

IRWINDALE COUNCIL CHAMBER  
5050 N. IRWINDALE AVENUE  
IRWINDALE, CALIFORNIA 91706

February 19, 2020  
Wednesday  
6:30 P.M.

The Irwindale **PLANNING COMMISSION** met in regular session at the above time and place.

CHAIR TAPIA                      Chair Tapia requested that the meeting be adjourned in memory of Parks and Recreation Commissioner Jason Hickman's wife. He also shared a memory.

**ROLL CALL:**                      Present: Commissioners Enoch Burrola; Robert E. Hartman; Loretta Corpis; Vice Chair Richard Chico; Chair Arthur R. Tapia

Also present: Marilyn Simpson, Community Development Manager/City Planner; Adrian Guerra, Assistant City Attorney; Brandi Jones, Senior Planner; Berlyn Aguila, Administrative Secretary

**SPONTANEOUS COMMUNICATIONS**                      There were no speakers.

ADMINISTRATIVE SECRETARY AGUILA                      Administrative Secretary Aguila announced changes to the Agenda and December's minutes.

CHAIR TAPIA                      Chair Tapia stated that he was not present during December's meeting and asked if he has to abstain. Assistant City Attorney Guerra advised that if he did not attend the meeting, he may abstain.

Chair Tapia stated that he will abstain because he was not present during December's meeting.

COMMISSIONER HARTMAN                      Commissioner Hartman requested to change a comment made during December's minutes.

COMMISSIONER CORPIS                      Commissioner Corpis requested a change to November's minutes.

VICE-CHAIR CHICO                      Vice-Chair Chico advised that each month's minutes must be motioned separately as a commissioner could be absent.

**CONSENT CALENDAR**                      A motion was made by Commissioner Hartman, seconded by Commissioner Burrola, and abstained by Vice-Chair Chico to approve October's minutes. The motion was unanimously approved.

A motion was made by Commissioner Chico, seconded by Commissioner Burrola, and abstained by Commissioner Corpis to approve November's minutes. The motion was unanimously approved.

A motion was made by Commissioner Chico, seconded by Commissioner Burrola, and abstained by Chair Tapia to approve December's minutes. The motion was unanimously approved.

ITEM NO. 1A MINUTES

The following minutes were approved:

- 1) Special meeting held October 30, 2019
- 2) Regular meeting held November 20, 2019
- 3) Regular meeting held December 18, 2019

NEW BUSINESS

There were no items.

PUBLIC HEARINGS

ITEM NO. 3A DEVELOPMENT AGREEMENT NO. 01-2019 (JOHN DUONG, CLEAR CHANNEL OUTDOOR)

COMMUNITY  
DEVELOPMENT  
CITY PLANNER  
MARILYN SIMPSON

Community Development Manager/City Planner Simpson reported that this was a request submitted by applicant John Duong on behalf of Clear Channel Outdoor. The applicant was requesting a Development Agreement to allow the installation of two (2), two-panel freeway oriented digital display billboards along the south portion of the Reliance II Pit located at 15990 Foothill Boulevard and north of the Interstate 210 Freeway.

The presentation included an overview of the following:

- 1) Background and history
- 2) Project description
- 3) General Plan and Zoning designations
- 4) Development Standards Compliance
- 5) Staff's analysis and findings of fact made to support approval of the proposed project
- 6) Environmental review process for the proposed project

Community Development Manager/City Planner Simpson stated that staff's recommendation is that the Planning Commission adopt Resolution No. 771(19) recommending that the City Council adopt Ordinance No. 739 approving Development Agreement No. 01-2019.

CHAIR TAPIA

Chair Tapia asked if the location will continue to have three (3) static billboards, to which Community Development Manager/City Planner Simpson indicated that the three static billboards will remain.

Chair Tapia asked if the billboards can include any City related business and mentioned a few Irwindale events. Community Development Manager/City Planner Simpson stated that City functions or events can be included.

Responding to an inquiry by Chair Tapia, Community Development Manager/City Planner Simpson replied that Clear Channel does not advertise certain content, but referred to the applicant for further clarification. She also added that the three existing static billboards were previously permitted and have conditions of approval and the Development Agreement is only for the two (2) proposed conversions.

COMMISSIONER  
BURROLA

Commissioner Burrola asked if the public was notified about the the Development Agreement and stated his concern over the bright lights while people are driving on the 210 Freeway and possibly filing a lawsuit filed against the City. Community Development Manager/City Planner Simpson stated that the public notice was mailed to the 500 foot radius and explained that the applicant submitted a conceptual application to Caltrans Outdoor Advertisement and they stated that they conceptually approved the project. Assistant City Attorney Guerra referenced page 16 section 7.2.3 of the Development Agreement and stated that he will look further into the matter.

VICE-CHAIR  
CHICO

Vice-Chair Chico asked for further clarification about the waiver of subrogation that states that the City waives the right to sue the third party of any damages or lawsuits filed against the City. Assistant City Attorney Guerra reported that the developer and the City waive the rights from another party and referenced the applicant for further clarification.

Vice-Chair Chico asked about the City's benefit to waiving the right to sue. Assistant City Attorney Guerra replied that he is unsure and will follow up on the matter.

CHAIR TAPIA

Chair Tapia commended the report and asked if there are studies related to the distraction by digital billboards that result in an accident or loss of life by Caltrans, Highway Patrol or any other agency. He also requested to include a statement in the Agreement reporting any statistics or mitigation of digital distraction or hazards. Senior Planner Jones referenced the billboard ordinance that included the safety and statistics of having the billboards. She added that staff can provide a copy of the ordinance and staff report.

COMMISSIONER  
HARTMAN

Commissioners Hartman recalled having the discussion about the billboard ordinance.

CHAIR TAPIA

Chair Tapia requested a copy of the ordinance and the staff report to be included in the final packet.

- VICE-CHAIR  
CHICO Vice-Chair Chico reported that Caltrans concludes its own studies in regards to the timing of ads on the billboards and they have the ability to override. Senior Planner Jones noted that Caltrans concludes its own independent studies.
- COMMISSIONER  
BURROLA Commissioner Burrola asked if the ordinance or any studies are referenced in the staff report. Senior Planner Jones stated that only the Chapter is referenced. Community Development Manager/City Planner Simpson reported that Exhibit C includes the ordinance that is part of the Zoning Code and includes the development criteria. She stated that the minimum time requirement of each display is indicated.
- VICE-CHAIR  
CHICO In response to a request by Vice-Chair Chico, Assistant City Attorney Guerra advised that obscene images, political and religious language is covered by free of speech and presumes that it would be deemed as a mistake by the owner if he would allow the type speech.
- Vice-Chair Chico mentioned a previous billboard issue on the 605 and 210 freeways. Assistant City Attorney Guerra advised that the Planning Commission can recommend additional language to prohibit the type of issue discussed to be included in the recommendation to City Council.
- ASSISTANT CITY  
ATTORNEY GUERRA Responding to a previous question by Commissioner Burrola, Assistant City Attorney referenced section 7.2.1 of the Development Agreement that explains the indemnification between the City and the developer. He added that during a litigation, he can claim the indemnification as a defense.
- COMMISSIONER  
BURROLA Responding to an inquiry by Commissioner Burrola, Assistant City Attorney Guerra advised that the indemnification would be used as an argument or defending statement.
- CHAIR TAPIA Chair Tapia apologized for the interruption during the presentation.
- COMMUNITY  
DEVELOPMENT  
MANAGER/CITY  
PLANNER SIMPSON Community Development Manager/City Planner Simpson clarified a change to the verbiage on the recommendation to City Council and the staff report.
- OPEN PUBLIC  
HEARING At 7:02 p.m., Chair Tapia opened the public hearing.
- JOHN DUONG John Duong introduced himself as Vice President for Clear Channel Outdoor, congratulated Community Development Manager/City Planner Simpson on an excellent staff report and thanked the City Attorney's office, City Manager and staff. He also addressed a few concerns from the Planning Commission that are the following:

- 1) Prohibited Use - Clear Channel Outdoor practices commercial free speech, but does not allow sensitive activities such as the ones stated by the Planning Commission.
- 2) Traffic safety - Billboards are regulated thoroughly from the State and Local Government.
- 3) Explained that the State allows one advertisement every four (4) seconds, but in this case it is every eight (8) seconds.
- 4) The Federal Highway Administration conducted a multi-year study on traffic accident with digital billboards that stated no further impact to vehicle traffic accidents.

CHAIR TAPIA                      Chair Tapia stated that allowing eight (8) seconds per display is safer than four (4) seconds per display.

JOHN DUONG                      John Duong reported that digital and LED technology is used and is very advanced. He also stated that they adapt to technology that is environmentally sound.

COMMISSIONER BURROLA                      Commissioner Burrola asked how long it takes to fix an issue in the case of a complaint that the billboards are not working. John Duong explained the techniques used to capture any malfunctions and the process to troubleshoot and fix the billboard. He commented on working with local cities and State agencies during an event of an emergency, Amber Alert or FBI concern.

CLOSE PUBLIC HEARING                      There being no additional speakers, Chair Tapia closed the public hearing at 7:13 p.m.

ASSISTANT CITY ATTORNEY GUERRA                      Assistant City Attorney Guerra read the motion.

MOTION                      A motion was made by Commissioner Burrola, seconded by Vice-Chair Chico to accept the recommended motion as read.

ASSISTANT CITY ATTORNEY GUERRA                      Assistant City Attorney Guerra asked if there are any additional recommendations. Vice-Chair Chico suggested to not allow political speech to the recommendation. Assistant City Attorney Guerra advised that the City Attorney can possibly disagree because political speech is free speech, but it can still be recommended.

VICE-CHAIR CHICO                      Vice-Chair Chico commented on free speech. Assistant City Attorney Guerra advised that the developer can consider the recommendation.

Vice-Chair Chico expressed his concern about ensuring that what is being considered is written.

ASSISTANT CITY  
ATTORNEY GUERRA

Assistant City Attorney Guerra reported that the resolution was approved as read with the additional recommendation to include some prohibition language on political speech. It can be discussed between the City Attorney and the developer before the City Council meeting.

**DISCUSSION ITEMS/  
PRESENTATIONS**

There were no items.

**COMMISSIONER  
COMMENTS**

VICE-CHAIR  
CHICO

Vice-Chair Chico asked for further clarification and status about the 500 foot restriction for conflict of interest. Assistant City Attorney Guerra explained that the 500 -1,000 foot conflict of interest is a regulation implemented by Fair Political Practices Commission (FPPC). If there were to be a 500 -1,000 foot conflict of interest for a Planning Commissioner, an analysis must be conducted and reviewed on a case-by-case basis.

Responding to a few inquiries by Vice-Chair Chico, Assistant City Attorney Guerra stated that a member of the public can challenge a project if there is a conflict of interest.

Vice-Chair Chico asked if there is a personal criminal liability when voting on a project, to which Assistant City Attorney indicated that he will need to review the updated rules and penalties, but believes that there is no criminal liability.

Vice-Chair Chico stated his confusion for the updated rule. Assistant City Attorney Guerra advised to not vote on a project if there is a conflict of interest because it can then be challenged.

Responding to a few inquiries by Vice-Chair Chico, Assistant City Attorney Guerra replied that the impact will be measured and explained that additional analysis will be required, such as a housing appraisal. If the analysis does not support the decision, he recommends to abstain. He provided an example from another city.

CHAIR TAPIA

Chair Tapia asked what FPPC stands for. Assistant City Attorney Guerra replied that FPPC stands for Fair Political Practices Commission and indicated that there will be a presentation in the future to review any concerns and remedies.

VICE-CHAIR  
CHICO

Vice-Chair Chico expressed concern about the conflict of interest criteria. Assistant City Attorney Guerra advised that FPPC is not very clear, but it can be a future agenda item.

CHAIR TAPIA Chair Tapia congratulated Community Development Manager/City Planner Simpson for her report and commented on the standards being written towards the end of the report.

LEGAL COUNCIL There were no items to report by legal counsel.

COMMUNITY DEVELOPMENT MANAGER/CITY PLANNER'S REPORT Community Development Manager/City Planner reported that the Park @ Live Oak Specific Plan was unanimously approved during the City Council meeting and City Council thanked the Planning Commission for their hard work. She also reported that Public Works Services Manager, Elizabeth Rodriguez prepared reference material for the Coyote Task Force and stated that they note every coyote report.

VICE-CHAIR CHICO Vice-Chair Chico mentioned a few coyote sightings on his street.

CHAIR TAPIA Chair Tapia commented on the location of the coyotes.

CHAIR TAPIA Chair Tapia reported a location that is packed with vehicles and asked if Planning Commission had approved the business as a storage location. Commissioner Hartman clarified that location belongs to Rain Bird. Senior Planner Jones indicated that she was unsure if it was a use permitted by right or if it was brought forward to Planning Commission.

COMMISSIONER HARTMAN Commissioner Hartman recalled not having it brought to the Planning Commission.

CHAIR TAPIA Chair Tapia stated that he did not remember approving that use.

COMMISSIONER BURROLA Commissioner Burrola suggested Code Enforcement to review the Conditional Use Permit and verify that the business is following the Conditions of Approval. Senior Planner Jones explained that vehicle storage requires a Conditional Use Permit, but if it is a use by right, it can be a fleet vehicle that is used for business activities.

CHAIR TAPIA Chair Tapia commented on the space of the business.  
  
Chair Tapia indicated that the striping on Gladstone Avenue is no longer visible. Community Development Manager/City Planner asked if it was part of the North or South side since the street is split between the Cities of Azusa and Irwindale.

COMMISSIONER HARTMAN Commissioner Hartman indicated that it is both sides of the street are hard to see. Community Development Manager/City Planner replied that she will follow up with Public Works/Engineering.

**AGENDA ITEM**  
**REQUESTS BY**

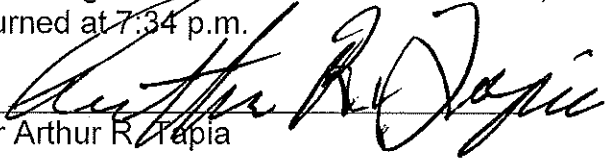
CHAIR TAPIA

Chair Tapia mentioned the requested item from Vice-Chair Chico to be brought back.

Chair Tapia thanked staff for the presentation and adjourned the meeting in memory of Jason Hickman's wife.

**ADJOURNMENT**

There being no further business to conduct, the meeting was adjourned at 7:34 p.m.

  
\_\_\_\_\_  
Chair Arthur R. Tapia

Attest:

  
\_\_\_\_\_  
Berlyn Aguila, Administrative Secretary

Approved as presented at the meeting held April 15, 2020