

## **MINUTES**

### **CITY OF DELANO CITY COUNCIL – REGULAR MEETING May 6, 2013**

#### **CALL TO ORDER**

Mayor Aguirre called the meeting to order at 5:37 p.m. in the City Hall Council Chambers, 1015 – Avenue.

#### **INVOCATION**

Mr. Dowling offered the invocation.

#### **FLAG SALUTE**

Mayor Aguirre led the flag salute.

#### **ROLL CALL**

Council members present: Aguirre, Chavez, Morris, Pascual, Vallejo  
Council members absent: none

#### **OFFICIALS PRESENT**

City Manager Reyna, Interim City Attorney Garcia, City Clerk Kraft, Finance Director Rios, Police Chief DeRosia, Community Development Director Cariño, City Engineer Dowling, Human Resources Director Zamudio

#### **PRESENTATIONS AND AWARDS**

Presentation of Retirement Plaque to Sgt. Edward Perez  
Mark Olson – Citrus Pest & Disease (not present)  
Kern Medical Reserve Corps  
Gaby Castaneda, Congressman David Valadao's office

#### **ITEMS FROM THE PUBLIC**

Matthew Juarez, 705 Oxford Street, stated he had check for \$1,000 for the city for 4-way stop signs at Browning Street and Summer Street.

Angel Diaz stated he had called the Grand Jury in the past and again two months ago. The city is half a million in the hole. He read in the newspaper about the city cutting the senior citizens program. The city needs to do an audit. He will rescind the sales tax.

Roberto Ibarra, 1850 – Avenue, stated that city worker called his house about nutrition but he hasn't received any information. He stated that 5,318 petitions were submitted and only 4,048 were valid. He asked what happened to the rest. The CRPE attorney requested the process be transparent and it was not. He asked that item #6 be pulled from the agenda for discussion.

Caroline Farrell, CRPE, stated that she submitted a public records request. She wants the process for protests to be transparent. If there are substantial updates to the utilities accounts, she may want a re-count of protests.

Maria Martinez, 1215 Lexington Street, stated she is disappointed with what happened with the signatures for the protest. She noted there are no interpreter present.

Javier, 1217 Almond Tree Way, stated the waiver for seniors on water bill is only ten percent. He stated it should be fifteen or twenty percent and asked how he can propose a higher waiver.

Abraham Jimenez, 127 Dover Street, stated the city has kept delaying the item on the transit grant. He asked where the money is and if it will be used for transit. He asked what we are doing about the deficit and noted the city gave a raise to engineer and is laying off staff.

Irma Arredondo, 1946 – Avenue, requested to see the petitions that the mayor said were wrong and asked why notices were sent in the water bill.

Steve Yu, 1313 Thomas Way, noted the speakers have exceeded the 15 minute limit on one item.

Lena Mae Jones, 1116 Lexington Street, asked when will we celebrate Martin Luther King Jr. Park. She is still waiting for something to be named after Jones family. She would be disappointed if the senior center would be closed.

Lupe Martinez stated we should use a translator for both Spanish and English. He stated that he sees the mention of closing the senior centers as scare tactic. The sales tax was for the senior programs. Any information he gives out was seen in the newspaper or received from the city. The city got a \$3 million grant from the state and is being secretive about it. The council no longer responds to public comments.

Richard Markham, 315 Dover Drive, stated that Carl's Jr. is coming along. He stated that if the city wants to save money it should not put in the new spray park. The location of the new spray park is not a good environment. We need bike lanes. We need to cut expenses. Some police officers do not have cards.

Councilman Chavez left the meeting during the public comments.

#### **CONSENT AGENDA**

- 1) Authorization to waive the reading of any ordinance or resolution in its entirety and consenting to the reading of such ordinances or resolutions by title only
- 2) Warrant Register in the amount of \$4,262,358.10
- 3) Minutes of regular City Council meeting of April 15, 2013
- 4) Minutes of special City Council meeting of April 29, 2013
- 5) Minutes of special City Council meeting of May 1, 2013
- 6) Retainer agreement with GCR LLP for Interim City Attorney services with GCR LLP in the amount of \$19,500 per month and authorize the city manager to execute the agreement Agreement No. 2013-25

- 7) Acceptance and approval of the City of Delano Quarterly Investment Report for the quarter ended March 31, 2013
- 8) Acceptance by the City Council of the following: City's Annual Financial Report (CAFR) for the year ended June 30, 2012; Single Audit Report as required by OMB Circular A-133 for the year ended June 30, 2012; City of Delano Employee Pension Plan for the year ended June 30, 2012
- 9) Authorize the purchase of 2013 Ford F550 Glaval Diesel Bus in the amount of \$120,154.45 from A-Z Bus Sales
- 10) Authorize the purchase of security cameras for transit facilities and vehicles from Code 3IT and System Integration in the amount of \$21,981.59
- 11) Authorize the purchase of SC3000 asphalt paving material in the amount of \$200,000 from Deer Creek Asphalt
- 12) Accept Donation of \$974.25 for Senior Center on behalf of a resident from the Delano District Skilled Nursing Facility

Mayor Aguirre announced that items #6 and #11 are pulled for discussion per audience request. Councilwoman Vallejo asked that item #9 be pulled for discussion.

Moved by Councilwoman Vallejo, seconded by Councilman Pascual, and unanimously carried by all those present to approve the Consent Agenda with items #6, #9, and #11 pulled for discussion.

Item 6) Steve Kinsey, 2106 – Drive, asked how the amount compares with what was paid to the City Attorney in the past. Mayor Aguirre explained that the city had been paying over \$300,000 per year for services depending on items dealt with. Councilwoman Vallejo added that the amount had included all services including those provided by other law firms that will now be handled by GCR LLP.

Moved by Councilwoman Vallejo, seconded by Councilman Pascual and unanimously carried by all those present to approve agenda item #6.

Item 9) Councilwoman Vallejo asked about the size of the bus. Ms. Zamudio explained that this is a mid-sized bus which will replace a larger bus.

Moved by Councilwoman Morris, seconded by Councilman Pascual and unanimously carried by all those present to approve agenda item #9.

Item 11) Roberto Ibarra, 1815 – Avenue, expressed concern that streets are paved and then later cut open for various work to be done.

Moved by Councilwoman Vallejo, seconded by Councilwoman Morris and unanimously carried by all those present to approve agenda item #11.

### **PUBLIC HEARINGS**

- 13) Public hearing #2013-13: Resolution of the City Council of the City of Delano approving the 2013-2014 Action Plan, and authorizing the City Manager to execute all documents required by the U.S. Department of Housing and Urban Development to receive Community Development Block Grant Funding

Ms. Castro presented the staff report.

Mayor Aguirre asked for public comments. There were no public comments.

Mayor Aguirre closed the public hearing.

Moved by Councilwoman Vallejo, seconded by Councilwoman Morris and unanimously carried by all those present to adopt Resolution No. 2013-17 of the City of Delano approving the 2013-2014 Action Plan, and authorizing the City Manager to execute all documents required by the U.S. Department of Housing and Urban Development to receive Community Development Block Grant Funding.

- 14) Public hearing #2013-14: Resolution of the City Council of the City of Delano approving the adopting of a substantial amendment to the Consolidated Plan 2012-2013 Action Plan, and authorizing the City Manager to execute all documents required by the U.S. Department of Housing and Urban Development

Ms. Castro presented the staff report.

Mayor Aguirre asked for public comments. There were no public comments.

Mayor Aguirre closed the public hearing.

Moved by Councilwoman Vallejo, seconded by Councilman Pascual and unanimously carried by all those present to adopt Resolution No. 2013-18 of the City Council of the City of Delano approving the adoption of a Substantial Amendment to the Consolidated Plan 2012-2013 Action Plan, and authorizing the City Manager to execute all documents required by the U.S. Department of Housing and Urban Development.

- 15) Public hearing #2013-15: Introduction and first reading of an ordinance amending Title 20 of the Delano Municipal Code by amending Chapter 20.4.30 thereof by adding "Agricultural Uses" as line A.12 to "Residential Uses" in Table 4.A – Uses Permitted Within Residential Districts – as a permitted use in the R-A residential agricultural zone district and as a conditionally permitted use in the R-1 single family residential zone district, and by adding a new Chapter 20.3.40 thereto setting forth the purpose and intent, development standards, and conditions of approval for commercial agricultural cultivation uses in residential zone districts within the City of Delano (Zone Amendment No. 2013-04)

Ms. Cariño presented the staff report.

Mayor Aguirre asked for public comments. There were no public comments.

Mayor Aguirre closed the public hearing.

There was discussion regarding Conditions of Approval regarding application of fertilizers. Ms Cariño explained that the FDA regulates the applications.

Moved by Councilwoman Morris, seconded by Councilman Pascual and unanimously carried by all those present to approve the introduction and first reading of Ordinance No. 2013-1262 of the City Council of the City of Delano amending Title 20 of the Delano Municipal Code.

- 16) Public hearing #2013-16: Introduction and first reading of an ordinance amending Title 20 of the Delano Municipal Code by amending portions of Chapter 20.14 thereof

pertaining to the regulations of signs within the City of Delano (Zone Amendment no. 2012-01)

Ms. Cariño presented the staff report.

Mayor Aguirre asked for public comments.

Alan Adler, 1225 Airport Drive, Aviator Casino, stated he is very familiar with Caltrans regulations regarding signs. He noted that the area north of Avenue is considered a scenic portion of Highway 99 by Caltrans and no signs are allowed. He requested signs be allowed up to 1,000 square feet in size, they be allowed to be 50 feet in height, a forty foot sign on a ten foot pole, and that City staff work with Caltrans to have a dedicated Caltrans employee as a contact person.

Bill Hylton, 1515 – Avenue, noted there is a sign on the north wall of a business on High Street where Mary's Heavenly Bites was previously located. He stated it takes eleven months to get any answer from Caltrans and that the new traffic lights on Woollomes are not timed right.

Mayor Aguirre closed the public hearing.

There was discussion regarding the number of days temporary signs may be posted and the size and height of signs on the freeway.

Moved by Councilwoman Vallejo, seconded by Councilman Pascual and unanimously carried by all those present to continue the public hearing to June 3, 2013, and direct staff to amend the proposed ordinance to allow temporary signs to be posted for 60 days, to change the height limit on signs to fifty feet, and to contact Caltrans regarding the allowable size of freeway signs.

- 17) Public hearing #2013-17: Appeal of Juvenal Montemayor regarding Planning Commission Resolution No. 2013-07 approving Conditional Use Permit No. 2013-04 for the construction of a 9,766 square foot restaurant with a game arcade and beer and wine sales for on-site consumption

Mayor Aguirre noted that staff is requesting this item be continued to May 20, 2013, however Mayor Aguirre and Councilwoman Vallejo will be attending the ICSC convention in Las Vegas that day.

Moved by Councilwoman Vallejo, seconded by Councilwoman Morris and unanimously carried by all those present to continue the item to June 3, 2013.

- 18) Public hearing #2013-18: Appeal of Family Dollar Store – Planning Commission Resolutions No. 2013-10, failed to pass, to allow the sales of beer and wine for off-site consumption only, at an existing Family Dollar Store in the GC general commercial zone district at 1990 Cecil Avenue; and Planning Commission Resolution No. 2013-11, failed to pass, making a determination that the public convenience or necessity will be served by approval of a proposed beer and wine sales license for off-premises consumption at an existing Family Dollar Store in the GC general commercial zone district at 1990 Cecil Avenue

Ms. Reyna stated that the applicant is requesting this item be continued.

Moved by Councilwoman Vallejo, seconded by Councilwoman Morris and unanimously carried by all those present to continue this item to June 3, 2013.

- 19) Public hearing #2013-19: Resolution of the City Council of the City of Delano approving the issuance of tax exempt bonds by the Housing Authority of the County of Kern in an aggregate principal amount not to exceed \$9,000,000 for the purpose of refinancing the acquisition and rehabilitation of the Jasmine Heights Multi-family Development

Ms. Rios presented the staff report. Mr. Garcia noted there had been a technical issue regarding the public notice for this public hearing. IRS regulation require the notice be published fourteen days prior to the meeting, however we were only able to publish the notice ten days before the meeting. Staff from the Housing Authority want to move forward with the hearing so that they may file their application with the State. Their bond counsel would have to deal with any legal issues that may arise.

Troy Trimble, Lead Investigator for the Housing Authority of the County of Kern, stated he is present for Steve Pelz, Executive Director, who is unable to attend.

Mayor Aguirre asked for public comments. There were no public comments.

Mayor Aguirre closed the public hearing.

Moved by Councilwoman Vallejo, seconded by Councilwoman Morris and unanimously carried by all those present to adopt Resolution No. 2013-19 approving the issuance of tax exempt bonds by the Housing Authority of the County of Kern.

#### **REGULAR AGENDA**

- 20) Approval of an agreement with Kiwanis Club of Delano for City reserved fireworks permit

Ms. Reyna stated that staff is requesting this item be continued to May 20. Steve Kinsey, Kiwanis Club of Delano, asked that this item be continued.

Moved by Councilwoman Vallejo, seconded by Councilman Pascual and unanimously carried by all those present to continue this item to the special meeting to be held May 13, 2013.

#### **DEPARTMENTAL REPORTS**

- 21) Request appointments to budget committee

Mayor Aguirre appointed Councilwoman Vallejo and Councilman Pascual to serve on the committee for the general fund. He appointed Councilwoman Morris and himself to serve on the committee for the enterprise funds.

#### **COUNCIL STATEMENTS AND REPORTS**

Councilman Chavez absent

Councilwoman Morris expressed concern that council is not able to respond to public comments made during "Items from the Public" portion of the meeting and stated there is a need to have a way to address those comments.

Councilman Pascual stated the need to have an interpreter for both Spanish and English.

Councilwoman Vallejo stated that the previous attorney had advised council not to respond during public comments and asked Mr. Garcia for his thoughts. Mr. Garcia advised against it noting that if more than

one council member responds it is a Brown Act violation. He stated that staff could respond but probably should not. Councilwoman Vallejo reported that the opening of the tech center was a good event. Staff need to arrange for re-dedication of Martin Luther King Jr. Park and get a new sign before doing it.

Mayor Aguirre no items

### **CLOSED SESSION**

Moved by Councilwoman Vallejo, seconded by Councilwoman Morris, and unanimously carried that the City Council adjourn to Closed Session at 8:33 p.m. The City Clerk was excused. Mayor Aguirre was appointed Acting City Clerk. The City Attorney and City Manager were asked to remain.

### **CLOSED SESSION**

- 22) Conference with legal counsel: Workers Comp Claim of Dale Mendenhall vs. City of Delano pursuant to govt. code section 54956.9(a)

Due to a conflict of interests, Councilwoman Vallejo left the room and did not participate in the discussion or vote on items #23 and #24.

- 23) Conference with labor negotiators Maribel Reyna, Bonny Garcia, Rosa Rios, and Human Resources Director Noemi Zamudio regarding negotiations with MEG employee group; govt. code section 54957.6
- 24) Conference with legal counsel: pending litigation City of Delano vs. R&F Disposal govt. code section 54956.9(a)

Councilwoman Vallejo returned to the meeting.

- 25) Public Employees Performance Evaluation, City Manager; government code 54957
- 26) Conference with legal counsel: Anticipation litigation

### **RETURN TO GENERAL SESSION**

Moved by Councilman Pascual, seconded by Councilwoman Morris and unanimously carried to reconvene in Open Session at 10:06 p.m. Mr. Garcia provided a report on closed session as follows:

- 22) Information was provided; no action taken
- 23) Information was provided and by unanimous consent of all those present direction was given.
- 24) Information was provided and by unanimous consent of all those present direction was given to the City Attorney
- 25) Information was provided
- 26) Information was provided and by unanimous consent of all those present the claim was rejected

### **ADJOURNMENT**

Mayor Aguirre adjourned the meeting at 10:08 p.m.

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Phyllis A. Kraft, City Clerk