

Minutes of the Blythe City Council February 11, 2014

The February 11, 2014 regular meeting of the Blythe City Council was called to order at 6:00pm in the Council Chambers by Mayor Evans. Also in attendance were Vice Mayor Wade, Council members DeConinck, Cusick and Galvan. Staff in attendance included Interim City Manager Luckino, City Clerk Sutterfield, City Treasurer Elms, City Attorney Bettenhausen, Police Chief Smith, Interim Development Services Director Burrow and Public Works Director Baldizzone.

The Pledge of Allegiance and invocation were led by Mayor Evans.

REPORT FROM CLOSED SESSION: City Attorney Bettenhausen stated there was nothing to report.

CONSENT CALENDAR:

Items on the Consent Calendar are considered routine and will be enacted with one motion of the Council. If any item requires individual consideration, it will be removed from the consent calendar and acted upon separately.

1. Posting of the Agenda.

The summary of agenda items were posted on the bulletin boards on the outside of the public entrance to the Council Chamber and near the inside entrance of the Council Chamber on Friday, February 7, 2014.

2. Approval of the Warrant Register.

Recommendation: approve **2/11/14**, warrants numbered 59874 and 59881 through 5959930 in the amount of \$185,061.41; **2/11/14**, warrants numbered 59769 through 59780, 59798 and 59800 through 59873 in the amount of \$479,128.50 and **2/11/14**, warrants numbered 59875 through 59990 in the amount of \$661.55.

3. Approval of the Payroll Register.

Recommendation: Approve **2/11/14**, warrants numbered 46063 through 46066 in the amount of \$3,488.10; **2/11/14**, warrants numbered 46067 through 46094 and Direct Deposits numbered 30634 through 30691 in the amount of \$279,069.29 and **2/11/14**, warrants numbered 46092 through 46100 and Direct Deposits numbered 30692 through 30785 in the amount of \$58,980.89.

4. Minutes of the January 14, 2014 City Council Meeting.

Recommendation: Approve the Minutes of the January 14, 2014 meeting.

5. City of Blythe Permits Issued for the Month of January 2014.

Recommendation: Receive and file this monthly report.

6. City of Blythe Fire Department Monthly Activity Report for January 2014.

Recommendation: Receive and file this monthly report.

7. Investment Report for Second Quarter (Fiscal Year 2013/14).

Recommendation: Receive and file this quarterly report.

No public comment. Councilman Galvan moved approval. The motion was seconded by Councilman DeConinck with a unanimous aye vote.

PUBLIC HEARING:

Update of the Housing Element of the General Plan. Interim Development Services Director Burrow reported every four years we must adopt a housing element. We have contracted with PMC to prepare this update. We now qualify for an eight year housing element as opposed to a four year which will save us money. The Draft plan has been submitted to the California

Department of Housing and Community Development (HCD) and they have approved that plan. They find it's sufficient and we meet all of the requirements. It is recommended you adopt three resolutions.

No public comment. Councilman Galvan moved approval of Resolution No. 2014-002. The motion was seconded by Councilman DeConinck with a unanimous aye vote.

RESOLUTION NO. 2014-002. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLYTHE CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF A NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT FOR THE CITY OF BLYTHE GENERAL PLAN HOUSING ELEMENT UPDATE FOR THE 2013-2021 PLANNING PERIOD.

Councilman Galvan moved approval of Resolution No. 2014-004. The motion was seconded by Mayor Evans with a unanimous aye vote.

RESOLUTION NO. 2014-004. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLYTHE CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF AN ADDENDUM TO THE GENERAL PLAN ENVIRONMENTAL IMPACT REPORT FOR THE CITY OF BLYTHE GENERAL PLAN HOUSING ELEMENT UPDATE FOR THE 2013-031 PLANNING PERIOD.

Councilman Galvan moved approval of Resolution No. 2014-003. The Motion was seconded by Councilman DeConinck with a unanimous aye vote.

RESOLUTION NO. 2014-003. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLYTHE ADOPTING THE CITY OF BLYTHE GENERAL PLAN HOUSING ELEMENT UPDATE FOR THE 2013-021 PLANNING PERIOD.

NEW BUSINESS:

Presentation of the FY 2012/13 Audited Financials. City Treasurer Elms stated the City's 2012/13 Financial audit is now complete. Staff is pleased to announce that once again we have decreased the deficit to the General Fund this year by \$1.2 million reducing the debt to \$1.1 million.

Mayor Evans commended staff for working under bare bones, from Public works to inside the house at City Hall and the Police Department. There's more money to cut and more cuts to be made.

Rich Teaman of Teaman, Ramirez and Smith stated the annual audit had been completed. He met with the Finance Committee on February 3rd and they went over the reports in great detail. The object of the audit is to offer an opinion and I am happy to report the opinion is an Unqualified Opinion which is the best opinion you can get. You still have a going concern related to the financial condition but it has been mentioned that you have made great progress, virtually cutting it in half from the prior year. The City should be commended for that but you still have work to do. In the Compliance and Internal Control report there was one item noted. It was due to a lack of segregation of duties due to a limited staff. It was corrected by staff as soon as it was brought to their attention. It was an oversight with some of the cutbacks. There is an Agreed upon Procedures report related to the Appropriations limit. We tested the calculations of your appropriations limit and I am happy to report there were no problems. We issued a Management Letter where we address the financial condition. This shows the change in fund balance going back to 1999 and you can see the progress that has been made the last 5 years. The SAS 14 letter is required to address any problems that may have occurred during the audit. We did not have any problems.

Mayor Evans asked Mr. Teaman to explain the CAFR. It was reported this Comprehensive Annual Financial Report, CAFR would add additional sections to your financials as well as statistical data which provides a lot more detailed information. There would be 10 year histories on various things. It will give you trend analysis. Bond companies look favorably at the CAFR and it could get you more favorable rates.

Councilman DeConinck thanked staff for working with the auditors and doing a great job to make their job easier.

No public comment. The item was received and filed.

Chanslor Place-Americap Development Partners (Series 3), LLC. Public Works Director Baldizzone reported the applicant requested to obtain building permits for phase III to start construction and to fix the sewer problem in phase II and III as construction progresses. This project came to the City in 2004. It is a 90 lot subdivision with three phases. Phase I was completed in 2005. Phase II was approved in 2006 and is not finished. There are 30 houses and 38 lots. Phase III was approved in 2006. Only infrastructure has been put in place on this phase. Since 2007 the applicant has requested that the City accept the operation and maintenance of the sanitary sewer systems constructed on Phase II and III. The information we have on file states in 2007 the City sent a letter to the contractor outlining deficiencies in the sewer and requested a video of the sewer for approval. In 2011 the Vice President of Americap received a report that stated the sewer was not constructed according to the plans and there was a 2 to 3 inch discrepancy between plans and construction. The report required 330 linear feet of sewer replacement. In 2012 a letter from the Holt Group to the Vice President of Construction of Americap stated the former Public Works Director had required repairs to the sags in the sewer and asked for the sewer to be cleaned and re-videoed. In 2011 the applicant proposed to repair Phase II and III sewer and requested permits to start on Phase III. The Public Works Director stated the City would not accept any portion of infrastructure until all improvements were completed. The sewer has not been accepted as there have been construction problems since 2007. From 2007 until present the only repair the applicant has performed was to the sewer lateral on lot 22. When I came on board in 2013 the applicant provided me a video of the existing sewer dated October 1, 2013. This video was taken 5 days after Public Works crews jetted the sewer system. Since October 2013 I have requested that the applicant re-video the sewer under normal circumstances. The applicant did not want to spend the money on a re-video. I requested a sewer study by a licensed engineer to confirm the system works. The applicant provided a study but it was done for another phase of the project. I requested an infrastructure bond according to the Blythe Municipal Code. The applicant provided a bond, but the Bond Company who issued the bonds liquidated in 2011 so there are no bonds in place. Staff has done an analysis of the system. It was determined in Phase II that solids are deposited in the flow line of the pipe. The laterals are not built according to code and there is standing water from .5 to 5 inches. The manhole on Manzanita and Alameda is built to work against flow and there are some places with separated joints along the main line. In summary, in Phase II, out of 38 Laterals, 3 are not in the video, 4 are built to standards and 31 are not to standard. Out of 1,400 linear feet of line 876 feet have sags with standing water. Manhole # 3 has a separated joint and manholes #6 and #1 work by overflow. These are the same problems sited in 2007 by the City Engineer. In Phase III there are no houses so there is no flow in the pipes. We need to put water in the line to see if it was constructed according to plans. Even with no flow 4% of this system has standing water and the water is not flowing through the pipe. Out of 19 laterals, 4 were not videoed, 4 were built to standards and 11 were not built to standard. Out of 700 linear feet of sewer, 28 feet or 4% have sags and standing water. We cannot give a statement on phase III because it's not in use. The applicant has proposed to fix the sewer to plans submitted in 2006. Due to all of the problems I

have listed, Public Works is not confident the plans are going to work so staff requested an independent analysis from Atkins Engineering. By looking at the plans, some of the service laterals do not have enough fall from the house to the main sewer and there was a downstream pipe reduction which is not common practice for a gravity sewer system and is detrimental to the system that is upstream. The minimum depth of a sewer system in the City of Blythe is 3.5 feet. The minimum depth of The Chanslorplace is 1.61 feet and the maximum depth is 3.56 feet. Minimum pipe size is 8 inches. Chanslorplace start with 10 inches which does not conform to standards. The slope at .15 does not meet standards. The standard flow velocity is 2 feet per second. The flow velocity at Chanslorplace is 1.56 per second which is why I feel we cannot accept the existing plans for the applicant to fix the sewer. With full pipe flow the Chanslorplace has 1.56 feet per second which is not in compliance. The velocity is .9 feet per second which means the water will stay in the pipe because it does not have enough push to move through the pipe. There was enough room to design a gravity system, if you did not want to do that you could have added a sewer lift station. The project as designed and built did not include either of those. The applicant is trying to fix the system and provided a fix to Phase II. They proposed to chip out the concrete and grind smooth manhole #3 to normal flow. That is not a standard practice; they need to replace the manhole. They want to repair 22 laterals and 3 sags. In Phase II 31 laterals are not according to standards and there are 10s sags in the main sewer. They want to backfill the trenches with native soil and cold paths and that is not standard practice, they need to put in concrete. If the City accepts this sewer system there will be a negative effect on private property every time we flush that line. There will be an environmental and public health risk from the deposit of solids and fats which generate gasses. If the City accepted the sewer we would be the system operator and would be required to comply with State requirements. Until the system is repaired, it is not in compliance with the State. If we take it over we will have to repair it or we would be fined. It is recommended Council not accept the sewer system as built due to the liability this system will represent to the city, reengineer and reconstruct the system to comply with industry standards prior to any building permits being issued and request the applicant to replace the expired bonds on infrastructure to comply with the Blythe Municipal Code prior to the issuance of any building permits and request the applicant to honor its debt obligation according to the Security Agreement signed in 2008 prior to the issuance of any building permits.

Mayor Evans asked how long it would be before we were held liable. City Attorney Bettenhausen stated the City does not own the system, it's not ours. Right now it's a problem for the current owners and the question is whether we take it over and assume liability or not.

Councilman Galvan asked what the fine would be. Carmen Kasner of Atkins Engineering reported the fines are a complex formula. It's based on a combination of things such as if you had history of the problem, per gallon, it can be \$2 per gallon spilled which doesn't take log not add up.

Public Comment. Donald Kirby of True Life Companies stated we are not only the developer but also own a few homes in Chanslorplace. By now you have received the February 2, 2014 letter from our attorney and as of this morning a letter went out from Robert Holt regarding the staff report. We have been working with the City in good faith for the past several years. We have agreed with the City in the past to make the necessary repairs to make it a City approved system. In the past two weeks the City has now changed its position, requesting an unreasonable demand to reengineer and reconstruct the sewer system. The City cannot recondition a project that has already been approved without consent and we are not giving consent. We do not believe the City can lawfully do this. We disagree with and object to the staff report and are asking the Mayor and City Council to either dismiss this agenda item and vote in opposition to the staff report or allow a continuance so we can discuss this directly with the Mayor and City Council.

Councilman Galvan stated you said you were working with the City in good faith but how much money do you owe the City. It was reported there was a balance of \$17,000 since the downturn of the industry and we stopped building. At one point it was \$34,000.

Councilman DeConinck stated if he remembers correctly the City was trying to help you move your project along by waiving the connection fees until close of escrow and you collected the money from the buyer. That did not happen on some of the homes so you have failed to honor what you agreed to. Now the City has to go back and collect this money. Mr. Kirby does not have any knowledge of this. Finance Director Luckino stated there is a balance of \$17,500 due to homes that closed but were not paid. I am not sure why the transaction did not take place, but that is the case. Councilman DeConinck stated there have been many issues on this project the City has dealt with. There were people who did have problems with their sewer and they had to go back and change the falls because they were put in backwards. The road needs to be patched and that hasn't happened. There have been issues and the homeowners have bent over backwards trying to make things work. Your engineer and contractor ought to be the ones out there working to get this thing fixed and you ought to be behind it making sure it's done.

Councilman DeConinck made a motion to deny Americap Development Partners to obtain building permits for Phase III until the sanitary sewer system of Phase II is re-engineered and re-constructed under the applicable standards and the sanitary sewer system of Phase III is repaired. The motion was seconded by Councilman Galvan with a unanimous aye vote.

Shopping Carts. Lt. Gray reported on January 24, 2014 Building Inspector Brown and CSO Thomas partnered up to collect abandoned shopping carts around the City. They collected 58 shopping carts which were returned to the stores. Managers of the stores carts were returned to were contacted and seemed concerned that their carts were a blight to the City. They each had someone who would retrieve the carts but they were not utilizing the service. Since that time staff has seen people loading up carts and taking them back to various stores. At this time staff recommends we continue to allow the businesses to police themselves without taking additional law enforcement action.

Mayor Evans asked if we were taking time each week to round up the carts. It was reported we did it that one day and have since asked the store managers to collect the carts themselves. We are not dedicating staff time to it.

Mayor Evans feels this is going to be an on going issue and it needs to be pointed out that taking a cart is theft. Interim City Manager Luckino stated that it has come to our attention that some stores allow their patrons to take the cart off premise to take their food items home. I think that is a further complication we need to deal with and this will be an ongoing conversation.

Councilman DeConinck stated the stores that allow the carts off site hire a person to bring them back on a regular basis.

Interim City Manager Luckino stated we have started to see an impact with stores being more proactive. Mayor Evans agrees but would like the City to continue to pick up the carts four hours per week.

Vice Mayor Wade stated the businesses and Police Department have better things to do but it's a team effort. After the clean up I saw a homeless person with a cart. Let's give the PD a chance to contact the homeless, find out what their needs are and educate them.

No Public Comment. This item was received and filed.

Community Clean up Day. Interim City Manager Luckino stated Mayor Evans who is the organizer of the Community Clean up Day has requested \$2,000 from the Community Promotion line item to purchase supplies for the event. The event is February 22, 2014.

Mayor Evans would like to make this an annual event. Last time it was held in June and it was pretty hot. This year I would like to use the snowbirds to my advantage. This is about getting the community together and cleaning up the town. This will help me purchase food, supplies, etc.

Councilman DeConinck asked if the City would be purchasing the supplies. Interim City Manager Luckino stated the City would buy the supplies; the money would not go to an individual person.

No public comment. Vice Mayor Wade moved approval of \$2,000 being spent on the Blythe Clean up Day. The motion was seconded by Councilman Cusick with a unanimous aye vote.

Councilman DeConinck witnessed a citizen cleaning up Lovekin today and thanked him.

ORAL REPORTS:

Mayor Evans stated there was a petition going around for the Special Needs Park. There is a Study Session tomorrow for the Blythe Clean up Day.

Councilman Cusick has attended many foster Care meetings through the Riverside County Probation Department. There is a great need in Blythe for foster families. Currently the kids are sent out of the community and there is a feeling they need to be in the community. You will see more of this as we try to build a program in this community.

PUBLIC COMMENT: None

ADJOURN:

The City Council meeting was adjourned at 7:47pm.