

**MINUTES OF THE CITY COUNCIL
OF THE CITY OF FONTANA
REGULAR CITY COUNCIL MEETING
February 28, 2017**

WORKSHOP:

A. 5:30 P.M. WORKSHOP

A Workshop Meeting of the Fontana City Council was held on Tuesday, February 28, 2017, in the Fontana City Hall Executive Conference Room at 8353 Sierra Avenue, Fontana, California. Mayor Pro Tem Sandoval called the meeting to order at 5:31 p.m. with Council Members Roberts, Tahan and Armendarez present.

CLOSED SESSION:

A. 6:00 P.M. CLOSED SESSION

A Closed Session was held at 6:00 p.m. in the City Hall Executive Conference Room with Mayor Warren, Mayor Pro Tem Sandoval, Council Members Roberts, Tahan and Armendarez present.

PUBLIC COMMUNICATIONS:

There were no public communications received on the following closed session item:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (a)

Case: Daniel J. Bautista v. City of Fontana

Court: Superior Court of the State of California, San Bernardino County; Court Case No: CIVDS 1605439

CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: Jeffrey Ballinger, City Attorney

Unrepresented employee: Kenneth R. Hunt, City Manager

CALL TO ORDER/ROLL CALL:

A. 7:00 P.M. Call the Meeting to Order

The Regular Meeting of the Fontana City Council was held on Tuesday, February 28,

2017, in the Grover W. Taylor Council Chambers at 8353 Sierra Avenue, Fontana, California. Mayor Warren called the meeting to order at 7:03 p.m.

ROLL CALL: Present: Mayor Warren, Mayor Pro Tem Sandoval, Council Members Roberts, Tahan and Armendarez

INVOCATION/PLEDGE OF ALLEGIANCE:

Following the Invocation by Council Member Roberts, the Pledge of Allegiance was led by Council Member Tahan.

CLOSED SESSION ANNOUNCEMENT:

City Attorney Jeff Ballinger reported that there was no reportable action on the Closed Session item.

SPECIAL PRESENTATIONS:

A. Special Recognition of California Parent Teachers Association (PTA)

Mayor Warren and the City Council recognized California Parent Teachers Association (PTA) on their 120th Anniversary. Mayor Warren presented a certificate to Linda Dykes. Ms. Dykes accepted on the California PTA's behalf.

B. Police Department December 2016 Employees of the Month

Mayor Warren and City Council recognized Dispatch Supervisor Wendy Hostetter; Dispatcher Maricela Edmonds; Community Service Officer Joanna Pina; Dispatcher Cheri Parker; Call Taker Angelica Roberts; Dispatcher Elissa Scray; Shift Supervisor Deana Vasquez; Sergeant Raul Fileto; Sergeant Brian Binks; Corporal Jon VanTuinen; Officer Buddy Porch; Officer Daryl Avila; Officer Martin Diaz; Officer Mike Freeman; and Officer Shannon Vanderkallen as the Police Department's December 2016 Employees of the Month. Captain Green summarized the team's efforts in capturing a known fugitive in a 90 mile pursuit. All recipients were present to accept.

PUBLIC COMMUNICATIONS:

A. Public Communications

Mr. Ed Uphold spoke on the overpopulation of feral cats. Mr. Uphold was directed by Mayor Warren to speak to Police Captain Billy Green.

Ms. Cathy Ritchey spoke on the Annual Hen Derby and thanked City Clerk Tonia Lewis, City Treasurer Janet Koehler-Brooks; Mayor Pro Tem Jesse Sandoval; and City Manager Ken Hunt for purchasing hens. Ms. Ritchey stated she would like to see the rest of the City Council Members and Mayor purchase hens. Tickets are on sale until April 30, 2017.

Ms. Wendy Montes, a social work student at Cal State San Bernardino, invited the community to a town hall meet and greet on March 3, 2017, 5:00 p.m. to 6:30 p.m. at Calvary Chapel, 7970 Cherry Avenue, Suite 301, Fontana, California, as part of an advocacy project being conducted in the area to improve relations between the Police Department and the public.

Ms. Lydia Salazar-Wibert invited the community to the Ronald McDonald House Walk for Kids on April 2, 2017, at 8:00 a.m. at Citizens Business Bank Arena.

Ms. Deborah Hall Lindsey spoke on having a great time at the 29th Annual Black History Month Expo. Ms. Hall thanked the volunteers, supporters, vendors, City staff, and City officials.

Ms. Fran Givens spoke on Fat Tuesday; listening to the president, and feral cats.

CONSENT CALENDAR:

ACTION: Motion was made by Council Member Roberts, seconded by Mayor Pro Tem Sandoval, and passed unanimously by a vote of 5-0 to approve Consent Calendar Items "CC-A" through "CC-F". (AYES: Warren, Sandoval, Roberts, Tahan and Armendarez; NOES: None) as follows:

A. Approval of Minutes

Approve the Minutes of the February 14, 2017 Regular City Council Meeting.

B. Adoption of Ordinances Nos.1759 and 1760

1. Second Reading/ Adopt **Ordinance No. 1759** an Ordinance of the City Council of the City of Fontana, approve an Ordinance rescinding the old Westgate Specific Plan (SPL No. 90-2/Ordinance No. 1204) and adopt the new Westgate Specific Plan (SPL No. 09-01/Ordinance No. 1759) to allow 3,248 residential units, with an option to build an additional 474 units with minimum 10,000 square foot lots as one project for a maximum of 3,722 residential dwelling units, on single-family detached lots ranging in size from minimum 3,000 square foot lots to minimum 10,000 square foot lots, and multi-family units ranging from 5.1 to 50.0 dwelling units per acre, multiple amenities that include approximately 33.1 acres of public/private parks including clubhouses, two (2) elementary school sites and one (1) high school site on approximately 964 acres.

2. Second Reading/ Adopt **Ordinance No. 1760**, an Ordinance of the City Council of the City of Fontana, approving Zone Change No. 09-001, a zone change to amend the Zoning District Map to reflect the boundary change of the Westgate Specific Plan.

C. Fiscal Year 2016-17 Mid-Year Budget Status Report

Approve the recommended Mid-Year Budget adjustments.

D. Accept Donations for Police Department Events

Mayor Warren and City Council to accept donations from multiple donors for the 2016 Police Department Programs: to include the Christmas Programs (Heroes and Helpers and Bicycle Giveaway Events), Red Ribbon Breakfast and Volunteer Christmas Dinner.

E. Award of Contract for Case Heavy Construction Equipment Original Equipment Manufacturer Parts, Non-Warranty and Warranty Repair Services

Approve and authorize the City Manager to enter into a single source contract with Sonsray Machinery to provide the City with Case Original Equipment Manufacturer

(OEM) parts, factory authorized non-warranty and warranty repair services for a period of two (2) years, renewable for three (3) one (1) year increments at the City's sole discretion.

F. Final Acceptance of the Bus Shelter Installation Project

Accept as complete the work performed by Humphrey Constructors, Inc. for the construction of the Bus Shelter Installation Project and approve the final construction amount of \$187,923.41. (SB-66-DE-16).

PUBLIC HEARINGS:

A. Regulate, Develop Standards, and Conditionally Permit Pallet Yards in Certain Land Use Districts in SWIP and Replace all References to Slag and/or Gravel with Asphalt and/or Concrete throughout Entire SWIP Area (Master Case No. 14-098 and Specific Plan Amendment No. 16-001)

Mayor Warren opened Public Hearing Item PH-A.

Associate Planner Rina Leung presented the staff report.

Council Member Tahan asked if the concrete and asphalt yards are only for the new or for existing yards.

Director AbuBakar stated that the concrete and asphalt is for paving of the parking lot.

Council Member Tahan asked if it was only for where the cars will be parked.

Associate Planner Leung stated the pavement is for the parking lot and where the pallets will be stored; except landscaping areas.

Council Member Tahan thanked staff and business owners for their work on this project over that past two years.

Council Member Tahan asked if the applicant is fine with all of the conditions.

Associate Planner Leung stated that staff has met with applicants and discussed the conditions at the Planning Meeting.

Mayor Pro Tem Sandoval asked about the maximum wall height.

Associate Planner Leung stated that the maximum wall height is 12 feet.

Mayor Pro Tem Sandoval asked what the maximum wall height is before it is considered a structure.

Associate Planner Leung stated that as part of the approval process, the applicant will have to get a Conditional Use Permit as well as an Administrative Site Plan or Design Review before the Planning Commission for review.

Discussion was held on the County and the City complying with the same height standards.

Fire Marshall Brian Headley stated that if property is in the county areas of Fontana Fire District, they have to abide by those standards. If they choose to change that or meet the City standard, they have to go back to the County for a changed CUP.

Council Member Armendarez asked about concrete and asphalt percolation and flooding and how much land they will lose to capture the water.

Associate Planner Leung stated that during the Water Quality Management Plan (WQPM) process, they will look at percolation and water flow; how much land they will use depends on the site size.

Director AbuBakar will work with the applicant in regards to the percolation.

Council Member Roberts commented that there is product called pervious concrete that allows percolation through it.

Mayor Warren spoke on the process of this item being wonderful, with a lot of input, and people coming together; she commended staff for working with everyone on this.

Speaking for the applicant, Manuel Mancha thanked the Mayor and City Council for allowing the direction of this amendment; he thanked staff, especially County Fire, for coming together and getting this amendment to where it is cohesive to the businesses in Fontana and allowing the Fontana businesses to stay here. He stated that all the clients he represented understand that they have to have engineering for the wall, WQMP, water control, and they are all prepared to do that through the CUP process.

The Public Hearing was closed.

Council Member Armendarez asked if the asphalt concrete is for the entire SWIP area and not just for pallet companies. Staff replied that is for the entire SWIP area.

Council Member Tahan asked if it was a safety issue between having gravel and having asphalt.

Director AbuBakar stated that it is to improve aesthetics and the quality of development. Slag deteriorates, so this will improve the overall quality of developments and outlook of the community.

The applicant stated that forklifts move faster and more efficiently on asphalt and clients are not adverse to that.

ACTION: Motion was made by Council Member Roberts, and seconded by Council Member Tahan, and passed by a 5-0 vote to adopt Public Hearing Item "PH-A" (AYES: Warren, Sandoval, Roberts, Tahan and Armendarez; NOES: None) as follows:

1. Find that the project will not have a significant effect on the environment, adopt an

Addendum to the Southwest Industrial Park Specific Plan Program Environmental Impact Report (SWIP PEIR) (SCH NO. 2009091089) and direct staff to file a Notice of Determination pursuant to the California Environmental Quality Act.

2. Waive further reading of and introduce **Ordinance No.1761** an Ordinance of the City Council of the City of Fontana, approving an Ordinance adopting the pallet yard EIR Addendum to the Certified Final Environmental Impact Report (SCH NO. 2009091086) for the Southwest Industrial Park Specific Plan (SWIP) and Annexation Project and approving Specific Plan Amendment No. 16-001 to regulate and include development standards for pallet yards and require asphalt/concrete paving throughout SWIP; and, that the reading of the title constitutes the first reading thereof.

B. A Request to Amend the SWMP Specific Plan (SPA No. 15-003) and the Development Code (ZCA No. 16-04) to Modify Development Standards for Electric Fences (MCN 13-001)

Mayor Warren opened Public Hearing Item PH-B.

Senior Planner Paul Gonzales presented the staff report.

Council Member Tahan stated he's very familiar with this issue; he asked the applicant if he has seen the standard. Council Member Tahan stated he has been out there with the owner and staff, and feels this is taking Fontana backwards. He is disappointed that people think they can build something like this in Fontana.

Mayor Warren stated that people have a right to come before the City Council if they do not agree with the Planning Commission's decision.

Council Member Armendarez spoke on people having a right to secure their property in a way they see fit as long as it does not deter from aesthetics. He would like to see staff work with business owners to come to a compromise to allow them to protect themselves with a different mechanism in place for screen besides a block wall. He believes it should be aesthetically pleasing. He would like to table this to come up with a compromise that is to the satisfaction of the city and to the applicant.

Mayor Pro Tem Sandoval asked about the zoning on the residence on Beech Avenue. Senior Planner Gonzales stated that it is legal non-conforming for residence.

Council Member Roberts clarified that when you make a general statement on electric fence, the public visualizes Jurassic Park. We are dealing with a 12-volt system and the "electric fence" sign is a deterrent. He agrees with Council Member Armendarez that there is probably some middle ground.

Council Member Tahan asked if current code allows electric fences in SWIP.

Senior Planner Gonzales answered yes.

Council Member Tahan asked if a business goes to Planning about an electric fence, is there additional screening required if they are next to a residence.

Senior Planner Gonzales stated that if it is next to a residence, they are not permitted to have an electrical fence at all.

Council Member Tahan asked if this amendment will allow any commercial business to put up an electrical fence.

Senior Planner Gonzales stated that was correct.

Council Member Tahan asked how many applications there have been in the past 5-6 years.

Senior Planner Gonzales stated that there have been 12 applications, of those 12, six have been approved; four are out for correction on the screen walls; and two were denied because they were next to non-conforming residences.

Council Member Tahan stated that businesses have a right to protect their property but this should not be done city wide because it affects the quality of life and businesses within the city.

Mayor Warren suggested tabling this item and forming a sub-committee so that all concerns are addressed.

City Attorney Jeff Ballinger stated that the City Council can give direction to form a sub-committee; if it is a sub-committee made up of two City Council members and they invite members of the public to participate, it is not subject to the Brown Act; or the City Council can identify which members of the public to participate on the committee, then it will be subject to the Brown Act. If the City Council is so inclined, he suggest direction be given to staff to bring back at the next City Council meeting to formally form and fill the committee.

Mayor Pro Tem Sandoval commented that businesses are important, but the public safety is more important and they need to be included in this committee too.

No one spoke in favor or opposition.

The Public Hearing was closed

ACTION: Motion was made by Mayor Warren, and seconded by Council Member Roberts, and passed by a 5-0 to table this item to a future date. (AYES: Warren, Roberts, Tahan and Armendarez Sandoval; NOES: None) as follows:

1. Determine that ZCA No. 16-004 and SPA No. 15-003 are statutorily exempt pursuant to Section 15270 (Projects Which Are Disapproved) from the California Environmental Quality Act (CEQA), and direct staff to file a Notice of Exemption;
2. Deny ZCA No. 16-004, a request to amend the Development Code (Chapter 30 of the Municipal Code) to allow electric fencing and standards within all permitted and conditionally permitted land uses located in the General Commercial (C-2) zone, and amend the development standards for electric fencing in the Light Industrial (M-1) and

General Industrial (M-2) zoning districts as depicted on the most recently adopted Zoning District Map;

3. Deny SPA No. 15-003, a request to amend the electric fence standards in the Southwest Industrial Park Specific Plan (SWIP).

City Manager Ken Hunt stated he will have an item on the next City Council agenda to create a sub-committee on the electric fence issue.

Mayor Warren thanked Mr. Copeland from the Fontana Unified School District for coming; and she thanked the applicant.

Council Member Tahan requested a Workshop instead of a sub-committee to get the issue resolved faster.

Mayor Warren stated that we need collective ideas to come together and then come back to the City Council through the Workshop process.

NEW BUSINESS:

A. District-Based Elections - Districting Criteria Resolution

Deputy City Manager David Edgar provided the staff report.

Deputy City Manager Edgar introduced Justin Levitt , National Development Corporation, who will be assisting with the Public Hearing process.

Mr. Levitt announced that there are two Public Hearings coming up at the March 14, 2017, and March 28, 2017, City Council meetings. The public is invited to come and discuss what they think about the districts.

Council Member Tahan asked for clarification on the process.

Deputy City Manager Edgar stated that the public will be able to comment on the criteria that will be used for the creation of the districts.

Mr. Levitt stated we are operating under a new state law, AB350 that has changed the process for redistricting. Two public hearings must be held before the maps are drawn and it must be done at a regular City Council meeting.

Council Member Tahan asked what will be discussed during Public Hearings.

Mr. Levitt stated that preparation of the districts and district boundaries will be discussed at the public hearings in addition to getting public input.

Council Member Tahan asked if NDC was going with the direction of the Council to have four districts and one mayor; and the districts will be based on that direction.

Mr. Levitt stated that is correct.

Attorney Ballinger clarified that the purpose of the two Public Hearings is provide input on how the districts are drawn, there is nothing preventing any member of the public from coming forward to provide guidance on the four districts and elected mayor.

Council Member Tahan asked if at the Public Hearing, someone could suggest to go to three districts elected mayor or 10 districts and rotating mayor.

Mayor Warren explained that the City needed to have a benchmark. City Council decided at the last meeting to go with four districts and one at large mayor, but that does not preclude the public from coming forward and saying that is not what they agree with.

Mayor Warren had an issue with the Public Hearing meetings being rushed. She would like to give the public more time to understand that these meetings are being held. She suggested the first meeting be held on March 28, 2017.

Attorney Ballinger stated that the City is not under a time crunch to hold the meetings; the state does not have specific deadlines. The City Council has adopted a tentative timeline to have it done by July 2017 and before the 2018 elections. The city is not facing any problems from a legal perspective.

Council Member Tahan suggested having one meeting in March and one in April.

Deputy City Manager Edgar asked if the two public hearings must be held within a number of days.

Mr. Levitt stated that AB350 sets the minimum number of Public Hearings to be held and the City is not precluded from having more Public Hearings.

Mayor Warren spoke on wanting this to be a positive outcome for our city.

Attorney Ballinger suggested the recommendations be approved with a change to the dates of the meetings.

ACTION: Motion was made by Council Member Armendarez seconded by Council Member Tahan, and passed by a vote of 4-1 to approve New Business Item NB-A (AYES: Warren, Roberts, Tahan, and Armendarez; NOES: Sandoval) as follows:

1. Approve **Resolution No. 2017-012** of the City Council of the City of Fontana, California, confirming initiation procedures for establishing and implementing By-District Elections and adopting a timeline for the implementation, and;
2. Authorize the City Manager to execute any documents necessary or appropriate to implement said approvals.

B. Proposed Urgency Ordinance Reauthorizing Ordinance No. 1583 Including The Fee Paid To The City By State Video Franchise Holders For Public, Educational, And Government Access (PEG) Purposes

Attorney Jeff Ballinger provided the staff report.

ACTION: Motion was made by Council Member Armendarez, seconded by Council Member Tahan, and passed unanimously by a vote of 5-0 to approve New Business Item NB-B (AYES: Warren, Roberts, Tahan, Sandoval and Armendarez; NOES: None) as follows:

Adopt an urgency ordinance, **Ordinance No. 1762** of the City of Fontana reauthorizing Ordinance No. 1583 so that as each state video franchise expires and is renewed by the California Public Utilities Commission (CPUC) now and in future years, state video franchise holders continue to pay fees to the City to support public, educational, and government access (PEG) purposes.

ELECTED OFFICIALS COMMUNICATIONS/REPORTS:

A. Elected Officials Communications/Committee Reports

City Treasurer Janet Koehler Brooks had no comments.

City Clerk Tonia Lewis thanked Council Member Roberts for acknowledging Jean Rogers' passing. She was friends with Jean Rogers since elementary school. Her passing is a real loss for the community; she was a Kaiser volunteer for breast cancer patients and is survived by her identical twin.

City Clerk Lewis announced the National Day of Prayer on May 4, 2017, at 9:00 a.m. on the City Hall Plaza.

Mayor Warren announced the viewing for Jean Rogers will be held on Tuesday, March 7, 2017, 5:00 p.m. to 9:00 p.m. at Green Acres Memorial Park; followed by her funeral on Wednesday, March 8, 2017, at 10:00 a.m. at Green Acres Memorial Park. Please contact Green Acres with any questions.

Mayor Pro Tem Jesse Sandoval sent condolences to Russ Rogers, he worked with him for many years in the Fontana School District and worked with Russ and Jean when they were all involved with the Cancer Society. It is a great loss.

Council Member John Roberts echoed Mayor Pro Tem Sandoval's comments.

Council Member Jesse Armendarez echoed Mayor Pro Tem Sandoval's comments.

Council Member Jesse Armendarez wished his son a happy first birthday.

Council Member Michael Tahan sent his thoughts and prayers to Russ and the family.

Council Member Michael Tahan attended the transportation forum with the Mayor hosted by Congresswoman Norma Torres.

Council Member Michael Tahan congratulated the North Fontana Concerned Citizens for wonderful event.

Mayor Acquanetta Warren spoke on this being the last day of Black History Month; but only the official celebration, black history goes on all year long.

Mayor Acquanetta Warren spoke on the outstanding events in the community. She received calls from people that were not aware of Black History Month. She missed the North Fontana event, but she heard it was outstanding. There were events all over the county. She wished everyone a happy Black History Month.

Mayor Acquanetta Warren spoke on the swearing in of Commissioners, some new and some reappointed. She asked the community to pray for our Commissioners.

Mayor Acquanetta Warren stated that Council Member Armendarez and Mayor Pro Tem Sandoval will be going to Sacramento with her to receive an Award of Excellence for the Healthy Fontana program. Fontana is the only city in the Inland Empire to be receiving this award.

Mayor Acquanetta Warren held a moment of silence in memory of Jean Rogers.

CITY MANAGER COMMUNICATIONS:

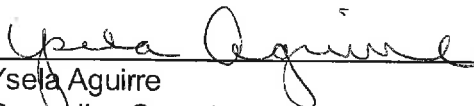
A. City Manager Communications

City Manager Kenneth Hunt reminded the City Council that tonight's meeting is being adjourned to Saturday, March 4, 2017

ADJOURNMENT:

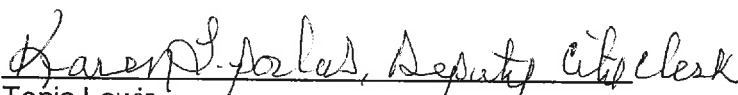
A moment of silence was held for longtime resident Jean Rogers.

The City Council meeting adjourned at 8:54 p.m. in memory of Jean Rogers to the Adjourned Regular City Council Meeting on Saturday, March 4, 2017, at 11:00 a.m. at the Jessie Turner Health and Fitness Center located at 15556 Summit Avenue, Fontana, California; and to the next Regular City Council Meeting on Tuesday, March 14, 2017, with a Workshop at 5:30 p.m. in the City Hall Executive Conference Room and the Regular Meeting at 7:00 p.m. in the Grover W. Taylor Council Chambers located at 8353 Sierra Avenue, Fontana, California.



Ysela Aguirre
Recording Secretary

THE FOREGOING MINUTES WERE APPROVED BY THE CITY COUNCIL ON THE 14TH OF MARCH 2017.



Tonia Lewis
City Clerk

for