

**CITY OF BRAWLEY**  
**January 16, 2018**

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 Nava** @6:00 PM

**PRESENT:** Couchman, Kastner-Jauregui, Nava, Wharton  
**ABSENT:** Hamby

Invocation was offered by **Pastor Richard Rodriguez of House of Bread Ministries.**

Pledge of Allegiance was led by **Lloyd Miller.**

**1. APPROVAL OF AGENDA**

The agenda was **approved** with amended. m/s/c Kastner-Jauregui/Couchman 4-1 Hamby absent

**(5) PUBLIC HEARING**

a. Discussion and Potential Action to Approve Formation and Establishment of Community Facilities District (CFD) 2017-01 for Rancho Porter Specific Plan Area.

1. Approve 1st Reading of Ordinance No. 2018- : Ordinance of the City Council of the City of Brawley, California Acting in its Capacity as the Legislative Body of City of Brawley Community Facilities District No. 2017-1 (Rancho Porter), Authorizing the Levy of a Special Tax Within the Community Facilities District.
2. Adopt Resolution No. 2018- : Resolution of the City Council of the City of Brawley, California Establishing the Community Facilities District No. 2017-1 (Rancho Porter), Authorizing the Levy of Special Taxes and Calling an Election Therein.
3. Adopt Resolution No. 2018- : Resolution of the City Council of the City of Brawley, California Acting in Its Capacity as the Legislative Body of the Community Facilities District No. 2017-1 (Rancho Porter), Certifying the Results of the January 16, 2018 Special Tax Election.

Continued public hearing to 2/6/2018. m/s/c Nava/Wharton 4-1 Hamby absent

**2. PUBLIC APPEARANCES/COMMENTS**

- a. **Roy Livingston**, Brawley resident, asked the City Council to consider striping Main Street. He has spoken previously to staff and nothing has been done.
- b. **Guillermo Sillas**, Public Works Director, introduced Water Treatment Plant Operator Roberto Orozco.
- c. **Ruby Walla**, Interim Parks & Recreation Director, introduced Maintenance Worker David Villalobos.
- d. **Rosanna Bayon Moore**, City Manager, stated that most cities have 24 hour access to their Fire Chief, Police Chief and Public Works Director. The City had 24 hour access to its Finance Director, as well. In

difficult times, Ruby Walla has always been a problem solver, finding creative ways to address City challenges.

**Mayor Nava** and the Council Members presented Ruby Walla with a token of the City's appreciation. Each thanked her and expressed best wishes for her future pursuits.

**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 Couchman/Kastner-Jauregui 4-0

**AYES:** Couchman, Kastner-Jauregui, Nava, Wharton  
**NAYES:** None  
**ABSENT:** Hamby  
**ABSTAIN:** None

- a. **Approved** Accounts Payable: January 9, 2018
- b. **Approved** Final Tract Map (TM 17-01)- Victoria Park, Unit No. 2
- c. **Approved** Resolution No. 2018-01: Resolution of the City Council of the City of Brawley California Amending the Fiscal Year 2017/2018 City of Brawley Budget for the Wastewater Treatment Plant in the Amount of \$24,168.82 and Authorize Purchase of Two Pumps from Rockwell Solutions in the Amount of \$24, 168.82.

**4. SPECIAL PRESENTATIONS**

- a. Jaime Silva, Brawley Elementary School District Superintendent, and Jimmy Sanders of Sanders, Inc. re: New School Site at the Southwest Corner of Malan and South Cesar Chavez Street.

**Jaime Silva**, Brawley Elementary School District Superintendent, spoke in regards to the construction of a new middle school. He added that the passage of Measure M made them closer to project fruition. The enrollment count at the Elementary School District in 2013 was 3,861. They have grown by 135 students in the last five years, which shows a steady growth of approximately 30 students every year. In December 2017, enrollment was 4,035. Without new construction, the only option is to add portable classrooms which are expensive at \$150,000 - \$200,000 per room. The plan is to make both the proposed middle school and Barbara Worth Junior High School 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> grade classrooms which would average approximately 600 students each. This would allow for 13-14 classrooms to open up at the lower elementary schools.

**Jimmy Sanders Jr.**, working with the Brawley Elementary School District, presented the Conceptual Site Plan for the proposed middle school to be located across the street from Hidalgo School at the corner of Malan and Cesar Chavez Street. The school is proposed to have 30 classrooms, a gym, multipurpose room, and ample parking that meets current school construction standards to mitigate traffic during high traffic time periods.

**CM Kastner-Jauregui** asked how long does the process normally take. **Mr. Sanders** stated that approval for the new school takes approximately 2-3 months. The Funding timeframe is unknown as it is contingent on the Governor of California releasing funds.

**CM Couchman** asked how many relocatable units would be able to be placed at this site as proposed. Mr. Sanders said that one of the features of this site plan is that there is an area for expanded growth. The growth area could support approximately 12 additional classrooms.

**Jaime Silva** wants the public to know that the reason the process takes so long is not because the District is dragging their feet, but the timeframe the State takes to release funds.

- b. Michael Oliphant, Chevron Project Manager and Allison Greenly, Arcadis Program Manager re: Proposed Remedial Action Plan for Former PureGro Facility Located at 1025 River Drive.

**Allison Greenly**, Arcadis Program Manager, stated that from the 1940s to 2000s, the subject property was used for storage, formulation and distribution of agricultural products. The facility closed in 2001. The buildings and structures were removed so right now the property is fenced and vacant with a large stockpile of soil. In 2006, the stockpile was covered by several layers of protective material to prevent wind erosion and they have been maintaining the protective material since 2006. Vegetation removal, fence repair, dust suppressant application and recently graffiti abatement have also been ongoing activities.

The Department of Toxic Substances Control (DTSC) is the lead agency responsible for oversight of this project and in 2004 DTSC issued a cleanup order for the site from 2005 to 2014. In 2006, contaminated soil from the adjacent property was removed and relocated onto the site. In 2010, a human health and ecological risk assessment was performed. According to the 2010 assessment, there is currently no risk to the nearby residents. The chosen clean up option is the best because it is the most effective, the safest, has the shortest time frame to complete, will generate the least amount of dust and will use the fewest amount of trucks. The remedy itself is going to be proposed as an engineered cap with institutional and engineering controls and groundwater monitoring. Engineered caps are a common and proven technology. The cap for this site will be the last major effort to complete. Throughout this process, Chevron wants to engage with the community. DTSC will be hosting a Community Engagement Meeting on February 8th from 6-8pm at the Del Rio Library Community Room. Per CEQA, the DTSC has prepared a Draft Negative Declaration for the proposed solution. Project documents are available for public comment and review from January 23rd to February 23<sup>rd</sup>. The documents will be available at the Main Branch Library and also on DTSC's website. Construction will take approximately 14 weeks. Coordination will be conducted with the housing development to be built next to the clean-up site.

**CM Couchman** mentioned that it would be beneficial to also publish project information in the Desert Review, post on the City's Website and send via email.

**Mayor Nava** asked what the lifespan of the proposed remediation is. **Allison Greenly** responded that it is intended to last into perpetuity and will be monitored as such.

**CM Couchman** said the area is zoned for commercial/industrial and asked if the proposed solution would be suitable for residential.

**Allison Greenly** mentioned that it would not be suitable for residential and will be noted as such in a deed restriction.

**Rosanna Bayon Moore, City Manager** stated that City staff have met with Chevron, Arcadis and DTSC. It was recommended to provide content in English and Spanish. City staff also offered to distribute information via Nixle and post on the City of Brawley website.

**Jerry Gauna, Brawley Resident**, urged the City Council to close the PureGro site once and for all as it has been in the area too long. He voiced his concerns that PureGro's study concluded that the site poses no danger to the neighboring residents but people wearing masks have been observed when testing. He mentioned that the

meeting should be on site and not at the Del Rio Library as the PureGro site affects the community members living in the area.

**Mayor Nava** asked Allison Greenly if there was the alternative to remove the dirt all together. **Allison Greenly** mentioned that removal of the dirt was considered but would take more time and require an exponential number of trucks going through the neighborhood which creates more dust.

**CM Wharton** suggested presentation of data from other sites that have been remediated similarly and the long term effects would be helpful. The unknown creates a high level of anxiety.

**Eric Reyes, Brawley Resident**, asked who decided that the chosen alternative is the best alternative and questioned if Chevron actually cared about Brawley as they claim. He also asked if the City Council had any say in the matter.

**Rosanna Bayon Moore, City Manager Bayon Moore**, stated that there was no action to be taken by the City Council, however the City will submit comments during the public comment period.

**Maya Akula, Department of Toxic Substances Control**, added that the February 8<sup>th</sup> meeting will include the DTSC technical team and toxicologist who will be able to answer Mr. Reyes' comments. All responses received by the public at the meeting will be given a written response.

**Council Member Wharton** asked if DTSC is still a State Agency as some cities have taken on some of the DTSC roles.

**Maya Okula** stated that DTSC is a State Agency. She also mentioned that the final remedy will be approved by DTSC. The approved remedy will have a 5 year monitoring from DTSC. Any changes to the remedy will need to be approved by DTSC via the same process being conducted now.

**CM Kastner-Jauregui** asked for clarification on the plan being proposed. **Maya Okula** said that the proposed plan still needs to be approved by DTSC.

**Eric Reye** asked the presenters to see the presentation on how they chose the remedy and urges the City Council to submit comments recommending the removal of the hazardous soil.

**Humberto Lugo, Brawley Resident**, shared history about the location. There are homes across the street from this facility. They built next to Wastewater Treatment Ponds from PureGro back in the 80s and this is an environmental justice matter that shows racism in low-income communities. The community is still not informed. The message is not out there. Clearly, the government, agencies like DTSC, is still not doing its job to protect public health. In discussion with DTSC, they mentioned the remediation process or the removal are two things happening. Now they're waiting on public comments. But either option is still bad for community because if it is removed, it is transferred to other communities and then it becomes airborne. They have to develop a plan on how they are going to move that to a different community also or through our communities. The lot adjacent to PureGro is where they want to build new homes in the future. PureGro's environmental report includes information that the site is contaminated. It clearly shows contamination is within 500 feet. There have been a lot of cancer clusters - maybe not a cluster but a lot of cancer and many community members that have passed away in their mid-50s. The young have a lot of developmental issues. The direct link may not be clear but there is proof out there that there is correlation with these kinds of facilities when near neighborhoods like this. The best thing would be to remove the material out of there but then you also got to think about the impacts of the community. He added that he would not want to see additional residences to be constructed next to the contaminated site.

**Rosanna Bayon Moore City Manager**, asked Allison Greenly to explain the monitoring process as she has seen public documents that contaminants are below the threshold.

**Allison Greenly** stated there are 12 monitoring wells around the site and a few at the center of the site where there are impacts that are above the regulation thresholds meaning everything around it is below the thresholds. Ground water contamination has only been seen in the center.

**Thomas Perez, Brawley Resident**, stated that he has lived in that area since 1959 and has previously inquired about the dirt left behind after the closing of the site. He has been told by the State that the dirt would be removed. He added that he hopes the State and Chevron would invest the money to fix the situation.

**CM Couchman** hopes that the solution partially satisfies everyone's needs as the City is not the decision maker of the final solution.

**Mayor Nava** stated that he encourages everyone to participate in the public comment period to make their comments known.

**Thomas Perez**, also invited the public to attend the public meeting that will take place on Thursday, January 18, 2018, 3pm at the Office of the Comite Civico located on Main Street where the Department of Toxic Substance Control will be discussing the issue.

## **5. REGULAR BUSINESS**

- a. Discussion and Potential Action to Award Contract to Pyramid Construction for Bus Shelter Improvements Project, FTA Grant No. SA 6414007 & SA 64BC1500236 in the Amount Not to Exceed \$1,255,006.70 and Subject to Caltrans Approval.

The City Council **approved** the contract with Pyramid Construction and Aggregates, Inc. of Heber, CA \$1,255,006.70. m/s/c Kastner-Jauregui 4-1 Hamby absent

- b. Discussion and Potential Action to Adopt Resolution No. 2018- : Resolution of the City Council of the City of Brawley, California Amending the Fiscal Year 2017/2018 City of Brawley Budget for the Fire Department in the Amount of \$88,965.61.

The City Council **adopted** Resolution No. 2018-02: Resolution of the City Council of the City of Brawley, California amending Fiscal Year 2017/2018 City of Brawley Budget for the Fire Department in the Amount of \$88,965.61. m/s/c Nava/Wharton 4-1 Hamby absent

- c. Discussion and Potential Action Adopt Resolution No. 2018- : Resolution of the City Council of the City of Brawley, California Acting in Its Capacity as the Successor Agency for the Brawley Community Redevelopment Agency, Approving the Recognized Obligation Payment Schedule for the period of July 1, 2018 through June 30, 2019 and Approving Certain Related Actions.

The City Council **approved** Resolution No. 2018-03: Resolution of the City Council of the City of Brawley, California Acting in Its Capacity as the Successor Agency for the Brawley Community Redevelopment Agency, Approving the Recognized Obligation Payment Schedule for the period of July 1, 2018 through June 30, 2019 and Approving Certain Related Actions. m/s/c Couchman/Kastner-Jauregui 4-1 Hamby absent

- d. Discussion and Staff Direction re: Filling of the Office of the City Treasurer

**Rosanna Bayon Moore, City Manager**, informed the Council that the position of the City Treasurer became vacant due to the untimely passing of Mr. Miguel Miranda in December of 2016. The City Council filled the office by appointing Ruby D. Walla, the Finance Director, for the remainder of the term ending in 2020.

**William Smerdon, City Attorney** informed the City Council that when there are vacancies, City Councils can hold special elections, which are expensive, or appoint. With Measure X, the voters approved a plan to make the Office of the City Treasurer an appointed position that will be consolidated with the position of the Finance Director. However, that change will not occur until the current term of the City Treasurer expires. It was proper for the City Council to appoint Ms. Walla because she is a qualified elector, meaning she resides in the City of Brawley and is registered to vote. The Assistant Finance Director is also well qualified to serve as City Treasurer, however she does not reside in the City of Brawley so she is not a "qualified elector."

**Rosanna Bayon Moore, City Manager** is requesting guidance from the City Council and asked if there were any candidates that they have in mind.

**Mayor Nava** asked if there were any staff that would be willing to serve as Treasurer.

**Rosanna Bayon Moore, City Manager** informed the City Council that there are a number of Department Heads that could be candidates but they have not been asked.

**Bill Smerdon, City Attorney**, mentioned that it is not recommended that the City Council choose one of its own members to serve as City Treasurer. When one holds two offices, there is always the possibility of an incompatible office challenge. If such a challenge were successful, the person holding two offices loses the first office held. Obviously, it would not make sense for a Council Member to risk losing his or her seat on the City Council to serve as City Treasurer.

**CM Couchman** added that he has reservations with a department head serving as Treasurer as there could be conflict of interest when developing a budget.

**Ruby Walla, Finance Director**, mentioned that the Treasurer is the register of investments and then of course comes the Treasury functions and the proper reporting to Council. The work is limited to administration and oversight.

**CM Kastner-Jauregui** agreed with **CM Couchman** and expressed it is in the best interest of the City to have someone other than a Department Head serve as Treasurer.

**Mayor Nava** wanted to remind the City Council that the Treasurer has a very limited role and stated he did not see a benefit to publishing the vacancy.

**CM Wharton** added that historically the City Treasurer was a position that was a legal symbol. He suggested that Ruby Walla could continue serving as Treasurer until she moves out of the City of Brawley.

b. Discussion and Potential Action re: Hidalgo Society's 96th Officers Banquet Sponsorship.

The City Council's consensus is to purchase individual tickets to the Hidalgo Society 96<sup>th</sup> Installation of Officers Banquet.

## **7. DEPARTMENTAL REPORT**

a. Record of Building Permits for November 2017 in the City of Brawley, prepared by Oscar Escalante, Interim Building Official

- b. Marjo Mello, Library Director, reminded the Council about the Strategic Planning Session for the Library next Monday from 5:30- 7:30pm at the Main Library for 400 Main Street. It will be a joint meeting between the City Council and the Library Board of Trustees.

**8. CITY TRESURER REPORT** None to Report

**9. CITY COUNCIL MEMBER REPORTS**

**Kastner-Jauregui:** Informed Council that working as a subcommittee with CM Wharton. Met twice during the past two weeks to review City Council Norms and Procedures which were actually adopted on January 9th 2010. One of the main things is the section re the Mayor's appointment. The City Council of Santa Monica actually asked their staff to do research on that particular subject and they prepared a Research Report that was presented to their City Council in February of 2011. The report is comprehensive so the Ad-Hoc committee is using that report to make a recommendation to our City Council. She also attended the Rodeo Committee Meeting.

**Couchman:** Attended Mr. Frye's Memorial in behalf of the City of Brawley, Rotary and Elks Club. He also added that the Imperial Valley ROP Community Foundation's meeting was on January 4<sup>th</sup>. Working on a new Dancing with the Stars event. He also attended the Civil War 20th annual live-fire at the Imperial Valley Rifle and Pistol Association Range.

**Wharton:** Attended the Ad-Hoc Committee Meeting, participated in KSWT press interview on cannabis with City Manager Rosanna Bayon Moore and is preparing for the upcoming Strategic Workshop.

**Nava:** Attended the Benefit Dinner with the MAG Coalition, Retirement Party for Blanca Lara and Carmen Leon and have been working on a presentation on the Development of Downtown Brawley.

**10. CITY MANAGER'S REPORT**

- a. Working with different departments on major staff transitions in areas such as Community Development Services, Planning and Parks and Recreation.
- b. Attended Assembly Member Eduardo Garcia's briefing on Parks Projects.
- c. The State of the City date will be confirmed.
- d. The Parks and Recreation Commission has an upcoming meeting date. There are a number of vacancies.
- e. Working with CM Hamby to coordinate with City Staff to obtain dates for a potential community project at Jeff Thornton Park.

**11. CITY ATTORNEY'S REPORT** None to report

**12. CITY CLERK'S REPORT** None to report

**13. CLOSED SESSION**

**REAL PROPERTY MATTERS** (C.G.C. Section 554956.8)

- a. Conference with Real Property Negotiators  
Address: Guadalupe Park, Malan St., Brawley, CA  
Negotiator: Rosanna Bayon Moore, City Manager  
Negotiating Parties: Roman Catholic Bishop of San Diego  
Under Negotiation: Lease Agreement
  
- b. Conference with Real Property Negotiators  
Address: 575 J Street, Brawley, CA  
Negotiator: Rosanna Bayon Moore, City Manager  
Negotiating Parties: Catholic Charities, Diocese of San Diego  
Under Negotiation: License Agreement

**POTENTIAL LITIGATION** (C.G.C. Section 554956.9)

- a. Conference with Legal Counsel - One (1) Case

**PERSONNEL MATTERS** (C.G.C. 554957)

- a. Public Employee Appointment to the Position of Finance Director

**ADJOURNMENT** @ 8:01pm

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***Alma Benavides***, City Clerk