The regular meeting of the Selma City Council was called to order at 7:09 p.m. in the Council Chambers. Council members answering roll call were: Avalos, Derr, Lujan, Mayor Pro Tem Rodriguez and Mayor Grey.

Also present were City Manager Heusser, City Attorney Costanzo, Interim Police Chief Dyck, Acting Fire Chief Kain, Financial Consultant Yribarren, the press and interested citizens.

The agenda for this meeting was duly posted in a location visible at all times by the general public seventy-two hours prior to this meeting.

**POSSIBLE CONFLICT OF INTEREST**: Council member Derr stated that he wished to recuse himself from agenda item 4 due to a possible conflict of interest.

**SPECIAL PRESENTATIONS**: Ms. Erica Cabrera, Assemblyman Perea’s District Director stepped forward and presented Lance Pearce with a resolution for his courage and decisive action while on duty.

**CONSENT CALENDAR**: Council member Avalos and Mayor Pro Tem Rodriguez asked that item 1.e. be pulled for further discussion. Motion to approve the remainder of the Consent Calendar was made by Council member Derr and seconded by Mayor Pro Tem Rodriguez. Motion carried with the following vote:

- **AYES**: Derr, Rodriguez, Avalos, Lujan, Grey
- **NOES**: None
- **ABSTAIN**: None
- **ABSENT**: None

  a. Minutes of the October 17, 2011 workshop/pre-Council meeting approved as written.
  
  b. Minutes of the October 17, 2011 regular meeting approved as written.
  
  c. Appointment of Mr. Pete Esraelian to the Consolidated Mosquito Abatement District Board of Trustees approved by standard motion.
  
  d. Ground Lease Agreement with the Roman Catholic Diocese of Fresno for Little League Field approved by standard motion.
  
  e. Pulled for separate discussion.
  
  f. Check register dated October 26, 2011 approved as written.
AGENDA ITEM 1.e. – CONSIDERATION AND NECESSARY ACTION ON APPROVAL TO SEND A REPRESENTATIVE ON THE ANNUAL “ONE VOICE” LEGISLATIVE TRIP TO WASHINGTON D.C.: After discussion, Council member Lujan moved and Council member Avalos seconded the motion to approve the sending of a representative on the annual One-Voice legislative trip if funding from other sources can be obtained. Motion carried with the following vote:

AYES: Lujan, Avalos, Derr, Rodriguez, Grey

NOES: None

ABSTAIN: None

ABSENT: None

CONSIDERATION AND NECESSARY ACTION ON RESOLUTION EXTENDING THE URGENCY ORDINANCE PROHIBITING USES RELATED TO MEDICAL MARIJUANA ADOPTED ON OCTOBER 3, 2011, BY 10 MONTHS AND 15 DAYS - public hearing and adoption: City Attorney Costanzo reviewed for the Council the need for the extension. He stated that new laws require cities to have substantial evidence before a permanent Ordinance can be enacted.

Mayor Grey opened the public hearing at 7:20 p.m. There being no one to speak for or against the Ordinance, the public hearing was closed at 7:21 pm.

After discussion, motion to approve RESOLUTION NO. 2011–55R, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELMA EXTENDING THE URGENCY ORDINANCE PROHIBITING USES RELATED TO MEDICAL MARIJUANA ADOPTED ON OCTOBER 3, 2011, BY 10 MONTHS AND 15 DAYS was made by Council member Avalos and seconded by Mayor Pro Tem Rodriguez. Motion carried with the following vote:

AYES: Avalos, Rodriguez, Derr, Lujan, Grey

NOES: None

ABSTAIN: None

ABSENT: None
CONSIDERATION AND NECESSARY ACTION ON RESOLUTION APPROVING THE APPLICATION FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECT FOR FISCAL YEAR 2012-2013 – public hearing and adoption: City Manager Heusser explained the need for the application and stated that a public hearing is a requirement of the grant.

Mayor Grey opened the public hearing at 7:25 p.m. There being no one to speak for or against the Ordinance, the public hearing was closed at 7:26 p.m.

After discussion, motion to approve RESOLUTION NO. 2011-56R, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELMA APPROVING THE APPLICATION FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECT FOR FISCAL YEAR 2012-2013 was made by Council member Avalos and seconded by Council member Derr. Motion carried with the following vote:

AYES: Avalos, Derr, Lujan, Rodriguez, Grey
NOES: None
ABSTAIN: None
ABSENT: None

CONSIDERATION AND NECESSARY ACTION ON RESOLUTION UPHOLDING THE PLANNING COMMISSION DECISION DENYING THE CONDITIONAL USE PERMIT FOR A TYPE 21 ALCOHOLIC BEVERAGE CONTROL LICENSE AT 3000 FLORAL AVENUE – Mubarak Geham, applicant: Council member Derr recused himself from discussion and left the Council Chambers due to a conflict of interest.

City Manager Heusser reported that the applicant Mubarak Geham, has appealed the decision of the Planning Commission to deny the Conditional Use Permit for a Type 21 Alcoholic Beverage Control License at 3000 Floral Avenue. He reported that the applicant purchased the Type 21 ABC License not knowing it was typically prohibited at convenience stores in Selma.

Mr. Dirk Poeschel, appearing on behalf of the applicant, stepped forward and stated that the applicant recognizes the City of Selma’s authority over the sale of beer, wine, and spirits. He also stated that they are aware of the concerns the City has regarding alcohol sales and the proximity to Hwy 99. He then provided statistics regarding alcohol sales by convenience stores and stated that compliance and adherence to regulations is the number one component of being a good community partner. He stated that liquor sales would only occur from 6 a.m. to midnight, would be restricted, and would not be overly accessible to the public. He also stated that if granted, the application could be reviewed after one year of approval.
City Manager D-B Heusser reported that a business with a Type 21 License can sell beer, wine and spirits, but it does not necessarily have to sell spirits. However, the cost difference between the two permits is huge.

Mayor Grey stated that he appreciates the restrictions the applicant is willing to put into place however, the concerns relative to selling the hard spirits still exist. He reported that the saturation of alcohol sales is significantly high in Selma. He also stated that other Selma convenience stores applying for Type 21 Licenses have been denied in the past.

Mr. Mubarak Geham stepped forward and stated that the same issues can be said for both a Type 20 and a Type 21 License. He stated that the location is not near a residential area, and that he feels the business will be more likely to succeed if the Type 21 License is allowed.

Council members Lujan and Avalos stated that they have already said no to other Selma convenience stores and to approve this one would not be fair to them.

Council member Rodriguez stated that he disagrees. That he appreciates the business and the fact that it has helped to beautify the City. He thanked Mr. Geham for doing a wonderful job in cleaning up the once vacant lot. He also stated that it was too bad that Mr. Geham did not follow the process by applying with the City first.

Mayor Grey stated that if the City permits a Type 21 License for this business it would open the door for all similar retail stores to sell Type 21 spirits.

After additional comments, Council member Lujan moved to approve RESOLUTION NO. 2011 – 57R, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELMA UPHOLDING THE PLANNING COMMISSION DECISION DENYING CONDITIONAL USE PERMIT FOR A TYPE 21 ALCOHOLIC BEVERAGE CONTROL LICENSE AT 3000 FLORAL AVENUE. The motion was seconded by Council member Avalos and carried with the following vote:

**AYES:** Lujan, Avalos, Rodriguez, Grey

**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

**RECUSED:** Derr

Mr. Ron Henslee, 2665 Walnut stepped forward and stated he appreciates the fact that the applicant has occupied a previously vacant building, and would like to see other vacant buildings filled.
At this point in the meeting, Council member Derr returned to his seat in the Council Chambers.

CONSIDERATION AND NECESSARY ACTION ON ORDINANCE AMENDING CHAPTER 22 OF TITLE V OF THE SELMA MUNICIPAL CODE, REGULATING FOR PURPOSES OF PUBLIC SAFETY, THE VENDING OF FOOD PRODUCTS FROM VEHICLES UPON ANY STREET WITHIN A RESIDENTIAL ZONE OF THE CITY OF SELMA—introduction and first reading. City Attorney Costanzo explained that at the last council meeting direction had been given by Council to amend the current ordinance from 4 vendors to 2 vendors by attrition.

Council member Derr stated that he feels this is blatant interference with free enterprise, and that it is sending the wrong message. He also stated that a lack of competition is not healthy.

Mayor Pro Tem Rodriguez stated that the issue needs to be handled by the vendor, by making his business stand out from the rest. He also stated that he feels this is not a safety issue but an attempt to limit competition.

Mayor Grey stated that he understands the need for safety, but also understands the overhead on brick and mortar ice cream shops, and that we have to look at the whole picture.

Mayor Pro Tem Rodriguez stated that he feels we should let the consumer decide.

Council member Derr stated that he feels ice cream vendors should not be limited in the City of Selma.

Council member Avalos stated that each council member holds valid points but he is in limbo on the decision.

Council member Lujan stated this decision is not set in stone and does not see a big problem with limiting the number of vendors in Selma.

Mayor Grey stated that the City of Selma’s current regulation does limit the number of vendors to four.

After further discussion, it was the consensus of Council to take no action on the Ordinance, therefore leaving the number of vendors as it currently exists.

DEPARTMENTAL REPORTS: City Manager Heusser reported that this Friday is a holiday and City Hall will be closed Thursday for furloughs and Friday in observance of Veterans Day. He asked that Council respond as soon as possible regarding Cal Waters’ annual turkey giveaway. He also asked for Council direction on a home occupation permit
application seeking to place a 20 x 20 foot freezer in a back yard. After discussion, it was consensus of the council to deny the request.

City Attorney Costanzo provided the Council with an update on the request for a FPPC opinion regarding two possible conflicts of interest. He reported that the initial response from the FPPC was to deny the request because they felt it was for advice. After the City Attorney had made a second request stating that it was for an opinion they had denied that one also stating that the questions posed are answerable by opinions previously published by the FPPC. He stated that he had in fact provided those opinions to Council at the time the questions were raised, and therefore feels no conflict of interest exists. However, because a majority of the Council had requested an opinion on each item he has requested a review of the Executive Officer's denial and it is on their agenda.

**COUNCIL REPORTS:** Council member Avalos reported that the annual band festival parade had been excellent. He reported on attending a Halloween carnival at the Valley Life Church and an event at the New Hope Family Church. He stated that he appreciates the safe environment these events hold in the community.

Council member Derr reported on receiving a letter from Ms. Charlotte Downing regarding the water negotiations and her request for a survey regarding water meters. He reported on attending a Chamber of Commerce mixer at RPS Real Estate, a CalTrans meeting at City Hall, a CitiPac golf tournament in Dinuba, a meeting regarding the new Arts Center, an EDC luncheon in Fresno, on having a booth at the recent Trade Fair, on attending the band festival, and on attending the going away event for Reverend Craig Statton. He also reported on receiving several visits from Fire Department personnel.

Council member Lujan reported on receiving an update from City Manager Heusser regarding a meeting on CalFire and American Ambulance. He stated that he supports a CalFire agreement but is more than happy to hear American Ambulance. He stated that the band festival parade had been great. He asked if future CDBG funds might be used to repair Whitson Street between Highland and Floral Avenues. He stated that the Mitchell Avenue neighborhood is happy they are getting driveway approaches and sidewalks but the other side of the street is now requesting the same. He then thanked CalWater for the 50 turkeys donated in his name.

Mayor Pro Tem Rodriguez thanked CalWater for the 50 turkeys and for the recently hung banner in Shafer Park. He reported on attending a recent grant meeting and that he will be taking a proposal to the committee requiring a funding match. He reported on a recent softball tournament he attended with his daughter and stated that if Selma had youth facilities they would be revenue generating. He also reported on trash being dumped in the allies between Yerba and Park Streets.
Mayor Grey thanked Quinn Company for coming up with something special for the Council to ride in during the band festival parade and to the Public Works Department for their work in beautifying the City. He reported on attending the grand opening of the new McDonalds and stated that the new entryway is a huge improvement.

**ADJOURNMENT**: There being no further business, the meeting was adjourned at 8:48 p.m.

Respectfully submitted,

Reyna Rivera  
Acting City Clerk

________________________________________  Kenneth Grey  
Mayor of the City of Selma