



April 14, 2021

Sohab Mehmood
Housing Policy Division
Housing and Community Development
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833

City of Carlsbad Adopted Housing Element for the 2021-2029 Housing Cycle

Dear Ms. Mehmood,

On April 6, 2021, the City Council adopted the Housing Element for the 6th housing cycle with revisions based on public and Planning Commission input and HCD comments (Attachment A). Furthermore, on April 6, 2021, the City Council also adopted a resolution preempting Growth Management Plan housing caps (Attachment C). Attachments to this letter provide all approved documents, including the resolution approving the Housing Element (Attachment B) and an "additional materials" Council Memorandum (Attachment D). In addition, a City Council action agenda (Attachment E) summarizes the Council's actions.

The adopted Housing Element incorporates the HCD-requested changes outlined in the additional materials Council Memorandum, provided to the City Council prior to the April 6 meeting. Further, as indicated in the action agenda, the adopted Housing Element also includes new Program 1.8 objective "d" regarding live/work zoning and new Program 1.12 regarding a smoke-free ordinance for multi-family housing.

The action agenda also reflects the City Council voted to remove the Ponto property (APN 2161404300) from the Housing Element sites inventory. Therefore, staff has removed the property from Appendix B, Housing Element Site Inventory (specifically Table B-1) and has adjusted all other tables accordingly, including tables 10-42 and 10-43. The City Council's action only removed the Ponto property from the inventory of sites counted to meet the city's remaining RHNA need; it did not change the General Plan Land Use Designation or Zoning Designation for the site. If any changes are considered to the Ponto property density in the future, they will be done in conjunction with State Law, including SB330.

Other than minor, miscellaneous housekeeping edits, the revisions identified in the April 6 action agenda and described in this letter are the only changes made to the version of the Housing Element submitted for HCD's review on March 18. An electronic version of the current and potential sites inventory will also be made available.

The following lists the attachments provided with this letter:

- Attachment A: The adopted Housing Element, incorporating all revisions as approved by City Council

- Attachment B: Signed City Council Resolution 2021-073, approving the Housing Element
- Attachment C: Signed City Council Resolution 2021-074, finding the Growth Management Plan housing caps are preempted by state law and unenforceable
- Attachment D: An April 6, 2021, "additional materials" Council Memorandum identifying changes requested by HCD
- Attachment E: An excerpt from the April 6 "action agenda," published by the City Clerk to identify all the Housing Element actions taken by the City Council (see pages 3 and 4).

If you have any questions or need additional information, please contact Scott Donnell, Senior Planner, at scott.donnell@carlsbadca.gov.

Sincerely,



JEFF MURPHY

Community Development Director

JM:mh

Attachments

- c:
- Scott Chadwick, City Manager
 - Celia Brewer, City Attorney
 - Geoff Patnoe, Assistant City Manager
 - Gary Barberio, Deputy City Manager, Community Services
 - Ron Kemp, Assistant City Attorney
 - Don Neu, City Planner
 - Eric Lardy, Principal Planner
 - Scott Donnell, Senior Planner
 - Rick Rust, Mintier Harnish
 - Sally Schifman, Rincon Consultants
 - Brenna Weatherby, Rincon Consultants

RESOLUTION NO. 2021-073

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING AN ADDENDUM TO ENVIRONMENTAL IMPACT REPORT EIR 13-02 AND AN AMENDMENT TO THE GENERAL PLAN GPA 2019-0003 TO ADOPT AN UPDATE OF THE HOUSING ELEMENT FOR THE 2021-2029 HOUSING CYCLE AS REQUIRED BY THE CALIFORNIA GOVERNMENT CODE

CASE NAME: HOUSING ELEMENT UPDATE 2021-2029

CASE NO.: GPA 2019-0003 (PUB2019-0009)

WHEREAS, the General Plan Amendment for Housing Element Update 2021-2029 (GPA 2019-0003) provides a citywide housing plan for the sixth housing cycle; and

WHEREAS, the addendum (Attachment A) serves to document changes or additions to EIR 13-02 (the General Plan & Climate Action Plan Environmental Impact Report, State Clearinghouse Number 2011011004, dated June 2015 and certified by the City of Carlsbad City Council on September 22, 2015) that are necessary but that do not trigger the conditions described in CEQA Guidelines Section 15164 calling for the preparation of a subsequent EIR; and

WHEREAS, Government Code § 65863(h) also states that "An action that obligates a jurisdiction to identify and make available additional adequate sites for residential development pursuant to this section creates no obligation under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) to identify, analyze, or mitigate the environmental impacts of that subsequent action to identify and make available additional adequate sites as a reasonably foreseeable consequence of that action;"

WHEREAS, the city submitted the Housing Element Update 2021-2029 document to the California Department of Housing and Community Development (HCD) for initial review as required by state law on December 24, 2020; in response, HCD sent a February 22, 2021, letter to the city identifying necessary revisions; the city submitted the needed revisions to the state on March 18, 2021; the city continues to work with the agency to ensure any further changes meet the statutory requirements of state housing element law and are made to the satisfaction of the City Attorney. Should HCD require substantial changes to the Housing Element adopted herein, staff shall bring such changes back to City Council for review and adoption; and

WHEREAS, in response to HCD's February 22 letter, the city has prepared a revised draft Housing Element Update document dated March 18, 2021, (Attachment B); and

WHEREAS, the public outreach for the sixth cycle Housing Element update process occurred during the COVID-19 pandemic and restrictions on public gatherings prevented the city from holding traditional public workshops; instead, the city conducted outreach through a number of methods. The city utilized online engagement tools, including a community survey, newsletters, live streamed citizen advisory committee meetings and online documents to provide opportunities for the community to share their feedback on housing in general and the Housing Element Update 2021-2029; and

WHEREAS, public outreach efforts included (1) a City Council-appointed citizens advisory committee (Housing Element Advisory Committee, or HEAC) to guide Housing Element preparation efforts, which it did over 14 public meetings throughout 2020; the HEAC concluded its work with a December 14, 2020, recommendation to submit the draft Housing Element Update document to HCD for its initial review; (2) development of a Housing Element project webpage, with informational brochures and bulletins, an introductory video (in English and Spanish), and links to relevant documents and HEAC meeting material; outreach to the Spanish-speaking community on the survey also included phone calls to community members to provide survey assistance or to gather feedback directly; (3) an August 27, 2020, City Council special meeting to discuss proposed methods for selecting Housing Element sites; (4) an online Housing Element public input survey (in English and Spanish) conducted in August 2020 that generated 4,252 confirmed responses; (5) information mailers sent in November 2020 to approximately 2,700 people including Section 8 program participants and residents at low-income apartments throughout the city informing people of opportunities to provide input on housing in Carlsbad and the Housing Element; (6) joint and separate Housing Commission and HEAC meetings in November and December 2020 to receive public input and provide comments on the Housing Element, initial drafts of which were released to coincide with the meetings; (7) online release of the draft Housing Element Update document submitted to the state for formal public review from January 12, 2021 to February 11, 2021, including the availability of paper copies in the city's libraries; (8) numerous social media posts, new releases as well as 15 e-newsletters sent since June 2020 to more than 2,300 interested parties; (9) informational presentations to the Housing Commission (October 2020), Planning Commission (October 2020 and January 2021), and Traffic and Mobility Commission (September 2020); and (10) public hearings before the Planning Commission and Housing Commission on March 3 and March 4, 2021, as described below; and

WHEREAS, on March 3, 2021, the Planning Commission held a duly noticed public meeting as prescribed by law to consider GPA 2019-0003 and adopted Resolution No. 7410, recommending the City Council approve an addendum to EIR 13-02, an amendment to the General Plan Housing Element GPA 2019-0003, and an errata sheet dated March 3, 2021, and modifications related to live/work units; and

WHEREAS, on March 4, 2021, the Housing Commission held a duly noticed public hearing as prescribed by law to consider GPA 2019-003 and adopted Resolution No. 2021-003, recommending the City Council approve an amendment to the General Plan Housing Element GPA 2019-0003 and an errata sheet dated March 4, 2021; and

WHEREAS, the City Council held a duly noticed public hearing as prescribed by law to consider GPA 2019-0003; and

WHEREAS, the notice for the public hearing was published in the Coast News on March 26, 2021, mailed to surrounding and various public agencies, and posted on the city's website; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors, including written public comments, if any, related to GPA 2019-0003; and

WHEREAS, the City Council has reviewed and considered Planning Commission's and the Housing Commission's recommendation on the Housing Element;

WHEREAS, the findings of the Planning Commission in Resolution No. 7410 and the findings of the Housing Commission in Resolution No. 2021-0003 constitute the findings of the City Council in this matter.

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

1. That the above recitations and findings are true and correct and incorporated herein by reference.
2. The City Council has reviewed and considered the addendum in conjunction with Final EIR 13-02.
3. That the City Council hereby approves the addendum to Environmental Impact Report EIR 13-02 (Attachment A), and further finds that City's Housing Element Update meets the definition of the first sentence of Gov. Code § 65863(h).

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the 6th day of April, 2021, by the following vote, to wit:


AYES: Hall, Blackburn, Acosta, Bhat-Patel, Schumacher.

NAYS: None.

ABSENT: None.



MATT HALL, Mayor


BARBARA ENGLESON, City Clerk

(SEAL)



RESOLUTION NO. 2021-074

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, IMPLEMENTING UPDATED HOUSING ELEMENT PROGRAM 2.2, BY FINDING THE CITY'S RESIDENTIAL HOUSING CAPS CONTAINED IN THE GENERAL PLAN, GROWTH MANAGEMENT PLAN (PROPOSITION E), CITY COUNCIL POLICY STATEMENT NO. 43, AND THE CITY'S MUNICIPAL CODE (TITLE 21 CHAPTER 90) ARE PREEMPTED BY STATE LAW AND UNENFORCEABLE

WHEREAS, in 1986 the voters of the City of Carlsbad, California adopted Proposition E, which has become known as the Growth Management Plan (GMP); and

WHEREAS, the GMP amended the city's General Plan by adding the following:

The City of Carlsbad in implementing its public facilities element and growth management plan has made an estimate of the number of dwelling units that will be built as a result of the application of the density ranges in the Land Use Element to individual projects. The City's Capital Improvement Budget, growth management plan, and public facilities plans are based on this estimate. In order to ensure that all necessary public facilities will be available concurrent with need to serve new development it is necessary to limit the number of residential dwelling units which can be constructed in the city to that estimate. For that purpose, the city has been divided into four quadrants along El Camino Real and Palomar Airport Road. The maximum number of residential dwelling units to be constructed or approved in the city after November 4, 1986 is as follows: Northwest quadrant 5,844; Northeast quadrant 6,166; Southwest quadrant 10,667; Southeast quadrant 10,801; and

The total number of residential dwelling units at build out was limited to 54,599; and,

WHEREAS, for the sixth housing cycle, the city was assigned a total RHNA of 3,873 housing units, and as of February 28, 2021, only 1,953 residential dwelling units remain available to reach the 54,599 citywide cap. This number includes the 1,353 units that were removed by the City Council in 2002. The 1,953 total units that remain available are distributed among the quadrants as follows: 417 residential dwelling units in the Northwest quadrant, 102 in the Northeast quadrant, 1,127 in the Southwest quadrant and 307 in the Southeast quadrant for a total of 1,953; and

WHEREAS, Proposition E also established Growth Management Control Points for General Plan Density Ranges in order to ensure that growth caps would not be exceeded. When a project is approved with fewer dwelling units than would be allowed by the Growth Management Control Point, excess dwelling units are created. These units are "deposited" in the Excess Dwelling Unit Bank (EDUB). The City Council enacted City Council Policy No. 43 in part to create a process to allocate these excess units

to future projects. City Council Policy No. 43 can act as a cap on development to the extent that units are available in the EDUB; and

WHEREAS, the City's General Plan Land Use and Community Design (LUCD) Element also incorporates the residential caps and control points from Proposition E, including Table 2-3 and Section 2.6, Policy 2-P.8(a) and (b), Policy 2-P.16(d), Policy 2-P.57;

WHEREAS, the City's Municipal Code contains a number of provisions which also implement the GMP housing caps, including but not limited to CMC §§ 21.90.030 (b), 21.90.045 and 21.90.185;

WHEREAS, in 2017 the California Legislature passed SB 166 which amended the Housing Element law (Gov. Code § 65863(a)) to require the City to ensure that its Housing Element is capable of accommodating the remaining Regional Housing Needs Allocation (RHNA) "at all times;" and

WHEREAS, in 2019 the California Legislature passed the Housing Crisis Act of 2019 (SB 330) which added 66300 to the Government Code. It states that California is experiencing a housing shortage of crisis historic proportions. To address the crisis, the Legislature has declared a statewide housing emergency until 2025 and suspended certain restrictions on development of new housing during the emergency. Among other things, the Legislature has suspended the ability of cities to establish or implement any provision that:

- (i) Limits the Number of land use approvals or permits necessary for the approval and construction of housing that will be issued or allocated within all or a portion of the affected county or affected city,
- (ii) Acts as a cap on the number of housing units that can be approved or constructed either annually or for some other time period, or
- (iii) Limits the population of the affected county or affected city. Government Code 66300 (b)(1)(D); and

WHEREAS, on February 23, 2021 the City of Carlsbad received an opinion from HCD (Attachment A) which states:

The City's GMP appears to be designed to assure that housing development in the City and the provision of public services are closely aligned (City of Carlsbad Mun. Code, § 21.09.010.) However, the City's GMP establishes growth cap numbers City-wide and by quadrant. Moreover, the City's GMP mandates that the City shall not approve any General Plan amendment, zone change, tentative subdivision map or other discretionary approval for a development which could result in the development above the limit in any quadrant. The establishment of such growths caps and development restrictions contradicts Government Code section 66300, subdivision (b)(1)(D). Accordingly, HCD is of the opinion that such a growth cap under the GMP cannot permissibly be implemented consistent with Government Code section 66300.

WHEREAS, additional communication with HCD explained the GMP residential unit caps could not prevent consistency with the Housing Element inventory [Gov. Code 65583(a)(3)] and SB 166 [Gov. Code § 65863(a)];

WHEREAS, if the City of Carlsbad does not address HCD's concerns and refuses to certify the City housing element in compliance with state law, the City would lose the ability to control residential development. More specifically, the Government Code places the burden on a city to deny housing development projects, and requires a city to adopt specific findings for denial or a reduction in residential density. (Gov. Code, §§ 65589.5(d) and (j), 65863.) This includes findings that (A) a city has adopted a housing element in substantial compliance with state law, (B) a city has met or exceeded its RHNA allocation, and (C) that denial of a housing project is consistent with a city's general plan, including the housing element. (Gov. Code, §§ 65589.5(d)(1).) If these findings cannot be made, a city is generally required to approve a housing project. (Id.) The City is also explicitly precluded for relying upon a land use inconsistency as grounds for denial of a housing project where it does not have a certified housing element. (Gov. Code, § 65589.5(d)(5)(B).);

WHEREAS, Under the California Constitution article XI, section 7 a city may not enact local laws that conflict with "general" or state laws. Local legislation that conflicts with the general laws of the state is void, including Growth Management Plans; *California Building Industry Assoc. v. City of Oceanside* (1994) 27 Cal.App.4th 744, 760-761. *Cohen v. Board of Supervisors* (1985) 40 Cal 3d 277, 290; similarly, previously valid laws which become inconsistent with state law are also void and unenforceable. *Friends of Lagoon Valley v. City of Vacaville* (2007) 154 Cal.App.4th 807, 830; and

WHEREAS, Pursuant to Public Resources Code Section 21065, the City's preemption findings which simply recognize controlling state law do not constitute a "project" within the meaning of the California Environmental Quality Act (CEQA) 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.

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 and are incorporated herein by reference to include Attachment A as findings set forth in full.

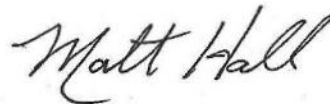
2. Consistent with Updated Housing Element Program 2.2, the City Council finds that Government Code Sections 65583(a)(3) and 65863(a) (SB 166 [2017]) and Government Code Section 66300(b)(1)(D) (SB 330 [2019]) preempt the city from implementing residential growth management plan caps, residential quadrant limits, and residential control points. Consequently, the City finds that it cannot and will not enforce these residential caps, quadrant limits, and control points, including but not limited to those contained in the General Plan (including, but not limited to the Land Use and Community Design Element Table 2-3, Section 2.6, Policy 2-P.8(a) and (b), Policy 2-P.16(d), and Policy 2-P.57), Growth Management Plan (Proposition E); City Council Policy Statement No. 43, Carlsbad Municipal Code Chapter 21.90 including but not limited to CMC §§ 21.90.030 (b), 21.90.045 and 21.90.185.
3. If any section, subsection, sentence, clause, or phrase of this resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the resolution. The City Council hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the 6th day of April, 2021, by the following vote, to wit:

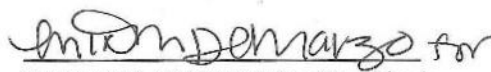
AYES: Blackburn, Acosta, Bhat-Patel.

NAYS: Hall, Schumacher.

ABSENT: None.



MATT HALL, Mayor


BARBARA ENGLESON, City Clerk

(SEAL)



All Receive - Agenda Item # 10
 For the Information of the:
 CITY COUNCIL
 Date 4/6/21 CA ✓ CC ✓
 CM ✓ ACM ✓ DCM (3) ✓



Council Memorandum

April 6, 2021

To: Honorable Mayor Hall and Members of the City Council
From: Gary Barberio, Deputy City Manager
 Jeff Murphy, Community Development Director
 Don Neu, City Planner
Via: Geoff Patnoe, Assistant City Manager GP
Re: **Additional Materials Related to Staff Report Item No. 6 – General Plan Housing Element Update – 2021 to 2029 Housing Cycle (Districts – All)**

This memorandum provides additional revisions proposed to the March 18, 2021, Draft Housing Element Update (HEU), based on verbal comments just received from the state Department of Housing and Community Development (HCD). The HEU is found in Attachment B to Exhibit 1 of the April 6, 2021 City Council staff report for item no. 6.

On Feb. 22, 2021, HCD provided the city informal written comments on the draft HEU. Working with HCD, staff made the requested changes (refer to Exhibits 3 and 4 of the April 6, 2021, City Council staff report). On March 18, 2021, following the Planning Commission and Housing Commission hearings, staff submitted responses to HCD's written comments in hopes of receiving final preliminary comments from HCD prior to the City Council hearing.

This morning, April 6, 2021, HCD provided comments to the city requesting additional changes to proposed Program 2.7 and Program 4.3. HCD's requested changes to those programs are reflected in track changes in Attachment A and B (respectively) of this memo. HCD indicated to staff that this was only a cursory review of the city's draft HEU and that a more thorough review will be conducted once the City Council approves and formally submits the HEU to the state.

Attachment: A. Revisions to Program 2.7
 B. Revisions to Program 4.3

cc: Scott Chadwick, City Manager
 Celia Brewer, City Attorney
 Ron Kemp, Assistant City Attorney
 Eric Lardy, Principal Planner
 Scott Donnell, Senior Planner

Program 2.7: Section 8 Housing Choice Vouchers and Similar Housing Cost Offsets

The Carlsbad Housing Authority will continue to administer the city’s Section 8 Housing Choice Voucher program to provide rental assistance to very low-income households. The city will apply for additional Section 8 HCV funding when HUD makes it available and will also seek other funding sources that could allow other offsets for household rental costs.

Funding										
■ Federal Section 8 funding										
Lead Agency										
■ Housing Services Division										
Time Frame (Years/Months)										
Objectives	21	22	23	24	25	26	27	28	29	
a. Continue to provide rental assistance extremely low- and very low-income households.	og	og	og	og	og	og	og	og	og	og
b. Apply for additional Housing Choice Vouchers when made available by HUD.	og	og	og	og	og	og	og	og	og	og
c. Proactively seek additional funding that can be used, in addition to Section 8 funds, to provide subsidies to lower-income households to bring monthly rents in line with affordability guidelines.	og	og	og	og	og	og	og	og	og	og
d. <u>Market and expand outreach to landowners, property managers, and potential households to increase the distribution of housing vouchers in high opportunity areas of the city.</u>		<u>APR</u>	<u>og</u>	<u>og</u>	<u>og</u>	<u>og</u>	<u>og</u>	<u>og</u>	<u>og</u>	<u>og</u>
Quantified Objectives	Continue to provide rental assistance to approximately 550 extremely low- and very low-income households									

LEGEND

an = annual JAN (January) | FEB (February) | MAR (March) | APR (April) | MAY (May) | JUN (June),
og = on-going JUL (July) | AUG (August) | SEP (September) | OCT (October) | NOV (November) | DEC (December)

Program 4.3: Anti-Segregation in Housing Implementation

Despite the repeal of explicitly racist and discriminatory housing laws, there remains a lasting legacy of segregation and resources disparities. Housing choice is often limited for persons of protected classes, including communities of color, to segregated concentrated areas of poverty. Programs under this goal are designed to affirmatively reduce barriers to housing, including but not limited to racial inequities, high housing costs, and public awareness of existing resources.

Funding									
<ul style="list-style-type: none"> Housing Trust Fund Department Budget 									
Lead Agency									
<ul style="list-style-type: none"> Planning Division Housing Services Division 									
Time Frame (Years/Months)									
Objectives	21	22	23	24	25	26	27	28	29
a. Continue to use the city's Inclusionary Ordinance and Housing Trust fund to proactively reduce segregation and promote an equitable distribution of all housing types in the city.	og	og	og	og	og	og	og	og	og
b. As part of the Housing Element Annual Report, describe how programs have assisted in desegregation of housing to serve the entire population.	og	og	og	og	og	og	og	og	og
c. Implement a placemaking program for the Village-Barrio Master Plan with the Village and Barrio Master Plan that includes activities such as: <ul style="list-style-type: none"> Culture mapping in historically underserved neighborhoods. Community development pilot program to enhance walkability, bicycling, and transit access consistent with mobility improvements identified in Chapter 4 of the adopted Village and Barrio Master Plan. Best practices in design and architecture to ensure building types promote cohesion across neighborhoods. Evaluate Village and Barrio Master Plan policies and standards as to <u>assure they are adequately their effectiveness to effective to</u> protect existing residents from displacement. Based on this evaluation, <u>revise the Village and Barrio Master Plan to enhance tenant protection and reduce displacement risk, and</u> add provisions, as necessary, as part of the placemaking program to be developed. 						APR	APR		
d. Target housing creation or mixed income strategies (e.g., funding, incentives, policies and programs, density bonuses, land banks, Housing Trust Funds) and market opportunities in all part of the community.	og	og	og	og	og	og	og	og	og

Objectives	Time Frame (Years/Months)								
	21	22	23	24	25	26	27	28	29
e. Implement General Plan Mobility Element policies regarding Safe Routes to School <u>and enhancement of facilities</u> for pedestrians and bicyclists, <u>giving priority to implementation in the Village and Barrio areas and any other areas with a concentration of lower-income households.</u>	og	og	APR og	og	og	og	og	og	og
f. <u>Review and update, as needed, all city land use and housing policies, programs, and plans for their enhancement of fair housing in all neighborhoods in Carlsbad. As part of implementation of Programs 2.7, 2.8, 3.1, 3.3, 3.4 and 3.5, the city will target and prioritize resources, including, but not limited to, marketing, outreach, and program implementation to affirmatively further fair housing by enhancing housing mobility, revitalizing communities, promoting housing opportunities in high opportunity areas, and addressing displacement risk.</u>					APR	og	og	og	og
Quantified Objectives	Supportive program for meeting city's RHNA obligations.								

LEGEND

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og = on-going JUL (July) | AUG (August) | SEP (September) | OCT (October) | NOV (November) | DEC (December)



CITY COUNCIL Agenda

April 6, 2021, 3 p.m.

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

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/citytv.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 required 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 decide.

IN THE EVENT A QUORUM OF THE CITY COUNCIL LOSES ELECTRICAL POWER OR SUFFERS AN INTERNET CONNECTION OUTAGE THAT IS NOT CORRECTED WITHIN 15 MINUTES, THE MEETING WILL AUTOMATICALLY BE ADJOURNED. ANY ITEMS NOTICED AS PUBLIC HEARINGS WILL BE CONTINUED TO THE NEXT REGULARLY SCHEDULED MEETING OF THE CITY COUNCIL. ANY OTHER AGENDA ITEMS THE COUNCIL HAS NOT TAKEN ACTION ON WILL BE PLACED ON A FUTURE AGENDA.

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: 3 p.m.

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

ANNOUNCEMENT OF CONCURRENT MEETINGS: None.

INVOCATION: None.

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

APPROVAL OF MINUTES:

Minutes of the Regular Meeting held Jan. 26, 2021

Minutes of the Special Meeting held Feb. 11, 2021

Minutes of the Special Meeting held March 23, 2021

Minutes of the Special Meeting held March 24, 2021

Minutes approved – 5/0.

PRESENTATIONS:

Proclamation in Recognition of National Library Week/Carlsbad Reads Together

Proclamation in Recognition of National Fair Housing Month

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 FEB. 28, 2021** – Accept and file Report on City Investments as of Feb. 28, 2021. (Staff contact: Craig Lindholm and Laura Rocha, Administrative Services)
ACTION: Council received the report.
2. **PURCHASE AND SALE AGREEMENT FOR CITY-OWNED PROPERTY LOCATED ON PAJAMA DRIVE** – Adoption of a resolution approving and authorizing the execution of a purchase and sale agreement for the property located on Pajama Drive, in Oceanside, California, APN 149-070-47-00, commonly known as the Pajama Drive property, with Steve and Cydne Norris. (Staff contact: Curtis Jackson, Real Estate)
ACTION: This item was returned to staff.
3. **AGREEMENT WITH HERITAGE ARCHITECTURE & PLANNING, INC. TO PROVIDE DESIGN SERVICES FOR THE LEO CARRILLO RANCH ROOF REPAIR PROJECT, CIP NO. 4748** – Adoption of a resolution

authorizing execution of an agreement with Heritage Architecture & Planning, Inc. to provide design services for the Leo Carrillo Ranch Roof Repair Project, CIP Project No. 4748, in an amount not to exceed \$103,300. (Staff contact: Steven Stewart, Public Works and Mick Calarco Parks & Recreation)

ACTION: Adopted Resolution No. 2021-071 – 5/0.

4. AMENDMENT NO. 4 TO AGREEMENT WITH KLEINFELDER, INC. FOR THE EL CAMINO REAL BRIDGE IMPROVEMENTS AT CANNON ROAD, CIP NO. 6042 – Adoption of a resolution approving Amendment No. 4 to the Professional Services Agreement with Kleinfelder, Inc. for engineering services for the El Camino Real Bridge Improvements at Cannon Road, CIP Project No. 6042, in an amount not to exceed \$62,512. (Staff contact: Brandon Miles, Public Works)

ACTION: Adopted Resolution No. 2021-072 – 5/0.

ORDINANCES FOR INTRODUCTION:

5. AMENDMENT TO CARLSBAD MUNICIPAL CODE CHAPTER 1.12 REGARDING ELECTIONS, CHAPTER 1.13 REGARDING ELECTION CAMPAIGN DISCLOSURES AND CHAPTER 1.15 REGARDING CAMPAIGN CONTRIBUTIONS – 1) Introduction of an ordinance amending Carlsbad Municipal Code Title 1, Chapter 1.12 – Elections; and
2) Introduction of an ordinance amending Carlsbad Municipal Code Title 1, Chapter 1.13 – Election Campaign Disclosures; and
3) Introduction of an ordinance adding Chapter 1.15 – Campaign Contribution Limits to Title 1 of the Carlsbad Municipal Code. (Staff contact: Cindie K. McMahan, City Attorney Department and Sheila Cobian, City Manager Department)

City Manager’s Recommendation: Introduce the ordinances.

ACTION: Introduced Ordinance No. CS-394 – 4/1 (Hall – No);

Introduced Ordinance No. CS-395 – 5/0;

Introduced Ordinance No. CS-396 as amended (see minutes for details) – 4/1 (Hall – No)

ORDINANCES FOR ADOPTION: None.

PUBLIC HEARINGS:

6. GENERAL PLAN HOUSING ELEMENT UPDATE – 2021-2029 HOUSING CYCLE – 1) Review and consider the Housing Commission’s and Planning Commission’s recommendations to approve the Housing Element amendments; and
2) Adoption of a resolution approving an addendum to Environmental Impact Report EIR 13-02 and an amendment to the General Plan GPA 2019-003 to adopt an update of the Housing Element for the 2021-2029 Housing Cycle as required by the California Government Code (Case Name: Housing Element Update 2021-2029; Case No: GPA 2019-0003 (PUB2019-0009)); and
3) Adoption of a resolution implementing updated Housing Element Program 2.2, by finding the city’s residential housing caps contained in the General Plan, Growth Management Plan (Proposition E), City Council Policy Statement No. 43, and the city’s Municipal Code (Title 21 Chapter 90) are preempted by state law and unenforceable. (Staff contact: Scott Donnell and Jeff Murphy, Community Development)

City Manager’s Recommendation: Take public input, close the public hearing, review and consider the recommendations, and adopt the resolutions.

ACTION: Motion by Council Member Bhat-Patel, seconded by Council Member Schumacher directing staff to make Site 13 – Zone 20 cluster a low priority for housing, using it only if necessary to meet Regional Housing Needs Assessment requirements, and look for an acceptable and suitable alternative site within the same quadrant – 3/1/1 (Hall – No; Blackburn – Absent);

Motion by Council Member Acosta, seconded by Council Member Schumacher, to remove the Ponto property from the Housing Element Update and look for an acceptable and suitable replacement site within the same quadrant – 4/1 (Hall – No);

Motion by Council Member Bhat-Patel, seconded by Mayor Pro Tem Blackburn, to add an objective to Program 1.12: Smoke-free ordinance for multi-family housing as reflected in Exhibit 11 – 5/0;

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to add an objective to Program 1.8: Live / Work Zoning as reflected in Exhibit 11 – 5/0;

Adopted Resolution No. 2021-073 as amended by Council Memorandum dated April 6, 2021 entitled “Additional Materials Related to Staff Report Item No. 6 – General Plan Housing Element Update – 2021 to 2029 Housing Cycle (see minutes for details) – 5/0;

Adopted Resolution No. 2021-074 – 3/2 (Hall, Schumacher – No).

DEPARTMENTAL AND CITY MANAGER REPORTS:

7. **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.

ACTION: Council received the report.

This item was continued from the March 23, 2021 Regular City Council Meeting.

8. **CITY FRANCHISE AGREEMENT FOR SOLID WASTE RECYCLING AND ORGANICS SERVICES**

1) Adoption of a resolution approving a city franchise agreement for recycling, organics and solid waste collection and organic materials processing service with EDCO Disposal Corporation and authorizing the City Manager, or designee, to execute all functions of the “City Contract Manager” as described in the franchise agreement; or

2) Adoption of a resolution approving a city franchise agreement for recycling, organics and solid waste collection and organic materials processing service with Allied Waste Services, Inc. DBA Republic Services of San Diego and authorizing the City Manager, or designee, to execute all functions of the “City Contract Manager” as described in the franchise agreement. (Staff contact: James Wood, Public Works)

City Manager’s Recommendation: Adopt the resolution.

ACTION: Motion by Council Member Bhat-Patel, seconded by Council Member Acosta, to adopt Resolution No. 2021-075 Option 2 selecting Republic Services as amended (see minutes for details) – 3/2 (Hall, Blackburn – No).