

## **MINUTES**

### **CITY OF DELANO CITY COUNCIL – REGULAR MEETING June 3, 2013**

#### **CALL TO ORDER**

Mayor Aguirre called the meeting to order at 5:31 p.m. in the City Hall Council Chambers, 1015 – Avenue.

#### **INVOCATION**

Mr. Dowling offered the invocation.

#### **FLAG SALUTE**

Councilwoman Vallejo 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, Recreation Manager Batth

#### **PRESENTATIONS AND AWARDS**

Mark Olson – Citrus Pest & Disease  
KernCOG – Sustainable Communities Strategy, Regional Transportation Plan  
Delano Area Rapid Transit – Saturday & Bakersfield Service

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

Valerie Gorospe, 1012 Jefferson Street, presented a letter from the Center on Race, Poverty & the Environment requesting a recount of the Prop 218 petitions and that Council suspend the utility rate increases until a third party can verify the proper count.

Maria Ceja stated the county list used regarding the Prop 218 protests is out of date.

Cornel Markham, stated that last month was the second anniversary of his coming to council. He stated that guns are not toys and if you pull out a gun, a report should be made. He stated that officers from Delano searched him.

David Marino, 2410 San Lorenzo, spoke regarding Prop 218. He stated that the city said some address on the protests do not exist, but Margareta Herrera is paying a water bill. He stated that on one petition he has proof that the husband signed and the owner is the wife. He has 51 petitions that city rejected. He stated that he belongs to the Delano Guardians committee.

Roberto Ibarra, 1815 – Avenue, stated he has same issues with the Prop 218 protest. He does not want to have conflict with city but to bring problems to the city’s attention and work together. He thanked Councilman Chavez for directing him to the city engineer who met with him and explained various projects. He asked that consent items #6 & #9 be pulled for discussion.

Ethel Pickering, 102 Dover Place, asked what the city is doing about the senior center. She would like to see just one senior center. She thanked city for what it is doing.

Richard Markham, 315 Dover Drive, stated he is glad Carl’s Jr. is coming. He is trying to get Foods Co & Rally’s to come. He stated that people in town have a lot of spending dollars. He stated that when people in the audience agree with a speaker, council should not tell them to stop clapping. He stated that the senior center looks like the fire was arson or someone left something on the stove.

Abraham Jimenez thanked all who participate in the senior center. He stated he would like to go into building and get out items that were not burned. He thanked Ms. Zamudio for talking to him about transit. Mr. Jimenez stated he saw something ugly at the senior center today. He is thankful for the program but was hurt by what happened today.

Lupe Martinez stated that the city needs to do a recount of the Prop 218 protests, and the city should suspend the increase until a third party verifies the count. An item should be on the next agenda so it can be talked about. He stated that 24 months is too long a period to rebuild the senior center. We should have one center so we can have unity.

Bill Hylton, 1515 – Avenue, stated the city has the Block H area where a senior center could be located. He noted that you can see items in the senior center building and they need to be removed before they are gone. He offered congratulations on the new Delano sign.

Lena Mae Jones, 1116 Lexington Street, stated she was mistreated at the Ellington senior center today. She was the only black person there and does not know rules and regulations they have there. She stated that people do not need to be treated by color. She hopes the city is working on naming something for the Jones family. She asked when the celebration for Martin Luther King Jr. Park will be held. She stated that a lot of the seniors who attended the Jefferson center are not going to Ellington and maybe they could be relocated to the VFW.

Gloria Herrera, 51 – Avenue, stated the city should postpone the water rate increases. She asked several times about the number of accounts and each time was told a different number. She stated the fire at the senior center is a big loss and hopes the city can come up with one again.

### **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 \$2,831,576.05
- 3) Minutes of regular City Council meeting of May 20, 2013
- 4) Minutes of regular Community Law Enforcement Liaison Board Meetings of January 17, 2013, and March 21, 2013
- 5) Approval of City Manager employment agreement Agreement No. 2013-38

- 6) Resolution No. 2013-22 of the City Council of the City of Delano approving transfer of funds from the general fund to the airport fund to purchase property for city corporation yard and golf course Release – Agreement No. 2013-43
- 7) Approval of Amendment No. 1 to Agreement No. 2012-93 with Maximus III, developer of Parcel Map No. 11964 for public improvements to extend the agreement for a period of seven (7) months Agreement No. 2013-39
- 8) Approval of Indemnification Agreement with Kern County Local Agency Formation Commission for Annexation No. 54 consisting of 36.8 acres located south of Pond Road, east of Garzoli Avenue, and west of the State Route 99 freeway Agreement No. 2013-40
- 9) Approval of Indemnification Agreement with Kern County Local Agency Formation Commission for Annexation No. 40 consisting of 37.5 acres located south of Matthews Avenue (extension of West Avenue) and west of Timmons Avenue Agreement No. 2013-41

Mayor Aguirre noted that Mr. Ibarra asked that items #6 and #9 be pulled for discussion.

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

Item #6) Mr. Dowling explained that the FAA has approved this item as stated in the staff report. The city will transfer funds from the general fund and enterprise funds to the airport fund in compensation for land transferred to those departments.

Item #9) Ms. Cariño stated this is a standard agreement required by LAFCO for annexations.

Moved by Councilwoman Vallejo, seconded by Councilman Chavez and unanimously carried to approve agenda items #6 and #9.

## **PUBLIC HEARINGS**

- 10) Public hearing #2013-16: (continued from May 6) 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. She explained staff had contacted sign companies regarding height and size requirements.

Mayor Aguirre asked for public comments.

Bill Hylton asked how long political signs can be up and who is responsible for taking them down. Chief DeRosia explained that for signs on private property staff needs to check with legal staff as this is a first amendment issue.

Richard Markham asked if this is for political signs only and noted that an old coffee shop sign is still up at the freeway off ramp into town at County Line Road.

Mayor Aguirre closed the public hearing.

There was brief discussion regarding sign heights.

Moved by Councilwoman Vallejo, seconded by Councilman Chavez and unanimously carried to approve the introduction and first reading of Ordinance No. 2013-1263 with a change to the requirements for off-site signs to allow up to 45 feet in height.

- 11) Public hearing #2013-17: (continued from May 6, 2013) 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

Councilwoman Morris excused herself due to a conflict in interest. She is a neighbor of Mr. Montemayor. She left the room during discussion and vote on this item.

Ms. Cariño 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 Chavez and carried by the following vote to adopt Resolution No. 2013-23 approving Conditional Use Permit No. 2013-04. AYES: Aguirre, Chavez, Pascual, Vallejo ABSTAIN: Morris

Councilwoman Morris returned to the meeting.

Mayor Aguirre called a recess at 7:20 p.m. Mayor Aguirre reconvened the meeting at 7:29 p.m.

- 12) Public hearing #2013-18: (continued from May 6, 2013) Appeal of Family Dollar Store – Planning Commission Resolution 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. Cariño presented the staff report.

Mayor Aguirre asked for public comments.

Bill Hylton stated that the store should have been upfront about wanting to sell beer and wine when they first came. He noted that Delano has the highest per capita consumption rate of alcohol in Kern County.

Richard Markham stated he is against selling beer and wine. There are too many schools close by.

Steve Rowlings, consultant to Family Dollar Stores, gave some background information about the store chain and the steps they have taken regarding the selling of beer and wine.

Max Bacerra, Madison Square 5, spoke regarding the size of area to be reserved for the beer and wine and recommended it be allowed with the mitigation measures to be taken.

Alfred Martinez asked if there is a city requirement regarding distances from schools. He was informed there is not. Mr. Martinez stated he did not see why Family Dollar would be denied the permit when Vallarta Market is close and sells alcohol.

Nathan Ford, 1314 Belmont Street, stated Family Dollar does not depend on the sale of alcohol and is capable of maintaining its sales without it.

Mayor Aguirre closed the public hearing.

There was discussion.

Moved by Councilwoman Vallejo, seconded by Councilman Pascual and failed to pass by the following vote Resolution No. 2013-24 to allow the sales of beer and wine for off-site consumption only at an existing Family Dollar Store at 1990 Cecil Avenue, with changes to condition of approval E to require ID for all purchases and to remove conditions H and I. AYES: Pascual, Vallejo NOES: Aguirre, Chavez, Morris

- 13) Public hearing #2013-20: Second reading and final adoption of Ordinance No. 2013-1264 related to traffic speed zone limits at Avenue from Lexington Street to Browning Road

Mr. Dowling presented the staff report.

Mayor Aguirre asked for public comments.

Bill Hylton, 1515 – Avenue, stated friends of his who live on Avenue are glad the speed limit will go down. He stated he does not understand why some streets have higher limits than others.

Mayor Aguirre closed the public hearing.

Moved by Councilwoman Morris, seconded by Councilman Pascual and unanimously carried to approve the second reading and final adoption of Ordinance No. 2013-1264.

- 14) Public hearing #2013-21: 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. Reyna presented the staff report. Stephen Pelz, Executive Director of the Housing Authority of the County of Kern, stated Council approved this item May 6, but due to a technicality it must be approved again.

Mayor Aguirre asked for public comments.

Richard Markham asked if the property will be solely owned by the county. Mr. Pelz explained that Golden Empire Affordable Housing, Inc. is the managing general partner of the partnership that owns the property.

Bill Hylton noted that the property is tax exempt and asked what the benefit is to the city.

Mayor Aguirre closed the public hearing.

Moved by Councilman Chavez, seconded by Councilwoman Morris and unanimously carried to adopt Resolution No. 2013-25 approving the issuance of tax exempt bonds by the Housing Authority of the County of Kern.

### **REGULAR AGENDA**

- 15) Approval to fund the Family Fun Day in the amount of \$4,000

Mayor Aguirre stated he has a conflict of interest because he is a board member of the Chamber of Commerce, the organization that runs the event. He left the room during discussion and vote on this item.

Ms. Bath presented the staff report.

Moved by Councilwoman Vallejo, seconded by Councilman Pascual and carried by the following vote to approve the funding of the Family Fun Day in the amount of \$4,000. AYES: Chavez, Morris, Pascual, Vallejo ABSTAIN: Aguirre

Mayor Aguirre returned to the meeting.

- 16) Appointment to the Planning Commission

Ms. Reyna presented the staff report.

Moved by Councilwoman Morris, seconded by Councilman Chavez and unanimously carried to re-appoint Dwight Todd to the Planning Commission, term to expire June 2017.

- 17) Authorize the City Manager to submit a grant request for \$250,000 to the US Department of Justice COPS Hiring Program; authorize the City Manager and Chief of Police to enter into a tentative memorandum of understanding (MOU) with the Delano Joint Union High School District for two School Resource Officers based on approval of grant funding; upon approval of the grant, authorize the Chief of Police to hire two additional police officers based on the grant criteria

Councilwoman Vallejo stated she has a conflict of interest. She is an employee of the Delano Joint Union High School District. She left the room during the discussion and vote on this item.

Chief DeRosia presented the staff report.

Moved by Councilman Chavez, seconded by Councilman Pascual and carried by the following vote to authorize the City Manager to submit a grant request to the US Department of Justice COPS Hiring Program; authorize the City Manager and Chief of Police to enter into a tentative MOU with the Delano Joint Union High School District for two School Resource Officers based on approval of grant funding; and authorize the Chief of Police to hire two additional police officers upon approval of the grant. Agreement No. 2013-42 AYES: Aguirre, Chavez, Morris, Pascual ABSTAIN: Vallejo

Councilwoman Vallejo returned to the meeting.

### **DEPARTMENTAL REPORTS**

No items

### **COUNCIL STATEMENTS AND REPORTS**

Councilman Pascual no items

Councilwoman Vallejo stated she is excited to see so many families at the spray park. She reported on her attendance at the ICSC convention in Las Vegas May 18 – 22, and thanked Mr. Bacerra for his work assisting in scheduling meetings and making introductions.

Councilwoman Morris stated she is also excited to see so many families at the spray park and noted that the city needs to have a pool.

Councilman Chavez commended the police for their actions this morning making an arrest in regards to a robbery that occurred earlier this morning.

Mayor Aguirre asked that staff put an item regarding California Consulting on the next agenda for discussion. Councilwoman Vallejo asked that staff provide information for at least the past two years regarding what California Consulting has done for us and what we would have gotten without them.

### **CLOSED SESSION**

Moved by Councilman Chavez, seconded by Councilwoman Vallejo, and unanimously carried that the City Council adjourn to Closed Session at 9:00 p.m. The City Clerk was excused. Mayor Aguirre was appointed Acting City Clerk. The City Attorney and City Manager were asked to remain.

- 18) Conference with legal counsel: claim of Jae Sim; govt. code section 54956.9(b)(1)

Councilwoman Morris left the meeting during discussion and vote on the following item.

- 19) Conference with legal counsel: Workers Comp Claim of Liz Morris vs. City of Delano pursuant to govt. code section 54956.9(a)

### **RETURN TO GENERAL SESSION**

Reconvene in Open Session at 9:21 p.m. Mr. Garcia provided a report on closed session as follows:

- 18) Information was provided and by unanimous consent direction was given.
- 19) Information was provided and by unanimous consent of those present direction was given.

### **ADJOURNMENT**

Mayor Aguirre adjourned the meeting at 9:22 p.m.

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Phyllis A. Kraft, City Clerk