

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

September 18, 2012

The Regular Meeting of the Colton City Council was held on the above-given date and was called to order at 5:07 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 as follows:

CITY COUNCIL ROLL CALL

Council Members Present

Sarah S. Zamora, Mayor
David J. Toro
Frank A. Gonzales, Mayor Pro Tem
Susan M. Oliva
Deirdre Bennett
Alex G. Perez

Staff Present

Rod Foster, City Manager
Dean Derleth, City Attorney
Eileen C. Gomez, City Clerk

Council Members/Staff Absent

Vincent Yzaguirre

City Attorney Derleth announced that the City Council would meet in Closed Session to discuss Items A, B, C and D, and announced that reportable action was anticipated.

CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(a)
Case Name: Jhobanna Martinez, et al. v. Robert Dimas, City of Colton
Case Number: San Bernardino County Superior Court Case No. CIVDS 1101839
- B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code section 54956.9(b)
Potential cases: 1
(Velasco, Lara, Carlon)
- C. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Government Code section 54956.9(a)
Case Name: City of Colton v. American Promotional Events, Inc., *et al.*
Case Numbers: US District Court Case No. CV 09-01864
Los Angeles Superior Court Case No. BC 376008
Ninth Circuit Court of Appeals Case No. 06-56718

D. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Government Code Section 54957
Title: City Manager

Mayor Zamora adjourned the meeting to Closed Session at 5:10 p.m. and at 6:31 p.m., the meeting reconvened. Roll Call was announced by City Clerk Gomez with all members present as heretofore.

City Attorney Derleth reported that they did meet on all four Closed Session Items and announced that there was reportable action on Item C with unanimous approval for the settlement agreement consent decree with Pyro Spectaculars Inc. and will be available once it is finalized. City Attorney Derleth stated that Council also gave direction to provide for the sale of water as part of the basin clean-up process and the agreement will return to Open Session on the October 2, 2012 Council agenda.

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REGULAR MEETING

September 18, 2012

Open Session of the Regular Meeting was called to order on the above-given date at 6:31 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
Frank A. Gonzales, Mayor Pro Tem
Susan M. Oliva
Deirdre Bennett
Alex G. Perez

Staff Present

Rod Foster, City Manager
Dean Derleth, City Attorney
Eileen C. Gomez, City Clerk
Aurelio De La Torre, City Treasurer

Council Members/Staff Absent

Vincent Yzaguirre

INVOCATION

Chaplain Bob Johnson

FLAG SALUTE

Thomas Leon, VFW Post 6476

CEREMONIAL MATTERS *Presentations, Awards, Proclamations*

- Presentation - Colton's 125th Birthday Celebration Recognition of Dignitaries and Sponsors:
 - Dignitaries: Congressman Joe Baca Sr., Senator Gloria Negrete McLeod, Senator Bob Dutton, Assembly Member Wilmer Amina Carter, and San Bernardino County Supervisor Josie Gonzales.
 - Sponsors: Union Pacific Railroad, Republic Services, BNSF Railway, Vanir/Dominguez Plaza, California Cement Company, Best, Best & Krieger, James & Terri Ramos, San Bernardino County Supervisor Josie Gonzales, Roquet Paving, Leno's Rico Taco, Brithinee Electric, Bakers Burgers, Ashley Furniture, Colton City News, KOLA Radio 99.9, Signs for Help, and United Packing Group.

Mayor Zamora announced the ceremonial matters and invited Senator Gloria Negrete McLeod and her Field Representative Manuel Carrillo to give the first presentation. Senator McLeod read her resolution to the public and asked Senator Bob Dutton to join her at the podium to make the presentation as co-author of the resolution. Both received certificates presented to them on behalf of the Council by Mayor Zamora. Stephen Wall from Congressman Joe Baca's office made a presentation to the Colton Council on behalf of the Congressman, and received a certificate on behalf of the Congressman from Mayor Zamora. Mayor Zamora also made a presentation to Assembly Member Wilmer Amina Carter which was accepted by Senator Gloria Negrete McLeod. Chief of Staff Dan Flores presented a certificate on behalf of Supervisor Josie Gonzales and received a certificate in appreciation of her sponsorship for the 125th Birthday Celebration.

Mayor Zamora presented certificates to the Gold and Silver sponsors in attendance, announcing the list of all contributors that consisted of various dignitaries, sponsors, residents and business representatives that participated in Colton's 125th Birthday Celebration. Mayor Zamora also gave kudos to Community Services Director Bill Smith and Community Services Manager Deb Farrar and their staff for coordinating such a successful event.

Mayor Zamora presented a proclamation to Mayor Pro Tem Frank Gonzales in honor of his contribution to the 125th Birthday Celebration.

At 7:25 p.m., Mayor Zamora announced a short recess and adjourned the regular meeting to a reception in honor of Colton's 125th Birthday Celebration.

The regular meeting reconvened at 7:46 p.m. and Mayor Zamora continued with Mayor and Council Items.

MAYOR AND COUNCIL ITEMS

POSSIBLE CONFLICT OF INTEREST DISCLOSURES FOR THE COUNCIL MEETING OF SEPTEMBER 18, 2012.

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. None.

AB 1234 ORAL REPORTS

Council Member Bennett reported that she attended the League of California Cities conference in San Diego with Mayor Zamora, Council Members Oliva and Perez and City Clerk Gomez.

APPOINTMENTS

None.

PUBLIC COMMENT

The following community members addressed the Council:

Luis Gonzalez, Jose Marcial Giron, Jr., Gary Mitchell, Chris Mardis, Christine Irish-Ré and Gary Grossich.

MAYOR AND COUNCIL ORAL REPORTS AND COMMENTS

Council Members made comments on various issues and activities throughout the community.

CITY TREASURER'S REPORTS

City Treasurer De La Torre presented reports for June and July 2012 as receive and file.

CONSENT CALENDAR

City Manager Foster presented Consent Calendar Item Nos. 1 through 6 for action by Council.

The following action was taken on the Consent Calendar:

Mayor Zamora abstained from the vote on Item No. 1, due to her absence from the Special and Special Joint meeting held on January 30, 2012.

Council Member Oliva abstained from the vote on Item No. 6 due to her relationship with Union Pacific.

Motion and second by MPT Gonzales/CM Perez, to approve Consent Calendar Item Nos. 1 through 6. Motion carried with CM Yzaguirre being absent; Mayor Zamora abstaining on Item No. 1; and CM Oliva abstaining on Item No. 6.

- (1) Minutes – Approved Minutes for the City Council Special and Special Joint Meeting with the Utilities Commission Held January 30, 2012, on File in the Office of the City Clerk.

- (2) Warrants – Approved Payable Warrants #130284 to #130415, Dated 7/26/12, Totaling \$1,548,157.28; Payable Warrants #130416 to #130559, Dated 8/2/12, Totaling \$1,311,596.07; Payable Warrants #130560 to #130695, Dated 8/9/12 and Totaling \$999,610.88; Payroll Disbursement Listing for 8/4/12 to 8/17/12, Totaling \$595,654.71; and Payroll Disbursement Listing for 8/18/12 to 8/31/12, Totaling \$572,299.01, on File in the Finance Department.
- (3) Easement Vacation along Miguel Bustamante Parkway – Authorized the Mayor to sign and Execute a Quitclaim Deed for 10' Easement for Pipeline purposes of Real Property known as the Agua Mansa Power Plant along Miguel Bustamante Parkway.
- (4) Purchase of Itron Meters - Approved the Annual Purchase of Itron Meters from McAvoy & Markham Engineering Sales Company, Inc., in the Amount Not-to-Exceed \$156,859.
- (5) Second Reading of Ordinance No. O-09-12 – Waived Full Reading and Passed Second Reading of an Ordinance Adding Section 2.04.040 to the Colton Municipal Code Relating to the Supervision of the Executive Assistant to the Council/Office Manager and Making other Clarifying Changes to Section 2.16.070(B) of the Colton Municipal Code, ORDINANCE NO. O-09-12.
- (6) Sublease Agreement and Consent to Sublease Agreement – Approved Sublease Agreement and Consent to Sublease Agreement (City of Colton, Union Pacific Railroad, Ernest Grossich and Gary Grossich).

PUBLIC HEARING

- (7) Appeal of the Planning Commission's Denial of a Conditional Use Permit for the Sale of Beer & Wine for Off-Site Consumption at 1089 N. Rancho Avenue

TIME AND PLACE FIXED TO CONSIDER CONTINUED PUBLIC HEARING OF AUGUST 21, 2012, APPROVAL OF A RESOLUTION DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S DENIAL OF AN APPLICATION FOR A CONDITIONAL USE PERMIT FOR THE SALE OF BEER & WINE FOR OFF-SITE CONSUMPTION (TYPE 20 ABC LICENSE-OFF-SALE BEER & WINE) AND A PUBLIC CONVENIENCE AND NECESSITY DETERMINATION IN CONJUNCTION WITH A CONVENIENCE RETAIL STORE IN A NEWLY PROPOSED BUILDING LOCATED AT 1089 N. RANCHO AVENUE ON A +/- 0.37 ACRE SITE AND ZONED C-1 (NEIGHBORHOOD COMMERCIAL) (FILE INDEX NO: DAP-001-002).

Mayor Zamora opened the Public Hearing and the City Clerk reported that 118 protests were received.

Mark Tomich, Development Services Director, provided a PowerPoint presentation regarding the decision by the Planning Commission and the appeal process and restated staff recommendations for this item.

Representatives for the Appellant approached the podium and gave comments on behalf of 7-11 and provided information regarding the denial of the appeal.

Mayor Zamora left the dais at 9:00 p.m., due to an emergency and MPT Gonzales presided for the duration of this meeting.

MPT Gonzales opened Public Comment with the following members of the community in protest of this project:

Anthony Garcia, Loretta Caldez, George Aguilar, Jesus Ordoñez, Theresa Arevalo, Matthew Frazier on behalf of Ronald Espinosa, Christine Irish-Ré, Theresa Burns, Darryl Fisher, Einer Soberonis, Ron Lawrence, and Bob Zermeno.

Motion and second by CM Oliva/CM Bennett, to close the public hearing. Motion carried with CM Yzaguirre and Mayor Zamora being absent.

There was discussion regarding the appeal process and Council Members continued to address staff with questions and gave comments on this item.

Motion and second by CM Toro/Oliva, to approve staff recommendations to uphold the Planning Commission's decision to deny the appeal, and adopt Resolution No. R-60-12. MPT Gonzales asked for a Roll Call vote. The vote on this item was as follows: MPT Gonzales, Toro, Oliva, Bennett, Perez voting yes. Motion carried with Mayor Zamora and CM Yzaguirre being absent.

(8) 2012 Annual Weed Abatement Program

TIME AND PLACE FIXED TO CONSIDER ANY OBJECTIONS OR PROTESTS FROM PROPERTY OWNERS FOR WEED ABATEMENT SERVICES PERFORMED DURING THE 2012 ANNUAL WEED ABATEMENT PROGRAM.

MPT Gonzales opened the Public Hearing and the City Clerk reported that no protests or objections were received.

Alan Sork, Fire Marshal was available to answer questions from Council Members. CM Oliva asked that we move forward on this item since the staff report was already distributed.

MPT Gonzales opened Public Comment and no community members addressed the Council on this item.

Motion and second by CM Oliva/Toro, to close the public hearing. Motion carried with CM Yzaguirre and Mayor Zamora being absent.

There was discussion regarding this item and staff answered questions from Council Members.

Motion and second by CM Oliva/Bennett, to approve staff recommendation. Motion carried with CM Yzaguirre and Mayor Zamora being absent.

(9) Solid Waste Rates

TIME AND PLACE FIXED TO CONSIDER MUNICIPAL SOLID WASTE RATES.

MPT Gonzales opened the Public Hearing and the City Clerk reported that 13 objections were received.

City Manager Foster and Public Works Director Amer Jakher provided information and answered questions from Council Members regarding current rates and the proposed increase.

MPT Gonzales opened Public Comment and no community members addressed the Council on this item.

Motion and second by CM Bennett/Oliva, to close the public hearing. Motion carried with CM Yzaguirre and Mayor Zamora being absent.

There was discussion regarding this item and staff answered questions from Council Members.

Motion and second by CM Bennett/Toro, to approve staff recommendation and adopt Resolution No. 62-12. The vote on this item was as follows: Motion carried with Council Members Toro, Oliva, Bennett and Perez voting yes; MPT Gonzales voting no; and CM Yzaguirre and Mayor Zamora being absent.

BUSINESS ITEMS

(10) Update on Guyaux Landfill. (Verbal Report)

Development Services Director Mark Tomich presented this item and gave a PowerPoint presentation outlining the Guyaux Landfill area.

At 10:28 p.m., MPT Gonzales polled the attending Council Members to go past the 10:30 p.m. council meeting rule. It was the consensus of the Council to continue with this item past 10:30 p.m.

MPT Gonzales opened Public Comment on this item. The following community members addressed the Council: Amador Roman and Gary Grossich.

CITY COUNCIL DISCUSSION ITEMS

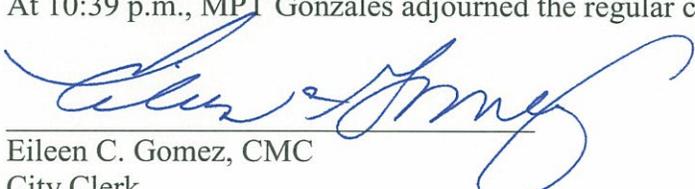
None.

CITY MANAGER'S REPORTS

None.

ADJOURNMENT

At 10:39 p.m., MPT Gonzales adjourned the regular council meeting.



Eileen C. Gomez, CMC
City Clerk