

CITY OF BRAWLEY
July 18, 2017

The City Council of the City of Brawley, California met in a regular session at 6:00 PM, City Council Chambers, 383 Main, Brawley, California, the date, time and place duly established for the holding of said meeting. The City Clerk attests to the posting of the agenda pursuant to G.C. §54954.2.

The meeting was called to order by **Mayor Pro-Tempore Noriega @ 6:00 PM**

PRESENT: Kastner-Jauregui, Nava, Noriega, Wharton
ABSENT: Couchman

Invocation was offered by **CM Kastner-Jauregui**

Pledge of Allegiance was led by **CM Nava**

1. APPROVAL OF AGENDA

The agenda was **approved** as submitted. m/s/c Kastner-Jauregui/Wharton 4-0 Couchman absent

2. PUBLIC APPEARANCES/COMMENTS

- a. **Jean Pantaleo, Brawley resident**, asked the City Council to look into considering a discount for Senior Citizens on their Water/Sewer/Trash bills.
- b. **Katie Luna, Executive Director Brawley Chamber of Commerce**, stated that they are moving forward with the Business Speed Networking Event that will take place at the Lions Center on July 31, 2017 starting @ 6pm, Doc's Organic Mixer on July 27th and Florentine Collection Mixer on August 4th. She also reported that the Cattle Call Queen Contest has been postponed due to lack of participants. The Brawley Cattle Call Queen Royalty Association will use the 2017 contest season to complete a formalization process which will establish the association as a non-profit.
- c. **Gil Rebollar, Brawley resident**, reported to the City Council on a downtown cleanup. He has contacted County Supervisor of District #4 Ryan Kelley, Simon Canalez Superintendent at Brawley Union High School and several Brawley organizations to participate. The City Council suggested coordination with the City Manager.
- d. **Valerie Smith, Elks Member**, invited everyone to their upcoming pulled pork fundraiser scheduled for July 22, 2017 starting at 11am.
- e. **Steven Sullivan, Senior City Engineer**, introduced the Water Distribution/Sewage Collections System Operations Supervisor Steven Mireles as a new employee.
- f. **Pat Dorsey, Parks & Recreation Director**, introduced newly appointed Parks Maintenance Worker Anthony Padilla.
- g. **Kelly Brown, Interim Police Chief**, introduced Police Officers Jake Yuhas and Jesse Yuhas.

h. **Chuck Peraza, Fire Chief**, introduced Firefighter Martin Melendez.

3. CONSENT AGENDA Items are approved by one motion. Council Members or members of the public may request consent items be considered separately at a time determined by the Mayor.

The consent agenda was **approved** as submitted. m/s/c Nava/Kastner-Jauregui 4-0 Couchman absent

AYES: Kastner-Jauregui, Nava, Noriega, Wharton

NAYES: None

ABSENT: None

ABSTAIN: Couchman

- a. **Approved Accounts Payable:** June 9, 2017
June 16, 2017
June 26, 2017
June 30, 2017
July 7, 2017
- b. **Adopted** 2nd Reading of Ordinance 2017-05: Ordinance of the City Council of the City of Brawley, California Prohibiting the Use, Consumption and Possession of Cannabis in City Facilities, Parks and Other Public Places in the City of Brawley.
- c. **Adopted** 2nd Reading and Adoption of Ordinance No. 2017-06: Ordinance of the City Council of the City of Brawley, California Amending the Codified Ordinances of the City of Brawley Relating to Marijuana Commercial Activities.
- d. **Authorized** Amendment No. 8 for a 12 Month Extension to the Agreement between City of Brawley and Imperial County Humane Society for Animal Sheltering Services.
- e. **Authorized** Amendment No. 1 to the Agreement with Psomas for Professional Engineering Services to Revise Plans and Specifications for Main Street Lighting Project in the Amount of \$5,939.06.
- f. **Approved** Resolution No. 2017-33: Resolution of the City Council of the City of Brawley, California Indicating Program Income Funds to Supplement the CDBG Grant #13-CDBG-8954 for the Purchase of the Fire Apparatus and Performance of Sewer Improvements for the City of Brawley.
- g. **Approved** Resolution No. 2017-34: Resolution of the City Council of the City of Brawley, California Amending the Bernardo Padilla Assessment District Commencing with FY 2017/2018.
- h. **Approved** Request by Brawley Chamber of Commerce to Sell and Consume Alcohol on City Properties on Designated Dates and Times as Part of 2017 Cattle Call Festivities.

4. REGULAR BUSINESS

- a. Discussion and Potential Action to Award Contract to Masters Construction for Project No. 2017-01, Sidewalk Rehabilitation on Various Streets in the Amount of \$289,420.00.

The City Council **awarded** the Contract to Masters Construction for Project No. 2017-01, Sidewalk Rehabilitation on Various Streets in the amount of \$289,420.00. m/s/c Nava/Kastner-Jauregui 4-0 Couchman absent

- b. Discussion and Staff Direction re City of Brawley Utility User Tax

Ruby Walla, Finance Director/City Treasurer – Power Point Presentation*

*On file and available upon request from the Office of the City Clerk.

The City Council was advised that the staff requests guidance on how the City would like to proceed with the renewal, rate, and term of the Utility Users Tax that is set to expire May 31, 2018. Final direction was also requested regarding modernizing the Ordinance of the Utility User Tax to potentially include applicability to cell phones as land lines have been replaced with the more modern technology. Ballot measure language must be finalized and adopted by July 25, 2017 for submittal to the County of Imperial. Ms. Walla noted that this topic had been discussed during Mid-Year Budget Review, Strategic Planning and General Fund Budget discussions leading up to adoption of the 2017/2018 budget.

The City Council **directed** staff to work on the wording for the Ballot Measure and leave as is at a rate of 4% with a 5 year sunset without modernizing the ordinance to introduce any new technologies.

5. CITY TREASURER'S REPORT

Ruby Walla, Finance Director/City Treasurer, noted that she currently holds two positions as Finance Director and City Treasurer. Ms. Walla was appointed following the untimely passing of Miguel Miranda as the elected Treasurer. The topic of an elected vs. appointed City Treasurer was previously raised by long time City Treasurer Jim Hamilton. To change the office from an elected to an appointed position, the voters would weigh in on a ballot measure during the next election.

The City Council **directed** staff to prepare language for a Ballot Measure for the upcoming local election in November of 2017.

6. COUNCIL MEMBER REPORTS

Kastner-Jauregui: Attended Brawley Union High School Migrant Academy Summer Program and an Imperial Irrigation District Board of Directors meeting where the City accepted a check for the Parks and Recreation Summer Program to support safe water play at the Lions Center pool. She also attended a Mixer at the Clinicas Salud del Pueblo.

Wharton: Shared his recent experience swimming at the Lions Pool and efforts to promote the Speed Networking event.

Nava: Attended the Brawley Union High School Migrant Academy Summer Program, meetings representing Brawley and is looking forward to the Speed Networking Event at the end of the month.

Noriega: Attended the League of Cities Mayor and Council Members training, was recently elected as a Board Member to the California Association of Cities Allied with Public Safety, attended Library Board Meeting and Splash Pad Grand Opening. Reported there is a Paint and Wine at Hidalgo Hall on Friday, July 21, 2017.

7. CITY MANAGER'S REPORT None to report

8. CITY ATTORNEY'S REPORT None to report

9. CITY CLERK'S REPORT

a. Nomination Period opened on July 11, 2017.

10. PUBLIC HEARING

a. Presentation re: Brawley Mobile Home Park Located at 650 South Brawley Avenue

Rosanna Bayon Moore, City Manager – Power Point Presentation*

***On file and available upon request from the Office of the City Clerk.**

Cameron Johnson, AMG & Associates stated that he was introduced to the property in February of 2017, (6) six months after the park was shut down and tenants were displaced. He reported that the improvements and costs involved with bringing the park back to code to open is not an economically viable option. After careful consideration, it was determined that the only way to move forward with the property is to close the park and develop it into a commercial development. If approved tonight, the next step is to purchase the property and implement the steps of the relocation plan. The goal is for every tenant to be addressed by the relocation plan and have the site cleared by February of 2018.

Natasha Lenic, LACAL Consulting, Inc. stated that the report was based on all persons contacted in the park. Contact allowed her to obtain more information and access individual needs for the relocation and mitigation measures that will be required if the park is to close.

City Attorney Bill Smerdon advised that, at the staff level, the City is obligated to ensure that the person or entity proposing the change in use is aware of the legal requirement to provide each resident that will be displaced by the change a copy of the required impact report at least 15 days prior to the hearing on the report. The City has complied with that requirement. Also, at staff level, the City must ensure that the person or entity proposing the change in use provides notice of the public hearing before the City Council to the displaced residents at least 15 days prior to the hearing. Staff has complied with that requirement. Lastly, the City Council must review the impact report filed by AMG and may require as a condition of the change that AMG take steps to mitigate any adverse impacts that the closure will have on the ability of the displaced residents to find adequate housing in a mobile home park. (Cal. Govt. Code § 65863.7(e).) Because this is a procedure established by statute passed by the State Legislature,

the City Council's discretion in this matter is limited by that statute. For example, the City Council does not have the discretion to deny the owner permission to close the Park. The owner has the absolute right to close the Park, provided that the owner complies with reasonable conditions imposed by the City Council following the consideration of the impact report. Additionally, because the Legislature has limited the mitigation that the City Council may order to the reasonable costs of relocation, the City Council may not impose additional conditions over and above that limit established by the State Legislature.

After reviewing the Impact Report, the City Council may find that the mitigation measures proposed by AMG exceeds the reasonable costs of relocation. If that is the case, notwithstanding the limits placed on the City Council's discretion by the Legislature, the City Council may nevertheless approve the impact report and mitigation measures proposed by AMG. There is a limited amount that the Council can order, that is the reasonable cause of the relocation. City Council does not have the authority to order owners to rehabilitate the park or to bring it back to code.

City Manager Rosanna Bayon Moore, indicated the City is in receipt of an official comment letter from California Rural Legal Assistance.

OPENED PUBLIC HEARING @ 7:49pm

The following individuals provided comments relating to the proposed park closure and relocation report.

- Maria Garcia-MHP Resident**
- Petra Escobedo- MHP Resident**
- Miguel Gonzalez- MHP Resident**
- Salvador Lopez- MHP Resident**
- Martin Maldonado- MHP Resident**
- Maria Silvia- MHP Resident**

The above referenced individuals stated they have suffered economically, morally, mentally and physically. They have experienced depression, stress, security issues, problems with family members, and promises not kept. Some residents live solely on Social Security income and cannot pay higher rent. They reported they have experienced a lack of communication from Brawley MHP managers and owners. They expressed interest in the repair and replacement of trailers and indicated that it is not the residents fault. The park has had several issues for years. From one day to another, they were removed from home without notice. There are special elderly and disability needs. The situation is unjust. This has impacted all the residents and it will be beneficial if a decision is made soon.

California Rural Legal Assistance Attorney Beatriz Garcia commented on the record that she is representing the residents at the Brawley Mobile Home Park. Basic notices law has not been met under the Government Code that requires at least 15-days written notice that management will be appearing before a local government board / commission body to request permission to change use of the park. Some residents did not receive notices until Monday, July 3rd. Since July 18th is the 15th day, this requirement notice has not been met and this public hearing should be continued.

AMG & Associates does not have standing to submit the relocation impact report. They do not own, operate or manage the park and have not formerly submitted a development plan. The City Council

should act immediately to order proper permitting and repair of the park and restores resident to their homes. The City and County have been aware of the condition in the park for many years. Steps should have been taken to address the conditions. The relocation plan is not sufficient and should be disapproved as it does not meet the requirements.

In conclusion, Ms. Garcia commented:

Step 1: City should require the mobile home park owner to make the necessary repairs, bring the park up to code and provide a decent sanitary park that is required by law.

Step 2: Is to prohibit permanent displacement of the residents without assurance the development of the replacement park.

Step 3: City should apply for funds to rehabilitate the park repair or replace individual homes.

PUBLIC HEARING CLOSED @ 8:40pm

CA Smerdon stated the City Council has the legal authority to require the owner to pay mitigation for the relocation of residents as a condition of closing the park. As for standing, the statutes are clear that anybody that proposes a change of use has standing. The Developer proposes to change the use. A Developer does not have to own the park to change the use. The Developer has filed the required plan, and provided the required notices. The law provides a method to count days to determine if sufficient notice has been given. One takes the date of the hearing and counts backward. The date was July 3rd. The City verified that everyone received the notices before that, on or before that date. Four people did not receive the notices and those four people have affirmatively waived notices in writing. Notices were properly given. It is up to the City Council if the proposed relocation mitigation is sufficient, then a motions would be made and acted upon accordingly.

CM Nava asked how the proposed methodology determined for the relocation?

Ms. Lenic indicated that Scenario 1 incorporated actual quotes received from a mobile home mover. That scenario would apply if the mobile home is movable and residents can find another park that will accept them. There is a 25-mile limit to move trailers.

Scenario 2 is for non-movable owner occupied units. These arrangements were looked at to see what residents pay in actual rent now. There are still 30-40% still living with family. With reference to other moving costs, it was determined that a \$500 quote for moving personal items is reasonable.

Scenario 3 is for non-movable rental units. There are a number of tenants that are in non-movable units and are renters of the units. There are (3) three such residents and several with questionable ownership.

CM Wharton asked if relocation mitigation is imposed on the owner or on the new developer? **CA Smerdon** stated that it will be between the current owner and AMG & Associates pursuant to their contract between the parties. He also noted that if residents suffered damages for wrongful eviction, the matter would go in front of a judge not the City Council.

CM Wharton asked AMG & Associates if they were willing to re-evaluate the mitigation and provide more of an offset.

Mr. Johnson indicated that the tenants have been displaced since August of last year and nearly a year has passed. AMG and its relocation consultant will work closely with them, most likely within the parameters of Scenario 3.

Simon Houseman, legal counsel for the seller, stated that one of the problems is that the statutory scheme is based on the seller voluntarily deciding to close the park and that is not what happened to Brawley Mobile Home Park. What happened at Brawley MHP is a fire. The Woo's have been members of the community for over 40 years and if all things were perfect, they would still be running the park. People would be living there. But, the Woo's don't have control of that. On the issue of the displacement time, it has passed and that is not covered by the statute. This is something not discussed with the developer and the sellers haven't had this conversation specifically with tenants. When the fire occurred, the owners made efforts to try and find them places to go and paid them money to help them with the transition at that time. That already occurred. Beyond that, it is unclear what can be done. There is potentially a substantial amount of money that is going to be received by residents and they will get it in a lump sum that will give them opportunities.

CM Wharton said he would like more information on how the mitigation was determined.

Mr. Johnson said a workshop was held and residents attended with questions. Ms. Lenic conducted one on one meetings and phone conversations.

RECESS @ 8:27pm

RECONVENE @ 8:40pm

Mr. Johnson stated that AMG is maxed out on what can be paid and still have a feasible development. He spoke with Mr. Woo during the recess to see if additional help could be offered to offset some of the expenses that the tenants have had over the last 11 months. Together, they are offering an additional \$500 per tenant household which both parties will share 50/50 responsibility.

CM Nava expressed that it is clear that the costs of rehabilitating the park are too high, and even if the park were rehabilitated that not all of the residents would be able to move back in. He also reminded residents about the rental assistance program.

CM Noriega expressed that the park is not livable and that the expense of park rehabilitation is not viable.

CM Kastner-Jauregui expressed that based on what was presented, the City Council cannot prevent the closure. The Council's goal is to accommodate and assist residents.

CM Wharton made a motion to approve the request to close the Brawley Mobile Park based on the submitted relocation impact report with the caveat that each tenant household shall receive an additional \$500 in relocation assistance.

11. CLOSED SESSION

POTENTIAL LITIGATION

- a. Conference with Legal Counsel Potential Litigation – One (1) Case (California Government Code §54956.9)

ADJOURNMENT @ 8:45 PM

Alma Benavides, City Clerk