

**COUNCIL MEMBERS PRESENT:** Morales, Harness, Smith, Reynosa, Thusu

**STAFF MEMBERS PRESENT:** Anderson, Beltran, Carrillo, James, McCloskey, Popovich, Thompson

### **CALL TO ORDER**

The meeting was called to order at 6:31 pm.

### **INVOCATION**

Daniel Meinert led the invocation.

### **FLAG SALUTE**

The flag salute was led by John Carrillo.

### **PUBLIC COMMENT**

#### 1.1. Unscheduled Items

Carol Knoy presented her comments in regard to the hiring of an interim City Manager. She voiced her concern with hiring an interim citing that Acting City Manager Anderson was doing a great job and as such, an interim City Manager is not needed at this time.

Rob Kennedy recommended that a project manager be hired to help move the El Monte road widening forward.

### **COUNCIL COMMENTS**

#### 1.2. Consideration of Interim City Manager Candidates

Acting City Manager Anderson explained the process for discussion in accordance with the Brown Act.

Council Member Smith asked for clarification in regard to what is and is not permitted to be discussed in closed session.

Anderson indicated that to be in accordance with the Brown Act, all discussion pertaining to wages and compensation must be done in open session.

City Attorney Dan McCloskey further explained the legalities behind discussing these matters in open session.

Vice Mayor Harness indicated that Anderson had done due diligence in determining an appropriate salary range.

Council Member Reynosa asked for clarification on the allocated amount available for the hiring of an interim City Manager.

Smith reported the figures provided by the Finance Director.

Harness suggested that a portion of the monies reported should not be included in comparison to former City Manager Nunes' salary.

Council Member Thusu said that all monies reserved for payouts should be kept financially separate from general funds.

Council Member Smith disagreed.

Anderson explained that the burden for such expenditures falls on the department. She further explained that the funds to pay for the interim City Manager would be paid from the City Manager's Office budget which would fall short of paying for the full amount. The remainder will have to come from another source.

Mayor Morales explained to the audience that it is common practice to shift funds to accommodate changes such as the hiring of an interim City Manager.

Larry Pennell took the podium to speak on the discussion and offered clarification. He explained that the salary ranges and PERS costs were already determined and it should not be difficult for the Council to determine those numbers.

Council Member Smith asked for former City Manager Nunes' salary.

Anderson responded to Smith's question with financial figures.

Council Member Thusu asked for clarification on the figures. Anderson clarified the financial figures.

Mayor Morales asked candidate Daniel Meinert to introduce himself.

a. Daniel Meinert

Daniel Meinert explained that the position is already budgeted and he would think that Classification Step A would be fair as a salary range. Meinert also shared some other expectations for compensation are items such as mileage, and cell phone costs. Meinert indicated that he would be asking for mileage, cell phone, and employer's share of SSI and Medicare in addition to his salary which would be Step A.

b. Larry Pennell

Larry Pennell introduced himself.

Mayor Morales asked Pennell what are his expectations of benefits.

Pennell offered that the City is being run very well and he would fit in well with the City and staff. He pointed out that the selection process for Interim City Manager was unique. Pennell asked, assuming one of the two candidates is hired this evening, would the selected individual be given a fair chance at leading the City or would there be a cloud over the position.

Council Member Smith assured Mr. Pennell that the Council would treat the selected candidate fairly. Smith then asked for his experience and a Brown Act violation while employed with the City of Fillmore.

Pennell explained that while working for Fillmore, he assisted with the recruitment of a permanent City Manager. He explained the process and pointed out that he had planned to interview the top three candidates along with the Mayor. When returning to report on the findings, there was an objection and was accused by one of the Council Members of violating the Brown Act. He rejected the violation and no lawsuit was filed.

Council Member Smith asked about another incident regarding allocations of Mr. Pennell not following procedures with a past RFP item. Pennell was unsure of the reference made by Council Member Smith. He then asked Council Member Reynosa how she felt about the hiring of a City Manager. Reynosa said she would support any decision made by the Council as a whole. Pennell shared that he would be living in a hotel in Dinuba during his duration as Interim City Manager and expected reimbursement for hotel costs. He then requested the figures for the budgeted salary range. He shared that he is married with four children. Pennell said he serves on the Cal Ethics Committee.

Council Member Smith asked how many hours per day he foresees working in the position.

Pennell said that he expected to work 10 to 12 hours per day and would put in the number of hours he deemed necessary.

Anderson indicated that Mr. Pennell had shared that he would be working on site three days per week and would communicate with staff in other ways while not in the office.

Council Member Reynosa asked if there were any other benefits he would be requesting.

Pennell said he would ask for mileage and motel costs.

Council Member Thusu shared that regardless of the decision, the Interim City Manager would have the Council's full support. He then asked if there were any charges or lawsuits filed against him in the matters of the Fillmore incident.

Pennell shared more information regarding the incident and explained that he was told it was an "inadvertent violation of the Brown Act."

Council Member Reynosa asked what amount he expected to be reimbursed for hotel costs. He indicated that \$100 per day would be adequate.

## 5.2. Information Sharing

Chris Launer voiced concerns regarding the high costs and daunting task surrounding the selection and hiring of an Interim City Manager. Mr. Launer shared that the cost of the Fillmore Brown Act violation which was previously discussed fell back on the City of Fillmore and the taxpayer. Mr. Launer explained that the City would be looking at a minimum of \$80,000 to \$90,000 for someone who would only be in the office 3-5 days per week. He also asked for the Council to explain where the additional revenue to pay for the position would be coming from.

Maria McElroy commented on the general discussion. She indicated that it is very rare for a salaried person to be able to "double dip" as it pertains to being paid out vacation time. She also shared concerns with Mr. Pennell and his qualifications. She expressed concerns with his candor and knowledge of City workings. She also shared information on a settlement agreement with Mr. Pennell pertaining to the Brown Act violation. She shared more information

regarding the case and her concerns with hiring someone who does not live in the City and is not part of the fabric of Dinuba. She explained that the Council would have to justify the need to hire an Interim City Manager to the taxpayers.

Roy Orosco spoke to echo the concerns of Mrs. McElroy. He shared that he had spoken to members of his district and indicated that he and those he has spoken to support the hiring of an Interim City Manager.

Gilbert Martinez shared that the hiring of an interim City Manager was like a “ticket.” He shared that a decision needed to be made so that the City could move forward. He didn’t see a problem with either candidate but recommended Mr. Pennell be considered.

Steve Sunderland, 1210 Millwood, spoke regarding his personal work history and his budget responsibilities in those positions. He explained that in his background, he has never witnessed a governing body rushing to make such an expensive decision and recommended that the Council trust City staff and their abilities to run the City. He recommended an Interim City Manager not be hired.

Robert Cervantes commented that rushing through decisions was common place for this council.

Robert Rocca shared his concerns with the hole left with the absence of an Interim City Manager and recommended that one of the two candidates be hired.

Anderson read a letter of support from the DPOA indicating their support of the hiring of an Interim City Manager. Anderson also read a letter to Council by the Dinuba Employee’s Association and their support of the hiring of an Interim City Manager.

**CITY ATTORNEY**

6.1. Closed Session Action: Appointment - Interim City Manager

This item occurred in closed session.

**CITY MANAGER**

7.1. Information Sharing

None

**CLOSED SESSION**

8.1. Appointment - Interim City Manager

Pursuant to Government Code Section 54957, the City Council met in closed session to discuss selection and appointment of an Interim City Manager.

Council returned from closed session.

Vice Mayor Harness made a motion to offer the position to Pennell conditional to a salary of \$12,589 at 160 hours per month, the City will pay mileage, the employer’s portion of Social Security, Medicare, city cell phone, and no

housing costs. In the event that Mr. Pannell rejects the offer, the position is offered to Daniel Meinert. The motion was seconded by Council Member Thusu.

Council Member Smith requested a roll call vote be taken.

Acting City Manager Anderson conducted the roll call vote.

Council Member Reynosa:	No
Council Member Smith:	No
Mayor Morales:	Yes
Vice Mayor Harness:	Yes
Council Member Thusu:	Yes

The motion passed 3 to 2 in favor.

Council Member Smith asked for clarification on the hours and salary range and said it conflicted with what was discussed in closed session. Smith asked for clarification on salary increases as they pertain to step increases.

Vice Mayor Harness explained that the wages should be kept at the current approved step or the motion should be amended.

Vice Mayor Harness requested an answer from Mr. Pennell.

Pennell accepted the terms and conditions and requested the terms in writing. Harness asked if Mr. Pennell understood the terms as they pertain to housing. Mr. Pennell said he understood.

Attorney McCloskey explained that mileage would not include driving to and from home.

Mr. Pennell indicated he would need housing assistance if that were the case.

Vice Mayor Harness indicated that the offer is not negotiable.

Pennell said he would refuse the offer if an agreement could not be reached on mileage and/or housing.

The City Council acknowledged Pennell's rejection of the offer.

Vice Mayor Harness then offered the same terms to Daniel Meinert.

Meinert accepted the terms as presented.

Acting City Manager Anderson and Attorney McCloskey were directed to draw up a contract and coordinate with Meinert to begin employment on Monday, February 23, 2015.

**ADJOURNMENT**

The meeting was adjourned at 9:57 pm.

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Emilio Morales, Mayor

ATTEST:

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Daniel James, IT/Records Manager  
for Linda Barkley, Deputy City Clerk