

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

March 4, 2014

The Regular Meeting of the Colton City Council was held on the above-given date and was called to order at 5:00 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 (arrived at 5:04 pm)
Frank A. Gonzales
Frank J. Navarro
Susan M. Oliva
Deirdre H. Bennett
Isaac T. Suchil, Mayor Pro Tem

Staff Present

Stephen P. Compton, City Manager
Eileen C. Gomez, City Clerk
Cristina Talley, City Attorney
Dr. David Kolk, Electric Utility Director
Bill Smith, Community Services Director

Council Members/Staff Absent

None.

City Attorney Cristina Talley read Closed Session titles A through C into the record.

CLOSED SESSION

- A. CONFERENCE WITH LABOR NEGOTIATORS
Pursuant to Government Code Section 54957.6
Agency Designated Representative: Bill Smith, Community Services Director, Ted Cooper, Human Resources Manager
Employee Organizations: International Brotherhood of Electrical Workers (IBEW) Electric
Agency Designated Representative: Bill Smith, Community Services Director; Ted Cooper, Human Resources Manager
Employee Designations: Water and Wastewater
Agency Designated Representative: Bill Smith, Community Services Director and Ted Cooper, Human Resources Manager
Employee Designations: Colton Police Officers Association
Amer Jakher, Public Works Director; Bill Smith, Community Services Director and Ted Cooper, Human Resources Manager
- B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Initiation of Litigation Pursuant to Government Code Section 54956.9(d)(4)
Number of Potential Cases: 1 (City of Grand Terrace – Sewer Agreement)
- C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)
Case Name: Largo Concrete, Inc., et al. v. City of Colton, et al.
Case Number: San Bernardino County Superior Court Case No. CIVDS1400406

CLOSED SESSION PUBLIC COMMENT

None.

Mayor Sarah S. Zamora adjourned the meeting to Closed Session at 5:02 p.m. and at 6:01 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 Cristina Talley announced that the City Council did meet in Closed Session and discussed Items A through C with no reportable action.

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

March 4, 2014

Open Session of the Regular Meeting was called to order on the above-given date at 6:01 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
Frank J. Navarro
Susan M. Oliva
Deirdre H. Bennett
Isaac T. Suchil, Mayor Pro Tem

Staff Present

Stephen P. Compton, City Manager
Eileen C. Gomez, City Clerk
Cristina Talley, City Attorney
Aurelio De La Torre, City Treasurer
Jessica Hurst, Finance Manager
Bill Smith, Community Services Director
Dr. David Kolk, Electric Utility Director
Steve Ward, Police Chief
Jeff Bender, Loma Linda Fire Chief
Amer Jakher, Public Works Director
Mark Tomich, Development Services Director

Council Members/Staff Absent

None.

INVOCATION

Pastor Ron Hamann, Centerpoint Church

FLAG SALUTE

Steve Ferrance, American Legion Post 155

CEREMONIAL MATTERS *Presentations, Awards, Proclamations*

None.

MAYOR AND COUNCIL ITEMS

POSSIBLE CONFLICT OF INTEREST DISLOSURES FOR THE COUNCIL MEETING OF MARCH 4, 2014.

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.

MAYOR AND COUNCIL DISCUSSION ITEMS

None.

APPOINTMENTS

None.

PUBLIC COMMENT

The following community members addressed the Council:

Rich Randolph, Colton Police Officers Association; Paulina Schiaretti, Chicano Latino Caucus; John Baca, IBEW Representative; Paula Flores and Randy Rivera, Relay For Life; Chetay Catalano, Chamber of Commerce; Gary Butler; Dr. Luis González; and Arnold San Miguel, Southern California Associated Governments (SCAG).

MAYOR AND COUNCIL ORAL REPORTS AND COMMENTS

It was a consensus of the Council to move this item to the end of Open Session.

CITY TREASURER'S REPORTS

None.

Motion and second by MPT Suchil/CM Bennett, that Item No. 9 and Item No. 10 under Public Hearings, be moved up to be heard before the Consent Calendar. Unanimous vote.

PUBLIC HEARINGS

- (9) Appeal - Largo Concrete, Inc. (240 E. Congress Street – APN: 0163-391-11)

TIME AND PLACE FIXED TO CONSIDER AN APPEAL TO THE CITY COUNCIL REGARDING THE PLANNING COMMISSION'S DECISION DENYING A CONDITIONAL USE PERMIT 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 (FILE INDEX NO: DAP-001-099). RESOLUTION NO. R-19-14 AND RESOLUTION NO. R-20-14.

Mayor Zamora read the title of Resolution Nos. R-19-14 and R-20-14 into the record.

City Clerk Gomez announced that the affidavit of publication is on file in the City Clerk's Office and no protests or objections were received.

Development Services Director Mark Tomich provided a PowerPoint presentation and summarized the information in the staff report regarding the history of the Planning Commission's decision to deny the Conditional Use Permit (CUP) for the Largo Concrete project.

PUBLIC COMMENT

The following community members addressed the Council:

Madison Warner, Dr. Luis González, Danny Morales, Eufemia Reyes, Mariano Aguila, Amador Roman, Ericka Flores, Susan Negrete, Rachel Warner, Christine Irish-Ré, and John Anaya, Sr.

Largo Representatives/Legal Counsel

Andreas Weaver, Largo, Inc.; Megan Garibaldi, Rutan & Tucker; Dr. Arek Balci, property owner; Ken Long, Largo, Inc.

At 7:15 p.m., Mayor Zamora adjourned the regular meeting for a brief recess and at 7:31 p.m., the meeting reconvened with all members present as heretofore.

Mayor Zamora asked the Council if they would consider continuing the Public Hearings, Item Nos. 9 and 10, to the next regular Council meeting. Mayor Zamora stated that she is feeling ill and that Council Member Oliva is also feeling sick. Mayor Zamora also stated that she would like to be able to participate and asked if the Council would support her request. She apologized and asked to be excused from the remainder of this meeting.

CM Bennett expressed concern regarding this request and reminded the Council that there is an audience present that came out to give their testimony. She also stated that the City Clerk would need to republish the hearings.

City Attorney Talley stated that if the hearing is not closed and the matter is continued to a date certain, then there is no need to renotice the hearing. She also stated that all of the testimonies presented are part of the administrative record so there is no need for these members to return to the continued hearing. There was discussion regarding this process and City Attorney Talley informed the Council that they can close the public hearing and continue the matter to a date certain and that there will be no further evidence or testimony. She continued to explain the options regarding the continued hearing and advised the Council that it would be appropriate to take action by motion and to be clear on the date that this matter is to be continued and whether or not the hearing is open or closed.

CM Gonzales explained that there should be a full Council and that two weeks would be too long to adjourn this meeting and continue the public hearing. He asked if we could have a special meeting next week and continue the public hearing since testimony was already given. CM Oliva asked City Attorney Talley if the hearing could be heard at a special meeting and Mrs. Talley explained that the hearing could be continued to an adjourned meeting. There was discussion regarding setting a date for an adjourned meeting to continue the hearing.

CM Toro stated that he was sorry that the Mayor and CM Oliva are sick, but he previously stated that he did not want to continue this meeting and that this is the third time this item has been continued. He also stated that he read the staff reports, heard the audience and the applicant and although he still had a few questions, he was ready to move forward.

Mayor Zamora stated that she would be leaving the dais and expressed it was unfair to continue with this item. She explained that she is ill and could not proceed with the meeting. Mayor Zamora asked the Council again if they would consider moving this meeting to next Tuesday.

CM Toro asked that the gavel be passed to Mayor Pro Tem Suchil to continue with this meeting and if not, he asked the Mayor to continue with this meeting.

Mayor Zamora and CM Oliva excused themselves from the meeting and left the dais at 7:42 p.m.

Mayor Pro Tem Suchil presided over the remainder of the meeting.

Motion and second by CM Bennett/Navarro, to close the public hearing.

CM Gonzales stated that he did not want to proceed without the full Council due to the sensitivity of this item. He continued to provide a summary of past proceedings of this matter and asked that the Council reconsider continuing the public hearing to a future meeting.

CM Gonzales made a subsequent motion to continue the hearing to the next regular Council meeting. Mr. Compton attempted to set a meeting date for a special meeting to hear this item and was unable to do so due to conflicts. Motion died due to lack of a second.

MPT Suchil restated the previous motion by CM Bennett, seconded by CM Navarro, to proceed and close the public hearing.

At 7:47 p.m., CM Gonzales stated that he was recusing himself from this item and left the dais.

CM Bennett commented that although she was sick the last time this item was agendized, Council continued to vote on this item. She stated that she understands being sick and that when she was absent from that meeting, she did not anticipate the outcome of the vote and agreed with CM Toro to continue with this item this evening. CM Bennett asked City Attorney Talley if the vote on this item had to be a majority of members present or did it need a supermajority vote. Mrs. Talley continued to explain the process and reminded the Council that all remaining council members need to stay for the remainder of the hearing to continue.

MPT Suchil restated the previous motion again by CM Bennett, seconded by CM Navarro, to proceed with this hearing and close the public hearing. Motion carried with Mayor Zamora, and Council Members Oliva and Gonzales being absent.

MPT Suchil asked for decorum in the audience and stated that the public hearing is closed. At this point, Megan Garibaldi of Rutan & Tucker, legal counsel for the applicant, approached the podium and asked that the City Attorney advise the Council to reopen the public hearing.

MPT Suchil asked for a motion to reopen the public hearing. Due to no motion, the request failed.

MPT Suchil commented that he would respond to what he considered a personal attack and provided a brief history of his background in law enforcement, providing a story from his past and how it relates to his opinion of the property owner. He also stated that he was elected by the residents and it is their best interest that he is concerned with and is prepared to move forward with a lawsuit if necessary.

CM Bennett asked City Attorney Talley about a statement that was made regarding the right for the City to hear this issue again and that it was decided with the three-three vote that ended up in a no vote. She asked if we are following the procedures that protect the community, the business owners and the residents in the area.

City Attorney Talley responded that it is their opinion that this matter is properly before the Council for consideration.

CM Bennett explained that she supports the constitution and believes in the 14th Amendment right and continued to read an excerpt from the constitution regarding due process of law. She continued to read information provided by a community member regarding a 1984 resolution that was passed by the Council regarding statements pertaining to a general plan amendment that changed the zoning for this residential area. In an effort to protect the residents in the area, the Council created a Sensitive Development Area overlay. CM Bennett continued to provide information as stated in the 1984 resolution and staff report as well as comments that were provided by Council Member in office at that time. She continued to explain information that was provided regarding the Sensitive Development Area overlay matter. CM Bennett made the determination that the intent was to review any future development and that the Planning Commission has the right to refuse approval for any project deemed unfit for the area in question. She continued to provide an explanation of the information presented to Council regarding air quality and environmental justice and the affect it has on our community.

CM Bennett made a motion to move Resolution No. R-19-14, and uphold the Planning Commissions denial of the application for a conditional use permit.

CM Toro explained that he would like to hear from the attorney for Largo, Inc. and asked Megan Garibaldi with Rutan & Tucker to approach the podium to answer questions.

Mrs. Garibaldi explained that she was informed by the City that they were guaranteed that the full Council with all seven members would be present to vote on this item. There was discussion regarding the time frame for the hearing and the reasons it is necessary to proceed with this hearing. Discussion ensued and Mrs. Garibaldi and staff answered questions from the Council.

City Attorney Talley commented that she wanted to make sure that the Council understood that they needed to discuss the information provided for this particular public hearing which is the appeal of the Conditional Use Permit and not the revocation. Council Members continued with their questions and comments regarding this matter. Mrs. Garibaldi explained that they are not considering any prior statements and declined to answer Council questions. City Attorney Talley stated that this is a denovo hearing and the Council will consider everything that was submitted for this meeting. Mrs. Talley stated that if the documents before the Council that are attached to the staff report reflect prior hearings, then it is considered part of the record and do not need to be discussed again since this is a new hearing.

Mrs. Garibaldi stated that they were unaware that this was a denovo hearing and that the only reason they were here was because the Council failed to reach a decision at the last meeting. MPT Suchil continued to ask questions and Mrs. Garibaldi continued to answer that this information was addressed at a previous Council meeting. Discussion and comments continued regarding this item.

Motion and second by CM Bennett/Toro, to approve and adopt Resolution No. R-19-14, denying the appeal and upholding the Planning Commissions decision. Roll call vote was taken by City Clerk Gomez as follows: MPT Suchil – yes; CM Bennett – yes; CM Navarro – yes; CM Toro – yes. Motion carried with Mayor Zamora and Council Members Oliva and Gonzales being absent.

(10) Appeal – Revocation of CUP (File Index No. DCV-77-01) Appeal File Index No. DAP-001-137

TIME AND PLACE FIXED TO CONSIDER AN APPEAL TO THE CITY COUNCIL REGARDING THE PLANNING COMMISSION'S DECISION REVOKING CONDITIONAL USE PERMIT (FILE INDEX NO. DCV-77-01) – THAT ALLOWED A PALLET MANUFACTURING AND LUMBER STORAGE YARD 7.6-ACRE SITE IN THE M1/SDA – LIGHT INDUSTRIAL ZONE AND SENSITIVE DEVELOPMENT AREA OVERLAY ZONE (FILE INDEX NO: DAP-001-137). RESOLUTION NO. R-16-14.

Development Services Director Mark Tomich provided a PowerPoint presentation and summarized the information in the staff report regarding the history of the appeal. He continued to explain the reasons for the revocation and the basis for the Planning Commission's decision and reported that the recommendation is to open the public hearing and to consider the appeal, the staff report and all written documents and testimony. Mr. Tomich answered questions from Council Members and provided more information regarding the revocation.

MPT Suchil read the title of Resolution No. R-16-14 into the record and opened the public hearing.

CM Toro asked Rachel Warner to come forward to answer questions regarding previous history of the storage yard property and the reason she opposed this project. CM Toro continued with comments regarding environmental issues in that area.

PUBLIC COMMENT

The following community members addressed the Council:

Rachel Warner and Amador Roman.

Largo Representatives/Legal Counsel

Megan Garibaldi, Rutan & Tucker; Andreas Weaver, Largo, Inc.; Dr. Arek Balci, property owner.

Motion and second by CM Bennett/Navarro, to close public comment and close the public hearing. Motion carried with Mayor Zamora and Council Members Oliva and Gonzales being absent.

CM Bennett provided more history of the existing conditional use permit. Development Services Director Tomich continued to answer questions from the Council and there was discussion regarding the revocation.

Council Member Navarro called for the vote and made a motion, seconded by CM Toro, to revoke the existing conditional use permit located at the formerly known Pico Rivera Pallet Company, previous identification on the DAP File 001-137 and affirm the Planning Commission's decision.

City Attorney Talley asked for clarification of the motion.

MPT Suchil restated the motion by CM Navarro, and second by CM Toro, a Resolution of the City Council of the City of Colton denying the appeal and upholding the Planning Commission's revocation of Conditional Use Permit File Index No. DCV-77-01, that allowed a pallet manufacturing and lumber storage yard on a 7.6 acre site located at 240 E. Congress Street in the M-1/SDA (Light Industrial Zone and Sensitive Development Area Overlay Zone) (File Index No.: DAP-001-137). Roll Call vote was taken by City Clerk Gomez as follows: MPT Suchil – yes; CM Bennett – Yes; CM Navarro – Yes; CM Toro. Motion carried with Mayor Zamora and Council Members Oliva and Gonzales being absent.

Motion and second by CM Toro/Bennett, to approve the Consent Calendar, Item Nos. 1 through 8 as presented. Roll Call vote was taken by City Clerk Gomez as follows: MPT Suchil – yes; CM Bennett – Yes; CM Navarro – Yes; CM Toro. Motion carried with Mayor Zamora and Council Members Oliva and Gonzales being absent.

- (1) Minutes – Approved Minutes for the City Council Regular Meeting Held February 4, 2014 and Minutes for the City Council Regular Meeting Held February 18, 2014, on File in the Office of the City Clerk.
- (2) Warrants – Approved Payable Warrants #139832 to #139901, Dated 1/2/14, Totaling \$395,954.02; Payable Warrants #139902 to #140021, Dated 1/9/14, Totaling \$732,913.36; and a Payroll Disbursement Listing for the Period 2/1/14 to 2/14/14, Totaling \$649,398.02, on file in the Finance Department.
- (3) Second Reading of Ordinance No. O-03-14 - A Zoning Text Amendment to Streamline Administrative and Minor Discretionary Permit Review and Approval Processes. (File Index No. DAP-001-133), ORDINANCE NO. O-03-14.
- (4) Annual Weed Abatement Program Approved a Resolution Regarding the Annual Weed Abatement Program as Administered by the Colton Fire Department and Set the Public Hearing for the Council Meeting of March 18, 2014, RESOLUTION NO. R-17-14.
- (5) Contract with Knorr Systems - Authorized the Award of a Construction Contract for the Installation of an Ultra-Violet (UV) Water Filtration System into the "Rain Forest" Feature at the Gonzales Center Aquatics Facility to Knorr Systems, Inc., in the Amount of \$33,650 and Authorize the City Manager to Execute Documentation to Effectuate this Contract.
- (6) Agua Mansa Sewer Force Main Project – Approved Change Order No. 2 and Change Order No. 3 (Conduit bank casing for Electric Department) for the Agua Mansa Sewer Force Main Project in the Amount of \$233,615.05 and \$57,000 respectively; and Approve a Resolution that Establishes an Appropriation for the Funding of Agua Mansa Sewer Force Main Project, RESOLUTION NO. R-18-14.
- (7) MOU - CPOA – Approved the Memorandum of Understanding (MOU) between the City of Colton and the Colton Police Officers Association.
- (8) MOU - IBEW/Electric and Water/Wastewater – Approved the Memorandums of Understanding between the City of Colton and the International Brotherhood of Electrical Workers (IBEW) Electric, Water and Wastewater Units.

MAYOR AND COUNCIL ORAL REPORTS AND COMMENTS

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

CITY COUNCIL DISCUSSION ITEMS

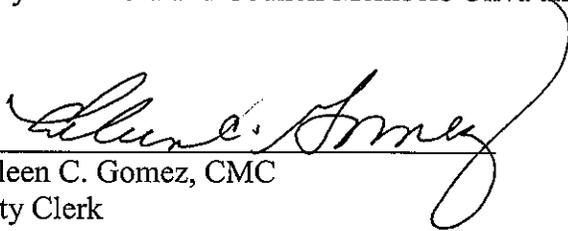
None.

CITY MANAGER'S REPORTS

City Manager Compton provided a brief explanation of his current working projects including an update on the Rancho Mediterranea assessments and the storm damage to public facilities.

ADJOURNMENT

At 8:04 p.m., MPT Suchil made a motion to adjourn, seconded by CM Navarro. Motion carried with Mayor Zamora and Council Members Oliva and Gonzales being absent.


Eileen C. Gomez, CMC
City Clerk

At the Regular Council meeting held on March 18, 2014, the minutes for the March 4, 2014 meeting were approved in part as Mayor Zamora and Council Member Oliva were absent from a portion of this meeting due to illness and Council Member Gonzales was also absent. The approval for the minutes for this meeting was as follows:

Mayor Zamora: Approved pages 1 through 4 and paragraphs 1, 2 and 3 on page 5.

Council Member Gonzales: Approved pages 1 through 4 and paragraphs 1 through 9 on page 5.

Council Member Oliva: Approved pages 1 through 4 and paragraphs 1, 2 and 3 on page 5.