

MINUTES
REGULAR MEETING
AGOURA HILLS CITY COUNCIL
Civic Center – Council Chambers
30001 Ladyface Court, Agoura Hills, California 91301
Wednesday, January 22, 2025
6:00 p.m.

The City Council meeting was called to order at 6:00 p.m. by Mayor Sylvester.

Mayor Sylvester announced: *“Before we start this evening, I would like to acknowledge the many agencies, groups, and businesses that assisted our community during the recent fires including, the Los Angeles Fire Department Station 89, all our neighboring city, county, and state firefighters, Lost Hills Sheriff’s Station, all our sheriff, police, and CHP personnel, the Agoura Hills Library who made charging stations and WIFI available to the public, our Community Emergency Response Team (CERT), our City staff (communications, streets, charge stations, WIFI, opening the Emergency Operations Center), the Arson Watch Group, the Agoura Hills Fire Safe Council, Shelters for evacuees, such as the Calvary Church in Westlake Village and El Camino Real Charter High School in Woodland Hills, shelters for small animals, such as the Agoura Animal Care Center and El Camino Real Charter High School, shelters for large animals, such as Pierce College and Burbank LA Equestrian Center, the businesses that offered free meals, such as El Pollo Loco in Agoura Hills and the World Central Kitchen at Malibu Brewing Company in Malibu, and the businesses that created LA Fire Relief donation drives, such as Hard Core Fitness in Agoura Hills and Proactive Sports Performance in Westlake Village. I would just like to say a heartfelt thank you to all who contributed to not only our community, but our neighboring communities, during the high winds and the surrounding area brush fires. We continue to offer our support to all who were affected by the fires, including all the people currently in the path of the Hughes Fire.”*

Mayor Sylvester opened the meeting with the Land Acknowledgement.

The Pledge of Allegiance was led by Cub Scout Pack 227.

Present were: Mayor Penny Sylvester, Mayor Pro Tem Jeremy Wolf, Councilmember Kate Anderson, Councilmember Chris Anstead, and Councilmember Deborah Klein Lopez.

Also Present were: City Manager Nathan Hamburger, City Attorney Candice K. Lee, City Prosecutor Eric Markus, Assistant City Manager Ramiro Adeva, Deputy City Manager Louis Celaya, Jensen Hughes Consultant Amelia Pludow, Communications Manager Mary Haddad, Executive Assistant Michele Hubbs, Community Development Director Denice Thomas, Principal Planner Robby Nesovic, Senior Civil Engineer Charmaine Yambao, Acoustics Group Consultant Robert Woo, Consultant Omar Ramos, Finance Manager Brenda Cho, Director of Community Services Amy Brink, and City Clerk Kimberly M. Rodrigues.

REPORT OF CLOSED SESSION

No Closed Session was held.

APPROVAL OF AGENDA

ACTION: Councilmember Anstead moved to approve the Agenda, as presented. Councilmember Klein Lopez seconded. The motion carried 5-0, by the following roll call vote:

AYES: Mayor Sylvester, Mayor Pro Tem Wolf, and Councilmembers Anderson, Anstead, and Klein Lopez.

NOES: None.

ABSTAIN: None.

ABSENT: None.

PRESENTATIONS

Mayor Sylvester presented a Certificate of Recognition, to owner Jennifer La Salle, honoring Hardcore Fitness as the January Business of the Month.

INTERGOVERNMENTAL, SPECIAL PURPOSE COMMITTEE, & DEPARTMENTAL REPORTS

John King, Covina, representing Southern California Edison, provided an LED Street Light Replacement Effort Update.

Library Manager Nina Hull provided an Agoura Hills Library Quarterly Update.

Councilmember Klein Lopez provided a Clean Power Alliance (CPA) Update.

Mayor Sylvester reported there was no update for the Las Virgenes/Malibu Council of Governments as the meeting had been canceled.

Councilmember Anderson reported the first meeting for the Santa Monica Mountains Conservancy Advisory Committee would be held on January 27, 2025.

PUBLIC COMMENTS

The following person spoke:

Haylynn Conrad, Malibu, representing the Malibu City Council

CONSENT CALENDAR

No public comment was received.

ACTION: Councilmember Anderson moved to approve Consent Calendar Item Nos. 1-6, as presented. Mayor Pro Tem Wolf seconded. The motion carried 5-0, by the following roll call vote:

AYES: Mayor Sylvester, Mayor Pro Tem Wolf, and Councilmembers Anderson, Anstead, and Klein Lopez.

NOES: None.

ABSTAIN: None.

ABSENT: None.

1. Approve Minutes of the City Council Regular Meeting of January 8, 2025
2. Approve Minutes of the City Council Special Meeting of January 14, 2025
3. Approve Demand Warrant Register No. 925
4. Receive and File the City of Agoura Hills Annual Comprehensive Financial Report for the Year Ended June 30, 2024
5. Approve: 1) Agreement for Payment of Costs, with Toll Brothers West Coast, LLC, in Connection with the Preparation of Environmental Documentation; and, 2) Agreement for Consultant Services, with Rincon Consultants Incorporated, for the Preparation of Environmental Documentation Related to the Preparation of an Initial Study/Mitigated Negative Declaration for a 60-Unit Townhome Development Project
6. Adopt **Resolution No. 25-2092**; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, APPROVING PARTICIPATION IN THE LOS ANGELES URBAN COUNTY PERMANENT LOCAL HOUSING ALLOCATION PROGRAM BY AUTHORIZING THE CITY MANAGER TO SIGN A REIMBURSABLE CONTRACT WITH THE LOS ANGELES COUNTY DEVELOPMENT AUTHORITY (LACDA) ACTING ON BEHALF OF THE COUNTY

PUBLIC HEARING (REVOCATION)

7. Conduct a Public Hearing to Consider the Adoption of **Resolution No. 25-2093**; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, REVOKING BUSINESS LICENSE NUMBER 006982 (NEW ERA PERFORMANCE AND TUNING, LLC), PURSUANT TO SECTION 6819 OF THE AGOURA HILLS MUNICIPAL CODE AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Mayor Sylvester announced: *"I will now open the Public Hearing (6:50 p.m.) to consider the revocation of Business License No. 006982 for New Era Performance and Tuning, LLC for violations of the Agoura Hills Municipal Code and other applicable laws and regulations. There will now be an announcement by the City Prosecutor."*

City Prosecutor Eric Markus announced: *"Good evening. My name is Eric Markus, I am the City Prosecutor, and I will be representing staff for the purposes of this evening's hearing. Before we proceed, I did want to note that shortly after notice of this public hearing was sent out, I received a call and spoke with the business owner, Mr. Esparza, who indicated to me that he received notice secondhand. I've spoken to Mr. Esparza about that issue. I have also spoken to him about the fact that we are going to be presenting some evidence tonight, some of which he just received, and Mr. Esparza has agreed and indicated that he would like to proceed this evening so we intend to do so and are ready to move forward."*

Mayor Sylvester announced: *"Thank you. City staff and the City Prosecutor has the burden of proof by the preponderance of the evidence. This means the evidence demonstrates that the proposition is more likely true than not true. Please note that the formal rules of evidence and procedure do not apply to this hearing. However, the City Council, in consultation with the City Attorney, will make rulings on objections and evidence. Irrelevant and/or unduly repetitious evidence shall be excluded. The City Council reserves the right to allow evidence and consider the weight of the evidence during deliberations. There are no official time limits on staff's or the business owner's presentation, but we ask that the testimony not be redundant. Could all legal counsel for City staff, the business owner, and the City Council state their appearances for the record?"*

City Prosecutor Markus stated he would be: *"(representing) for the City."*

Mr. Alexander Esparza stated: *"I am the owner of New Era Performance."*

City Attorney Candice Lee stated: *"I am the City Attorney for the City of Agoura Hills and I will be advising the City Council."*

City Attorney Lee inquired: *"If I may just ask Mr. Esparza a question for the record. So, I understand that you had conversations with the City Prosecutor and had noted that you had received notice secondhand, but you are okay proceeding this evening and you are waiving any arguments as to notice, is that correct, we can proceed this evening with this hearing?"*

Mr. Esparza responded: *"I agreed to continue because it has been too long. We have all been here plenty of times, I am over it, I have done everything I can. The only thing I ask is the evidence that was provided to me as soon as I walked in not be entered into evidence because I had no time to prepare and I want to be able to get this over with so I came prepared, but I do not want the evidence that was just given to me as I walked in because I was not able to prepare for any of that."*

City Attorney Lee responded: *"I believe the evidence was provided in the Agenda packet and to the extent you received notice, but I think the issue is, you will have to ask the City Prosecutor, but I think they intend to move forward with their evidence."*

Mr. Esparza responded: *"There was no evidence provided to me until only what was on the...what I received in the mail on Saturday, which I opened up on*

Monday, which was two days ago, and there was...the evidence which I was told right now when I walked in was not part of it...there was no USB drive or anything included besides the 37-page Agenda that was given in the mail when I got it on Monday. The new evidence I just got right now, just received this when I walked in 30 minutes ago."

City Attorney Lee asked City Prosecutor Markus how he would like to proceed.

City Prosecutor Markus responded: "I actually provided Mr. Esparza a copy of the report upon which our presentation will be based last week via email. Mr. Esparza also acknowledged his receipt thereof shortly after I sent it. With respect to the other exhibits that the City intends to introduce, one is a copy of Mr. Esparza's business license. I see no prejudice in Council acknowledging the existence of that business license. Other exhibits are letters sent by my office to Mr. Esparza, so he certainly had copies of those for years. As I indicated, our acoustical engineering report was already provided to Mr. Esparza and to the extent he takes issue with the WAV files, I provided Mr. Esparza a thumb drive of the audio recordings captured by our monitoring devices. Council, you have also been provided those, there's hundreds of audio files, I intend to present only one of them this evening. We will proceed introducing that one recording and to the extent Mr. Esparza has an objection, I'd be happy to address it at that time."

City Attorney Lee inquired: "So, it is your recommendation to proceed this evening and you will address the issues of evidence as we go along?"

City Prosecutor Markus responded: "Well, Mr. Esparza has indicated that he would like to proceed tonight and we're prepared to do so and I do not see any prejudice with moving forward."

Mr. Esparza responded: "I am not prepared to...I do not have anything for the WAV files that I have not even heard and they were never provided to me so I will proceed if we are able to take that out of the evidence and we continue with what was presented to me which the City does have a report of the audio which I am okay with as far as the report goes, but the actual audio files that were presented as I walked in, I would like to exclude those. If we can do that, then we can continue and just get this over with."

City Prosecutor Markus responded: "I think when we get to the audio files you will note that the purpose of me using the audio files is not to demonstrate or establish that what is exhibited in that particular audio file exceeds any noise threshold, it is simply to distinguish between a dynamometer and engine exhaust so I do not believe it will necessarily be determinative of any of the issues before the City Council this evening."

Mr. Esparza responded: "I do not want that evidence to be included at all. I was not able...I had no time to prepare, there is a report from the audio company that I approved and we can continue with that and if that is enough then let us get this over with."

City Attorney Lee responded: *"First of all, I think we need to get on the record, you (Mr. Esparza) have a gentleman here who continues to advise you, can you state your name? And, you have joined us in the past so it would be helpful for the record if you could just state your name and explain your role in this."*

Gentleman responded: *"Yes, I have been here since the beginning, all four times. I am a customer of Mr. Esparza, however, I do have a special set of skills that I try to assist him with as he assists me with his skills."*

City Attorney Lee inquired: *"And, what is your name again?"*

Gentleman responded: *"My name is Francis Stewart."*

Mr. Esparza shared that Mr. Stewart was there to assist and guide him on how to properly address people.

City Attorney Lee asked: *"And, for the record, Mr. Stewart, you are not an attorney, you're just assisting..."*

Mr. Stewart responded: *"No, I am an attorney, but I am not representing him. I am just assisting with the presentation. I am not representing him, I stated that the last time when the prior Mayor was here."*

City Attorney Lee inquired: *"Mr. Markus, would it be helpful, do you want to side bar with the business owner, this is all kind of new to us, this information."*

City Prosecutor Markus responded: *"Not at all, I think that I'm comfortable proceeding and to the extent that he may object to a certain piece of evidence, we can consider that in due course. I do not feel any further delay is necessary."*

Upon further protest from Mr. Stewart and Mr. Esparza regarding the admission of the WAV file as evidence, City Prosecutor Markus responded: *"If it would please Council, I would be happy to proceed without the audio, I have my acoustical engineer here who can testify as to distinction."*

Mayor Sylvester announced: *"We are proceeding without the audio being submitted. Could the parties' legal counsel advise the City Council if they have reached any stipulations as to facts and/or evidence? If so, we ask that the stipulations be made a part of the record and that copies of any stipulated exhibits be provided to the Mayor and the City Council."*

Neither party reported any stipulations.

City Attorney Lee announced: *"So, if you could listen carefully, in terms of how we are going to be numbering and identifying the following exhibits. So, any Exhibits submitted by staff's counsel, so that would be the City Prosecutor, will be identified by sequential numbers (1, 2, or 3). This is aside from whatever, however it is numbered in the staff report. Please identify your exhibits by 1, 2, and 3 when you introduce them, please. And, then, any Exhibits submitted by the business owner's*

counsel or representative shall be identified by sequential letters. So, please identify your exhibits as A, B, and C, please. If you need some sticky notes to stick on there, let us know, but you will be identifying them as A, B, and C. All identified and relevant exhibits will be deemed admitted into evidence absent a sustained objection."

City Attorney Lee then announced: *"I also want to remind the Council to ensure to ask all questions prior to deliberation to ensure that any information and evidence you rely upon is part of the official record. If you ask any questions during deliberation, we may have to reopen the public hearing, which may further prolong the process. Thank you."*

Mayor Sylvester asked: *"Does any Councilmember have any ex parte communications to disclose?"*

There were no ex parte communications from the City Council.

Mayor Sylvester deferred to City staff and the City Prosecutor for their presentation.

At the request of City Prosecutor Markus, and prior to the presentation, the City Council recessed at 7:05 p.m. and reconvened at 7:09 p.m.

City Prosecutor Markus provided the staff presentation and submitted the following exhibits to be admitted into evidence:

- Exhibit 1 – Business License
- Exhibit 2 – April 9, 2021 Notice of Violation
- Exhibit 3 – Petition (Complaint)
- ~~Exhibit 4 – Neighbor Video (Complaint)~~

Mr. Esperanza objected to Exhibit 4; exhibit was stricken by City Prosecutor Markus

- Exhibit 5 – (Robert) Woo Resume
- Exhibit 6 – Acoustical Engineering Study

City Prosecutor Markus called on Mr. Robert Woo. City Clerk Rodrigues administered the oath to Mr. Woo for his testimony. On direct examination, City Prosecutor Markus then questioned Mr. Woo on Exhibits 5 and 6.

Mr. Stewart objected to City Prosecutor Markus's questions as *"leading."*

City Prosecutor Markus responded: *"The formal rules of evidence do not apply to this proceeding."*

City Attorney Lee concurred that formal rules of evidence did not apply to this proceeding and noted: *"It is up to the Council to determine whether or not they were okay with that line of questioning."*

Mayor Sylvester responded: *"We are okay with that kind of questioning."*

City Prosecutor Markus continued with his direct examination of Mr. Woo and submitted the following exhibit:

- Exhibit 6-2 – Summaries of Measured Events

Mr. Stewart protested to one of Mr. Markus's questions and requested the acoustic consultant give the testimony.

Mayor Sylvester responded he would have the chance to cross-examine and present any questions at that time.

City Prosecutor Markus concluded his direct examination of Mr. Woo.

Mayor Sylvester invited Mr. Stewart to cross-examine Mr. Woo.

Mr. Stewart referenced the prior report from Veneklasen Associates and City Prosecutor Markus objected *"to the entire line of questioning, with respect to the Veneklasen report, on the grounds that it is completely irrelevant."*

Mr. Stewart contested City Prosecutor Markus's assertion that the report was irrelevant.

Mayor Sylvester stated: *"We are not including that report so we're not basing any of our rulings tonight on that report; it is irrelevant."*

City Attorney Lee responded: *"I think it is appropriate for New Era to introduce that on their presentation. This is right now cross-examination of Mr. Woo. And, for the record, it appears that Council is deeming that irrelevant because the Veneklasen report has not been entered into evidence and the prosecution has not entered it into evidence, is that correct?"*

Mayor Sylvester responded: *"That is correct."*

Mr. Stewart continued and after further questions of Mr. Woo, concluded his cross-examination.

Mayor Sylvester invited the City's staff counsel to redirect the witness.

City Prosecutor Markus re-directed Mr. Woo. Following redirection, City Prosecutor Markus continued with his presentation and submitted the following exhibit:

- Exhibit 8 – October 14, 2024, Notice of Violation

In conclusion, City Prosecutor Markus requested the City Council adopt a resolution revoking New Era's business license.

Mayor Sylvester opened the floor for questions of staff and counsel. Councilmembers asked questions of the City Prosecutor, City staff, and Mr. Woo.

Following the question-and-answer period with staff and the City Prosecutor, Mayor Sylvester announced: *"This is the time for the business owner and his counsel to make their presentation."*

Mr. Francis contested a staff comment that the business owner *"did not contact them or reach out to them"* and noted that he had called staff multiple times in an attempt to *"set up a meeting so that we could come to a satisfactory result on this."*

Mr. Esparza provided his presentation and submitted the following exhibits to be admitted into evidence:

- Exhibit A – Veneklasen and Associates report
- Exhibit B – Pictures from March 8, 9, 10, 11 (reflecting he was out of town)
- Exhibit C – Receipt of Dyno Door purchase
- Exhibit D – Acoustics Group, Inc. report
- Exhibit E – Photograph (facing shop doors from location of readings)
- Exhibit F – Email, dated January 15, 2025, from Mr. Eric Markus with Acoustic Report
- Exhibit G – Pictures from previous months showing Dyno doors closed
- Exhibit H – California Vehicle Code Section 27151

City Prosecutor Markus noted he had not been provided a copy of the evidence. The City Clerk provided a copy to the City Prosecutor.

Mr. Esparza read his statement, reviewed his exhibits, spoke about the sound made when lug nuts are removed from car wheels and that he wanted to demonstrate *"what it sounds like for other businesses in my area that work on cars."*

Mayor Sylvester responded: *"We have no objection."*

Mr. Esparza retrieved an impact driver from his seat in the audience to use for a live demonstration in the Chamber.

City Prosecutor Markus inquired of the Council when he should make his objections.

City Attorney Lee responded: *"You need to make the objections as we go along; when you deem appropriate."*

City Prosecutor Markus made the following objections: *"Initially, I would object to all testimony with respect to the Veneklasen report. It is wholly irrelevant which is the basis for excluding evidence from this proceeding. That would include not only Mr. Esparza's testimony, but Exhibit A. I would also move to exclude as irrelevant Exhibit B, in so far as photographs of his Dyno in March 2024 have no bearing on the issues presented today. Yes, those would be the basis of my objections. I would also object to Mr. Esparza's use of an impact driver at this proceeding as it*

has no bearing whatsoever on the noise generated by his Dynamometer nor his compliance with the City's code."

Mr. Esparza contested: *"And, I think that noise in general, not from my Dyno, is the problem here. It is noise in general and this is noise that gets done on shops around my area, in general. So, I think the noise that you are having a problem with is vehicle noise which should not matter whether it is vehicle noise, impact noise, dogs barking noise – it is every single type of noise that exceeds 65 dB is the problem, not just vehicle noise."*

City Prosecutor Markus responded: *"I cannot speak to if other noises exceed 65 dB, because, for purposes of our study, we eliminated all other noise except the Dyno noise from our analysis. The Dyno noise is what we are here to discuss and according to our study, the Dyno noise exceeds the threshold. Whether the noise is generated by an impact wrench or screeching tires is wholly irrelevant."*

Mayor Sylvester requested input from the City Council on whether to sustain the City Prosecutor's objection to the submission of Exhibits A and B as evidence.

Following a brief question-and-answer period between the City Council and City Prosecutor, the City Council decided to allow Mr. Esparza to submit both Exhibits A and B as evidence.

As to the live demonstration of the impact driver by Mr. Esparza, City Prosecutor Markus stated: *"I would note that to the extent Mr. Esparza wants to generate audio for you to listen to that the City and staff have not received any notice of, it would only seem appropriate that Council receives into evidence the WAV recordings that I have prepared which will clearly establish the sound of a Dyno versus the sound of an engine."*

The City Council invited Mr. Esparza to submit both as evidence or neither. Mr. Esparza selected to submit neither.

Mr. Esparza continued his presentation stating that he *"was not in violation and was in compliance with California State law (Exhibit H)"* and concluded his presentation.

Mayor Sylvester inquired if Mr. Esparza wished to call any witnesses.

Mr. Esparza responded: *"I am not trying to call witnesses, but I do have people from adjacent buildings to mine that are here."*

City Attorney Lee responded: *"If you want to ask questions of your witnesses, then you would call them as witnesses. If you are not going to ask questions of them, they're just going to be providing general comments to the Council, then they'll come forward during public comment period, so it is up to you."*

The City Council recessed at 8:55 p.m. and reconvened at 9:07 p.m.

Mr. Esparza called on Stacy Poitras, Danny Cricca, and Garrett Petrula as his witnesses.

City Clerk Rodrigues administered the oaths for their testimony.

Mr. Esparza conducted direct examination of each witness.

City Prosecutor Markus cross-examined Mr. Petrula and did not have any questions for the other witnesses.

Mayor Sylvester opened the floor for Council to ask questions of the business owner and his team. Following a question-and-answer period between the Council and the business owner and his team, Mayor Sylvester announced: *"This is the time for any members of the public to speak before the Council."*

City Clerk Rodrigues administered the oath to the following person(s) for their public testimony:

Diane Ricci, Agoura Hills
Jay DiMaggio, Agoura
Maria DiMaggio, Agoura
Joe Vanelli, Agoura Hills

Following public comment, Mayor Sylvester opened the floor for the Council to ask questions and the Council did not ask any questions.

Following a question-and-answer period, Mayor Sylvester announced: *"This is the time for the business owner to respond to or rebut anything presented this evening. Does the business owner wish to speak at this time?"*

Mr. Stewart spoke on behalf of Mr. Esparza, provided a summary, indicated that they had been working to get a resolution to the matter, and asked the City Council *"to not take this gentleman's livelihood. He is a young entrepreneur that works constantly and is, actually, one of the best tuners in his field."*

Councilmember Klein Lopez inquired if the business owner would be open to hearing the WAV recordings to help the Council understand their point of view and confirm (or deny) if the noise is what it (Dyno) sounds like.

City Prosecutor Markus stated that he had some exemplars that could be listened to for context to hear the difference between a dynamometer and a car engine.

Mr. Esparza stated: *"The WAV files from when Mr. Woo was there are labeled and there is an exact file that shows which one it is. I will let you listen to the three when the door is closed because that is how I operate my shop."*

City Prosecutor Markus stated: *"It would take me a second to pull them up...to the extent that the Council feels that listening to WAV files is critical, I do not think there should be any impediment to the Council doing so today because Mr."*

Esparza has waived any concerns he has with respect to time and notice. Alternatively, to the extent that this is likely going to be adjourned for a determination, perhaps we could adjourn and continue the hearing and return in two weeks and between now and then they can listen to whatever they want to listen too. Alternatively, I do not think that they need to be evidence of anything with respect to New Era, you could just hear them for context and if they want to object you could rule on the objection."

City Attorney Lee responded: *"I think what Mr. Markus means by that, is, if it is not evidence, you are not going to rely on that, if you decide to revoke, your resolution is not going to point to this recording...you cannot rely on it for purposes of your decision."*

Mr. Esparza stated: *"I just want to make sure that we rely on the evidence that I provided of the noise."*

Councilmember Klein Lopez stated: *"It would help in context."*

Mr. Esparza replied *"that would be fine."*

Mayor Sylvester polled the Council to determine if they felt they needed to hear the recording to make their decision this evening. It was consensus of the remaining Councilmembers that since it could not be used as evidence, then it would not be persuasive.

City Attorney Lee provided the option: *"If you want to admit it as evidence and they are arguing this is a notice issue, then the way to solve that is to continue it (public hearing). They would be provided the files, they can listen to it, they can hire whomever they want to hire to rebut or whatever and it would be admitted and everyone would listen to it and you would have an opportunity to say why you agree or disagree based on your expert's or your opinion."*

Mr. Esparza stated that he wished to continue by not admitting the WAV files as evidence.

Councilmember Klein Lopez stated: *"To be clear, my question for them was to let us hear it as evidence and they are declining that."*

Mayor Sylvester announced that the request to hear the WAV files was declined by Mr. Esparza.

City Prosecutor Markus made his closing remarks *"Briefly, I want to address this notion of City's law conflicting with state law. The City's laws have nothing to do with vehicles and the laws have nothing to do with each other. State law says that a car cannot exceed 95 dB. The City does not have any restriction, as far as I know, on how loud a car can be. What the City's law says is that activities conducted by a business cannot exceed 65 dB. One has nothing to do with the other. If your business activity involves operating a vehicle, and that vehicle exceeds 65 dB, then you have an obligation to use mitigation to ensure that the*

noise generated by that vehicle does not exceed 65 dB beyond your business. The laws have nothing to do with each other at all and law is what we really have to talk about here because the City's law says that you cannot exceed 65 dB in your business operations. We have expert testimony with significant foundation laid for the conclusions that this dynamometer operation exceeded 65 dB repeatedly, whether the doors are open or shut, it does not matter, it exceeded dB. That is a violation of the code and that is a public nuisance and when there is a public nuisance and the business owner is given an opportunity to cure and does not, it is prima facie evidence that that public nuisance is detrimental to the public health, safety, and general welfare. Mr. Esparza had not rebutted that prima facie showing and even if we did not have the prima facie showing, we have testimony from community residents that his business has impacted their health, their serenity, made them anxious, it has given them headaches, it makes them worry about their ability to continue to provide for themselves because they are at risk of losing clients due to the embarrassment suffered because every time they have a meeting they cannot conclude without the loud noise. So, notwithstanding this prima facie concept, we have direct evidence from community residents that this is having a severe and detrimental impact on their health, safety, and welfare, and when you have a violation of the City's Code that is resulting in a detriment to community residents and business owners' health, safety, and general welfare, the Council has discretion to revoke a business license. Under these circumstances, staff would ask Council to adopt a resolution revoking New Era's business license. I would also note, I apologize for circling back, I would also note that much of Mr. Esparza's presentation has had to do with the Veneklasen report. I have said it before, but I will say it again, the report has nothing to do with this. The expert employed with respect to that report is not the expert before you. The results of that report are not the results before you and that report has nothing to do with the violations that we are talking about because this is an entirely new proceeding. I understand that we have been here several times, but everything that we have done in the past is wholly irrelevant to the issues before us. This is the first hearing on this request to revoke. This is the first hearing on these violations and it is these violations and the testimony of my expert, Mr. Woo, who has stated with 100% certainty that what he measured is the Dyno and the Dyno alone. That is the only thing that is relevant. I have nothing further."

Mayor Sylvester stated: *"Before I close the Public Hearing, do any Councilmembers have questions of staff or the business owner or anyone else? This is the last call for questions. As the City Attorney explained, we are not to ask any questions during the deliberations to ensure that any information we rely on as part of our decision is part of the official record."*

Councilmembers asked questions of staff, the City Prosecutor, and Mr. Woo.

Mayor Sylvester closed the Public Hearing at 10:20 p.m.

Mayor Sylvester opened the floor for deliberations and the City Council concurred that, although they would like to keep him (Mr. Esparza) in business, the business owner was in violation of the Municipal Code and engaged in a lengthy discussion

regarding whether or not to revoke the business license or if a compromise could be implemented amongst the business owners.

Mayor Sylvester asked the Council if they wished to reopen the public hearing or were prepared to make a ruling.

The City Council expressed their desire to make a ruling and Councilmember Klein Lopez stated: *"if we do move to revoke the license, which I am open to, we would just consider a time frame to give Mr. Esparza time to figure out where he might go. Not as immediate as it could be just by coming on Consent, but giving him a little bit of time to figure out what to do next."*

Mayor Sylvester deferred to the City Attorney.

City Attorney Lee stated: *"If you are inclined to revoke, then decide that you are going to revoke, direct staff to prepare a resolution with beefed up findings based on what we have heard in deliberations this evening. We can bring it back on Consent and the Council can determine the effective date of that resolution of revocation. So, whether that is a month, two months, so that is, I think, an option."*

Following further Council discussion, City Attorney Lee stated: *"You can either bring it back in a month and it is effective immediately in a month. That would probably give us staff time to go through the record and revise it or if you want closure, which I understand the desire for that, we can bring it back at the next meeting, but the resolution would state that the effective date of this resolution is, whatever, one month out, whatever date you decide. So, those are your two options."*

City Manager Hamburger stated: *"If that is the Council's desire to bring it back at the next meeting, and the reason I say that is, it is like anything when someone's leaving, we want it to be a good actor, and I hope that the business owner will do that, but if there is time in between, there is a lot more opportunity for bad acting there and problems with the neighbors so, coming back and having agreement what is going to happen during that time period would be helpful for us for enforcement purposes. And, I hope that everybody plays nice together, but I cannot assure that and the longer we keep that open, the more difficult that is."*

There was further Council discussion to determine the effective date of the resolution of revocation.

City Attorney Lee stated: *"So, the way that would be worded is that you would have all the language saying revoking and then, basically, the last section of the resolution would say 'this resolution is effective February 28, 2025,' but you have staff, Mr. Hamburger, noting what happens if there are unpalatable actions that happen between now and February 28th. It is not going to be effective until February 28th. That is just the Council's discretion."*

Mayor Sylvester requested input from City Manager Hamburger if he felt it should be effective immediately.

City Manager Hamburger responded: *"Not necessarily, I think that if the Council makes the action to revoke the business license that we bring back the resolution at the next meeting. Then, if you want to have a time period, whatever that time period is, a month or whatever that is, so we also have an agreement on what's going to happen during that time period because it is like any employee, right? If they know they are leaving, they are a lot more apt to not really show up, to maybe not follow the rules, not to do what is in the best interest of everybody around for whatever reason and, I just do not want that scenario to blow up between multiple neighbors during that time if that is an issue. So, we can lay out what's going to happen during that time period, we are very clear about that, and if there are violations we have a clear understanding of what is going to happen."*

Mayor Sylvester reopened the Public Hearing at 10:53 p.m. for input from the City Prosecutor.

City Attorney Lee stated: *"The question is whether or not the revocation date is immediate at the next Council meeting or whether, if they build in some wiggle room to give them some time to figure out another plan, locate, whether that's 30 days, 60 days, whether that causes problems from a code enforcement perspective to push out the effective date of the revocation resolution."* City Prosecutor Markus responded: *"No, it does not raise any concerns from me from a code enforcement perspective. I would expect that everyone would act as professionals going forward, regardless of what Council does and I mean everyone with respect to the competing business owners. I would say though, that to the extent that anything occurs we still have the full panoply of enforcement measures available to account for what or what may not occur. No, it does not pose any issue to me to the extent you would want to make a resolution revoking effective at a later date."*

Mayor Sylvester asked Community Development Director Thomas for her opinion.

Community Development Director Thomas responded: *"Code enforcement complaints come in every day and if the business license is already revoked and you are waiting in the period of time for them to vacate the premises, there is the possibility that misdemeanors could occur because every violation of our code is a misdemeanor offense and it could be for the property owner and the business owner and it would be unfortunate if in that 60 to 90-day period of time, we had additional code enforcement complaints that were generating criminal offenses. My recommendation, actually, I support what the City Manager recommended. If we are going to revoke it, my recommendation would be to bring it back next month, or at the next meeting, whichever meeting you all agree to. I would be perfectly willing to give some time. I am not really sure if we can enter into some sort of a compliance agreement that laid out the steps as the City Manager has indicated so that we do not have an issue when we get to February 28, and the premises are still occupied. So, those are my thoughts. I would prefer it to happen, if it is going to happen, to happen now so that we can begin to kind of help people along, but if you choose to give 60 days, I would ask for some sort of compliance agreement or something in your resolution that gives us teeth so that we would have a place to go."*

Mayor Sylvester stated: *"Well, that sounds like we are creating more problems by extending."*

City Attorney Lee stated: *"I will say this, you could adopt the resolution at the next meeting. Have it be effective immediately and then whatever happens after that, the City has prosecutorial discretion. If someone is acting badly, they can act more quickly. If they are not really causing trouble, we, basically, are unofficially giving them a grace period. So, I think from what staff is recommending to adopt a resolution that has the revocation effective immediately gives them the widest range of options in case problems do arise."*

There being no further questions, Mayor Sylvester closed the public hearing at 10:59 p.m.

Following deliberations, Mayor Sylvester announced: *"It appears that a majority of the Council supports revocation. That being the case, I would like to recommend that City Council consider a motion supporting the revocation, but directing the City Attorney to review the records and revise the resolution to include findings from the records to support the revocation. This means we would not adopt the resolution revoking the business license tonight, but a revised resolution with additional findings will be brought back to the City Council at the February 12, 2025, City Council meeting."*

Mayor Sylvester called for a motion and a second to approve the recommendation.

ACTION: Mayor Pro Tem Wolf moved to approve the Mayor's recommendation. Councilmember Anderson seconded. The motion carried 5-0, by the following roll call vote:

AYES: Mayor Sylvester, Mayor Pro Tem Wolf, Councilmember Anderson, Councilmember Anstead, and Councilmember Klein Lopez.

NOES: None.

ABSTAIN: None.

ABSENT: None.

CONTINUED ITEM - DISCUSSION / ACTION

8. Discussion Regarding the Community Wildlife Risk Assessment (CWRA) and Consideration of Approval of the CWRA Community Survey Questions

Following presentation of the staff report, and a question-and-answer period of staff, Mayor Sylvester opened the floor for public comments.

Following distribution of the Agenda Packet, and prior to the City Council Meeting, written correspondence was received from the following persons (listed in the order received), forwarded to the City Council, and made available for public review.

*Peter Fehler, Agoura Hills, representing the Agoura Hills Fire Safe Council
Jay Crutcher, Agoura Hills, Agoura*

The following person(s) spoke:

Peter Fehler, Agoura Hills, representing the Agoura Hills Fire Safe Council
Jay Crutcher, Agoura Hills, Agoura

Following discussion, the City Council reached unanimous consensus (*Sylvester, Wolf, Anderson, Anstead, Klein Lopez*) to continue this item to a later date to allow the subcommittee the opportunity to consider feedback and update the survey.

CITY COUNCIL, STAFF COMMENTS

Director of Community Services Brink announced the Ladyface Mountain Film Festival would be held at the Regency Theater and the Event Center from February 6-8, 2025, and invited the community to purchase tickets and attend the inaugural event.

Councilmember Anderson shared personal remarks on the devastation caused by the Palisades Fire.

Councilmember Klein Lopez recognized the passing of Atis "Pete" Petersons, affectionately known as "Mr. Pete," her former 12th-grade government teacher at Agoura High School, shared the family's obituary highlighting his life and career as an educator and coach, offered condolences to his family, noting he would be "*deeply missed, but forever cherished.*"

Mayor Sylvester spoke about the passing of retired Willow Elementary School Plant Manager, Peter John Thomson, known as "Mr. Pete," shared a personal tribute honoring his life and career, noting that her children had attended the school where she had also led the Kids FACE Club, and, as he was a Liverpool Football Club supporter, said, "*Mr. Pete, you'll never walk alone.*"

ADJOURNMENT

At 11:29 p.m., Mayor Sylvester announced the next Regular City Council Meeting would be held at 6:00 p.m., on Wednesday, February 12, 2025, in the Council Chambers of the Civic Center. The Civic Center is located at 30001 Ladyface Court, Agoura Hills, California, and adjourned the meeting in honor of both "Mr. Petes."



Kimberly M. Rodrigues, MPPA, MMC
City Clerk