

MEETING MINUTES

The City Council/Redevelopment Agency of the City of Firebaugh Vol. No. 08/11-03

Location of Meeting: Andrew Firebaugh Community Center
1655 13th Street, Firebaugh, CA 93622

Date/Time: November 3, 2008 @ 7:30 p.m.

CALL TO ORDER Meeting called to order by Mayor Craig Knight at 7:30 p.m.

ROLL CALL

PRESENT: Mayor Craig Knight
Mayor Pro Tem Javier Marquez
Council Member Chris DeFrancesco
Council Member Clyde Fannon
Council Member Marcia Sablan

ABSENT: None

OTHERS: City Attorney, Dale Bacigalupi; City Manager, Jose Antonio Ramirez; City Treasurer, Alice Castaneda; Finance Director, Odi Ortiz; City Clerk, Priscilla Meza; Deputy City Clerk, Rita Lozano; Police Chief, Elsa Lopez; Fire Chief/Code Enforcement Officer, John Borboa; Public Works Director, Ben Gallegos; Community Service Coordinator, Phyllis Baltierra; City Engineer, Mario Gouveia; Ron Frye; *See ATTACHED SIGN IN SHEET*

PLEDGE OF ALLEGIANCE

Pledge of Allegiance led by Mayor Knight

PUBLIC COMMENT

- John Baltierra (1538 Q Street) informed council that he did not receive notice of any follow-up meeting regarding the Annual Cantaloupe Roundup. Deputy City Clerk explained that the meeting had not been scheduled.
- Shirley Sanchez, Executive Director of Resource Center for Survivors, expressed appreciation to Police Chief's support of its local office and local programming.
- Jim Lowe (1980 Riverlane) questioned is city planned on replacing the shut-off valve to the water meters. Public Works Director, Ben Gallegos, confirmed that the shut-off valve to the water meters is being replaced.

INTRODUCTION

None

PRESENTATION

Mrs. Courtney Shapiro of First 5 Fresno County provided a brief presentation regarding the Friendly Business Awards Campaign. As per Mrs. Shapiro, this campaign encourages local business/employers to be Child-Friendly businesses. Employees can nominate their employers as being child-friendly and enter them in a county-wide contest. Contest award recipients will win free public service campaign services. Nominations are due to First 5 by 11/24/08.

City Manager Ramirez expressed gratitude to First 5 for recent \$1.5 million grant awarded to the City of Firebaugh for the Maldonado Park Project.

CORRESPONDENCE

None

CONSENT CALENDAR

None

PUBLIC HEARING

1. FIREBAUGH DISPOSAL RATE INCREASE

RESOLUTION NO. 08-46 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH INCREASING RATES FOR GARBAGE, RUBBISH AND RECYCLING SERVICES.

Mayor Knight reviewed proposed rate increases. Mayor Knight requested Firebaugh Disposal Service (FDS) to provide additional information and to respond to questions/concerns expressed by council and the public.

Nancy Perkins, FDS representative, explained that FDS has agreed to purchase automated cans and distribute to each residence paying for garbage disposal services.

City Attorney Bacigalupi requested FDS to explain the notice distributed to local residents. Mrs. Perkins stated that letters, Spanish and English, were mailed to each resident and business explaining the proposed rate increases. Mr. Perkins explained that residential accounts would increase by \$2.50/month and 17% for commercial accounts.

City Manager Ramirez agreed to translate the discussion in order to accommodate the Spanish-speaking community members present at the council meeting.

Citing Proposition 218, Chris Cardella (7420 Road 6) questioned if the public had the right to vote. City Attorney Bacigalupi explained that the evening’s discussion and public hearing process is in compliance with Proposition 218. Mr. Bacigalupi also informed council that council could not vote on the resolution if more than 51% of residents are in protest and signed a petition against the proposed rate increases. Mayor Pro Tem Marquez requested an approximate of the total number of local residential accounts. Mrs. Perkins responded by stating that there are approximately 1,200-1,300 residential accounts FDS is currently contracted to provide garbage disposal services.

Mayor Knight stated that city staff reported that there are approximately 1,650 accounts which include residential and commercial accounts.

Council Member DeFrancesco questioned if signatures of individuals listed on protest petition need to be registered voters. City Attorney Bacigalupi explained that either property owner or customer were legally eligible to sign protest petition; however, only one signature per account.

Mrs. Perkins pointed out that FDS has not received a salary increase in the past eight years and is only asking local residents to pay an additional \$2.50 per month for the first year than a slight increase, no more than 2-4%, each year after that. Mrs. Perkins also stated that the purchase of the automated cans were essential for the city to be in compliance with state law AB939. Mrs. Perkins stated that the city is currently at risk of receiving an Order of Non-Compliance from state officials for failing to meet recycling quota. As per Mrs. Perkins, the fine is approximately \$10,000 per day.

Salvador Fuentes (233 Valle De Paz) questioned how long the automated cans would last. Mayor Knight stated that the city has never purchased cans for local residents; however, FDS would be responsible to replace any damaged cans as per the contract. City Manager Ramirez clarified that the city was never responsible for providing and/or replacing garbage cans.

Teresa Magallon (1645 Yip Street) stated that local residents have purchased their own garbage cans and that FDS has only provided small, blue recycling bins. Ms. Magallon stated that FDS would mix general waste and recyclables after local residents have gone through the trouble of separating the garbage.

John Baltierra (1538 Q Street) stated that he was opposed to the proposed rate increases initially; however, now considering FDS has not increased its service charges for a very long time. Mr. Baltierra encouraged council to consider the entire picture and to do what is best for the community now and in the future. Mr. Baltierra expressed concern with having an outside garbage service provider make services available if FDS does not obtain approval of their proposed rate increases.

Chris Cardella (7420 Road 6) expressed his support for the proposed rate increases stating that FDS deserves additional revenue; local residents should be provided with automated cans and because FDS has made significant contributions to the community.

Jose Pablo Perez (1990 Tri Circle) stated that FDS has refused to respond to requests made to pick up used and/or old furniture and appliances. Mr. Cardella responded by stating that FDS would respond; however, would probably request a small fee to dispose of such items.

Mr. Magallanes (1765 Del Rio) questioned if recycle cans would generate any income for FDS. Mayor Knight pointed out that the purchase and distribution of automated cans would bring city in compliance with state regulations. Mayor Knight explained that the city is required to recycle 50% of its waste in order to avoid daily fines. Mr. Cardella stated that his daughter who lives in Elk Grove is required to pay \$44 per month and residents within the City of Fresno pay up to \$53 per month.

Linda DeFrancesco (2042 E. Cardella) expressed support for proposed rate increased and cautioned public to make decisions with incorrect information. Mrs. DeFrancesco also stated that if proposed rates are not approved by council that this could result in FDS going under, therefore, resulting in job losses for those local residents employed by FDS.

Patricia Arreola (506 Powers Court) expressed support of proposed rate increases. Ms. Arreola stated that she pays \$57 per month in the city of San Jose.

Mr. Cervantes (1554 Yip Street) shared incident involving FDS refusing to pick up green waste matter placed in garbage cans. As per Mr. Cervantes, FDS instructed him to take green waste to another location. Public Works Director, Ben Gallegos, informed Mr. Cervantes that city could pick up green waste if contacted. Mr. Cervantes stated that he initially signed protest petition; however, is now in favor of the proposed rate increases.

Rod Lake (1711 7th Street) questioned if city performed a survey of what surrounding cities are currently paying for garbage disposal services. City Manager Ramirez responded by saying that no such survey was conducted; however, the proposed rate increases are based by FDS projections. Mr. Lake pointed out that such a survey would have been useful to staff and local residents to compare.

John Baliterra stated that many local residents may have valid points/complaints about FDS; however, should all consider the many contributions made by FDS.

David Flores (37647 W. Behymer) stated that all residents have the right to express their opinions regarding this matter and should not be attacked if their opinion is against the majority.

Mr. Perkins stated that Allied Waste in the City of Dos Palos provides only one garbage can per household and currently charges \$18.10 per month; however, is scheduled to increase their rates as well.

Linda DeFrancesco responded to Mr. Flores' remarks by stating that no one is attacking those voicing opposition of the proposed rate increases; however, questioned who the leaders of the protest petition were and why they have not come forward.

Constance Kariberg (208 Valle De Paz) stated that she distributed protest petition opposing annual rate increases over a 10 year period.

Felipe Perez (1628 Mendoza Drive) stated that he too was responsible for distributing protest petition. Mr. Perez expressed concern for those families that are on a very fixed, limited budget and the impact these proposed rate increases would mean for them. Mr. Perez also recommended that FDS provide community education on how to recycle properly. Mayor Knight explained that Mr. Perez shared his opinions regarding this matter and was advised of his right to voice opposition.

Mayor Knight reported that staff received a total of 564 signatures opposing the proposed rate increases; thus not meet the 51% required by Proposition 218 prohibiting council members to take action to approve proposed rate increases. Mayor Knight explained that the proposed rate increases consisted of a one-time \$2.50 per month increase for the first year and a 2-4% annual increase every subsequent year within the contract period. Mrs. Perkins stated that all garbage companies use the CPI Index to determine percentage of annual increases.

Lucy Mosqueda (656 Diaz Street) stated that she is not opposed of proposed rate increases; however, pointed out that her salary has not increased as well. Ms. Mosqueda also cautioned council and FDS to compare the city of Firebaugh to other cities, such as San Jose, Fresno and/or Clovis. Ms. Mosqueda stated that she is in favor of approving the proposed rate increases but would also want council and FDS to consider the impact these increased rates will have on lower-income families.

Mr. Salvador Fuentes questioned what the annual rate increase would be in 10 years if amount is determined by the CPI Index. Mayor Knight explained that the CPI Index would result in a 2-4% rate increase each year. Mr. Fuentes encouraged council to look at the bigger picture and long-term consequences to approving proposed rate increases. Mr. Fuentes stated that his daughter, living in the City of Clovis, pays \$60 per month for garbage, water and sewer services.

Mayor Knight opened discussion to council members.

Council Member DeFrancesco expressed appreciation for everyone's opinions and comments; however, is obligated to make a decision based on what is in the best interest for the community. Council Member DeFrancesco stated that the city's infrastructure needs to be strengthened to avoid negative, long-term affects on the community and its members. Mr. DeFrancesco stated that former council members failed to make critical decisions necessary to build a strong city infrastructure and that current council members are now forced to make very difficult decisions. Council Member DeFrancesco acknowledged that in today's current economic crisis, the impact of the proposed rate increases could create a hardship on local families; however, council must make decisions that invest in the city's future. Mr. DeFrancesco stated that council must have the courage to make these difficult decisions. Mr. DeFrancesco also expressed responsibility of protecting local businesses and bringing in more businesses into the community.

Council Member Sablan also expressed appreciation for comments made by the public regarding this issue and thanked FDS for their support of the community. Ms. Sablan stated that she is in favor of the proposed rate increases; however, preferred elimination of the "tipping fee" on Exhibit A. Council Member Sablan requested clarification on how the tipping fees would increase if the dumping in the landfill would decrease due to increased recycling efforts.

Mr. Perkins stated that the formula used to determine costs of the tipping fees is determined by the Fresno County Board of Supervisors. Council Member Sablan expressed preference to remove “tipping fees” from the formula determining the annual rate increase. Mr. Perkins explained that the tipping fees are not determined by FDS but by the county Board of Supervisors.

Council Member Sablan deferred to legal counsel. City Attorney Bacigalupi explained that FDS would be able to raise fees based on the CPI Index and “tipping fees”. Council Member Sablan pointed out that the formula determining the annual tipping fees is not included in Exhibit A.

Chris Cardella stated that FDS should have the opportunity to generate added income and questioned why Council Member Sablan was opposed to earning additional income.

Mr. Perkins explained that FDS is unable to predict the actual amount of the annual tipping fees.

City Attorney Bacigalupi suggested that council approve proposed rate increases but review subsequent annual increases each year for council approval.

Mayor Knight expressed support of proposed rate increases and called for council action.

Council Member Sablan stated that although she is in support of the proposed rate increases, she is not willing to enter into an agreement without a clause allowing council to review subsequent, annual rate increases.

Motion to approve Resolution No. 08-46, as written, made by Council Member DeFrancesco, second by Council Member Fannon; motion passed by 3-2 roll call vote (Marquez/Sablan – no).

OLD BUSINESS

None

NEW BUSINESS

2. **PROPOSED CONTRACT CHANGES FOR FIREBAUGH DISPOSAL.**

Mayor Knight provided an overview of the proposed contract changes. Mayor Knight stated that current FDS contract expires in two years and that the proposed changes would extend current contract for an additional ten years.

Council Member DeFrancesco requested clarification on whether council was agreeing to approve an additional ten years opposed to the eight years discussed at the previous council meeting.

Mayor Knight welcomed public comments.

David Flores (37647 W. Behymer) questioned who made previous suggestion to make contract less than ten years. City Manager Ramirez stated that he encouraged council to make contract agreement less than ten years. Mr. Flores also questioned if proposed contract changes includes a “breach of contract” clause. FDS representative, Mr. Terry Perkins, assured Mr. Flores that such clause is included in current contract.

City Attorney Bacigalupi highlighted three other changes in the proposed contract, including (1) obligating FDS to purchase automated cans and (2) distribute automated cans to local residents by 2/1/09 and (3) transferring all reporting obligations to FDS at their cost.

FDS representative, Nancy Perkins, expressed concern with a 2/1/09 purchase date and requested purchase date modified to 3/1/09 to avoid breach of contract.

Mayor Knight questioned if staff could be contracted to generate required reports. City Manager Ramirez stated that FDS could request staff to prepare and generate reports; however, FDS would need to pay for staff time and any other costs associated with preparing reports. Mrs. Nancy Perkins requested FDS to have discretion of how they would want to contract for said service. City Manager Ramirez explained that FDS would have full discretion of who they would contract.

City Attorney Bacigalupi stated that he understood FDS agreeing to a 2/1/09 purchase and distribution date for the automated cans. Mr. Bacigalupi encouraged council to include a date of implementation within the proposed contract. Mayor Knight agreed and asked FDS representatives if a 3/1/09 deadline would be more feasible. FDS representative, Nancy Perkins, agreed that a 3/1/09 deadline would be more feasible and realistic.

Salvador Fuentes (233 Valle De Paz) expressed concerns with council agreeing to a ten year contract and questioned why FDS is requesting such a lengthy contract. Mayor Knight explained that FDS is requesting a ten year contract to secure financing to purchase automated cans. Mr. Terry Perkins also stated that financing would assist FDS in purchasing new truck(s). Again, Mr. Fuentes expressed concerns with council agreeing to a ten year contract with FDS, especially with approved rate increases.

Cirilo Sava (1987 Tri Circle) stated that in the past 20 years, he has never received garbage cans provided by FDS. City Manager Ramirez stated that no one has been responsible to providing local residents with automated cans prior to this proposed contract.

Mayor Pro Tem Marquez expressed his preference to agreeing to a seven year contract.

Renolfo Delgado (765 Gregg Street) stated that three families, within his neighborhood, are dealing with ongoing issues involving major water puddles along the street. City Manager Ramirez encouraged Mr. Delgado to address concerns with city staff.

Motion to approve Proposed Contract Changes, including contract period of eight years in addition to the two years remaining in current contract and new implementation date of 3/1/09 for the purchase and distribution of automated cans, made by Council Member Fannon, second by Council Member DeFrancesco; motion passed by unanimous roll call vote.

3. **RESOLUTION NO. 08-45 – A REVISED RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH, CA ESTABLISHING UNDERGROUND UTILITY DISTRICT NO. 2 (LOCATED ON 13TH STREET FROM STATE HIGHWAY 33 (N STREET) TO THE SAN JOAQUIN BRIDGE).**

Mr. Ron Frye, Madera Solid Waste Consulting, stated that PG & E will pay for 100 foot cable and \$1,500 per panel for installation of new panels. Mr. Frye explained that this information was not included in the original resolution and recommended council to approve revised resolution.

City Manager Ramirez stated that staff is pushing for construction to begin within the next 12 months.

City Attorney Bacigalupi requested clarification on language in No. 7 of the Resolution. Mr. Frye stated that PG & E will pay up to \$1,500 per panel on each parcel.

Motion to approve Ordinance No. 08-45, as written and inclusion of last paragraph, made by Council Member Sablan, second by Council Member Fannon; motion passed by unanimous roll call vote.

4. COUNCIL TO APPROVE NOTICE OF COMPLETION FOR THE WATER TREATMENT PLANT UPGRADE PROJECT.

City Manager Ramirez stated that he was satisfied with water treatment plant upgrades.

Motion to approve Notice of Completion made by Council Member DeFrancesco, second by Council Member Sablan; motion passed by consensus vote.

PENDING ITEMS

None

PUBLIC COMMENTS/QUESTIONS

None

STAFF REPORTS

- **Community Service Director, Phyllis Baltierra** –
 - Distributed entry forms for upcoming Electric Christmas Parade.
 - Continue to work on monthly food distribution.
 - Agreed to provide a monthly staff report, as requested by Mayor Pro Tem Marquez.
 - In response to Council Member Sablan's inquiry as to determining factors of having Annual Christmas Parade in early December, Mrs. Baltierra stated that date was determined to avoid conflict with events held by surrounding communities. Agreed to look at hosting this event at a later date in 2009.
- **Police Chief, Elsa Lopez** – nothing to report.
- **Public Works Director, Ben Gallegos** –
 - Announced completion of P Street improvement project.
 - Installation of antenna at the Rodeo Grounds to monitor hourly water meter readings.
 - Lozano/Ramirez also stated that staff is looking into making these readings available to public via online website.
 - Explained that staff will notify property owners of any water leaks and/or meter tampering.
- **Fire Chief/Code Enforcement Officer, John Borboa** –
 - Announced fatal accident resulting in the death of a local community member.
 - Agreed to provide monthly staff report, as requested by Mayor Pro Tem Marquez.
- **City Treasurer, Alice Casteneda** – nothing to report.
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- **City Engineer, Mario Gouveia** – nothing to report
- **City Clerk, Priscilla Meza** – friendly reminder of upcoming elections.
- **Deputy City Clerk, Rita Lozano** – nothing to report
- **City Finance Director, Odi Ortiz** –
 - Announced that city placed second for having the lowest amount of Worker's Compensation Claims. City of Kerman placed first.

- **Assistant City Manager, Laura Rios** – not present.
- **City Manager, Jose Antonio Ramirez** –
 - Updated council regarding the property tax/bond issue. Madera and Fresno Counties have agreed to make necessary adjustments resolving the matter.
 - Expressed that staff is looking forward to the “real time” readings of the installed water meters.
 - Provided information regarding the new EPA requirements addressing arsenic levels in city water supply. New rigorous standards resulted in city falling slightly below the acceptable levels. City staff will distribute public notices regarding results, as required by law. Although city failed to meet the EPA requirements, City Manager assured council that levels are not life threatening.
 - Provided an update regarding the Safe Route to School project.
 - Announced upcoming training for Non-Profit Organizations on November 13, 2008 in San Francisco.
 - Stated that Red Rooster was very pleased with tax credits they received.
 - Announced that city staff is scheduled to pick up city’s Christmas Tree on November 7th.
 - Staff is waiting for report regarding the proposed Bio-Diesel Plant.
 - Provided information regarding the Gill Ranch Storage Project. Staff is collaborating with PG & E. Project start date scheduled tentatively for late-Summer 2010.
 - Shared that city may charge local residents an online service charge for payments made online towards their water bills.
 - Announced that Juan Arambula visited area regarding the railroad issue. Arambula’s office requesting city to participate in contributing money to assist with associated improvement costs.
 - Staff met with TomaTek officials to address the Notice of Violation regarding water supply and to discuss their responsibility for covering costs associated with required reports/studies.

COUNCIL ITEMS

- Fannon – none
- Knight - none
- Marquez –
 - Requested confirmation of his committee assignment to the Cantaloupe Roundup and Electric Christmas Parade committees. City Manager agreed to have staff follow-up on the matter and provide him with requested information.
- DeFrancesco –
 - Requested staff to provide an update regarding the “color code” and the Downtown Façade Project. City Manager agreed to follow up on the matter.
- Sablan –
 - Questioned if issue regarding Maldonado Park are being addressed. City Manager stated that contractors agreed not to close the park and will install fencing surrounding areas of concern pending further improvements. Police Chief Lopez also stated that staff is developing a plan to address vandalism issues.
 - Sablan encouraged staff to consider scheduling a Parks and Recreation meeting to address issues. Police
 - Community resident, John Baltierra, encouraged Police Department to utilize West Hills College’s student internship program to assist with the monitoring of security cameras of the said area.

CLOSED SESSION

5. **EXISTING LITIGATION – ONE CASE PERB CASE #**
Operating Engineers Local Union #3 v. City of Firebaugh
6. **CITY ATTORNEY EVALUATION.**

ANNOUNCEMENT AFTER CLOSED SESSION

None

ADJOURNMENT

Motion to adjourn made by Consensus Vote. Meeting adjourned at 10:33 p.m.

*Minutes submitted by:
Priscilla Meza, City Clerk*