

MINUTES OF THE REGULAR SANGER CITY COUNCIL MEETING

August 15, 2013
6:00 P.M.
Council Chamber

The regular meeting convened at 6:05 P.M.

Councilmembers Present: MITCHELL, NIELSON, CANTU
Councilmembers Absent: ONTIVEROS, PACHECO

PUBLIC FORUM PRIOR TO CLOSED SESSION

None

CLOSED SESSION

Council went into Closed Session to:

1. Pursuant to Government Code Section 54957.6
Conference with Labor Negotiators
Agency Representatives: City Manager Brian Haddix, City Attorney Jenell Van Bindsbergen, Finance Director Debby Sultan, City Clerk Becky Hernandez
Employee Organizations: All Bargaining Groups
2. Pursuant to Government Code Section 54956.9 (d)(1)
Conference with Legal Counsel – Existing Litigation
City of Sanger, et al v. County of Fresno
Fresno Superior Court Case No. 08CECG03535
5th District Appellate Case No. F060148

Councilmember Pacheco arrived at 6:08 p.m.

The City Council reconvened their meeting at 7:08 p.m.

OPENING CEREMONIES

The invocation was given by Pastor Chuck Antaramian.
The flag salute was led by Mayor Mitchell.

ROLL CALL

Present: MITCHELL, NIELSON, ONTIVEROS, CANTU, PACHECO
Absent: NONE

CITY ATTORNEY REPORT FROM CLOSED SESSION

City Attorney Jenell Van Bindsbergen reported no action taken.

AGENDA APPROVAL

APPROVED – The Council by motion of Councilmember Ontiveros approved the agenda as presented. The motion was seconded by Councilmember Cantu and unanimously approved.

CEREMONIAL MATTERS

1. The City Council recognized Comprehensive Youth Services/Sanger Family Resource Center, Christian Medical Dental Association, Communities, Inc., Sanger Parks & Recreation Department and Grace Community Church for hosting the 2013 Sanger Health Fair.
2. Dr. Sandra Caldwell introduced herself as the newly appointed Reedley College President.
3. Public Works Director John Mulligan made a presentation of the two newly acquired GEM electric utility vehicles funded by a grant from the San Joaquin Valley Air Pollution Control District.

The Council called for a recess at 7:32 p.m.

The Council reconvened their meeting at 7:42 p.m.

PUBLIC FORUM

None.

CONSENT CALENDAR

The Council by motion of Councilmember Ontiveros pulled Item H-1 Monthly Warrants for separate discussion and approved the following items on the Consent Calendar:

APPROVED – Item H-2 Minutes for the Regular Council Meeting of August 1, 2013.

ACCEPTED – Item H-3 Treasurer's Report as of June 30, 2013.

APPROVED – Item H-4 Disposal of Surplus Property
The Council approved Resolution No. 4428 declaring the Sanger Fire Department property listed in Attachment A as surplus property and authorized disposal or transfer of surplus property pursuant to Municipal Code Section 2-212 and Government Code Section 37350.

The motion was seconded by Councilmember Pacheco and unanimously approved.

After separate discussion, the Council by motion of Councilmember Ontiveros approved the following item on the Consent Calendar:

REVIEWED – Item H-1 Warrants No. 61271 through 61348.

The motion was seconded by Councilmember Cantu and unanimously approved.

PUBLIC HEARING

ITEM I-1 – APPROVED – RESOLUTION NO. 4429 – Denying Appeal by Consolidated Irrigation District of Planning Commission Approval of Site Plan Review 2012-05

The Council opened the public hearing.

Comment was received from Phil Desatoff, General Manager of Consolidated Irrigation District.

Special Counsel to Consolidated Irrigation District Marsha A. Burch distributed to Council a letter with attachments from Consolidated Irrigation District Attorney P. Scott Browne and provided a summarization of the letter.

City Attorney Jenell Van Bindsbergen reported that, at the request from Special Counsel Marsha A. Burch, Council was provided with the June 27 letter from Phil Desatoff to the Planning Commission outlining the appeal.

Special Counsel Marsha A. Burch read the following into the record:

There's a case, and it's out of our 5th District right here in Fresno County, Coalition for Clean Air v. the City of Visalia. It's a 2012 case where a notice of exemption is filed before the project is approved, it is void. The reason being, notice of exemption gets filed the project isn't even underway. It's not on anybody's radar and if it were the case that you could months and months in advance file your notice of exemption and then later consider and approve the project then no notice of exemption would ever be challenged and clearly that is not a workable scenario and the 5th District didn't think so either. So I don't believe that the statute of limitations is a concern in this particular situation. The appeal was timely filed and that notice of exemption I don't believe is in force at the moment. With respect to the categorical exemption, at the risk of really belaboring these details, I think it's important to understand the CEQA guidelines lay out these categorical exemptions so that when there is a project that truly fits within the description of one of these categories it makes sense to streamline that environmental review and not spend a lot of time and money and energy reviewing something that really doesn't have possibility of having a significant impact. CEQA guidelines Section 15332 that sets out the criteria if the project is consistent with the applicable general plan and its policies, zoning designations, etc., the proposed development occurs within City limits on a project site of no more than five acres substantially surrounded by urban uses, the project has no value as habitat for endangered, rare or threatened species, and approval of the project would not result in any significant effects relating to traffic, noise, air quality or water quality. That is, those are the criteria for an exemption, a categorical exemption and that's the one that was relied upon by Staff in this particular case. You then take the step of determining whether or not it is subject to an exception to the exemption and that's a two step analysis and that's another CEQA guideline Section 15300.2 that says where there are unusual circumstances that create a reasonable possibility it is exempt it is an exception to the exemption. There's another exception and that is where the cumulative impacts could be significant and I know we just heard some numbers here and it sounds small but when you start thinking about the cumulative impact of residential project after

project after project after project and there's no mitigation going on this aquifer is in overdraft. And when you look at the overall numbers it's sort of like the ocean, well we can't pollute we'll just keep dumping things into it it'll be okay. But at some point that very large number starts to dwindle and if we continue to approve residential development without addressing this as a community, as a region, then those impacts cumulatively will be significant so in our view this is one of those situations that fall within that exception to the exemption and they do seem small in a way, these individual residential projects when you look at them one by one, but that is the problem. And it's like farmland conversion and I understand that this particular parcel has been designated for urban use for some period of time. CID also raises agricultural impacts pretty consistently when it comes to the aquifer in general because the farmers are relying on that aquifer, as well as, you know, the residential development that's going on. But in this case I do believe that with each individual residential development that's approved we're chipping away at that resource. So I hope that clears up the categorical exemption issue. Thank you.

Public comment was received from Julian Chapa, Eve Castellanos, Henry Provost, and Phil Desatoff.

The Council by motion of Councilmember Ontiveros adopted Resolution No. 4429 denying the appeal by Consolidated Irrigation District and approving Site Plan Review 2012-05. The motion was seconded by Councilmember Pacheco and unanimously approved.

DEPARTMENT REPORTS

ITEM J-1 – Planning Commission Appointments

The Council by motion of Councilmember Pacheco made a motion to appoint Ken Garcia, Olga Huerta, BJ Jhutti, and Frank Valles to the City's Planning Commission. The motion was seconded by Councilmember Ontiveros and approved by the following vote:

AYES:	COUNCILMEMBERS:	MITCHELL, NIELSON, ONTIVEROS, PACHECO
NOES:	COUNCILMEMBERS:	CANTU
ABSTAIN:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	NONE

ITEM J-2 – TABLED – ORDINANCE NO. 1139 – Committee/Commission Reorganization

Public comment was received from J.D. Bennett, Dan Spears, Kathryn Pacheco, Don Steinhauer, Marci Licon, and Cheryl Senn.

The Council by motion of Councilmember Ontiveros tabled Item J-2 with requested changes: 1) strike the Veterans Advisory Committee; 2) all commissions/committees except the Planning Commission consist of up to seven members but no less than five; 3) the Economic Development Committee boundaries for membership be within five miles of the city limits in all directions; 4) the Parks & Recreation Committee have boundaries for membership consistent with the Sanger Unified School District boundaries; 5) ensure pay of commissioners/committee members is

timely and within bounds of City procedures; and 6) include language to determine outcome of a tie vote in the event of an even number of membership. The motion was seconded by Councilmember Cantu and unanimously approved.

Councilmember Ontiveros excused himself and left the dais at 9:50 p.m.

ITEM J-3 – CDBG Funding Application for Fiscal Year 14/15

The Council by motion of Councilmember Pacheco allocated \$30,000 of CDBG funding towards sewer, water, landscape, and parking. The remainder of the funding is to be used for the continuation of the program to install streetlights in areas of town where they are deficient or non-existent. The motion was seconded by Mayor Pro Tem Nielson and approved by the following vote:

AYES:	COUNCILMEMBERS:	MITCHELL, NIELSON, ONTIVEROS, PACHECO
NOES:	COUNCILMEMBERS:	CANTU
ABSTAIN:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	ONTIVEROS

ITEM J-4 – APPROVED – RESOLUTION NO. 4430 – Approval of Professional Services with Quad Knopf to perform an Environmental Review for the Proposed Solar PV System

Mayor Mitchell left the dais at 10:41 p.m.

The Council by motion of Councilmember Cantu: 1) approved Resolution No. 4430 approving a 2013-2014 Fiscal Year Budget Amendment providing an appropriation of \$16,300 for the performance of an Environmental Review for the proposed Solar Photovoltaic (PV) System; 2) approved the budget amendment to the FY 13/14 budget; 3) authorized the Finance Director to make the appropriate amendments to the FY 13/14 budget; and 4) authorized the City Manager or his designee to sign all documents related to the agreement. The motion was seconded by Councilmember Pacheco and approved by the following vote:

AYES:	COUNCILMEMBERS:	NIELSON, CANTU, PACHECO
NOES:	COUNCILMEMBERS:	NONE
ABSTAIN:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	MITCHELL, ONTIVEROS

ITEM J-5 – APPROVED – Agreement with Comcast for Broadband Internet Service

Mayor Mitchell returned to the dais at 10:44 p.m.

Councilmember Cantu left the dais at 10:44 p.m.

The Council by motion of Mayor Pro Tem Nielson; 1) approved the agreement with Comcast for Business Class Internet Services; and 2) authorized the City Manager to sign the agreement on behalf of the City. The motion was seconded by Councilmember Pacheco and

approved by the following vote:

AYES:	COUNCILMEMBERS:	MITCHELL, NIELSON, PACHECO
NOES:	COUNCILMEMBERS:	NONE
ABSTAIN:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	ONTIVEROS, CANTU

ITEM J-6 –APPROVED – Fresno-Madera Area Agency on Aging (FMAAA) Contracts for FY 13/14

Councilmember Cantu returned to the dais at 10:46 p.m.

The Council by motion of Councilmember Pacheco: 1) approved the two contracts between the City of Sanger and the Fresno-Madera Area Agency on Aging (FMAAA) which encompasses the entire FY 13/14; and 2) authorized the City Manager to sign the contracts on behalf of the City. The motion was seconded by Mayor Mitchell and approved by the following vote:

AYES:	COUNCILMEMBERS:	MITCHELL, NIELSON, CANTU, PACHECO
NOES:	COUNCILMEMBERS:	NONE
ABSTAIN:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	ONTIVEROS

ITEM J-7 – APPROVED – RESOLUTION NO. 4431 – Elimination of Part-Time Employee Classification, Hourly Wage Rate and Bilingual Benefit for the Reserve Police Officer position

The Council by motion of Councilmember Cantu approved Resolution No. 4431 eliminating the part-time employee classification, hourly wage rate and bilingual benefit for the Reserve Police Officer position. The motion was seconded by Mayor Pro Tem Nielson and approved by the following vote:

AYES:	COUNCILMEMBERS:	MITCHELL, NIELSON, CANTU, PACHECO
NOES:	COUNCILMEMBERS:	NONE
ABSTAIN:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	ONTIVEROS

CITY MANAGER/STAFF COMMUNICATIONS

City Manager Brian Haddix reported the following: met with a gentleman to discuss capturing taxable income with the City; thanked staff and others involved in the backpack giveaway / back to school party; attending the dedication for Highway 180 tomorrow; meeting with Jim Boren of the Fresno Bee tomorrow; updated the economic development status of Lennar, Royal Woods, Monterey Homes, Palisades, Dr. Horton, Carl's Jr., Sonic Drive In, Adventist Health expansion,

and the Pitman Farms expansion; Comcast is surveying the Tech Park to determine if they can service the area; gave kudos to the Fire and Police Departments for working with SUSD on an active shooter drill; commented on the great turn out of the National Night Out event; met with the Chamber regarding progress on their business plan; met with SUSD on performance measures for the Media Lab; and met with Fresno State President Joseph Castro.

MATTERS INITIATED BY CITY COUNCILMEMBERS

Councilmember Cantu reported his attendance to United Health Center's event and toured the site.

Mayor Pro Tem Nielson commended staff on the National Night Out event and the Movies in the Park.

ADJOURNMENT

Being no further business, the Council adjourned their meeting at 10:52 P.M.