

MINUTES
CARSON AD HOC COMMITTEE MEETING
LOGISTICS MORATORIUM, MARCH 28, 2017
9:05 A.M. – 11:54 A.M.

Seated:

Mayor Robles, Councilmember Santarina, City Manager Farfsing, Planning Manager Naaseh, City Attorney Soltani, Planning Commission Chair Diaz, Planning Commission Vice-Chair Pimentel, Economic Development Commission Chair Aldridge, Economic Development Commission Vice-Chair Hoyos, Environmental Commission Chair Salazar, Environmental Commissioner Young, Peter Herzog-NAIOP SoCal (Commercial Real Estate Development Association), Alex Cherin (California Trucking Association-CTA), Francisco Franco (Franco Trucking)

Mayor Robles explained why City Council adopted Interim Urgency Ordinance No. 17-1615U, "Implementing a 45-day temporary moratorium on the establishment, expansion, or modification of truck yards, logistics facilities, hazardous materials or waste facilities, container storage, and container parking in the city of Carson"; noted that currently, there is no mechanism in place to cite a truck driver for driving off an approved truck route; and stated the moratorium gives the City a pause, an opportunity to evaluate/assess the problems it is experiencing.

Alex Cherin, representing California Trucking Association (CTA), noted he is sitting in for Weston LaBar; and expressed concern that industry representatives were not engaged from the beginning of this moratorium process. He stated that this industry promotes best practices; that it works with various statewide agencies, such as the CHP, regional planning agencies, AQMD, etc., making sure the trucking industry is aware of and following regulations; and noted they also don't want to see errant truck drivers traveling on restricted roadways. He added that the industry has roadway experts who should also be involved in this process, expressing his belief there should be up to 6 industry representatives sitting on this panel.

Peter Herzog, representing NAIOP SoCal, echoed Mr. Cherin's concerns, stating there also needs to be a variety of representation from the real estate community.

Mayor Robles directed Mr. Cherin to provide those individuals' names to staff, believing the size of this Committee may increase.

George Boyle, Quikpick Express, agreed with those comments, suggesting at a minimum, Alex Cherin, Weston LaBar, and Loren Miles be on this Committee.

Mr. Herzog asked the City to define the specific issues of concern and to identify the truck routes.

Mayor Robles stated that the issues of concern are varied, and expressed his belief that in order to keep things manageable, the Committee should not be comprised of too many members; and he directed that after this morning's break, the industry nominate two industry representatives to be seated on this Committee.

Mark Armbruster, attorney representing Cypress Land Company, expressed his belief the City is overreaching its authority with the lease provisions in the moratorium, stating the City is not permitted to regulate leases; and advised that this could be considered a regulatory taking and would expose the City to potential lawsuits, noting the lease provisions/language should be immediately removed from the moratorium.

Mr. Herzog pointed out that the lease concerns are critical; that the language directly/immediately impacts business activity, noting that business cannot be paused until the City makes its decision; and pointed out that leases are negotiated and renewed on a daily basis.

Mayor Robles highlighted one tenant who moved into a warehouse in Carson without first obtaining a business license and a conditional use permit, a business that is receiving/storing/shipping hazardous materials within close proximity to a school, park, and residential area; and advised that today, this moratorium would prevent such a tenant from moving into this community without the landlord first advising the City of what type of tenant will be leasing a facility in Carson. He expressed his belief that this moratorium is about creating solutions to issues of concern for this City.

Mr. Armbruster stated that the City should be fully utilizing its code enforcement personnel to deal with that situation.

Mr. Herzog stated there are various ways to deal with a problem tenant, pointing out that the City should not be creating a blanket moratorium that affects the entire logistics community.

City Attorney Soltani stated that mentioning this one tenant was only an illustration of a larger problem in this City; and explained that the City's codes were drafted many years ago and that those codes need to be updated to be reflective of the changing times and the challenges the City has been experiencing for many years. She added that this moratorium creates a pause that will allow all interested parties to come together to create solutions that benefit not only the City and its residents but also the logistics

community. She asked what are the typical lease terms for this industry, typical lease costs, and typical length of time a tenant stays.

Chuck Littell, Colliers International, pointed out that he has made lease deals in as little as 2-30 days and that a 45-day delay would be very damaging for this industry. He advised that a typical lease in the marketplace is anywhere from 5 to 10 years, noting the average would be 7 years; and explained that the cost of a lease depends on the condition of a building, its age, location, market demand, but stated that a 100,000-square-foot warehouse can range from \$5-\$10 a foot, again, depending on the needed upgrades. He stated that the time a tenant typically stays is also dependent on various factors, but noted a minimum stay would be 5 years. With regard to the comments related to the example used for the problem tenant in Carson, he stated that is a code enforcement issue.

Mayor Robles stated that the City is asking the landlords to let the City know who they are leasing to and what type of business will be in the warehouses, pointing out that they will be considering exemptions/exceptions to this moratorium; and stated that currently, the City's codes don't require landlords to report what type of business they are leasing to in their buildings. He added that residents have inquired as to what type of business is inside a building close to their child's school or home, but noted that the City currently is not able to provide that information to that resident.

Mr. Littell stated that his clients are concerned with poor road conditions and that the industry does want to help improve the roadways.

Mr. Herzog reiterated that because of one tenant, the City should not be blanketing the industry with this moratorium; encouraged the City to utilize its code enforcement personnel to the full extent; and pointed out that this industry employs thousands.

Mr. Littell urged the City to eliminate as many unknowns as possible, stating there are too many time-sensitive issues in this industry that are impacted by this moratorium.

Mayor Robles reiterated the opportunity to apply for an exemption/exception.

Mr. Littell stated that having to go through the process of applying for an exemption/exception will cause delays and potential loss of earnings, especially when businesses are competing for clients.

Brian Harvey, Cypress Land Company, expressed his belief the City has no business trying to regulate leasing activity, stating it is illegal and is subjecting the City to tremendous liability.

Rick Pulido, resident, stated that the City shouldn't cower to the threat of lawsuits; that the City needs this industry to pay its fair share to the damage it is doing to the

roadways and to the environment; stated that the Sheriff's Department should be pulling over and ticketing errant truck drivers; that the City should be charging warehouse taxes; that there should be surcharges on trucks and containers; and that the City should be monitoring the trucking corridors for health impacts resulting from this industry. He added that this industry should be paying for the planting of trees along these corridors to improve the air quality; and stated that this moratorium should have an extension beyond the 45-day period.

Mr. Cherin asked if the City's intent with this moratorium is to use the existing municipal code as a starting point, to present new ideas, or to use this as a code enforcement exercise.

Mayor Robles stated all options are on the table.

City Attorney Soltani stated that this provides an opportunity to study the code and come up with ideas that will be beneficial to all.

Planning Manager Naaseh advised that the City is currently in the process of updating its General Plan and Zoning Codes, noting they are decades old and are in need of comprehensive updates.

Economic Development Commission Vice-Chair Hoyos, Watson Land Company, asked how long will the General Plan and Zoning Code updates take. (This is an approximate 2-year process.)

The meeting was recessed at 10:15 a.m. and reconvened at 10:28 a.m.

Per Mayor Robles' direction, the industry representatives selected the following industry representatives to serve on this Committee: Peter Herzog, Weston LaBar, Alex Cherin, Francisco Franco.

Cameron Smith, Yusen Logistics, stated that code enforcement, the Fire Department and other regulatory agencies routinely visit his business site to make sure they are following regulations; stated that they are expanding and that they support many large customers who rely on a smooth operation; advised that they employ approximately 1,500 people; and that they want to work with the City, but stated that this is not the core of all the City's problems. He expressed his belief this moratorium overreaches its authority within this business community.

George Boyle, Quikpick Express, expressed his belief this industry is committed to working with the City, but stated that the moratorium is far-reaching and should be narrowed in its scope.

Mr. Cherin concurred with Mr. Boyle's comments, suggesting the industry identify its top 3 issues of concern, such as routes, weight.

Planning Commission Chair Diaz expressed his belief there should be no limit in addressing issues of concern to the City.

Mayor Robles stated he would support the industry identifying a number of its top concerns.

Eric Preston, Fed Ex representative, stated that this moratorium has the potential to negatively impact their business operations.

Loretta Thompson, Fed Ex attorney, stated that Fed Ex partners with the cities in which it does business and that they want to be involved with this process; pointed out that Fed Ex routinely abides by the established regulations; and pointed out that Fed Ex guarantees delivery, urging the City to not put something in place that will impede its 24/7 operations.

Daniel Alvarado, representing Inland Star, advised that they only receive, store, and ship materials that are strictly regulated by the state, no mixing of materials; and advised that their Carson facility is state-of-the-art and that they are a responsible warehouse operator with years of experience in this industry. He stated that they regret not pulling the proper permits, but added that they are working closely with the City and Fire Department to resolve these issues of concern. He expressed his belief there have been mischaracterizations of this company; and he noted that their entire warehouse is open to agency inspections.

Mayor Robles mentioned that Inland Star is not the only reason for this moratorium.

City Attorney Soltani mentioned that they have been very careful not to mention the name of the company that had not pulled the proper permits and its storage of hazardous materials, pointing out that Mr. Alvarado has now divulged this information; and she stated that the City is working with this company through the process. She echoed the comment that this moratorium is not just about the problems with this company.

Councilmember Santarina asked why a statement has been made that the moratorium is not balanced.

Mr. Herzog explained that staff report and the ordinance indicates the "logistics" industry is bad; that it cites roadway damage from loaded mining trucks on the street – pointing out there are no mining operations in this city; and expressed his belief that this city is experiencing some of its problems because of deferred street maintenance and budget problems. He stated that the logistics industry has paid its fair share; pointed out that

the trucks now run cleaner with improved efficiency, that their technology is improving; and he mentioned that this industry creates one-third of the state's economy.

John Schumacher, CBRE, stated that his company has negotiated between 500-600 leases in Carson; expressed his belief the impacts of the moratorium haven't been fully vetted; and cited a recent incident in which a tenant was ready to execute final documents to lease a large building in Carson but ended up going to Torrance as a result of this moratorium – pointing out the client would have employed many from this community. He stated that quality tenants typically stay longer than 3 years in a lease and that short-term leases typically equates to poor tenants.

City Attorney Soltani reiterated that the industry can apply for an exemption/exception; advised that staff is currently drafting a letter describing the process, noting there are currently 6 applications for exemptions. She explained that regulations do change and that the City is trying to make this as business-friendly as possible; and that filing for an exemption/exception is just one extra step to take.

Mr. Schumacher advised that there are situations where businesses won't wait, as in the case he cited; and he asked if the City is committed to ending this moratorium in 38 days.

Mayor Robles encouraged the business community to do its part in identifying the top issues of concern and how to solve those problems, submitting those lists by 8:00 a.m. this Thursday; stated that this can be expedited as long as everyone provides the requested information in a timely manner; and he stated that this Committee will meet again next Tuesday at 9:00 a.m.

Mr. Schumacher expressed his concern with the 3-year lease provision, noting that 15-year leases are preferable; and stated that more bureaucracy is not needed.

Mr. Herzog expressed his concern with the exceptions language in the ordinance, highlighting the 30- and 90-day window, and pointed out that City Council is not required to approve exception applications. He stated that a 30-day window is too long in the lease business and that it creates uncertainty in negotiating leases.

Economic Development Commission Vice-Chair Hoyos stated that the lease issue is of great concern, pointing out that even a 1-day delay has caused a potential Carson business to locate to Torrance; advised that Watson Land Company has not yet received a response in regard to a letter they submitted addressing concern with the vesting language; and she stated that the lease language should be deleted, that it is not necessary and places the City in a precarious legal position. She stated this has the potential for loss of jobs and business; and requested that the vesting language be precisely clarified/defined.

Mr. Armbruster highlighted the language in Section 6, Exceptions, “the proposed new use or new tenant will not be in conflict with the contemplated General Plan update, any specific plan or zoning code update that the City Council is considering or studying or intends to study,” stating that section is vague and needs specificity.

Mayor Robles reiterated that the industry should submit to the City their top issues of concerns, how they propose to solve those issues of concern, whether they wish to be part of the solutions, and whether issues addressed in the moratorium should not be included. He added that this should be submitted to the City by 8:00 a.m. this Thursday, which will give staff time to review and address the comments at the next meeting on Tuesday at 9:00 a.m.

Environmental Commission Chair Salazar stated that packages now require clear identification of any harmful substances enclosed; urged the City not to duplicate this standard, therefore wasting time/effort; encouraged the City to fully put in force its code enforcement rights; and stated he is not supportive of a blanket moratorium, believing it is harmful to the industry.

Economic Development Commission Chair Aldridge stated that hiring more code enforcement staff would be helpful.

Economic Development Commission Vice-Chair Hoyos stated that many of these business leaders have moved this City from junkyard status to a thriving business community; expressed her belief this moratorium has sent a negative message to the current and potential business community and has long-term negative impacts; and pointed out that the City’s finances are in a precarious state and stated that if this City continues to spend as it has been, it will likely go bankrupt in the next 3 years. She asked what are the revenues generated by this industry; and stated that all parties need to work together for a quick solution, expressing her understanding this is not just a 45-day moratorium, but a long-range moratorium in the making. She stated that the moratorium needs to be immediately modified.

Planning Commission Vice-Chair Pimentel stated that the letter explaining the process for exemptions/exceptions needs to be immediately given to the business community.

Planning Commission Chair Diaz pointed out that these businesses are here because of the nearby twin ports; and noted his empathy for the business industry, but also empathy for the residents who have to live with the impacts from this industry. He stated that resolution of these concerns should be expedited.

Environmental Commissioner Young briefly referred to the short-term and long-term financial impacts to the business community.

Mr. Franco urged everyone to work toward solutions.

Mr. Cherin stated that they will be identifying their list of concerns by Thursday.

Planning Manager Naaseh advised that information regarding the moratorium has been placed on the City's website.

John Low, Prologis representative, noted the need for road repairs, and he questioned what formula the City is using to collect Development Impact Fees (DIF).

Loren Miles explained that this moratorium creates some misunderstanding within the industry, expressing his belief there is a disconnect between the City and the industry on how business works; stated that this moratorium creates a perception within the industry that Carson is not an ideal market within which to invest; he questioned whether Carson really wants this resolved in 45 days; and stated that an average General Plan Update takes 2-3 years to complete, pointing out it is not acceptable for this process to go on for 2-3 years. He expressed his belief this moratorium is not valid, as there is no imminent risk to the health, safety and well-being of the public. He stated that the City Council and the Planning Department should have prioritized the needed Zoning and General Plan updates years ago; and noted that the industry is committed to resolving this issue quickly, but questioned if the City is committed to resolving this issue quickly. He asked if the City is committed to using infrastructure improvement moneys as earmarked; suggested that an 800 number be established to report errant truck drivers; pointed out that the state highly regulates toxic substance transport/storage; and he suggested that the City inspect the warehouses located near schools and residential areas if there is concern with those facilities.

The meeting adjourned at 11:54 a.m.