

CITY OF COLTON
CITY COUNCIL/SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
FOR THE CITY OF COLTON/COLTON UTILITY AUTHORITY/
COLTON PUBLIC FINANCING AUTHORITY AND
COLTON HOUSING AUTHORITY
REGULAR MEETING MINUTES

October 15, 2013

The Regular Meeting of the Colton City Council was held on the above-given date and was called to order at 5:04 p.m., in the Council Chambers of City Hall, with Mayor Pro Tem David J. Toro presiding. Roll Call was announced by City Clerk Eileen C. Gomez as follows:

CITY COUNCIL ROLL CALL

Council Members Present

Sarah S. Zamora, Mayor (arrived at 5:12 pm)
David J. Toro, Mayor Pro Tem
Frank A. Gonzales (arrived at 5:10 pm)
Frank J. Navarro
Susan M. Oliva
Deirdre H. Bennett
Isaac T. Suchil

Staff Present

Stephen P. Compton, Interim City Manager
Eileen C. Gomez, City Clerk
William "Jim" Priest, City Attorney
Bill Smith, Community Services Director
Amer Jakher, Public Works Director

Council Members/Staff Absent

None.

City Attorney William "Jim" Priest read Closed Session titles A and B into the record. CM Oliva announced that she will be recusing herself from any and all discussions involving Union Pacific Railroad (UPRR).

CLOSED SESSION

A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to California Government Code, Section 54956.8

The Following Property Address:

Along B Street, between 10th Street & 12th Street for Street Purposes: APN 016120307

Along Center Street, east of Riverside Avenue for Sewer Utility Improvement Purposes:

APN 027702267

Along UPRR Industrial Lead Track:

1. UPRR Properties between O Street and Congress Street for Street Purposes: APN 016321230, 016321229, 016322127, and 016322126.

2. UPRR Property for Water Utility Improvement Purposes: APN 016336210.

3. UPRR Property south of Santa Ana River for Water/Sewer easement improvement purposes: 027519100 and 027519148

4. UPRR Properties along Barton Road for Street Purposes: APN 027522358, 027522322 and 116712107

Negotiating Parties: Stephen Compton, Amer Jakher

Under Negotiation: Price and Terms of Sale

B. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency Designated Representative: Bonnie Johnson, Management Services Director and Ted Cooper, Human Resources Manager

Employee Organizations: SBPEA General Unit, SBPEA Mid-managers Unit, IBEW Electric, IBEW Water/Wastewater, Colton Fire Fighters Association, Colton Police Officers Association, Colton Police Management Association, and Colton Police Dispatchers Association

CLOSED SESSION PUBLIC COMMENT

None.

Mayor Pro Tem David J. Toro adjourned the meeting to Closed Session at 5:07 p.m. and at 6:04 p.m., the meeting reconvened, with Mayor Sarah S. Zamora presiding. Roll Call was announced by City Clerk Eileen C. Gomez with all members present as heretofore.

City Attorney Sonia Carvalho announced that the City Council did meet in Closed Session and discussed Items A and B with no reportable action. Mrs. Carvalho also stated that CM Oliva left the room, recusing herself from discussion on the items involving Union Pacific Railroad (UPRR).

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CITY OF COLTON/COLTON UTILITY AUTHORITY/
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REGULAR MEETING

October 15, 2013

Open Session of the Regular Meeting was called to order on the above-given date at 6:04 p.m., in the Council Chambers of City Hall, with Mayor Sarah S. Zamora presiding. Roll Call was announced by City Clerk Eileen C. Gomez, with all members present as heretofore.

CITY COUNCIL ROLL CALL

Council Members Present

Sarah S. Zamora, Mayor
David J. Toro, Mayor Pro Tem
Frank A. Gonzales
Frank J. Navarro
Susan M. Oliva
Deirdre H. Bennett
Isaac T. Suchil

Staff Present

Stephen P. Compton, Interim City Manager
Eileen C. Gomez, City Clerk
Sonia Carvalho, City Attorney
Aurelio De La Torre, City Treasurer
Jessica Hurst, Finance Manager
Amer Jakher, Public Works Director
Dr. David Kolk, Electric Utility Director
Steve Ward, Police Chief
Tim McHargue, Fire Chief
Bill Smith, Community Services Director
Mark Tomich, Development Services Director
Mario Suarez, Senior Planner

Council Members/Staff Absent

None.

INVOCATION

Jonathan Florez, First Assembly of God

FLAG SALUTE

Joe Mojica, VFW Post 6476

CEREMONIAL MATTERS *Presentations, Awards, Proclamations*

- Presentation - Business Focus – The Island Breeze

Mayor Zamora invited Council Member Isaac Suchil and Colton Chamber Executive Director Laura Morales, to the podium for the presentation. Mayor Zamora introduced Sharon Dyce, owner of The Island Breeze Jamaican Restaurant. Mrs. Dyce accepted the “You Make a Difference” certificate with her husband and thanked the community for their patronage.

MAYOR AND COUNCIL ITEMS

POSSIBLE CONFLICT OF INTEREST DISCLOSURES FOR THE COUNCIL MEETING OF OCTOBER 15, 2013.

Mayor Sarah S. Zamora asked the members present if there were any agenda items that were a conflict of interest pursuant to CMC Section 2.04.030.

AB 1234 ORAL REPORTS

None.

APPOINTMENTS

None.

PUBLIC COMMENT

The following community members addressed the Council:

Dr. Luis González and Linda Tripp.

Sharon Dyce, owner of The Island Breeze Jamaican Restaurant, provided information regarding the restaurant menu and hours of operation.

MAYOR AND COUNCIL ORAL REPORTS AND COMMENTS

CM Bennett made a request for Item No. 15, the Appeal for Largo Concrete, to be heard before the other City business in order to accommodate the residents present for that item. It was a consensus of the Council to hear the City Treasurer’s report at this point, then to move Item No. 15 up on the agenda to be heard before the Consent Calendar.

CITY TREASURER’S REPORTS

- Receive and File City Treasurer’s Report for August 2013.

CM Bennett explained the meaning of the current proposed legislation regarding the increase to the federal debt ceiling.

It was a consensus of the Council to receive and file the City Treasurer's report for August 2013, as presented by City Treasurer Aurelio De La Torre.

Mayor Zamora reopened Public Comment to accommodate Mr. John Anaya, Sr., who left the Council Chambers before his name was called.

Mayor Zamora closed Public Comment and proceeded with Item No. 15.

PUBLIC HEARING

(1) Appeal – Largo Concrete (previously Item No. 15 on this agenda)

TIME AND PLACE FIXED TO CONSIDER AN APPEAL TO THE CITY COUNCIL REGARDING THE PLANNING COMMISSION'S DENIAL OF A CONDITIONAL USE PERMIT (FILE INDEX NO: DAP-001-099, APPLICANT: LARGO CONCRETE) FOR THE OPERATION OF A CONCRETE CONTRACTORS' STORAGE YARD ON AN EXISTING 7.6-ACRE DEVELOPED SITE IN THE M1/SDA – LIGHT INDUSTRIAL ZONE AND SENSITIVE DEVELOPMENT AREA OVERLAY ZONE.

Environmental Determination: Pursuant to the Guidelines for the California Environmental Quality Act (CEQA), the denial of a proposed project is exempt from the requirements of CEQA as per State CEQA Guidelines sections 15061(b)(4) and 15270.

Consider: Approve and Adopt RESOLUTION NO. R-79-13.

Development Services Director Mark Tomich provided a brief overview of the appeal and summarized the appeal points in a PowerPoint presentation as follows:

BACKGROUND

- July 23, 2013, Planning Commission (PC) review and considered the CUP for Contractors' Storage Yard.
 - PC did not accept staff recommendation.
 - Continued for two weeks to allow staff time to prepare a resolution for denial in order for the PC to proceed with an action on 8/13/2013 PC meeting.
- August 13, 2013, the PC denied pursuant to Resolution No. R-15-13.
- August 22, 2013, Applicant filed Appeal.

APPEAL

Appeal Filed Based on Six Areas:

1. On 7/23/13, the PC denied CUP & did not provide adequate reasoning to deny the project. Traffic, safety, & utilized the SDA
 - Transcripts prepared – show PC action not accepting Resolution for approval staff to return with new resolution
2. City is at risk of a "takings" based on regulatory impacts extended by the courts.
 - Denied based on 18.18.030 D (SDA Overlay Zone)

3. Two actions taken by PC – 1. Denied CUP & 2. Requested staff to return with new Resolution
 - PC did not accept staff Resolution and requested new resolution to be prepared for PC consideration

Appeal Filed Based on Six Areas (Cont.):

4. Action on 8/13/13 is a second denial and General Plan inconsistencies were not identified
 - Staff disagrees, PC did not want to approve project and new Resolution to be considered on 8/13/13
5. Resolution was not adopted by PC & Applicant's CUP should have been issued & is consistent with General Plan.
 - Same response as above.
6. Assert 8/13/13, Resolution is inappropriate.
 - PC action taken on Deputy City Attorney's advice to continue project for denial - resolution to be prepared

STAFF RECOMMENDATION

City Council Consider Adopting Resolution No. R-79-13

Upholding the Planning Commission's Denial of an application for a Conditional Use Permit (File Index No.DAP-001-099) for the operation of a concrete contractors' storage yard on an existing 7.6-acre developed site located at 240 E. Congress Street and Zoned M-1/SDA (Light Industrial and Sensitive Area Overlay (Appeal File Index No: DAP-001-108)

Development Services Director Mark Tomich continued to provide an explanation of the current project findings and asked that Council approve staff's recommendation as stated in the staff report Mr. Tomich re-emphasized that this is a denovo hearing, meaning that Council is making the final determination on this issue without reference to the legal conclusions or assumptions made by the Planning Commission. Mayor Zamora asked staff to continue with the PowerPoint presentation. Senior Planner Mario Suarez continued to explain the information in the PowerPoint and moved forward with the presentation as follows.

PROJECT SUMMARY

- M-1 / SDA (Sensitive Development Overlay)
- 7.6 Acres / Adjacent to SFR Neighborhood
- Access from Congress Street
- Main office building 6,000 sq.ft.
- Two Canopy Structures 60'x150
- Paved Site / Concrete Loading Dock
- Parking at front of site
- Landscaping in parking lot
- Perimeter fencing & 3-Fire Hydrants
- 7 – Full-time Employees
- 1 – 2 Forklifts
- Reach Machine
- Storage of Aluminum, Wood and Steel Frames

- Warehouse Lifts
- 2 – 3 flatbed trucks (20 – 40')
- Currently Vacant

PROPOSAL: CONTRACTOR'S STORAGE YARD

- Storage of Aluminum, Wood and Steel Frames
- 7 – Full-Time Employees
- 1-2 Forklifts
- Reach Machine
- Warehouse Lifts
- 2-3 flatbed trucks (20-40')
- Occasional Semi-Truck
- Security Cameras/New Landscaping
- 20 Ft. Setback Buffer; no storage area
- Storage of Aluminum, Wood, and Steel Frames

Mayor Zamora opened Public Comment on this item with the following community members addressing the Council.

PUBLIC COMMENT

Madison Warner, Amador Roman, Ken Long (President, Largo Concrete), Geraldine Garcilazo, Danny Morales, Dr. Arek Balci, Andreas Weaver, Dr. Luis Gonzaléz, Andres Soto, Francisco Zamora, Racio Zamora, Armando Cortes, Paul Burkel (Yard Manager, Largo Concrete) Bill Ihrke (Legal Counsel, Largo Concrete), Megan Garibaldi (Legal Counsel, Largo Concrete), Rachel Warner, Eufemia Reyes, Linda Tripp, Cindy Carrion, Richard Carrion, Christine Irish-Ré, and Gary Grossich.

At 8:00 p.m., Mayor Zamora adjourned the regular meeting for a brief recess and at 8:20 p.m., the meeting reconvened with all members present as heretofore.

Ken Long, President of Largo Concrete, was given the opportunity to provide a PowerPoint presentation regarding previous projects.

Motion and second by CM Suchil/CM Bennett, to close public comment. Unanimous.

Council Members continued with discussion regarding the appeal and the information provided in the staff report. City Attorney Carvalho provided information on the process and the definition of a Conditional Use Permit (CUP), answering questions from Council Members.

CM Gonzales began to read information in a document provided by Best, Best & Krieger intended for closed session discussion. Since this information falls under Attorney/Client privilege with the City, City Attorney Carvalho asked that a vote be taken by the full Council in order to allow this information to be shared in public. It was a consensus of the Council for Council Member Gonzales not to continue. Discussion ensued regarding the Largo appeal.

Ken Long from Largo Concrete asked that Council approve the appeal denial based upon the understanding that there will be further discussion to define the conditions, including input from residents or representatives of the community where they will be given the opportunity to talk openly about reasonable conditions.

Motion by CM Gonzales to approve the appeal as presented to Council and to instruct legal counsel to work with staff to prepare a resolution to that affect, working with the owner and the community. Motion failed due to lack of a second.

There was discussion regarding the continuance of this item to the November 19th Council meeting. CM Oliva asked if the town hall meeting could be held at the Luque Center. MPT Toro recommended that we keep November 19th as the set date and asked that a committee be formed comprised of Council Members Suchil, Oliva and Bennett, to represent the Council at the town hall meeting. CM Bennett deferred her position on the committee to Mayor Zamora.

After further discussion, the following action was taken on this item:

Motion and second by CM Bennett/CM Gonzales, for preliminary approval contingent upon reaching an agreement on the current Conditional Use Permit (CUP), to include additional conditions as proposed by Council, to be reviewed after staff meets with the applicant, residents and the Largo Ad Hoc Committee, with final review and approval by Council on November 19, 2013. Motion carried with Council Members Suchil, Navarro and MPT Toro voting no.

MAYOR AND COUNCIL COMMENTS

CM Suchil gave thanks to our Fire Chief for his attendance at the Blue Mass held on October 9, 2013.

CONSENT CALENDAR

Mayor Zamora presented Consent Calendar Item Nos. 1 through 14 for action by Council.

The following action was taken on the Consent Calendar:

CM Oliva abstained from the vote on Item No. 7 due to her relationship with Union Pacific Rail Road, and had questions on Item No. 10.

CM Bennett had questions on Item Nos. 2 and 9.

CM Suchil had questions on Item No. 2.

CM Gonzales had questions on Item Nos. 2, 5, 6, and 9.

CM Navarro had questions on Item No. 2.

Mayor had questions on Item No. 11.

Motion and second by CM Oliva/MPT Toro, to approve the Consent Calendar as presented. Motion carried with CM Gonzales voting no on Item No. 2 and CM Oliva abstaining from the vote on Item No. 7.

- (1) Warrants – Approved Payable Warrants #137680 to #137829, Dated 8/29/13, Totaling \$2,461,814.34; Payable Warrants #137830 to #137941, Dated 9/5/13, Totaling \$746,087.42; and a Payroll Disbursement listing for the period 9/14/13 to 9/27/13, totaling \$655,844.07, on File in the Finance Department.
- (2) 2013 COPS Hiring Grant – Approved and Adopted a Resolution Authorizing the Acceptance of the 2013 Community Policing Services Office Hiring Program Award (COPS CHP) in the Amount of \$250,000, from the United States Department of Justice and Authorized the Recruitment and Appointment of Two Police Officers as Required by the COPS CHP, RESOLUTION NO. R-76-13.
- (3) Purchase of Fitness Equipment from Advanced Exercise Equipment - Approved the Purchase of Fitness Equipment through Advanced Exercise Equipment in the Amount of \$26,535, RESOLUTION NO. R-77-13.
- (4) Chamber of Commerce Contract – Approved a Modified Contractual Services Agreement between the City of Colton and the Colton Chamber of Commerce (Fiscal Year 2013-2014).
- (5) Purchase of New Fire Engine form Kovatch Motor Equipment - Waived the Formal Bidding Process in Accordance with Colton Municipal Code C3.08.140(c) and Authorized the City to Piggyback on the City of Ontario’s Bid Award for the Purchase of a New 2013 KME Predator Severe Service Pumper with Equipment in the Amount of \$570,638.45, RESOLUTION NO. R-75-13.
- (6) Award of Bid/Haaker Equipment Company - Awarded the Bid to Haaker Equipment Company for One Pothole Patch Truck for Public Works Utility Division in the Amount of \$168,357.96.
- (7) Laurel Street Grade Separation Project – Approved the Pipeline Crossing License Agreement and the Electric Supply Line Crossing License Agreement for the Laurel Grade Separation Project. *Environmental Impact: The project is statutory exempt under California Environmental Quality Act (CEQA) per Section 21080.13 of the Public Resources Code. The Notice of Exemption was filed with the County of San Bernardino on January 18, 2012.*
- (8) Annual Anticipated DBE Participation Level (AADPL) – Approved and Adopted a Resolution to Approve the Federal Fiscal 2013-14 Annual Anticipated Business Enterprise (DBE) Participation Level (AADPL) of 11.5% and the Methodology that are Presented herein and Authorize the City Manager or His/Her Designee to Execute the DBE Annual Submittal Form, RESOLUTION NO. R-78-13. *Environmental Impacts: Each of the projects listed on the Measure I Five-Year Capital Improvement Plan and Expenditure Strategy Plan, and the Measure I Five-Year Capital Project Needs Analysis are required to comply with the National Environmental Protection Agency (NEPA) and/or California Environmental Quality Acts (CEQA).*
- (9) Measure I Five-Year Capital Improvement Program Plan (CIP) and Capital Project Needs Analysis (CPNA) - Approved and Adopted a Resolution Reaffirming and Adopting the Fiscal Year 2013-14 Measure I Five-Year Capital Improvement Program and Expenditure Strategy Plan; Approve and Adopt a Resolution, Approving Submittal of the Fiscal Year 2014-15 - 2018-19 Five-Year Capital Projects Needs Analysis to the San Bernardino Associated Governments, as Required by the Measure I Strategic Plan, RESOLUTION NOS. R-80-13 and R-81-13.

- (10) Inland Memorial Lease Agreement – Approved a Transfer of Lease Agreement for Operation of Hermosa Gardens Cemetery to New Ownership of Inland Memorial, Inc.
- (11) McKinley Park Restroom Project – Authorized Award of a Construction Contract for the McKinley Park Restroom Building Installation Project to Impact Modular Sales and Leasing as the Lowest Responsive and Responsible Bidder in the Amount of \$87,760; Authorized the City Manager or his Designee to Approve Change Orders Not-to-Exceed 10% of the Awarded Contract for the McKinley Park Restroom Building Installation Project. *Environmental Impacts: Staff recommends that the McKinley Park Restroom Building Installation Project be determined Categorically Exempt under California Environmental Quality Act (CEQA) Guidelines Section 15303(c). A Notice of Exemption will be filed with the County Clerk should Council take the actions recommended by Staff.*
- (12) Main Library Re-roofing Project – Awarded a Construction Contract for the Main Library Re-roofing Project to Corona Coating Corporation, as the Lowest Responsive and Responsible Bidder in the Amount of \$29,831; Authorized the City Manager or his Designee to Approve Change Orders Not-to-Exceed 10% of the Awarded Contract; Authorize Change Order No. 1 for Main Library Air Conditioning Replacement Project in the Amount of \$2,494 to Avis Plumbing and Heating, Inc. *Environmental Impacts: Staff recommends that the Main Library Re-roofing Project be determined Categorically Exempt under California Environmental Quality Act (CEQA) Guidelines Section 15303(d). A Notice of Exemption will be filed with the County Clerk should Council take the actions recommended by Staff.*
- (13) Minutes – Approved Minutes for the City Council Regular Meeting Held September 17, 2013; Minutes for the Regular Meeting Held October 1, 2013, on File in the Office of the City Clerk.
- (14) Employment Agreement for City Manager – Approved an Employment Agreement for City Manager Services with Stephen P. Compton.

PUBLIC HEARING

- (15) Appeal – Largo Concrete (heard before Consent Calendar as Item No. 1)

BUSINESS ITEMS

None.

CITY COUNCIL DISCUSSION ITEMS

None.

CITY MANAGER’S REPORTS

Newly appointed City Manager Compton explained that the City Manager’s report was distributed at the dais.

ADJOURNMENT

At 11:27 p.m., Mayor Zamora closed the Regular Council meeting in memory of William Bond and Dora Urrea.


Eileen C. Gomez, CMC
City Clerk