The Irwindale CITY COUNCIL met in special session at the above time and place.

ROLL CALL: Present: Councilmembers Albert F. Ambriz, Julian A. Miranda, H. Manuel Ortiz; Mayor Pro Tem Manuel R. Garcia; Mayor Mark A. Breceda

Also present: John Davidson, City Manager; Fred Galante, City Attorney; Anthony Miranda, Chief of Police; William Tam, Director of Public Works/City Engineer; Gus Romo, Community Development Director; Eva Carreon, Director of Finance; and Armando Hegdahl, Acting Deputy City Clerk

RECESS TO CLOSED SESSION

At 5:30 p.m., the City Council recessed to Closed Session to discuss the following:

Conference with Real Property Negotiators
Pursuant to California Government Code Section 54956.8

A) Property: 5500 N. Peck Road, East side of Peck Road, between Clark St. and Live Oak Avenue (APN 8532-006, 001, 004)

Negotiators: John Davidson, City Manager; Fred Galante, City Attorney

Negotiating Parties: City of Irwindale and Jean M. Cates, et al.
Under Negotiation: Price and terms

ACTION: Discussed; direction provided; no reportable action taken.

B) Property: 5175 Vincent Avenue (Manning Pit) Southwest corner of Vincent Avenue and Arrow Highway

Negotiators: John Davidson, Fred Galante, and Dispatch Transportation, LLC

Under Negotiation: Price and terms of sale

ACTION: Direction provided; no reportable action taken

Conference with Legal Counsel – Existing Litigation
Pursuant to California Government Code Section 54956.9

A) Name of Case: People ex rel. City of Irwindale v. Huy Fong Foods, Inc.
Case Number: (LASC BC525856)

ACTION: Discussed; no reportable action taken
(Councilmember Ortiz abstained and left the Closed Session room)
At 6:30 p.m., the City Council reconvened in Open Session.

**ANNOUNCEMENTS**

**Mayor Breceda**
Mayor Breceda requested that the meeting be adjourned in memory of Raul "Rulie" Breceda, Frances Alvarado, and Ana Montenegro.

**Councilmember Ortiz**
Councilmember Ortiz indicated that Our Lady of Guadalupe church will be holding its 50th anniversary celebration on May 3 and said that tickets can be had for a $25 donation. He requested that the Council and the City Attorney make a donation for the purchase of a plaque.

**CHANGES TO THE AGENDA**
None.

**Travel Reports**
None.

**Introduction of New Employee**
None.

**Proclamations/Presentations/Recommendations**

**Proclamation Presentation – April 13 – 19, 2014, as National Telecommunicators Week**
The proclamation was made.

**Proclamation Presentation – April as Autism Awareness Month in the City of Irwindale**
The proclamation was made.

**City Manager Davidson**
City Manager Davidson noted that blue light bulbs were lit at City Hall in recognition of April being Autism Awareness Month.
SPONTANEOUS COMMUNICATIONS

ALFONSO CONTRERAS
Alfonso Contreras spoke on Ana Montenegro’s accomplishments and the schedule for her funeral services. He also urged everyone to conserve water due to California’s drought. He then asked whether the Baldwin Park Sister City Association can receive the surplus items described in Consent Calendar Item 1F as a donation, to be utilized in Mexico.

JOE GARDNER
Joe Gardner spoke on his candidacy for State Assembly.

RICHARD RAMAGE
Richard Ramage, the new Commander of AmVets Post 113, provided the Council with an update on the organization’s recent activities.

CONSENT CALENDAR

MOTION
A motion was made by Councilmember Ortiz, seconded by Councilmember Ambriz, to approve the Consent Calendar; reading resolutions and ordinances by title only and waiving further reading thereof, with the exception of Item No. 1E, which was removed for separate consideration. The motion was unanimously approved; Councilmember Ortiz abstaining on Item 4A of the minutes of February 26, 2014 (Item 1A2).

ITEM NO. 1A
MINUTES
The following minutes were approved:
1) Regular meeting held February 12, 2014
2) Regular meeting held February 26, 2014; Councilmember Ortiz abstaining.

ITEM NO. 1B
WARRANTS / DEMANDS / PAYROLL
The warrants / demands / payroll were approved.

ITEM NO. 1C
RESOLUTION NO. 2014-12-2672 – SAFE HARBORS UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT
Resolution No. 2014-12-2672, entitled:
“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRWINDALE ADOPTING A POLICY TO IMPLEMENT SAFE
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ITEM NO. 1D
CITY CLASSIFICATION AND COMPENSATION STUDY
The proposal from Creative Management Services (CMS) in the amount of $37,150 to conduct a comprehensive Classification and Compensation analysis of all full-time and part-time position classifications, was approved.

ITEM NO. 1F
DECLARATION OF SURPLUS EQUIPMENT
The equipment described in the list in the agenda report was determined to be surplus and the City Manager or his designee was authorized to dispose of the property in accordance with Section 3.44.150 of the Irwindale Municipal Code.

END OF CONSENT CALENDAR

ITEM NO. 1E
SENATE BILL 1270 SURFACE MINING AND RECLAMATION ACT (SMARA) – RESPONSE LETTER (Joint with RA Item 1B)

DIRECTOR TAM
Director Tam discussed the agenda report and indicated that staff would like to submit the letter by the April 15 deadline and added that a hearing will be held on April 22.

CITY ATTORNEY GALANTE
City Attorney Galante added that staff is concerned that it may lose its Lead Agency authority when it comes to mines. He said that the city has created special mechanisms for the financial assurances and has learned much about compaction due to the studies it has conducted. He noted that the city is vested in assuring those processes are followed through and not relegated to a State agency.

COUNCILMEMBER MIRANDA
Councilmember Miranda questioned whether the financial assurances or standstill agreements would need to be restructured if the proposed bill is approved, to which City Attorney Galante advised that he was concerned since staff has already had to go through several rounds of meetings with state representatives to explain why the existing arrangements have been structured the way they have. As to existing obligations, he said that the state should not have the authority to undo those since they were approved by the State Office of Mine Reclamation. Although he does not feel concerned about the existing obligations, he was worried whether mining operations could come before the Council and request amendments to their plans.
Councilmember Miranda also asked about how actively the state would monitor activities, to which City Attorney Galante replied that he was worried since the city has prepared and conducted studies particular to Irwindale and whether Irwindale’s specific scenarios would be addressed just as the city’s mining team has been able to enforce.

DIRECTOR TAM

Director Tam added that the proposed language would create a new inspector position and would also restructure the Division of Office of Mining Reclamation to the Division of Mining, to be headed by the new position.

CITY ATTORNEY GALANTE

City Attorney Galante added that there are some positive things in the bill, so the comment letter will not suggest that the bill be rejected in its entirety. Rather, staff seeks for the state to be more respectful of what other lead agencies have learned about their own particular conditions. The bill’s language currently does not reflect that.

COUNCILMEMBER ORTIZ

Responding to several questions by Councilmember Ortiz, City Attorney Galante advised that Irwindale would continue to be the lead agency, which means that the city would consider all the permit applications. With all permits, there are financial assurances that explain how much it would cost for a site to be reclaimed if the operator walked away from the site. City staff has learned a lot about that and have alternative mechanisms in place, but the bill would threaten to remove that component of the approvals from the city. So the city would retain some control as far as entitlements, but some other components and rights would be lost.

DIRECTOR TAM

Director Tam added that the agreements with the ITAC team would need to be restructured to comply with the language of the bill.

CITY ATTORNEY GALANTE

City Attorney Galante stated that staff is concerned that, if the state begins doing the inspections, the mining operators may need to pay separate fees to both the state and the city, which could create some confusion and frustration for the operators.

MOTION

A motion was made by Councilmember Miranda, seconded by Councilmember Ortiz, to authorize the Mayor/Chair to sign and deliver a letter to Senator Fran Pavely and the members of the Senate Committee on Natural Resources and Water concerning the proposed SB 1270. The motion was unanimously approved.

PUBLIC HEARINGS

ITEM NO. 4A  CONSIDERATION ON WHETHER HUY FONG FOODS IS MAINTAINING A PUBLIC NUISANCE AND ON WHETHER HUY FONG FOODS HAS BREACHED THE DECLARATION OF CONDITIONS, COVENANTS, AND RESTRICTIONS
COUNCILMEMBER ORTIZ
Councilmember Ortiz recused himself from this item and exited the Council Chambers.

CITY ATTORNEY GALANTE
City Attorney Galante also recused himself from this item and exited the Council Chambers. Mr. Adrian Guerra replaced Mr. Galante at the dais as Assistant City Attorney.

DIRECTOR ROMO
Director Romo discussed the staff report. He advised that this is a continuation of the public hearing held on February 26 and indicated that the Council may, at its discretion, continue this public hearing to a future date to allow additional time for Huy Fong to address complaints. He stated that, after February 26, staff from the city and Huy Fong met with the Air Quality Management District ("AQMD") and discussed the issue at hand. He added that a letter was later received from Huy Fong, dated April 1, where the company promises to act to mitigate the issues, but provides no specific details.

MOZEN NAZEMI
Mozen Nazemi, Deputy Executive Officer the AQMD, stated that he has previously spoken before the Council and has committed to conduct testing at the Huy Fong facility and to schedule a meeting afterward to discuss the results. He said that the AQMD has conducted extensive testing and has met with city and Huy Fong staff on March 19 at their office where the results were shared to both parties. He said that, based on the testing conducted, the activated carbon filtration system at Huy Fong should alleviate odors. He said that the AQMD is ready to conduct similar testing when Huy Fong begins grinding chilies and expressed his willingness to cooperate with the city and Huy Fong to determine an acceptable work plan.

MAYOR PRO TEM GARCIA
Mayor Pro Tem Garcia Garcia asked about the frequency in which the filters should be replaced, to which Mr. Nazemi stated that the filters should be changed regularly, depending on how frequently they are used and the type and size of filtration system in place.

COUNCILMEMBER MIRANDA
Councilmember Miranda asked how soon the filters can be replaced, to which Mr. Nazemi stated that he cannot speak on behalf of Huy Fong, but that they can work together to create a schedule. He added that if ventilation and ducting needs to be installed, that would take additional time.
Mayor Breceda stated that the city has always wanted to receive an action plan from Huy Fong, to include a timeline and specific actions to be taken. He then asked whether Huy Fong can have the new filters in place before the next grinding season, to which Mr. Nazemi said that it would depend on how extensively the system is designed. Mayor Breceda reiterated that the city wants to work with Huy Fong and that the only thing that is necessary is some type of commitment from Huy Fong.

Mayor Breceda also asked how long the AQMD has been monitoring the complaints, to which Mr. Nazemi said that they have been monitoring them since they first started receiving them, which was around October of 2013.

Responding to a question from Councilmember Miranda regarding what types of filtration systems can be used at the factory's grinding area, Mr. Nazemi stated that they can use a similar type of technology to control odor. However, since the company is not currently grinding, AQMD was unable to test for pollutants that are given off.

Councilmember Ambriz expressed his preference that this matter be resolved before the upcoming grinding season.

Assistant City Attorney Guerra suggested to the Councilmembers that they save their comments until after the public hearing. He reminded the Council that tonight's issue is to determine whether Huy Fong has created a public nuisance and whether it has violated its Covenants, Conditions, and Restrictions ("CC&R"). He further explained the options available to the Council tonight.

At 7:14 p.m., Mayor Breceda opened the public hearing for comments.

John Tate, representing Huy Fong, said that the information presented tonight has been accurately represented. He said that Huy Fong has committed then and has adhered to the procedure recommended by the AQMD. He spoke on the testing that was conducted by AQMD and indicated that Huy Fong has begun making the recommended improvements. He added that a specific action schedule will be provided to the city within 10 days, including milestones and measuring points. He said that his company understands the city's concerns and that the system they want can be installed on or before June 1st. He stated his opinion that it would be premature to determine the factory to be a public nuisance. He added that, with the help of the AQMD, Huy Fong is moving in the direction that it has committed to and that they have the intention to meet every goal along the way.
LAURA JIMENEZ
Laura Jimenez, representing Senator Dr. Ed Hernandez, read a prepared statement in support of Huy Fong.

PRIMO CASTRO
Primo Castro, representing Assemblymember Roger Hernandez, read a prepared statement in support of Huy Fong.

CLOSE
There being no additional speakers, Mayor Breceda closed the public hearing at 7:22 p.m.

COUNCILMEMBER AMBRIZ
Councilmember Ambriz stated that the city has worked hand in hand with Huy Fong and expressed his belief that there is enough evidence to constitute the factory to be a public nuisance. He said that, even though the city may issue Huy Fong a Notice of Violation, it does not mean that the city wants the factory to move out of town. He said that he simply wishes to protect the city residents and neighbors of the nuisance.

MAYOR BRECEDA
Mayor Breceda said that the city has always favored working together with Huy Fong to rectify any problems. He spoke highly of Mr. David Tran, owner of Huy Fong, and acknowledged his accomplishments. He added that the AQMD has recognized that an odor problem exists and said that the action plan that Huy Fong will prepare is a step in the right direction.

COUNCILMEMBER MIRANDA
Responding to a question by Councilmember Miranda, Assistant City Attorney Guerra advised that, should the Council eventually adopt a resolution declaring Huy Fong to be a public nuisance, then Huy Fong would be provided about 90 days to correct the nuisance. However, should Huy Fong submit a plan and make good faith efforts to correct the nuisance, that 90 day deadline can be extended. He added that, in the CC&R’s that Huy Fong accepted, there is an obligation for the property owner to maintain the facility in a nuisance-free condition. If the Council finds that a nuisance exists, then Huy Fong would have violated the condition in the CC&R.

MOTION
A motion was made by Councilmember Ambriz, seconded by Councilmember Miranda, to direct staff to prepare a resolution finding that Huy Fong Foods is maintaining a public nuisance per Section 8.08.030 of the Irwindale Municipal Code and declare Huy Fong Foods to be in default of the Declaration of Conditions, Covenants, and Restriction. The motion was unanimously approved; Councilmember Ortiz absent.

COUNCILMEMBER ORTIZ AND CITY ATTORNEY GALANTE
Councilmember Ortiz and City Attorney Galante returned to their places at the dais at 7:32 p.m.

CITY MANAGER'S REPORT
City Manager Davidson reported that Library renovation project is proceeding on schedule and that the Library re-opening is scheduled for mid May. Also, the Mayor’s State of the City address will be held tomorrow at 11:30 at the Edison CTAC Center. He also reported that two individuals were arrested for vandalizing the former Denny’s property on Irwindale Avenue.

There being no further business to conduct, the meeting was adjourned at 7:37 p.m., in memory of Raul “Rulie” Breceda, Frances Alvarado, and Ana Montenegro.

Laura M. Nieto, CMC
Deputy City Clerk

Approved as submitted at the meeting of July 23, 2014.