

**CITY OF BRAWLEY**  
**November 1, 2011**

The City Council of the City of Brawley, California met in a Regular Meeting at 6:00 PM, Council Chambers, 383 Main Street, 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 Campbell* @ 6:00 PM

The invocation was offered by *Pastor Jim Pazan, First Presbyterian Church*

The pledge of allegiance to our flag was led by CM Miranda

**PRESENT:** Campbell, Couchman, Kelley, Miranda, Nava

**ABSENT:** None

**APPROVAL OF AGENDA**

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

*Added Item* to Closed Session to property negotiations finding arose after agenda was posted.

*Item 3 (d).* Adoption of Resolution No. 2011- : Resolution of the City Council of the City of Brawley, California declaring the public necessity for the acquisition of certain properties for construction of storm drain improvements in the vicinity of Malan Street *was moved from consent agenda to regular business for discussion and approval.*

*Item 3 (e).* Approve Memorandum of Understanding with Small Business Development *was moved from consent agenda to regular business for discussion and approval.*

**AYES:** Campbell, Couchman, Kelley, Miranda, Nava

**NAYES:** None

**ABSTAIN:** None

**ABSENT:** None

**1. PUBLIC APPEARANCES/COMMENTS**

*Gary Tackett* support tough times but will not support one appointment you did on the Planning Commission. He had court hearing, went to jail and is an ex-felon. You need to reconsider that and people of this community are concerned. This will be a hot issue until this is changed.

**a. BRAWLEY CHAMBER OF COMMERCE QUARTERLY REPORT – DENISE SMITH, BOARD PRESIDENT**

*Denise Smith, Board President*-Quarterly Report Update; on behalf of the Board of Directors there have been changes. The leaving of the Executive Director has left the Chamber with one staff. 4 interns are providing much needed assistance. We are working on strategic planning process. The goal is to establish a way to provide and support events, attract new business, promote recreational areas. We are working with City and understand the communication needs. We work with City Manager, Teresa Skrepenski and Diane Cason. For supporting Measure K, we had members vote on their support. 20 responded in favor and 1 not in favor. Events: July 19<sup>th</sup> had Mega Mixer and had 150 people attend; August 12<sup>th</sup> Teachers Luncheon; September 11<sup>th</sup> Memorial event; Simbol Materials ribbon cutting and they will be entering into Cattle Call Parade; October 13<sup>th</sup> PMH Gala; Hidalgo Society event and Cattle Call events.

**b. IMPERIAL VALLEY SMALL BUSINESS DEVELOPMENT CENTER – RICARDO ORTEGA**

*Ricardo Ortega* will have a workshop with the City of Brawley to assist businesses. There will be free consultation with emphasis on existing support and on expanding and job creation. A specialist from San Diego will be talking about exporting and importing with a webcam for international view. The event will be held on November 15<sup>th</sup>, 7:30-10:00 PM at the Del Rio Facility here in Brawley.

**2. DEPARTMENT REPORTS**

**a. UPDATE ON 2011 CATTLE CALL EVENTS – KARIN MORGAN, PARKS & RECREATION DIRECTOR**

*P&RD Morgan* thanked Denise Smith and the Brawley Chamber because everybody is involved with these events. The events were moved to Ed Weist Field and passed out a flyer containing the upcoming events.

*CM Miranda* asked if there will be a Bluegrass Festival on Friday evening. *Answer:* No, only the Veterans Day Celebration and Bell Game. (*Morgan*)

**b. UPDATE ON EMERGENCY REPAIRS COMPLETED OCTOBER 27, 2011 AND TRUCK PARKING RESTRICTIONS – YAZMIN ARELLANO, PUBLIC WORKS DIRECTOR**

*PWD Arellano* presented a power point presentation and mentioned that she was very proud of her staff and wanted to thank the residents because everything went well.

*CM Kelley* asked on the preparation of land did you do that. *Answer:* Yes (*Arellano*) Is it a one block radius? *Answer:* No, 8 blocks radius. (*Arellano*)

*CM Couchman* mentioned that he got positive comments on this; job well done I commend all your staff.

*PWD Arellano* presented a power point presentation regarding Truck Parking Restrictions. The signs have disappeared so staff installed again and they were removed again; different signs will be installed and basically the new signs say where truck parking is allowed in Brawley. So if there is no sign that means no parking.

*CM Miranda* mentioned he sees green lines on the 700 Block South Cesar Chavez I thought no parking was allowed? *Answer:* This is not an updated map. (*Gaste*)

*CM Couchman* said at Witter School I have received complaints and I hope to eliminate trucks parking there.

**c. INVITATION TO ANGEL TEA PARTY, THURSDAY DECEMBER 8, 2011 – MARJO MELLO, LIBRARY DIRECTOR**

*LD Mello* invited everyone to the Angel Tea Party on Thursday, December 8<sup>th</sup> from 5:30-7:00 PM; we are serving Tamales and have 10 minutes of speeches as a celebration to all those who help at the Library.

**d. MONTHLY STAFFING REPORT – SHIRLEY BONILLAS, PERSONNEL & RISK MANAGEMENT ADMINISTRATION**

*P&RMA Bonillas* commented on monthly staff report: we have the Utility Worker I position open and a note on the bottom of page 23 it's incorrect we have 5-7 part-time/temporary workers.

*CM Kelley* asked about the Wastewater Treatment Plant Operator III if it was opened. *Answer:* Yes. (*Bonillas*)

*CM Nava* asked if that position is now open. *Answer:* Yes (*Bonillas*)

The council *motioned* to fill the open position of WWTP Operator III. m/s/c Kelley/Nava 5-0

**AYES:** Campbell, Couchman, Kelley, Miranda, Nava  
**NAYES:** None  
**ABSTAIN:** None  
**ABSENT:** None

**3. CONSENT AGENDA**

The consent agenda was *approved* as followed: m/s/c Miranda/Kelley 5-0

**AYES:** Campbell, Couchman, Kelley, Miranda, Nava  
**NAYES:** None  
**ABSTAIN:** None  
**ABSENT:** None

- a. *Approve* City Council Minutes: September 27, 2011.
- b. *Approve* Accounts Payable Registers: October 6, 2011, October 13, 2011, and October 21, 2011.
- c. *Approve* 2nd Reading and adoption of Ordinance No. 2011-07: Ordinance of the City Council of the City of Brawley, California, amending the Brawley Municipal Code Relating to Rear Yard Setbacks and Front Yard Setbacks for Carports.

**4. PUBLIC HEARING**

**a. PUBLIC HEARING: FLORENTINE ESTATES (FORMERLY REFERRED TO AS SPRINGHOUSE CONDOMINIUMS-CONDITION MODIFICATION)**

*Staff Report - Gordon Gaste, Planning Director*

On October 5, 2011, the Planning Commission recommended the allowance of 40 total units to be constructed and occupied prior to the completion of Panno Drive. The Planning Commission per the studies submitted and reviewed, the Development Review Committee recommends allowance of 60 units to be constructed prior to completion of Panno Drive based on the traffic study, interior street parking, the width of the private streets, and consistency with Public Works & Fire Department Standards.

*Mayor Campbell* stated that the developer’s agreement came when we were here at council. We need to look at the residents’ concerns. At Julia Drive and Willard we installed temporary stop signs. The Developer also said they would do something to make it happen I think we need to continue this item and get our heads together and do the right thing.

*CA Morita* mentioned that staff would have to re-notice the public hearing setting the date and time.

*Mayor Campbell* stated that the traffic study is in place.

*CM Couchman* said that we should have the hearing and hear the public testimonies. I believe I made a promise and want to uphold my promise.

*CM Nava* and *CM Kelley* concurred with *CM Couchman*.

*CM Bayon Moore* stated that the concern tonight is the width of the street, amount of units and the payment of the Development Impact Fees.

**OPENED PUBLIC HEARING @ 6:55 PM**

*Rodger Shehan* a Brawley resident and landlord said there was a letter that I had to sign at the Finance Department stating that I would be responsible for the water bill before the water would

be turned on at my rental. I am responsible for the bill, but I am not the renter I am the landlord so I want to know who is responsible for the bill. If you are going to put traffic signs put some up on K Street.

**Mayor Campbell** stated that we would take a look at.

**Lydia Clayton** Brawley resident stated that she lives at the corner of Julia and Willard Avenue. I oppose the developer to develop anymore. The traffic construction is done at Panno and needs to be opened. I love what the developers are doing but frustrated with the whole issue that claims there is no issue with traffic in that area. I don't want the City to become a ghost town. I would also like to let you know I had a child pee on my carport.

**CM Kelley** I understand your frustration and the reason why we are here is because the Planning Commission doesn't have the last say, nine months ago this area was blighted and was both a fire and health hazard. There is a plan to make smaller lots to make more money. I understand Panno has to be opened but we have our hands tied.

**Mayor Campbell** said unfortunately that happened but we are trying to make the best decision for all of us.

**Lydia Clayton** stated they finished 15 pads and are adding more but can't finish Panno Road. I don't understand that there is a traffic issue on Julia.

**Mayor Campbell** the developer wants to help and has agreed to either install bumps or stop signs.

**Lydia Clayton** asked why they can't just finish Panno. **Answer:** We are trying. (**Campbell**)

**CM Kelley** stated that there had been discussions or suggestions to put in speed bumps and that came from the residents.

**CM Nava** our goal is to get it opened as soon as possible.

**Lydia Clayton** stated that she appreciates all you guys have done but the road needs to be opened to control traffic.

**Mayor Campbell** said if it was that easy we would have opened that road there's litigation involved and we can't do much.

**Bob O'Brien** Brawley resident said the concern this lady has is about the 40 or 60 units it's insane. This project is going to end up like Merced and other cities. My point it's not the financing.

**Cindy Gibson** Brawley resident stated that 12 years ago it was zoned R-1 and it stayed at R-1, behind closed doors it was changed. That is going to change the value of our homes.

**Stuart Chelin** indicated that first they lowered the density from 175 units with levels at 1900 sq. ft. We came to City when it was a busted project and met with the previous City Manager and promises were made to us. There are issues with bonding company. We already spent \$2.7 million on this project and everybody wants this project done. We want the City to grow. We cannot continue with just 21 units. It's an affordable project. Building models will cost another million. I cannot build if I don't get more units. The project started, but I can't go on with less than 21 units. Bill Donnell, Engineer, has 40 years of traffic engineering experience and simply said by adding 60 units the level of service stays the same. The City is going to grow and I don't know when Panno Road is going to be open. But you need to know that I'm going to go on with this project. I'm not building 60 units tomorrow; I still need to finish real estate report because the Department of Real Estate has pulled us back.

**Mayor Campbell** asked how many pads and what is the time frame? **Answer:** 6 pads and one month or so, it took us 6 months to get it going. (**Chelin**)

**Mr. Chelin** commented that it was a broken project and we moved forward with it.

**CM Nava** said that Panno Road is tied with bonding company and is in litigation.

**Mayor Campbell** said a tentative court date is set for December but we will get back to you with the exact date?

**CA Morita** stated that there is no set date.

**CM Kelley** mentioned that he likes what you're doing with this project.

**Mr. Chelin** said 260 days, 1.2 cars every 5 minutes on that road; we have to install no parking on street due to the Fire Departments request. If we widen the street for fire purposes, can there be parking? We did not know of the Developer Impact Fee hike so I feel this development should be grandfathered in.

**CM Kelley** we need to look at what would be beneficial to the city and developer.

**CM Couchman** asked have you opened escrow. **Answer:** The Department of Real Estate has made changes. \$1.2 million is required to bond off the improvements. If I don't have sufficient units, I have to stop. (**Chelin**)

**CM Miranda** quoted if you're not sure I have a concern I am a lifelong resident of Brawley and I don't want to see what happened on Best Road like La Paloma and the other three (3) projects.

**Mr. Chelin** the DRE approval is that I will have 15 units I don't want to see any more empty units.

**CM Couchman** said the issue here is Panno Road is the key issue and the development fees. If it costs the City money then I will not go with that.

**Mayor Campbell** said just gives us time to get Panno Road taken care of.

**Mr. Chelin** stated that with litigation you just don't know how much time it takes.

**Steve Hyman** said just for clarification, I come from Palm Desert not Palm Springs. How do we improve the City? We are trying to work with the City; trying to put up a high end property. We have respect for the community and will not put up living for drunks or druggies. We put amenities up front. These include a club house, meeting room, family area, etc... The people that are looking into these units are retired farmers, people that work at the hospital, doctors and high-income people. We have 2-3 bedrooms. We are not building cheap units or get people that will urinate in neighbor's houses. We need the availability to build before 6 months. This isn't a low income project. You need \$190,000 income to afford this type of living. I'm here not to cause any problems, but to get development going. Julia Drive lost car dealership and lost traffic in the area. DRE did not tell us that we have to pay more on impact fees. I'm trying to create jobs in Imperial County. I brought a traffic engineer here to answer questions.

**Mayor Campbell** said Panno Road is an issue we made a promise with those folks and have to find remedy.

**CM Couchman** stated these are problems with residents and Panno Road that we need to solve. I think it's a unique project for the City.

**Mayor Campbell** quoted residents are not against the issue with the development.

**Johnny Gibson** said we need to continue this public hearing to another date.

**Eric Reyes** mentioned the issue on the Development Impact Fees, you need to be careful on grandfathering fees, and the conditions are difficult so the Impact Fees will be an issue. I'm in agreement with them in building 40 units and knowing that they will not be done right away.

**Mayor Campbell** gives us a chance to work with residents and you guys.

**Eric Reyes** stated I suggest maybe split the difference.

**CM Nava** said this response is to Mr. Reyes we need to talk further, I want everyone to understand it's difficult financially and hope I hope to have this resolved soon.

**Mario Gonzalez** indicated this development started the 2<sup>nd</sup> and 3<sup>rd</sup> quarter of last year, we were confident to come to Brawley. The Development Impact Fees were never mentioned, if we would have known we would have never bought this broken project. We do not like Section 8 and we are promoting unique units to the neighborhood. I would really like to resolve this soon.

**Mayor Campbell** said to continue this we need to pick a date.

**CM Moore** can bring back on 1/3/12 or 1/17/12 meetings following court date or can look at meetings before those dates.

The council *motioned* to continue Public Hearing to December 20, 2011. m/s/c Miranda/Kelley 5-0

**AYES:** Campbell, Couchman, Kelley, Miranda, Nava  
**NAYES:** None  
**ABSTAIN:** None  
**ABSENT:** None

**RECESSED @ 8:11 PM**

**RECONVENED @ 8:18 PM**

**5. REGULAR BUSINESS**

**a. ADOPTION OF RESOLUTION NO. 2011-50: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRAWLEY, CALIFORNIA DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN PROPERTIES FOR CONSTRUCTION OF STORM DRAIN IMPROVEMENTS IN THE VICINITY OF MALAN STREET.**

*Staff Report – Rosanna Bayon Moore, City Manager*

Eminent domain is the power of government to acquire private property for a public purpose. The power is invoked only after effort is made to acquire the property through negotiations. The City has provided a notice of intent to adopt the resolution of necessity and an opportunity to be heard to each person whose property is proposed to be acquired. The amount of compensations for the subject property is not a proper subject of discussion during this hearing.

*CA Morita* said this is what the law requires.

*CM Nava* the exhibits describe 18<sup>th</sup>, K Street and Best Avenue. *Answer:* Yes, for installation of storm drain.

*CM Miranda* asked if owners were notified. *Answer:* In respect to property owner a written request was mailed. (*Morita*)

*Linda Swain* Brawley resident and property owner is requesting not to put a street, the pipeline is fine but I suggest putting a fence for privacy.

*CA Morita* a fence can potentially happen if street is installed.

*CM Bayon Moore* said this is for installation of a storm drain.

*CM Couchman* stated that no street will be installed Ms. Swain are you ok with that? *Answer:* A drain is okay. (*Swain*)

*CA Morita* said the project will be done by the City and I don't see a future street.

The council *motioned* to adopt of Resolution No. 2011-50: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRAWLEY, CALIFORNIA DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN PROPERTIES FOR CONSTRUCTION OF STORM DRAIN IMPROVEMENTS IN THE VICINITY OF MALAN STREET. m/s/c Kelley/Miranda 5-0

**AYES:** Campbell, Couchman, Kelley, Miranda, Nava  
**NAYES:** None  
**ABSTAIN:** None  
**ABSENT:** None

**b. APPROVE MEMORANDUM OF UNDERSTANDING WITH SMALL BUSINESS DEVELOPMENT CORPORATION.**

*CM Nava* question regarding the memorandum of understanding. I'm not sure who brought it forward but it is with the City of Brawley and I understand they are going to be doing some work with the Brawley Chamber, is that correct? *Answer:* Tonight's presentation is the first mention that I am aware of for formal collaboration with the Chamber of Commerce. (*Bayon Moore*)

*CM Nava* so my question was regarding some of the information that they are requesting which will be business name, owners name, business addresses, business telephone for basically anybody receiving business license through the City. They want access to that information, so I'm not sure if that is entirely necessary or the need of a MOU, if they are going to be providing these services regardless. Those are my concerns.

*Teresa Skrepenski* the object of the MOU is to formalize the partnership. There's no exchange of any type of funds and I talked to them and made that very clear. As you can see, this section is about giving information. I worked with City Attorney on this to make sure that we didn't give out information we can't give out.

*CM Nava* what information could we give out? *Answer:* as I recall and indicated to finance in connection to requests of business license information: that will be the information that would appear on the piece of paper that the City gives you that you post at your business. This will relate to name, address and things like that. There are certain aspects of our business license application that I would suggest be confidential to the extent we get any sort of financial information. Basically when I look at the Brawley Business License application, I would see name and address only. That was a concern and so as Teresa indicated those types of information could possibly cause concern. It was an acknowledgement that there might be limitations on the kind of information that they were seeking. Because that is data that can be used for other purposes and can be sold. We want to be very careful and improve our businesses here and have them have opportunities. I think we do need to include that language to limit the information that is given. If we're only going to provide name and address lets list that there and not leave it up to chance.

*CM Bayon Moore* stated that one suggestion is if you would like to strike out part of this, we can strike all of section II or we could restrict it to simply business name and business address.

*CM Nava* asked if that's what's listed on the business license will that be appropriate? *Answer:* Yes. (*Morita*)

*The council* motioned to **approve** Memorandum of Understanding with Imperial Valley Small Business Development Corporation striking item from section II and only including business owner name and address. m/s/c Nava/Miranda 5-0

**AYES:** Campbell, Couchman, Kelley, Miranda, Nava

**NAYES:** None

**ABSTAIN:** None

**ABSENT:** None

**c. DISCUSSION OR ACTION TO ADOPT UTILITY USER TAX – 2012/2013  
CONTINGENCY PLAN-ROSANNA BAYON MOORE, CITY MANAGER**

***Staff Report – Rosanna Bayon Moore, City Manager***

There was a power point showing the Utility User Tax –2012/2013 Contingency Plan.

*CM Miranda* said I'm in support of Measure K and I have mentioned to the residents of Brawley to vote for Measure K because it will affect Police/Fire Services, Library and the Parks & Recreation Programs.

*CM Couchman* stated that he understands there has to be a Contingency Plan in place, I'm in support of a plan but employees don't panic it can change.

*CM Nava* concurred with *CM Couchman* it's stressful for staff but the Contingency Plan needs to be in place. Employees feel free to contact the City Manager and City Council with any concerns as we need to prepare for difficult decisions up ahead.

*CM Kelley* said he agreed with what has been said but we have been able to keep everything flowing until now.

*Fred Selk* Brawley resident and Ex Finance Director stated that he had worked for the City for over 21 years. I have concerns with misinformation and facts the Utility Users Tax was my idea back in 1991. We took it to vote and passed it. The problem is sales taxes go to El Centro. They receive more per capita. We need to keep working together and keep the general fund afloat.

*CM Nava* thanked Mr. Selk for sharing his thoughts.

*CM Kelley* asked if he was in support of Measure K. *Answer:* He replied that he was in support of Mr. Kelley for reelection, but did not want to publicly support the tax. (*Selk*)

The council **motioned** to adopt the Utility User Tax – 2012/2013 Contingency Plan. m/s/c Kelley /Nava 5-0

**d. DISCUSSION/ACTION RE: MEMORANDUM OF UNDERSTANDING WITH ORMAT, NEVADA, INC.**

***Staff Report – Rosanna Bayon Moore, City Manager***

This is for an extension of the MOU with Ormat for 1 year from November 1, 2011 to October 31, 2012.

The council *motioned* to extend terms of Memorandum of Understanding with Ormat, NEVADA, Inc. for 1 year from November 1, 2011 to October 31, 2012. m/s/c Nava/Campbell 5-0

**AYES:** Campbell, Couchman, Kelley, Miranda, Nava  
**NAYES:** None  
**ABSTAIN:** None  
**ABSENT:** None

**e. DISCUSSION REGARDING FIVE MOST COMMON UTILITY BILLING POLICY ISSUES.**

***CM Kelley*** said based on occupancies and flat rate on meter we need to revisit ordinance and bring it up-to-date and get recommendations on these top 5 items.

***CM Nava*** bring ordinance back to council.

***Paul Hoffman*** Brawley resident and owner of 172 and 174 Main Domino's Pizza in. The sewer rate was raised again. We should get a discount for one sewer as the rooms behind the restaurant are small offices that use no water. Do we need to have 2 restrooms? CM Moore called my son and told him we have to pay.

***CM Moore*** said there are a couple of circumstances involved in this situation. I have to follow the existing policy. That is why we arrived to this.

***CM Nava*** told Mr. Hoffman that we will look into this issue and get back to him and we appreciate your patience.

**6. COUNCIL MEMBERS REPORTS**

- a. ***CM Couchman*** said he attended the Pioneer's Memorial Gala, the Rotary Kickoff Party and will be marching in the parade.
- b. ***CM Miranda*** said he will be in the parade with Mayor Campbell, La Gente Car Club is in support of Measure K, I also witnessed the 6 valves that were replaced near 1<sup>st</sup> and Main on October 26, and I want to commend staff and A & R Construction for a hell of a job.

- c. **CM Kelley** said attended some events and will be going to parade but sitting in the stands. Thanks to City staff.
- d. **CM Nava** said he wanted to thank staff, I attended the Valley RV Mixer, Chamber Meeting, PMH Gala and please go out and vote.
- e. **Mayor Campbell** said he also attend the Valley RV Mixer and PMH Gala. Measure K is important to us and is good for our community, looking for a positive turn out. I will attend the SCAG meeting in LA on Wed., 11-3-11. Again thanks to everyone for your hard work and patience.

## **7. CITY MANAGER REPORT**

- a. **CM Moore** said she is working on the Succession Planning with staff; I'm working on tax increments with Marshall Linn, looking at public meetings to do action minutes and less transcribing for future meetings and does Council wish to have more discussion on the Utility Billing Policy Issues?

**ADJOURNMENT @ 9:45 PM**

*Alma Benavides*, City Clerk