

CITY OF LOS ALAMITOS
3191 Katella Avenue Los Alamitos, CA 90720

CITY COUNCIL AGENDA
ADJOURNED REGULAR MEETING

May 11, 2020 – 5:00 p.m.

SAFETY ALERT –NOTICE REGARDING COVID-19

Due to COVID-19, the City of Los Alamitos City Council Adjourned Regular Meeting on May 11, 2020 will be conducted by videoconference pursuant to the provisions of the Governor's Executive Orders N-25-20 and N-29-20. The public may access the meeting electronically or telephonically.

Pursuant to Executive Orders and given the current health concerns, **members of the public may not attend the meeting in person.** Members of the public can access the meeting by phone by dialing +1 (301) 715-8592 and enter the Meeting ID: 865-3043-2762. Your microphone will be disabled upon entry for the duration of the meeting.

The public can submit comments to cityclerk@cityoflosalamitos.org with the subject line "PUBLIC COMMENT ITEM #" (insert the item number relevant to your comment) or "PUBLIC COMMENT NON-AGENDA ITEM." Comments **received by 4:00 p.m.** will be compiled, provided to the City Council, and made available to the public before the start of the meeting. Staff will not read email comments at the meeting but the official record will include all email comments received until the close of the meeting.

Members of the public wishing to verbally deliver public comments via the telephone conference can submit their requests to cityclerk@cityoflosalamitos.org **until the start of the public comment period (Oral Communications).** The City Clerk will compile a list of speakers who have indicated a desire to speak. Before the close of the meeting, the City Clerk will announce each speaker, enable the speaker's microphone, and begin the three minute timer. The speaker's microphone will automatically be disabled at the end of three minutes.

All speakers shall observe civility, decorum and good behavior. Any item submitted to the City Council during the meeting shall become public record and subject to applicable disclosure laws.

NOTICE TO THE PUBLIC – This Agenda contains a brief general description of each item to be considered. Except as provided by law, action or discussion shall not be taken on any item not appearing on the agenda. Supporting documents, including staff reports, are available for review at City Hall in the City Clerk's Office or on the City's website at www.cityoflosalamitos.org once the agenda has been publicly posted.

Each matter on the agenda, no matter how described, shall be deemed to include any appropriate motion, whether to adopt a minute motion, resolution, payment of any bill, approval of any matter or action, or any other action. Items listed as "for information" or "for discussion" may also be the subject of an "action" taken by the City Council at the same meeting.

Any written materials relating to an item on this agenda submitted to the City Council after distribution of the agenda packet are available for public inspection online at www.cityoflosalamitos.org.

It is the intention of the City of Los Alamitos to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee, or a participant at this meeting, you will need special assistance beyond what is normally provided, please contact the City Clerk's Office at (562) 431-3538, extension 220, 48 hours prior to the meeting so that reasonable arrangements may be made.

1. CALL TO ORDER

2. ROLL CALL

Mayor Murphy
Mayor Pro Tem Chirco
Council Member Doby
Council Member Grose
Council Member Hasselbrink

3. PLEDGE OF ALLEGIANCE

Mayor Murphy will lead the Pledge of Allegiance.

4. INVOCATION

Mayor Pro Tem Chirco will give the Invocation.

5. ORAL COMMUNICATIONS

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6. COUNCIL ANNOUNCEMENTS

At this time, Council Members may also report on items not specifically described on the Agenda that are of interest to the community, provided no action or discussion is taken except to provide Staff direction to report back or to place the item on a future Agenda.

7. ITEMS FROM THE CITY MANAGER

8. CONSENT CALENDAR

A. Repeal of Ordinance No. 2018-03

(City Attorney)

The proposed ordinance would repeal Ordinance No. 2018-03 and remove Chapter 9.30 from the Los Alamitos Municipal Code. The City Council introduced for first reading, read by title only, and waived further reading of Ordinance No. 2018-03 at its Adjourned Regular meeting on May 4, 2020.

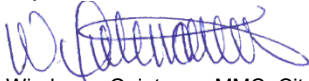
Recommendation: Adopt Ordinance No. 2020-05, entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, REPEALING ORDINANCE NO. 2018-03 AND REMOVING CHAPTER 9.30 FROM THE LOS ALAMITOS MUNICIPAL CODE"

ROLL CALL

Mayor Murphy
Mayor Pro Tem Chirco
Council Member Doby
Council Member Grose
Council Member Hasselbrink

9. ADJOURNMENT

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing Agenda was posted at the Los Alamitos City Hall, 3191 Katella Ave. and online at www.cityoflosalamitos.org not less than 72 hours prior to the meeting.



Windmera Quintanar, MMC, City Clerk
Dated: May 7, 2020

City of Los Alamitos

CITY COUNCIL AGENDA REPORT

MEETING DATE: May 11, 2020

ITEM NUMBER: 8A

To: Mayor Richard D. Murphy & Members of the City Council

Presented By: Chet Simmons, City Manager

Subject: Repeal of Ordinance No. 2018-03

SUMMARY

The proposed ordinance would repeal Ordinance No. 2018-03 and remove Chapter 9.30 from the Los Alamitos Municipal Code. The City Council introduced for first reading, read by title only, and waived further reading of Ordinance No. 2018-03 at its Adjourned Regular meeting on May 4, 2020.

RECOMMENDATION

Adopt Ordinance No. 2020-05, entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, REPEALING ORDINANCE NO. 2018-03 AND REMOVING CHAPTER 9.30 FROM THE LOS ALAMITOS MUNICIPAL CODE".

BACKGROUND

On October 5, 2017, Governor Jerry Brown signed into law the California Values Act (SB 54), Government Code §§ 7284 *et seq.* ("CVA"). The CVA limits the ability of cities throughout California to cooperate with federal authorities, and specifically Immigration and Customs Enforcement officials in enforcing federal immigration law.

On March 19, 2018, the Los Alamitos City Council introduced, and subsequently adopted on April 16, 2018, Ordinance No. 2018-03, adding Chapter 9.30 to the Los Alamitos Municipal Code entitled "Constitution of the United States Compliance", which purported to exempt the City of Los Alamitos from the CVA. Immediately thereafter, the American Civil Liberties Union filed a lawsuit on behalf of Los Alamitos Community United, an association of individuals, Reverend Samuel Pullen and Henry J. Josephberg arguing Ordinance No. 2018-03 was unlawful and preempted by the CVA.

On April 4, 2018, the City of Huntington beach filed a lawsuit against the State of California arguing the CVA was an unconstitutional infringement upon the rights of charter cities to constitute, regulate, and govern their police force as granted by Article XI, § 5 of the California Constitution.

The Los Alamitos Community United and the Huntington Beach cases were filed in separate courts, but centered on the same legal issue: the applicability of the CVA to charter cities. On September 7, 2018, the Los Alamitos Community United case was

transferred to the honorable James L. Crandall, the same Superior Court Judge handling the Huntington Beach case.

The Huntington Beach case was farther along procedurally than the Los Alamitos Community United case and had a motion date set for hearing on the main issue, the petition for writ of mandate preventing the State from enforcing the CVA against the City of Huntington Beach. Judge Crandall granted Huntington Beach's petition and issued judgment in favor of Huntington Beach on October 9, 2018. The State immediately announced its intention to appeal.

To conserve resources, the City of Los Alamitos and the Community United Plaintiffs agreed to stay all proceedings in Los Alamitos Community United case pending appellate resolution of the Huntington Beach case.

On January 10, 2020, the California Court of Appeal overturned the Superior Court's ruling in the Huntington Beach case, holding the CVA is constitutional as applied to charter cities because it addresses matters of statewide concern—including public safety and health, effective policing, and protection of constitutional rights—is reasonably related to resolution of those statewide concerns, and is narrowly tailored to avoid unnecessary interference in local government. The City of Huntington Beach then filed a petition for review in the California Supreme Court.

On April 2, 2020, the California Supreme Court declined to hear the City of Huntington Beach's appeal from the Court of Appeal's decision.

DISCUSSION

In recognition of the binding legal precedent now established by the California Court of Appeal, and to avoid the expense of continuing litigation on a settled question of law, the City of Los Alamitos and the Community United Plaintiffs have entered into a Settlement Agreement and Release of Claims, which requires the repeal of Ordinance No. 2018-03.

Proposed Ordinance No. 2020-05 would repeal Ordinance No. 2018-03 and remove Chapter 9.30 from the Los Alamitos Municipal Code.

Submitted by: Michael S. Daudt, City Attorney
Approved by: Chet Simmons, City Manager

Attachment: 1. Ordinance No. 2020-05

ORDINANCE NO. 2020-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, REPEALING ORDINANCE NO. 2018-03 AND REMOVING CHAPTER 9.30 FROM THE LOS ALAMITOS MUNICIPAL CODE

WHEREAS, on October 5, 2017, Governor Jerry Brown signed into law the California Values Act (SB 54), Government Code §§ 7284 *et seq.* (“CVA”). The CVA limits the ability of cities throughout California to cooperate with federal authorities, and specifically Immigration and Customs Enforcement officials in enforcing federal immigration law; and,

WHEREAS, on March 19, 2018, the Los Alamitos City Council introduced, and on April 16, 2018 adopted, Ordinance No. 2018-03, adding Chapter 9.30 to the Los Alamitos Municipal Code entitled “Constitution of the United States Compliance”, which purported to exempt the City of Los Alamitos from the CVA; and,

WHEREAS, on April 18, 2018, Los Alamitos Community United, Reverend Samuel Pullen and Henry J. Josefsberg filed a petition for writ of mandate and complaint in Orange County Superior Court entitled *Los Alamitos Community United, et al v. City of Los Alamitos, et al.*, Case No. 30-2018-00987018 (hereafter, the “Community United Litigation”), which argued Ordinance No. 2018-03 was preempted by the CVA; and,

WHEREAS, on April 4, 2018, the City of Huntington Beach filed a lawsuit against the State of California *et al.* arguing that the CVA was unconstitutional as applied to charter cities pursuant to Art. XI, § 5 of the California Constitution (hereafter, the “Huntington Beach Litigation”); and,

WHEREAS, on September 7, 2018, the Community United Litigation was transferred to the honorable James L. Crandall, the same Superior Court Judge handling the Huntington Beach Litigation; and,

WHEREAS, on October 9, 2018, Judge James L. Crandall issued a written order in the Huntington Beach Litigation finding that the CVA violated the constitutional right of the City of Huntington Beach, as a charter city, regarding the constitution, regulation and government of its police force; and,

WHEREAS, on October 29, 2018, to conserve judicial and party resources, the Community United Plaintiffs and the City of Los Alamitos agreed to stay all proceedings in the Community United Litigation pending appellate resolution of the Huntington Beach Litigation; and,

WHEREAS, on January 10, 2020, the California Court of Appeal overturned the Superior Court’s ruling in the Huntington Beach Litigation, holding the CVA is

constitutional as applied to charter cities because it addresses matters of statewide concern—including public safety and health, effective policing, and protection of constitutional rights—is reasonably related to resolution of those statewide concerns, and is narrowly tailored to avoid unnecessary interference in local government; and,

WHEREAS, on April 2, 2020, the California Supreme Court declined to hear Huntington Beach’s appeal, thereby upholding the Court of Appeal’s decision; and,

WHEREAS, in recognition of the binding legal precedent now established by the California Court of Appeal, and to avoid the expense of continuing litigation on a settled question of law, the City of Los Alamitos and the Community United Plaintiffs have entered into a Settlement Agreement and Release of Claims, which requires the repeal of Ordinance No. 2018-03.

THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Ordinance No. 2018-03 is hereby repealed and Chapter 9.30 is hereby removed from the Los Alamitos Municipal Code.

SECTION 2. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of the adoption and shall post a Certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 18th day of May, 2020.

Richard D. Murphy, Mayor

ATTEST:

Windmera Quintanar, MMC, City Clerk

APPROVED AS TO FORM:

Michael S. Daudt, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF LOS ALAMITOS)

I, Windmera Quintanar, CMC, City Clerk of the City of Los Alamitos, do hereby certify that the foregoing Ordinance No. 2020-05 was duly introduced and placed upon its first reading at an adjourned regular meeting of the City Council on the 4th day of May, 2020 and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 18th day of May, 2020, by the following roll-call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Windmera Quintanar, MMC, City Clerk