

MEETING MINUTES

**The City Council/Redevelopment Agency of the City of Firebaugh
Vol. No. 09/08-03**

Location of Meeting: Andrew Firebaugh Community Center
1655 13th Street, Firebaugh, CA 93622
Date/Time: August 3, 2009/ 7:30 p.m.

CALL TO ORDER Meeting called to order by Mayor Sablan at 7:34 p.m.

ROLL CALL

PRESENT: Mayor Marcia Sablan
Council Member Chris J. DeFrancesco
Council Member Rod Lake
Council Member Jim Lowe

ABSENT: Mayor Pro Tem Javier Marquez

OTHERS: City Attorney, Meggin Boranian; City Manager, Jose Antonio Ramirez; Assistant City Manager, Laura Rios; City 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; City Engineer, Mario Gouveia; Community Service Coordinator, Phyllis Baltierra, and other community residents.

PLEDGE OF ALLEGIANCE

Pledge of Allegiance led by Council Member Lowe

PRESENTATION *(Council elected to move Presentation and Agenda Item No. 5 before hearing Public Comments.)*

- Tony Boren provided an overview regarding the Measure C Regional Transportation Mitigation Fee Joint Powers Agency Agreement. Mr. Boren outlined the revised Plan for Implementation and explained the benefits to all jurisdictions.

Mayor Sablan welcomed public comments. No public comments.

Mayor Sablan welcomed comments from council members. Council Member DeFrancesco questioned how widening Hwy 180 would benefit the Westside. Mr. Boren explained that all of the Westside would benefit from the widening of Hwy 180 and the Hwy 180 to I-5 link.

Mayor Sablan questioned if the basis of fees were within Measure C and requested clarification if council decided not to accept the agreement. Mr. Boren confirmed that the basis of fees were within Measure C and that if council votes not to accept the agreement that the fees from permits that would normally go to the city would need to go to the county. City Attorney Boranian explained that the Joint Powers Agency Board (also known as the COG Board) accepts responsibility to enact and collect said fees. Ms. Boranian also ensured council that attorneys for all jurisdictions carefully reviewed this approach and are highly recommending local jurisdictions to accept the agreement citing both practical and legal advantages for their clients.

City Manager Ramirez expressed appreciation to COG accepting the role as the Joint Powers Agency Board.

PUBLIC COMMENT

David Flores, 37647 W Behymer, expressed appreciation to staff and volunteers assisting with this year’s Cantaloupe Roundup.

CORRESPONDENCE

None

CONSENT CALENDAR

- 1. **APPROVAL OF MINUTES – The City Council meeting on June 22, 2009.**
- 2. **APPROVAL OF MINUTES – The City Council meeting on July 20, 2009.**

Motion to approve minutes for 6/22/09 and 7/20/09 made by Council Member Lowe; second by Council Member Lake. Motion passed by unanimous consensus vote.

- 3. **FIREBAUGH POLICE DEPT REQUEST THE USE OF THE MALDONADO BASKETBALL COURT FOR NATIONAL NIGHT OUT ON THE 4TH OF AUGUST 2009.**

Council Member Lake questioned why this request for use of facility by the police department is brought before council rather than processed by staff. Police Chief Lopez stated that the intention was informational only. City Manager Ramirez requested direction from council. Council Member Lake stated that staff is capable of making such decisions. City Attorney Boranian explained that although there is no legal requirement to bring before the council it is a good method of informing the public and council. Council Member DeFrancesco requested such information be included in department/staff reports.

Oscar Sablan (1908 Vasquez Drive) suggested council/staff to implement policy that is fair and consistent for city department and public requests for use of public facilities/parks to avoid any conflict. Council Member Lake stated that staff should be able to handle use of facility requests in a fair manner to avoid conflicts of schedules, especially public park facilities.

Informational item only; no council action taken.

PUBLIC HEARING

None

OLD BUSINESS

- 4. **ORDINANCE NO. 09-05- AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH AMENDING SECTION 2-2.5 OF THE FIREBAUGH MUNICIPAL CODE RELATING TO DISRUPTION OF COUNCIL MEETINGS – SECOND READING.**

Motion to approve Ordinance No. 09-05 made by Council Member Lake; second by Council Member Lowe. Motion passed by 3-1 roll call vote (Sablan opposed).

Council Member DeFrancesco requested a “re-vote” on agenda item. Council Member DeFrancesco questioned which council member requested item be placed on agenda. Council Member Lake stated that he requested council review already existing ordinance for purposes of updating titles and making ordinance current. City Attorney Boranian explained that the modifications did not change the content of the ordinance; however, a few incidents occurred raising the importance of having an updated ordinance. Mayor Sablan

expressed concern with costs associated in making said minor changes, especially when other ordinances are in need of minor updates.

Mayor Sablan stated that she preferred to make such updates on all ordinances requiring updates as a group in order to minimize the cost. Council Member Lake stated that he understood Mayor Sablan’s concern; however, feels that council is responsible for taking action to make necessary updates when issues arise. Council Member Lake also expressed concern with an outdated ordinance being presented in a court of law should the need arise.

Deputy City Clerk Lozano stated that publishing costs would range from \$200 to \$1,400/\$1,700 depending on the length of the document and where the document is published. Ms. Lozano also stated that there are many factors that affect the overall costs.

Council Member DeFrancesco questioned if such an ordinance is used by other cities. City Attorney Boranian confirmed that other cities use similar ordinances. City Attorney Boranian stated that the newer version is legal.

Motion to reject original vote of approving Ordinance No. 09-05 made by Council Member DeFrancesco; second by Mayor Sablan. Motion fails at 2-2 roll call vote (Lake/Lowe-opposed). First motion approving Ordinance No. 09-05 stands.

NEW BUSINESS

5. RESOLUTION NO. 09-19 – RESOLUTION OF AUTHORIZATION TO ALLOW CITY OF FIREBAUGH TO ENTER INTO A JOINT POWERS AGENCY FOR THE CREATION OF THE FRESNO COUNTY REGIONAL TRANSPORTATION MITIGATION FEE.

City Attorney Boranian pointed out that the resolution calls for signature of the JPA as well as the agreement.

No public comment.

Motion to approve Resolution No. 09-19 made by Council Member Lowe; second by Council Member Lake. Motion passed by unanimous roll call vote.

6. RESOLUTION NO. 09-18 - A RESOLUTION OF INTENTION TO LEVY AND COLLECT THE ANNUAL ASSESSMENTS FOR LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 1 IN THE CITY OF FIREBAUGH

City Engineer Gouveia stated that this is routine. Council Member Lake questioned if there was a map of the lighting district; Mr. Gouveia stated that there is a map.

No public comment.

Motion to approve Resolution No. 09-18 made by Council Member Lowe; second by Mayor Sablan. Motion passed by unanimous consensus vote.

7. ORDINANCE NO. 09-06 – AN ORDINANCE OF THE CITY OF FIREBAUGH ADDING SECTION 4-5 TO CHAPTER 4 OF THE FIREBAUGH MUNICIPAL CODE REQUIRING THE LICENSURE OF TOBACCO RETAILERS – FIRST READING.

Assistant City Manager Rios provided a brief overview of the ordinance explaining its focus on decreasing the sale of tobacco to minors. Ms. Rios pointed out that process included careful overview by the City Police Chief.

Police Chief Lopez stated that preliminary review of the ordinance identified a few elements that needed to be incorporated. Police Chief Lopez also requested an additional clause giving licensed businesses the option to pay a fine in lieu of license suspension.

City Attorney Boranian stated that similar ordinances are being introduced to other municipalities and suggested council take the time to review with staff and Police Chief to ensure that ordinance meets the need of the community. Ms. Boranian requested additional time to review suggested changes with Police Chief Lopez.

City Manager Ramirez also suggested council consider the amount of the license fees. Chief Lopez explained that an estimated 10 businesses would require bi-annual inspections equaling about \$1,024/year per business. Chief Lopez pointed out that this included overtime pay and decoy efforts.

Mayor Sablan stated that the average license fee is \$300.

Mayor Sablan welcomed public comments.

Oscar Sablan (1908 Vasquez Drive) expressed importance of council passing such an ordinance. Dr. Sablan stated that this would send a positive message to the community regarding health risks associated with tobacco and would demonstrate responsible leadership.

Matt Flood (1456 Q Street) concurred with Dr. Sablan’s statements and encouraged council to pass such a resolution.

Council Member Lowe requested license fees be placed specifically for the police department as a line item in the General Fund.

Council Member Lake requested clarification on the breakdown of fees stated by Police Chief Lopez. Chief Lopez explained that costs are an estimate of enforcement. Attorney Boranian pointed out that the determination of fees is based on a formula outlined in Section 10 of the ordinance.

Council Member Lake stated that existing laws are already in place to address the illegal sale of tobacco to minors. Police Chief Lopez pointed out that this ordinance is more local and focused on enforcement.

Mayor Sablan clarified that currently the police department does not receive compensation for enforcement efforts and stated that fines will more than likely be issued based on “local talk”. Mayor Sablan recommended one inspection and one decoy per business rather than two decoy efforts per business. Police Chief Lopez agreed to work with council’s requests/direction.

Mayor Sablan requested legal counsel regarding next steps.

City Attorney Boranian suggested staff bring ordinance back with suggested changes and/or “add-ons”. Ms. Boranian pointed out that this will also allow more time for council to review and send out timely notices to local businesses.

Council directed staff to make suggested changes and requested legal counsel to review with Police Chief.

8. RE-CLASSIFICATION OF THE ASSISTANT CITY MANAGER POSITION TO HUMAN RESOURCES DIRECTOR /OFFICE MANGER.

City Manager Ramirez provided an overview regarding agenda item. Mr. Ramirez also referred council to letter submitted by Public Works Director Gallegos.

Council Member Lake questioned whether to table agenda item until there is a full council present to take action. Attorney Boranian stated that council can make a motion to table item until there is a full council present. Mayor Sablan expressed concern with postponing action not knowing if there will be a full council at the next meeting. Mayor Sablan also stated that she would not be available at the September council meetings.

Council Member Lake expressed disagreement with bringing this matter before council to take action. Mr. Lake stated that he understood Council Member Lowe's request to bring this matter before council for further discussion not to take action.

Council Member Lowe stated that similar items have been brought back for discussion. Council Member Lowe expressed concern with approving such a resolution especially when Police Chief Lopez reported that there will be no federal stimulus monies available and when staff has not addressed the issue of whether or not there are funds available.

Finance Director Ortiz stated that currently there is a balanced budget and clarified that statements made regarding no available funds were said when he was first informed by the state of the loss of funds.

Mayor Sablan asked if current budget allows position to be funded. Finance Director Ortiz stated that the current budget provides for such a position.

City Manager Ramirez stated appreciation for Council Member Lowe's concerns; however, pointed out that staff has carefully reviewed the entire budget. Mr. Ortiz also pointed out that the city has the option of declaring financial hardship which would prevent state from collecting property taxes from city. Mr. Ortiz also explained that several grants allow staff to fund administrative positions and does not anticipate a material impact by funding this position.

City Attorney Boranian explained that if duties are eligible to be reclassified, a new position can be created to reflect already existing job duties performed by another "titled" position that currently exists.

City Manager Ramirez welcomed input from department supervisors.

Council Member DeFrancesco questioned why Council Member Lowe requested item be placed on the agenda if not willing to approve it. Council Member DeFrancesco expressed disappointment with "toying" with staff member in question, especially if he had no intention of approving the matter. Council Member Lowe stated that he stands by his decision based on the

Council Member Lake stated that he was surprised that the matter was placed on the agenda for council to take action. Council Member Lake stated that he understood Council Member Lowe's request for matter to be brought back for further discussion only.

Attorney Boranian stated that she understood council request additional information from staff and for the matter to be brought back for council consideration. Ms. Boranian also pointed out that time is of the essence. As per Ms. Boranian, the reclassification needs to occur prior to September 1, 2009.

Council Member Lowe stated that he will be more specific regarding his requests. Council Member DeFrancesco requested clarification if matter was meant to be placed on agenda for council action. Ms. Boranian stated that she understood council's request to include additional information from staff and further action from council. Ms. Boranian stated that staff did what council requested.

Finance Director Ortiz also clarified that merit salary increases were not frozen; only "cost of living" was frozen.

Ms. Boranian stated that after reviewing the previous council meeting minutes, approved by council at tonight's meeting, they reflect Council Member Lowe requesting item be placed on the next meeting agenda.

Mayor Sablan cautioned council of dismissing a vote claiming a lack of information when in fact they requested matter to be brought back for council consideration/vote.

Motion to approve Re-Classification (Resolution No. 09-20) made by Council Member DeFrancesco; second by Mayor Sablan. Motion failed by 2-2 roll call vote (Lake/Lowe-opposed).

PENDING ITEMS

- School Board scheduled to meet with the City Council on a Wednesday evening in August 19th.
Refer to Staff Reports
- Certificate of recognition of City employees for dedication and services to the City.
Refer to Staff Reports
- THE CONSIDERATION ON THE REMOVAL OF THE CITY CLERK’S AND CITY’S TREASURER’S POSITION ON THE NEXT ELECTION BALLOT AND COST.
Refer to Staff Reports

STAFF REPORTS

- **Phyllis Baltierra, Community Service Coordinator –**
 - Reported that she is back to work and expressed appreciation of Deputy City Clerk Lozano and Assistant City Manager Rios’ assistance during her absence.
- **Elsa Lopez, Police Chief –**
 - Stated that City Attorney Dale Bacigalupi will give opinion regarding regulating/enforcement issues on addressing medical marijuana dispensaries. Council Member Lake requested legal review and stated that he would vote to prohibit dispensaries. Mayor Sablan agreed with Council Member Lake and requested additional information regarding statistics to support the prohibition of these dispensaries.
- **Ben Gallegos, Public Works Director –**
 - Informed council of recent resignation of a Water Operator. Mr. Gallegos is currently filling in the position with existing qualified staff; however, is concerned with meeting the state’s mandate of having this position permanently filled. Council Member Lake stated that he thought hiring new positions were currently frozen. City Manager Ramirez explained that this is a state mandated position and must be filled.
 - Welcomed council and public to view recently purchased utility truck.
 - **John Borboa, Fire Chief/Code Enforcement Officer –** Nothing to report.
- **Odi Ortiz, Finance Director –**
 - Stated that staff is experiencing a delay in gas tax payments.
 - Reiterated that city has option to file for financial hardship that would prevent the collection of fees from the state.
 - Mayor Sablan requested fiscal impact analysis of each agenda item for future meetings.
- **Mario Gouveia, City Engineer –** Nothing to report.
- **Priscilla Meza, City Clerk –** Nothing to report.
- **Rita Lozano, Deputy City Clerk –**
 - Reported that costs associated with Removal of City Clerk and City Treasurer’s positions were misquoted and that she anticipates costs to be higher than already quoted.
- **Laura Rio, Assistant City Manager –**
 - Expressed gratitude to department supervisors for their hard work in making the Cantaloupe Roundup event a huge success.
 - Announced that Waste Management Reports will be provided to council for future meetings.

➤ **Jose Antonio Ramirez, City Manager –**

- Continues to work with local businesses on the Facade Project.
- Announced upcoming First Citizen Oversight Committee meeting re: Measure Q on 8/4/09.
- Announced San Joaquin River Restoration Meeting at Firebaugh Middle School on 8/26/09.
- First food giveaway will take place on 8/14/09 at Maldonado Park. Volunteers are needed.
- Attended quarterly County Enterprise Zone meeting.
- Continues to work with Finance Director on analyzing the Water Enterprise Fund to relieve costs to consumers.
- Council Member Lake questioned if West Hills College has portable bathrooms outside their campus for students and/or the public or both. Matt Flood stated that the portable bathrooms are meant for staff, students and construction crews; however, public use is unavoidable. Mr. Flood stated that construction was expected to finish by 8/14/09; however, believes it to more than likely end in early September.

➤ **Meggin Boranian, City Attorney –**

- Attorney Boranian requested clarification regarding next council meeting with school district. City Manager Ramirez stated that the school has no agenda items and that they will inform city staff if they need to have items placed on the agenda. Deputy City Clerk Lozano informed council of the need to meet on 8/17/09 in order to address time sensitive matters.

COUNCIL ITEMS

➤ **Council Member Lowe –**

- Requested council to consider moving meetings from 7:30 p.m. to 6:30pm. Mayor Sablan stated that she would be unable to attend meetings at 6:30 p.m. due to her work schedule. Council Member stated that he was in favor of moving meeting up to 6:30 p.m.

➤ **Council Member Lake** – none

➤ **Council Member DeFrancesco** – none

➤ **Mavor Sablan** – none

CLOSED SESSION

None

ANNOUNCEMENT AFTER CLOSED SESSION

None

ADJOURNMENT

Motion to adjourn made by Council Member Lowe, seconded by Council Member DeFrancesco; motion carried by consensus vote. Meeting adjourned at 9:25 p.m.

*Minutes submitted by:
Priscilla Meza, City Clerk*