

CITY OF TUSTIN REGULAR
MEETING OF THE CITY COUNCIL
AND LOCAL REUSE AUTHORITY



SEPTEMBER 7, 2021
VIDEO CONFERENCE

Austin Lombard, Mayor Pro Tem
Barry W. Cooper, Council Member
Rebecca Gomez, Council Member
Ryan Gallagher, Council Member

Letitia Clark, Mayor

Matthew S. West, City Manager
Erica N. Yasuda, City Clerk
David E. Kendig, City Attorney

NOTICE RE PUBLIC PARTICIPATION DURING COVID-19 EMERGENCY

During the Statewide COVID-19 Emergency, the public is not permitted to convene in person for this public meeting. However, the public may still view and comment on the meeting as follows:

To watch the meeting, the public may observe the meeting via the City's Granicus service at: <https://www.tustinca.org/282/Meetings-Agendas> or on the local Cox Channel 851.

To participate and/or comment on one or more items, do the following:

1. PARTICIPATING DURING A MEETING

Community members who wish to verbally address the City Council during a public meeting should electronically submit a Request to Speak form by clicking [here](#). Submitting this form prior to the meeting will allow the City Clerk to identify who would like to speak during the correct item on the agenda. Please note: You are not required to provide your name, however please provide the screen name or phone number you will use to join the meeting. By joining the meeting, you will be able to speak but your video will not be enabled. Please see further instructions below.

ASSISTANCE DURING THE MEETING

If you have any questions or need assistance during the meeting, please contact City Clerk's Office by calling 714-573-3027.

HOW TO CONNECT TO THE ZOOM WEB CONFERENCE BY COMPUTER OR SMART DEVICE

Community members may provide live public comments via Zoom during City Council meetings. To join the meeting, click [here](#) and use the passcode below.

You can also join via the Zoom app on your smartphone or tablet, or in a web browser at <https://zoom.us/join>, by entering the Meeting ID and Passcode below.

Meeting ID: 940 8640 1921
Passcode: 600222

Please provide your name in the Zoom application to allow the City Clerk to identify you when it is your time to speak. We suggest installing and testing the Zoom software on your device prior to the commencement of the meeting.

HOW TO CONNECT TO THE ZOOM WEB CONFERENCE BY TELEPHONE

To join to the Zoom web conference from any phone (landline or wireless), dial 669-900-6833.

When prompted use the below Meeting ID and Passcode.

Meeting ID: 940 8640 1921
Passcode: 600222

The City Clerk will identify you by the last 4 digits of your phone when it is your time to speak.

When requested by the City Clerk, call-in users can unmute and mute their phones by pressing *6.

Call-in users can raise their hand by pressing *9 but may not lower their hand once raised.

2. PROVIDE WRITTEN COMMENTS PRIOR TO AND DURING THE MEETING

1. Proceed to the SpeakUp comment system:
 - A. To submit an e-comment on an upcoming meeting agenda **prior to commencement of the meeting**, go to <https://tustin.granicusideas.com/meetings?scope=upcoming> and select the agenda item.
 - B. To submit an e-comment on an upcoming meeting agenda **during the meeting**, go to <https://tustin.granicusideas.com/meetings?scope=past> and select the agenda item.
 - C. Follow the links to type and submit your comment(s) on one or more items:
 - a. The items may be on the agenda or not on the agenda.
 - b. Your comments will be forwarded electronically and immediately to the members of the City Council.

- c. Comments related to a particular agenda item will only be considered prior to the close of public comments on that item
- d. Comments on matters that are not on the agenda may be submitted only until the “Public Comment” portion of the agenda is concluded.

For Individuals with Disabilities: The City is dedicated to ensuring accessibility to the meetings for those individuals with disabilities, so the City has established a process to request a reasonable modification or accommodation consistent with the Americans with Disabilities Act (ADA). If you would like to request a modification or accommodation due to a disability, **please call (714) 573-3025 as soon as is feasible, and identify the need and the requested modification or accommodation.** The City’s ADA Coordinator or her designee will receive the request and communicate in response to the request.

**CLOSED SESSION MEETING OF THE CITY COUNCIL AND THE COUNCIL ACTING IN
ITS CAPACITY AS THE LOCAL REUSE AUTHORITY
4:30 p.m.**

CALL TO ORDER – #3004

ATTENDANCE –

PUBLIC INPUT – Members of the public may address the City Council on items on the Closed Session Agenda.

CLOSED SESSION ITEMS - The Brown Act permits legislative bodies to discuss certain matters without members of the public present. The City Council finds, based on advice from the City Attorney, that discussion in open session of the following matters will prejudice the position of the City in existing and anticipated litigation:

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION - Significant exposure to litigation pursuant to Government Code § 54956.9(d)(2): (3 cases)
2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION - Significant exposure to litigation pursuant to Government Code § 54956.9(d)(2): (1 case)
 - A. Officer-involved shooting of Luis Manuel Garcia on August 9, 2021
3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION - Initiation of litigation pursuant to Government Code § 54956.9(d)(4): (2 cases)
4. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (1 case)

- A. Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9 related to a written threat to initiate litigation against the City for alleged violation of the California Voting Rights Act.

5. LABOR NEGOTIATIONS – [Government Code § 54957.6]

Agency Negotiators:	Derick Yasuda, Director of Human Resources and Peter Brown, Liebert Cassidy Whitmore
Employee Organization:	Tustin Police Officers Association–Management Unit (TPMA)
Employee Organization:	Tustin Police Officers Association–Officer Unit (TPOA)
Employee Organization:	Unrepresented Confidential Employees
Employee Organization:	Unrepresented Supervisory Employees
Employee Organization:	Unrepresented Executive Management and Management Employees
Employee Organization:	Unrepresented Part-Time Employees

6. LIABILITY CLAIMS – [Government Code § 54956.95]: (5 cases)

- A. Claim of Helen Dinh; Claim No. 21-25
- B. Claim of Carl Moler; Claim No. 21-20
- C. Claim of Laura Elisa De La Paz; Claim No. 21-17
- D. Claim of Fiorela Lopez; Claim No. 21-16
- E. Claim of Maria Ortiz; Claim No. 21-15

7. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION pursuant to Government Code § 54956(d)(1): (1 case)

- A. City of Santa Ana vs. County of Orange, et al. USDC, Central Dist. Cal., Civil Action No. SA CV 18-00155 DOC JDE

**REGULAR MEETING OF THE CITY COUNCIL AND THE COUNCIL ACTING IN ITS
CAPACITY AS THE LOCAL REUSE AUTHORITY
6:00 P.M.**

CALL TO ORDER – #3004

INVOCATION - Pastor Fred Snider - Grace Harbor Church

PLEDGE OF ALLEGIANCE – Mayor Pro Tem Lumbard

PUBLIC INPUT – At this time, any member of the public may address the Council on matters which are not on this evening's agenda, provided the matter is within the subject matter jurisdiction of the City Council.

CLOSED SESSION REPORT – City Attorney David E. Kendig

CONSENT CALENDAR ITEMS - All matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion without discussion. Persons wishing to speak regarding Consent Calendar matters should file a “Request to Speak” form with the City Clerk. (Agenda Items 1 through 6)

1. WAIVE READING IN FULL OF ALL ORDINANCES AND RESOLUTIONS ON THE AGENDA

Recommendation: That the City Council waive reading in full of all ordinances and resolutions on the agenda and declare that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

2. APPROVAL OF MINUTES – THE REGULAR MEETING OF THE CITY COUNCIL HELD ON AUGUST 17, 2021.

Recommendation: That the City Council approve the Action Minutes of the Regular Meeting of the City Council held on August 17, 2021.

3. RATIFICATION OF PAYROLL AND DEMANDS

The City Council has approved the use of Government Code Section 37208 to expedite the payment of City of Tustin obligations that are in accordance with the approved budget or continued operations authorizations.

Recommendation: It is recommended that the City Council approve Payroll in the amount of \$933,483.88; and Demands in the amount of \$5,584,814.60.

4. SECOND READING AND ADOPTION OF ORDINANCE NO. 1515 AND ADOPTION OF RESOLUTION NO. 21-68

Adoption of Ordinance No. 1515 approves Development Agreement (DA) 2021-0001 between the City of Tustin and Irvine Asset Group LLC.

Adoption of Resolution No. 21-68 approves an Infrastructure Construction and Reimbursement Agreement between the City of Tustin and Irvine Asset Group LLC.

Recommendation: That the City Council:

1. Have second reading by title only and adoption of Ordinance No. 1515; and
2. Adopt Resolution No. 21-68.

ORDINANCE NO. 1515

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUSTIN, APPROVING DEVELOPMENT AGREEMENT (DA) 2021-0001 BETWEEN THE CITY OF TUSTIN AND IRVINE ASSET GROUP, LLC TO FACILITATE THE DEVELOPMENT OF A MIXED-USE DEVELOPMENT CONSISTING OF 137 RESIDENTIAL APARTMENT UNITS AND 7,000 SQUARE FEET OF COMMERCIAL SPACE ON AN APPROXIMATE 3.38 ACRE SITE LOCATED WITHIN THE RED HILL AVENUE SPECIFIC PLAN (RHASP) AT 13751 AND 13841 RED HILL AVENUE (APN 500-141-09 and 500-141-10)

RESOLUTION NO. 21-68

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUSTIN, APPROVING AN INFRASTRUCTURE CONSTRUCTION AND REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF TUSTIN AND IRVINE ASSET GROUP, LLC. FOR PUBLIC INFRASTRUCTURE IMPROVEMENTS ASSOCIATED WITH A MIXED-USE DEVELOPMENT CONSISTING OF 137 RESIDENTIAL APARTMENT UNITS AND 7,000 SQUARE FEET OF COMMERCIAL SPACE ON AN APPROXIMATE 3.38 ACRE SITE LOCATED WITHIN THE RED HILL AVENUE SPECIFIC PLAN (RHASP) AT 13751 AND 13841 RED HILL AVENUE (APN 500-141-09 and 500-141-10)

5. REVISION TO THE DRAFT HOUSING ELEMENT

The proposed draft has been amended based upon the Department of Housing and Community Development (HCD) review of the Draft Housing Element related to preservation of at-risk units and accessory dwelling units (ADUs). The proposed revision further facilitates the equitable dispersion of housing units of various income levels throughout the City.

Specifically, the revision redistributes 582 units (517 Preservation of At-risk units and 65 ADUs) to the Tustin Market Place and the Enderle Center. No increase in the number of units at Tustin Legacy is proposed. The revision also includes adjustments to the distribution of units at various income levels (based on RHNA percentages) evenly and proportionately throughout the sites.

Recommendation: That the City Council receive and file this report.

6. MEMORANDA OF UNDERSTANDING WITH THE TUSTIN POLICE OFFICERS ASSOCIATION – POLICE OFFICER REPRESENTATION UNIT AND THE TUSTIN POLICE OFFICERS ASSOCIATION – POLICE MANAGEMENT REPRESENTATION UNIT

Adoption of the attached Resolutions and Memoranda of Understanding (MOU) will authorize terms and conditions of employment for employees in classifications represented by the Tustin Police Officers Association – Police Officer Representation Unit (TPOA) and the Tustin Police Officers Association – Police Management Representation Unit (TPOA) in accordance with City Council direction.

Recommendation: It is recommended that the City Council adopt Resolution No. 21-75 and Resolution No. 21-76 amending the City’s Classification and

Compensation Plans, approving a Memorandum of Understanding with TPOA for the period of July 1, 2021 through June 30, 2025, and approving a Memorandum of Understanding with TPMA for the period of July 1, 2021 through June 30, 2025.

RESOLUTION NO. 21-75

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUSTIN, CALIFORNIA, AMENDING THE CLASSIFICATION AND COMPENSATION PLANS FOR THE CITY OF TUSTIN AND APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TUSTIN AND THE TUSTIN POLICE OFFICERS ASSOCIATION – POLICE OFFICER REPRESENTATION UNIT, CONCERNING WAGES, HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT

RESOLUTION NO. 21-76

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUSTIN, CALIFORNIA, AMENDING THE CLASSIFICATION AND COMPENSATION PLANS FOR THE CITY OF TUSTIN AND APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TUSTIN AND THE TUSTIN POLICE OFFICERS ASSOCIATION – POLICE MANAGEMENT REPRESENTATION UNIT, CONCERNING WAGES, HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT

REGULAR BUSINESS ITEM 7

7. RESOLUTION 21-78 CONFIRMING THE CITY COUNCIL'S INTENTION TO TRANSITION FROM AT-LARGE TO DISTRICT ELECTIONS AND REJECTING MALDEF'S CONDITIONS FOR EXTENDING THE PUBLIC OUTREACH PERIOD

On August 3, 2021, the City Council adopted Resolution No. 21-64 declaring its intention to transition from at-large to district elections within a 90-day Safe Harbor period pursuant to the Elections Code and authorized the City Manager to approve and execute an agreement with Mexican American Legal Defense and Education Fund (MALDEF) to extend by an additional 90 days the deadline to adopt an ordinance establishing districtbased elections to provide additional time to conduct public outreach, encourage public participation, and receive public input.

Unexpectedly, on August 16, 2021, MALDEF conditioned agreeing to the extension upon terms that raise significant issues of compliance with State and Federal law. Despite having had numerous conversations with MALDEF over the past several months regarding the City's utilization of an extension agreement, including the attached email dated July 29, 2021, MALDEF previously made no mention of the extension being subject to additional material demands (see attached email).

Recommendation: It is recommended that the City Council take the following action:

Adopt Resolution 21-78, "A RESOLUTION OF CITY COUNCIL OF THE CITY OF TUSTIN, CALIFORNIA, CONFIRMING ITS INTENTION TO TRANSITION FROM AT-LARGE TO DISTRICT-BASED ELECTIONS PURSUANT TO CALIFORNIA

ELECTIONS CODE 10010(e)(3)(A) AND REJECTING MALDEF'S CONDITIONS FOR EXTENDING THE PUBLIC OUTREACH PERIOD."

PUBLIC HEARING ITEM 8 – 7:00 P.M.

8. PUBLIC HEARING TO RECEIVE INPUT FROM THE COMMUNITY REGARDING THE TRANSITION FROM AT-LARGE TO DISTRICT ELECTIONS

On June 23, 2020, the City received a letter from the Mexican American Legal Defense and Education Fund asserting that the at-large election system violates the California Voting Rights Act (CVRA) and threatens litigation if the City declines to voluntarily convert to district-based elections. On August 3, 2021 the City Council adopted Resolution 21-64 declaring its intention to transition from at-large to district-based elections, and to complete the transition in time for the 2022 General Municipal Election. By voluntarily proceeding to transition to district-based elections, the City benefits from a "safe harbor" provision in the CVRA and retains its own ability to determine and adopt an appropriate district map instead of having the risk of a court doing so.

The first steps in the transition process include holding at least two public hearings to invite public input regarding the composition of the City's voting districts before any draft maps are drawn. Next, the Council must hold at least two additional public hearings on the map(s) of the districts themselves. The maps must be publicly available for at least seven days before the public hearing, and if a change is made to the map after the first public hearing, the revised map must be available at least seven days before the districts are adopted by ordinance.

Recommendation: It is recommended that the City Council take the following action:

1. Receive a report on the districting process and permissible criteria to be considered to create district boundaries; and
2. Conduct a public hearing to receive public input on district boundaries.
3. As early as this first public hearing is closed, consider directing the number of council districts to be included on draft maps, and consider directing whether the Mayor is to be either: (a) elected at large (e.g., City-wide), or (b) appointed annually by, and from among, the elected City Council members.

OTHER BUSINESS/CITY MANAGER AND CITY ATTORNEY

COUNCIL MEMBER COMMENTS AND REPORTS

ADJOURNMENT - The next meeting is scheduled on Tuesday, September 21, 2021 for the Closed Session Meeting at 4:30 p.m. and the Regular Business Meeting at 6:00 p.m.