

**CITY OF IMPERIAL BEACH
CITY COUNCIL
REGULAR MEETING MINUTES**

**June 21, 2023, 6:00 p.m.
Council Chambers
825 Imperial Beach Boulevard
Imperial Beach, CA 91932**

Present: Mayor Aguirre, Mayor Pro Tem Leyba-Gonzalez, Councilmember McKay, Councilmember Seabury, Councilmember Fisher

Staff City Manager Foltz, Chief Administrative Officer Cortez-Martinez, City Attorney Lyon, City Clerk Kelly, Community Development Director Openshaw, Public Works Director Larios, Assistant Public Works Director Minicilli, City Planner/Management Associate Ayala, IT Manager Santos

The City Council also sits as the Imperial Beach Planning Commission, Public Financing Authority, and Imperial Beach Redevelopment Agency Successor Agency.

1. CALL TO ORDER

Mayor Aguirre called the Regular Meeting to order at 6:00 p.m.

2. ROLL CALL

City Clerk Kelly took roll.

3. PLEDGE OF ALLEGIANCE

Chief Administrative Officer Cortez-Martinez led the Pledge of Allegiance.

4. REIMBURSEMENT DISCLOSURES/REPORTS ON ASSIGNMENTS AND COMMITTEES

Councilmember Fisher

- SANDAG Board Meeting
- Surfrider/SANDAG Beach Clean-up

Councilmember Seabury

- VFW Beach Clean-up
- Ribbon Cutting for Veterans Park new playground
- Surfrider/SANDAG Beach Clean-up
- Age Friendly Session in Imperial Beach

Councilmember McKay

- Ribbon Cutting for Veterans Park new playground
- IB Arts Bureau art installation at the Library
- City Council Ad-hoc Campaign Finance Committee met with the Deputy District Attorney

Mayor Pro Tem Leyba-Gonzalez

- MTS Closed Session Meeting

Mayor Aguirre

- Meeting with the Office of Attorney General to brief her on the City's Sewage Crisis
- MTS Board of Directors Meeting
- Ribbon Cutting for Veteran's Park new playground
- Annual Pow Wow by the Sea
- Press Conference to call on the State and Federal Governments to issue a State of Emergency
- USD Institute for Non-profit Quality of Life Dashboard Report Launch

5. COMMUNICATIONS FROM CITY STAFF

CAO Cortez-Martinez announced an upcoming outreach meeting for Campaign regulations.

City Manager Foltz announced:

- Residents are receiving letters from Service Line Warranties of America offering insurance to repair or replace broken, leaking or clogged water/sewer lines. He said the City authorized the sending out of letters and explained why the City opted into this program.
- American Water Resources also sent out letters for optional water service line repair.
- He thanked Jerry Gloria in the Tidelands Division for making the Encanto Ave. street end more accessible.
- He spoke about the City getting hit by a lot of graffiti and thanked Public Works staff for the quick cleanup.
- He announced there will be no City Council meetings in July.
- He recommended pulling Item 8.f for discussion after the Consent Calendar and moving Item 11.a directly after Presentations.

Motion by Mayor Pro Tem Leyba-Gonzalez

Seconded by Councilmember McKay

To pull Item 8.f for discussion after the Consent Calendar and to move Item 11.a after Presentations.

AYES (5): Mayor Aguirre, Mayor Pro Tem Leyba-Gonzalez, Councilmember McKay, Councilmember Seabury, and Councilmember Fisher

Motion Carried (5 to 0)

6. PUBLIC COMMENT

- Mary Davis: Expressed concern about electric vehicle and lithium ion battery fires and encouraged the City to track data associated with this issue.
- Dave Ray: Representing the IB Chamber of Commerce, reported on past and upcoming Chamber events.
- Lynne Fischer: Spoke about an article in the IB Eagle and Times that was written by Councilmember Seabury.
- Matthew Daum: Thanked City Manager Foltz for recognizing staff for their hard work. He announced labor union negotiations are coming up, that he wants to see great change, and that it should be fair and equitable.
- Josie Hamada: Announced that she can now ride the bus and she thanked IB Shuffling for providing transportation services during the hard times because of MTS, and she said Juneteenth should be celebrated by the City.
- Mark Williams: Said the City is plagued by litter. He suggested that the City conduct code enforcement around dumpsters throughout town and have volunteer programs in place to assist with the matter.
- Carmelita Trujillo: Thanked the City for hosting the Mars Wrld Teen Empowerment and Wellness Resource Fair of 2022 and recognized the various organizations that participated in making the event a success. She spoke about preparation efforts for the 2023 event.

7. PRESENTATIONS

7.a SAN DIEGO COMMUNITY POWER PRESENTATION BY CEO KARIN BURNS.

CEO Karin Burns, of SD Community Power, gave a PowerPoint presentation.

Public comment: Anna Webb

Councilmember Fisher and Mayor Aguirre shared positive remarks, SDCP was encouraged to support/partner with IB Shuffling for their community benefit work in providing a low impact mode of transportation, and there was a suggestion for SDCP to sponsor the holiday light event at Pier Plaza.

8. CONSENT CALENDAR

Mayor Pro Tem Leyba-Gonzalez and Councilmember Seabury left Council Chambers at 7:17 p.m.

No Public Comments.

Motion by Councilmember Fisher

Seconded by Councilmember McKay

To approve Consent Calendar Item Nos. 8.a through 8.e, 8.g and 8.h.

AYES (3): Mayor Aguirre, Councilmember McKay, and Councilmember Fisher

ABSENT (2): Councilmember Seabury, and Mayor Pro Tem Leyba-Gonzalez

Motion Carried (3 to 0)

8.a APPROVAL OF CITY COUNCIL MEETING MINUTES.

City Council approved the Regular Meeting Minutes of June 7, 2023.

8.b RATIFICATION OF WARRANT REGISTER FOR THE PERIOD FROM MAY 27, 2023, TO JUNE 9, 2023. (0300-25)

City Council ratified and filed the Warrant Register Report.

8.c RECEIVE TREASURER'S REPORT FOR MAY 2023. (0300-90)

City Council received and filed the May 2023 Treasurer's Report.

8.d RESOLUTION 2023-52 CONTINUING THE PROCLAMATION OF A STATE OF LOCAL EMERGENCY RELATING TO IMPACTS FROM CROSS-BORDER POLLUTION IN THE TIJUANA RIVER. (0150-40 & 0210-26)

Adopted Resolution No. 2023-52 to maintain a state of local emergency related to the cross-border pollution impacts from the Tijuana River and authorize the City Manager, Mayor, and Councilmembers to work with local, State, Federal, and Mexican authorities to advance binational projects to improve conditions in the Tijuana River.

8.e SECOND READING AND ADOPTION OF ORDINANCE 2023-1228 AMENDING CHAPTER 1.12, CHAPTER 1.16, AND CHAPTER 1.22 OF THE IMPERIAL BEACH MUNICIPAL CODE RELATED TO CODE ENFORCEMENT, ADMINISTRATIVE CITATIONS, AND NUISANCE ABATEMENT. (0470-95)

City Council conducted the second reading, waived further reading, and adopted Ordinance No. 2023-1228 amending Chapters 1.12, 1.16 and 1.22 of the Imperial Beach Municipal Code.

8.g RESOLUTION 2023-56 TO ACCEPT AND APPROPRIATE \$35,000 IN SAN DIEGO SENIORS COMMUNITY FOUNDATION GRANT FUNDS FOR ENHANCEMENTS TO THE OUTDOOR COURTYARD AND PROGRAMMING AT THE SENIOR COMMUNITY CENTER. (0330-15 & 0930-20)

Adopted Resolution 2023-56 to accept and appropriate \$35,000 in San Diego Seniors Community Foundation Grant Funds to enhance the outdoor courtyard and increase low-cost programming at the Imperial Beach Senior Community Center.

8.h RESOLUTION NO. 2023-57 APPROPRIATING \$113,200 TO THE FY23 CITY HALL IMPROVEMENTS PROJECT (F23101). (0910-10)

Adopted Resolution No. 2023-57 to authorize the appropriation of \$113,200 to the Project budget.

13. ITEMS PULLED FROM THE CONSENT CALENDAR

8.f CONSIDERATION OF A SPECIAL EVENT APPLICATION FOR THE USE OF PIER PLAZA BY MIKE HESS BREWING COMPANY TO HOST HESSFEST XIII. (1040-10)

Mayor Pro Tem Leyba-Gonzalez and Councilmember Seabury returned to the Council Chambers at 7:20 p.m.

City Manager Foltz gave a PowerPoint presentation.

Written Public Comments provided by: Dane Crosby, Vee, Astin Delacour, Court Patton, Ilian Sandoval, Lyle Pavuk, Jessica Roach, Patti Boman, Tim Black, Mary Tamburro, Corey Ruhl, and Mike Hess.

Public Comments provided by Danielle Richardson, Lauren Gaw, Indigo Curtis, Jason Stockberger, and Gary Banuelos.

Mayor Aguirre called a recess at 7:37 p.m. and called the meeting back to order at 7:47 p.m. with all Councilmembers present.

Additional Public Comments provided by Araceli Villa, Mike Harris, and Mary Davis.

City Council discussion ensued. Comments included: The applicant is required to notify the surrounding businesses and residents; No fees are to be waived; Water to be made available to attendees; Recycling bins should be available; As a condition for approval, report back to City Council on how the proceeds benefited the children (how much was raised, how much was donated to Oncology and Kids, and how the kids benefitted); It was suggested that Hess propose a different site next year; Staff to work with the applicant to, at the maximum extent possible, move back the fence line to make available the right of way for the public who is not participating in the event.

Motion by Mayor Pro Tem Leyba-Gonzalez

Seconded by Councilmember Seabury

To approve the request from the HessFest XIII event applicant to activate Pier Plaza as an event venue on Saturday, August 12, 2023.

AYES (5): Mayor Aguirre, Mayor Pro Tem Leyba-Gonzalez, Councilmember McKay, Councilmember Seabury, and Councilmember Fisher

Motion Carried (5 to 0)

9. ORDINANCES/INTRODUCTION & FIRST READING

None.

10. PUBLIC HEARINGS

10.a BUCKEYE INVESTMENTS, INC. (APPLICANT); CONSTRUCTION OF A MIXED-USE BUILDING WITH GROUND FLOOR COMMERCIAL AND EIGHT RESIDENTIAL CONDOMINIUM UNITS AND CEQA GUIDELINES EXEMPTION SECTION 15332 AT 757 SEACOAST DRIVE (APN 625-192-04-00) USE-22-0088. (0600-20).

Mayor Aguirre declared the Public Hearing open.

Community Development Director Openshaw gave a PowerPoint presentation.

Written Public Comments provided by: Castle W. Phelps, Corey Simone, Marg Stark, Eugene Kocherga, Ken May, Jon Palmieri & Cara Clancy, Sandra Brillhart, Arukom Harrell, Ron Remlinger, Nolan Remlinger, Keith Ridgeway

Mayor Aguirre announced 10 comments were in support and 1 comment was in opposition.

Public comment:

Mark Williams expressed concern about the lack of parking.

Randi Fairweather acknowledged parking concerns, supported short term rentals, and supported the project.

Cathy Iacometti supported the project.

Eugene Kocherga supported the project.

Veronica Moyse supported the project.

Larry Zajone opposed the size of the building and expressed concern with parking.

Maddy Schwartz supported the project but expressed concern with the size and impacts to her view.

Brent Schwartz supported the project but expressed concern with the size and height of the building. He asked that everyone on Donax also benefit from the short-term rental rules, that the view from his home be respected, that the homes also be able to build up to 35ft and that the developer should also be required to have step-backs off of Donax and Seacoast.

Chris McKanry supported the project.

Andrew Chance supported the project.

Councilmember Fisher expressed concern about the density of the project.

Councilmember Seabury expressed concern about projects taking away parking and decreasing the quality of life for residents. She questioned if homeowners will get the same opportunities as the developer to make their property short-term rentals or be able to construct their building higher.

Community Development Director Openshaw explained the adjacent location is a residential zone which has different zoning standards, short-term rentals are not an allowed use in that zone, and the building height is different as well. She responded to questions regarding maintenance of the landscaping.

Mayor Aguirre suggested that bus passes be offered to any employee who requests one, she is sympathetic to the people who are concerned with parking, she supported the sidewalk be widened to 8 feet, she suggested replacement of the toxic trees with Golden Bells. She suggested that the conditions for development be recorded so future buyers of the property are aware of them.

City Manager Foltz provided a history of the City's zoning.

Councilmember Seabury stated that she feels for the 112 residents who signed the petition against the proposed development.

Councilmember Fisher recommended that the effects of short-term rental be reassessed in 2 years instead of 5 years.

Without descension of the City Council, Mayor Aguirre closed the public hearing.

Motion by Councilmember McKay

Seconded by Councilmember Fisher

To adopt Resolution 2023-49, approving Regular Coastal Development Permit (CP-22-0012), Conditional Use Permit (CUP-22-0011), Design Review Case (DRC- 22-0024), Site Plan Review (SPR-22-0025), Tentative Map (TM- 22-0002), and categorical exemption pursuant to the California Environmental Quality Act (CEQA) guidelines 15332 Class 32 (In-Fill Development Projects) at 757 Seacoast Drive (APN 625-192-04-00), which is located in the C/MU-2 (Seacoast Commercial & Mixed Use) Zone with the conditions that were stated during the meeting.

AYES (4): Mayor Aguirre, Mayor Pro Tem Leyba-Gonzalez, Councilmember McKay, and Councilmember Fisher

NOES (1): Councilmember Seabury

Motion Carried (4 to 1)

10.b OTAY LAKES BREWERY LLC/NOVO BRAZIL (APPLICANT)/CCC BEVERAGE COMPANY LLC (OWNER); CONDITIONAL USE PERMIT (CUP-23-0001), & CATEGORICAL EXEMPTION PER CEQA GUIDELINES SECTION 15301 FOR LIVE ENTERTAINMENT AT 535 FLORENCE STREET. USE-23-0029. (0600-20)

Mayor Aguirre declared the public hearing open.

City Planner/Management Associate Ayala gave a PowerPoint presentation.

Written public comments were submitted by Sandra Brillhart and Michael Bixler.

Mayor Aguirre announced 1 comment was in support and 1 comment was in opposition.

Councilmember Seabury expressed concern about impacts to the nesting season for the Least Terns. She suggested that there be no amplified music during nesting season and only have acoustic music on school nights (Wednesday and Thursday).

Councilmember Fisher suggested that the outside music face towards the restaurant rather than the bay.

Mayor Aguirre thanked the applicant for being tremendous community partners. She also expressed concern with impacts to the nesting season and supported no amplified music on school nights.

Without descension of City Council, Mayor Aguirre closed the public hearing.

Motion by Councilmember Fisher

Seconded by Mayor Pro Tem Leyba-Gonzalez

To adopt Resolution 2023-50, approving Conditional Use Permit (CUP-23-0001), and Categorical Exemption pursuant to CEQA Guidelines Section 15301 Class 1 (Existing Facilities), allowing for the operation of live entertainment within an existing restaurant at 535 Florence Street (APN 626-192-03-00 & 616-021-14-00), which is located in the C/R-ET (Commercial/Recreation-Ecotourism) Zone, with the recommended changes in the requirements.

AYES (5): Mayor Aguirre, Mayor Pro Tem Leyba-Gonzalez, Councilmember McKay, Councilmember Seabury, and Councilmember Fisher

Motion Carried (5 to 0)

11. REPORTS

11.a PROPOSED EAGLE SCOUT PROJECT PRESENTATION FOR PARKWAY IN FRONT OF ONEONTA ELEMENTARY SCHOOL. (0920-05)

Assistant Public Works Director Minicilli introduced the item.

Miles Harris and Thomas DeFay, Eagle Scout candidates, gave a PowerPoint presentation on their proposed project. They passed around sample project materials.

Public comment: Gilberto Vera and Gilberto Bernal, from Pachucos Car Club Tijuana, thanked the City for letting them hold a car show in Imperial Beach and donated \$750 to the City.

City Council discussion ensued and there was suggestion to use the donation for this project.

Motion by Councilmember Seabury

Seconded by Councilmember Fisher

To approve the project and authorize the City Manager or designee to sign the Eagle Project plan and advance the project for construction.

AYES (5): Mayor Aguirre, Mayor Pro Tem Leyba-Gonzalez, Councilmember McKay, Councilmember Seabury, and Councilmember Fisher

Motion Carried (5 to 0)

11.b APPROVAL OF RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH EXOS COMMUNITY SERVICES FOR MAR VISTA POOL LIFEGUARD SERVICES. (0400-95)

City Manager Foltz gave a PowerPoint presentation.

Written public comments were submitted by Sandra Brillhart.

Councilmember Fisher stated that it would cost the City \$15,000 per month or \$561 per hour to use the high school pool. He stressed that this is not the Mar Vista pool of yesteryear that many residents recall. Usage of the pool is limited, and he is thankful for the 90-day termination clause. He hopes the Sweetwater School District understands the community's need for a pool. He wanted monitored use of the pool to make sure this amenity makes sense for this community. He suggested that this item return to City Council in six months to see if the pool is a benefit for the entire community and not just a handful of people.

Councilmember McKay agreed with Councilmember Fisher's suggestion to look at the use of the pool in the future to see if there is value to the community.

Mayor Aguirre stated that City Council has a fiduciary responsibility to make sure that the City is spending public resources responsibly and intelligently. She noted that there are competing interests for funding. It is important to track how much it is used and if only a handful of people are using the pool, then tough choices need to be made and the large expense reassessed. She suggested that EXOS track the usage and agreed that this matter should return to City Council in six months.

Motion by Councilmember Seabury
Seconded by Councilmember McKay

That the City Council adopt Resolution 2023-59 authorizing the City Manager or designee to execute an agreement with EXOS Community Services, LLC for lifeguard services with the recommended additions to the resolution.

AYES (5): Mayor Aguirre, Mayor Pro Tem Leyba-Gonzalez, Councilmember McKay, Councilmember Seabury, and Councilmember Fisher

Motion Carried (5 to 0)

Motion by Councilmember McKay
Seconded by Councilmember Fisher

To continue the City Council meeting past 10:00 p.m.

AYES (4): Mayor Aguirre, Councilmember McKay, Councilmember Seabury, and Councilmember Fisher

NOES (1): Mayor Pro Tem Leyba-Gonzalez

Motion Carried (4 to 1)

Mayor Aguirre called a recess at 9:34 p.m. and called the meeting back to order at 9:39 p.m. with all Councilmembers present.

11.c CONSIDERATION OF AN INTERIM ORDINANCE IMPOSING A MORATORIUM ON NEW RETAIL USES ENGAGED IN FIREARM OR AMMUNITION SALES AND FINDING SUCH ORDINANCE EXEMPT FROM CEQA. (0610-95)

Community Development Director Openshaw gave a PowerPoint presentation.

Written public comments were submitted by Bethany Case, Sandra Brillhart, Veronica Baker, Brooke Truesdale, San Diegans for Gun Violence Prevention, and Carol Landale.

Public Comments by Michael Schwartz, Mark Williams, Kim Frink, Stephanie Gilreath, Mary Davis, Rita Davidson, Liisa Thomas, Lisa Bodenbunrg, and Ralph Caluso.

Councilmember Seabury favored the location of the business, stated that State and Federal laws are very strict, spoke in support for women being able to obtain a firearm locally.

Councilmember Fisher clarified that the item before City Council is not about any particular business. The item is a moratorium to help the City create an ordinance that will cover any business of this type that wants to open. He spoke in support for taking the time to carefully craft an ordinance yet don't put excessive

requirements on any businesses in the community beyond what governs them. He noted that this will govern any business of this type that opens in this City until the policy is changed.

Mayor Aguirre stressed that the City Council is not debating Second Amendment Rights or questioning the character of the applicant. She asked the public to give the City time to figure out what is best for the Imperial Beach community.

In response to Councilmember McKay, City Manager Foltz responded staff can return with a draft ordinance or discussion points depending on Council's direction.

City Attorney Lyon reviewed the process for urgency ordinances.

City Council discussion ensued regarding the process.

Mayor Aguirre stressed this is a very important decision, that this is something that has never been crafted in the City and the City needs to make sure it is done right and that it benefits the community.

City Clerk Kelly read the title of Ordinance No. 2023-1231, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH PURSUANT TO GOVERNMENT CODE SECTION 65858(A) IMPOSING A MORATORIUM ON THE ESTABLISHMENT OF NEW RETAIL USES ENGAGED IN FIREARM OR AMMUNITION SALES."

Motion by Mayor Pro Tem Leyba-Gonzalez

Seconded by Councilmember Fisher

To waive further reading in full and adopt Interim Urgency Ordinance No. 2023-1231 imposing a moratorium on new retail establishments selling firearms or ammunition by title only.

AYES (4): Mayor Aguirre, Mayor Pro Tem Leyba-Gonzalez, Councilmember McKay, and Councilmember Fisher

NOES (1): Councilmember Seabury

Motion Carried (4 to 1)

11.d RESOLUTION NO. 2023-55 ADOPTING A LIST OF PROJECTS FOR FISCAL YEAR 2023-2024 FUNDED BY SB 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017. (0390-86)

Public Works Director Larios gave a PowerPoint presentation and he responded to questions of City Council.

There were no public comments.

Motion by Councilmember Seabury

Seconded by Mayor Pro Tem Leyba-Gonzalez

To adopt Resolution 2023-55 approving the FY2023-2024 Project List for Senate Bill 1 (Road Repair and Accountability Act of 2017) Road Maintenance and Rehabilitation Account funding.

AYES (5): Mayor Aguirre, Mayor Pro Tem Leyba-Gonzalez, Councilmember McKay, Councilmember Seabury, and Councilmember Fisher

Motion Carried (5 to 0)

11.e CONSIDERATION OF RESOLUTION NO. 2023-53 REPEALING AND REPLACING RESOLUTION NO. 2022-37 RAISING THE BANNERS OF EXISTING MILITARY BRANCHES AND ADDING UNITED STATES SPACE FORCE AND THE HONOR & SACRIFICE FLAG ON THE FLAGPOLE AT CITY HALL. (0900-95)

Chief Administrative Officer Cortez-Martinez gave a PowerPoint presentation.

There were no public comments.

City Council held discussion in support of the item.

Motion by Mayor Pro Tem Leyba-Gonzalez

Seconded by Councilmember Seabury

To approve Resolution No. 2023-53 which will repeal and replace Resolution No. 2022-37 to raise the banner of all the United States Military Branches and include the United States Space Force in addition to the Honor & Sacrifice Flag.

AYES (5): Mayor Aguirre, Mayor Pro Tem Leyba-Gonzalez, Councilmember McKay, Councilmember Seabury, and Councilmember Fisher

Motion Carried (5 to 0)

11.f ITEM TITLE: RESOLUTION NO. 2023-58 AUTHORIZING A BUDGET AMENDMENT FOR A COMPREHENSIVE SECURITY CAMERA AND ACCESS CONTROL SYSTEM AT CITY HALL. (0410-10)

Information Technology Manager Santos gave a PowerPoint presentation and responded to questions from the City Council regarding the number of cameras, access, and storage.

There were no public comments.

Motion by Councilmember Seabury

Seconded by Councilmember Fisher

To approve Resolution No. 2023-58 authorizing a budget amendment for a comprehensive security and access control system at city hall and authorize the City Manager or designee to enter into a professional services agreement with Convergent Technologies, LLC for the installation and maintenance of the technology.

AYES (5): Mayor Aguirre, Mayor Pro Tem Leyba-Gonzalez, Councilmember McKay, Councilmember Seabury, and Councilmember Fisher

Motion Carried (5 to 0)

12. I.B. REDEVELOPMENT AGENCY SUCCESSOR AGENCY REPORTS

None.

13. ITEMS PULLED FROM THE CONSENT CALENDAR

See Item No. 8.f.

14. CITY COUNCIL FUTURE AGENDA REQUESTS

None.

15. ADJOURN REGULAR MEETING

Mayor Aguirre adjourned the Regular Meeting at 10:49 p.m.

Jacqueline M. Kelly, MMC
City Clerk

Paloma Aguirre
Mayor