

COUNCIL MEMBERS PRESENT: Payan, Smith, Wallace, Morales, McKittrick

STAFF MEMBERS PRESENT: Anderson, Barkley, Beltran, McCloskey, Nunes,  
Popovich, Thompson, Todd, Uota, Whitfield

#### CALL TO ORDER

Mayor Wallace called the meeting to order at 6:30 pm.

#### INVOCATION

The invocation was led by Council Member McKittrick.

#### FLAG SALUTE

The flag salute was led by audience member Paulie Romero.

#### EMPLOYEE SERVICE RECOGNITION

##### 4.1. Jonathan Raynes, 5 Years

Chief Thompson introduced Firefighter/Paramedic Raynes to the Council. Mayor Wallace presented Raynes with a service award. The Council Members thanked Raynes for his service to the City.

#### PUBLIC COMMENT

##### 5.1. Nori Naylor, White Ribbon Week, Oct 31-Nov 7, 2010

Nori Naylor, President of the Dinuba Chapter of CLEAN shared the CLEAN organization goals and presented the Council with wristbands to support the effort. She informed the Council that CLEAN will disband due to bookkeeping issues but she is looking to continue the cause under a similar organization.

##### 5.2. Dinuba Chamber of Commerce, Annual Financial Report

In the absence of Executive Director Sills, the report was tabled until the next Council meeting.

##### 5.3. John Day, Marquis Homes

John Day and Melanie Billig each said they are members of Marquis Homes Owners' Development Committee. They were present to address the Council about the present Marquis Homes site and possible changes for its development.

Day said they were forced to foreclose on the property about three years ago and they represent a total of 55 owners. Day said they were presented with a lawsuit when the previous developer defaulted, which took the better part of a year to settle. Day said the group found themselves having inherited a project that in no way resembled a marketable project. He said their group has organized and wish to present the City Council with a plan they believe will work to bring an end to the blight currently presented by the unfinished project.

Melanie Billig said they want to be good neighbors and want a development everyone can be proud of and she said their vision is definitely better than what is currently represented. She added the group is trying to make the very best out of a very bad situation. She said they believe they have found a solution to the problem but they cannot go forward without the help of the City Council and staff. Billig said they would like the Council to reconsider a couple items in the development agreement. Number one they would like to build a broader range of houses; two, they would like the timing of the payment of impact fees reconsidered; three, they would like the Council to consider future grant(s) for housing assistance. Billig said the partnership doesn't want to fund it through the banks because it will take too long according to their research. Billig said they would like to share information regarding a grant of which staff is already aware. They would like to bring the item back to another Council meeting to discuss it further.

Council Member McKittrick asked what size homes they have in mind.

Billig said once again, they desire a “broader” range of homes.

Mayor Wallace clarified that they would like to be placed on a future agenda.

Billig said they would like to review the two items and the grant information at another meeting.

Mayor Wallace asked what the grant deadline is and John Day said they want to apply before the end of the year.

Mayor Wallace said the dilemma is that there will be an election in a couple weeks and with it, 3 of the presently seated Council Members will be replaced. He said the timing is not good and he asked staff’s recommendation on the matter.

City Manager Todd said he’s already spoken with Day but there are some issues to consider. One of those is the development agreement which was originally between a different legal entity and now it is divided in 55 ways. He questioned whether or not there is an enforceable agreement in place and added that it will have to be checked out before the proposal can be considered.

City Manager Todd talked about the lease agreement and the question of the CC&Rs and whether or not they change. There is a final map but it’s something that staff must research. Staff needs to explore it and understand it which will take time.

Mayor Wallace said the time frame may not lend itself to a quick resolution. He said the Council would appreciate the subdivision being cleaned up in the meantime.

Council discussion followed.

City Manager Todd said we first need to verify that Mr. Day is authorized to represent the co-owners perhaps through a power-of-attorney.

Mayor Wallace directed Day and Billig to work with staff; produce the verification as directed by City Manager Todd; fine tune some of the requests and work with staff can assist them with the presentation to the City Council.

Miguel Cervantes, 569 Lawrence Avenue asked the Council if the health of our children is considered when a redevelopment project is approved.

Mayor Wallace said when development occurs we require our contractors and developers to comply with rules and regulations. He added that this is the highest regulated state in the union.

Council Member Smith stated he is always around jobsites and there are inspectors on the job site making sure regulations followed.

Cervantes asked who is involved in those processes and he asked who he can talk to about the issues.

City Manager Todd directed Cervantes to Assistant Public Works Director Whitfield.

Council discussion followed.

#### 5.4. Unscheduled

Janet Hinesly, 389 North K Street, representing Dinuba Relay for Life and part of the planning committee for the Bark in the Park event, outlined the event and presented the Council with a check for \$300. The money was collected from vendors at the Bark in the Park Dog Days event and will be applied toward next year’s event.

#### CONSENT CALENDAR

- 6.1. City Council / Redevelopment Agency Meeting Minutes, September 28, October 12, 2010
- 6.2. Citizens Oversight Committee Draft Agenda, October 29, 2010

6.3. Avenue 416/El Monte Way Widening Project Right-of-Way and Property Acquisition  
Certificates of Acceptance

It was moved by Council / Board Member McKittrick, second by Vice Mayor / Vice Chair Morales, to approve the consent calendar as presented.

AYES: Payan, Smith, Wallace, Morales, McKittrick  
NOES: None  
ABSTAIN: None  
ABSENT: None  
WARRANT REGISTER

- 7.1. Approval – City Council Warrant Register, October 15, 21, 2010
- 7.2. Approval – Redevelopment Agency Warrant Register, October 15, 21, 2010

It was moved by Vice Mayor / Vice Chair Morales, second by Council / Board Member McKittrick, to approve the warrant register as presented.

AYES: Payan, Smith, Wallace, Morales, McKittrick  
NOES: None  
ABSTAIN: None  
ABSENT: None

MAYOR’S / CHAIR’S MINUTE

- 8.1. Red Ribbon Week, October 23-30, 2010, Proclamation No 2010-12

Mayor Wallace said he presented the Red Ribbon Proclamation yesterday at the Red Ribbon event downtown.

Council discussion followed.

Director Nunes reported that the event went very well and it couldn’t have been done without the school district’s help.

- 8.2. Housing Element Correspondence

Assistant City Manager Anderson said we have been communicating with the State on the Housing Element matter. She said staff would like to send some preliminary changes to HCD and at a later date get Council’s approval on the Housing Element document.

Josh McDonnell, Quad-Knopf, explained the Housing Element. As is typical of State HCD they have a certain type of document. There are state laws that the document is required to comply with and we just want to comply with the law in this document. We received a call from HCD in late July about the Housing Element. There were six or seven required revisions. This is usual and it turns into “negotiations.” It takes a meeting of the minds to get to where we can reach an agreement and receive certification of the document. HCD has asked for changes in emergency housing and in transitional housing. HCD is looking for the City to identify more land for RENA allocation. It may require a second letter which is typical. It seems HCD is giving extremely low housing programs priority for discretionary funding. McDonnell noted that an expansion on the definition for “reasonable accommodation” is something we will ask for as well as the definition of parking. The City will institute a policy that it can adopt; a definition precisely as prescribed by HCD. McDonnell said HCD is likely to approve six of the seven revisions.

Council discussion followed.

- 8.3. Information Sharing

Mayor Wallace extended condolences to the family of Bob Agnew on his recent passing.

COUNCIL / AGENCY COMMENTS

9.1. Request for Excused Absence, October 12, 2010, Mark Wallace

It was moved by Council / Board Member Smith, second by Council / Board Member McKittrick, to approve the request for excused absence by Mayor Wallace as presented.

AYES: Payan, Smith, Wallace, Morales, McKittrick  
NOES: None  
ABSTAIN: None  
ABSENT: None

9.2. Meeting with Assembly Member Juan Arambula, November 4, 2010

City Manager Todd said that Assembly Member Arambula would like to meet with Council and staff one last time before his term ends. Arambula requested a meeting on November 4.

Council discussion followed.

9.3. Delta Vector Control District - Dinuba Representative

City Manager Todd said Harold Dozier's term as our representative on the Delta Vector Control Board will soon expire and he will not seek reappointment. The Board consists of seven members. The candidates are appointed by the Board of Supervisors but recommended by City Council. He elaborated on the requirements for appointees and asked the Council to give some thought to candidates for the position.

Mayor Wallace suggested that perhaps the new Council Members would like to help select candidates.

Council discussion followed.

9.4. Information Sharing

Council Member Smith said he regretted missing the Red Ribbon event but he was at another meeting at the time.

Council Member McKittrick extended condolences to the Agnew family on the passing of Bob Agnew, as did Vice Mayor Morales.

Vice Mayor Morales said he attended the Nebraska Park Dog Days event.

PUBLIC HEARING

10.1. Sale of the Property at 199 North L Street; 188 North M Street; 289 North M Street

- A. City Council Resolutions
  - 1. 199 North L Street, No 2010-53
  - 2. 188 North M Street, No 2010-54
- B. Redevelopment Agency Resolution No 2010-06, 289 North M Street

City Manager Todd read the history of the item.

Council discussion followed.

Mayor Wallace opened the public hearing at 7:36 pm

Donna Mireles, 948 N Vermont, read a fiscal year 2004-2005 Grand Jury report about the Dinuba Vocational Center.

Pat Gabriel, Dinuba Chamber of Commerce President was present offering the Chamber's support of the vocational center sale to Ruiz Foods.

John Delamontierre, Administrator for Proteus, Proteus came to Dinuba in 1980, said Proteus isn't leaving. They have been meeting on an ongoing basis with city staff, which has been helpful

thought process. Delamontierre said they have several meetings set for the near future centered on the relocation of Proteus and are hoping for a permanent solution. He stated again, Proteus is not going anywhere.

Council Member Smith said he appreciates Proteus' dedication to the community.

Mayor Wallace asked if Proteus has worked with Ruiz Foods in the past.

Delamontierre said absolutely they have and will do so again. He said Proteus looks forward to continuing the partnership and Proteus supports the sale.

Yolanda Valdez, Principal Dinuba High School, shared Reedley College will also have a home. She said she's been working with Director Nunes to find suitable class room locations at the High School for Reedley College. All classes that are slated for the spring have a classroom available at the high school. The final word will be at the Dinuba School Board level. They have been working with school staff and the Board.

Council Member Smith said he is pleased to hear the positive comments from the vocational center tenants and Principal Valdez.

Robert Cervantes, 1365 W Kelly Drive, asked several questions about the sale of the Vocational Center. He asked how much money the City pays out of the general fund toward the Vocational Center.

City Manager Todd said the net is about \$147,000 per year. He added that with the addition of Ruiz Foods to the downtown we should see an increase in sales tax.

Cervantes asked if there will be provisions in the promissory note.

Mayor Wallace said the purpose of the note is to fortify the presence of Ruiz Foods in the downtown.

Cervantes asked if Ruiz Foods stays in the facility as their corporate headquarters, will they be forgiven the \$1.6 million balance.

City Attorney McCloskey said yes, similar to 20 years ago when Ruiz signed a similar promissory note for creating a certain type of payroll in Dinuba for 15 years. It came back to the City a hundred-fold. It's nothing we haven't used in the past with several companies. He used Patterson Dental, Best Buy and Odwalla as examples. The laws changed a while back and made it much harder to draw companies.

Mayor Wallace said it's a definition of terms, we call it "investing." We will get the property tax on the sale and we will likely realize \$146,000 per year.

Cervantes asked if the promissory note will be available to the community and he was told that it is a public record and available for public viewing.

Cervantes said that at a recent meeting with staff, they discussed about other buildings within the community and he said that the Bret's Ford building would be a good place for a vocational center.

City Manager Todd responded that we need to go through a thoughtful process with Reedley College and Proteus and see what makes sense to them and what is feasible.

Council Member Smith asked what auto dealerships sales tax brings in.

City Manager Todd said they bring between \$150,000 to \$200,000 in sales tax.

Mayor Wallace asked what they bring today.

City Manager Todd replied "not as much." The important thing for the current tenants is to meet their needs; we have. We feel the most important thing is to make sure they are happy and their needs are met.

Council discussion followed.

Daniel Meinert, Dinuba EDC Chair spoke on behalf of the EDC as their official representative. Meinert said that in June the EDC requested the Council support for this sale and, again last month. There are some who have suggested that perhaps the sale should not go through because of concern for Proteus and Reedley College. There are a lot of locations in this community where they can be relocated. There is only one location that can accommodate Ruiz Foods and if they cannot be accommodated, they will have to relocate their business.

Meinert congratulated the City Council for efforts toward this end and said he is confident they will make it a win, win, win situation.

Dolores Cervantes, 1365 Kelly, said she attended on behalf of underage students. She noted there are no children in attendance to speak their mind. She said she was present to defend the rights of the students. She said many students do not have transportation to attend College in Reedley.

Council discussion followed.

Mayor Wallace guaranteed that public transportation will continue to be offered so students will be able to attend the college campus and the college classes at the high school.

Sandy Sills, Dinuba Chamber of Commerce Executive Director, said she was on the committee when the Vocational Center was being planned. It was not meant to turn a profit but it was not supposed to be a deficit for the City of Dinuba. The original intent was to provide vocational education through the closing of the mill. Sills said the facility doesn't make the student but do the teachers. She said she appreciates the fact that the City has included the community as they did in the beginning.

Supervisor Steve Worthley said Dinuba isn't the only one that will benefit through the property tax, the County will also. Several years ago, the downtown was a thriving business. We have a huge deficit of private jobs. What a great opportunity to provide private enterprise to the community. This is a tremendous opportunity for the citizens of Dinuba. He said he is grateful that Ruiz Foods is not leaving Dinuba. He said he's aware of one large employer who moved their business out of the Cutler-Orosi area whose home office is in Ventura County. He talked about a possible fee schedule that might give the students an opportunity to ride the buses for free.

Gene Chamberlin, 130 Palm Drive, said the original price of the project was \$5.2 million and we're getting cash up front. He asked if there will still be a liability after the sale of the property.

City Manager Todd said yes, the \$70,000 after it's paid back to the Redevelopment Fund.

City Attorney McCloskey said, \$3.2 million which is owed against the property is owed to the EDA. The EDA has a formula to repay the fees owed. The grant funds are reusable.

Council discussion followed.

Mayor Wallace said we don't repay the grant funds but we still have funds we can reuse for the same purpose.

Robert Cervantes said he talked to a representative of the EDA and the comments made to him were that the grant funds are not reusable.

With no other comments from the public Mayor Wallace closed the public hearing at 8:39 pm.

Mayor Wallace said now that the public hearing is closed he said he wants to clarify that nothing could be further from the truth than the comments that were last made.

Council Member Smith said we don't need to be in the real estate business. Other entities are equipped to do so. He said in the last ten years nobody has complained to him about education. He said we are relieving ourselves and not getting deeper in debt. He said there were many good comments tonight and yes, education is a priority but we don't do a good job of that. Others do like Principal Valdez and Reedley College. He said he is in favor of the sale.

Council Member McKittrick said he agrees with Smith, he too is in favor of the sale and the school district can take care of the education.

Vice Mayor Morales agreed he too is in favor of the sale.

Mayor Wallace said much has been said about education and concern for the tenants. He encouraged staff to continue their efforts. He directed comments to Bryce Ruiz, who was in the audience and the entire Ruiz Foods team, that he appreciates their relationship with Dinuba. He said Ruiz Foods is committed to their team members more than is realized. Mayor Wallace said he feels the downtown is going to prosper and the restaurants are going to be happy and it's a great opportunity for restaurants to open up downtown. He said we need to revive an entrepreneurial spirit in the downtown and Ruiz' presence will do so.

It was moved by Council Member McKittrick, second by Vice Mayor Morales to adopt Resolution Nos 2010-53 and 2010-54.

AYES: Payan, Smith, Wallace, Morales, McKittrick  
NOES: None  
ABSTAIN: None  
ABSENT: None

It was moved by Board Member Smith, second by Vice Chair Morales, to adopt Resolution No 2010-06.

AYES: Payan, Smith, Wallace, Morales, McKittrick  
NOES: None  
ABSTAIN: None  
ABSENT: None

#### 10.2. Notice of License to Use a Portion of West Fresno Street, Resolution No 2010-55

City Attorney McCloskey reported this is a request for the City Council to consider the closure of Fresno Street in front of the Vocational Center from L Street to the easterly boundary of the alley and, as a condition of the real property transaction with Ruiz, grant Ruiz an easement for use and possession as set forth in the attachment to the resolution. Staff anticipates that Ruiz will make improvements in the area with landscaping and treatment as has been represented by Ruiz. The closure process requires a resolution and a finding by the planning commission that the closure is consistent with the General Plan and is not prohibited by the General Plan. Staff will present this to the Planning Commission and ask the Commission to make the necessary finding at their next regularly scheduled meeting. The Council will then take formal action at its next regularly scheduled meeting provided that the Planning Commission makes the necessary finding. It is Staff's opinion that the General Plan does not prohibit the closure and the closure is consistent with the General Plan. The closure of the street is a categorical exemption to the California Environmental Quality Act.

City Attorney McCloskey recommended that the Council take public testimony regarding the closure of the street as proposed.

Mayor Wallace asked public safety to speak to the safety as pertains to the street closure request.

Both Fire Chief Thompson and Police Lt Popovich agreed that there are no particular safety restrictions evident as there is proper access in place.

Council discussion followed.

Mayor Wallace opened the public hearing at 8:58 pm.

No comments from the public were brought forward.

Mayor Wallace closed public hearing at 8:58 pm.

City Attorney McCloskey requested that the City Council adopt Resolution No. 2010-55 and requested that the Planning Commission make a finding that the proposed closure is consistent with the City of Dinuba General Plan and, upon the Planning Commission finding of consistency with the City of Dinuba General Plan authorizing the City Manager to enter the easement agreement in substantially the form as attached to the resolution. He also noted that Resolution 2010-55 be considered for adoption with noted changes: to fix the transposed section number on page 2 of the resolution from 64502 to 65402; and, to clarify the title of the resolution.

It was moved by Council Member Smith, second by Vice Chair Morales, to adopt Resolution No 2010-55 as presented with the noted changes.

AYES: Payan, Smith, Wallace, Morales, McKittrick  
NOES: None  
ABSTAIN: None  
ABSENT: None

#### OFFICE OF THE CITY MANAGER / EXECUTIVE DIRECTOR

##### 11.1. Information Sharing

City Manager Todd said the Big 5 grand opening was held last week. He said he spoke with Developer Mark Paterson who indicated modifications to the island median for access between the shopping centers along Monte Vista will soon be constructed.

#### CITY ATTORNEY

##### 12.1. Information Sharing

City Attorney McCloskey said the Appellate Court voted in our favor in the case Barnes v. Hada.

#### CITY ENGINEER

##### 13.1. Information Sharing

Uota reported on wastewater treatment facility expansion.

Groundwater recharge project has been on hold for well over a year. We had an interim short-term financing opportunity presented to us. We brought our contractor back and berms are rising out of the ground as we speak; it should be done by next week. The last part of the work will be construction of five or six monitoring wells. KRCD is the official recipient of Prop 13 grant.

Update to 416 widening project: right of way acquisition is on course. Last several consent calendar items are certificates of acceptance. On schedule.

Smith said city of Tulare has a \$63 million expansion.

Uota said he's not sure but he assumes its their domestic plant needs some work.

City of Woodlake recently opened their bid process for a one MGD sewer plant that will cost them upwards of \$11 million.

Discussion followed.

#### FINANCE AND COMMUNITY SERVICES

##### 14.1. Information Sharing

Director Nunes shared that next Thursday a youth soccer clinic will be held at K/C Vista Park. It will be presented by Dario Sala, a Major League Soccer Team member, free of charge and it will be sponsored by Ed Dena's Auto Center.

Nunes shared:

Youth basketball signups will begin soon.

The Fall Harvest Fling will be held at the Community Center next Saturday evening.

There will be a soccer tournament on November 27 in conjunction with toys for kids.

December will bring Christmas parade and Christmas tree lighting at the park.

Nunes said we expect to see our first sales tax payment from Best Buy in December.

## FIRE SERVICES

### 15.1. Information Sharing

Chief Thompson shared that the Fire Department received 300 coloring books from a local insurance company to give to local children.

Chief Thompson said a few meetings ago the Council authorized the fire department to apply for two grants. The department was successful and the grant will be used for turnouts and medical oxygen equipment.

## POLICE SERVICES

### 16.1. Information Sharing

Lt Popovich reported grant funds were awarded to the Police Department. The funds will be used to replace the CLETS base system at the police department. The funds will also help replace the Fire Department's base station and the Public Works base station allowing the City to be compliant with regulations.

Staff received a notification for the JAG grant for the AVL (automatic vehicle locate) system for which we too will be awarded grant funds.

Lt Popovich said staff was in attendance at the Red Ribbon event last night and at the recent Safety Fair at K-Mart.

Council Member Smith asked if the department is digital yet.

Popovich said we are digital but we don't always use it as it allows outside listeners to hear where staff are dispatched during calls.

Council discussion followed.

## PUBLIC WORKS

### 17.1. Information Sharing

Assistant Public Works Director Whitfield said we received a Safe Routes to School grant for the Hayes / El Monte crosswalk.

Council discussion followed.

Assistant City Manager Anderson added the RFP for Planning and Engineering was recently mailed to potential applicants.

ADJOURNMENT

Mayor Wallace adjourned the meeting at 9:25 pm.

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Mark Wallace, Mayor

ATTEST:

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Linda Barkley, Deputy City Clerk / Secretary