

MINUTES

CITY OF DELANO CITY COUNCIL – REGULAR MEETING November 16, 2015

CALL TO ORDER

Mayor Pascual called the meeting to order at 5:30 p.m. in the City Hall Council Chambers, 1015 – 11th Avenue.

INVOCATION

Ms. Reyna offered the invocation.

FLAG SALUTE

Councilman Hill led the flag salute.

ROLL CALL

Council members present: Ricardo Chavez, Ruben Hill, Liz Morris, Rueben Pascual, Grace Vallejo
Council members absent: none

OFFICIALS PRESENT

City Manager Reyna, City Attorney Garcia, City Clerk Kraft, Finance Director Rios, Police Chief DeRosia, Community Development Director Keene, City Engineer Dowling, Human Resources Director Zamudio, Chief of Corrections Marshall, Transportation Manager Zamora, Recreation Manager Batth

PRESENTATIONS AND AWARDS

Danny Espitia, North Kern State Prison

Mr. Espitia presented information regarding Law Enforcement Active Shooter Emergency Response training to be held December 1, 2, and 3. He invited the city police department personnel to participate and stated other cities have also been invited.

ITEMS FROM THE PUBLIC

Richard Markham stated the city did a good job taking down the building at Garces Highway and High Street and it needs to take down more.

Isabel Miranda stated that if city needs help in the future regarding passage of a sales tax measure, the Delano Guardians and the city can work together.

Cornel Markham stated his situation has been going on for five years.

Ms. Mendez stated that council is the employee and the residents are the boss.

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 \$4,102,625.51
- 3) Minutes of regular City Council meeting of November 2, 2015; special meeting of November 9, 2015
- 4) Minutes of Planning Commission regular meeting of August 12, 2015; September 9, 2015; October 14, 2015
- 5) Minutes of Pension Committee special meeting of August 17, 2015
- 6) Cancellation of regular City Council meeting scheduled for January 4, 2016
- 7) Confirmation of Mayor's appointment of Gregory J. Funk to serve on the Pension Committee
- 8) Approval to transfer possession of burial permits and records for Delano Cemetery dated 1914 through 1939, from the City of Delano to North Kern Cemetery District
- 9) Authorize the purchase of three (3) 2016 Dodge minivans from Creative Bus Sales in the amount of \$140,905.04
- 10) Approve Amendment No. 1 to Solar Power Purchase and Sale Agreement with Delano Solar I, LLC (Agreement No. 2015-35), and approve Amendment No. 1 to Site Easement Agreement with Delano Solar I (Agreement No. 2015-35a) Agreement No. 2015-89; Agreement No. 2015-90
- 11) Resolution No. 2015-77 of the City Council of the City of Delano authorizing the mayor to execute a land lease agreement between the City (lessor) and B&J Land Company (lessee) for aviation use of FBO Block "A" Lots 1 & 2 at the Delano Municipal Airport Agreement No. 2015-91
- 12) Resolution No. 2015-78 authorizing the City of Delano, California, to enter into an agreement with the State Water Resources Control Board regarding cleanup and abatement account (CAA) funding and designating a representative to sign the agreement for the fixed bed bioreactor (FXB) pilot test project at Paradise Colony in Tulare County
- 13) Co-sponsorship of Delano Chevy Buick GMC Thanksgiving Dinner in the total amount of \$2,200 for the usage of the Armory National Guard building on November 26, 2015

Mayor Pascual announced that item #7 is pulled for discussion. Roberto Ibarra asked that items #9 and #10 be pulled for discussion.

Moved by Councilwoman Vallejo, seconded by Councilman Chavez, and unanimously carried to approve the Consent Agenda with items #7, #9, and #10 pulled for discussion.

Item #7) Ms. Rios introduced Gregory Funk whom Mayor Pascual has appointed to serve on the Employee Pension Committee. Mr. Funk thanked the council for the opportunity to serve.

Moved by Councilman Chavez, seconded by Councilwoman Vallejo and unanimously carried to confirm Gregory Funk's appointment to serve on the Employee Pension Committee.

Item #9) Mr. Ibarra asked if the vehicles will be used for recreation. Ms. Zamudio explained the vans will be used for Dial-A-Ride.

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

Item #10) Mr. Ibarra asked if the city will have a contractor install solar panels throughout the city or just on government buildings. Mr. Dowling explained this is only for the wastewater treatment plant. The power bill for the plant is approximately \$450,000 per year. This will be a savings of approximately \$120,000 per year.

Moved by Councilman Chavez, seconded by Councilwoman Vallejo and unanimously carried to approve item #10.

PUBLIC HEARINGS

- 14) Public Hearing #2015-15: Resolution of the City Council of the City of Delano vacating 18th Avenue between Glenwood Street and Union Pacific right of way and Glenwood Street just north of 18th Avenue, reserving public service easements and authorizing mayor to convey vacated portion to adjoining properties and directing recordation thereof

Mr. Dowling presented the staff report.

Mayor Pascual asked for public comments.

Steve Kinsey asked if there would be a time in the future when 18th Avenue would be opened again to lessen congestion on Cecil Avenue. Mr. Dowling explained that there is an on-going project to extend Glenwood to County Line Road. The plans are currently being reviewed by Caltrans.

Cornel Markham asked if there will be any construction in the future and how much tax payer money is involved. Mr. Dowling answered that there is no cost to tax payers. The city will convey the property to adjoining property owners. An item will be on a future agenda.

Mayor Pascual closed the public hearing.

Moved by Councilman Chavez, seconded by Councilwoman Morris and unanimously carried to adopt Resolution No. 2015-79 vacating 18th Avenue between Glenwood Street and Union Pacific right of way and Glenwood Street just north of 18th Avenue.

- 15) Public Hearing #2015-16:
 - a) Resolution of the City Council of the City of Delano adopting the negative declaration for the zone text amendments pertaining to medical marijuana dispensaries, collectives, cooperatives, and marijuana cultivation

- b) Introduction and first reading of an ordinance approving the zone text amendments pertaining to medical marijuana dispensaries, collectives, cooperatives, and marijuana cultivation

Mr. Keene presented the staff report. Mr. Garcia stated the city has the authority to regulate up to banning medical marijuana dispensaries, collectives, cooperatives, and cultivation within the city. The prior ordinances were ambiguous, so this will clarify. The ordinance is modeled on Kern County's ordinance.

Mayor Pascual asked for public comments.

Richard Markham stated there are too many dispensaries in town; people are abusing the system; medical marijuana needs to be prescribed by a doctor.

Roberto Ibarra asked how many miles outside the city a dispensary must be located. Mr. Garcia informed him the city has no jurisdiction outside city limits.

(no name) asked if council would rather have money from drug dealers or property taxes.

Mike (no last name given) asked what people are supposed to do if they have no ride to Bakersfield; the city needs to figure out how to regulate it; as a U.S. citizen his rights cannot be taken from him; Colorado makes a lot of money of marijuana; some collectives have senior citizens.

Alexander Martinez stated people have to have a recommendation from a doctor and have paperwork; it is really needed; we need to have guidelines.

(unable to understand) stated people have to have papers to use medical marijuana.

Edward Lopez stated when it is used for medical purposes, people don't get high; there have been no deaths from its use.

Roman Cesar stated it has helped his friend very much.

Pearl Rivera stated she lives near schools and next to a day care; there is a dispensary down the street from her house; lots of kids pass through the area; she is against the use of medical marijuana.

Helen Carvel stated she has done research on marijuana; youth need to be educated; in Utah and Colorado children are poisoned from taking their grandparents' marijuana.

Cornel Markham stated we need to centralize dispensaries; have it controlled and hold doctors responsible.

Johnny Munoz stated it is essential and needed in some areas; if it is outlawed, it will continue to get worse; prosecution is not as severe as in the past; the city should regulate and get money out of it; users have to have a prescription and ID card; the state has a data base; he is in favor of medical marijuana.

(unable to understand) stated it has provided relief for some people; some drugs prescribed by doctors are dangerous; drugs are tested and have to pass regulations; if it is helping someone, she does not have a problem with it; there needs to be regulations; businesses belong in the business district.

(no name given) stated medical marijuana has been approved by the state; if it is prohibited here, people will go elsewhere; the city could get taxes; it should not be around children; Delano is small enough to regulate it.

Nathan Ford stated there are ten shops in Delano now; cigarette shops are next to them and sell paraphernalia; we never had dispensaries until Bakersfield told them to get out; people should go to a regular doctor for aches and pains; he sees no need to allow dispensaries to continue.

Suzanne Villaruz stated tobacco is sold to those 18 years old and alcohol is sold to those 21 years old and both are addictive; marijuana would probably be safer if it was controlled; it doesn't have to be smoked to be effective; there are shops in McFarland that sell spice and salts; if marijuana was regulated and monitored, then patients who truly need it could be approved to use it; if it's going to be here we might as well regulate it.

(no name) stated those who use it need to have a prescription for it; dispensaries are not a place to hang-out and socialize; people will go to other areas and bring it back here; Delano could get taxes and benefit from it; it has to be controlled; only patients are allowed to come in the dispensaries; it is used in the UK.

Steve Kinsey stated he is hearing a lot of issues that are above council's control; you can't tell by looking at someone that they need it; it should be regulated through a regular pharmacy; if there are going to be dispensaries, they have to be regulated; he does not want them in residential areas; we have to set the example; marijuana is talked about as a gateway to other drugs.

Mayor Pascual closed the public hearing. He asked Chief DeRosia for comments.

Chief DeRosia stated marijuana is a schedule 1 drug which means it should not be prescribed. There are more than ten dispensaries in town. The Attorney General has told law enforcement to have a hands-off approach until the courts make rulings. He recommends council ban dispensaries.

Councilman Hill thanked those who spoke for coming and expressing their views. He stated it needs to be regulated.

Councilwoman Vallejo stated the city would love to have more money but not at the harm of someone. The city does not have the ability to do all the research to put a plan in place. Council has to think about what is best city-wide. Shops will not open their door for the police. Bakersfield doesn't allow dispensaries. The issue is not black and white. The decision cannot be personalized.

Councilwoman Morris stated concurrence with Councilwoman Vallejo. She see a lot of dispensaries coming up in neighborhoods. She agreed with Mr. Kinsey that medical marijuana should be dispensed through a pharmacy. Council needs to take a stand for what is in the best interest of the city.

Councilman Chavez stated he has seen how it hurts people and families. He has also seen it do good. It has to be regulated. This should be a state issue, but the state has not figured out how to regulate medical marijuana.

Mayor Pascual thanked everyone for coming. He stated federal law states it is illegal and state law states it is legal. The state has never given any regulations for it. There are 13 dispensaries in town now and none have a business license. There have been kidnappings, robberies, and murders at dispensaries. Marijuana is a gate-way to other drugs.

Moved by Councilman Chavez, seconded by Councilwoman Vallejo and carried by the following vote to adopt Resolution No. 2015-80 adopting the negative declaration for the zone text amendments pertaining to medical marijuana dispensaries, collective, cooperatives, and marijuana cultivation. AYES: Chavez, Morris, Pascual, Vallejo NOES: Hill ABSENT: none ABSTAIN: none

Moved by Councilman Chavez, seconded by Councilwoman Morris and carried by the following vote to approve the introduction and first reading of Ordinance No. 2015-1277 approving the zone text amendments pertaining to medical marijuana dispensaries, collectives, cooperatives, and marijuana cultivation. AYES: Chavez, Morris, Pascual, Vallejo NOES: Hill ABSENT: none ABSTAIN: none

Mayor Pascual called a recess at 7:05 p.m. Mayor called the meeting back to order at 7:09 p.m.

REGULAR AGENDA

No items

DEPARTMENTAL REPORTS

16) Bus Shelter report

Ms. Zamudio presented the report. She reported there are 63 bus stops. Eighteen stops have shelters; 25 stops are unable to have shelters due to space and ADA requirements; the 20 remaining stops could have shelters. Of the 18 existing shelters, 17 have graffiti and are falling apart. Staff recommends replacing the 17 bad shelters. The cost per shelter is \$10,528. To repair the 17 shelters would cost approximately \$179,000. Twenty new shelters would cost approximately \$211,000. There is currently \$184,000 available in grants. Staff recommends we start with replacing shelters and as other funds become available, install new shelters. The shelters staff have look at are like the ones at Walmart and have metal mesh. Ms. Zamora added that the shelters are certified by a licensed architect and made of safety perforated aluminum. Ms. Zamudio stated staff can do an analysis of which stops are used the most and which are located in the sun or shade.

COUNCIL STATEMENTS AND REPORTS

Councilwoman Morris wished everyone a happy Thanksgiving and announced the Christmas Parade will be held December 1.

Councilman Chavez wished everyone a happy Thanksgiving and safe travels.

Councilwoman Vallejo asked when the red line will be installed on Browning Road, if there was a condition to line the road in the CUP for the new Wonderful Academy, and if Safe Routes to Schools grant funds can be used for curb and gutter on the south side of the road. Mr. Dowling replied that a resolution is needed for the red line and one will be on the next agenda, a bike lane will be installed on 20th, the south side of the street is county, and the city does not have right of way. Ms. Vallejo suggested she and other council members could attend the Board of Supervisors meeting to ask about funding for the curb and sidewalk.

Councilman Hill no items

Mayor Pascual asked that an item regarding spice and bath salts be put on a future agenda.

CLOSED SESSION

Moved by Councilwoman Vallejo, seconded by Councilman Chavez, and unanimously carried that the City Council adjourn to Closed Session at 7:43 p.m. The City Clerk was excused. Mayor Pascual was appointed Acting City Clerk. The City Attorney and City Manager were asked to remain.

- 17) Conference with property negotiators Maribel Reyna and Roman Dowling regarding possible purchase of property, a ten (10) acre site located at the West Side Industrial Park, with respect to price, terms and condition of purchase pursuant to govt. code section 54956.8
- 18) Conference with legal counsel: settlement authority for claim of Javier Garcia, Claim No. 2015-04; pursuant to govt. code section 54961
- 19) Conference with legal counsel: settlement authority for claim of Veronica Nunez, Claim No. 2015-05; pursuant to govt. code section 54961
- 20) Conference with legal counsel: settlement authority for claim of Orlando Garcia, Claim No. 2015-06; pursuant to govt. code section 54961
- 21) Conference with legal counsel: settlement authority for claim of Natalie Garcia, Claim No. 2015-07; pursuant to govt. code section 54961
- 22) Conference with legal counsel: settlement authority for claim of Alexis Garcia, Claim No. 2015-08; pursuant to govt. code section 54961
- 23) Conference with legal counsel: existing litigation Delano Guardians Committee v. City of Delano; pursuant to govt. code 54956.9

RETURN TO GENERAL SESSION

Moved by Councilwoman Vallejo, seconded by Councilman Chavez and unanimously carried to reconvene in Open Session at 8:19 p.m. Mr. Garcia provided a report on closed session as follows:

- 17) Information was provided and by unanimous consent direction was given.
- 18) Information was provided and by unanimous consent direction was given.
- 19) Information was provided and by unanimous consent direction was given.
- 20) Information was provided and by unanimous consent direction was given.
- 21) Information was provided and by unanimous consent direction was given.
- 22) Information was provided and by unanimous consent direction was given.
- 23) Information was provided and by unanimous consent direction was given.

ADJOURNMENT

Moved by Councilman Chavez, seconded by Mayor Pascual, and unanimously carried to adjourn the meeting at 8:21 p.m.

Phyllis A. Kraft, City Clerk