

**IRWINDALE CITY COUNCIL CHAMBERS
5050 N. IRWINDALE AVENUE
IRWINDALE, CALIFORNIA 91706**

**JANUARY 12, 2023
THURSDAY
5:45 P.M.**

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

ROLL CALL:

Present: Councilmembers Mark A. Breceda, Manuel R. Garcia, Larry G. Burrola; Mayor Pro Tem Albert F. Ambriz; Mayor H. Manuel Ortiz

Also Present: Julian A. Miranda, City Manager; Adrian Guerra, City Attorney; Theresa Olivares, Assistant City Manager; Marilyn Simpson, Community Services Director; and Laura Nieto, Chief Deputy City Clerk

**SPONTANEOUS
COMMUNICATIONS**

FRED BARBOSA

Fred Barbosa stated that residents have questions regarding a potential settlement agreement between the city and Five Points, and asked that there be dialogue on this matter.

CONSENT CALENDAR

MOTION

A motion was made by Councilmember Garcia, seconded by Councilmember Burrola, to approve the Consent Calendar with the exception of Item No. C1, which was removed for separate consideration. The motion was unanimously approved,

**ITEM NO. C2
ADOPTING
RESOLUTIONS
RATIFYING THE
PROCLAMATION OF
EXISTENCE OF A
LOCAL EMERGENCY
(SEVERE WINTER
STORMS) BY THE
MAYOR IN HIS
CAPACITY AS
DIRECTOR OF
EMERGENCY
SERVICES AND
APPROPRIATING
FUNDS**

**ADOPTING RESOLUTIONS RATIFYING THE PROCLAMATION OF
EXISTENCE OF A LOCAL EMERGENCY (SEVERE WINTER
STORMS) BY THE MAYOR IN HIS CAPACITY AS DIRECTOR OF
EMERGENCY SERVICES AND APPROPRIATING FUNDS**

**RESOLUTION NO.
2023-09-3387
ADOPTED**

Resolution No. 2023-09-3387, entitled:

**"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
IRWINDALE, CALIFORNIA, APPROVING THE APPROPRIATING
OF FUNDS NECESSARY TO RESPOND TO THE SEVERE
WINTER STORMS EMERGENCY WITHIN THE CITY OF**

IRWINDALE PURSUANT TO IRWINDALE MUNICIPAL CODE CHAPTER 2.44.090," was adopted.

ITEM NO. C3
AMENDMENT NO. 1
TO CONTRACT
SERVICES
AGREEMENT WITH
ITERIS INC.

AMENDMENT NO. 1 TO CONTRACT SERVICES AGREEMENT
WITH ITERIS INC. FOR ON-CALL AS-NEEDED TRAFFIC
ENGINEERING SERVICES

CITY MANAGER
MIRANDA

City Manager Miranda noted corrections to the City Manager's recommendation shown in the staff report.

RESOLUTION NO.
2023-08-3386
ADOPTED

Resolution No. 2023-08-3386, entitled:

"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRWINDALE AUTHORIZING THE APPROPRIATION OF \$32,000 FROM THE GENERAL FUND RESERVES FOR ON-CALL AS-NEEDED TRAFFIC ENGINEERING SERVICES BETWEEN THE CITY OF IRWINDALE AND ITERIS, INC.," was adopted.

END OF CONSENT CALENDAR

ITEM NO. C1
APPROVAL OF
SETTLEMENT
AGREEMENT
BETWEEN FIVE
POINTS, LP AND
CITY OF IRWINDALE

APPROVAL OF SETTLEMENT AGREEMENT BETWEEN FIVE
POINTS, LP AND CITY OF IRWINDALE REGARDING
SETTLEMENT OF THE LAWSUIT FIVE POINTS, LP VS. CITY OF
IRWINDALE, LOS ANGELES COUNTY SUPERIOR COURT, CASE
NO. 22STCV01394

COUNCILMEMBER
BRECEDA

Councilmember Breceda declared a potential conflict of interest with this item and exited the Council Chambers at 5:51 p.m.

CITY ATTORNEY
GUERRA

City Attorney Guerra presented the staff report.

COUNCILMEMBER
BURROLA

In reply to several questions by Councilmember Burrola, City Attorney Guerra indicated that the community meeting that the Council is interested in holding would need to take place before the City Council meeting, though that does not necessarily mean that it must be done before the Planning Commission meeting, though it is possible to do so.

In response to a comment by Councilmember Burrola, City Attorney Guerra indicated that, when Five Points initiated its litigation against the City, they stated in their complaint that they are seeking \$20 million in damages for the alleged breach of contract and all causes of action. However, by way of the proposed settlement agreement, the City would avoid potentially paying the \$20 million in damages.

COUNCILMEMBER GARCIA	Councilmember Garcia asked whether the 10 acres reserved for housing is compromised, to which City Attorney Guerra confirmed that it is not. The settlement agreement only involves property owned by Five Points, and none of the city-owned properties.
MAYOR PRO TEM AMBRIZ	As requested by Mayor Pro Tem Ambriz, City Attorney Guerra noted related lawsuit milestones: as part of the settlement discussions, a demurrer was originally scheduled for December but was continued by the court to January 11. As the parties worked toward a settlement, the parties agreed to continue that date to give both parties time to finalize a draft settlement agreement for consideration. The trial date had been scheduled for June or July, but the city requested that it be pushed to December. He added that, should the City Council deny the project, the case would revert to the demurrer at the end of March or maybe a bit later if more time is necessary.
MAYOR ORTIZ	Mayor Ortiz asked if there is sufficient time for informational documentation to be prepared for the community meeting, to which City Attorney Guerra stated that this is likely the reason that the developer thought about holding the community meeting after the Planning Commission meeting but before the City Council meeting, in order to have all the information needed from the environmental consultant. He added that, if the information is ready in time, staff could work with Five Points to potentially holding the community meeting before the Planning Commission meeting.
COUNCILMEMBER BURROLA	Councilmember Burrola expressed his preference in holding the community meeting before the Planning Commission meeting, which City Attorney Guerra indicated that the request would be shared with Five Points.
MAYOR ORTIZ	Mayor Ortiz advised against rushing the project, and stated that the community meeting could be held after the Planning Commission meeting if needed, as long as the entire process is properly documented.
FRED BARBOSA	Responding to several questions by Fred Barbosa, City Manager Miranda explained the project has been downsized from the original proposal and discussed the steps the developer is taking to mitigate air pollution. Mr. Barbosa stated his opinion that this project, along with other projects, all contribute to heavy pollution. He also threatened to recall the Councilmembers and alleged that the city has entered into an agreement illegally with Five Points.
CARMEN ROMAN	Carmen Roman stated that the residents have not been properly informed regarding the project, made general allegations of impropriety, spoke against pollution, and suggested that Five Points be made to set up a fund to guarantee medical and cancer medical care for residents. She also asked what else the residents would receive under this project.

DENA ZEPEDA	Dena Zepeda agreed with Carmen Roman and Fred Barbosa in opposing pollution. She also made allegations of impropriety against Councilmember Breceda and City Attorney Galante.
MAYOR PRO TEM AMBRIZ	Mayor Pro Tem Ambriz stated his feeling that the proposed timeline is too aggressive and suggested slowing the process down to lessen the likelihood of making mistakes and to ensure that all questions are answered.
MAYOR ORTIZ	Mayor Ortiz shared the preoccupations regarding the environment, and noted that this was the reason that the project was downsized. He further elaborated on the steps that have been taken to help mitigate environmental impacts and stated that the Council will do the best it can to stop the lawsuit.
FRED BARBOSA	Fred Barbosa stated his belief that the city is facing a lawsuit due to a zoning change.
COUNCILMEMBER BURROLA	Councilmember Burrola expressed his desire for residents to fully understand the process since its inception, and stated that he understood the residents' concerns over pollution.
COUNCILMEMBER GARCIA	Councilmember Garcia concurred with comments made regarding environmental concerns, though he noted that the City has made substantial progress at the subject site. He stated that the City is in the fortunate position of being able to develop the site and retain 10 acres for housing and indicated that the developer has expressed his willingness to develop a facility and remediate environmental impacts as much as possible. He noted that the City Council unanimously approved the project in 2015 and spoke in support of moving the project forward.
PAULA FRAIJO	Paula Fraijo stated that, although she understands the need for developments to keep a community thriving, businesses tend to prey on low-income minority communities and develop projects that harm its residents. She further stated that remediation efforts do not eliminate health risks posed by large developments and indicated her belief that Irwindale residents already suffer from a high rate of illnesses.
MAYOR ORTIZ	Responding to a question by Mayor Ortiz, City Attorney Guerra advised that, should the Council deny the project again, the existing litigation brought forth by Five Points against the City would continue. There would be a trial later in 2023. The City would have an existing demurrer to challenge the basis of the lawsuit, scheduled for sometime in the spring or summer. The litigation is currently being held at bay during this review process. If the settlement agreement is approved, the lawsuit would go away; if it is not, the lawsuit continues. If the city loses the lawsuit, the city would pay damages as determined by the court, though Five Points is seeking \$20 million in damages.

Further, the agreement approved in 2015 would not be dissolved and the property would not revert to the city. Five Points would keep the property and will get another opportunity to develop it. If the city wins the lawsuit, the city would not have to pay damages to Five Points, though they would retain the right to develop a project.

COUNCILMEMBER
BURROLA

In reply to a question by Councilmember Burrola, City Attorney Guerra advised that the site is zoned M2, which according to current zoning standards, would permit the development of a light industrial building. City Attorney Guerra further indicated that, should Five Points win the lawsuit, they would retain the right to develop a commercial light industrial building. If the city wins the lawsuit, Five Points would retain the right to develop a commercial light industrial building. He further noted that the item before the Planning Commission and the City Council is a site plan design review; it is not a review of the use as light industrial since that is already permitted per the city's zoning code.

MAYOR PRO TEM
AMBRIZ

Mayor Pro Tem Ambriz agreed that the Council unanimously approved the project in 2015. However, he stated that the Council based its decision on the limited information that the City Attorney at the time had provided. He stated that, if he knew then what he knows now, he would have voted against the project. He reiterated his desire to slow the process down and spoke against approving the proposed settlement agreement.

MAYOR ORTIZ

Mayor Ortiz noted that this matter has been discussed in Closed Session many times, where the Council has seemingly desired to approve the agreement. He indicated that if the settlement agreement is not approved at this time, the Council would need to meet again in Closed Session to discuss further, likely with the same results.

DENA ZEPEDA

Dena Zepeda made various allegations of conflicts of interest and corruption and suggested that the Council seek a second legal opinion on the matter.

MOTION

A motion was made by Mayor Ortiz, seconded by Mayor Pro Tem Ambriz, to table this matter until further notice, and meet in Closed Session at a future date to discuss further. The motion was unanimously approved; Councilmember Breceda absent.

ADJOURNMENT

There being no further business to conduct, the meeting was adjourned at 6:33 p.m.



Laura M. Nieto, MMC
Chief Deputy City Clerk