the agenda.

Public Comment

Members of the public may speak on any city related item that does not appear on the agenda. State law prohibits the City Council from taking action on items not listed on the agenda. Comments requiring follow up will be referred to staff and, if appropriate, considered at a future City Council meeting. Members of the public are also welcome to provide comments on agenda items during the portions of the meeting when those items are being discussed. In both cases, a request to speak form must be submitted to the clerk in advance of that portion of the meeting beginning.

Public Hearing

Certain actions by the City Council require a “public hearing,” which is a time within the regular meeting that has been set aside and noticed according to different rules.

Departmental Reports

This part of the agenda is for items that are not considered routine and do not require a public hearing. These items are usually presented to the City Council by city staff and can be informational in nature or require action. The staff report about each item indicates the purpose of the item and whether or not action is requested.

Other Reports

At the end of each meeting, City Council members and the city manager, city attorney and city clerk are given an opportunity to share information. This usually includes reports about recent meetings, regional issues, and recent or upcoming meetings and events.

City Council Actions

Resolution

A resolution is an official statement of City Council policy that directs administrative or legal action or embodies a public City Council statement. A resolution may be introduced and adopted at the same meeting. Once adopted, it remains City Council policy until changed by subsequent City Council resolution.

Ordinance

Ordinances are city laws contained in the Carlsbad Municipal Code. Enacting a new city law or changing an existing one is a two-step process. First, the ordinance is “introduced” by city staff to the City Council. If the City Council votes in favor of the introduction, the ordinance will be placed on a subsequent City Council meeting agenda for “adoption.” If the City Council votes to adopt the ordinance, it will usually go into effect 30 days later.

Motion

A motion is used to propose City Council direction related to an item on the agenda. Any City Council member may make a motion. A motion must receive a “second” from another City Council member to be eligible for a City Council vote.



CITY COUNCIL
Minutes

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

June 16, 2020, 3 p.m.

CALL TO ORDER: 3 p.m.

ROLL CALL: Hall, Blackburn, Bhat-Patel, Schumacher.

ANNOUNCEMENT OF CONCURRENT MEETINGS: None.

PLEDGE OF ALLEGIANCE: Mayor Pro Tem Blackburn led the Pledge of Allegiance.

INVOCATION: None.

PRESENTATIONS: None.

PUBLIC COMMENT:

The following individuals called into the City Council Meeting and voiced their comments for the record:

Ana Reyes spoke regarding the money budgeted for police in FY 2020-21.

Mary Lucid thanked the elected officials, the City Clerk Services Department and staff members from the City Manager's Office for their outstanding service to the public. She also spoke about the lack of details in the Parks & Recreation budget.

CONSENT CALENDAR:

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to approve Consent Calendar Item Nos. 3 and 4. Motion carried unanimously, 4/0.

This item was pulled by Mayor Hall to vote on separately.

1. **ASSEMBLY JOINT RESOLUTION NOS. 30 AND 33 – RELATIVE TO NUCLEAR WEAPONS** – Adoption of a resolution supporting California Assembly Joint Resolution Nos. 30 and 33 relative to nuclear weapons. (Staff contact: Jason Haber, City Manager Department)

This item was pulled by Council Member Schumacher for discussion.

2. **APPROVAL OF AGREEMENT WITH GHD, INC. FOR SOUTH CARLSBAD BOULEVARD CLIMATE ADAPTATION PROJECT** – Adoption of a resolution authorizing execution of an agreement with GHD, Inc. for consulting services on the south Carlsbad Boulevard Climate Adaptation Project in an amount not to exceed \$249,645 for the three years of the agreement. (Staff contact: Mike Grim, Public Works)
3. **APPROVAL OF AGREEMENT WITH URBAN CORPS OF SAN DIEGO, INC. FOR CITYWIDE GRAFFITI REMOVAL AND MISCELLANEOUS MAINTENANCE SERVICES** – Adoption of Resolution No. 2020-110 approving a professional services agreement with Urban Corps of San Diego, Inc. for citywide graffiti removal and miscellaneous maintenance services in an amount not to

exceed \$235,224 for the initial two years of the agreement. (Staff contact: Michael O'Brien, Public Works)

4. AUTHORIZATION TO ISSUE A RFP REGARDING RECYCLING, ORGANICS AND SOLID WASTE COLLECTION AND ORGANIC MATERIALS PROCESSING SERVICES AND AUTHORIZATION TO NEGOTIATE AMENDMENTS TO THE JUNE 1, 2002 AGREEMENT FOR TRANSFER STATION DISPOSAL SERVICES – Adoption of Resolution No. 2020-111 authorizing staff to issue a Request for Proposals regarding recycling, organics and solid waste collection and organic materials processing services and authorization to negotiate a five-year extension of and other amendments to the June 1, 2002 agreement for transfer station and disposal services. (Staff contact: James Wood, Public Works)

CONSENT CALENDAR ITEMS PULLED:

This item was pulled by Mayor Hall for discussion.

1. ASSEMBLY JOINT RESOLUTION NOS. 30 AND 33 – RELATIVE TO NUCLEAR WEAPONS – Adoption of Resolution No. 2020-108 supporting California Assembly Joint Resolution Nos. 30 and 33 relative to nuclear weapons. (Staff contact: Jason Haber, City Manager Department)

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Resolution No. 2020-108. Motion carried, 3/1 (Hall – No).

This item was pulled by Council Member Schumacher for discussion.

2. APPROVAL OF AGREEMENT WITH GHD, INC. FOR SOUTH CARLSBAD BOULEVARD CLIMATE ADAPTATION PROJECT – Adoption of Resolution No. 2020-109 authorizing execution of an agreement with GHD, Inc. for consulting services on the South Carlsbad Boulevard Climate Adaptation Project in an amount not to exceed \$249,645 for the three years of the agreement. (Staff contact: Mike Grim, Public Works)

Minute Motion by Council Member Schumacher, seconded by Council Member Bhat-Patel, to include the People for Ponto organization in the stakeholder's listening session with Lance Schulte as the contact. Motion carried, 3/1 (Hall – No).

Motion by Council Member Schumacher, seconded by Council Member Bhat-Patel, to adopt Resolution No. 2020-109. Motion carried unanimously, 4/0.

ORDINANCES FOR INTRODUCTION: None.

ORDINANCE FOR ADOPTION: None.

PUBLIC HEARINGS:

5. RECOMMENDATION FROM THE AD-HOC CITY COUNCIL SUBCOMMITTEE ON ECONOMIC REVITALIZATION FOR A ONE-YEAR EXTENSION FOR BUILDING PERMITS AND BUILDING PERMIT APPLICATIONS DUE TO COVID-19 – Hold a public hearing and introduce Ordinance No. CS-377 amending Carlsbad Municipal Code Chapter 18.04 to allow for building permit application time extensions consistent with the 2019 California Building Standards Code; and

Adoption of Resolution No. 2020-112 authorizing the city's building official to extend the expiration date of building permits and building permit applications by one year due to COVID-19. (Staff contact: Jeff Murphy, Community Development)

City Manager's Recommendation: Take public input, close the public hearing, introduce the ordinance and adopt the resolution.

Community & Economic Development Director Jeff Murphy presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Mayor Hall opened the duly noticed public hearing at 3:17 p.m.

Seeing no one wishing to speak, Mayor Hall closed the duly noticed public hearing at 3:17 p.m.

City Attorney Celia Brewer titled the Ordinance.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to introduce Ordinance No. CS-377 and to adopt Resolution No. 2020-112. Motion carried unanimously, 4/0.

6. FY 2020-21 ANNUAL ACTION PLAN AND INCLUSION OF CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT SUPPLEMENTAL FUNDING FOR THE CITY'S COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM – Hold a public hearing and adoption of Resolution No. 2020-113 approving the fiscal year 2020-21 Annual Action Plan and inclusion of the Coronavirus Aid, Relief, and Economic Security Act supplemental funding, CDBG Advisory Committee funding recommendations, and authorizing the submittal of the consolidated plan to the U.S. Department of Housing and Urban Development. (Staff contact: Nancy Melander, Community Development)

City Manager's Recommendation: Take public input, close the public hearing and adopt the resolution.

Community & Economic Development Program Manager Nancy Melander presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Mayor Hall opened the duly noticed public hearing at 3:26 p.m.

Seeing no one wishing to speak, Mayor Hall closed the duly noticed public hearing at 3:26 p.m.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Resolution No. 2020-113. Motion carried unanimously, 4/0.

7. ADOPTION OF VEHICLE MILES TRAVELED AS A SIGNIFICANCE THRESHOLD PURSUANT TO SENATE BILL 743 AND THE CALIFORNIA ENVIRONMENTAL QUALITY ACT – Hold a public hearing and adoption of Resolution No. 2020-114 approving vehicle miles traveled thresholds of significance and screening criteria for purposes of analyzing transportation impacts under Senate Bill 743 and the California Environmental Quality Act. (Staff contact: Jason Geldert, Community Development)

City Manager's Recommendation: Take public input, close the public hearing and adopt the resolution.

Community & Economic Development Director Jeff Murphy presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Mayor Hall opened the duly noticed public hearing at 3:43 p.m.

Seeing no one wishing to speak, Mayor Hall closed the duly noticed public hearing at 3:43 p.m.

Council Member Schumacher stated for the record that she will be voting in support of this item today, but feels decision making is being pushed up against a wall, as there are a couple of items that need refinement.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Resolution No. 2020-114. Motion carried unanimously, 4/0.

DEPARTMENTAL AND CITY MANAGER REPORTS:

8. 2020 LEGISLATIVE PLATFORM AND STATE LEGISLATIVE UPDATE – Adoption of Resolution No. 2020-115 approving the City of Carlsbad 2020 Legislative Platform, receive a legislative update and establish City Council positions on priority bills identified by the City Council Legislative Subcommittee. (Staff contact: Jason Haber, City Manager Department)

City Manager's Recommendation: Receive the update and adopt the resolution.

Intergovernmental Affairs Director Jason Haber and representatives John Benton and Kathrina Gregana (California Strategies & Advocacy, LLC) presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Council Member Bhat-Patel wanted to address how to support bills that look to encourage or mandate de-escalation training and bias training, as well as increased funding for social workers and mental health services, including local schools.

Mayor Pro Tem Blackburn supported more funding for mental health. He stated that the Police Dept. spends too much time with people who need mental health services instead of Police services. He also supports bills for de-escalation and bias training.

Mayor Hall expressed his interest in supporting legislation that would increase accountability and transparency among law enforcement agencies and personnel.

Council Member Schumacher stated that City Council is now looking to amend the legislative platform in the resolution, and that she would be voting no on this item.

Minute Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to amend the legislative platform to include statements in support of bills that would: a) increase accountability and transparency for law enforcement agencies and personnel; b) encourage or mandate de-escalation and bias training for police officers statewide; and c)

expand and fund mental health and social-emotional health services, including in schools. Motion carried, 3/0/1 (Schumacher – Abstain).

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, adopting Resolution No. 2020-115, approving the City of Carlsbad 2020 Legislative Platform, as amended. Motion carried, 3/1 (Schumacher – No).

In response to Council Member Schumacher, Intergovernmental Affairs Director Jason Haber stated that they do not have strong recommendations on the bills from the Legislative Subcommittee, but were identified for discussion and consideration among the City Council. He explained that the bills were brought before the City Council because there are competing aspects to the bills. He further explained that the intent was to allow the City Council the conversation to sort through those issues and provide policy direction where there is not clear direction in the legislative platform. Council Member Schumacher stated that that is the intellectual labor of the subcommittee rather than the broader work of the City Council.

Minute Motion by Council Member Schumacher requesting that the Legislative Subcommittee bring recommendations on priority bills back to Council. Motion failed due to lack of a second.

Mayor Hall commented that they are following these bills very closely. Council Member Bhat-Patel explained that the intent was to allow the City Council to have a larger more inclusive conversation. Council Member Schumacher expressed that she was waiting to hear from the Legislative Subcommittee.

Minute Motion by Council Member Schumacher, seconded by Mayor Pro Tem Blackburn, to refer the priority bills identified by the City Council Legislative Subcommittee back to the Subcommittee to develop and bring back recommended advocacy positions to the City Council, as needed. Motion carried unanimously, 4/0.

9. CITY COUNCIL POLICY NO. 39 – INTERGOVERNMENTAL AFFAIRS PROGRAM – Adoption of Resolution No. 2020-116 rescinding City Council Policy No. 39 – Legislative Program and replacing it with revised City Council Policy No. 39 – Intergovernmental Affairs Program. (Staff contact: Jason Haber, City Manager Department)

City Manager’s Recommendation: Adopt the resolution.

Intergovernmental Affairs Director Jason Haber presented the report.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Resolution No. 2020-116. Motion carried unanimously, 4/0.

10. ECONOMIC RECOVERY AND REVITALIZATION INITIATIVE JOINT MARKETING PLAN - Adoption of Resolution No. 2020-117 approving the Carlsbad is Calling business promotion and tourism marketing campaign and authorizing the city manager to negotiate and execute and agreement with Visit Carlsbad for implementation services in an amount not to exceed \$250,000 (Staff contact: Laura Rocha and David Graham, Administrative Services)

City Manager’s Recommendation: Adopt the resolution.

Chief Innovation Office David Graham and Mark Rudyk of Visit Carlsbad presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

The following individual called into the City Council Meeting and voiced their comment for the record:

Christine Davis, representing the Carlsbad Village Association, requested that the City Council adopt the resolution and implement the plan.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Priya Bhat-Patel, to adopt Resolution No. 2020-117. Motion carried unanimously, 4/0.

COUNCIL REPORTS AND COMMENTS:

Council Member Schumacher gave updates on the Housing Community & Economic Development Policy Committee and the SANDAG Program Budget. She also requested more clarity regarding the North County Transit District parking lease.

Council Member Bhat-Patel gave an update on the North County Transit District budget conversation and no new positions were added.

Mayor Hall spoke regarding a pre-briefing meeting he attended for the Water Authority Board regarding energy including direct purchase, working with RCE and/or working with the City of San Diego.

CITY MANAGER COMMENTS:

City Manager Scott Chadwick congratulated Sheila Cobian for her promotion to Assistant to the City Manager.

CITY ATTORNEY COMMENTS: None.

CITY CLERK COMMENTS: None.

ANNOUNCEMENTS: None.

ADJOURNMENT: Mayor Hall adjourned the duly noticed meeting at 4:58 p.m.

Tamara R. McMinn, CPMC, CMC
Senior Deputy City Clerk



Minutes

June 23, 2020, 2:30 p.m.

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

CALL TO ORDER: 2:30 p.m.

ROLL CALL: Hall, Blackburn, Bhat-Patel, Schumacher.

PUBLIC COMMENT ON AGENDA ITEM: None.

CLOSED SESSION:

City Attorney Celia Brewer read the Council into Closed Session.

Council adjourned into Closed Session at 2:30 p.m. pursuant to the following:

1. **CONFERENCE WITH LEGAL COUNSEL REGARDING INITIATING LITIGATION**

That the City Council, by motion, authorize a closed session to consider initiation of litigation of one case pursuant to Government Code section 54956.9(d)(4).

Council Action: The City Council authorized the City of Carlsbad to join in a petition for review of a declaratory ruling of the Federal Communications Commission. Motion carried unanimously, 4/0.

ADJOURNMENT:

By proper motion, the Special Meeting of June 23, 2020 was adjourned at 2:35 p.m.

Mia De Marzo
Deputy City Clerk



CITY COUNCIL
Minutes

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

June 23, 2020 3 p.m.

CALL TO ORDER: 3 p.m.

ROLL CALL: Hall, Blackburn, Bhat-Patel, Schumacher.

ANNOUNCEMENT OF CONCURRENT MEETINGS: The Mayor announced that the City Council is serving as the Carlsbad Municipal Water District Board of Directors, Public Financing Authority, Community Development Commission and the Successor Agency to the Redevelopment Agency for Public Hearing Item No. 9.

PLEDGE OF ALLEGIANCE: Mayor Pro Tem Blackburn led the Pledge of Allegiance.

INVOCATION: None.

APPROVAL OF MINUTES:

Minutes of the Special Meeting held April 25, 2020.

Minutes of the Regular Meeting held May 5, 2020.

Minutes of the Regular Meeting held May 12, 2020.

Minutes of the Special Meeting held June 2, 2020.

Minutes of the Special Meeting held June 9, 2020.

Motion by Mayor Pro-Tem Blackburn, seconded by Council Member Bhat-Patel, to approve the minutes as presented. Motion carried unanimously, 4/0.

PRESENTATIONS:

Proclamation in recognition of retiring Library & Cultural Arts Director Heather Pizzuto.

Mayor Hall read the proclamation and said a few words.

PUBLIC COMMENT:

The following individual called into the City Council Meeting and voiced their comment for the record:

Kelly McCormick thanked the City Council for supporting Senate Bill 793. She also urged the City Council to write a letter in addition to supporting the bill.

PUBLIC REPORT OF ACTION TAKEN IN CLOSED SESSION:

City Attorney Celia Brewer announced that the City Council authorized the City of Carlsbad to join in a petition for review of a declaratory ruling of the Federal Communications Commission.

CONSENT CALENDAR:

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to approve Consent Calendar Item Nos. 1 through 7. Motion carried unanimously, 4/0.

1. PURCHASE OF PROPERTY INSURANCE COVERAGE THROUGH ALLIANT INSURANCE SERVICES, INC.'S ALLIANT PROPERTY INSURANCE PROGRAM FOR FISCAL YEAR 2020-21– Adoption of Resolution No. 2020-118 approving the purchase of \$500 million of property insurance coverage through Alliant Insurance Services, Inc.'s Alliant Property Insurance Program for FY 2020-2021 in an amount not to exceed \$275,454.29. (Staff contact: Ed Garbo, Administrative Services)
2. PURCHASE OF EXCESS LIABILITY COVERAGE THROUGH CALIFORNIA INSURANCE POOL AUTHORITY FOR FISCAL YEAR 2020-21 – Adoption of Resolution No. 2020-119 approving the purchase of \$43 million of excess liability coverage through California Insurance Pool Authority for FY 2020-2021 in an amount not to exceed \$609,000. (Staff contact: Ed Garbo, Administrative Services)
3. NOV. 3, 2020 GENERAL MUNICIPAL ELECTION – Adoption of Resolution No. 2020-120 calling for and giving notice of the General Municipal Election to be held in the City of Carlsbad on Tuesday, Nov. 3, 2020, for the purpose of electing City Council Members to represent City Council Districts 2 and 4 for terms ending in November 2024; and Adoption of Resolution No. 2020-121 requesting that the County of San Diego Board of Supervisors consolidate the General Municipal Election to be held in the City of Carlsbad on Tuesday, Nov. 3, 2020, with the California Statewide General Election; and Adoption of Resolution No. 2020-122 approving regulations for candidates for elective office pertaining to Candidates' Statements submitted to the voters at the General Municipal Election to be held in the City of Carlsbad on Tuesday, Nov. 3, 2020. (Staff contact: Sheila Cobian, City Clerk Department)
4. ACCEPTANCE OF DONATION FROM THE CARLSBAD FRIENDS OF THE ARTS – Adoption of Resolution No. 2020-123 accepting a donation of \$38,400 from the Carlsbad Friends of the Arts in support of the FY 2020-21 cultural arts programs. (Staff contact: Richard Schultz, Cultural Arts)
5. EXTENSION OF HOSTING AGREEMENT WITH VELOCITY FOR HCMS – Adoption of Resolution No. 2020-124 authorizing the city manager to execute amendments to the Master Services Agreement with Velocity Technology Solutions, Inc. for hosting services and professional services for the Lawson Human Capital Management System (HCMS) software in an amount not to exceed \$747,029 for a term ending June 30, 2022. (Staff contact: Maria Callander and Rachel Muller, Information Technology)
6. APPROVAL OF HOMELESS OUTREACH AND CASE MANAGEMENT CONTRACT WITH INTERFAITH COMMUNITY SERVICES, INC. – Adoption of Resolution No. 2020-125 authorizing the city manager or designee to execute a Professional Services Agreement with Interfaith Community Services, Inc. to provide for Homeless Outreach and Case Management Services. (Staff contact: Holly Nelson, Police)
7. ACCEPTANCE OF FISCAL YEAR 2019 URBAN AREAS SECURITY INITIATIVE GRANT FUND PROGRAM – Adoption of Resolution No. 2020-126 accepting and appropriating funds for

Fiscal Year 2019 Urban Areas Security Initiative Grant Fund Program. (Staff contact: Jennie Marinov, Fire)

ORDINANCES FOR INTRODUCTION: None.

ORDINANCES FOR ADOPTION:

8. ADOPTION OF ORDINANCE NO. CS-377 – AMENDMENTS TO CARLSBAD MUNICIPAL CODE CHAPTER 18.04 – Adoption of Ordinance No. CS-377 amending Carlsbad Municipal Code Chapter 18.04 to allow for building permit application time extensions consistent with the 2019 California Building Standards Code. (Staff contact: Sheila Cobian, City Clerk Services)

City Attorney Celia Brewer titled the Ordinance.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Ordinance No. CS-377. Motion carried unanimously, 4/0.

PUBLIC HEARINGS:

9. FISCAL YEAR 2020-21 OPERATING AND CAPITAL IMPROVEMENT PROGRAM BUDGETS – Hold a public hearing on the FY 2020-21 Operating Budgets and FY 2020-21 to 2034-35 Capital Improvement Program for the City of Carlsbad, Carlsbad Municipal Water District, the Carlsbad Public Financing Authority, the Community Development Commission, and City of Carlsbad as the Successor Agency to the Carlsbad Redevelopment Agency; and, Adoption of City Council Resolution No. 2020-127 adopting the Final Operating Budget and Capital Improvement Program for FY 2020-21 for the City of Carlsbad and establishing controls on changes in appropriations for the budget funds; and, Adoption of Carlsbad Municipal Water District Resolution No. 1641 adopting the Water District's Final Operating Budget and Capital Improvement Program for FY 2020-21 and establishing controls on changes in appropriations for budget funds; and, Adoption of Community Development Commission Resolution No. 547 adopting the final Operating Budget of the Carlsbad Housing Authority for FY 2020-21 and establishing controls on changes in appropriations for budget funds; and, Adoption of Carlsbad Public Financing Authority Resolution No. 81 adopting the Operating Budget and Capital Improvement Program of The Crossings at Carlsbad Municipal Golf Course for FY 2020-21 and establishing controls on changes in appropriations for budget funds; and, Adoption of City Council Resolution No. 2020-128, acting as Successor Agency for the Carlsbad Redevelopment Agency, adopting the final Operating Budget of the Successor Agency and Enforceable Debt Obligations of the City of Carlsbad's Redevelopment Obligation Retirement Fund for FY 2020-21 and establishing controls on changes in appropriations for budget funds; and, Adoption of City Council Resolution No. 2020-129 establishing the FY 2020-21 appropriation limit as required by Article XIII B of the California State Constitution and State Law; and, Adoption of City Council Resolution No. 2020-130 adopting changes to the Master Fee Schedule; and,

Adoption of City Council Resolution No. 2020-131 approving the City of Carlsbad's share of the FY 2020-21 Operating and Capital Budgets of the Encina Wastewater Authority; and, Adoption of City Council Resolution No. 2020-132 determining that the FY 2020-21 Capital Improvement Program Budget is consistent with the General Plan and Climate Action Plan.

City Manager's Recommendation: Take public input, close the public hearing and adopt the resolutions.

City Manager Scott Chadwick, Deputy City Manager of Administrative Services Laura Rocha, Finance Manager Roxanne Muhlmeister and Deputy City Manager of Public Works Paz Gomez presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Mayor Hall opened the duly noticed Public Hearing at 3:14 p.m.

The following individuals called into the City Council Meeting and voiced their comments for the record:

Steve Linke spoke regarding a letter he submitted to the City Council asking them to update the traffic impact fee program to reflect current conditions and to further prioritize the SANDAG RTIP fund to improvement projects rather than repair projects.

Maxwell Dana spoke about the need to make Carlsbad more accessible to different races and backgrounds. He suggested the City Council reopen the General Plan and the Growth Management Plan.

Lance Schulte spoke regarding the People for Ponto submission of public testimony and the proposed land use change of Planning Area F.

Deana Fisher spoke supporting racial diversity and encouraging Carlsbad to become more diverse in its community.

Keyrollos Ibrahim suggested the City Council reopen the General Plan and the Growth Management Plan and include young people's opinions on them.

Maggie Munn suggested the City Council reopen the General Plan and the Growth Management Plan.

Sophie Blake suggested the City Council reopen the General Plan and the Growth Management Plan.

Hearing no one else wishing to speak, Mayor Hall closed the duly noticed Public Hearing at 3:40 p.m.

Minute Motion by Mayor Hall, seconded by Council Member Bhat-Patel, to direct the City Manager to hold a City Council Workshop on the following items:

1. Background information about citizens review committee on police practices and procedures.

2. Presentation on police use of force.
 3. Presentation on police officers' rights under the police officer bill of rights and any other policies or procedures that may pertain.
- Motion carried unanimously, 4/0.

Council Member Bhat-Patel commented that she would like the City Manager to consider adding the two recommended ambulances, start the planning of at least one of the two fire stations, and improve the city's response times as recommended in the State of the City report that Council was recently presented with. She also commented that once a fifth Council Member is elected she would like to see a priority put on and a budget set for the Growth Management Plan and General Plan. She added that the City Council could possibly set aside funds from the Council Contingency fund to start the process.

Mayor Pro Tem Blackburn commented that he agrees with Council Member Bhat-Patel and that the Growth Management Plan and the General Plan need to be revisited.

In response to an inquiry from Mayor Hall, City Manager Chadwick explained that the City Council could request a midyear budget modification or change. He added that there is also the Council Contingency fund of 1.5 million available as well. He also commented that the process could begin in the Fall of 2020.

Council Member Schumacher commented that she would like to request that staff bring back the budget for a midyear review due to ongoing changes with COVID-19.

Deputy City Manager of Administrative Services Laura Rocha commented that they were planning to update the City Council on the budget quarterly through this fiscal year.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt the following resolutions:

1. Resolution No. 2020-127
2. CMWD Resolution No. 1641
3. CDC Resolution No. 547
4. PFA Resolution No. 81
5. Resolution No. 2020-128
6. Resolution No. 2020-129
7. Resolution No. 2020-130
8. Resolution No. 2020-131
9. Resolution No. 2020-132

Motion carried unanimously, 4/0.

Mayor Hall declared a recess at 5:49 p.m.

Mayor Hall reconvened the meeting at 5:55 p.m.

10. CARLSBAD TOURISM BUSINESS IMPROVEMENT DISTRICT LEVY OF ANNUAL ASSESSMENT – Hold a public hearing and adoption of Resolution No. 2020-133 confirming the Advisory

Board's report and levying the assessment for FY 2020-21 for the Carlsbad Tourism Business Improvement District. (Staff contact: Cheryl Gerhardt, Administrative Services)

City Manager's Recommendation: Take public input, close the public hearing and adopt the resolution.

Finance Manager Cheryl Gerhardt presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Mayor Hall opened the duly noticed Public Hearing at 4:57 p.m.

Hearing no one wishing to speak, Mayor Hall closed the duly noticed Public Hearing at 4:58 p.m.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Resolution No. 2020-133. Motion carried unanimously, 4/0.

11. CARLSBAD GOLF LODGING BUSINESS IMPROVEMENT DISTRICT LEVY OF ANNUAL ASSESSMENT – Hold a public hearing and adoption of Resolution No. 2020-134 confirming the Advisory Board's report and levying the assessment for FY 2020-21 for the Carlsbad Golf Lodging Business Improvement District. (Staff contact: Cheryl Gerhardt, Administrative Services)

Finance Manager Cheryl Gerhardt presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

City Manager's Recommendation: Take public input, close the public hearing and adopt the resolution.

Mayor Hall opened the duly noticed Public Hearing at 5:01 p.m.

Hearing no one wishing to speak, Mayor Hall closed the duly noticed Public Hearing at 5:01 p.m.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Resolution No. 2020-134. Motion carried unanimously, 4/0.

DEPARTMENTAL AND CITY MANAGER REPORTS:

12. COVID-19 ACTIONS AND EXPENDITURES REPORT – Receive a report on recent actions and expenditures related to the city's response to the COVID-19 pandemic and provide direction as appropriate. (Staff contact: Geoff Patnoe, City Manager Department)

City Manager's Recommendation: Receive the report and provide direction as appropriate.

City Manager Scott Chadwick, Assistant Director of Emergency Services David Harrison, Deputy City Manager of Community Services Gary Barberio, Deputy City Manager of Public Works Paz Gomez, Police Chief Neil Gallucci, Senior Program Manager Holly Nelson, Fire Chief Michael Calderwood, Chief Innovation Officer David Graham, Communications Director

Kristina Ray, and Deputy City Manager of Administrative Services Laura Rocha presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

City Council received the report.

COUNCIL REPORTS AND COMMENTS:

Council Member Schumacher commented that she will be requesting an item be added to the July 14, 2020 agenda related to the Clean Energy Alliance.

Council Member Bhat-Patel commented that she is participating in a regional COVID-19 task force for equitable recovery.

CITY MANAGER COMMENTS:

City Manager Scott Chadwick thanked city staff who worked on the budget including Deputy City Manager of Administrative Services Laura Rocha, Finance Manager Roxanne Muhlmeister, Senior Management Analyst Erika Benitez and the rest of the Finance team. He also thanked city staff for their work during the COVID-19 pandemic.

CITY ATTORNEY COMMENTS: None.

CITY CLERK COMMENTS: None.

ANNOUNCEMENTS: None.

ADJOURNMENT:

Mayor Hall adjourned the duly noticed Meeting at 5:48 p.m.

Hector Gomez
Deputy City Clerk



Minutes

July 14, 2020, 2 p.m.

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

CALL TO ORDER: 2 p.m.

ROLL CALL: Hall, Blackburn, Bhat-Patel, Schumacher.

PUBLIC COMMENT ON AGENDA ITEM: None.

CLOSED SESSION:

Assistant City Attorney Cindie McMahon read the Council into Closed Session.

Council adjourned into Closed Session at 2 p.m. pursuant to the following:

1. **CONFERENCE WITH LABOR NEGOTIATORS: (Government Code Section 54957.6)**

CITY NEGOTIATORS: Geoff Patnoe, Assistant City Manager, Laura Rocha, Deputy City Manager, Judy Von Kalinowski, Human Resources Director, Debbie Porter, Senior Management Analyst, Darrin Schwabe, Senior Management Analyst, Erika Benitez, Senior Management Analyst, Drew Cook, Management Analyst, Silvano Rodriguez, Management Analyst and Timothy Davis, Burke, Williams & Sorenson.

Employee Organization: CCEA and Unrepresented Management Employees

If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session

Council Action: No reportable action.

ADJOURNMENT:

By proper motion, the Special Meeting of July 14, 2020 was adjourned at 2:30 p.m.

Hector Gomez
Deputy City Clerk



CITY COUNCIL
Minutes

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

July 14, 2020 3 p.m.

CALL TO ORDER: 3 p.m.

ROLL CALL: Hall, Blackburn, Bhat-Patel, Schumacher.

ANNOUNCEMENT OF CONCURRENT MEETINGS: Mayor Hall announced that the City Council was serving as the Carlsbad Municipal Water District Board of Directors on Consent Calendar Item No. 11.

PLEDGE OF ALLEGIANCE: Mayor Pro Tem Blackburn led the Pledge of Allegiance.

INVOCATION: None.

APPROVAL OF MINUTES:

Minutes of the Special Meeting held June 2, 2020

Minutes of the Special Meeting held June 4, 2020

Motion by Mayor Pro-Tem Blackburn, seconded by Council Member Bhat-Patel, to approve the minutes as presented. Motion carried unanimously, 4/0.

PRESENTATIONS:

Proclamation in recognition of Parks & Recreation Month.

Mayor Pro Tem Blackburn presented the proclamation and said a few words.

PUBLIC COMMENT:

The following individual called into the City Council Meeting and voiced their comment for the record:

Mary Lucid spoke about concerns regarding Carlsbad Senior Centers. She commented on restrictive access to facilities and services for non-Carlsbad citizens.

PUBLIC REPORT OF ACTION TAKEN IN CLOSED SESSION: No reportable action.

CONSENT CALENDAR:

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to approve Consent Calendar Item Nos. 1, 2, 4, 5, 7 through 11. Motion carried unanimously, 4/0.

1. **REPORT ON CITY INVESTMENTS** – Receive an update on City investments as of May 31, 2020. (Staff contact: Laura Rocha and Craig Lindholm, Administrative Services)

2. CARLSBAD TOURISM BUSINESS IMPROVEMENT DISTRICT RESOLUTION OF INTENTION – Adoption of Resolution No. 2020-134 declaring its intention to modify the assessment rate for the Carlsbad Tourism Business Improvement District, fixing the time and place of a public meeting and public hearing on the modification and giving notice of the public meeting and public hearing. (Staff contact: Cheryl Gerhardt, Administrative Services)

This item was pulled for discussion by Mayor Hall

3. REVISIONS TO THE PART-TIME SALARY SCHEDULE AND PAY INCREASES FOR PART-TIME EMPLOYEES – Adoption of a resolution approving revisions to the City of Carlsbad Part-Time Salary Schedule and approving pay increases for part-time employees. (Staff contact: Judy von Kalinowski and Silvano Rodriguez, Administrative Services)
4. PURCHASE OF EXCESS WORKERS' COMPENSATION COVERAGE – Adoption of Resolution No. 2020-135 approving the purchase of excess workers' compensation coverage through Safety National Casualty Corporation for fiscal year 2020-21 in an amount not to exceed \$226,170. (Staff contact: Donna Hernandez, Administrative Services)
5. ACCEPTANCE OF DONATION FROM THE CARLSBAD FRIENDS OF THE LIBRARY – Adoption of Resolution No. 2020-136 accepting a fiscal year 2020-21 donation of \$88,200 and a pledge of \$36,575 in additional support from the Friends of the Carlsbad Library to the City of Carlsbad Library & Cultural Arts Department. (Staff contact: Suzanne Smithson, Library & Cultural Arts)

This item was pulled for discussion by Council Member Schumacher

6. FISCAL YEARS 2020-25 ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE FOR THE CITY'S COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM – Adoption of a resolution approving the fiscal years 2020-25 analysis of impediments to Fair Housing Choice for the City's Community Development Block Grant Program. (Staff contact: Nancy Melander, Community Development)
7. APPROVAL OF AGREEMENT WITH CENTRALSQUARE TECHNOLOGIES, LLC – Adoption of Resolution No. 2020-138 authorizing the city manager to execute an agreement to license the latest version of city's existing financial system, provide professional services to upgrade the financial system and provide ongoing hosting services from CentralSquare Technologies, LLC for a total not to exceed amount of \$492,004 for a three-year period. (Staff contact: Maria Callander and Kevin Branca, Administrative Services)
8. ADVERTISE FOR BIDS FOR THE EL CAMINO REAL AND COLLEGE BOULEVARD INTERSECTION IMPROVEMENTS PROJECT – Adoption of Resolution No. 2020-139 approving plans and specifications and authorizing the city clerk to advertise for bids for the El Camino Real and College Boulevard Intersection Improvements, Capital Improvement Program Project No. 6071. (Staff contact: Brandon Miles, Public Works)
9. AMENDMENT TO AGREEMENT WITH MIKHAIL OGAWA ENGINEERING, INC. – Adoption of Resolution No. 2020-140 authorizing Amendment No. 1 to the agreement with Mikhail Ogawa Engineering, Inc., to provide professional services for the Carlsbad Watershed

Management Area (CWMA) Program in an amount of \$131,372. (Staff contact: James Wood, Public Works)

10. AGREEMENT WITH THE REGIONAL SOLID WASTE ASSOCIATION – Adoption of Resolution No. 2020-141 authorizing the city manager to execute an agreement with the Regional Solid Waste Association (RSWA) for residential household hazardous waste collection program services for a five-year term. (Staff contact: Vecita Jones, Public Works)
11. MASTER PURCHASE AGREEMENTS WITH ONESOURCE DISTRIBUTORS – Adoption of City Council Resolution No. 2020-142 authorizing execution of a five-year Master Purchase Agreement with OneSource Distributors for Supervisory Control and Data Acquisition (SCADA) Programmable Logic Controller equipment as part of Capital Improvement Program Project No. 5542-1 in an amount not to exceed \$150,000; and, Adoption of CMWD Resolution No. 1642 authorizing execution of a five-year Master Purchase Agreement with OneSource Distributors for Supervisory Control and Data Acquisition (SCADA) Programmable Logic Controller equipment as part of Capital Improvement Program Project No. 5542-2 and 5542-3, in an amount not to exceed \$400,000. (Staff contact: Stephanie Harrison, Public Works)

CONSENT CALENDAR ITEMS PULLED FOR DISCUSSION:

This item was pulled for discussion by Mayor Hall

3. REVISIONS TO THE PART-TIME SALARY SCHEDULE AND PAY INCREASES FOR PART-TIME EMPLOYEES – Adoption of a resolution approving revisions to the City of Carlsbad Part-Time Salary Schedule and approving pay increases for part-time employees. (Staff contact: Judy von Kalinowski and Silvano Rodriguez, Administrative Services)

In response to an inquiry by Mayor Hall, Management Analyst Silvano Rodriguez confirmed that the three percent increase was not required by state or federal law.

Mayor Hall explained that the reason he is making note of this is because of the current state of unemployment in the city, state and the nation and with unemployment locally running as high as 25%, he doesn't feel it is appropriate for the government to be giving percent increases at this time.

In response to an inquiry by Mayor Pro Tem Blackburn, Management Analyst Silvano Rodriguez confirmed that the part-time employees do not receive medical benefits and only receive an APPLE retirement plan which is a 457-retirement account to which the city contributes to at 3.75%.

In response to an inquiry by Mayor Pro Tem Blackburn, Management Analyst Silvano Rodriguez commented that the part-time employees do not receive PERS benefits, but there are 35, 500-hour employees that are receiving PERS benefits.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt the resolution. Motion failed, 2/2 (Hall, Schumacher – No).

Minute Motion by Mayor Hall, seconded by Mayor Pro Tem Blackburn, to have the item brought back to the City Council if Carlsbad local unemployment numbers drop below 10% for three consecutive months.

Council Member Schumacher commented that she would prefer to see traditional unemployment numbers and hear the pros and cons of the item at a future City Council meeting.

Mayor Hall and Mayor Pro Tem Blackburn withdrew their minute motion.

Mayor Hall commented that he would like the City Manager to place the item on a future City Council meeting agenda.

This item was pulled for discussion by Council Member Schumacher

6. FISCAL YEARS 2020-25 ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE FOR THE CITY'S COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM – Adoption of Resolution No. 2020-137 approving the fiscal years 2020-25 analysis of impediments to Fair Housing Choice for the City's Community Development Block Grant Program. (Staff contact: Nancy Melander, Community Development)

Council Member Schumacher commented that she would not be supporting the item because she felt there was inadequate analysis conducted on the impediments that are being described to fair housing specific to Carlsbad. She added that the associated actions do not go far enough to remedy the impediments.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Resolution 2020-137. Motion carried, 3/1 (Schumacher – No).

ORDINANCES FOR INTRODUCTION:

12. INTRODUCTION OF AN ORDINANCE TO DECREASE THE SPEED LIMIT ON AVENIDA ENCINAS FROM CANNON ROAD TO PALOMAR AIRPORT ROAD – Introduction of Ordinance CS-378 amending Carlsbad Municipal Code Section 10.44.280 to decrease the speed limit on Avenida Encinas from Cannon Road to Palomar Airport Road to 35 miles per hour. (Staff contact: John Kim, Public Works)

City Manager's Recommendation: Introduce the ordinance.

City Attorney Celia Brewer titled the Ordinance.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to introduce Ordinance CS-378. Motion carried unanimously, 4/0.

ORDINANCES FOR ADOPTION: None.

PUBLIC HEARINGS:

13. **LIGHTING AND LANDSCAPING DISTRICT NO. 1** – Hold a public hearing and adopt Resolution 2020-143 confirming the diagram and assessment and providing for the levy of the annual assessment for fiscal year 2020-21 for Street Lighting and Landscaping District No. 1, a special assessment district. (Staff contact: Jason Rosado, Administrative Services).

City Manager’s Recommendation: Take public input, close the public hearing and adopt the resolution.

Assistant Finance Director Ryan Green and Assistant to the Treasurer Jason Rosado presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Mayor Hall opened the duly noticed Public Hearing at 3:18 p.m.

Hearing no one wishing to speak, Mayor Hall closed the duly noticed Public Hearing at 3:18 p.m.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Resolution No. 2020-143. Motion carried unanimously, 4/0.

14. **LIGHTING AND LANDSCAPING DISTRICT NO. 2** – Hold a public hearing and adopt Resolution 2020-144 confirming the diagram and assessment and providing for the levy of the annual assessment for fiscal year 2020-21 for Street Lighting and Landscaping District No. 2, a special assessment district. (Staff contact: Jason Rosado, Administrative Services).

City Manager’s Recommendation: Take public input, close the public hearing and adopt the resolution.

Assistant Finance Director Ryan Green and Assistant to the Treasurer Jason Rosado presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Mayor Hall opened the duly noticed Public Hearing at 3:19 p.m.

Hearing no one wishing to speak, Mayor Hall closed the duly noticed Public Hearing at 3:19 p.m.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Resolution No. 2020-144. Motion carried unanimously, 4/0.

DEPARTMENTAL AND CITY MANAGER REPORTS:

15. **COVID-19 ACTIONS AND EXPENDITURES REPORT** – Receive a report on recent actions and expenditures related to the city’s response to the COVID-19 pandemic and provide direction as appropriate. (Staff contact: Geoff Patnoe, City Manager Department)

City Manager’s Recommendation: Receive the report and provide direction as appropriate.

City Manager Scott Chadwick, Assistant Director of Emergency Services David Harrison, Deputy City Manager of Community Services Gary Barberio, Police Chief Neil Gallucci, Senior Program Manager Holly Nelson, Fire Chief Michael Calderwood, and Deputy City Manager of Administrative Services Laura Rocha presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

City Council received the report.

16. **\$2,250,000 GUARANTY FOR THE CLEAN ENERGY ALLIANCE AND FINANCING OPTIONS** – Receive a report and 1) Consider adoption of a resolution authorizing the City of Carlsbad to provide up to a \$2,250,000 guaranty for a \$2,500,000 credit option for Clean Energy Alliance as proposed by River City Bank or a third party approved by the alliance board; and Authorizing the city manager to act on behalf of the city, in consultation with the city attorney, to negotiate and execute all agreements and amendments necessary for the guaranty; and 2) Consider directing staff to develop and present an alternative credit option to fund the Clean Energy Alliance’s fiscal year 2020-21 budget with a \$4,450,000 loan from the city’s General Fund, in consultation with the city attorney and city treasurer. (Staff contact: Jason Haber, City Manager Department)

City Manager’s Recommendation: Receive the report, adopt the resolution and provide direction as appropriate.

Deputy City Manager of Administrative Services Laura Rocha and Intergovernmental Affairs Director Jason Haber presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Mayor Pro Tem Blackburn asked staff if the Joint Powers Association (JPA) has the authority to take out loans and if the City Council does not decide to approve this item can the JPA then take out the JP Morgan loan?

In response to the inquiry by Mayor Pro Tem Blackburn, Intergovernmental Affairs Director Jason Haber responded that the City Council could reject the item and has no obligation to offer an alternative finance solution to the JPA. He further added that the JPA is within its power and duties to take measures to secure the JP Morgan loan.

Mayor Pro Tem Blackburn asked staff if it was accurate that SDGE is removing itself from the energy procurement business.

In response to the inquiry by Mayor Pro Tem Blackburn, Intergovernmental Affairs Director Jason Haber responded that it is true and that is SDGE's position.

Mayor Pro Tem Blackburn commented to staff that if City Council approves the item, it should be done in house with a lot of contingencies and conditions and be approved by the City Attorney and City Treasurer.

Intergovernmental Affairs Director Jason Haber explained that the Option No. 2 recommendation is to work with the City Attorney and City Treasurer to develop a concept of an alternative credit option for the JPA. He added that this is not an authorization to provide any financing at this point. He further commented that it is a direction to staff to work on something to offer to the JPA.

Council Member Schumacher asked if Mayor Pro Tem Blackburn would be willing to support both Option No. 1 and Option No. 2

Mayor Pro Tem Blackburn responded that he would only support Option No. 2 because if guarantees are going to be made then he rather the profit be made by the city than a bank, and there would be more control of the money and conditions.

Deputy City Manager of Administrative Services Laura Rocha commented that staff would bring back the detailed terms of the loan and bring back a resolution to appropriate the funds out of the reserves because this would be an appropriation of funds and not identified as an investment of funds.

Council Member Schumacher commented that the use of public funds for public benefit could be beneficial in the midst of the COVID-19 pandemic as it could help businesses and the local economy and make it more likely that the JPA would be able to offer discounts to ratepayers faster than the other options of River City Bank and JP Morgan. She further added that Carlsbad ratepayers and businesses want and need those discounts right now and those are fixed costs that the JPA can help with.

Mayor Hall expressed his concerns about the 2% guarantee number and if we can make that and that more information is needed.

Council Member Schumacher commented that she is sure that it is something they can get to and at the worse, the launch date could change from a May 2021 date to an October 2021 date.

Intergovernmental Affairs Director Jason Haber commented that it remains the JPA preference to launch in May 2021 and it is not preferable to see a delay in the launch.

City Treasurer Craig Lindholm asked staff if the September date remains a hard date for funding required for the September installment or if it could be moved out with other timelines.

In response to the inquiry by City Treasurer Craig Lindholm, Intergovernmental Affairs Director Jason Haber explained that the JPA does have an overhead cost need that will come in October of this year.

Mayor Hall commented that he still doesn't feel, nor does he think that the public have the sure certainty about this item. He commented that there has been no outreach to the community, and if it was important, then it should have been part of the annual budget process.

Council Member Schumacher explained that at that time, the River City Bank and JP Morgan options were not available, and the City Council is considering this option now because it would allow for control over the conditions of the loan which City Council has been considering this type of financing since last year. She further commented that the option before the City Council tonight is to bring back the financing conditions that will then be able to detail to the public and add transparency to what the conditions are. She also added that at this point there was no detail because the City Council needed to be asked if they were interested in controlling the financing of the project.

Mayor Pro Tem Blackburn commented that the City Council not deciding about whether the JPA is going to go forward. He explained that the City Council is deciding whether it is going to go forward with a River City loan, a JP Morgan loan or a City of Carlsbad financing option. He further explained that if the City Council says no to everything, then the JPA goes forward with a more expensive loan. He asked staff if the City Council voted yes on this tonight, if it was just to ask for more information to be brought back.

In response to an inquiry from Mayor Pro Tem Blackburn, Intergovernmental Affairs Director Jason Haber commented that he was correct and the City Council would be instructing staff to collaborate and come up with a financing proposal for City Council's consideration.

City Manager Scott Chadwick commented that Option No. 2 does include consultation with the City Attorney and the City Treasurer. He also commented that they would likely receive outside attorney advice as well to make sure all terms are correct.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Schumacher to receive the report and select Option 2 directing staff to develop and present an alternative option to fund the Clean Energy Alliance's fiscal year 2020-21 budget with a \$4,450,000 loan from the

city's General Fund, in consultation with the City Attorney and City Treasurer. Motion carried, 3/1 (Hall – No).

RECESS:

Mayor Hall declared a recess at 5:08 p.m.

Mayor Hall reconvened the meeting at 5:15 p.m.

17. **AMENDMENT NO. 1 TO THE CLIMATE ACTION PLAN** – Adoption of Resolution No. 2020-146 approving an amendment to the Climate Action Plan to revise the greenhouse gas inventory and reduction targets and forecast, update reductions from existing measures and incorporate Community Choice Energy as a new reduction measure. (Staff contact: Michael Grim, Public Works)

City Manager's Recommendation: Adopt the resolution.

Climate Action Plan Administrator Mike Grim presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

The following individual called into the City Council Meeting and voiced their comment for the record:

Galena Robertson spoke in support of the amendment. She also urged the City Council to consider a comprehensive CAP update in the next year to align the CAP with what science shows is necessary to secure a safe future.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Resolution No. 2020-146. Motion carried unanimously, 4/0.

18. **CITY COUNCIL COMPENSATION AND BALLOT MEASURE DISCUSSION** – 1) Discuss and provide direction on placing a ballot measure on the Nov. 3, 2020, General Municipal Election ballot relating to City Council compensation; and
2) Discuss and provide direction on City Council compensation adjustments for 2019 and 2020. (Staff contact: Cindie McMahan, City Attorney Department and Sheila Cobian, City Clerk Services)

City Manager's Recommendation: Receive the report and provide direction to staff.

Mayor Pro Tem Blackburn commented that the original reason this item is being discussed is because it is very difficult for the City Council to decide their own pay raises and the committee at that time came up with the idea that the City Council pay raises should be based on the San Diego Consumer Price Index and when the economy flattened they then made the decision to waive City Council pay raises since City employees were not receiving any either. He further commented that the committee then decided the City Council could waive their

pay raises. He added that he is not sure on the item since the City Council decided to not increase the salaries of part-time employees earlier in this agenda.

Council Member Bhat-Patel commented that she would support the first action, but for the second action, she would likely want to waive the adjustment.

Council Member Schumacher commented that she would waive the City Council compensation increase this time around.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to direct staff to bring back documents that would place a ballot measure on the Nov. 3, 2020, General Municipal Election ballot relating to City Council compensation and to bring back documents that would waive the City Council compensation adjustments for 2019 and 2020. Motion carried unanimously, 4/0.

COUNCIL REPORTS AND COMMENTS:

Council Member Schumacher commented that there could potentially be administrative enforcement options regarding face masks that City Council has not yet explored to protect our residents especially with tourists coming in, hotels remaining open and people enjoying the beaches.

Minute Motion by Council Member Schumacher, seconded by Council Member Bhat-Patel, to direct staff to place on a future agenda item an administrative enforcement option for requiring the wearing of masks in public. Motion carried, 3/1. (Hall – No)

Mayor Pro Tem Blackburn commented that the City Council gets a lot of concern about park deficits in the Ponto area and there is a lot of questions about particular parcels in that area. He added that there is a lot of inconsistent information coming from a lot of conflicting sources and he would like to ask staff to provide information regarding planning, master plan, public vote requirements and other important information regarding the Ponto area.

Minute Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to direct staff to place on a future agenda item at a City Council Workshop information regarding the coastal Ponto property that includes the planning, master plan, public vote requirements and any other important information. Motion carried unanimously, 4/0.

CITY MANAGER COMMENTS: None.

CITY ATTORNEY COMMENTS: None.

CITY CLERK COMMENTS: None.

ANNOUNCEMENTS: None.

ADJOURNMENT:

Mayor Hall adjourned the duly noticed Meeting at 6:07 p.m. in memory of David Kulchin.

Hector Gomez
Deputy City Clerk



CITY COUNCIL
Minutes

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

July 21, 2020, 3 p.m.

CALL TO ORDER: 3 p.m.

ROLL CALL: Hall, Blackburn, Bhat-Patel, Schumacher.

ANNOUNCEMENT OF CONCURRENT MEETINGS: None.

PLEDGE OF ALLEGIANCE: Mayor Pro Tem Blackburn led the Pledge of Allegiance.

PUBLIC REPORT OF ACTION TAKEN IN CLOSED SESSION: No reportable action.

INVOCATION: None.

APPROVAL OF MINUTES:

Minutes of the Regular Meeting held June 9, 2020.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to approve the minutes as presented. Motion carried unanimously, 4/0.

PRESENTATIONS:

Presentation of Kids for Peace Video.

Mayor Hall thanked Jill McManigal, Co-Founder and Executive Director of Kids for Peace for the efforts of the program.

PUBLIC COMMENT:

The following individuals called into the City Council Meeting and shared their comments for the record:

Shirley Anderson expressed her concerns related to Palomar Airport.

Christine Davis, representing the Carlsbad Village Association, thanked city staff for their efforts to support businesses during the pandemic.

CONSENT CALENDAR:

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to approve Consent Calendar Item Nos. 1, 2, and 4. Motion carried unanimously, 4/0.

1. **APPROVAL OF AGREEMENT WITH INFOSEND, INC. FOR UTILITY BILL PRINT AND MAIL SERVICE** – Adoption of Resolution No. 2020-147 authorizing the city manager, or a designee, to enter into an agreement with InfoSend, Inc. for Utility Bill Print and Mail

Services in an amount not to exceed \$480,000 for an initial three-year term and not to exceed \$170,000 per agreement year for optional term extensions. (Staff contact: Cheryl Gerhardt, Administrative Services)

2. ACQUISITION OF 7018 FORSTERS TERN DRIVE – Adoption of Resolution No. 2020-148 authorizing the city manager to execute all required documents to complete the acquisition of 7018 Forsters Tern Drive, Carlsbad, California, an affordable housing resale unit, expending Community Development Block Grant funds in the amount of \$340,000. (Staff contact: David de Cordova, Community Development)

Item No. 3 was pulled for discussion by Council Member Schumacher.

3. APPROVAL OF TRAFFIC CALMING PLANS FOR ORIOLE COURT, MIMOSA DRIVE, MOORHEN PLACE AND DOVE LANE – Adoption of a resolution approving the traffic calming plans for Oriole Court, Mimosa Drive, Moorhen Place and Dove Lane, Capital Improvement Program Project No. 6070, per the Carlsbad Residential Traffic Management Program. (Staff contact: John Kim, Public Works)
4. APPROVAL OF CALIFORNIA GREEN BUSINESS NETWORK SERVICES AGREEMENT – Adoption of Resolution No. 2020-150 authorizing execution of the California Green Business Network Services Agreement for fiscal year 2020-21, acceptance of grant funds, appropriation of grant funds to the environmental management department budget and authorizing the city manager or designee to sign additional agreements for up to four subsequent fiscal years. (Staff contact: Michael Grim, Public Works)

CONSENT CALENDAR ITEMS PULLED FOR DISCUSSION:

Item No. 3 was pulled for discussion by Council Member Schumacher.

3. APPROVAL OF TRAFFIC CALMING PLANS FOR ORIOLE COURT, MIMOSA DRIVE, MOORHEN PLACE AND DOVE LANE – Adoption of Resolution No. 2020-149 approving the traffic calming plans for Oriole Court, Mimosa Drive, Moorhen Place and Dove Lane, Capital Improvement Program Project No. 6070, per the Carlsbad Residential Traffic Management Program. (Staff contact: John Kim, Public Works)

Council Member Schumacher acknowledged the collaborative community efforts regarding the project.

Motion by Council Member Schumacher, seconded by Council Member Bhat-Patel, to approve Consent Calendar Item No. 3. Motion carried unanimously, 4/0.

ORDINANCES FOR INTRODUCTION: None.

ORDINANCE FOR ADOPTION:

5. ADOPTION OF ORDINANCE NO. CS-378 TO DECREASE SPEED LIMIT ON AVENIDA ENCINAS FROM CANNON ROAD TO PALOMAR AIRPORT ROAD – Adoption of Ordinance No. CS-378 amending Carlsbad Municipal Code Section 10.44.280 to decrease the speed limit on Avenida Encinas from Cannon Road to Palomar Airport

Road to 35 miles per hour. (Staff contact: Faviola Medina, City Clerk Services)

City Manager's Recommendation: Adopt Ordinance No. CS-378.

City Attorney Celia Brewer titled the ordinance.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Ordinance No. CS-378. Motion carried unanimously, 4/0.

PUBLIC HEARINGS: None.

DEPARTMENTAL AND CITY MANAGER REPORTS:

6. APPROVAL OF AGREEMENT WITH LOGICALIS, INC. FOR A UNIFIED COMMUNICATION AND COLLABORATION SYSTEM – Adoption of Resolution No. 2020-151 authorizing the city manager to execute an agreement to purchase a Unified Communication System, implementation services and associated items from Logicalis, Inc. for a total not to exceed amount of \$1,223,302 for a three-year period. (Staff contact: Maria Callander and Joe Stephenson, Administrative Services)

City Manager's Recommendation: Adopt the resolution.

Information Technology Director Maria Callander and Information Technology Manager Joe Stephenson presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

In response to an inquiry from Mayor Hall, Manager Stephenson explained the system capabilities to integrate with software applications, including Zoom and Microsoft Teams, for video calls and other tasks.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Resolution No. 2020-151. Motion carried unanimously, 4/0.

7. AMERICANS WITH DISABILITIES ACT BEACH ACCESS FEASIBILITY STUDY AND TRAIL CONNECTIVITY TO TAMARACK STATE BEACH FEASIBILITY STUDY – Adoption of a resolution accepting the Americans with Disabilities Act Beach Access Feasibility Study and the Trail Connectivity to Tamarack State Beach Feasibility Study, including the corresponding concept plans, and directing staff to prepare a request for proposals to pursue the environmental review, agency permitting, engineering and construction documentation phases of the projects. (Staff contact: Kyle Lancaster, Parks & Recreation and Nathan Schmidt, Public Works)

City Manager's Recommendation: Adopt the resolution.

Parks & Recreation Director Kyle Lancaster, Transportation Planning & Mobility Manager Nathan Schmidt, and Chen Ryan Principal Matt Capuzzi presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

The following individual emailed their comment for the record and is on file the Office of the City Clerk: *Steve Linke*.

In response to an inquiry from Council Member Schumacher, Director Lancaster explained the projects were not recommended as priorities from the ad hoc advisory committee formed for the Prop C open space and trail acquisition committee. He further explained Prop C monies are proposed to be designated for the trail connectivity project and shared other details about the project including length, lighting, and closures for safety purposes.

In response to an inquiry from Council Member Schumacher, Principal Capuzzi explained the berm seawall. Director Lancaster commented that the Coastal Commission weighed in and provided comments for both projects and did not appear to be concerned with the berm.

In response to an inquiry from Council Member Schumacher, Director Lancaster explained an at-grade crossing is being considered with the Tamarack Intersection Improvements project.

In response to an inquiry from Mayor Hall, Director Lancaster explained preliminary conversations were held with the state, however, due to limited funding, the local state staff explained their priority was focused on updating the restrooms at Tamarack to be ADA compliant and not these projects. He also explained staff's intent to renew and lengthen the extension of the operating agreement with the state.

In response to an inquiry from Mayor Pro Tem Blackburn, Director Lancaster explained a more detailed tunnel maintenance plan will be presented at a future phase update if the projects are approved.

Council Member Schumacher requested from City Council to bifurcate the item. She stated she is willing to support the forward movement of the ramps at Pine Avenue and at Tamarack Avenue, but is currently uncomfortable with supporting the tunnel option for the following reasons: there's a safety component and the cost of the item when an at-grade crossing can be done that would be less long-term maintenance and less cost and would meet the goals of connectivity. She stated she's also very concerned with the impacts of sea level rise and storm events on the tunnel.

In response to an inquiry from Mayor Pro Tem Blackburn, Director Lancaster explained the traffic safety concerns for an at-grade option. He explained there was not yet a cost estimate for the at-grade option, however, costs for past projects north of the site can be used. He added the approval of the item tonight would lead into the next phase of the

project including developing environmental review and construction documents for City Council's approval before going out to bid.

Council Member Schumacher commented she thinks we should be clear about the detailed costs of pursuing the tunnel option.

In response to an inquiry from Mayor Hall, City Attorney Brewer explained she believed the study could be accepted and that City Council could approve moving forward with only one project, however, a new resolution may be presented reflecting that decision at the next meeting as a consent calendar item to ensure accuracy.

Minute Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, accepting only the Americans with Disabilities Act Beach Access Feasibility Study, including the corresponding concept plans, and directing staff to prepare a request for proposals to pursue the environmental review, agency permitting, engineering and construction documentation phases of the projects. Motion carried unanimously, 4/0.

In response to an inquiry from City Manager Chadwick, City Council members confirmed they would like a memo prepared and returned that compares the Trail Connectivity option to the at-grade crossing option.

RECESS:

Mayor Hall declared a recess at 4:21 p.m.

Mayor Hall reconvened the meeting at 4:28 p.m.

This item was heard before Item No. 8

9. PRESENTATION FROM THE SAN DIEGO ASSOCIATION OF GOVERNMENTS ON THE CARLSBAD VILLAGE AND BARRIO RAILROAD TRENCH ALTERNATIVES – Receive an informational presentation from the San Diego Association of Governments on the status of an analysis of the short trench and long trench alternatives for moving the railroad tracks below street level in the city's Village and Barrio areas. (Staff contact: Hossein Ajideh, Public Works)

City Manager's Recommendation: Receive the presentation.

Mayor Hall recused himself from participating in the discussion of this item at 4:28 p.m. due to a potential conflict of interest.

Engineering Manager Hossein Ajideh and San Diego Association of Governments (SANDAG) Principal Planner Linda Culp presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

The following individuals emailed their comments and questions for the record and are on file the Office of the City Clerk: *Mike Curtin; Richard Hadly; Cody Cullen; JoyLynn*

Murray; Lori Parks; Bradford Jacobs; Peter Taylor; Bob Sukup; Ali Pendleton; Pete Penseyres; Larry Weinbergerj; Alicia Lafferty; Lin Ball.

In response to an inquiry from Council Member Bhat-Patel, SANDAG Principal Planner Culp explained that they have been searching for grant funding opportunities. Manager Ajideh confirmed the city's efforts in researching these as well. SANDAG Principal Planner Culp also explained the anticipated timeline, quiet zones, and parking lot closures to accommodate the temporary track.

In response to an inquiry from Council Member Schumacher, SANDAG Principal Planner Culp explained there are opportunities to exclude the vehicle over cross in the long trench option and about the feedback they had previously received from the community about this. She also explained the efforts in working with the three residential properties identified that will be displaced by the project.

In response to an inquiry from Mayor Pro Tem Blackburn, SANDAG Principal Planner Culp explained there would be a cost saving difference if NCTD were to change the 26 foot trench depth requirement to 24 feet.

Mayor Hall returned to the meeting at 4:53 p.m.

8. SEMIANNUAL TRANSPORTATION REPORT – Receive a semiannual transportation report. (Staff contact: Tom Frank, Public Works)

City Manager's Recommendation: Receive the report.

Transportation Director Tom Frank, Engineering Manager Hossein Ajideh, City Traffic Engineer John Kim, and Traffic & Mobility Commissioner Chuck Hunter presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

In response to an inquiry from Mayor Hall, Manager Ajideh explained an estimated timeline for the challenge on Merwin Drive to be addressed. Mayor Hall requested staff to be in contact and communication with the HOA and residents in the area. Director Frank explained an estimated timeline for traffic signalization to be completed. City Manager Chadwick commented that while the traffic signalization portion of the project may be completed soon, other factors still need to be considered including volume, timing, and travel periods.

In response to an inquiry from Mayor Hall, Director Frank explained staff have been in communication with Caltrans to synchronize with their intersections and traffic signals. City Traffic Engineer Kim explained he would contact SANDAG Traffic Engineering Council to inquire about the Regional Arterial Management system implementation timeframe.

Council received the report.

This item was heard before Item No. 8

9. PRESENTATION FROM THE SAN DIEGO ASSOCIATION OF GOVERNMENTS ON THE CARLSBAD VILLAGE AND BARRIO RAILROAD TRENCH ALTERNATIVES – Receive an informational presentation from the San Diego Association of Governments on the status of an analysis of the short trench and long trench alternatives for moving the railroad tracks below street level in the city’s Village and Barrio areas. (Staff contact: Hossein Ajideh, Public Works)

City Manager’s Recommendation: Receive the presentation.

10. APPOINT THREE MEMBERS TO THE BEACH PRESERVATION COMMISSION – Adoption of Resolution Nos. 2020-152, 2020-153, and 2020-154 appointing three members to the Beach Preservation Commission. (Staff contact: Tammy McMinn, City Clerk Services)

City Manager’s Recommendation: Adopt the resolutions.

The following individual called into the City Council Meeting and shared their comment for the record:

Kathleen Steindlberger commented her interest in being appointed.

Mayor Hall recommended the City Council consider appointing Kathleen Steindlberger, Chris Woosley, and Marcelo Kim.

Motion by Mayor Hall, seconded by Mayor Pro-Tem Blackburn, to adopt Resolution No. 2020-152 appointing Marcelo Yussion Kim to the Beach Preservation Commission. Motion carried unanimously, 4/0.

Motion by Mayor Hall, seconded by Mayor Pro-Tem Blackburn, to adopt Resolution No. 2020-153 re-appointing Kathleen Steindlberger to the Beach Preservation Commission. Motion carried unanimously, 4/0.

Motion by Mayor Hall, seconded by Mayor Pro-Tem Blackburn, to adopt Resolution No. 2020-154 appointing Chris Woolsey to the Beach Preservation Commission. Motion carried unanimously, 4/0.

11. APPOINT TWO MEMBERS TO THE LIBRARY BOARD OF TRUSTEES – Adoption of Resolution Nos. 2020-155 and 2020-156 appointing two members to the Library Board of Trustees. (Staff contact: Tammy McMinn, City Clerk Services)

City Manager’s Recommendation: Adopt the resolutions.

The following individual emailed their comment for the record and is on file the Office of the City Clerk: *Gina Payne McBride*.

Mayor Hall recommended the City Council consider appointing Sherman DeForest and Gina Payne McBride.

Motion by Mayor Hall, seconded by Mayor Pro-Tem Blackburn, to adopt Resolution No. 2020-155 re-appointing Sherman DeForest to the Library Board of Trustees. Motion carried unanimously, 4/0.

Motion by Mayor Hall, seconded by Mayor Pro-Tem Blackburn, to adopt Resolution No. 2020-156 re-appointing Gina McBride to the Library Board of Trustees. Motion carried unanimously, 4/0.

COUNCIL REPORTS AND COMMENTS:

Council Member Bhat-Patel dedicated the meeting in memory of Hallie Shea.

Mayor Hall commented he would like for City Council to have a conversation to determine and direct staff to understand what the most important issues are for them to be focused on in an effort to decrease items being presented to them late in the day. He directed City Manager Chadwick to find a time to schedule this.

PUBLIC COMMENTS CONTINUED:

The following individual called into the City Council Meeting and shared their comment for the record:

Pierre Cochet-Weinandt expressed his concerns related to the enforcement of safety measures when businesses reopened during the pandemic.

CITY MANAGER COMMENTS: None.

CITY ATTORNEY COMMENTS: None.

CITY CLERK COMMENTS: None.

ANNOUNCEMENTS: None.

ADJOURNMENT: Mayor Hall adjourned the duly noticed meeting at 5:33 p.m.

Mia De Marzo
Deputy City Clerk



Minutes

July 28, 2020, 1:30 p.m.

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

CALL TO ORDER: 1:30 p.m.

ROLL CALL: Hall, Blackburn, Bhat-Patel, Schumacher.

PUBLIC COMMENT ON AGENDA ITEM: None.

CLOSED SESSION:

City Attorney Celia Brewer read the City Council into Closed Session.

Council adjourned into Closed Session at 1:30 p.m. pursuant to the following:

1. **CONFERENCE WITH LABOR NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54957.6**

City Negotiators: Geoff Patnoe, Assistant City Manager, Laura Rocha, Deputy City Manager, Judy Von Kalinowski, Human Resources Director, Debbie Porter, Senior Management Analyst, Darrin Schwabe, Senior Management Analyst, Erika Benitez, Senior Management Analyst, Drew Cook, Management Analyst and Timothy Davis, Burk, Williams & Sorenson.

Employee Organization: CCEA

If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.

Council Action: No reportable action.

2. **CONFERENCE WITH LEGAL COUNSEL REGARDING ANTICIPATED LITIGATION**

That the City Council, by motion, authorize a closed session regarding significant exposure to litigation of one case, pursuant to Government Code Section 54956.9(d)(2).

Council Action: No reportable action.

ADJOURNMENT:

By proper motion, the Special Meeting of July 28, 2020 was adjourned at 2:21 p.m.

Tamara R. McMinn, CPMC, CMC
Senior Deputy City Clerk



CITY COUNCIL
Staff Report

Meeting Date: Aug. 18, 2020

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Faviola Medina, City Clerk Services Manager
 faviola.medina@carlsbadca.gov, 760-434-5989

Subject: Adoption of Ordinance No. CS-379 – Amendment to the Carlsbad Corporate Plaza Specific Plan to Remove the 6,000 Square-Foot Limitation on Medical Office Use for existing office buildings located at 6183-6185 Paseo del Norte

Recommended Action

Adopt Ordinance No. CS-379 amending the Carlsbad Corporate Plaza Specific Plan (SP 23(H)) to remove the 6,000 square-foot limitation on medical office use for existing office buildings located at 6183-6185 Paseo del Norte within the Mello II segment of the city’s Local Coastal Program and Local Facilities Management Zone 3.

Executive Summary /Discussion

Ordinance No. CS-379 was introduced and first read at the City Council meeting held on July 28, 2020. On a motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, the City Council voted 4-0 to introduce the ordinance. The second reading allows the City Council to adopt the ordinance, which will become effective thirty days after adoption.

Fiscal Analysis

All required improvements needed to serve this project will be funded by the developer.

Next Steps

The city clerk will have the ordinance, or summary of the ordinance, published in a newspaper of general circulation within fifteen days following adoption of the ordinance.

Environmental Evaluation (CEQA)

The city planner has determined that the project belongs to a class of projects that the state secretary for resources has found do not have a significant impact on the environment, so the project is categorically exempt from the requirement for the preparation of an environmental document in keeping with California Environmental Quality Act Guidelines Section 15061(B)(3) (the general rule or common sense exception) and City of Carlsbad Municipal Code Section 19.04.070(A)(1)(c) (for Specific Plan amendment 2019-0002), and CEQA Guidelines Section 15332 – In-Fill Development Projects (for Minor Site Development Plan and Coastal Development Permit SDP 2019-0003/CDP 2019-0005). A notice of exemption will be filed by the city planner upon project approval.

Public Notification and Outreach

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to scheduled meeting date.

Exhibits

1. Ordinance No. CS-379

ORDINANCE NO. CS-379

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AMENDING THE CARLSBAD CORPORATE PLAZA SPECIFIC PLAN (SP 23(H)) TO REMOVE THE 6,000-SQUARE-FOOT LIMITATION ON MEDICAL OFFICE USE FOR EXISTING OFFICE BUILDINGS LOCATED AT 6183-6185 PASEO DEL NORTE WITHIN THE MELLO II SEGMENT OF THE CITY'S LOCAL COASTAL PROGRAM AND LOCAL FACILITIES MANAGEMENT ZONE 3.

CASE NAME: CARLSBAD CORPORATE PLAZA PARKING STRUCTURE

CASE NO.: AMEND 2019-0002

The City Council of the City of Carlsbad, California, does ordain as follows:

WHEREAS, the Carlsbad Corporate Plaza Specific Plan (SP 23) was originally adopted by City Council Ordinance No. 9293 on March 21, 1972 and has been amended several times and contains the uses, development standards and design guidelines for the development of the Specific Plan area; and

WHEREAS, the Carlsbad Corporate Plaza Specific Plan is the implementing ordinance for this property; and

WHEREAS, the City Council of the City of Carlsbad has reviewed and considered a Specific Plan Amendment (AMEND 2019-0002); and

WHEREAS, the amendment to remove the existing 6,000-square-foot limitation on medical office use will allow the two existing buildings, currently used as a combination of general offices and medical offices, to be used entirely as medical offices; and

WHEREAS, medical offices are listed as a permitted use in the Carlsbad Corporate Plaza Specific Plan and a parking structure is allowed with the approval of a minor site development plan and coastal development permit; and

WHEREAS, after procedures in accordance with requirements of law, the City Council has determined that the public interest indicates that said Specific Plan Amendment (AMEND 2019-0002) be approved.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Carlsbad, California, ordains as follows that:

1. The above recitations are true and correct.
2. That the Specific Plan Amendment AMEND 2019-0002 (Attachment A), is adopted. The Carlsbad Corporate Plaza Specific Plan shall constitute the zoning for the property and all development of the property shall conform to the Specific Plan.
3. That the findings and conditions of the Planning Commission in Planning Commission Resolution No. 7371 shall also constitute the findings and conditions of the City Council.

EFFECTIVE DATE: This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the 28th day of July, 2020, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the __ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

APPROVED AS TO FORM AND LEGALITY:

CELIA A. BREWER, City Attorney

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)



CITY COUNCIL Staff Report

Meeting Date: Aug. 18, 2020
To: Mayor and City Council
From: Scott Chadwick, City Manager
Staff Contact: Geoff Patnoe, Assistant City Manager
Geoff.patnoe@carlsbadca.gov, 760-434-2820
Subject: COVID-19 Actions and Expenditures Report

Recommended Action

Receive a report on recent actions and expenditures related to the city's response to the COVID-19 pandemic and provide direction as appropriate.

Executive Summary/Discussion

At the April 7, 2020, City Council meeting, the City Council voted unanimously to direct staff to return to the City Council with financial expenditure reports relating to the city's response to the COVID-19 pandemic. The city manager further committed to provide a bi-weekly update to the City Council on recent actions and expenditures related to the city's response to the pandemic. For these updates, staff from the following major service areas will provide verbal reports on current statistics, data, programming and relevant communications:

- City Manager's Office
- Emergency Operations
- Community Services
- Police
- Fire
- Economic Revitalization and Recovery
- Administrative Services

Fiscal Analysis

None.

Next Steps

Staff will continue to provide the reports bi-weekly until the end of the emergency.

Environmental Evaluation (CEQA)

This action does not constitute a "project" within the meaning of the California Environmental Quality Act under California Public Resources Code Section 21065 in that it has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and therefore does not require environmental review.

Public Notification

Public notice of this item was posted in keeping with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours before the scheduled meeting date.

Exhibits

None



CITY COUNCIL
Staff Report

Meeting Date August 18, 2020

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Laura Rocha, Deputy City Manager
laura.rocha@carlsbadca.gov, 760-602-2415

David Graham, Chief Innovation Officer
david.graham@carlsbadca.gov, 760-434-5992

Subject Economic Recovery and Revitalization Initiative Updates and Actions

Recommended Action

1. Adopt a resolution that includes the following actions:
 - a. Makes findings that a small business loan program to mitigate the impacts of COVID-19 serves a public purpose and provides a public benefit
 - b. Modifies the small business loan program to include additional parameters and evaluation criteria as shown in Attachment A of the resolution
 - c. Authorizes the city manager or designee to execute a contract with CDC Small Business Finance for loan administration services with an initial three-year term and a not-to-exceed amount of \$350,000 as shown in Attachment B to the resolution
 - d. Authorizes the deputy city manager, administrative services to sign the small business loan agreements and other documents necessary to originate and service the loans
 - e. Allocates \$25,000 of the Economic Recovery and Revitalization Initiative monies set aside for contingency or future City Council decisions to fund business community outreach
2. Provide additional direction based upon a report out by the Ad Hoc City Council Economic Revitalization Subcommittee

Executive Summary

The Economic Recovery and Revitalization Initiative approved by the City Council on April 21, 2020, has been crucial to the City of Carlsbad's economic response, recovery and revitalization efforts related to the COVID-19 pandemic. On May 5, 2020, the City Council allocated \$5,000,000 to the initiative, which has been guided by the Ad Hoc City Council Economic Revitalization Subcommittee and the City Council.

In conjunction with the Carlsbad Chamber of Commerce and Carlsbad Village Association, the city has provided significant outreach to the business community. Fifteen joint

communications, live webinars, and significant engagement with the business community has had a positive result. Efforts to date have not required any funding. Recently, the need has arisen to provide materials, such as signage, digital media, and floor stickers to hotels and potentially to other businesses. These materials aid in communicating the message that in Carlsbad we practice safe COVID-19 behaviors. The action staff is recommending would authorize the use of up to \$25,000 of the initiative's contingency funds for business community outreach, including both work that has been done and yet to be done.

On May 5, the City Council approved parameters for a small business loan program that included loans with durations of between six months and 30 months. The city manager was authorized to negotiate with a third party to administer the program and directed to return to the City Council with a contract for approval if the contract exceeded \$100,000 annually. The program was expected to require loan administration services for three to four years at an approximate cost of \$300,000 to \$400,000.

Staff selected CDC Small Business Finance, a non-profit lending organization headquartered in San Diego with significant experience in local lending, to administer the program. Staff is requesting the City Council authorize the city manager or designee to execute a contract with CDC Small Business Finance for small business loan services, including loan review and disposition and loan service portfolio management. The contract would have an initial three-year term and a cost not to exceed \$350,000.

Since the parameters for the small business loan program were first approved, financial assistance for local businesses has been made available primarily through the federal Paycheck Protection Program and the county's small business stimulus grants. At the same time, the health emergency has been prolonged. Because of these changes, staff is proposing the council approve refined loan parameters that are based on consultation with CDC Small Business Finance, a survey of businesses and specific data from businesses seeking COVID-19 relief loans.

The Ad Hoc City Council Economic Revitalization Subcommittee has continued to solicit, evaluate and recommend economic relief measures to support businesses affected by the COVID-19 pandemic. This item will provide information regarding additional measures under consideration by the subcommittee for City Council discussion and potential action.

Discussion

Overview

On May 5, 2020, the City Council approved funding for the Economic Recovery and Revitalization Initiative to support businesses affected by the COVID-19 pandemic and the restrictions in the health orders issued to slow the spread of the disease. From this amount, the City Council has approved the following funding priorities:

- \$4,400,000 to the small business loan program
- \$250,000 to a joint marketing strategy with the Chamber of Commerce and the Carlsbad Village Association
- \$250,000 to be held as a contingency or for future City Council decisions
- \$50,000 for the city to secure landlord-tenant mediation and renegotiation services

- \$50,000 for relief for the leaseholders of city properties

In addition to these efforts, the Ad Hoc City Council Economic Revitalization Subcommittee, the City Council, and city staff have taken significant steps to address the economic impacts of COVID-19. This includes:

- Passage of a commercial eviction moratorium
- Empowering the director of emergency services (the city manager) to temporarily suspend or modify certain land development standards to mitigate the economic impact of COVID-19
- Creating joint communications with the Carlsbad Chamber of Commerce and the Carlsbad Village Association and distributing them to every business license holder in Carlsbad
- Funding the “Carlsbad is Calling” \$250,000 business promotion and tourism marketing campaign

Small Business Loan Program

The City Council authorized the city manager to establish a small business loan program with pandemic-related small business microloans of \$5,000 to \$10,000 and small business recovery loans of \$10,000 to \$25,000.

The City Council also approved these parameters for the program:

- Small business should be the initial focus of the program
- Qualified applicants for the small business microloan program must have gross revenue of less than \$2,000,000
- Qualified applicants for the small business recovery loan program must have gross revenue of less than \$3,000,000
- Applicants must hold a valid business license as of March 1, 2020
- Applicants must be in good financial standing with the city
- No loans can be awarded to a business for expenses that were funded by any federal, state or local agency
- National chains and franchises not meeting certain criteria are excluded
- Smaller regional businesses with a physical presence in Carlsbad are eligible
- Loans should be for operational expenses such as rent, payroll, mortgage interest and utilities
- The program should be administered by a third party with experience in lending

In May, city staff issued a short-form application to begin the process of qualifying businesses for the business loan program while, at the same time, evaluating potential loan administrators. A total of 183 businesses applied and were evaluated based upon meeting the gross revenue and business license criteria.

During this evaluation, city staff recognized that some adjustments to the program and parameters would allow for expanded participation and greater use of the funds. For example, the requirement to have a valid business license as of March 1, 2020 excludes businesses that were in the renewal process. City staff propose that the business license criteria be having a

valid business license or applied for a business license as of April 1, 2020. This new parameter would allow for loans for businesses that were in operation at the beginning of the pandemic but for one reason or another had not been issued a valid business license as of March 1, 2020.

The initial program allowed loan funds to be used for payroll, rent, utilities, and mortgage interest. The pandemic's impact on businesses has become clearer, and staff now proposes to expand the use of funds to include the cost of complying with the health orders and making the related adaptations to their businesses. This would include the cost of construction, furniture and equipment needed to comply with the public health orders as well as activating additional business operation areas. For example, proceeds could be used to pay for the new furniture and tent required to operate a restaurant outdoors.

Staff is also proposing another minor adjustment to the program related to the deferral of the first loan payment. Currently, deferral is allowed automatically for up to 90 days and up to 180 days with a demonstrated hardship. With the COVID-19 emergency entering its sixth month in the region, setting a clear and actionable threshold for hardship would be difficult given the wide range of the pandemic's impacts on businesses. Staff proposes to make the automatic deferral 180 days, which is consistent with the 0% six-month repayment terms for the small business microloan.

City staff evaluated loan program administrators with a focus on local non-profits with experience in small business lending. CDC Small Business Finance was selected because of its long history in small business lending as well as specific experience in COVID-19-related small business lending. Since it was established in 1978, CDC Small Business Finance has provided over 12,000 loans and access to over \$20 billion dollars in capital to small businesses. Through these loans, nearly 209,000 jobs have been created or preserved. CDC Small Business Finance is also working to support businesses impacted by the pandemic by providing loans and advisory programs.

CDC Small Business Finance has evaluated the parameters of the business loan program approved by the City Council and, based on its experience in small business lending, has recommended a set of evaluation criteria for their review of business loans. These are:

- A credit score of 640 or higher
- If a credit score is less than 640, evaluation the reason with the applicant to determine risk and make a recommendation
- If the business has gone through bankruptcy, that bankruptcy must have been at least three years ago
- No open liens, judgments or lawsuits that would affect the business's ability to pay back the loan

The revised business loan program parameters and the evaluation criteria by CDC Small Business Finance are included as Attachment A to Exhibit 1.

As noted above, the City Council authorized the city manager to negotiate and execute a contract with a lending service provider and directed him to return to the council if the cost of the contract exceeded \$100,000 annually. A loan service provider will be required for three to

four years, given that the longest loan term available is 30 months. This work will include loan servicing and management of the loan portfolio. The contract proposed by staff for City Council approval is for an initial three-year term and a cost not to exceed \$350,000. This is an approximately 9% administration cost on a \$4,000,000 loan program.

As the city will be the lender of record, staff also requests authorization for the deputy city manager, administrative services to sign the small business loans agreements and other documents necessary to originate and service the loans.

Ad Hoc City Council Subcommittee update

The Ad Hoc Economic Development Subcommittee has met 15 times since its first meeting in April. During that time, the subcommittee has provided input on the city's pandemic response, recovery and revitalization efforts and made recommendations to the City Council to support Carlsbad businesses.

The city's economic relief efforts began at the very beginning of the health crisis. To date it has included:

- A small business loan program to address COVID-19 impacts
- Relief for leaseholders on city properties
- Securing landlord-tenant mediation and renegotiation services
- A communication program including webinars with live polling done in conjunction with the Carlsbad Chamber of Commerce and Carlsbad Village Association
- A campaign to support the responsible reopening of businesses
- A visitor education campaign on mandatory COVID-19 practices with hotels and visitor-serving accommodations
- Extension of building applications and issued permits
- Temporary suspension or modification of land use regulations to allow for expanded outdoor operations
- Evaluation of temporarily closing a stretch of State Street to vehicles to activate it for businesses and pedestrians
- Referred business community ideas on advocacy to the City Council Legislative Subcommittee
- Creation of "Carlsbad is Calling," a business promotion and tourism marketing program to be launched at the appropriate time

The subcommittee has also evaluated many other ideas and received input from residents and businesses which city staff research and provide for subcommittee discussion. Recently, the subcommittee has discussed the following:

- Participation in a "shop local" program being developed by the Carlsbad Chamber of Commerce and Carlsbad Village Association
- Addressing permit fees for the use of public property, such as sidewalks and on-street parking

- A proposal by the Carlsbad Charitable Foundation to create a COVID-19 special fund that would raise and distribute grants to non-profits impacted by the health emergency

This item will allow for the City Council to discuss these measures and provide any additional direction on the city's economic response, recovery, and revitalization efforts.

Fiscal Analysis

The city has allocated \$5 million to COVID-19 related economic response, recovery and revitalization.

Next Steps

City staff will execute the contract with CDC Small Business Finance. CDC Small Business Finance will review loan applications based on city parameters and evaluation criteria. Applicants that qualify will be forwarded to the city for final verification. Upon final verification, CDC Small Business Finance will generate and route loan documents for signature by the borrower and the city. CDC Small Business Finance will provide monthly reports to the city on the status of loans and will invoice the city for its services. Staff will provide updates on the status of the loan program during the regular COVID-19 Actions and Expenditures report at City Council meetings.

Environmental Evaluation (CEQA)

This action does not constitute a "project" within the meaning of the California Environmental Quality Act under Public Resources Code section 21065 in that it has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and therefore does not require environmental review.

Public Notification

Public notice of this item was posted in keeping with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours before the scheduled meeting date.

Exhibits

1. Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING FURTHER IMPLEMENTATION OF THE ECONOMIC RECOVERY AND REVITALIZATION INITIATIVE AND MODIFICATIONS TO THE COVID-19 SMALL BUSINESS LOAN PROGRAM

WHEREAS, on February 14, 2020 the San Diego County Health Officer declared a Local Health Emergency as a result of the spread of COVID-19; and

WHEREAS, on March 4, 2020 Governor Newsom proclaimed a statewide state of emergency as a result of the spread of COVID-19; and

WHEREAS, on March 16, 2020, the Director of Emergency Services proclaimed a local state of emergency as a result of the COVID-19 pandemic, which the City Council subsequently ratified and extended; and

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order N-33-20 directing individuals living in California to comply with a State Public Health Officer order to stay at home except as needed to facilitate authorized, necessary activities or to maintain the continuity of operations at critical infrastructure sectors; and

WHEREAS, on May 4, 2020 Governor Newsom issued Executive Order N-60-20 allowing non-essential businesses to reopen in four stages in compliance with criteria set by the State Public Health Officer and based on certain public health criteria being met on a county-by-county basis; and

WHEREAS, on June 19, 2020, dine-in restaurants, alcohol-serving businesses offering dine-in meals, personal care services businesses and other businesses in the County of San Diego were permitted to reopen subject to compliance with state issued guidance; and

WHEREAS, on July 13, 2020 a statewide public health officer order was issued closing bars, pubs, brewpubs, and closing indoor operations of dine-in restaurants, wineries, tasting rooms, family entertainment centers, movie theaters, zoos, museums, and cardrooms; and

WHEREAS, the State of California has issued industry guidance for businesses that are allowed to reopen that require modification to business operations which has a direct cost and may have an impact on the space in which businesses may operate thus impacting revenue; and

WHEREAS, the impact of COVID-19 on businesses and the workforce is significant with the State of California unemployment rate in June standing at 14.9 percent which is higher than the 12.3 percent it was during the height of the Great Recession (March, October, and November 2010); and

WHEREAS, the City of Carlsbad unemployment rate in June was 12.6 percent compared to the 2019 average of 2.9%; and

WHEREAS, the City of Carlsbad conducted a survey of businesses impacted by COVID-19 which ended in July and found that seventy-two percent of companies indicated the need for further financial assistance to maintain operations over the next six months; and

WHEREAS, seventy-eight percent of businesses surveyed indicated that they experienced a revenue decrease of more than 25 percent due to COVID-19; and

WHEREAS, the City of Carlsbad approved a resolution creating an Ad Hoc City Council Economic Revitalization Subcommittee on April 7, 2020; and

WHEREAS, the Ad Hoc City Council Economic Revitalization Subcommittee has met fifteen times since it was created and provides input on the city's COVID-19 related economic relief efforts and recommendations to the City Council; and

WHEREAS, it is in the public interest to take steps to ensure local businesses remain economically viable during the COVID-19 pandemic state of emergency; and

WHEREAS, there is a public benefit to providing economic relief impacted by the COVID-19 health emergency, so they may continue providing jobs and tax revenue to the City of Carlsbad which funds public services; and

WHEREAS, there is a public benefit to providing access to operating capital in the form of low-cost or no-cost loans to allow businesses to fund the cost of payroll, utilities, rent, mortgage interest, insurance, and business operation modification or adaptations necessary to comply with the public health orders; and

WHEREAS, adopting this resolution is necessary and appropriate to mitigate the immediate threats to the public health, safety, and welfare of residents and local businesses from the significant economic impacts of the COVID-19 pandemic by providing economic relief and providing resources to remain open in compliance with the public health orders.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Carlsbad, California, as follows:

1. That the above recitations are true and correct.
2. That conducting a small business loan program to mitigate the impacts of COVID-19 serves a public purpose and provides a public benefit.

3. That the parameters for the small business loan program are as shown in Attachment A.
4. That the city manager or designee is authorized to execute the contract with CDC Small Business Finance to provide loan administration services as shown in Attachment B.
5. That the deputy city manager, administrative services, is authorized to sign small business loan agreements and other documents necessary to originate and service the loans.
6. That \$25,000 is allocated from the Economic Recovery and Revitalization Initiative monies set aside for contingency or future City Council decisions to fund business community outreach.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the __ day of _____, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)

**CITY OF CARLSBAD
COVID-19 SMALL BUSINESS LOAN PROGRAM**

A. LOAN PARAMETERS

The following are the parameters for all loans issued under the City of Carlsbad's COVID-19 small business loan program. They are designed to ensure businesses that need resources during the pandemic receive support. Based upon consultation with CDC Small Business Finance, a survey of businesses, and specific information from business that have applied for loans, the following program structure provides for significant participation and deployment of resources while addressing the risk of significant defaults.

1. All applicants must have a valid City of Carlsbad business license or show proof that they have applied for a business license or business license renewal before April 1, 2020.
2. All applicants must be in good standing with the city.
3. Nationally owned chain businesses or franchises are ineligible; however, chains or franchises that are located in Carlsbad and have a business owner that lives within San Diego County are eligible.
4. Loan funds may be used for operational expenses, such as rent, payroll, mortgage interest, utilities, insurance, the cost of complying with public health orders, and the cost of activating business operation areas.
5. The first loan repayment may be deferred up to 180 days from the date the loan is issued.
6. The city offers small business microloans of \$5,000 to \$10,000 for businesses with gross receipts of \$2,000,000 or less, or 15 employees or less, and terms of 0% interest if paid back within six months, 1% if paid back within twelve months, and 2% if paid back within eighteen months.
7. The city offers small business recovery loans of \$10,000 to \$25,000 for businesses with gross receipts of \$3,000,000 or less and fewer than 50 employees and terms of 2% interest if paid pack within twelve months and 3% if paid back within thirty months.

B. LOAN APPLICATION EVALUATION AND DISPOSITION

CDC Small Business Finance (CDCSBF) will review loan applications based upon the goal of deploying resources to businesses that are affected by COVID-19 while considering factors that present a high risk of default. These factors include:

1. Minimum 640 FICO score but will engage with applicants that have a lower score to understand mitigating factors that may be affect the risk of default
2. Bankruptcy must be at least three years old but will engage with applicants with more recent bankruptcy to understand mitigating factors that may affect the risk of default
3. No open liens, judgments, or lawsuits that may present a high risk of default
4. Business owner will be required to sign a personal guarantee, or if there are multiple business owners, the majority business owner will be required to sign the personal guarantee.

CDCSBF will provide a list of reviewed applications to the city for validation. Upon validation CDCSBF, will generate the loan documents and route them for signature by the borrower and deputy city manager, administrative services. CDCSBF will service the loan portfolio and will provide monthly reports and invoices to the city for their services.

**AGREEMENT FOR SMALL BUSINESS LOAN SERVICES
CDC SMALL BUSINESS FINANCE**

THIS AGREEMENT is made and entered into as of the _____ day of _____, 20____ ("Effective Date"), by and between the CITY OF CARLSBAD, a municipal corporation ("City"), and CDC Small Business Finance, a non-profit, private organization ("Contractor").

RECITALS

- A. City requires the professional services of a non-profit contractor that is experienced in providing small business lending services.
- B. Contractor has the necessary experience in providing professional services and advice related to small business lending.
- C. Selection of Contractor is expected to achieve the desired results and efficiencies in an expedited fashion.
- D. Contractor has submitted a proposal to City and has affirmed its willingness and ability to perform such work.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained herein, City and Contractor agree as follows:

1. SCOPE OF WORK

City retains Contractor to perform, and Contractor agrees to render, those services (the "Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

2. STANDARD OF PERFORMANCE

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California Area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

3. TERM

The initial term of this Agreement will be for a period of three (3) years from the Effective Date. The City Manager may extend the Agreement for up to an additional one (1) year period.

4. TIME IS OF THE ESSENCE

Time is of the essence for each and every provision of this Agreement.

5. COMPENSATION

The total fee payable for the Services to be performed during the Agreement term shall not exceed Three Hundred and Fifty Thousand Dollars (\$350,000). No other compensation for the Services will be allowed except for items covered by subsequent amendments to this Agreement. The City reserves the right to withhold a ten percent (10%) retention until City has accepted the work and/or Services specified in Exhibit "A."

6. STATUS OF CONTRACTOR

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as

City Attorney Approved Version 6/12/18

necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to the Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

7. SUBCONTRACTING

Contractor will not subcontract any portion of the Services without prior written approval of City, except as explicitly outlined in the Agreement. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

8. OTHER CONTRACTORS

The City reserves the right to employ other Contractors in connection with the Services.

9. INDEMNIFICATION

Each party shall indemnify, defend, protect, hold harmless, and release the other, its officers, agents, and employees, from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees and witness costs) arising from or in connection with, or caused by any act, omission, or negligence of such indemnifying party or its agents, employees, contractors, subcontractors, or invitees. This indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages or compensation payable to or for the indemnifying party under workers' compensation acts, disability benefit acts, or other employee benefit acts. This indemnity provision survives the Agreement. Contractor agrees to indemnify and hold harmless the City and its officers, officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described herein caused by any negligence, recklessness, or willful misconduct of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

10. INSURANCE

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance

City Attorney Approved Version 6/12/18

carrier is required to have a current Best's Key Rating of not less than "A:-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

10.1 Coverage and Limits.

Contractor will maintain the types of coverage and minimum limits indicated below, unless the Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

10.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal & advertising injury, with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

10.1.2 Automobile Liability. (if the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

10.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

10.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$2,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

10.2 Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

10.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

10.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

10.2.3 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

10.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

10.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach or may purchase

City Attorney Approved Version 6/12/18

replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

10.5 Submission of Insurance Policies. City reserves the right to require, at any time, complete and certified copies of any or all required insurance policies and endorsements.

11. BUSINESS LICENSE

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

12. ACCOUNTING RECORDS

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

13. OWNERSHIP OF DOCUMENTS

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

14. COPYRIGHTS

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

15. NOTICES

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement.

For City

Name David Graham
 Title Chief Innovation Officer
 Department Office of Innovation and Economic Development
 Address 202 C Street
Carlsbad Village Drive
Carlsbad, CA 92008
 Phone No. 760-434-5992

For Contractor

Name Robert Villarreal
 Title Executive Vice President
 Address CDC Small Business Finance
2448 Historic Decatur Rd #200, San Diego, CA 92106
 Phone No. 619-234-8652
 Email rvillarreal@cdcloans.com

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

16. CONFLICT OF INTEREST

Contractor shall file a Conflict of Interest Statement with the City Clerk in accordance with the requirements of the City of Carlsbad Conflict of Interest Code. The Contractor shall report investments or interests in all categories.

Yes No

17. GENERAL COMPLIANCE WITH LAWS

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

18. DISCRIMINATION AND HARASSMENT PROHIBITED

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination and harassment.

19. DISPUTE RESOLUTION

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

20. TERMINATION

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

Either party upon tendering thirty (30) days written notice to the other party may terminate this Agreement. In this event and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

21. COVENANTS AGAINST CONTINGENT FEES

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

22. CLAIMS AND LAWSUITS

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code sections 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

23. JURISDICTION AND VENUE

Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

24. SUCCESSORS AND ASSIGNS

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

25. ENTIRE AGREEMENT

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties.

City Attorney Approved Version 6/12/18

26. AUTHORITY

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

CONTRACTOR

CITY OF CARLSBAD, a municipal corporation of the State of California

By:

By:

(sign here)

Geoff Patnoe

Kurt Chilcott, CEO/President

Assistant City Manager

(print name/title)

ATTEST:

By:

(sign here)

BARBARA ENGLESON

(print name/title)

City Clerk

If required by City, proper notarial acknowledgment of execution by contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups.

Group A
Chairman,
President, **or**
Vice-President

Group B
Secretary,
Assistant Secretary,
CFO **or** Assistant Treasurer

Otherwise, the corporation must attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CELIA A. BREWER, City Attorney

BY: _____
Assistant City Attorney

EXHIBIT "A"**SCOPE OF SERVICES****COVID-19 Small Business Loan Program Administration**

Small Business Finance

CDC Small Business Finance

As a leader in the community and economic development field, CDC Small Business Finance (CDC) provides access to transformative products, services, and advocacy to ensure all small businesses have the opportunity to succeed and grow.

We offer a variety of low-interest financing that fit the needs of small businesses no matter where they are in the growth cycle. Start-ups to seasoned companies and every small business in between can benefit from our financing programs. Over four decades, CDC and its affiliate companies have provided more than \$18 billion in funding to over 11,000 small business owners.

Overview:

The City of Carlsbad is seeking an administrator for its COVID-19 business loan program. CDC has a strong history of providing low-interest financing and business support for small businesses.

During the pandemic the CDC has been a leading non-profit lender of the Paycheck Protection Program (PPP), a source of low-interest financing, and an informational resource for small businesses.

CDC also has active loans with Carlsbad businesses and is an experienced lender to north county companies. Carlsbad has a diverse economy and given our experience in lending to businesses of all kinds, we have the knowledge and people to make this program a success.

One advantage of partnering with CDC is that we can offer more financial products and resources to aid in the long-term resilience of Carlsbad businesses, via CDC and its affiliate companies. We believe that small businesses are the backbone of the economy and by connecting them with advice, access to capital, and resources we help businesses thrive. Right now, we are all focused on supporting the economy during the pandemic. But, we see our involvement as growing our existing support for Carlsbad businesses into a more expansive and long-term relationship of supporting your economy.

City Attorney Approved Version 6/12/18

Business Loan Program Administration:

CDC proposes the following for administering the program:

- Dedicated small business advisor included
- Dedicated online application portal included
- Initial setup of Laser Pro \$500
- Application review and denial per application fee \$250
- Application review and disposition per application fee \$1000
 - Credit score check
 - Collection of documents from borrower
 - Analysis of documents from borrower
 - Approval
- File management included in application review and disposition fee
- Preparing closing documents included in review and disposition fee
- Annual loan servicing of a portfolio exceeding \$2,000,000 .25%
 - Payment collection
 - Portfolio management
 - Accounting
- Monthly reporting to the City of Carlsbad is included
- (Optional) Liquidation services \$75 per hour

We believe in supporting small business and our cities. The cost associated with administering this program reflect the heart of the way our non-profit does business. With these reduced administrative fees more funding can go to the businesses that need it most.

Loan Servicing

CDCSBF will provide Loan Servicing as part of the Agreement. Loan servicing consists of managing the loan file after loan closing.

CDCSBF will provide the following:

- i. Upon notification of loan funding by CITY OF CARLSBAD, CDCSBF will prepare and send a package of loan document records and payment plan information to the CITY OF CARLSBAD, enroll the loan in CDCSBF payment processing system and update CDCSBF's loan management system (Ventures+) with relevant funding data and loan monitoring requirements.
- ii. Loan payments for the CITY OF CARLSBAD loan, collected via ACH, will be collected and managed by CDCSBF. All payments will be deposited to a segregated account managed by CDCSBF Accounting Department. On a monthly basis, CDCSBF will wire the balance of loan payments received by CDCSBF and invoice the city for any fees due to CDCSBF.

- iii. Monthly reports including a Non-Current Report with Portfolio Risk Rate and Trial Balance Report will be provided by CDCSBF to CITY OF CARLSBAD.
- iv. CDCSBF will request annual business financial statements of borrowers, annual personal financial statements of each guarantor and any other reasonable requested document or report related to a specific credit risk identified by CITY OF CARLSBAD for a borrower and, when secured will review and risk rate each loan. In the event a borrower does not respond to repeated requests for updated financial information, CDCSBF shall establish each loan risk rating based upon repayment history, seasoning, industry standards and other factors as applicable to loan borrowers.
- v. Loans that become delinquent will be serviced by CDCSBF which may include repeated telephone, email and/or written demands of payment and fees due beginning within 5 (five) business days of the payment default. Repeated or ongoing delinquencies will result in a downgrade of the loan risk rating.
- vi. CITY OF CARLSBAD loans that become 61 days delinquent will be transferred to a CDCSBF Liquidation Analyst for Intensive Servicing and moved to Liquidation Status. A summary report of the loan, cause for delinquency and recommended course of action will be provided by CDCSBF to CITY OF CARLSBAD. Any actions that may result in loan repayment deferment, loan modification or loan charge off will only be executed by CDCSBF after receipt of written approval by a CITY OF CARLSBAD representative.
- vii. General servicing actions, including but not limited to file at closing and extend UCC filings for each loan as required by state law, collateral release, loan subordination, ownership changes, address changes, etc. will be completed on behalf of CITY OF CARLSBAD by CDCSBF. All such actions that would impact the collateral position or loan guarantee for CITY OF CARLSBAD will be approved by CITY OF CARLSBAD in advance of taking any such action.
- viii. CDCSBF will monitor all CITY OF CARLSBAD loans for compliance on loan conditions and covenants through the term of this Agreement or the loan term, whichever is shorter.

Conclusion

Carlsbad is a vibrant place with a diverse economy. Our proposal reflects our desire to build upon the support we are already providing to Carlsbad companies and deliver top-notch service to companies that are struggling during the pandemic.

Whether it is support directly from the city or finding financing solutions through other public and private programs, our goal will be to invest in the long-term viability of Carlsbad, its companies, and economy.



CITY OF CARLSBAD COVID-19 BUSINESS LOAN PROGRAM \$5,000- \$25,000

Term Sheet

Use of Proceeds	<ul style="list-style-type: none"> Working Capital – Payroll, Rent, Utilities, Mortgage Interest, Insurance, COVID-19 Compliance and Adaptation 			
Min/Max Loan Amount	<ul style="list-style-type: none"> \$5,000 – \$10,000 Gross revenues cannot exceed \$2MM and 15 or fewer employees 	<ul style="list-style-type: none"> \$10,000 – \$25,000 Gross revenues cannot exceed \$3MM and 50 or fewer employees 		
Credit Score	<ul style="list-style-type: none"> Minimum 640 FICO Bankruptcy at least 3 years old No open liens, judgements, suits 			
Required Documents	<ul style="list-style-type: none"> Application Bank Statement from 12/31/19 to current 			
Interest Rate & Term	<ul style="list-style-type: none"> Deferment of first payment for 180 days <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"> <ul style="list-style-type: none"> 0% first 6 months 1% months 7-12 2% months 13-18 Term 18 Months </td> <td style="width: 50%;"> <ul style="list-style-type: none"> 2% first 12 months 3% months 13-30 Term 30 Months </td> </tr> </table> <ul style="list-style-type: none"> ACH Required for monthly payments 		<ul style="list-style-type: none"> 0% first 6 months 1% months 7-12 2% months 13-18 Term 18 Months 	<ul style="list-style-type: none"> 2% first 12 months 3% months 13-30 Term 30 Months
<ul style="list-style-type: none"> 0% first 6 months 1% months 7-12 2% months 13-18 Term 18 Months 	<ul style="list-style-type: none"> 2% first 12 months 3% months 13-30 Term 30 Months 			
Borrower Fees	<ul style="list-style-type: none"> Doc-U-Sign - \$XXX Out of pocket - \$35-50 (Credit reports, Lexis Nexis, Sec of State) 			
Prepayment Fee	<ul style="list-style-type: none"> No Prepayment Penalty 			
Collateral	<ul style="list-style-type: none"> None - unsecured Personal Guarantee – Majority Owner(s) 			
Program Eligibility	<ul style="list-style-type: none"> Valid business license or proof of business license renewal prior to April 1, 2020 Located and licensed to operate in the City of Carlsbad, California 			
Other Criteria	<ul style="list-style-type: none"> One Loan per Eligible Business Borrower Required to Sign Agreement attesting that Loan Proceeds will be used only for Purposes of Maintaining or restarting Business 			



CITY COUNCIL
Staff Report

Meeting Date: August 18, 2020

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Jason Haber, Intergovernmental Affairs Director
jason.haber@carlsbadca.gov, 760-434-2958

Subject: Clean Energy Alliance Joint Powers Authority Board of Directors July 23, 2020, Special Meeting Agenda Item 5 - Clean Energy Alliance Inclusive & Sustainable Workforce Policy

Recommended Action

Review and discuss the Clean Energy Alliance Joint Powers Authority Board of Directors July 23, 2020, Special Meeting Agenda Item 5 - Clean Energy Alliance Inclusive & Sustainable Workforce Policy.

Executive Summary

The Clean Energy Alliance community choice aggregation joint powers authority was formed in November 2019 in partnership with the cities of Solana Beach and Del Mar. As directed by a City Council minute motion on July 28, 2020, this item presents for City Council discussion the Clean Energy Alliance's Board of Directors July 23, 2020, Special Meeting Agenda Item 5 – Clean Energy Alliance Inclusive & Sustainable Workforce Policy.

Discussion

The Clean Energy Alliance Board of Directors considered Agenda Item 5 – Clean Energy Alliance Inclusive & Sustainable Workforce Policy at its meeting on July 23, 2020. The Clean Energy Alliance Staff Report for that item is attached as Exhibit 1. Additional materials received by the Clean Energy Alliance Board concerning Agenda Item 5 are provided in Exhibit 2. The staff presentation for Agenda Item 5 is included as Exhibit 3.

A video recording of the staff presentation and board discussion of Agenda Item 5 will be viewed during the City Council meeting and can be found on the Clean Energy Alliance website at thecleanenergyalliance.org/meetings.

Fiscal Analysis

There is no fiscal impact associated with this item.

Environmental Evaluation (CEQA)

This action does not constitute a “project” within the meaning of the California Environmental Quality Act under California Public Resources Code Section 21065 in that it has no potential to

cause either direct physical change to the environment, or a reasonably foreseeable indirect change in the environment, and does not require environmental review.

Public Notification and Outreach

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for viewing at least 72 hours prior to the meeting.

Exhibits

1. July 23, 2020, Clean Energy Alliance Staff Report – Board of Directors Agenda Item 5 - Clean Energy Alliance Inclusive & Sustainable Workforce Policy
2. July 23, 2020, Additional Materials for Agenda Item 5
3. July 23, 2020, Staff Presentation for Agenda Item 5

Staff Report

DATE: July 23, 2020
TO: Clean Energy Alliance Board of Directors
FROM: Barbara Boswell, Interim Chief Executive Officer
ITEM 5: Clean Energy Alliance Inclusive & Sustainable Workforce Policy

RECOMMENDATION:

Review, provide input and approve Clean Energy Alliance (CEA) Inclusive & Sustainable Workforce Policy.

BACKGROUND AND DISCUSSION:

At its special meeting on May 7, 2020, the CEA Board of Directors provided input to staff regarding drafting of an Inclusive & Sustainable Workforce Policy (Policy) (Attached) to be brought back to the Board for consideration at its July meeting.

The draft CEA Policy was brought to the CEA Board for consideration at its July 16, 2020 meeting. After discussion, the Board requested the Policy to be brought back to this meeting for consideration of adoption, in order to provide more time for the Board to review the draft Policy.

At the July 16 meeting, CEA's General Counsel suggested two additional edits to the policy, these included:

- Page 2 - Updating language in the Non-Discrimination Pledge Section to require in its contracts with suppliers that the suppliers will not discriminate;
- Page 3 - Deleting the specific licenses in the CEA Power Purchase Agreements with Third Parties Section

The proposed Policy attached reflects these two changes.

FISCAL IMPACT

There is no fiscal impact by this action.

ATTACHMENTS:

Clean Energy Alliance Inclusive & Sustainable Workforce Policy

INCLUSIVE & SUSTAINABLE WORKFORCE POLICY

The Clean Energy Alliance (CEA) Board of Directors desires to establish a policy that supports local jobs, sustainable and inclusive workforce opportunities, local economic sustainability, and diversity through contracting for power sources, procuring goods and services, and implementing hiring initiatives where appropriate, without limiting fair and open competition for projects or programs implemented by CEA.

CEA Staff

CEA relies on its employees to provide clean, cost-effective, alternative energy to its customers. These customers live in diverse communities and an inclusive workforce of staff who reflect and are invested in these communities allows CEA to serve them more effectively. An inclusive staff also provides good jobs for people from diverse communities.

To help maintain and strengthen CEA's inclusive staff, CEA will strive to:

1. Engage in broad outreach efforts in diverse communities, including disadvantaged and low-income communities, to ensure a diverse pool of candidates for open positions;
2. Provide fair compensation that aligns with regional market indicators for compensation levels for each position;
3. Be transparent about these practices and lessons learned; and
4. Provide contact information for staff who can answer questions about this policy.

Supply Chain

CEA also strives for inclusion in its supply chain. Where and from whom CEA purchases good and services have important consequences for businesses, customers, and their communities. Where appropriate, an inclusive supply chain is an important driver for successful delivery of CEA's services to its customers, and of fair and equitable economic development generally.

Where appropriate, and without limiting fair and open competition, to support an inclusive supply chain, CEA will strive to:

1. Use local businesses and provide fair compensation in the purchase of services and supplies;
2. Proactively seek services from local businesses that are taking steps to protect the environment;

3. Engage in efforts to reach diverse communities to ensure an inclusive pool of potential suppliers;
4. Collect information from suppliers and contractors on the inclusivity of their workforce;
5. Include questions about supplier inclusivity in requests for proposals (RFPs) for services;
6. Encourage reporting from developers and vendors on inclusivity in business ownership and staff;
7. Be transparent about these practices and lessons learned; and
8. Provide contact information for staff who can answer questions about this policy.

Inclusive Business Practices

To fulfill its goals of providing a range of energy product and programs, available to all CEA communities and customers, that best serve their needs and their local communities, and support local sustainability efforts, CEA will strive to:

1. Provide information in the multiple languages commonly spoken in CEA's service area (including mailers, tabling materials, customer service, call center, workshops and outreach events, advertisements, and other means of customer engagement);
2. Conduct marketing and outreach in diverse communities to increase awareness of CEA's services and programs;
3. Attend multi-cultural community events with multi-lingual materials and speakers;
4. Share information about activities and initiatives that promote inclusion, access, and diverse engagement in the community.

Non-Discrimination Pledge

CEA will not discriminate, and will strive to work require in its contracts with suppliers that ~~do~~ they will not discriminate, on the basis of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

Sustainable Workforce

Support of local businesses, fair compensation, apprenticeship and pre-apprenticeship programs that create employment opportunities, without limiting fair and open competition, are important components of building and sustaining healthy and sustainable communities. It is in the interest of CEA to provide fair compensation and sustainable workforce opportunities, within a framework of fair and open competition and the promotion of renewable energy, energy efficiency and greenhouse gas reduction.

CEA recognizes the importance of locally-generated renewable energy (local is defined as within the San Diego County region) in assuring that California is provided with (1) adequate

supplies of renewable energy for economic growth, (2) sustained local job opportunities and job creation, and (3) effective means to reduce the impacts of greenhouse gas emissions. CEA also recognizes the opportunities that energy efficiency programs provide for local workforce training and employment.

CEA encourages fair compensation in direct hiring, renewable development projects, energy efficiency programs and in procurement of CEA services and supplies. CEA also encourages use of State of California approved apprenticeship and pre-apprenticeship training programs in construction craft occupations to foster long-term, fairly compensated employment opportunities for program graduates.

Where appropriate, without limiting fair and open competition, CEA will strive to accomplish the following objectives:

1. Support for and direct use of local businesses;
2. Support for and direct use of green and sustainable businesses;
3. Encourage the use of skilled and trained workers who receive fair compensation;
4. Encourage the use of State of California approved apprenticeship programs, and pre-apprenticeship programs within CEA's service territory.

CEA Power Purchase Agreements with Third Parties

CEA will encourage the submission of information from respondents to any bidding and/or RFP/RFQ process regarding planned efforts by project developers and their contractors to achieve the following goals:

- Employ workers and use businesses from the San Diego county area.
- Employ properly licensed (A, B, C10, C7, C46) contractors and California Certified electricians.
- Utilize local apprentices, particularly graduates of San Diego County pre-apprenticeship programs.
- Pay workers prevailing wage for each craft, classification and type of work performed.
- Display a poster at jobsites informing workers of prevailing wage requirements.
- Provide workers compensation coverage to on-site workers.
- Support and use State of California approved apprenticeship programs.

Relevant information submitted by proposers will be used to evaluate potential impact on local jobs and workforce of the planned project.

CEA Owned Generation Projects

Each construction contractor or subcontractor performing work on any CEA-owned project is encouraged to use local labor and apprenticeship programs and follow fair compensation

practices including proper assignment of work to crafts that traditionally perform the work. Contractors and subcontractors shall pay at least prevailing rate of wages, as defined in Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the California Labor Code and encouraged to use a skilled and trained workforce, as defined in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the California Public Contract Code.

CEA Feed-In Tariff Projects

CEA will encourage construction contractors or subcontractors performing work on any CEA Feed-In Tariff project utilize local businesses and local apprenticeship programs, and fair compensation practices including proper assignment of work to crafts that traditionally perform the work.

CEA encourages contractors and subcontractors performing work on any CEA Feed-In-Tariff project to pay at least prevailing rate of wages, as defined in Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the California Labor Code and encouraged to use a skilled and trained workforce, as defined in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the California Public Contract Code.

CEA Energy Efficiency Projects

CEA will strive to support local businesses and apprenticeship programs, in the implementation of its energy efficiency programs. CEA will encourage construction contractors or subcontractors performing work on any CEA energy efficiency program utilize local businesses and apprenticeship programs and fair compensation practices including proper assignment of work to crafts that traditionally perform the work.

Union Neutrality Pledge

CEA will remain neutral regarding whether its employees choose to join or support labor unions and will not interfere with decisions by its contractors' and suppliers' employees about whether to join or support labor unions.

ALTSHULER BERZON LLP
ATTORNEYS AT LAW
177 POST STREET, SUITE 300
SAN FRANCISCO, CALIFORNIA 94108
(415) 421-7151
FAX (415) 362-8064
www.altshulerberzon.com

STEPHEN P. BERZON
HAMILTON CANDEE
EVE H. CERVANTEZ
BARBARA J. CHISHOLM
JEFFREY B. DEMAIN
JAMES M. FINBERG
EILEEN B. GOLDSMITH
CORINNE JOHNSON
MEREDITH A. JOHNSON
SCOTT A. KRONLAND
ANDREW KUSHNER
REBECCA C. LEE
DANIELLE E. LEONARD
STACEY M. LEYTON
AMANDA C. LYNCH
MATTHEW J. MURRAY
ZOE PALITZ
P. CASEY PITTS
DANIEL T. PURTELL
MICHAEL RUBIN
HUNTER B. THOMSON
STEFANIE L. WILSON

FRED H. ALTSHULER
FOUNDING PARTNER EMERITUS
PETER D. NUSSBAUM
PARTNER EMERITUS
ELIZABETH VISSERS
FELLOW

July 21, 2020

By electronic mail

Board of Directors
Clean Energy Alliance

Re: Proposed Inclusive and Sustainable Workforce Policy

Dear Board Members:

I write on behalf of International Brotherhood of Electrical Workers Local 569 (“IBEW Local 569”) to submit a proposed Inclusive and Sustainable Workforce Policy that differs in some respects from the draft policy prepared by staff for your July 23, 2020 meeting. A redline showing IBEW Local 569’s proposed changes to the staff draft is included as Attachment A to this letter and a clean version is included as Attachment B.

The proposed changes to the staff draft are necessary for the Clean Energy Alliance to have a meaningful workforce policy that actually will benefit the local community, rather than a watered-down policy that, as a practical matter, will not accomplish anything. The main changes from the staff draft are as follows:

1. The proposed policy strengthens language in the staff draft that would have provided that CEA will merely “strive” to achieve or “encourage” certain goals. This language watered down the prior proposals from IBEW Local 569 and other stakeholders.

2. The proposed policy provides that CEA-owned generation projects “shall make use of project labor agreements that include the taxpayer protection provisions of Public Contract Code Section 2500 to ensure fair and open competition and that include provisions to create local jobs for journey-level workers and apprentices.” PLAs that include local hire provisions are the best practical means for CEA to achieve its goal of developing the local workforce.

Board of Directors
Clean Energy Alliance
Re: Proposed Inclusive and Sustainable Workforce Policy
July 21, 2020
Page 2

I understand that an argument has been made that CEA *cannot* use PLAs on CEA-owned energy generation projects because the Joint Powers Agreement includes the following recital: “By establishing the Authority, the Parties seek to: ... Pursue the procurement of local generation of renewable power developed by or within member jurisdictions with an emphasis on local jobs, where appropriate, without limiting fair and open competition for projects or programs implemented by the Authority....” That argument is not correct.

As an initial matter, the quoted provision is just a recital of an aspiration, not a limit on the Board’s authority, and the recital also does not even refer to PLAs, much less provide definitions of the vague terms in the recital.

Second, the California Legislature has specifically provided by statute that “[t]he members of the governing board of a local public entity may choose by majority vote whether to use, enter into, or require contractors to enter into a project labor agreement that includes all the taxpayer protection provisions of [Public Contract Code] Section 2500 for a specific project or projects awarded by that entity.” Thus, the Board has legislatively conferred authority to use PLAs. The Board can direct staff to negotiate PLAs for CEA-owned projects that meet the CEA’s goals, which would then come back to the CEA for approval.

Third, PLAs that include the “taxpayer protection provisions of Public Contract Code Section 2500” are entirely consistent with “fair and open competition.” Section 2500 requires that the PLA must “permit[] all qualified contractors and subcontractors to bid for and be awarded work on the project without regard to whether they are otherwise parties to collective bargaining agreements” and that the PLA must “prohibit[] discrimination based on ... membership in a labor organization in hiring and dispatching workers for the project.” Public Contract Code §2500(a)(1),(2). The California Supreme Court has held that such PLAs are “consistent with the general principles underlining the competitive bidding law,” which protects fair and open competition. *See Associated Builders & Contractors, Inc. v. San Francisco Airports Com.*, 21 Cal. 4th 352, 365-74 (1999).

3. The proposed policy would require (not merely “encourage”) contractors on CEA feed-in tariff and energy efficiency projects to pay prevailing wages and use a skilled and trained workforce. Maintaining high labor standards for projects is necessary to support the creation and maintenance of a skilled local workforce that can complete projects in a streamlined manner with the highest quality workmanship.

IBEW Local 569 respectfully urges that the Board adopt the proposed Inclusive and Sustainable Workforce Policy included as Attachment B. Thank you for your consideration of this proposal.

Sincerely,

/s/Scott A. Kronland
Scott A. Kronland

Attachments
cc: IBEW Local 569
Aug. 18, 2020

Attachment A: Redline Version

INCLUSIVE & SUSTAINABLE WORKFORCE POLICY

The Clean Energy Alliance (CEA) Board of Directors desires to establish a policy that supports local jobs, sustainable and inclusive workforce opportunities, local economic sustainability, and diversity through contracting for power sources, procuring goods and services, and implementing hiring initiatives where appropriate, without limiting fair and open competition for projects or programs implemented by CEA.

CEA Staff

CEA relies on its employees to provide clean, cost-effective, alternative energy to its customers. These customers live in diverse communities and an inclusive workforce of staff who reflect and are invested in these communities allows CEA to serve them more effectively. An inclusive staff also provides good jobs for people from diverse communities.

To help maintain and strengthen CEA's inclusive staff, CEA will ~~strive to~~:

1. Engage in broad outreach efforts in diverse communities, including disadvantaged and low-income communities, to ensure a diverse pool of candidates for open positions;
2. Provide fair compensation that aligns with regional market indicators for compensation levels for each position;
3. Be transparent about these practices and lessons learned; and
4. Provide contact information for staff who can answer questions about this policy.

Supply Chain

CEA also ~~commits to strives for~~ inclusion in its supply chain. Where and from whom CEA purchases good and services have important consequences for businesses, customers, and their communities. Where appropriate, an inclusive supply chain is an important driver for successful delivery of CEA's services to its customers, and of fair and equitable economic development generally.

Where appropriate, and without limiting fair and open competition, to support an inclusive supply chain, CEA will ~~strive to~~:

1. Use local businesses and provide fair compensation in the purchase of services and supplies;
2. Proactively seek services from local businesses that are taking steps to protect the environment;
3. Engage in efforts to reach diverse communities to ensure an inclusive pool of potential suppliers;
4. Collect information from suppliers and contractors on the inclusivity of their workforce;

5. Include questions about supplier inclusivity in requests for proposals (RFPs) for services;
6. Encourage reporting from developers and vendors on inclusivity in business ownership and staff;
7. Be transparent about these practices and lessons learned; and
8. Provide contact information for staff who can answer questions about this policy.

Inclusive Business Practices

To fulfill its goals of providing a range of energy product and programs, available to all CEA communities and customers, that best serve their needs and their local communities, and support local sustainability efforts, CEA will ~~strive to~~:

1. Provide information in the multiple languages commonly spoken in CEA's service area (including mailers, tabling materials, customer service, call center, workshops and outreach events, advertisements, and other means of customer engagement);
2. Conduct marketing and outreach in diverse communities to increase awareness of CEA's services and programs;
3. Attend multi-cultural community events with multi-lingual materials and speakers;
4. Share information about activities and initiatives that promote inclusion, access, and diverse engagement in the community.

Non-Discrimination Pledge

CEA will not discriminate, and will require in its contracts with suppliers that they will not discriminate, on the basis of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

Sustainable Workforce

Support of local businesses, fair compensation, apprenticeship and pre-apprenticeship programs that create employment opportunities, without limiting fair and open competition, are important components of building and sustaining healthy and sustainable communities. It is in the interest of CEA to provide fair compensation and sustainable workforce opportunities, within a framework of fair and open competition and the promotion of renewable energy, energy efficiency and greenhouse gas reduction.

CEA recognizes the importance of locally-generated renewable energy (local is defined as within the San Diego County region) in assuring that California is provided with (1) adequate supplies of renewable energy for economic growth, (2) sustained local job opportunities and

job creation, and (3) effective means to reduce the impacts of greenhouse gas emissions. CEA also recognizes the opportunities that energy efficiency programs provide for local workforce training and employment.

CEA encourages fair compensation in direct hiring, renewable development projects, energy efficiency programs and in procurement of CEA services and supplies. CEA also encourages use of State of California approved apprenticeship and pre-apprenticeship training programs in construction craft occupations to foster long-term, fairly compensated employment opportunities for program graduates.

Where appropriate, without limiting fair and open competition, CEA will ~~pursue-strive to accomplish~~ the following objectives:

1. Support for and direct use of local businesses;
2. Support for and direct use of green and sustainable businesses;
3. Encourage the use of skilled and trained workers who receive fair compensation;
4. Encourage the use of State of California approved apprenticeship programs, and preapprenticeship programs within CEA's service territory.

CEA Power Purchase Agreements with Third Parties

CEA will ~~encourage-invite~~ the submission of information from respondents to any bidding and/or RFP/RFQ process regarding planned efforts by project developers and their contractors to achieve the following goals:

- Employ workers and use businesses from the San Diego county area.
- Employ properly licensed (~~e.g., A, B, C10, C7, C46~~) contractors and California Certified electricians.
- Utilize local apprentices, particularly graduates of San Diego County pre-apprenticeship programs.
- Pay workers prevailing wage for each craft, classification and type of work performed.
- ~~Display a poster at jobsites informing workers of prevailing wage requirements.~~
- Provide workers compensation coverage to on-site workers.
- Support and use State of California approved apprenticeship programs.

Relevant information submitted by proposers will be used to evaluate potential impact on local jobs and workforce of the planned project.

CEA Owned Generation Projects

CEA owned generation projects shall make use of project labor agreements that include the taxpayer protection provisions of Public Contract Code Section 2500 to ensure fair and open competition and that include provisions to create local jobs for journey-level workers and apprentices.~~Each construction contractor or subcontractor performing work on any CEA-owned project is encouraged to use local labor and apprenticeship programs and follow fair compensation practices including and to ensure~~ proper assignment of work to crafts that traditionally perform the work. Contractors and subcontractors shall be required to pay at least the prevailing rate of wages, as defined in Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the California Labor Code and shall be required to use~~encouraged to use~~ a skilled and trained workforce, as defined in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the California Public Contract Code.

CEA Feed-In Tariff Projects

CEA will use best efforts to ensure that encourage construction contractors or subcontractors performing work on any CEA Feed-In Tariff project utilize local businesses and local apprenticeship programs, and fair compensation practices including proper assignment of work to crafts that traditionally perform the work.

Formatted: Not Highlight

CEA will require, as a condition of eligibility, that encourages~~encourages~~ contractors and subcontractors performing work on any CEA Feed-In-Tariff project must to pay at least the prevailing rate of wages, as defined in Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the California Labor Code and encouraged to use a skilled and trained workforce, as defined in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the California Public Contract Code.

CEA Energy Efficiency Projects

CEA will require, as a condition of eligibility for CEA funding or financing of energy efficiency projects, that contractors and subcontractors performing work on the project must pay at least the prevailing rate of wages, as defined in Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the California Labor Code and use a skilled and trained workforce, as defined in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the California Public Contract Code.

CEA will use best efforts -strive to support local businesses and apprenticeship programs, in the implementation of its energy efficiency programs. CEA will use best efforts to ensure that

Formatted: Not Highlight

Formatted: Not Highlight

CEA Inclusive and Sustainable Workforce Policy
Redline showing IBEW 569's Proposed Changes to July 23, 2020 Staff Draft

~~encourage~~ construction contractors or subcontractors performing work on any CEA energy efficiency program utilize local businesses and ~~local~~ apprenticeship programs and ~~make fair compensation practices including~~ proper assignments of work to crafts that traditionally perform the work.

Union Neutrality Pledge

CEA will remain neutral regarding whether its employees choose to join or support labor unions and will not interfere with decisions by its contractors' and suppliers' employees about whether to join or support labor unions.

Attachment B: Clean Version

INCLUSIVE & SUSTAINABLE WORKFORCE POLICY

The Clean Energy Alliance (CEA) Board of Directors desires to establish a policy that supports local jobs, sustainable and inclusive workforce opportunities, local economic sustainability, and diversity through contracting for power sources, procuring goods and services, and implementing hiring initiatives where appropriate, without limiting fair and open competition for projects or programs implemented by CEA.

CEA Staff

CEA relies on its employees to provide clean, cost-effective, alternative energy to its customers. These customers live in diverse communities and an inclusive workforce of staff who reflect and are invested in these communities allows CEA to serve them more effectively. An inclusive staff also provides good jobs for people from diverse communities.

To help maintain and strengthen CEA's inclusive staff, CEA will:

1. Engage in broad outreach efforts in diverse communities, including disadvantaged and low-income communities, to ensure a diverse pool of candidates for open positions;
2. Provide fair compensation that aligns with regional market indicators for compensation levels for each position;
3. Be transparent about these practices and lessons learned; and
4. Provide contact information for staff who can answer questions about this policy.

Supply Chain

CEA also commits to inclusion in its supply chain. Where and from whom CEA purchases good and services have important consequences for businesses, customers, and their communities. Where appropriate, an inclusive supply chain is an important driver for successful delivery of CEA's services to its customers, and of fair and equitable economic development generally.

Where appropriate, and without limiting fair and open competition, to support an inclusive supply chain, CEA will:

1. Use local businesses and provide fair compensation in the purchase of services and supplies;
2. Proactively seek services from local businesses that are taking steps to protect the environment;
3. Engage in efforts to reach diverse communities to ensure an inclusive pool of potential suppliers;
4. Collect information from suppliers and contractors on the inclusivity of their workforce;
5. Include questions about supplier inclusivity in requests for proposals (RFPs) for services;

6. Encourage reporting from developers and vendors on inclusivity in business ownership and staff;
7. Be transparent about these practices and lessons learned; and
8. Provide contact information for staff who can answer questions about this policy.

Inclusive Business Practices

To fulfill its goals of providing a range of energy product and programs, available to all CEA communities and customers, that best serve their needs and their local communities, and support local sustainability efforts, CEA will:

1. Provide information in the multiple languages commonly spoken in CEA's service area (including mailers, tabling materials, customer service, call center, workshops and outreach events, advertisements, and other means of customer engagement);
2. Conduct marketing and outreach in diverse communities to increase awareness of CEA's services and programs;
3. Attend multi-cultural community events with multi-lingual materials and speakers;
4. Share information about activities and initiatives that promote inclusion, access, and diverse engagement in the community.

Non-Discrimination Pledge

CEA will not discriminate, and will require in its contracts with suppliers that they will not discriminate, on the basis of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

Sustainable Workforce

Support of local businesses, fair compensation, apprenticeship and pre-apprenticeship programs that create employment opportunities, without limiting fair and open competition, are important components of building and sustaining healthy and sustainable communities. It is in the interest of CEA to provide fair compensation and sustainable workforce opportunities, within a framework of fair and open competition and the promotion of renewable energy, energy efficiency and greenhouse gas reduction.

CEA recognizes the importance of locally-generated renewable energy (local is defined as within the San Diego County region) in assuring that California is provided with (1) adequate supplies of renewable energy for economic growth, (2) sustained local job opportunities and job creation, and (3) effective means to reduce the impacts of greenhouse gas emissions. CEA

also recognizes the opportunities that energy efficiency programs provide for local workforce training and employment.

CEA encourages fair compensation in direct hiring, renewable development projects, energy efficiency programs and in procurement of CEA services and supplies. CEA also encourages use of State of California approved apprenticeship and pre-apprenticeship training programs in construction craft occupations to foster long-term, fairly compensated employment opportunities for program graduates.

Where appropriate, without limiting fair and open competition, CEA will pursue the following objectives:

1. Support for and direct use of local businesses;
2. Support for and direct use of green and sustainable businesses;
3. Encourage the use of skilled and trained workers who receive fair compensation;
4. Encourage the use of State of California approved apprenticeship programs, and preapprenticeship programs within CEA's service territory.

CEA Power Purchase Agreements with Third Parties

CEA will invite the submission of information from respondents to any bidding and/or RFP/RFQ process regarding planned efforts by project developers and their contractors to achieve the following goals:

- Employ workers and use businesses from the San Diego county area.
- Employ properly licensed (e.g., A, B, C10, C7, C46) contractors and California Certified electricians.
- Utilize local apprentices, particularly graduates of San Diego County pre-apprenticeship programs.
- Pay workers prevailing wage for each craft, classification and type of work performed.
- Provide workers compensation coverage to on-site workers.
- Support and use State of California approved apprenticeship programs.

Relevant information submitted by proposers will be used to evaluate potential impact on local jobs and workforce of the planned project.

CEA Owned Generation Projects

CEA owned generation projects shall make use of project labor agreements that include the taxpayer protection provisions of Public Contract Code Section 2500 to ensure fair and open competition and that include provisions to create local jobs for journey-level workers and apprentices and to ensure proper assignment of work to crafts that traditionally perform the work. Contractors and subcontractors shall be required to pay at least the prevailing rate of wages, as defined in Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the California Labor Code and shall be required to use a skilled and trained workforce, as defined in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the California Public Contract Code.

CEA Feed-In Tariff Projects

CEA will use best efforts to ensure that construction contractors or subcontractors performing work on any CEA Feed-In Tariff project utilize local businesses and local apprenticeship programs, and fair compensation practices including proper assignment of work to crafts that traditionally perform the work.

CEA will require, as a condition of eligibility, that contractors and subcontractors performing work on any CEA Feed-In-Tariff project must pay at least the prevailing rate of wages, as defined in Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the California Labor Code and use a skilled and trained workforce, as defined in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the California Public Contract Code.

CEA Energy Efficiency Projects

CEA will require, as a condition of eligibility for CEA funding or financing of energy efficiency projects, that contractors and subcontractors performing work on the project must pay at least the prevailing rate of wages, as defined in Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the California Labor Code and use a skilled and trained workforce, as defined in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the California Public Contract Code.

CEA will use best efforts to support local businesses and apprenticeship programs, in the implementation of its energy efficiency programs. CEA will use best efforts to ensure that construction contractors or subcontractors performing work on any CEA energy efficiency program utilize local businesses and local apprenticeship programs and make proper assignments of work to crafts that traditionally perform the work.

Union Neutrality Pledge

CEA will remain neutral regarding whether its employees choose to join or support labor unions and will not interfere with decisions by its contractors' and suppliers' employees about whether to join or support labor unions.

Subject: FW: Agenda Item 5: Clean Energy Alliance Inclusive and Sustainable Workforce Policy

From: Scott A Kronland <skronland@altshulerberzon.com>

Subject: RE: Agenda Item 5: Clean Energy Alliance Inclusive and Sustainable Workforce Policy

Date: July 22, 2020 at 8:53:25 AM PDT

To: "cori.schumacher@carlsbadca.gov" <cori.schumacher@carlsbadca.gov>, "ehaviland@delmar.ca.us" <ehaviland@delmar.ca.us>, "kbecker@cosb.org" <kbecker@cosb.org>

Cc: Gretchen Newsom <gnewsom@ibew569.org>, Micah Mitrosky <mmitrosky@ibew569.org>, "Barbara@BAYSHORECGI.COM" <Barbara@BAYSHORECGI.COM>, "ceo@thecleanenergyalliance.org" <ceo@thecleanenergyalliance.org>

I understand that the attachment may not have come through on my email of yesterday. Another copy of the attachment is attached.

Scott

From: Scott A Kronland

Sent: Tuesday, July 21, 2020 4:49 PM

To: cori.schumacher@carlsbadca.gov; ehaviland@delmar.ca.us; kbecker@cosb.org

Cc: Gretchen Newsom <gnewsom@ibew569.org>; Micah Mitrosky

<mmitrosky@ibew569.org>; Barbara@BAYSHORECGI.COM; ceo@thecleanenergyalliance.org

Subject: Agenda Item 5: Clean Energy Alliance Inclusive and Sustainable Workforce Policy

Dear Clean Energy Alliance Board Members:

Please see attached letter regarding Item 5 on the Agenda for the July 23, 2020 Special Meeting of the Clean Energy Alliance Board of Directors.

Thank you,

Scott A. Kronland

Altshuler Berzon LLP

177 Post Street, Suite 300

San Francisco, California 94108

415/421-7151 (office)

415/260-7201 (mobile)

skronland@altber.com

CAUTION: Do not open attachments or click on links unless you recognize the sender and know the content is safe.

Item 5: Clean Energy Alliance Inclusive & Sustainable Workforce Policy

- Recommendation
 - Review, Provide Input & Approve CEA Inclusive & Sustainable Workforce Policy

Item 5: Clean Energy Alliance Inclusive & Sustainable Workforce Policy

- Background
 - May 7, 2020 CEA Board provided input & direction to staff to bring an Inclusive & Sustainable Workforce Policy to Board for consideration.
 - July 16, 2020 Draft Policy presented to Board for Consideration.
 - Board requested the approval action to be considered at special meeting.

Item 5: Clean Energy Alliance Inclusive & Sustainable Workforce Policy

- Two edits on current draft:
 - Page 2 - Updating language in the Non-Discrimination Pledge Section to require in its contracts with suppliers that the suppliers will not discriminate;
 - Page 3 - Deleting the specific licenses in the CEA Power Purchase Agreements with Third Parties Section

Item 5: Clean Energy Alliance Inclusive & Sustainable Workforce Policy

Board Discussion



CITY COUNCIL
Staff Report

Meeting Date: Aug. 18, 2020

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Celia Brewer, City Attorney
 celia.brewer@carlsbadca.gov, 760-434-2891
 Mickey Williams, Assistant Police Chief
 mickey.williams@carlsbadca.gov, 760-931-2131
 Judy von Kalinowski, Human Resources
 judy.vonkalinowski@carlsbadca.gov, 760-602-2440
 Sheila Cobian, Assistant to the City Manager
 sheila.cobian@carlsbadca.gov, 760-434-2820

Subject: Presentation on Police Use of Force and Police Officers Bill of Rights and Discussion of Citizens Review Committee on Police Practices and Procedures

Recommended Action

Receive a presentation on police use of force and the Police Officers Bill of Rights and discuss background information regarding the formation of citizens review committees on police practices and procedures.

Executive Summary

The City Council voted on June 23, 2020, to place on a future agenda a presentation on police use of force and the Police Officers Bill of Rights and to have a discussion on background information on citizens review committees on police practices and procedures.

Discussion

Guiding principles

Carlsbad Police officers are guided by a reverence for human life in all investigative, enforcement, and other interactions between the department and members of the community. The police department is committed to providing peace officers with the training, equipment and resources necessary to foster peaceful resolutions.

Each situation an officer responds to is unique. When officers are called upon to respond to a crisis or criminal acts, they will, if reasonable under the circumstances, use tactics and techniques to persuade the individual to voluntarily comply or that reduce the need for more physical tactics to resolve the situation safely. Some situations require an immediate response, while others may allow officers the opportunity to communicate with the individual, refine tactical plans, and, if necessary, call for additional resources. When reasonable opportunity

exists, Carlsbad Police officers should consider the concepts of pre-engagement, de-escalation and disengagement.

Legal guidance and department policies on the use of force

The overarching guidance in evaluating whether police use of force was legal is provided in the landmark case of *Graham v. Connor*, 490 U.S. 386 (1989). In this case, the U.S. Supreme Court ruled that all claims of excessive force by law enforcement are properly reviewed under the Fourth Amendment's "objective reasonableness" standard. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must allow for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation.

The Carlsbad Police Department's use of force policy defines force as, "the application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained."

Deadly force is defined by the California Penal Code as any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm.

The use of force policy is based on relevant statutes and case law. It states,

"Officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose. ...

"The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving."

The policy also lists the factors officers should consider in deciding when it is reasonable to use force:

"When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- a) The apparent immediacy and severity of the threat to officers or others.
- b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- d) The conduct of the involved officer.
- e) The effects of drugs or alcohol.

- f) The individual's apparent mental state or capacity.¹
- g) The individual's apparent ability to understand and comply with officer commands.
- h) Proximity of weapons or dangerous improvised devices.
- i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- j) The availability of other reasonable and feasible options and their possible effectiveness.
- k) Seriousness of the suspected offense or reason for contact with the individual.
- l) Training and experience of the officer.
- m) Potential for injury to officers, suspects, and others.
- n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- o) The risk and reasonably foreseeable consequences of escape.
- p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- r) Prior contacts with the subject or awareness of any propensity for violence.
- s) Any other exigent circumstances."

Under department policy, an officer's use of deadly force is only justified when it is done to:

- "Protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury"
- Apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended

When feasible, officers must make reasonable efforts to identify themselves as peace officers and to warn that deadly force may be used, unless an officer has objectively reasonable grounds to believe the other person is aware of those facts.

The policy recognizes that shooting a gun at or from a moving vehicle is rarely effective.

"Officers should move out of the path of an approaching vehicle instead of discharging their firearm(s) at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others. Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle."

¹ This refers to the individual's apparent ability to understand and comply with officer commands.

Documentation and oversight

The policy also requires swift documentation of any uses of force:

“Any use of force by a member of the department must be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer is required to articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.”

The policy lists the circumstances in which officers are required to notify their supervisors of the use of force:

“An officer who uses force must also provide notification to a supervisor as soon as practicable following the application of force in any of the following circumstances:”

- a) The application caused a visible injury.
- b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- c) The individual subjected to the force complained of injury or continuing pain.
- d) The individual indicates intent to pursue litigation.
- e) Any application of a TASER device or control device.
- f) Any application of a restraint device other than handcuffs, shackles or belly chains.
- g) The individual subjected to the force was rendered unconscious.
- h) An individual was struck or kicked.
- i) An individual alleges any of the above has occurred.”

The department’s policy also details the specific tasks required of a supervisor after being informed of an officer’s use of force.

“When a supervisor is notified of an incident involving the use of force, the supervisor is required to respond to the incident and is expected to perform the following tasks:

- a) Obtain the basic facts from the involved officers. ...
- b) Ensure that any injured parties are examined and treated.
- c) When possible, separately obtain a recorded interview with the subject(s) upon whom force was applied. ...
- d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. ...
- e) Identify any witnesses and ensure that all witnesses are interviewed.
- f) (Ensure) that all reports are reviewed and approved by a supervisor.
- g) Evaluate the circumstances surrounding the incident and complete a Supervisor’s Complaint Summary report ... if there is a question of policy noncompliance or if for any reason further administrative investigation may be appropriate.
- h) Prepare a Supervisor’s Use of Force investigation report. ... This report shall be reviewed and approved by another supervisor.”

Each use of force described above is then reviewed by the employee’s lieutenant and captain to ensure compliance with department policy and applicable law and to identify training issues or opportunities as well as any trends involving the use of force.

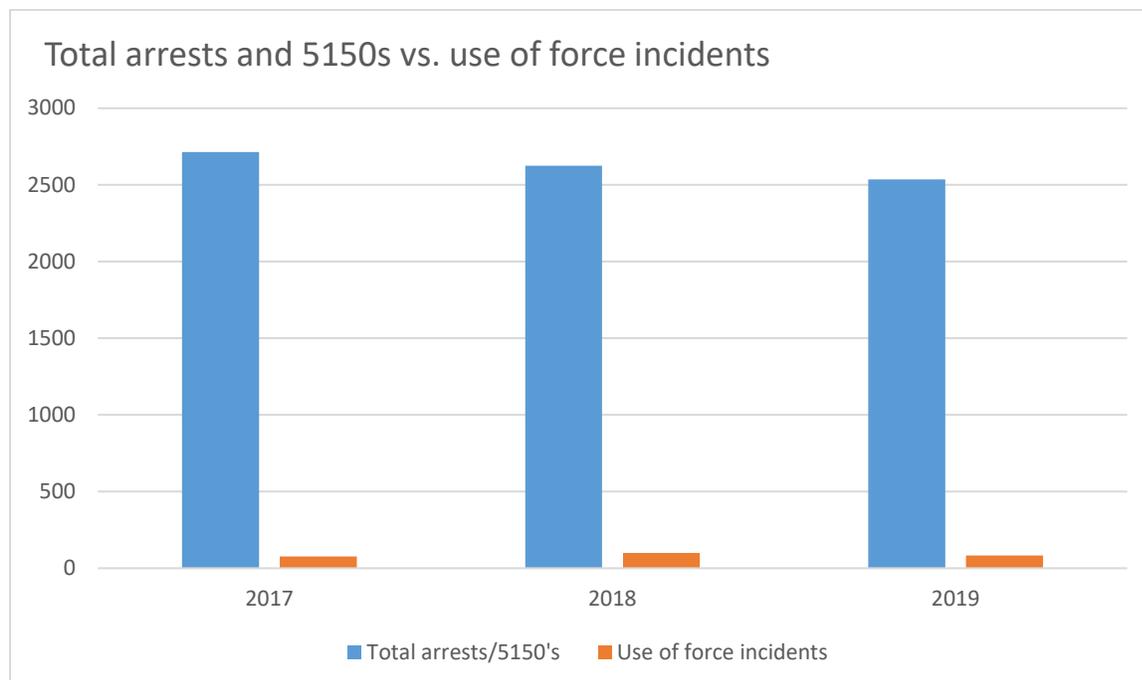
Officers’ duty to intercede

Department policy requires any officer present and observing another officer using force “that is clearly beyond that which is objectively reasonable under the circumstances, when in a position to do so, (to) intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law must promptly report these observations to a supervisor.”

Carlsbad police use of force statistics

Department arrest and use of force statistics show that the department averages about 2,000 arrests per year² approximately 546 detainments for Health and Safety Code Section 5150³, and approximately 3% of those arrests and 5150s involve a use of force incident.⁴ It should be noted that the department handles approximately 100,000 incidents per year.⁵ Therefore, the percentage of the total police incidents between 2017-2019 that involved a use of force was about .08%.

The statistics also show that over this time period there has been an increase in the number of incidents handled by the department, but a general trend towards a reduction in total number of arrests.

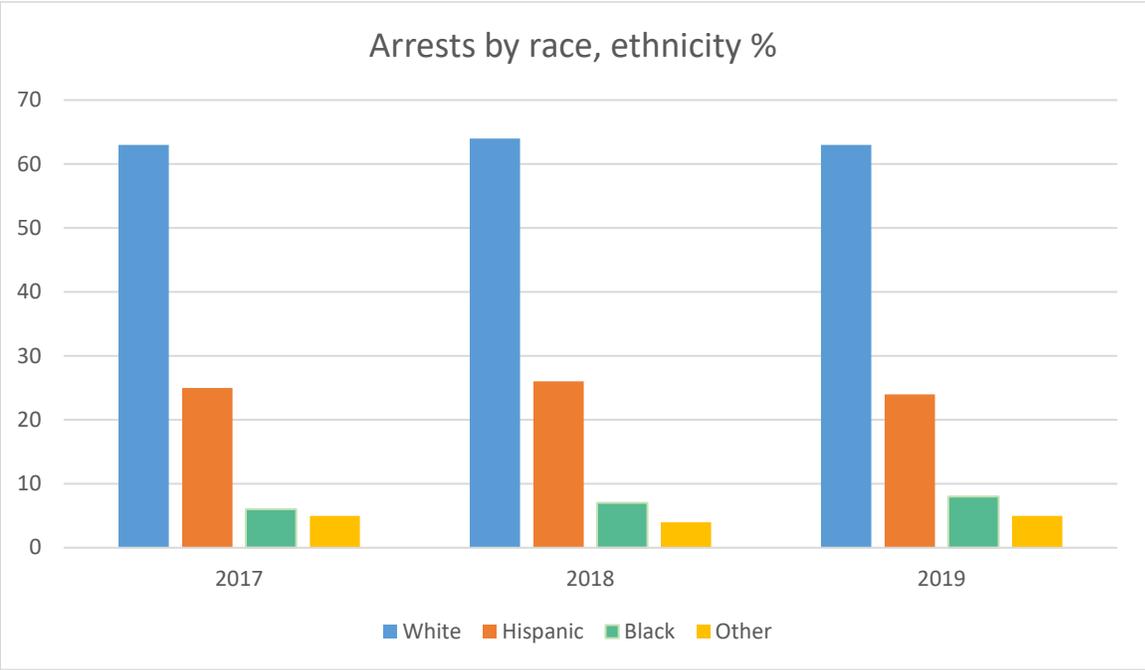


² Total arrests were 2,202 in 2017, 2,070 in 2018 and 1,964 in 2019.

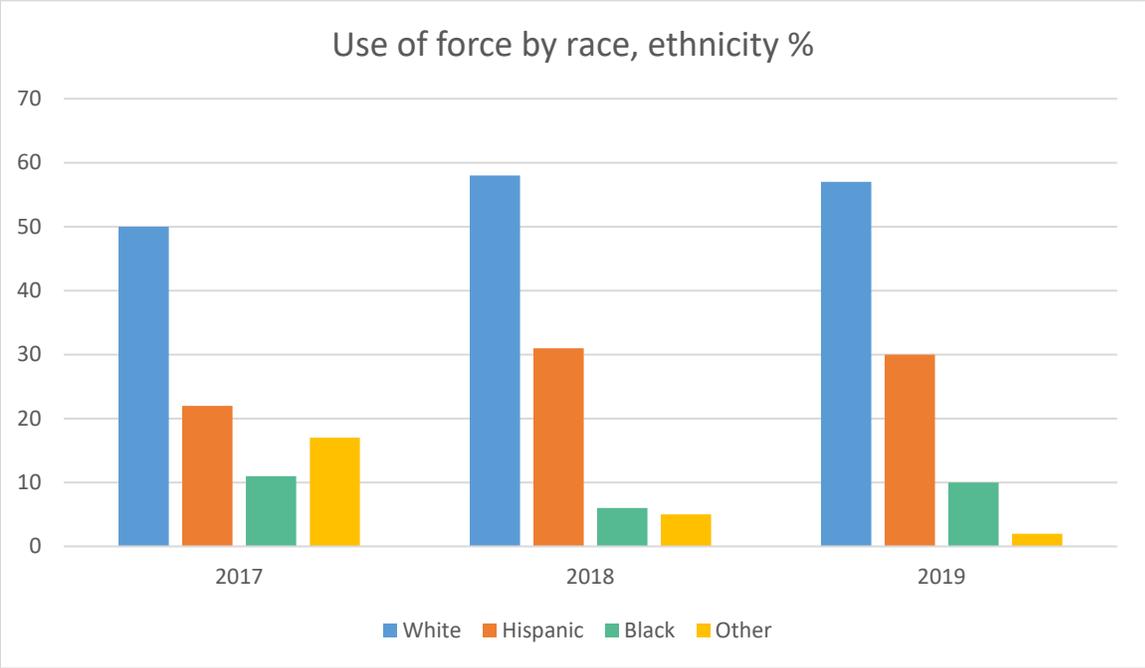
³ Total 5150’s were 512 in 2017, 555 in 2018, and 572 in 2019.

⁴ Total use of force incidents were 76 in 2017, 76, 99 in 2018 and 82 in 2019.

⁵ Total incidents handled by department were 90,760 in 2017, 99,421 in 2018 and 112,323 in 2019.



When reviewing use of force incidents with respect to race and ethnicity, we found our use of force incidents between 2017 and 2019 involved arrestees who were 55% White, 28% Hispanic, 9% Black, and 8% other.⁶



⁶ Total use of force incidents by race per year. (2017) White 38, Hispanic 17, Black 8, Other 13. (2018) White 57, Hispanic 31, Black 6, Other 5. (2019) White 47, Hispanic 25, Black 8, Other 2.

Between 2017 and 2019, the department was not involved in any use of force incident resulting in the death of the arrestee, or an injury to an arrestee that required hospitalization. Statistics on injuries sustained by an arrestee during a use of force incident show that 16% of these arrestees required medical treatment at a hospital, 23% were treated at the scene and 60% required no medical treatment.

Department training and the future of crisis management

Effective officer training plays an essential role in mitigating the need for the use of force, and in its appropriate implementation. The department has provided officers with training on de-escalation and crisis intervention for many years. This training is frequently incorporated in the quarterly defensive tactics training. Additionally, every two years every officer is provided two hours of tactical communications training by department-trained instructors. This training focuses on using verbal communication that helps officers stay calm and professional in challenging confrontational situations and often times results in voluntary compliance.

In 2016 and 2017, the department contracted with an outside training vendor to provide eight hours of crisis intervention and behavioral health training to each officer. Since then, the department has sent new officers at the department to an eight-hour Psychiatric Emergency Response Team behavioral health training course. This year, working in conjunction with the San Diego District Attorney's Office, Carlsbad Police have created an eight-hour California Peace Officers Standards and Training-certified de-escalation course that is intended to be provided to all of the department's officers in late 2020 or early 2021, with Carlsbad police officers trained to provide the instruction.

Additionally, this certified in-house de-escalation course will be available to train new officers to the department or to provide additional or remedial training as necessary to existing officers. This training will also implement the San Diego Countywide Crisis Management Philosophy; Considerations for De-escalation, which was implemented into Carlsbad Police Department policy in June.

The department is in the process of modifying our current training practices to eliminate training "silos" and instead focus on providing comprehensive crisis management training, employing the best practices from each training specialty, as appropriate for the specific circumstances of an incident.

The department's strategy is to give our officers training that will encourage and enable them to think dynamically and give them the skill sets that will increase the likelihood of peaceful outcomes in challenging situations.

Public Safety Officers Procedural Bill of Rights Act

Overview

The Public Safety Officers Procedural Bill of Rights Act is a state law that outlines procedural rights that an employer must give to public safety officers under two specific conditions: when those officers are subject to interrogation or discipline.

The act applies only to employees that the Penal Code defines as "peace officers." For practical purposes, that means it covers all of the following: local city police officers; police chiefs, county

deputy sheriffs, state police officers, California Highway Patrol officers, welfare investigators and peace officers hired by the California State University and University of California systems. It covers all sworn police officers in the Carlsbad Police Department.

Peace officers have rights under this law when an officer is at risk of disciplinary action resulting from an interrogation. "Disciplinary action" is broad and includes dismissal, demotion, suspension, reduction in salary, written reprimand or transfer, if that transfer is intended as punitive.

Peace officers do not have rights under the law when an interrogation occurs during an officer's normal course of events, for example, during normal duty, counseling or instruction. These rights also do not apply during a supervisor's informal, verbal admonishment, or during routine or unplanned contact with a supervisor.

Rights to representation, against self-incrimination and to privacy

Peace officers have the right to representation during an interrogation.⁷ The employer must also provide the peace officer with reasonable advance notice of the nature of the investigation before an interrogation.

When an employer interrogates a peace officer and it appears the officer may be charged with a criminal offense as a result of the misconduct or the officer refuses to answer questions on the grounds that the answers may be self-incriminating,⁸ the employer must tell peace officers that they have the right to remain silent, but their silence constitutes insubordination and will give rise to administrative discipline. Further, any statement they make under these circumstances would not, and could not, be used against them in any subsequent criminal proceeding.

During an investigation, the law prohibits an employer from loaning, or temporarily reassigning, an officer to a location or a duty assignment if a sworn member of the peace officer's department would not otherwise be so assigned under similar circumstances.⁹

The law also gives peace officers a protected right to privacy.¹⁰ This prevents an employer from subjecting an officer to the news media without the officer's express consent. An employer may not, for example, divulge an officer's home address or provide a copy of an officer's photograph.¹¹

Investigation and discipline timelines, rights to appeal

The employer must complete its investigation into any alleged misconduct and notify the officer of a proposed disciplinary action within one year of the employer's discovery of this misconduct. A "discovery" occurs when an individual with investigative authority either realizes, or should have realized, that the misconduct transpired.

The employer does not have to impose discipline within that one-year time period. The employer must simply conclude its investigation within the year and advise the officer of its

⁷ Cal. Gov. Code § 3303(i).

⁸ Cal. Gov. Code § 3303(e) and (h).

⁹ Cal. Gov. Code § 3303(j).

¹⁰ Cal. Gov. Code § 3303(e).

¹¹ Cal. Gov. Code §§ 3253(e)(2) and 3303(e).

intent to discipline within one year. The employer has an obligation to notify the officer of its final decision to impose discipline within 30-days of its decision to do so.¹² That means once the employer decides the level of discipline it intends to impose, it has 30 days from that point to notify the peace officer in writing.

The law provides that any peace officer who has successfully completed his or her probationary period must receive an “opportunity for administrative appeal” whenever a “punitive action, (or) denial of promotion on grounds other than merit” occurs. Officers may also appeal limitations the employer imposes on their authority to carry weapons and make arrests, including the reasons an employer documents in officers’ personnel files. Notably, peace officers can appeal advisory citizens’ law enforcement review board decision.

The peace officer appeals a disciplinary decision through the local, administrative process. The employer’s rules and procedures govern the hearing.¹³ The law does not prescribe hearing procedures, but it implies that such procedures should comport with fair play and due process standards as appropriate to the seriousness of the charges. Peace officers are routinely represented by a lawyer during the investigation process and during the appeals process.

Confidentiality of peace officer personnel files

Generally speaking, peace officers’ personnel files are confidential unless a court orders their disclosure. The California Penal Code¹⁴ describes the following as confidential: personal data (marital status, family members, educational history, etc.); medical history; employee benefits; employee advancement, appraisal, or discipline; complaints or investigations of complaints. Personnel records retain their confidential status even after a peace officer retires.

Non-confidential information includes a peace officer’s name, employing agency, employment dates, an accident involving the discharge of a firearm at a person, and a use of force resulting in death or great bodily injury. These later categories can be disclosed under a Public Records Act request.

The right to respond

Both actively employed and former peace officers have a right to review adverse comments entered into their personnel files.¹⁵ The officers then have thirty days to file a written response. Courts have found that a citizen complaint qualifies as an adverse comment, which requires the peace officer’s review before the complaint becomes part of that officers’ personnel file.

Citizens review committees on police practices and procedures

Overview

Civilian oversight of police departments has been a recurring topic of discussion and debate in the United States since the 1960’s. There are three basic models of civilian oversight:

1. Auditor/monitor. The auditor/monitor model focuses on making broad organization-level recommendations by reviewing patterns in complaint investigations, police policies,

¹² Cal. Gov. Code, § 3304(f).

¹³ Gov. Code, § 3304.5.

¹⁴ Cal. Pen. Code § 832.8

¹⁵ Cal. Gov. Code §§ 3305 and 3306.

practices or training. Some auditor/monitor models also review open internal investigations.

2. Review-focused. The review-focused model usually consists of citizen volunteers who focus on improving community-police relations by providing a forum for members of the public to comment on police conduct, practices and policies. This model may also review and comment upon completed investigations, request further investigation be conducted, and make recommendations to police executives.
3. Investigation-focused. An investigation-focused model involves non-police civilian investigators, often assisted by non-police city staff, conducting routine, independent investigations of complaints against police officers. The board or commission generally makes findings of fact and conclusions about whether alleged misconduct occurred and whether it constituted a violation of law or police departmental rules. This process may replicate the existing police department’s internal affairs process. Due to the legal complexities and the significant amount of resources necessary to establish and maintain this model, it is more common in large jurisdictions or those that have experienced significant issues surrounding the use of force.¹⁶

Some oversight boards contain aspects of each of the three models. It is uncommon for an oversight board to include the power to recommend or impose discipline. However, each model usually includes the ability to provide input on policy to elected officials.

Examples of committees around the state

Staff surveyed San Diego County cities as well as some other cities throughout the state that have established citizens review committees on police practices and procedures. The results of the survey are reflected below and detailed in Exhibit 4:

City	Type of committee or commission
Anaheim	Police Review Board
Berkeley	Police Review Commission
Burbank	Police Commission
Chula Vista	Community Advisory Committee
Davis	Police Accountability Commission
Inglewood	Citizen Police Oversight Commission
Long Beach	Citizen Complaint Commission
National City	Community & Police Relations Commission
Oceanside	Police and Fire Commission
Riverside	Community Police Review Commission
Sacramento	Sacramento Community Police Review Commission
San Diego	Community Review Board on Police Practices
Tulare	Citizen Complaint Police Review Board
*County of San Diego	Citizens Law Enforcement Review Board

* Provides law enforcement services to cities throughout San Diego County.

¹⁶ Stephens, Darrel W., Ellen Scrivner, and Josie F. Cambareri. 2018. *Civilian Oversight of the Police in Major Cities*. Washington, DC: Office of Community Oriented Policing Services.

The National City Community and Police Relations Commission and the Burbank Police Commission provide useful examples of two types of police oversight boards.

National City Community and Police Relations Commission

The National City Community and Police Relations Commission consists of eight members appointed by the mayor and subject to council confirmation. At least five members must be residents of the city and as many as two may be non-residents. One of the eight members must be a member of the National City Police Officers' Association, however, that member may not vote.

The commission's mission is threefold, to:

1. Provide a forum for citizens to voice their concerns about police conduct, practices, and policies.
2. Examine police practices and policies as they pertain to conduct issues.
3. Identify opportunities to ameliorate adversity between the police department and citizen complainants.

The commission's powers include:

- Receiving and monitoring or investigating citizen complaints regarding police conduct, but without interfering with the administration of the police department.
- Requesting and receiving supplemental information from the police department on citizen complaints and such other matters as the commission may request.
- Allowing parties the opportunity to mediate their disputes.
- Advising on police department operations and making recommendations on police policy issues.
- Conducting investigations and holding public hearings. This includes the power to examine witnesses under oath and compel their attendance or the production of evidence by issuing subpoenas.

This is the review-focused approach, intended to improve community-police relations.

Burbank Police Commission

The Burbank Police Commission consists of five members appointed by the City Council. The stated mission of the commission is to "provide civilian oversight to advocate for best law enforcement policies for the greater good of the Burbank community" and to "monitor the Burbank Police Department to achieve and maintain a culture of respect and professionalism through accountability and transparency in all its actions."

The commission meets regularly to provide community input and feedback on policies and issues within the community.

The commission has the power to:

- Initiate studies and surveys in the general field of police science and law enforcement and report its findings and recommendations to the council

- Conduct hearings, investigations, or both, at the request of the council for the purpose of ascertaining whether additional legislation is needed for the health, safety, peace and welfare of the inhabitants of the city and to make findings and recommendations to the council
- Act in an advisory capacity to the council on policy matters pertaining to the police department of the city
- Receive complaints, except those relating to traffic engineering, pertaining to the police department and law enforcement in general
- Examine books, papers, records and accounts in the police department, other than confidential matters under investigation

The City of Burbank’s commission follows the auditor/monitor model. It does not conduct hearings or investigations into individual incidents and is instead focused on making broad policy-level recommendations. However, the City of Burbank also contracts with the Office of Independent Review to provide an additional level of oversight and independent monitoring of the police department. The Office of Independent Review was retained in 2012 after controversies regarding the police department.

In addition to the commission’s role, the Office of Independent Review conducts individualized and random reviews of law enforcement incidents and presents an annual report at a joint meeting of the City Council and the Police Commission. The police department provides the office with full access to all investigative files under review. The office’s review includes an assessment of the adequacy of the police department’s investigation into an incident and the appropriateness of the findings and action taken by the police department in response to the investigation. For example, the office reviews and reports on all uses of deadly force, all complaints of bias in policing and a fourth of all cases involving the use of force, chosen at random.

Fiscal Analysis

This agenda item is for discussion only, so there are no fiscal impacts at this time.

Environmental Evaluation (CEQA)

This action does not constitute a “project” within the meaning of the California Environmental Quality Act under Public Resources Code Section 21065 in that it has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and therefore does not require environmental review.

Public Notification and Outreach

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for viewing at least 72 hours prior to the scheduled meeting date.

Exhibits

1. City of Carlsbad Police Department Policy 300 – Use of Force
2. Carlsbad Special Order 2020-04 – Considerations for De-Escalation
3. Police Officers’ Bill of Rights
4. Citizens Review Committees on Police Practices and Procedures Survey

Carlsbad Police Department Policy Manual Special Order 2020-03

Pursuant to Carlsbad Police Department Policy 300, this Special Order becomes effective June 4, 2020.

USE OF FORCE POLICY 300

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties. Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties. The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to

accomplish a legitimate law enforcement purpose (Penal Code § 835a). The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving. Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons, or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose. While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

Any peace officer may use objectively reasonable force to effect an arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or to overcome resistance. Retreat does not mean tactical repositioning or other de-escalation techniques (Penal Code § 835a).

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The conduct of the involved officer (Penal Code § 835a).
- (e) The effects of drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with officer commands (Penal Code § 835a).
- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).

- (k) Seriousness of the suspected offense or reason for contact with the individual.
- (l) Training and experience of the officer.
- (m) Potential for injury to officers, suspects, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (r) Prior contacts with the subject or awareness of any propensity for violence.
- (s) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.3.5 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Carlsbad Police Department for this specific purpose.

300.4 DEADLY FORCE APPLICATIONS

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers should evaluate the use of other reasonably available resources and techniques when determining whether to use deadly force. The use of deadly force is only justified in the following circumstances (Penal Code § 835a):

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- (b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, the officer shall, prior to the use of force,

make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts. Officers shall not use deadly force against a person based on the danger that person poses to him/ herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a). An “imminent” threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer’s subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others. Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

300.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of a TASER device or control device.
- (f) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges any of the above has occurred.

300.6 MEDICAL CONSIDERATION

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or

continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible. The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration). Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

300.7 SUPERVISOR RESPONSIBILITY

When a supervisor is notified of an incident involving any application of force defined in policy section 300.5.1 (a)-(i), the supervisor shall respond to the incident. The supervisor is expected to:

- a. Obtain the basic facts from the involved officers. Absent suspected misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- b. Ensure that any injured parties are examined and treated.
- c. When possible, separately obtain a recorded interview with the subject(s) upon whom force was applied. If this interview is conducted with a person who is in police custody, a Miranda Admonishment must be given and a waiver of rights obtained prior to any interview. If the suspect(s) invokes either a right to silence or for representation, no interview shall be conducted.
- d. Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- e. Identify any witnesses and insure that all witnesses are interviewed. These interviews should be audio recorded if possible.
- f. Insure that all reports are reviewed and approved by a supervisor.
- g. Determine if there is any indication that the subject may pursue civil litigation, if appropriate the supervisor should complete and route a notification of a potential claim through their chain of command.
- h. Evaluate the circumstances surrounding the incident and complete a Supervisor's Complaint Summary report and forward it to the Professional Standards and Services Division Lieutenant through the supervisor's chain of command if there is a question of policy noncompliance

or if for any reason further administrative investigation may be appropriate.

i. Prepare a Supervisor's Use of Force investigation report. This report shall be attached to the associated crime and/or arrest reports documenting the incident. This report shall be reviewed and approved by another supervisor.

300.7.1 WATCH COMMANDER RESPONSIBILITY

The Watch Commander shall insure that a supervisor responds to all use of force incidents by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

DELETION OF POLICY 300.3.4

Policy 300.3.4 outlining the use of Carotid Control Hold has been **deleted** from Policy 300 and this policy is no longer applicable.



Neil Gallucci, Chief of Police

6-4-20

Date

Carlsbad Police Department Policy Manual Special Order 2020-04

Pursuant to Carlsbad Police Department Policy 204, this Special Order becomes effective June 18, 2020.

New policy 301 reads as follows:

Countywide Crisis Management Philosophy; Considerations for De-escalation

301.1 PURPOSE AND SCOPE

Law enforcement is guided by the overarching principle of reverence for human life in all investigative, enforcement, and other interactions between law enforcement and members of the community. San Diego County Law Enforcement Agencies are committed to providing peace officers with the training, equipment and resources necessary to encourage peaceful resolutions.

301.2 SAN DIEGO COUNTYWIDE PHILOSOPHY

Every situation law enforcement responds to is unique. When law enforcement is called upon to respond to a crisis or criminal acts, they will if reasonable under the circumstances, use tactics and techniques to persuade the individual to voluntarily comply or mitigate the need to use increased physical tactics to resolve the situation safely. Some situations require an immediate response, while other situations may allow peace officers the opportunity to communicate with the individual, refine tactical plans, and, if necessary, call for additional resources. When reasonable opportunity exists, peace officers should consider the concepts of Pre-Engagement, De-Escalation, and Disengagement, consistent with the definitions provided in this document.

301.3 DEFINITIONS

Pre-Engagement Considerations: Pre-Engagement considerations involve the process of gathering and assessing information prior to deploying the available personnel, tactics, equipment, and other appropriate and obtainable resources. Discretionary time, reactionary distance, communication, and barriers are key objectives to enhance the probability of a peaceful outcome. Self-regulation is a key component to the decision-making process.

De-Escalation: De-escalation is the use of strategies and/or techniques to gain voluntary compliance from an individual in order to gain or maintain control of an incident while reducing the need for physical coercion. These strategies and/or techniques are used to increase time and distance from the individual while attempting to establish effective communication.

Disengagement (Tactical Withdraw): Disengagement is a tactic designed to avoid potentially violent outcomes. Disengagement may be a viable option for individuals in crisis who pose no additional threats to others, or resistant offenders who may later be apprehended under safer conditions.

301.4 DISENGAGEMENT

Anytime peace officers intend to disengage from an incident, they should attempt to advise involved individuals of the withdrawal from the incident. Peace officers should attempt to ensure those involved have had the opportunity to establish a position of relative safety with respect to the incident, and they are aware that officers will no longer be present to protect the safety of the involved persons.

301.4.1 SPECIAL RELATIONSHIP

Under the law, peace officers have no duty to come to the aid of another unless the officers have created a peril or a special relationship exists. However, individual department policies may require an officer to take action under specific circumstances. A special relationship between law enforcement and a person may be created one of two ways. First, a special relationship may be created where the officer makes a representation, either express or implied, that is detrimentally relied upon and causes a foreseeable harm to another person. (For example, no warning was given after an officer promised to warn a person if a prisoner, who had threatened her life, was released and the prisoner murdered that individual.) Second, a special relationship may be created where the officer engages in an affirmative act that increases the foreseeable risk of harm to the individual. (For example, an officer investigating an accident directs an individual to follow him/her to the middle of the intersection. The individual complies, and the individual is hit by a car.) In other words, a special relationship has (1) an aspect of dependency, where one party relies to some degree on an officer for protection, and, (2) the officer has superior control over the means of protection.

Officers should consider special relationship concerns with respect to the handling of an incident, and subsequent decisions to disengage.

301.5 TRAINING

Agencies should include the principles of this Philosophy and the crisis management considerations handout, in regular training evolutions.

Following any significant incident, field supervisors are encouraged to debrief and evaluate the event within the context of this Philosophy and its considerations. The objective of debriefs are for individual and agency development and may serve to augment the capacities of peace officers with the objective of protecting the lives and safety of all persons.


Neil Gallucci, Chief of Police

6-18-20
Date

Police Officers Bill of Rights**CALIFORNIA CODES GOVERNMENT CODE SECTION 3300-3311**

3300. This chapter is known and may be cited as the Public Safety Officers Procedural Bill of Rights Act.

3301. For purposes of this chapter, the term public safety officer means all peace officers specified in Sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.38, 830.4, and 830.5 of the Penal Code. The Legislature hereby finds and declares that the rights and protections provided to peace officers under this chapter constitute a matter of statewide concern. The Legislature further finds and declares that effective law enforcement depends upon the maintenance of stable employer-employee relations, between public safety employees and their employers. In order to assure that stable relations are continued throughout the state and to further assure that effective services are provided to all people of the state, it is necessary that this chapter be applicable to all public safety officers, as defined in this section, wherever situated within the State of California.

3302. (a) Except as otherwise provided by law, or whenever on duty or in uniform, no public safety officer shall be prohibited from engaging, or be coerced or required to engage, in political activity.

(b) No public safety officer shall be prohibited from seeking election to, or serving as a member of, the governing board of a school district.

3303. When any public safety officer is under investigation and subjected to interrogation by his or her commanding officer, or any other member of the employing public safety department, that could lead to punitive action, the interrogation shall be conducted under the following conditions. For the purpose of this chapter, punitive action means any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.

(a) The interrogation shall be conducted at a reasonable hour, preferably at a time when the public safety officer is on duty, or during the normal waking hours for the public safety officer, unless the seriousness of the investigation requires otherwise. If the interrogation does occur during off-duty time of the public safety officer being interrogated, the public safety officer shall be compensated for any off-duty time in accordance with regular department procedures, and the public safety officer shall not be released from employment for any work missed.

(b) The public safety officer under investigation shall be informed prior to the interrogation of the rank, name, and command of the officer in charge of the interrogation, the interrogating officers, and all other persons to be present during the interrogation. All questions directed to the public safety officer under interrogation shall be asked by and through no more than two interrogators at one time.

(c) The public safety officer under investigation shall be informed of the nature of the investigation prior to any interrogation.

(d) The interrogating session shall be for a reasonable period taking into consideration gravity and complexity of the issue being investigated. The person under interrogation shall be allowed to attend to his or her own personal physical necessities.

(e) The public safety officer under interrogation shall not be subjected to offensive language or threatened with punitive action, except that an officer refusing to respond to questions or submit to interrogations shall be informed that failure to answer questions directly related to the investigation or interrogation may result in punitive action. No promise of reward shall be made as an inducement to answering any question. The employer shall not cause the public safety officer under interrogation to be subjected to visits by the press or news media without his or her express consent nor shall his or her home address or photograph be given to the press or news media without his or her express consent.

(f) No statement made during interrogation by a public safety officer under duress, coercion, or threat of punitive action shall be admissible in any subsequent civil proceeding. This subdivision is subject to the following qualifications:

(1) This subdivision shall not limit the use of statements made by a public safety officer when the employing public safety department is seeking civil sanctions against any public safety officer, including disciplinary action brought under Section 19572.

(2) This subdivision shall not prevent the admissibility of statements made by the public safety officer under interrogation in any civil action, including administrative actions, brought by that public safety officer, or that officer's exclusive representative, arising out of a disciplinary action.

(3) This subdivision shall not prevent statements made by a public safety officer under interrogation from being used to impeach the testimony of that officer after an in camera review to determine whether the statements serve to impeach the testimony of the officer.

(4) This subdivision shall not otherwise prevent the admissibility of statements made by a public safety officer under interrogation if that officer subsequently is deceased.

(g) The complete interrogation of a public safety officer may be recorded. If a tape recording is made of the interrogation, the public safety officer shall have access to the tape if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. The public safety officer shall be entitled to a transcribed copy of any notes made by a stenographer or to any reports or complaints made by investigators or other persons, except those which are deemed by the investigating agency to be confidential. No notes or reports that are deemed to be confidential may be entered in the officer's personnel file. The public safety officer being interrogated shall have the right to bring his or her own recording device and record any and all aspects of the interrogation.

(h) If prior to or during the interrogation of a public safety officer it is deemed that he or she may be charged with a criminal offense, he or she shall be immediately informed of his or her constitutional rights.

(i) Upon the filing of a formal written statement of charges, or whenever an interrogation focuses on matters that are likely to result in punitive action against any public safety officer, that officer, at his or her request, shall have the right to be represented by a representative of his or her choice who may be present at all times during the interrogation. The representative shall not be a person subject to the same investigation. The representative shall not be required to disclose, nor be subject to any punitive action for refusing to disclose, any information received from the officer under investigation for non criminal matters. This section shall not apply to any interrogation of a public safety officer in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other public safety officer, nor shall this section apply to an investigation concerned solely and directly with alleged criminal activities.

(j) No public safety officer shall be loaned or temporarily reassigned to a location or duty assignment if a sworn member of his or her department would not normally be sent to that location or would not normally be given that duty assignment under similar circumstances.

3304. (a) No public safety officer shall be subjected to punitive action, or denied promotion, or be threatened with any such treatment, because of the lawful exercise of the rights granted under this chapter, or the exercise of any rights under any existing administrative grievance procedure. Nothing in this section shall preclude a head of an agency from ordering a public safety officer to cooperate with other agencies involved in criminal investigations. If an officer fails to comply with such an order, the agency may officially charge him with insubordination.

(b) No punitive action, nor denial of promotion on grounds other than merit, shall be undertaken by any public agency without providing the public safety officer with an opportunity for administrative appeal.

3305. No public safety officer shall have any comment adverse to his interest entered in his personnel file, or any other file used for any personnel purposes by his employer, without the public safety officer having first read and signed the instrument containing the adverse comment indicating he is aware of such comment, except that such entry may be made if after reading such instrument the public safety officer refuses to sign it. Should a public safety officer refuse to sign, that fact shall be noted on that document, and signed or initialed by such officer.

3306. A public safety officer shall have 30 days within which to file a written response to any adverse comment entered in his personnel file. Such written response shall be attached to, and shall accompany, the adverse comment.

3307. No public safety officer shall be compelled to submit to a polygraph examination against his will. No disciplinary action or other recrimination shall be taken against a public safety officer refusing to submit to a polygraph examination, nor shall any comment be entered anywhere in the investigator's notes or anywhere else that the public safety officer refused to take a polygraph examination, nor shall any testimony or evidence be admissible at a subsequent hearing, trial, or proceeding, judicial or administrative, to the effect that the public safety officer refused to take a polygraph examination.

3308. No public safety officer shall be required or requested for purposes of job assignment or other personnel action to disclose any item of his property, income, assets, source of income, debts or personal or domestic expenditures (including those of any member of his family or household) unless such information is obtained or required under state law or proper legal procedure, tends to indicate a conflict of interest with respect to the performance of his official duties, or is necessary for the employing agency to ascertain the desirability of assigning the public safety officer to a specialized unit in which there is a strong possibility that bribes or other improper inducements may be offered.

3309. No public safety officer shall have his locker, or other space for storage that may be assigned to him searched except in his presence, or with his consent, or unless a valid search warrant has been obtained or where he has been notified that a search will be conducted. This section shall apply only to lockers or other space for storage that are owned or leased by the employing agency.

3309.5. (a) It shall be unlawful for any public safety department to deny or refuse to any public safety officer the rights and protections guaranteed to them by this chapter.

(b) The superior court shall have initial jurisdiction over any proceeding brought by any public safety officer against any public safety department for alleged violations of this section.

(c) In any case where the superior court finds that a public safety department has violated any of the provisions of this chapter, the court shall render appropriate injunctive or other extraordinary relief to remedy the violation and to prevent future violations of a like or similar nature, including, but not limited to, the granting of a temporary restraining order, preliminary, or permanent injunction prohibiting the public safety department from taking any punitive action against the public safety officer.

3310. Any public agency which has adopted, through action of its governing body or its official designee, any procedure which at a minimum provides to peace officers the same rights or protections as provided pursuant to this chapter shall not be subject to this chapter with regard to such a procedure.

3311. Nothing in this chapter shall in any way be construed to limit the use of any public safety agency or any public safety officer in the fulfilling of mutual aid agreements with other jurisdictions or agencies, nor shall this chapter be construed in any way to limit any jurisdictional or interagency cooperation under any circumstances where such activity is deemed necessary or desirable by the jurisdictions or the agencies involved.

Citizens Review Committees on Police Practices & Procedures Survey

City Name	Name of Commission/Committee	Reporting Hierarchy	Meetings	Composition	Purpose and Duties/Tasks or Mission
Anaheim	Police Review Board	City Manager	Monthly	<p>Seven members Members selected using lottery system - one representative from each of Anaheim's six council districts and one representative from the City at large.</p>	<p>Provide increased transparency; access to information; expand the public's ability to provide feedback on police accountability and allow for greater civic engagement and further increase awareness of police services and operations. Through the City's external auditor, the PRB will review critical incidents; receive real-time notifications of major incidents; review police practices and policies; and serve as an advisory body to the City Manager.</p>
Berkeley	Police Review Commission	City Council	2nd & 4th Wednesdays	<p>Nine members Each council member shall appoint one member to the commission. All members shall be residents of the City of Berkeley. No officer or employee of the City shall be appointed to the commission.</p>	<p>Advise and make recommendations to the public, council and city manager; review and make recommendations concerning all written and unwritten policies/practices/procedures of whatever kind and without limitation relating to the Berkeley Police Department, other law enforcement agencies and intelligence and military agencies operating with the city; receive complaints directed against the Police Department; investigate said complaints and make recommendations relating to departmental policies/procedures to council and city manager; exercise the power of subpoena; adopt rules and regulations and develop procedures for its own activities and investigations as may be necessary; to take testimony under oath.</p>

Burbank	Police Commission	Quarterly	<p>Five members</p> <p>To initiate studies and surveys in the general field of police science and law enforcement and report its findings and recommendations to the Council; to conduct hearings, investigations, or both, at the request of the Council for the purpose of ascertaining whether additional legislation is needed for the health, safety, peace and welfare of the City and to make findings and recommendations to the Council; To act in an advisory capacity to the Council on policy matters pertaining to the Police Department of the City; To receive complaints, except those relating to traffic engineering, pertaining to the Police Department and law enforcement in general; to examine books, papers, records and accounts in the Police Department, other than confidential matters under investigation.</p>
Chula Vista	Community Advisory Committee	<p>No less than twice a year - as needed</p>	<p>Advises Police Chief on police and community relations to deter and prevent crime and disorder problems; functions as a method of community participation in recommending and reviewing policies, practices and programs to educate the community and assist the department in being more sensitive, effective and responsive; works to encourage and foster citizen participation in community engagement activities; encourages and promotes open communication/cooperation between the department, residents and stakeholders of the city.</p> <p>13 members Composed of community members that provide a positive influence on the department yet communicate alternative and divergent viewpoints and positions regarding public safety issues and initiatives.</p>
Davis	Police Accountability Commission	Monthly	<p>Nine members (1 UCD student, 1 alternate) Appointment of commissioners is made by the City Council and shall reflect a diverse representation of the community and include members of various ethnicities, racial backgrounds, sexual orientations, economic status, etc. A minimum of two members appointed by council shall have demonstrated previous adverse interactions with the Davis Police Department. No member will have a law enforcement background.</p> <p>11 members Composed of residents who broadly represent the diversity of the city. Two commissioners are appointed by the Mayor, two are appointed by each Council Member and one is appointed by the Chief of Police.</p>
Inglewood	Citizen Police Oversight Commission	Monthly	<p>Develop Community Outreach Plan; provide input to audit Police Department policies/procedures/training; recommend changes/improvements to policies/procedures/training; review Independent Police Auditor reports on misconduct complaints; provide input into reports; assess the work of the Independent Police Auditor; when time permits, respond to Davis Police Department requests for input on matters outside Independent Police Auditor/Commission priorities.</p> <p>Provide a means for prompt, impartial and fair investigation of all citizen complaints brought by individuals against the Inglewood Police Department, and provide for community participation in setting and reviewing police department policies, practices and procedures.</p>

<p>Receive, administer and investigate through an independent investigator, allegations of police misconduct; conduct a hearing into those allegations; subpoena and require the attendance of witnesses, production of books and papers pertinent to the investigation and administer oaths to such witnesses; make recommendations concerning allegations to the City Manager; recommend to City Council the provision of staff as is necessary to carry out its power and duties.</p>	<p>11 members Members appointed by the Mayor, subject to confirmation by the City Council. One Commission member shall be appointed to represent each of the nine City Council districts, and two members are appointed at large. Each member of the City Council shall nominate an individual to the Mayor to represent each respective Council district.</p>	<p>Monthly</p>	<p>City Council</p>	<p>Citizen Police Complaint Commission</p>	<p>Long Beach</p>
<p>Receive and investigate citizen complaints regarding police conduct; request and receive supplemental information from the Police Department regarding citizen complaints and such other matters as the Commission may be reviewing; allow parties the opportunity to mediate their dispute; make recommendations to the City Council regarding additional duties which the Commission may perform; make an annual report of its activities, findings and recommendations to the City Council.</p>	<p>Eight members Appointed by the Mayor with the approval of the City Council. Of the eight members, seven (7) shall be voting members, and one (1) shall be a non-voting member. Of the seven voting members, five (5) shall be residents of the City of National City. The non-voting member shall be a member of the National City Police Officers' Association.</p>	<p>Quarterly</p>	<p>City Council</p>	<p>Community & Police Relations Commission</p>	<p>National City</p>
<p>Acts in an advisory capacity to the City Council on policy matters pertaining to safety, police, fire and other areas wherein the matter of public safety may be of concern; act to mobilize community participation to help find solutions to problems and concerns relating to public safety; make studies, reports, hold hearings and formulate policy recommendations to the City Council on matters relating to public safety; receive and expeditiously act on all special assignments requested by the City Council and submit reports and recommendations to the City Council on these assignments; submit recommended projects to the City Council for possible assignment by the City Council.</p>	<p>Nine Members (seven regular members & two alternates) Appointed by the Mayor with consent of the City Council.</p>	<p>Quarterly</p>	<p>City Council</p>	<p>Police & Fire Commission</p>	<p>Oceanside</p>

Riverside	Community Police Review Commission	City Council	Monthly	<p>Advise Mayor/Council on all police/community relations issues; conduct public education outreach; receive, review and investigate through the Executive Director, complaints filed within six months of date of alleged police misconduct, in writing with commission or any other City office; review and investigate the death of any individual arising out of or in connection with actions of a sworn police officer; conduct a hearing on filed complaints or commission initiated investigations; exercise the power of subpoena to require attendance of witnesses, and the production of books and papers pertinent to the investigation and administer oaths to witnesses and take testimony; make findings concerning allegations contained in the file complaint; review and advise the Police Department in matters pertaining to police policies and practices; submit an annual report of the City Council on Commission activities.</p> <p>Nine members Commissioners appointed by the Mayor and City Council.</p>	<p>Advise and make recommendations to the City Council regarding police policy, procedures and best practices, including those related to community relations, hiring and training best practices; review quarterly reports prepared by the Office of Public Safety Accountability consistent with California Penal Code section 832.7(c), relating to the number, kind and status of all citizen complaints filed against police department personnel, to determine whether there are patterns of misconduct that necessitate revisions to police policy, practice or procedure. At least annually, report and make recommendations to the Mayor and City Council regarding the activities of the commission and the Sacramento Police Department's efforts to strengthen bias-free policing and community-police relations.</p>
Sacramento	Sacramento Community Police Review Commission	City Council	No less than nine times per year	<p>11 members One member shall be recommended for appointment by each councilmember, and three members shall be recommended for appointment by the mayor. After receiving councilmember recommendations, the mayor shall appoint all members of the commission, subject to the concurrence of a majority of the city council. All members must be residents of the City of Sacramento. No past or present peace officer, or current employee of the city shall be appointed to the commission.</p>	<p>Advise and make recommendations to the City Council regarding police policy, procedures and best practices, including those related to community relations, hiring and training best practices; review quarterly reports prepared by the Office of Public Safety Accountability consistent with California Penal Code section 832.7(c), relating to the number, kind and status of all citizen complaints filed against police department personnel, to determine whether there are patterns of misconduct that necessitate revisions to police policy, practice or procedure. At least annually, report and make recommendations to the Mayor and City Council regarding the activities of the commission and the Sacramento Police Department's efforts to strengthen bias-free policing and community-police relations.</p>

San Diego	Community Review Board	Mayor	Monthly	<p>23 members Composed entirely of volunteers. All members must be at least 18 years of age and reside in the City of San Diego. Applicants are screened and interviewed by a selection committee made up of Board Members and community leaders who make recommendations to the Mayor, who makes all appointments to the CRB.</p>	<p>Review all deaths occurring while a person is in custody; review and evaluate citizens' complaints against the department and Police Department administration of discipline from such complaints; submit semiannual report to the Mayor/City Council concerning evaluation of the department investigation of citizens' complaints; adopt bylaws consistent with the law for the governance of its business/procedures; may maintain a training program for individuals interested in applying to the Board; may refer, if appropriate, a completed citizen complaint investigation to the grand jury, district attorney or other governmental agency authorized by law to investigate.</p>
Tulare	Citizen Complaint Police Review Board	City Council	Monthly	<p>Seven members Five members nominated by individual City Council members subject to approval of appointment by the remainder of the Council. The remaining two members selected at large by the City Council as a whole. Goal of the Council to select board members providing a diversity of ethnic, racial and socioeconomic backgrounds as well as a diversity of geographic representation from all areas of the city. In addition, an eighth, non-voting member shall be appointed by the membership of the recognized bargaining unit representing the sworn employees of the Police Department. The appointee shall be entitled to participate in all aspects of the Board's activities, including reviewing citizen complaint investigations and discussions related thereto, except that the appointee shall not be entitled to vote on any matter before the Board. All appointees to the Board shall be residents of the city.</p>	<p>Receive citizen complaints of alleged police officer misconduct in the form of misuse of force, false arrest, discrimination, criminal conduct, use of racial or ethnic slurs, abuse of authority, extreme discourtesy and/or serious misconduct. Has authority to review the Police Department investigation of all such allegations of police officer misconduct. Board shall further have the authority to make an annual report summarizing its activities and providing statistical information regarding the receipt and processing of citizen complaints of police officer misconduct. The Board is not intended to, nor shall it be invested with authority to, review disciplinary action if any, proposed and/or imposed upon police personnel as a result of the investigation of the citizen complaints.</p>
*County of San Diego	Citizens' Law Enforcement Review Board Rules and Regulations	Board of Supervisors	Monthly	<p>11 Members Nominated by the Chief Administrative Officer and appointed by the Board of Supervisors. Each member shall be a qualified lector of San Diego County and shall possess a reputation for integrity and responsibility and have demonstrated an active interest in public affairs and service.</p>	<p>To increase public confidence in government and accountability of law enforcement by conducting impartial and independent investigations of citizen complaints of misconduct concerning Sheriff's Deputies and Probation Officers employed by the County of San Diego.</p>