

CITY OF BRAWLEY
October 14, 2019

The City Council of the City of Brawley, California met in special 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.

Mayor Wharton called the meeting to order @ 6:00 PM

PRESENT: Couchman, Hamby, Kastner-Jauregui, Nava, Wharton
ABSENT: None

INVOCATION CM Hamby

PLEDGE OF ALLEGIANCE CM Nava

APPROVAL OF AGENDA

The agenda was **approved** as submitted. m/s/c Nava/Couchman 5-0

1. PUBLIC APPEARANCES/COMMENTS (Not to exceed 4 minutes) this is the time for the public to address the Council **on any item not appearing on the agenda** that is within the subject matter jurisdiction of the City Council. The Mayor will recognize you and when you come to the microphone, please state your name for the record. You are not allowed to make personal attacks on individuals or make comments which are slanderous or which may invade an individual's personal privacy. **Please direct your questions and comments to the City Council.**

- a. There was none.
- b. Introduction of Public Works Employees Jared Jaramillo and Jorge Valle Gonzalez by Public Works Director Guillermo, Sillas.

2. 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/ Couchman 5-0

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

- a. **Approved** Accounts Payable: October 3, 2019 and October 10, 2019
- b. **Approved** Final Parcel Map (PM19-05) – 1543 A Street
- c. **Approved** Final Parcel Map (PM19-05) – 1635 C Street

3. PUBLIC HEARING

- a. The City Council shall hear comments from all interested persons on the issue of whether or not to impose the terms of the City's last, best and final offer made to Teamsters Local 542 following the exhaustion of impasse procedures.

Mayor Wharton stated that this Public Hearing is so Council can hear comments from all interested parties or persons on the issue of whether or not to impose the terms of the City's last and best offer and final offer. This public hearing follows the exhaustion of impasse procedures.

Opened Public Hearing @ 6:12pm

Mike Morales, Representative for Teamsters Local 542 and Miscellaneous Employees for the City of Brawley (Water, Wastewater, Animal Control, Mechanics, Utilities and Parks Department) stated he was surprised to see the public hearing on the agenda. Teamsters participated in mediation with the City of Brawley to try and come to an agreement because this has been a long and exhaustive process. Teamsters has worked in good faith negotiating and made considerable movement toward reaching an agreement to avoid this point. Employees disagree with a two-year agreement. Teamster proposed to leave everything status quo and just roll over the contract for another year. At that point, we would sit at the table again and try to hopefully reach an agreement that would be more than the term of one year.

Teamsters reached out to the mediator Jerry Fletcher and tried to present additional proposals. The City was not willing to consider the proposals. Prior to mediation, Teamsters notified the City that the intent was to go to impasse and go to fact-finding. After carefully reading PERB Procedures and Regulations, mediation was pursued. That is not the same as waiving fact-finding.

PERB Procedures refer to 30 days to request mediation and 45 days to go to impasse. Teamsters does not believe that point has been reached yet. The 45-day time limitation has not been exceeded.

The City Council is being asked to allow the procedure to continue so that fact-finding can begin. Then, the City Council would vote whether to impose the last, best and final offer or not. Employees have some concerns and they initially requested a 5% increase. Teamsters has moved considerably off of that to the point where just a COLA has been proposed. It is fair for employees to at least get a COLA. Employees are the backbone of the City. The cost of living is going up. They are just falling behind. Many times they have not been able to respond to overtime or demands after-hours. Management is stepping in and taking over that work. That is income that would supplement their income and that has been taken away. Asking for a cost of living adjustment is not unreasonable. Teamsters is asking the City Council to allow the process to continue to fact-finding.

CM Hamby expressed disappointment and frustration regarding how long it has taken to get to this point.

CM Nava said the reason a conclusion has not been reached is the represented group and the City have agreed.

CA Smerdon said the Government Code provides that if either side requests mediation and there is agreement to engage in mediation, then both parties enter into mediation. The Government Code also provides that the fact-finding cannot occur until 30 days after a mediator has been appointed. The mediator was appointed by PERB on August 27, 2019. Between 30 and 45 days, the bargaining unit can request fact-finding. The 45th day was October 11, 2019. This is the end of the impasse procedure. To request fact-finding, a request with PERB must be filed. If you file it late, they just reject it. Therefore, there will not be fact-finding.

Mayor Wharton stated that it appears there is misunderstanding of these dates. PERB defines the length of these periods.

CA Smerdon stated that the PERB appointed mediator sent Teamsters and the City a letter saying, "I am your mediator and was appointed on August 27, 2019. Here is the timeline for 30 days and 45 days." He cited the Government Code section. PERB will not consider the request unless it has been made prior.

CM Kastner-Jauregui mentioned that she reviewed the calendar and the timeframe expired on October 11.

CA Smerdon responded by answering yes.

Mayor Wharton stated that the City Council has been part of these discussions most of which have occurred in Closed Session. This is a frustrating situation and no one wants to see things get to this point. The City Council expresses support of staff at virtually every Council meeting and beyond that.

CM Nava asked clarification for from CA Smerdon. If the motion is made, if it is adopted, is the last, best and final offer is imposed?

CA Smerdon answer is yes.

CLOSED PUBLIC HEARING @ 6:19pm

4. REGULAR BUSINESS

- a. Discussion and Potential Action to Adopt Resolution No. 2019 - : Resolution of the City Council of the City of Brawley, California Imposing the Terms of the City's Last, Best and Final Offer Made to the Teamsters Local 542 Following Exhaustion of Impasse Procedures.

The City Council **motioned** to adopt Resolution No. 2019-80: Resolution of the City Council of the City of Brawley, California Imposing the Terms of the City's Last, Best and Final Offer Made to the Teamsters Local 542 Following Exhaustion of Impasse Procedures. m/s/c Nava/Kastner-Jauregui 5-0

- b. Discussion and Potential Action re: Brawley Assembly of God's Request to Waive the Applicable \$500 Minimum Road Closure Fee for the Fall Festival on October 31, 2019

The City Council **motioned** to deny the request to waive the Applicable \$500 Minimum Road Closure Fee for the Fall Festival on October 31, 2019. m/s/c Hamby/Couchman 5-0

- c. Discussion and Potential Action to Approve a Contract with Bachtel Wastewater Engineers for Professional Engineering Services in the Amount of \$185,450 and a total not to exceed sum of \$234,650.

The City Council **approved** the Contract with Bachtel Wastewater Engineers for Professional Engineering Services in the Amount of \$185,450 and a total not to exceed sum of \$234,650. m/s/c Couchman/Kastner-Jauregui 5-0

- d. Discussion and Potential Action to Approve the Deposit of \$761,700 in Development Impact Fees for Streets Payable to Imperial Irrigation District for the Construction Phase of the Best Canal Pipeline Phase 1 Project.

Mayor Wharton stated that he wanted to add for the record his gratitude for all who helped to make this happen and that includes staff, developers, IID, organizations and interested parties.

The City Council motioned to **approve** the deposit of \$761,700 in Development Impact Fees for Streets Payable to Imperial Irrigation District for the Construction Phase of the Best Canal Pipeline Phase 1 Project. m/s/c Nava/Couchman 5-0

e. Discussion and Staff Direction re: Potential Special Meeting and Date for City Council Re-Organization.

The Council gave direction for Special Meetings set as follows:

- i) Special Meeting for potential Adoption of the Audited Financials Report set for October 24, 2019 @ 4:45pm.
- ii) City Council Re-Organization set for December 3, 2019 at 6pm.
- iii) November 5, 2019 City Council Meeting moved to 4pm.

5. DEPARTMENTAL REPORTS

a. Guillermo Sillas, City Engineer/Public Works Director

i) Emergency Construction at the Brawley Water Treatment Plant 1) to Replace Components of Two Sedimentation Basins and 2) to Recondition Water Distribution Pumps and Motors 422 and 423.

- 1) The emergency continues for the Brawley WTP. On October 7, 2019, the consultant Lee & Ro sent comments and requested confirmation of the field measurements matching shop drawings.
- 2) The emergency continues for Pumps 422 and 423 last week October 7, 2019. The Water Treatment Plant Chief visited the plant of BRAX Company and observed the pump 422 disassembled. The impellers and other pump components arrived and they are in the recondition process.

ii) Emergency Installation of Traffic Signal at Cesar Chavez and Main Street.

On October 1, 2019, St. Francis Electric's crew completed the installation of the traffic loops 4-NB through lane and 4-NB Left Turn. They brought them into the pull box, traced out the DLC's, and spliced them. Existing loops were left abandoned in place. There was a problem detecting NB left turns due to an incorrect connection to the temporary cabinet. On October 7, 2019, a technician came to fix the problem. Now the loops are detecting correctly.

CM Hamby asked about the impellers and the innards of those pumps.

PWD Sillas stated that the WTP Chief saw all of the pieces.

PWD Sillas gave an update on Allen Street. To minimize disturbance to residents, two temporary lines will be installed on each side of the street. Staff completed the plans and are in the process of the final review. Cost estimates are being prepared. The City had another water break on the same street. It was not major and the crew was able to act relatively quickly.

6. INFORMATIONAL REPORTS

- a. Attendance Summary & Minutes for City of Brawley Boards/Commissions from July 1 thru September 30, 2019.
- 1) Brawley Airport Advisory Commission
 - 2) Brawley Parks & Recreation Commission
 - 3) Brawley Planning Commission
 - 4) Brawley Library Board of Trustees

7. CITY COUNCIL MEMBER REPORTS

Kastner-Jaurgeui: Attended Los Cabos Soft Opening, Fire Station #2 Open House, Hispanic of the Year event at Hidalgo Hall. The Film Commission recently reported that the Economic Impact for 2018/2019 is about \$4 million dollars for Imperial County. The Annual Film Festival will be held on October 18, 2019 at Ricochet.

Nava: Nothing to report.

Couchman: Attended Los Cabos Soft Opening, Phil Swing Walk to School Day and Dr. Dang Duong Grand Opening, Fire Station #2 Open House, IV Food Bank Harvest Bowl and the Cattle Call Queen Coronation.

Hamby: Attended Chamber Board Meeting, Library Board Meeting, Planning Commission Meeting, Walk to School Event at Oakley. Participated in a concert the Winning of IV at Pioneers Museum. Received various complaints/concerns from the community and forwarded them to Management. Thanked the Finance Department for their work during this audit process. Was approached by an elderly woman regarding the alley between E and D streets by the old Cooks Market and she mentioned that there was a cleanup that happened behind that store and was very grateful.

Wharton: Attended the Pre Kick-Off Football ceremonies at Brawley Union High School was able to present Jimmy Skipper with a proclamation. Will be attending the California League of Cities Annual Conference in Long Beach. Within the next 30 days, it will be very busy with events. It is a heavy lift for staff.

8. CITY MANAGER REPORT

- a. Community Clean-Up is October 19, 2019 . The message boards will soon be placed along Main Street and public messaging has been occurring via Nixle.
- b. Public Works and Public Safety have been looking at the Witter Elementary School and various traffic flow challenges in and around the area. That particular topic will be the subject of a Traffic Safety Committee. Depending on the results of that discussion, an action item may head to the City Council for action.
- c. Mr. Tony Reynosa has acquired a number of downtown properties. She recently received an update on two properties he owns on Main Street. Brawley Creamery hopes to open by Cattle Call and the property next to Christine's Restaurant will be a new retail spot for holiday related goods. Mr. Reynosa also share that he has a tenant in the former Ellis Building, a Brazilian Jujitsu Studio. An invitation has been extended for the upcoming Ribbon Cutting event.

9. CITY ATTORNEY REPORT

- a. 14th and I Street is all cleaned up. A lot of damage was done to the structures.

10. CITY CLERK REPORT

- a. A workshop offered by the Imperial County Public Health Department Environmental Health Division, is scheduled for tomorrow, October 15th at 4:30pm at the Council Chambers. The topic is related to the sale of food items at public events.

11. CLOSED SESSION

POTENTIAL LITIGATION (C.G.C. Section §54956.9)

- a. Conference with Legal Counsel – Two (2) Cases

EXISTING LITIGATION (C.G.C. §54956.9)

- a. Conference with Legal Counsel – Two (2) Cases
 - i. Frankie Rodriguez, Pablo C. Lopez, Marco A. Garcia, Omar Balderas, Gerardo Vindiola, David Villalobos, Julian Jimenez, Ricardo Rosales, Daniel Atondo, David Siquieroz, Jonathan Gutierrez, Anthony Padilla, Julio Velasquez, Roberto Orozco, Mariano C. Valenzuela, Jr., Raul Bernal, Ralph Walker, Jose Limon and Pete Guzman, on behalf of themselves and all other employees similarly situated vs. City of Brawley.
 - ii. Brawley Public Safety Employee Association, Jeremy Schaffer, David Holetz, Jorge Garibay, Darlene Garcia, Dennise Montano, Nathan Montes-Gonzalez, Karla Razo, Daniel Swithenbank, Daniel Schleyer, Ricardo Gutierrez, Juan Morales, Ana Amaya, Brian Harsany, Angelica Garcia, Martha Garcia, Javier Martinez, Jake Yuhas, Dean Beckwith, Ricardo Valdez, David Pham, Stephen James Dyroff, Adriana Ruiz, Jon Dellinger, Isaac Romo, Jesse Yuhas, Susanne Nickel, Rudy H. Nunez, Diana Diaz, Sixto Moreno, Joon Kim, Francisco Mendoza, Maghen Caudill, Regina Kim vs. City of Brawley.

12. ADJOURNMENT @ 7:25pm

Alma Benavides, City Clerk