

**MINUTES OF MENDOTA  
REGULAR CITY COUNCIL MEETING**

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**Regular Meeting**                      **Tuesday July 9, 2013**

**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.**

**Council Members Absent:**            **None.**

**Flag Salute led by Councilor Capuchino**

**FINALIZE THE AGENDA**

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

Mayor Silva requested to remove the proclamation as Mrs. Barajas will not be able to make it to this meeting due to illness, and that Business Item 1 be heard after the presentation. A motion was made by Councilor Riofrio to adopt the agenda as adjusted, seconded by Councilor Capuchino; unanimously approved (5 ayes).

**PRESENTATIONS**

1.     Juanita Orozco Gonzalez and Eliseo Gamino from the Joaquin Murrieta Ride Tradicion y Cultura to present on their upcoming event.

Mrs. Orozco presented information on the 36th annual ride they have in honor of Joaquin Murrieta; that it will be July 26-28; is the original ride; that they would like to rest in Lindgren-Lozano Park, then go through Mendota, past the church, and up 7<sup>th</sup> Street; they would like to honor Ray Minnite, who passed away last year; and presented a certificate to honor the City for its participation,

## **PROCLAMATIONS**

1. Proclamation No. 13-10: In honor of longtime Mendota resident Macaria Barajas de Oliva.

**(continued to the next meeting)**

## **BUSINESS**

1. Council discussion and consideration of Gutierrez Recycling's request for an encroachment permit waiver for the 2013 Annual Backpack Giveaway Event. [City Manager, Atkins]

Mayor Silva introduced the item and Mr. Ignacio Gutierrez and his daughter provided information on the annual event that they have including the date of Sunday, July 28<sup>th</sup>; that it will be at his business at 691 Oller; he would like the whole of 7<sup>th</sup> Street from Oller to Naples closed for activities, entertainment, and games for the children; that each backpack with materials costs about \$28; that they plan to be done by about 2pm; and they will have portable restrooms.

City Manager Atkins explained that Mr. Gutierrez requested a waiving of fees for the encroachment permit, which staff cannot grant, and that he has come before Council for that; and explained the policy on the prohibition of the use of City equipment for an event that is not co-sponsored with the City.

Discussion was held on the benefit that this annual event provides to the community.

A motion was made by Councilor Riofrio to waive the fees for the encroachment permit; seconded by Mayor Pro Tem Amador; unanimously approved (5 ayes).

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

1. Minutes of the Regular City Council Meeting of June 25, 2013 and the Special City Council Meetings of June 11, June 18, June 25, and June 28, 2013.
2. Notice of waiving of the reading of all resolutions and/or ordinances introduced and/or adopted under this agenda.

Councilor Valdez stated that in the minutes of the regular meeting of June 25<sup>th</sup> and of one special meeting that Mendota Youth Recreation should instead read Mendota Youth Baseball.

With the requested correction a motion was made to approve items 1 and 2, seconded by Councilor Valdez; unanimously approved (5 ayes).

## **CITIZENS ORAL AND WRITTEN PRESENTATIONS**

At this time members of the public may address the City Council on any matter not listed on the agenda involving matters within the jurisdiction of the City Council. Please complete a "request to speak" form and limit your comments to THREE (3) MINUTES. Please give the completed form to City Clerk prior to the start of the meeting. All speakers shall observe proper decorum. The Mendota Municipal Code prohibits the use of boisterous, slanderous, or profane language. All speakers must step to the podium, state their names and addresses for the record. Please watch the time.

Joe Gomez (2033 7<sup>th</sup> Street) – Stated that he had a complaint for the Chief of Police regarding his right to enjoy his property; (at 6:22 p.m. Councilor Riofrio left the chambers); that he heard loud music coming from Councilor Riofrio's residence; asked why the City delivers notices by registered and regular mail; related an incident where an out of town business owner got a courtesy call regarding the need to clean a property they own; and pointed out mistakes made on notices sent to him from code enforcement, that were subsequently corrected; (at 6:26 p.m. Councilor Riofrio re-entered the chambers).

Nelly Larreynaga (241 San Pedro Street) – Stated that she had a petition signed by residents of San Pedro and Oxnard Streets requesting that a speed bump be put in on San Pedro to keep people from driving recklessly; cited examples of when cars almost crashed; that this is most important for the children.

Discussion was held on the dangerous driving that goes on in that area of the City and the possible enforcement measures that can be taken to alleviate it.

Rosie Villalobos (298 San Pedro) – requested a speed bump on San Pedro street and inquired as to what happened to a 2009 petition that was filled out; that the reckless driving incidents usually happen after 5 p.m.

Discussion was held on a company that makes speed bumps with recycled tires.

### 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. JUNE 25, 2013 THROUGH JULY 5, 2013  
WARRANT LIST CHECKS NO. 36434 THRU 36495  
TOTAL FOR COUNCIL APPROVAL = \$346,526.76
2. Council adopt **Resolution No. 13-17**: A Resolution of the City Council of the City of Mendota in the matter of setting the general penalty amount for violations of the Mendota Municipal Code.
3. Council adopt **Resolution No. 13-18**: A Resolution of the City Council of the City of Mendota in the matter of approving and setting compensation and additional

employee benefits for non represented employees as of July 9, 2013.

4. Council adopt **Resolution No. 13-19**: A Resolution of the City Council of the City of Mendota in the matter of amending the Memorandum of Understanding between the City of Mendota and the General Employees' Union for a 3% Cost of Living Adjustment increase.
5. Council adopt **Resolution No. 13-21**: A Resolution of the City Council of the City of Mendota in the matter of claiming Local Transportation Funds for fiscal year 2013-2014.
6. Council approve to enter into an engineering services agreement with Provost and Pritchard for CDBG Capital Projects Engineering Services for Fiscal Years 2013/2014, 2014/2015, 2015/2016, and authorize the City Manager to execute all associated documents.
7. Council designate Mayor Silva as a voting delegate and Mayor Pro Tem Amador as alternate voting delegate for the upcoming League of California Cities Annual Conference.

Members of Council requested to pull items 1 through 4 for discussion and consideration.

A motion was made by Councilor Riofrio to adopt items 5 through 7 of the Consent Calendar, seconded by Councilor Valdez; unanimously approved (5 ayes).

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TOTAL FOR COUNCIL APPROVAL = \$346,526.76

Councilor Valdez referred to warrant 36456 for fire extinguisher servicing and stated that extinguishers should be taken apart for complete testing once every six years and wanted to make sure the company doing the work was not promoting doing it more often, as it costs more than just inspecting it.

A motion was made by Councilor Valdez to adopt the warrant list, seconded by Councilor Riofrio; unanimously approved (5 ayes).

2. Council adopt **Resolution No. 13-17**: A Resolution of the City Council of the City of Mendota in the matter of setting the general penalty amount for violations of the Mendota Municipal Code.

Councilor Valdez stated that he would like a full list of every part of the Mendota Municipal Code (MMC) that this general penalty would apply to.

Discussion was made on the nature of the general penalty to provide a general penalty

for anything not specifically mentioned in the MMC; specific violations in the MMC and what violators are charged for them; the manner in which municipal codes usually state what the fine is or reference state law; and the ability to change a resolution.

A motion to table Resolution No. 13-17 was made by Councilor Riofrio, seconded by Councilor Capuchino; unanimously approved (5 ayes).

3. Council adopt **Resolution No. 13-18**: A Resolution of the City Council of the City of Mendota in the matter of approving and setting compensation and additional employee benefits for non represented employees as of July 9, 2013.

Councilor Valdez asked to see the old resolution before considering passage of the proposed ones.

City Manager Atkins provided details on the resolution including what would happen if the current resolution were not to pass today and item 4 of the consent calendar (for the represented employees) did, which would cause unrepresented employees to get a Cost of Living Adjustment (COLA) also; the difference between the old and new resolutions; how the COLA would be determined each time; merit increases must be approved by City Council; and updated the vehicle use for the Chief of Police.

Discussion was held on the effective date of the provisions.

A motion to table Resolution No. 13-18 was made by Councilor Valdez, seconded by Councilor Riofrio; unanimously approved (5 ayes).

4. Council adopt **Resolution No. 13-19**: A Resolution of the City Council of the City of Mendota in the matter of amending the Memorandum of Understanding between the City of Mendota and the General Employees' Union for a 3% Cost of Living Adjustment increase.

A motion to table Resolution No. 13-19 was made by Councilor Valdez, seconded by Councilor Riofrio; unanimously approved (5 ayes).

### **PUBLIC HEARING**

1. Council discussion and consideration to adopt **Resolution No. 13-20**: A Resolution of the City Council of the City of Mendota upholding an appeal of Planning Commission Resolution No. PC 13-04, amending condition no. 21 of said Resolution related to alley improvements. [City Planner, O'Neal]

Mayor Silva introduced the item and City Planner O'Neal stated that the applicant, Mr. Carlos Nunez, has appealed a decision of the City Council regarding his share of an alley improvement between Oller and Pucheu; gave details on the project; explained that the applicant did not receive personal notice of when his application was being considered and consequently was not present for that meeting of the planning

commission; one of the conditions of approval for the project was that the applicant improve the entire alley from 9<sup>th</sup> to 10<sup>th</sup> Streets; the applicant feels that this is burdensome and desires to have more of a fair-share approach as a condition, and that staff generally agrees with this due to the nature of the proposed use of the buildings; cited a recent supreme court ruling that could make the current condition excessive and expose the City to possible litigation; provided alternative options that range from leaving the condition as is, to altering the condition to require the owner pay his fair-share portion of the alley.

Discussion was held on the location and properties of the lot in question.

At 7:10 p.m. Councilor Capuchino recused himself due to a possible conflict of interest as a board member of United Health Centers.

City Planner O'Neal stated that staff believes two options to be too burdensome; and that staff recommends that the Council reaffirm other findings not related to the alley, such as those of the site plan review and CEQA.

Discussion was held on when the alley was last paved and the specific conditions concerning the alley that the PC required.

At 19:16 Mayor Silva opened the hearing to the public.

Carlos Nunez (Applicant) – Stated that he has been a businessman for 20 years; he tried to create jobs and has 40 employees that live in Mendota; other property owners should pay their fair share of the alley improvement.

At 19:17 p.m. Mayor Silva closed the hearing to the public.

Discussion was held on a house near the alley in that area that is in poor condition; the condition and use of the alley; determinations of Caltrans and the encroachment permit they must issue; suggested date of compliance of May 2014; the drive approaches on the property and their condition; the difficulty in engineering a partial alley improvement; and why the site plan has the building in the middle of the lot.

A motion to reaffirm the findings of the planning commission on the site plan and CEQA determinations and to modify condition 21 to require the owner to pay his fair-share portion of the alley (option 5) was made by Councilor Riofrio, seconded by Mayor Pro Tem Amador; unanimously approved (4 ayes; 1 absent: Capuchino).

At 7:28 p.m. Councilor Capuchino re-entered the chambers.

## **BUSINESS (CONTINUED)**

2. Council accept public comment and affirm the passage of the general budget at the special meeting of June 28, 2013. [City Clerk, Flood]

Mayor Silva introduced the item and City Clerk Flood reported that due to all the meetings held in which the budget was discussed and modified, and the special meeting in which it was passed, Council passed a budget resolution that required it to hear any comments from the public regarding what was passed at the next regular meeting.

Mayor Silva asked if there was anyone in the public that wished to comment on this budget. None were offered.

Councilor Valdez requested a more detailed budget next year for Council analysis and consideration and City Manager Atkins stated that they are looking into doing a more detailed, performance oriented budget.

A motion to affirm the passage of the general budget was made by Councilor Riofrio, seconded by Councilor Valdez; unanimously approved (5 ayes).

3. Council accept public comment and affirm the passage of the Community Facilities District budget at the special meeting of June 28, 2013. [City Clerk, Flood]

Mayor Silva introduced the item and City Clerk Flood reported that the City is required to pass a separate budget by resolution for the CFD, and that that resolution contained the same provision to affirm the passage of the budget.

Mayor Silva asked if there was anyone in the public that wished to comment on this budget. None were offered.

Mayor Pro Tem Amador asked for staff to investigate if all new properties in Mendota are subject to the CFD or if it is only Las Palmas.

A motion to affirm the passage of the CFD budget was made by Councilor Riofrio, seconded by Councilor Valdez; unanimously approved (5 ayes).

4. Council discussion and consideration to accept the Eastside Streets Project as complete, authorize the City Manager to execute the Notice of Completion, and to record the notice with Fresno County. [City Manager, Atkins; City Engineer, McGlasson]

Mayor Silva introduced the item and City Engineer David McGlasson provided an overview of the project; the cost was under budget; reviewed the design objectives and problems that came up related to these during the course of the project; other obstacles during construction and the solutions devised; and the successful use of infrared in correcting some problems with small, unlevel parts of the pavement.

Discussion was held on how different vehicles respond to uneven pavement, making it easier or harder for drivers to detect irregularities; and the problem created by the paving truck on Canal Street.

A motion to accept the Eastside Streets Project was made by Councilor Capuchino, seconded by Councilor Riofrio; unanimously approved (5 ayes).

5. Council discussion and consideration to exonerate the bonds on Hacienda Gardens Phase IV, file a notice of termination with Fresno County, and authorize the City Manager to execute said documents.

Mayor Silva introduced the item and City Manager Atkins reported that he had received a request to exonerate the bond on Phase IV of the Hacienda Gardens development; provided a history of the ownership of that development; that the bonds are due for review in mid July which would cost approximately \$15,000 for the current owner; and that action will help prevent claims from former owners.

Discussion was held on the eminent domain case from the Mendota Unified School District on that property; and the need for City staff to ensure that traffic circulation is adequate on Bass Avenue and 2<sup>nd</sup> Street once constructed.

A motion to exonerate the bond was made by Councilor Riofrio, seconded by Mayor Pro Tem Amador; unanimously approved (5 ayes).

## **DEPARTMENT REPORTS AND INFORMATIONAL ITEMS**

1. City Manager

City Manager Atkins reported that recently appointed City Attorney Meggin Boranian accompanied Chief Galvin and himself on a tour of the City; that he met with representatives of the Mendota Unified School District about the Smoot, Sorensen and McCabe Streets Project; and reported that the City received an inquiry from the office of Assembly member Perea inquiring as to why the City is shutting down Piyin Recycling, but that it is Calrecycle, not the City, that is planning to take action against the business.

Resident Lily Rangel (no address given) complained about the water that pools in the gutter around McCabe school that it is a health hazard and has an unpleasant smell.

2. Code Enforcement
  - a) Monthly Report

Code Enforcement Administrative Assistant Andy Ochoa reported that Community Service Officer Andrade and Building Inspector Gonzalez have recently been focusing on those that are illegally inhabiting trailers; they are working on the list of abandoned and vacant properties; the difference between abandoned and vacant homes; asbestos



in properties; there is a high voluntary compliance rate; and presented the breakdown of citations issued by type.

Discussion was held on the trailers that are registered and legal; the procedure for citing trailers; and the definition of a trailer.

Resident Lily Rangel complained about the bedbug problem in Mendota.

3. Police Department  
a) Monthly Report

Chief Galvin summarized his June report, stating that property crime has leveled out, violent crimes are down and, although there has been an increase in calls for service, crime has gone down overall. Significant case at Pool Park involving a robbery; officers did a traffic sweep looking for intoxicated drivers on the weekend of July 6th; and the Department of Alcoholic Beverage Control (ABC) will be going undercover soon to catch businesses.

Discussion was held on the cost of doing undercover work or targeted sweeps; the Office of Traffic Safety grant that the City is using to implement saturation patrols; the large amount of DUI arrests made in June, and the effective partnerships that are happening with ABC and the Fresno Sheriff's office; the 4<sup>th</sup> of July and how no one was caught in the act of discharging illegal fireworks or weapons.

### **MAYOR AND COUNCIL REPORTS AND INFORMATIONAL ITEMS**

1. Council Member(s)

Councilor Riofrio reported that he will be meeting with an entrepreneur from the Bay Area about the unemployment problems in California; and on a recent lunch he had in Firebaugh where he found out a farmer would be liquidating everything because of the agriculture economy problems.

Mayor Pro Tem Amador reported that he had made a request for staff to facilitate restarting the community network meeting that used to occur.

Councilor Valdez reported that he can get some old extinguishers and have a class on taking them apart to service them.

2. Mayor

Mayor Silva reported on an article in Western City magazine that was very comprehensive and good reading regarding the water issues that plague California.

### **CLOSED SESSION**

1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Government Code Section 54957.6  
Title: City Manager

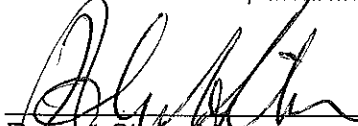
At 8:46 p.m. the Council moved into closed session

At 9:22 p.m. the Council reconvened in open session.

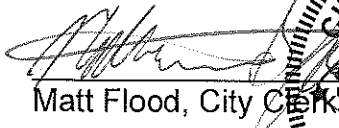
City Attorney Meggin Boranian reported that there was no reportable action taken.

**ADJOURNMENT**

At the hour of 9:23 p.m., with no more business to be brought before the Council, a motion for adjournment was made by Mayor Pro Tem Amador, with a second by Councilor Valdez; unanimously approved (5 ayes).

  
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Robert Silva, Mayor

ATTEST:

  
\_\_\_\_\_  
Matt Flood, City Clerk

