

**MINUTES OF MENDOTA  
REGULAR CITY COUNCIL MEETING**

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**Regular Meeting                      Tuesday March 11, 2014**

**Meeting called to order by Mayor Robert Silva at 6:00 p.m.**

**Roll Call**

**Council Members Present:            Mayor Robert Silva, Mayor Pro Tem Joseph Amador, and Councilors S. Leo Capuchino, Joseph Riofrio, and Sergio Valdez (6:05 p.m.).**

**Council Members Absent:            None.**

**Flag Salute led by Councilor Capuchino**

**FINALIZE THE AGENDA**

1.     Adjustments to Agenda.
2.     Adoption of final Agenda.

City Attorney Boranian requested to continue Business Item 9 to the next meeting, as the agreement does not have a signature from the other party involved. A motion was made by Councilor Riofrio to adopt the agenda with the requested modification, seconded by Mayor Pro Tem Amador; unanimously approved (4 ayes; absent: Valdez).

**PUBLIC HEARING**

1.     Council waive the second reading, hold the public hearing of, and adopt **Ordinance No. 14-03**: amending the Mendota Municipal Code pertaining to potable water protection regulations. [Interim City Manager, Pauley]

Mayor Silva introduced the item and Interim City Manager Pauley reported that the Council had discussed this previously, and that the amendment to this ordinance is being made to comply with State law.

Discussion was held on a proposal that was sent earlier today to Interim City Manager Pauley to provide backflow testing and repair services.

At 6:04 p.m. Mayor Silva opened the hearing to the public and seeing no one present wishing to comment, closed it in that same minute.

A motion was made by Councilor Riofrio to adopt Ordinance No. 14-03, seconded by Councilor Capuchino; approved (3 ayes; no: Amador; abstain: Valdez).

Discussion was held on the ability of the Council to revise the ordinance at a later date.

## **PRESENTATIONS**

2. Presentation from Juan Carlos Oseguera about his documentary, "The Fight for Water: A Farm Worker Struggle".

Mayor Silva introduced the presenter and Mr. Oseguera gave a history of the producing and making of the film; his purpose in making it; the events related to the film; and an upcoming showing of it at the Firebaugh Middle School on April 3<sup>rd</sup>, free of charge.

Discussion was held on the origins of the 2009 march for water; the different experiences that individuals had; Mr. Oseguera's participation in film festivals and the awards he has won; what was achieved because of the march; and when the film will be distributed for sale.

1. Presentation from Lisa Smittcamp, Candidate for the office of Fresno County District Attorney.

Mayor Silva introduced the presenter and Mrs. Smittcamp gave a history of her career; the reasons that she is running for District Attorney in Fresno County; her philosophy on public service; the areas she wishes to focus on when elected; and the poor communication by the current office with the outlying areas of Fresno County.

Discussion was held on AB 109 and its effects; problems with the three strikes law; young people choosing prison over jail in order to gain street credibility; and the problems with the death penalty.

## **DEPARTMENT REPORT**

1. Code Enforcement
  - a) Monthly Report

(At 6:38 p.m. Mayor Pro Tem Amador stepped out of the Chambers)

Code Enforcement Administrative Assistant Maria Perez gave the report for February including emphasizing compliance with the State Fire Code to have the residence address put on the building in a visible manner; public nuisances; significant cases on Pucheu and Jennings streets, which were both voluntarily abated; other notices given for violations; and the revenue that was generated.

Discussion was held on the decrease in revenue from code enforcement actions; the

process the Code Enforcement division is using to notify people of the requirements to have visible address numbers on their structures; leniency on the application of policy; enforcement done on the weekends; and illegal vendors in the City.

### APPROVAL OF MINUTES AND NOTICE OF WAIVING OF READING

1. Minutes of the Regular City Council Meeting of February 25, 2014 and the Special Meeting of February 28, 2014.
2. Notice of waiving of the reading of all resolutions and/or ordinances introduced and/or adopted under this agenda.

A motion to approve items 1 and 2 was made by Councilor Riofrio, seconded by Councilor Valdez; unanimously approved (4 ayes; absent: Amador).

### CITIZENS ORAL AND WRITTEN PRESENTATIONS

Dino Perez (Westside Youth Center) – provided the Council information on the Parent University that they are partnering up with the school district to provide.

(At 6:52 p.m. Mayor Pro Tem Amador re-entered the Chambers).

### CONSENT CALENDAR

Matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion and one vote. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Calendar and will be considered separately.

1. FEBRUARY 24, 2014 THROUGH MARCH 5, 2014  
WARRANT LIST CHECKS NO. 37493 THRU 37553  
TOTAL FOR COUNCIL APPROVAL = \$229,705.52

Item 2 was pulled for separate consideration and a motion was made by Mayor Pro Tem Amador to approve item 1, seconded by Councilor Valdez; unanimously approved (5 ayes).

2. Council adopt **Resolution No. 14-09**: supporting and implementing timely use of funding for the Oller/Derrick Roundabout through CMAQ funding.

Mayor Silva introduced the item and led a discussion on the advantages and disadvantages of roundabouts, especially from comments of residents from other cities that have them.

Discussion was held on the item that was brought to Council late last year to do this project; the difficulty in trying to signalize the intersection; the funds that would be used if the project is approved; the purpose of the resolution in question; the best way to help people learn to drive it; making sure trailers and other bigger vehicles can get through;

and examples of good and bad roundabouts.

A motion was made by Mayor Pro Tem Amador to adopt Resolution No. 14-09, seconded by Councilor Valdez; unanimously approved (5 ayes).

## **BUSINESS**

1. Council hear the appeal of Miguel and Zulema Fierro regarding a lien put on their property. [Interim City Manager, Pauley]

Mayor Silva introduced the item and Interim City Manager Pauley reported that the lien was levied by Fire Prevention Services Inc. (FPS) for \$569; that it has increased to \$1,519.80 due to interest and administrative fees; staff consulted with the City Attorney and reported that the interest and fees could be waived, but the City cannot waive the \$569 due to the possibility that it be perceived as a gift of public funds.

Discussion was held on the various amounts that were charged; where the money that is received as payment will end up; the date the lien was recorded; the original agreement between the City and FPS; the homeowners claim that they were not aware of the abatement before it happened; and the contract with FPS being terminated by the City in 2006; the City Attorney's review of the agreement and her opinion that FPS was authorized to finish the services they were contracted to do, including the recording of the lien due to non-payment of services; and Interim City Manager re-stating that it is staff's recommendation that the original lien of \$569 cannot be waived.

**Yesenia Fierro (Daughter and Representative of the property owners)** – stated that the owners received no notice that there property was to be abated before it happened and requested that the lien be cleared completely.

Discussion was held on how to get information from FPS; whether due process was followed; a property that was sold on Riofrio Street that had a lien on it levied by FPS, and where the money paid for that lien ended up; and the lien in question being received by the City.

A motion was made by Mayor Pro Tem Amador to waive the interest and any administrative fees related to the lien, seconded by Councilor Valdez; unanimously approved (5 ayes).

2. Mendota Youth Recreation to request reimbursement of fees paid to the City due to their lack of non-profit status for events held from 2012 to 2013. [City Clerk, Flood]

(At 7:30 p.m. Councilor Valdez left the Chambers in order to recuse himself from the next two business items due to his work with Mendota Youth Recreation [MYR])

Mayor Silva introduced the item and City Clerk Flood reported that staff received a request from Mendota Youth Recreation to have \$1,750 in fees reimbursed that their organization paid due to a technicality that caused the IRS to suspend their 501(c)3 status, which was required to qualify for a waiver of fees under the City policy used at that time. City Clerk Flood explained that the City is under no legal obligation to reimburse this money, but that MYR claims that the Council made a promise they would do so if MYR proved that the reinstatement of their 501(c)3 status was retroactive.

**Corina Banuelos (MYR)** – explained why their 501(c)3 status was suspended and that the reimbursement of the fees paid would greatly help their organization continue to fulfill their mission of helping the community's youth.

A motion was made by Councilor Capuchino to reimburse the fees as requested by MYR, seconded by Councilor Riofrio; unanimously approved (4 ayes; absent: Valdez)

3. Council consideration and discussion to renew the lease with Mendota Youth Recreation for the building at 667 Quince Street. [Interim City Manager, Pauley]

Mayor Silva introduced the item and Interim City Manager Pauley reported that staff received a request from MYR to renew the expired lease for the building at 667 Quince Street; and recommended that Council approve a new lease as it is, or change the terms.

Discussion was held on the City being responsible for repairing the roof and walls of the building and pay for sewer, water, and trash services; and MYR's responsibility to pay for electricity and phone services.

A motion was made by Mayor Pro Tem Amador to approve the lease agreement with MYR, seconded by Councilor Riofrio; unanimously approved (4 ayes; absent: Valdez).

(Councilor Valdez re-entered the Chambers).

4. Council discussion and consideration regarding the applications for exclusive use of City facilities for the year 2014. [City Clerk, Flood]

Mayor Silva introduced the item and City Clerk Flood informed the Council that they had a spreadsheet with the different requests in front of them; that there was a request from the Resource Center for Survivors to show a documentary called "Rape in the Fields" and that they had just recently determined that they would like to have it shown in the Community Center.

Dino Perez of Westside Youth requested to be able to use the restrooms at the Benny Mares Baseball Field during the open market on Wednesdays.

Discussion was held on the need for the Mendota Baseball Commission to determine if the restrooms at the Baseball Field could be used; the resources available for victims of

sexual assault, other crimes, and mental illness; and the possibility that the Smoot Sorensen McCabe Project being done by the time the open market starts.

A motion was made by Councilor Capuchino to approve all of the requested exclusive use permits, seconded by Councilor Riofrio; unanimously approved (5 ayes; Councilor Valdez abstained from the approval of all applications submitted by MYR).

5. Council discussion of new elementary school bus turnout conditions and action as deemed appropriate. [Interim City Manager, Pauley and City Engineer, McGlasson]

Mayor Silva introduced the item and Interim City Manager Pauley reported on the meetings and negotiations with the school in order to create an appropriate route for school buses; City Engineer McGlasson explained the problems that the California State Architect had with the design of the route previously proposed; discussed different options that were discussed with the District; the added construction that one of the options had; that they had agreed on an optimal option, submitted a request for a change order, and received an estimate that was very expensive; in the meeting they had this morning they were able to reduce the cost of the change order slightly by taking out some unnecessary work; the approximate cost of work being about \$10 per square foot for Perez Street, compared to the average street job of approximately \$5; and the staff recommendation to delay the work on Perez Street, enter into an agreement with the District to have the City do it at a separate time with the District reimbursing the City.

Discussion was held on not being able to have Perez Street be a part of the Smoot Sorensen McCabe Project due to the restrictions on the use of FHWA funds; and the different options that were presented during discussions, with only one being truly viable in the end.

**Mike Crass (MUSD Superintendent)** – reported on the initial steps related to the construction of the school; the problems associated with submitting a change order in general; the need to include it separately with a future project; and complimented City Staff and Council on its positive relationship with MUSD.

Discussion was held on the relationship of the City with MUSD; possible Safe Routes to School qualified projects at the new school; the grades the new school will cover; traffic issues that will arise around the new school; the contractor building it; and the funds that would be used to do the Perez Street project.

A motion was made by Councilor Riofrio to direct the City Manager and City Attorney to meet with MUSD and come to an agreement, to be brought back to Council, seconded by Mayor Pro Tem Amador; unanimously approved (5 ayes).

6. Council to make an appointment to fill the vacancy on the Mendota Baseball Commission. [City Clerk, Flood]

Mayor Silva introduced the item and City Clerk Flood reported that one application to be on the Baseball Commission was received, but Juan Luna, who recently resigned from the Planning Commission because he was appointed to the MUSD Board of Trustees, is also interested in continuing to serve on the Commission as a citizen.

Discussion was held on the possibility of modifying the rules of the Baseball Commission to allow another citizen to serve on the Baseball Commission instead of a Planning Commission representative.

A motion was made by Mayor Pro Tem Amador to to appoint John Sanchez to the Baseball Commission, seconded by Councilor Riofrio; unanimously approved (5 ayes).

7. Mayor to make an appointment to fill the vacancy on the Mendota Planning Commission. [City Clerk, Flood]

Mayor Silva introduced the item and City Clerk Flood reported that there are two vacancies on the Planning Commission and that staff received an application from a resident to serve; and that it is the Mayor who appoints, with approval from the Council.

A motion was made by Mayor Pro Tem Amador to appoint Carlos Quintanar to the Planning Commission, seconded by Councilor Valdez; unanimously approved (5 ayes).

8. Council discussion and consideration to enter into a lease agreement with Crown Castle for a cell tower site. [Interim City Manager, Pauley]

Mayor Silva introduced the item and Interim City Manager Pauley summarized his report that the lease with Crown Castle is about to expire for land on which a large communications tower is erected; the terms of the current agreement; information on the area that is leased; that another company besides Crown Castle, Unison, contacted him wishing to purchase Crown Castle's lease, resulting in a bidding war; there were two different offers from Crown Castle and one from Unison; and that staff recommends the second option from Crown Castle, which would profit the City most.

Discussion was held on Crown Castle's background; and the process of getting the final lease signed once agreed upon.

A motion was made by Councilor Valdez to enter into a lease agreement with Crown Castle, option 2, seconded by Councilor Capuchino; unanimously approved (5 ayes).

9. Council to approve purchase of right-of-way on APN 013-244-16 for \$20,500. [Interim City Manager, Pauley]

*(Removed from the agenda)*

**DEPARTMENT REPORTS AND INFORMATIONAL ITEMS**

1. City Manager

Interim City Manager Pauley reported that the owners of Granville Homes are heading an effort to pool the resources of various private entities to identify and assist in the needs of west side cities during this drought; provided an update on drought relief funding and what it will be used for; and that Mayor Pro Tem Amador was contacted by the owner of Water Connection Inc., who has done business with the City before, to enter into a contract for backflow testing and maintenance services; and that he will be working with the City Attorney to make sure entering into such an agreement would be legal.

2. Police Department  
a) Monthly Report

Chief of Police Galvin summarized his report including this being the second consecutive month in which there was no incidence of serious violent crimes reported; the crime rate continues to go down; an arsonist was caught by the Police Department; an update on personnel; and accidents and arrests for this month.

Discussion was held on the difference between larceny and theft, and assault and aggravated assault; citations given for speeding on McCabe, Sorensen, and other streets in that area; people loitering behind Latino Market; and how long it should take someone to get a copy of an accident report once requested.

3. City Attorney  
a) Update

City Attorney Boranian reported that she made contact with Chase bank regarding the ownership of the burnt out apartments on Naples; that they forgave the loan, causing the old owners to retain it; and that it is possible the City may be able to obtain it through a quit claim.

**MAYOR AND COUNCIL REPORTS AND INFORMATIONAL ITEMS**

1. Council Member(s)

Councilor Capuchino gave an update on the planning of the new Catholic Church and that an architect came to see the existing one.

2. Mayor



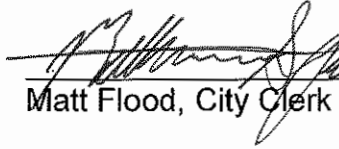
Mayor Silva reported that he received information at a recent COG meeting regarding a new program by Caltrans to help communities in need; that next Tuesday there is an important rally in Firebaugh to support agricultural water; and that he has met with agencies interested in helping to donate food to be distributed.

**ADJOURNMENT**

At the hour of 9:22 p.m., with no more business to be brought before the Council, a motion for adjournment was made by Mayor Pro Tem Amador, seconded by Councilor Valdez; unanimously approved (5 ayes).

  
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Robert Silva, Mayor

ATTEST:

  
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Matt Flood, City Clerk

