



STAFF REPORT
12/11/2019

TO: Honorable Mayor and City Council Members

FROM: Carlos Campos, City Attorney
Best Best & Krieger, LLP

SUBJECT: Ordinance No. 1151, an Interim Urgency Ordinance of the City Of Coachella, California, to Extend by Ten (10) Months and Fifteen (15) Days Ordinance No. 1149, which Established a 45-Day Moratorium on City Approvals of New Applications for the Construction or Operation of Prisons, Jails, Correctional Facilities, and Detention Facilities Within the City, to Allow Consideration of Appropriate Amendments to the General Plan or Zoning Code to Address the Impact of These Institutions on the Public Welfare in Accordance with Government Code Section 65858 (4/5ths Vote Required).

SUMMARY:

Staff requests that the City Council of the City of Coachella extend by ten (10) months and fifteen (15) days Interim Urgency Ordinance No. 1149, a 45-day moratorium on City approvals of new applications for the construction or operation of prisons, jails, correctional facilities, and detention facilities on a city-wide basis. The purpose of the moratorium is to allow the City time to study potential amendments to the General Plan or Zoning Code to address the impacts that such facilities have on the public health, safety, and welfare. An extension ordinance requires a four-fifths (4/5th) vote of the City Council to pass.

STAFF ANALYSIS:

On November 20, 2019, the City Council adopted an interim urgency ordinance, Ordinance No. 1149, that temporarily suspends the City's approval of new applications for the construction or operation of prisons, jails, correctional facilities, and detention facilities within city limits. For more details, a copy of the November 20, 2019 staff report is attached as Exhibit B for reference. A copy of Ordinance No. 1149 is also attached hereto as Exhibit C. The interim urgency ordinance is effective for 45 days and is set to expire on January 4, 2020.

The moratorium was established to allow the City the opportunity to consider amendments to the General Plan or Zoning Code to better regulate the location of prisons or detention facilities within the City, and to address the impact these uses have on the health, safety, and welfare of Coachella residents. U.S. Immigration and Customs Enforcement (ICE) facilities, particularly privately owned ones, have received criticism in recent years for their poor management and dangerous housing conditions. This criticism has prompted California to pass laws to address

the reported inhumane conditions associated with private, for-profit prison and detention facilities. On October 11, 2019, Governor Gavin Newsom signed AB 32 , which will phase out the use of for-profit prisons and ban private immigration detention facilities in California starting January 1, 2020. As a result of AB 32 and the increasing number of migrants for ICE to process, the City anticipates that federal agencies will seek to locate their prisons and detention facilities in the Coachella Valley to offset the private, for-profit facility closures in California.

The City's local regulations do not address the location and operation of correctional facilities and prisons such as the ones described above. The City will require time to study the impacts on the health, safety, and welfare of Coachella residents to come up with appropriate regulations. Further, due to conflicting federal and state legal policy on this issue, the City must carefully consider the most appropriate policy direction to take that best represents the community's values while addressing these issues.

Since the adoption of the 45-day moratorium, the City Attorney, working with the Planning Department, has started to review development and land use standards for prisons and detention facilities in Coachella. Measures taken to date include: (1) reviewing and researching draft ordinance language to better regulate the siting of prisons and detention facilities, including any facility used to provide foster services to separated minors, (2) soliciting community feedback, and (3) researching conflicting federal and state laws and policies applicable to the proposed ordinance. (See Exhibit D, City Council Report, dated December 11, 2019.)

Although staff has started research and discussions about the measures described above, they have not yet finished their work in this regard. As such, staff is requesting the Council to extend the moratorium for an additional period of ten (10) months and fifteen (15) days in accordance with Government Code Section 65858 to a new expiration date of November 19, 2020. Should staff complete their work before the moratorium expires, a request to lift the moratorium will be submitted to the City Council for consideration.

The moratorium may be extended by adopting the attached Interim Urgency Ordinance No. 1151 attached as Exhibit A. The Interim Urgency Ordinance clarifies that the term "correctional facility" also includes a "foster care placement center for unaccompanied or separated minors."

As an Interim Urgency Ordinance, this Ordinance requires a four-fifths (4/5ths) vote of the City Council to pass. The moratorium, if extended, will remain in effect until November 19, 2020, unless otherwise lifted by the City Council. It can then be extended for one (1) additional year by adoption of another interim urgency ordinance after conducting a noticed public hearing in accordance with State law.

ENVIRONMENTAL:

Staff recommends that the City Council find that this ordinance is not subject to the California Environmental Quality Act under California Code of Regulations, Title 14, Section 15060, subdivision (c)(2), because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment nor under subdivision (c)(3) because the activity has

no potential for resulting in physical change to the environment, directly or indirectly and so is not a project. The ordinance temporarily ensures that the status quo is maintained.

FISCAL IMPACT:

No anticipated fiscal impacts.

EXHIBITS:

- A. Interim Urgency Ordinance
- B. Staff Report – November 20, 2019
- C. Ordinance No. 1149
- D. City Council Report – December 11, 2019