

**CITY OF SELMA
REGULAR CITY COUNCIL MEETING
APRIL 16, 2007**

The regular meeting of the Selma City Council was called to order at 7:25 p.m. in the Council chambers. Council members answering roll call were: Avalos, Derr, Niswander, Mayor Pro Tem Lujan and Mayor Tow.

Also present were City Manager Heusser, City Attorney Costanzo, Assistant City Manager Hull, Police Chief Whiteside, Fire Chief Kestly, Public Works Director Weaver, Recreation and Community Services Director Kirchner, Finance Director Bier, Community Development Director Gaston, 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.

PRESENTATION BY HILARY BAIRD: Ms. Hilary Baird, League of California Cities Regional Public Affairs Manager for our division, stepped forward to introduce herself to Council and to review the various programs she has initiated since becoming the South San Joaquin Division's representative. She also offered her support whenever it might be needed and thanked the Council for the opportunity to appear before them.

Council member Lujan then read and presented the Mayor with a plaque on behalf of the Sikh community thanking the City for participating in their annual parade.

ORAL COMMUNICATIONS: Mr. Jim Smith, representing California Water Service Company, stepped forward to let the Council know that he is filling-in tonight.

CONSENT CALENDAR: Council member Niswander asked that agenda item 1.f. be pulled for separate consideration. Motion to approve the remainder of the Consent Calendar was made by Council member Derr and seconded by Council member Niswander. Motion carried with the following vote:

AYES: Derr, Niswander, Avalos, Lujan, Tow

NOES: None

ABSTAIN: None

ABSENT: None

- a. Minutes of the April 2, 2007 workshop/Council retreat approved as written.
- b. Minutes of the April 2, 2007 workshop/pre-Council meeting approved as written.

- c. Minutes of the April 2, 2007 regular Council meeting approved as written.
- d. RESOLUTION NO. 2007-15R, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELMA AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH MUNIFINANCIAL CORPORATION FOR PREPARATION OF A PUBLIC FACILITIES FINANCING PLAN FOR AMBERWOOD SPECIFIC PLAN. Resolution adopted by standard motion.
- e. RESOLUTION NO. 2007-16R, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELMA AWARDED CONTRACT FOR RECONSTRUCTION OF MCCALL AVENUE FROM VALLEY VIEW TO WHITSON (FEDERAL AID PROJECT STPL-5096 (022)); RECONSTRUCTION OF DOCKERY AVENUE FROM ROSE TO FLORAL (FEDERAL AID PROJECT STPL-5096 (023)); AND KNOWLES/NEBRASKA IMPROVEMENTS (CITY PROJECT NO. 07-001). Resolution adopted by standard motion.
- f. Pulled for separate consideration.
- g. Check register dated April 4, 2007 approved by standard motion.

AGENDA ITEM 1.F. – CONSIDERATION AND NECESSARY ACTION ON FENCE PLACEMENT VARIANCE APPLICATION AT 3301 THOMPSON

AVENUE: Council member Niswander asked if the appropriate fees have been paid on this variance since approval is taking place after installation. It was reported that the fees have been paid.

Motion to approve the fence variance was made by Council member Niswander and seconded by Council member Derr. Motion carried with the following vote:

AYES: Niswander, Derr, Avalos, Lujan, Tow

NOES: None

ABSTAIN: None

ABSENT: None

CONSIDERATION AND NECESSARY ACTION ON RESOLUTION APPROVING GENERAL PLAN AMENDMENT NO. 2006-0014 SUBJECT TO SPECIFIC FINDINGS FOR APPROVAL and RESOLUTION APPROVING THE ZONE CHANGE and RESOLUTION APPROVING VESTING TENTATIVE TRACT MAP NO. 5765 WITH FINDINGS AND CONDITIONS AND ENVIRONMENTAL

ASSESSMENT NO. 2006-0014 and RESOLUTION INITIATING THE ROSE/HIGHLAND BRATTON I REORGANIZATION and ORDINANCE

AMENDING THE ZONING MAP BOUNDARIES: Community Development Director Gaston reviewed for the Council the proposed Bratton I subdivision. He also read a paragraph that had been prepared by the City Attorney's office regarding the payment of impact fees to Consolidated Irrigation District (CID) for the development's impact on ground water. He reported that the following statement had been agreed to by the developer but CID was not happy with it.

“Developer shall pay an impact fee to the City to mitigate impacts of the development on ground water and, if appropriate, any facilities and operations of CID. The fee shall be in an amount lawfully established and imposed by the City, either by Ordinance or by Memorandum of Understanding with CID and shall be paid either at the time of issuance of building permits for residences or at such later time as the City directs”.

Mr. Scott Brown, Special Counsel for CID, stepped forward to ask if the Council could delay further discussion on this item to allow additional time for CID and Bratton, Inc. to try and work out an amicable agreement.

After receiving a consensus from Council, discussion was suspended at 7:55 p.m. and reconvened at 8:50 p.m.

After reconvening, City Attorney Costanzo announced that the two parties had been unable to reach an understanding. He then reviewed CID's problems with the project and the proposed mitigation measures. He stated that he does not feel CID has proven that a cumulative impact will exist because of this subdivision. He also stated that CID can not impose non-existent fees on a subdivision without the approval of the developer. City Attorney Costanzo stated that Council needs to determine if significant environmental impact exists.

At this point in the meeting it was Council consensus to reopen the public hearing. Mayor Tow then called for testimony from anyone in favor of the project.

Mr. Timothy Jones, Attorney for the developer, stepped forward to let the Council know that the water usage has not changed and, in fact, studies have shown that a residential development actually uses less water than farming. He also expressed his concern over the fees proposed to be charged. He stated that the fees are now estimated to be at \$3,600 per residential unit which is up from the original \$2,500 originally quoted. He stated that Bratton is not against paying their way but they are against extortion.

There being no one else to speak for the project Mayor Tow then called for testimony from anyone against the proposal.

Mr. Larry Cruff, CID Board member, stepped forward to let the Council know that he feels there are impacts that need to be mitigated.

Mr. Scott Jacobsen, CID consulting engineer, stepped forward to review an engineering study that had been completed and to explain how the numbers had been arrived at.

Mr. Lupe Chavez, representing CID, explained the project and how it would affect the groundwater.

Mr. Scott Brown, CID special counsel, stepped forward and reviewed CID's objections and feelings that the project will have an impact.

Mr. Doug Jensen, CID General Counsel, stepped forward and stated that CID would like a deposit (assurance) from Bratton that mitigation measures will be taken.

Mr. Timothy Jones, Attorney for Bratton, Inc., stepped forward to rebut the previous comments by pointing out that there is no reference to this project in their engineering study and that it is not a "Nexus" study. Therefore, they have not proven their case.

Mr. Larry Raven, a Selma developer, stepped forward and stated that he feels CID wants too much and that the amount they want to charge is "out of reason".

There being no further testimony, Mayor Tow closed the public hearing at 9:52 p.m.

Mayor Tow stated that he wants the City to stay out of this altogether and that he feels this is between the two other parties.

City Attorney Costanzo again stated that a fee can not be imposed without a Nexus study unless the developer agrees to the fee. He also stated that he feels the impact could even be less than originally thought and that it is not the City's responsibility to develop impact fees for CID.

Council member Niswander questioned reimbursement of any costs the City may incur on CID's behalf. She stated that she also feels this is not a legal fee because a "Nexus" study has not been completed and the fees officially adopted.

Mayor Pro Tem Lujan stated that he feels the paragraph presented by the City Attorney is a good one.

City Attorney Costanzo stated that the proposed condition does get us slightly involved in the process but CID has no proof to show an impact.

Council member Avalos reviewed the presentation and reported that he feels this is a bad position to be in. That he had also wanted CID and Bratton to work out the problem without the City getting involved.

City Manager Heusser then reminded the Council that legally we can not impose a fee that has not yet been adopted.

Discussion then occurred regarding the best way to approach the matter and City Attorney Costanzo clarified the issue and procedure.

After various questions, Mayor Pro Tem Lujan moved to adopt RESOLUTION NO. 2007-17R, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELMA APPROVING GENERAL PLAN AMENDMENT NO. 2006-0014 SUBJECT TO SPECIFIC FINDINGS FOR APPROVAL and RESOLUTION NO. 2007-18R, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELMA APPROVING ZONE CHANGE AMENDMENT NO. 2006-0014 and RESOLUTION NO. 2007-19R, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELMA APPROVING VESTING TENTATIVE TRACT MAP NO. 5765 WITH FINDINGS AND CONDITIONS, AND ENVIRONMENTAL ASSESSMENT NO. 2006-0014 and RESOLUTION NO. 2007-20R, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELMA INITIATING THE ROSE/HIGHLAND BRATTON I REORGANIZATION, ANNEXATION NO. 2006-0014 with the recommended changes and the addition of the above statement as a condition of approval. Motion was seconded by Council member Derr and carried with the following vote:

AYES: Lujan, Derr, Niswander, Tow

NOES: Avalos

ABSTAIN: None

ABSENT: None

Motion to waive the second reading and adopt ORDINANCE NO. 2007-4, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELMA AMENDING TITLE XI, CHAPTER 2, SECTION 2 OF THE SELMA MUNICIPAL CODE REGARDING THE ZONING MAP BOUNDARIES OF THE CITY OF SELMA – BRATTON I PROJECT was made by Mayor Pro Tem Lujan and seconded by Council member Derr. Motion carried with the following vote:

AYES: Lujan, Derr, Avalos, Niswander, Tow

NOES: None

ABSTAIN: None

ABSENT: None

CONSIDERATION AND NECESSARY ACTION ON ORDINANCE ADDING SECTIONS 8-1-16 TO CHAPTER 1 OF TITLE VIII OF THE SELMA MUNICIPAL CODE ENTITLED “GARBAGE REGULATIONS” – RELATING TO PORTABLE RESTROOMS – PUBLIC HEARING, SECOND READING AND ADOPTION:

Finance Director Bier reviewed for the Council the Ordinance which would add portable restrooms to Selma’s garbage regulations.

Mayor Tow opened the meeting to public testimony at 7:58 p.m. There being no one to speak for or against the proposal the public hearing was closed at 7:59 p.m.

Motion to waive the second reading and adopt ORDINANCE NO. 2007-5, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELMA ADDING SECTIONS 8-1-16 TO CHAPTER 1 OF TITLE VIII OF THE SELMA MUNICIPAL CODE ENTITLED “GARBAGE REGULATIONS” – RELATING TO PORTABLE RESTROOMS was made by Mayor Pro Tem Lujan and seconded by Council member Avalos. Motion carried with the following vote:

AYES: Lujan, Avalos, Niswander, Derr, Tow

NOES: None

ABSTAIN: None

ABSENT: None

CONSIDERATION AND NECESSARY ACTION ON RESOLUTION APPROVING THE ISSUANCE OF BONDS BY THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY RELATING TO THE FINANCING OF HUNTLEE HOUSE AND LEEBAR VILLAGE – PUBLIC HEARING AND ADOPTION:

City Manager Heusser presented City Attorney Costanzo who explained to Council that these two facilities are in the process of being sold and in order for the buyer to obtain bond financing through the Statewide Communities Development Authority the local agency, of which Selma is a member, has to approve the issuance also. He stated that in no way is the City responsible for the bonds or their repayment. We are simply the local agency in which the projects are located.

Mayor Tow opened the public hearing at 8:00 p.m. and called for testimony from anyone in favor of the project. Ms. Karen Buckland, representing WNC Associates, stepped forward to let the Council know that her company is the buyer and that with this money they will be upgrading both facilities.

After various questions, motion to adopt RESOLUTION NO. 2007-21R, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELMA APPROVING THE ISSUANCE OF BONDS BY THE CALIFORNIA STATEWIDE COMMUNITIES

DEVELOPMENT AUTHORITY RELATING TO THE FINANCING OF HUNTLEE HOUSE AND LEEBAR VILLAGE was made by Mayor Pro Tem Lujan and seconded by Council member Derr. Motion carried with the following vote:

AYES: Lujan, Derr, Avalos, Niswander, Tow

NOES: None

ABSTAIN: None

ABSENT: None

DEPARTMENTAL REPORTS: City Manager Heusser reported that the Mayors and Council members Forum registration is now open and to let him know if you wish to attend. He also distributed a Housing Acronyms booklet and a Planning Terminology Glossary.

Police Chief Whiteside reviewed for Council the traffic enforcement efforts that have taken place on Rose Avenue.

Recreation and Community Services Director Kirchner reminded the Council of the volunteer brunch at 10:00 a.m. and the bandstand rededication at 2:00 p.m. on Saturday, April 21, 2007.

Fire Chief Kestly invited the Council to a badge pinning at 9:00 a.m. on Thursday, April 19, 2007 in the Council chambers.

COUNCIL REPORTS: Council member Avalos thanked the Police Department for their help with the recent Sikh festival and parade. He also commended the Public Works Department on the bandstand renovations and the Recreation Department on the new playground equipment at Shafer Park. He also asked about speed signs at Roosevelt school.

Council member Derr asked that the windows in the downtown Arts Center be updated. He reported on numerous signs being placed in the City right-of-way especially on weekends. He asked the status of the Second Street/Highway 99 clean-up. City Manager Heusser provided an update on the clean-up efforts.

Council member Niswander asked the status of the tennis court renovations? Public Works Director Weaver reported that Don Berry Construction will be doing the work simultaneously with the Street project. She asked if the City can recoup the costs associated with removing all of the illegal signs around town. She also reported on Caltrans signage problems on eastbound Floral at Highway 99.

Mayor Pro Tem Lujan reported on receiving a complaint about the tumbleweeds on the lot across from the theater. He also reported then attending a luncheon with California Attorney General Jerry Brown.

Mayor Tow reported on a vacant lot located on McCall Avenue south of Whitson needing clean-up. He reported that the bandstand looks great. He reported that there seems to be a rash of graffiti lately and of increased gang activity in the area of Thompson and Valley View. He also reported that the Attorney general is looking at tracking criminals using modern technology.

ADJOURNMENT: There being no further business, the meeting was adjourned at 10:42 p.m.

Attest:

Melanie A. Carter, CMC
City Clerk

Don Tow
Mayor of the City of Selma

Ordinance Nos: 2007-4, 2007-5
Resolution Nos: 2007-15R, 2007-16R, 2007-17R, 2007-18R, 2007-19R, 2007-20R,
2007-21R