



**CITY OF BELL GARDENS  
CITY COUNCIL  
REGULAR MEETING – CLOSED SESSION  
MONDAY, JANUARY 11, 2016, 5:00 P.M.  
AGENDA**

**LOCATION: CITY COUNCIL CHAMBER, 7100 GARFIELD AVENUE, BELL GARDENS, CA**

Pursuant to the Americans with Disabilities Act, persons with a disability who require a disability-related modification or accommodation in order to participate in a meeting, including auxiliary aids or services, may request such modification or accommodation from the Successor Agency Secretary at (562) 806-7706. Notification 48 business hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.

**CALL TO ORDER**

**ROLL CALL OF CITY COUNCIL MEMBERS**

Priscilla Flores, Council Member  
Jose Mendoza, Council Member  
Maria Pulido, Council Member  
Pedro Aceituno, Mayor Pro Tem  
Jennifer Rodriguez, Mayor

**PUBLIC COMMENTS ON AGENDA ITEMS ONLY (Three minutes per person, subject to a total period of 30 minutes)**

This public comment period is for items listed on the CLOSED SESSION AGENDA ONLY. Submit a WHITE public comment card with the closed session agenda item number you would like to discuss to the City Clerk prior to the start of this period. There will be no further cards accepted once the public comment period has started. Comments are limited to three (3) minutes per person, subject to an overall thirty (30) minute period. Please direct your comments to the Mayor and observe the Rules of Decorum appropriate to the Council Chamber. State law prohibits the City Council from discussing any item not appearing on the posted City Council Closed Session Agenda.

**CLOSED SESSION:**

- a. **CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION**  
**One (1) matter**  
Lindsay et al. v. City of Bell Gardens, Case No. 2:15-cv-09693-JFW-AJW  
Pursuant to Government Code Section 54956.9(a)



**CITY OF BELL GARDENS**  
**CITY COUNCIL**  
**REGULAR MEETING**  
**MONDAY, JANUARY 11, 2016, 6:00 P.M.**  
**AGENDA**

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**CALL TO ORDER**

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**PRESENTATION**

- Certificate of Recognition for Adan Medina

**PUBLIC HEARING (Item No. 1)**

**1. ZONING CODE AMENDMENT NO. 2015-118 - ORDINANCE NO. 873  
(FILE NO. 2015-118) – MEDICAL MARIJUANA USES**

In 2007 the City Council adopted a comprehensive Zoning Code Update establishing land use and development regulations for medical marijuana uses in the City which includes Chapter 9.21, "Prohibited Uses," Section 9.21.010 "Medical marijuana dispensaries," prohibiting medical marijuana dispensaries in the City. The City's Zoning Code is silent regarding the regulation of mobile marijuana dispensaries and the cultivation of medical marijuana. On October 9, 2015 Governor Brown signed three bills into law (AB 266, AB 243, and SB 643) which collectively are known as the Medical Marijuana Regulation and Safety Act ("MMRSA"). The MMRSA set up a State licensing scheme for commercial medical marijuana uses while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a State license. The MMRSA allows the City to completely prohibit commercial medical marijuana activities. The MMRSA contains language that requires the City to prohibit marijuana cultivation uses by March 1, 2016, either expressly or otherwise under the principles of permissive zoning, or the City will lose its regulatory authority, and the State will become the sole licensing authority. The MMRSA also contains language that requires delivery services to be expressly prohibited by local ordinance, if the City wishes to do so. The MMRSA is silent as to how the City must prohibit other types of commercial medical marijuana activities. On December 16, 2015, the Bell Gardens Planning Commission approved Resolution #PC 2015-08 recommending City Council approval of Zoning Code Amendment No. 2015-118 and adoption of Ordinance No. 873. The approval of Zoning Code Amendment 2015-118 and adoption of Ordinance No. 873 would amend Chapter 9.21, "Prohibited Uses," Section 9.21.010, "Medical marijuana dispensaries," in its entirety to prohibit all commercial medical marijuana activities in the City including permanent and mobile marijuana dispensaries and marijuana cultivation. If the City does not adopt Ordinance No. 873 the

City would lose its authority to regulate cultivation and delivery of medical marijuana, and the State would become the regulatory authority for medical marijuana activities in the City. Adoption of Ordinance No. 873 would not prevent the City from amending the Zoning Code in the future to allow for more permissive regulations for medical marijuana activities if the City desired to do so.

**Recommendation:** It is the recommendation of the Planning Commission that the City Council take the following action:

1. Introduce and conduct first reading of Ordinance No. 873 approving Zoning Code Amendment No. 2015-118 amending the Bell Gardens Municipal Code Title 9 Zoning and Planning Regulations as follows:
  - a) Chapter 9.21, "Prohibited Uses," Section 9.21.010, "Medical marijuana dispensaries," in its entirety to prohibit all commercial medical marijuana activities in the City including permanent and mobile marijuana dispensaries and marijuana cultivation.

## **PUBLIC COMMENTS ON AGENDA ITEMS ONLY**

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## **CONSENT CALENDAR (Items No. 2 – 11)**

All matters listed under the Consent Calendar are considered to be routine and can be acted on by one roll call vote. There will be no separate discussion of these items unless members of the City Council request specific items to be removed from the Consent Calendar for separate action. Items called for separate discussion will be heard as the next order of business.

### **2. GENERAL MOTION TO READ ALL ORDINANCES BY TITLE ONLY**

In order to expedite the conduct of business at City Council meetings, California State Law (California Government Code Section 36934) allows Ordinances to be read by title if a majority of the legislative body supports the motion to waive the full reading.

**Recommendation:** It is staff's recommendation that the City Council approve a general motion to waive full reading and approve Ordinances by title only pursuant to California Government Code Section 36934.

### **3. MINUTES**

December 14, 2015 – Regular Meeting Minutes

**Recommendation:** It is staff's recommendation that the City Council approve the Regular City Council Meeting of December 14, 2015.

### **4. RECEIVE AND FILE THE LOCAL COMMISSIONS APPOINTMENT LIST**

The local appointments list includes the Bell Gardens Commissions and Commissioners. The City Council adopted Ordinance No. 825 on July 13, 2009 which consolidated the existing City Commissions and established minimum requirements for service. It should be noted that all Commission Members must reside within the City of Bell Gardens and may only serve on one Commission at a time. Once appointed, each Commissioner must adhere to the requirements of the City's Conflict of Interest Code and state-mandated AB 1234 ethics training. Ordinance 825 allows each Council Member to nominate one (1) candidate per Commission, subject to the approval of the Council majority. The appointed Commission Member will serve a term that coincides with the term of the Council Member who made the original nomination.

**Recommendation:** It is staff's recommendation that the City Council receive and file the local commissions appointments list.

**5. WARRANT REGISTERS AND WIRE TRANSFERS**

**Recommendation:** It is staff's recommendation that the City Council receive and file the following transactions:

Warrant register	12/01/15	Check #s	155833 - 155928		
Wire transfers	11/25/15	Wire #s	1074 – 1075	\$ 705,521.09	
Payroll transfer	11/25/15		Net payroll	<u>\$ 390,186.86</u>	<u>\$ 1,095,707.95</u>
Warrant register	12/08/15	Check #s	155929 – 155996		<u>\$ 268,440.29</u>
Warrant register	12/15/15	Check #s	155997 – 156088		
Wire transfers	12/10/15	Wire #s	1076 – 1077	\$ 494,190.15	
Payroll transfer	12/10/15		Net payroll	<u>\$ 374,179.78</u>	<u>\$ 868,369.93</u>
Warrant register	12/22/15	Check #s	156089 – 156166		<u>\$ 246,531.14</u>
Warrant register	12/29/15	Check #s	156167 – 156226		
Wire transfers	12/23/15	Wire #s	1078 – 1081	\$ 465,194.83	
Payroll transfer	12/23/15		Net payroll	<u>\$ 428,524.44</u>	<u>\$ 893,719.27</u>
<b>Total =</b>					<b><u>\$ 3,372,768.58</u></b>

In approving the action of receiving and filing the warrant registers, the official minutes of the Bell Gardens City Council should state that each individual member of the City Council is not voting on, influencing the outcome of, or participating in approving, accepting, receiving, or filing any warrant which bears the name of the same Council member, or pays for any costs or expenses, or otherwise benefits the same named Council member. Each Council member will not be participating, influencing, or voting on any such warrant bearing their name or which benefits the same named Council member, but with that exception is voting in favor of receiving and filing all other warrants contained in this report, unless otherwise noted on the record at the time of the approval of the action required by this report.

**6. NOVEMBER 2015 TREASURER'S REPORT**

The Treasurer's Report for Cash and Investments is a list of cash and investments for the month.

**Recommendation:** It is recommended that the City Council receive, approve, and file the November 2015 Treasurer's Report.

**7. FOOD SERVICES CONTRACT FOR BELL GARDENS JAIL FACILITY WITH THE LOS ANGELES COUNTY SHERIFF'S DEPARTMENT FOOD SERVICE BUREAU**

For the past several years, the Police Department (PD) has utilized a food vendor to provide food services to our jail at a cost of approximately \$4.00 per meal. In order to manage costs more effectively, we contacted the Los Angeles County Sheriff's Department (LASD) Food Services Bureau and solicited their meal services. LASD provides meal service to the jail facilities of 31 local cities as well as to Los Angeles Unified School District. They prepare approximately 75,000 meals per day and provide delivery service to each City that contract for their service. One benefit that LASD offers over our current vendor is they have a greater food selection and can accommodate prisoners based on their dietary and/or religious needs. Additionally, the total cost per meal would be \$2.41, a decrease of almost 40% or \$1.49 per meal. Per Municipal Code Section 3.04.100(A) and (B), the competitive bid process may be waived where a good or service is available from more than one source, but bidding is not likely to result in the lowest price and where the purchase is from another governmental agency. Given that the LASD Food Services provides such a large volume of food production resulting in substantial economies of scale and that they are a Government entity, we feel that they have unique familiarity with the police department's custody food needs and can provide

the best possible price. As such, it is requested that the competitive bid process be waived pursuant to BGMC Section 3.04.100(A) and (B).

**Recommendation:** It is staff's recommendation that the City Council of the City of Bell Gardens adopt Resolution No. 2016-01, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELL GARDENS, CALIFORNIA, ADOPTING A 3-YEAR FOOD SERVICE CONTRACT WITH THE LOS ANGELES COUNTY SHERIFF'S DEPARTMENT TO PROVIDE FOOD SERVICES TO THE BELL GARDENS POLICE DEPARTMENT JAIL FACILITY."

8. **PURCHASE OF CHEVROLET TAHOE FOR POLICE DEPARTMENT**

The police department (PD) assesses the fleet of patrol vehicles regularly to determine the need for adding additional vehicles and/or replacement of worn vehicles and associated equipment. After a careful review, the existing Chevrolet Tahoe patrol vehicle which is utilized by the field supervisor was identified for replacement. The Chevrolet Tahoe is considered our "Mobile Command Post" vehicle and as such, carries more emergency equipment than a standard patrol vehicle. Because of the extra weight of the equipment, we cannot replace it with the Ford Explorer which is currently utilized as the replacement vehicle for the patrol fleet. The current Chevrolet Tahoe has been in service for nearly seven years and is approaching 100,000 miles. The PD has identified Wondries Chevrolet as a vendor that can deliver this replacement vehicle at a competitive bid price. Through an RFP process, this vendor was awarded the County of Los Angeles Vehicle Purchase Contract (DP-SH-15322872). Wondries still has new 2014 Chevrolet Tahoes available for sale at significant savings over the 2015 model. Bell Gardens Municipal Code Section 3.04.100(E) provides that, "When supplies, services or equipment can be produced from a supplier who offers the same or better price, terms and/or conditions as the supplier previously offered as the lowest responsible bidder under competitive procurement conducted by another city or public agency; provided, that the competitive procurement process of the other agency meets or exceeds the standards of the city, is for like or greater quantities, includes all known bidders and that, in the opinion of the purchasing officer, it is in the best interest of the city."

**Recommendation:** It is staff's recommendation that the City Council Adopt Resolution No. 2016-02, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELL GARDENS WAIVING THE FORMAL BID PROCESS AND AUTHORIZING THE PURCHASE OF ONE CHEVROLET TAHOE FOR USE BY THE POLICE DEPARTMENT."

9. **APPROVAL OF PURCHASE AND INSTALLATION OF EMERGENCY AND ELECTRONICS EQUIPMENT IN NEW POLICE VEHICLES**

On December 14, 2015, the City Council approved the purchase of three 2015 Ford Police Interceptor Utility vehicles for use by patrol (Resolution No. 2015-73). As stated in that agenda report, the purchase did not include required emergency and communications equipment. Installation of these various components requires technically skilled service personnel given the complexity of the work. These installations require vendors to route numerous pieces of equipment to power sources, while maintaining the original vehicle structure and protecting the factory electrical equipment that is under warranty by the manufacturer. Additionally, these installations have become so complex that limited numbers of companies now specialize in this service. The PD has utilized Black & White Emergency Vehicles, Inc. for the previous installation of emergency and electronics equipment in new Ford Explorer patrol vehicles. This company is the only known single source installation service where the entire vehicle can be outfitted with the emergency and computer equipment. Additionally, they are an authorized installer that meets the Ford and Chevrolet manufacturer's warranty specifications for these types of installations. Further, utilization of this company is much

more efficient allowing the department to avoid numerous individual installations from different companies, saving time and money. The PD has also identified DuraTech USA as the company that best meets our needs for our mobile data computers (MDC). Last year, the police department purchased three ruggedized vehicle tablets from this vendor, and it is operationally necessary to maintain the same equipment in each patrol vehicle. Bell Gardens Municipal Code Section 3.04.100(A) authorizes the City to dispense with typical competitive bidding procedures where the Purchasing Office or City Council finds that such services, supplies, or equipment are unique because their quality, durability, availability, or fitness for a particular use and are available from only one source. Staff believes that Black & White Emergency Vehicles, Inc. and DuraTech satisfy the "sole source" exception set forth under Section 3.04.100(A). Moreover, Bell Gardens Municipal Code Section 3.04.105 (A)(1) states, "the procurement of the professional services, legal, accounting, architectural, landscape architectural, engineering, environmental, land surveying, construction management, or other like services, shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. Therefore, the contract for professional services need not be awarded to the lowest responsible bidder..."

**Recommendation:** It is staff's recommendation that the City Council Adopt Resolution No. 2016-03, entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELL GARDENS AUTHORIZING THE PURCHASE AND INSTALLATION OF EMERGENCY AND COMMUNICATIONS EQUIPMENT IN NEW PATROL VEHICLES UTILIZED BY THE POLICE DEPARTMENT."

10. **AWARD OF TRAFFIC SIGNAL MAINTENANCE AND REPAIR SERVICES CONTRACT TO AEGIS ITS, INC.**

The City has thirty-seven (37) signalized intersections, seven (7) flashing beacons, nine (9) pedestrian crosswalk signals/signs and twenty-nine (29) radar speed display signals within the city. The scope of work for the proposed contract includes preventative maintenance checks, routine service, painting of all overhead signals, and extraordinary maintenance such as knockdowns or blackouts. Staff sent out requests for proposals to three (3) qualified companies and also advertised in a construction industry publication - Dodge Construction. Two (2) companies responded with a proposal: Aegis ITS, Inc and Siemens Industry Inc. Staff evaluated both firms and deemed them qualified and capable of providing the necessary traffic signal maintenance services. Staff then evaluated their bid prices and determined that Aegis ITS offered the lowest price. Based on positive references from their previous city clients, their available resources, and positive work history with Bell Gardens, it was determined that Aegis ITS, Inc. (Aegis) is the best firm to provide traffic signal maintenance services. Additionally, Aegis has an outstanding feature of a web-based maintenance service tracking system and inventory tracking system.

**Recommendation:** It is staff's recommendation that the City Council by motion: Award a three (3) year traffic signal maintenance contract to Aegis ITS, Inc., with an option for two (2) one-year extensions, if approved by the City Manager.

11. **ACCEPTANCE OF THE CONSTRUCTION CONTRACT FOR THE POLICE DEPARTMENT LOBBY, INTERVIEW ROOM AND FLOORING REHABILITATION PROJECT**

The Fiscal Year (FY) 2014-2015 Capital Improvement Program (CIP) budget included funding for the completion of the Police Department Lobby, Interview Room and Flooring Rehabilitation from the Asset Forfeiture Fund. On June 3, 2015, the City received one (1) bid from Cinbad Industry, Inc. (Cinbad). Upon determining that Cinbad was qualified to perform the rehabilitation work at the Police Department, staff made a recommendation to City Council for an award of contract. On June 22, 2015, City

Council awarded a construction contract to the lone responsive and qualified bidder, Cinbad Industry Inc., in the amount of \$86,000. The scope of work consisted of the replacement of tile floors and existing alcove within the lobby area, upgrade of reception counter, conversion of men's restroom to an interview room, and replacement of carpeting in main hallways, reception room and records offices with laminated floor covering and other items as needed. On December 8, 2015, Cinbad completed the construction of improvements for the Police Department lobby, interview room and flooring project. During construction, the staff requested that changes be made in the new interview room to improve its functionality, such as installation of a wire mesh window for security reasons and tile flooring, instead of laminated floor material. Both the City Engineer and the Inspector have conducted their final inspection, reviewed the project documents and have determined that the project was completed satisfactorily and in conformance with the project's plans and specifications. In addition, the Police Department staff has confirmed that all work has been completed. During construction, eight (8) change orders (CO) were needed due to unforeseen field conditions and approved in the amount of \$10,370.40. These change orders were made necessary in order to complete the project improvements and provide a more functional facility. The total project cost is \$116,275.40.

**Recommendation:** It is staff's recommendation that the City Council:

- 1) Accept the construction contract for the Police Department Lobby, Interview Room and Flooring Rehabilitation Project as complete; and
- 2) Authorize staff to file the Notice of Completion.

It is recommended that the City Council receive, approve, and file the November 2015 Treasurer's Report.

## DISCUSSION (Item No. 12)

### 12. ORDINANCE NO. 869 AMENDING SECTIONS 17.28.060 AND 17.28.200 AND REPEALING SECTION 17.28.070 OF CHAPTER 17.28 AND RESOLUTION NO. 2015-54 EXPRESSING SUPPORT FOR STATE LEGISLATION TO GRANT LOCAL GOVERNMENT AGENCIES GREATER AUTHORITY TO REGULATE REGISTERED SEX OFFENDERS WITHIN THEIR JURISDICTIONS

In August 2015, draft Ordinance No. 869 repealing portions of the City's Sex Offender Ordinance was presented to the City Council. At that time, the City Council requested to continue this item and for staff to report back with a survey of California cities that have been sued or threatened with suit in connection with its sex offender ordinance in light of recent court decisions overturning existing sex offender laws and the authority of cities to regulate sex offenders. Based on staff's informal survey, the following cities have been sued by sex offender rights advocates: Santa Ana, San Diego, Pomona, South Lake Tahoe, Carson, National City, Lompoc, Orange, Victorville, San Bernardino, and Pico Rivera. These cities settled the lawsuits for monetary amounts in the range of \$4,000 and \$12,000 each depending on the particular circumstances of each case. In addition the monetary settlement, each city ultimately repealed portions of sex offender ordinance. Typically, the settlement figures are paid to cover attorneys' fees. On December 21, 2015, the Cities of Bell Gardens and Gardena, along with 5 other southern California cities were sued by sex offender rights advocates similarly challenging the constitutionality of the cities' sex offender ordinances. On October 26, 2009, the City Council of Bell Gardens adopted Ordinance No. 828, adding Chapter 17.28 (Local Regulation of Sex Offenders) to Title 17 of the Bell Gardens Municipal Code, which prohibited sex offenders, regardless of whether that person is on parole or probation, from being within 300 feet of facilities and locations where children regularly gather, subject to certain narrow exemptions. Specifically at issue, is section 17.28.060, Unlawful residency, of Chapter 17.28, which prohibits any sex offender from residing, on either a temporary resident or permanent resident basis, within 2,640 feet of any

sensitive use site. On March 2, 2015, the Supreme Court of California, in *In re Taylor* (2015) 60 Cal.4th 1019, held that the California Department of Corrections and Rehabilitation's (the "CDDR") blanket enforcement of the Penal Code's residency restrictions (Penal Code section 3003.5(b)) on registered sex offenders was unconstitutional. If the City of Bell Gardens chooses not to amend section 17.28.060 of Chapter 17.28 of the Bell Gardens Municipal Code, the City could face a lawsuit challenging its legality under *In re Taylor*. Amending section 17.28.060 of Chapter 17.28 will not prevent the City from adopting a similar provision in the future, if circumstances are changed by future Court or state legislative action. As a result of the court's decision in *In Re Taylor*, City Staff has included a draft City Council resolution for consideration, which if adopted, urges state law makers to enact state legislation that would grant local government agencies greater authority to regulate registered sex offenders within their jurisdictions. Once adopted, the resolution will be sent to local state lawmakers.

**Recommendation:** It is recommended that the City Council do the following:

(1) Introduce and conduct the first reading of draft Ordinance No. 869, amending sections 17.28.060 and 17.28.200 and repealing section 17.28.070 of Chapter 17.28 of the Bell Gardens Municipal Code entitled "Local Regulation of Sex Offenders," and direct staff to bring back draft Ordinance No. 869 for second reading at the next regularly scheduled City Council meeting; and

(2) Adopt draft City Council Resolution No. 2016-04 expressing support and urging state legislation granting local government agencies greater authority to regulate registered sex offenders within their jurisdictions.

## **PUBLIC COMMENTS ON NON-AGENDA ITEMS UNDER THE SUBJECT MATTER JURISDICTION OF THE CITY COUNCIL**

**(Three minutes per person, subject to a total period of 30 minutes)**

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## **CITY ATTORNEY REPORT ON CLOSED SESSION ITEMS**

## **CITY COUNCIL MEMBER COMMENTS**

## **ADJOURNMENT**