

MINUTES
Regular Meeting
San Luis City Council
San Luis Council Chamber
1090 E. Union Street
March 25, 2015
7:00 p.m.

<p>APPROVED by Council Date: April 22, 2015 Clerk's Office: /s/ M. Lopez</p>

CALL TO ORDER Mayor G. Sanchez called the Regular City Council meeting to order at approximately 6:59 p.m.

ROLL CALL

PRESENT: Mayor Gerardo Sanchez
Council Member Africa Luna-Carrasco
Council Member Maria C. Ramos
Council Member Ruben Walshe

ABSENT: Vice Mayor Matias Rosales
Council Member Mario Buchanan Jr.
Council Member Gloria Torres

OTHERS PRESENT: Robert Eads, City Manager
Tadeo De La Hoya, Assistant to the City Manager
Sonia Cornelio, City Clerk
Domingo Sosa, I.T. Department
Geraldine Gutierrez, Asst. to Mayor and Council/PIO
Isaac Gutierrez, I.T. Department
James Neujahr, Chief of Police
Jennifer Cisneros, Parks & Recreation Director
Jenny Torres, Community Development Director
John Starkey, Building Safety Director
Jose Guzman, Assistant Planner
Kay Macuil, Assistant City Attorney
Katie St. Louis, Finance Director
Olivia Jenkins, Utilities Director
Charlene Fitzgerald, Yuma Metropolitan Planning Organization
Jose Leonardo Suarez, Resident
Liliana Navarrate, Resident
Sonia Sardinas, City Prosecutor

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member M.C. Ramos

INVOCATION

The Invocation was made by Mr. Rosendo Morales, Court Magistrate

PRESENTATION

- **Presentation by the Yuma Young Adults Club from Arizona Western College on their events organized in the City of San Luis.**

The Yuma Young Adults Club provided a PowerPoint and video presentation to the Mayor and City Council and explained their activities organized in the City of San Luis, goals, and scholarships for the students attending Arizona Western College. The Yuma Young Adults Club thanked the City of San Luis for the support given to this club.

Mayor G. Sanchez congratulated Yuma Young Adults Club for their work and thanked them for considering the City of San Luis to be the site for their successful events.

Council Member M.C. Ramos also congratulated them and suggested having food vendors next year at the Comic-Con activity.

CONSENT AGENDA

MINUTES OF

- Special Council meeting held March 3, 2015
- Special Council meeting held March 17, 2015

DISBURSEMENTS from March 2, 2015 to March 13, 2015

Total disbursements \$561,365.50

(Five-Hundred, Sixty-One Thousand, Three-Hundred, Sixty-Five Dollars and Fifty Cents)

1. Discussion and possible action on any and all matters regarding the purchase of AgendaQuick Software by Destiny Software Inc., for the Office of the City Clerk in the amount of \$10,108.00 and that the procurement procedures be waived as permitted in Section 36.01.H of the San Luis City Code. (Sonia Cornelio)

2. Discussion and possible action on any and all matters regarding the purchase of a Vapex odor control system from James, Cooke, and Hobson Inc. for Lift Station 300 for an amount not to exceed \$110,000.00. This system has the ability to treat multiple locations within the vicinity of its installation, hence a more efficient system, which will also provide operational money savings to the City. (Eulogio Vera)

3. Discussion and possible action on any and all matters regarding the approval to enter into contract with James Davey and Associates Inc., in the amount not to exceed \$24,336.00 for performing the water system model and master plan of our

water system. Hydraulic study will be completed with recommendations on size and location for a new water storage tank in east San Luis. (Eulogio Vera)

4. Discussion and possible action on any and all matters regarding the purchase of a 2015 Chevrolet Suburban from Midway Chevrolet in the amount not to exceed \$43,000.00. (Tadeo De La Hoya)

5. Discussion and possible action on any and all matters regarding Resolution No. 1090. A resolution of the Mayor and Council of the City of San Luis, Arizona, in support of the 2015 Governor's Office of Highway Safety Grant application. (Hank Green)

MOTION: Council Member A. Luna-Carrasco/Council Member M.C. Ramos to approve the Consent Agenda as presented. Motion passed unanimously.

DISCUSSION AND POSSIBLE ACTION ITEMS:

Mayor G. Sanchez moved Item No. 11 to be discussed first on the Agenda, there was no opposition from the members of the City Council.

11. Discussion on any and all matters concerning Subdivision Case No. 2014-0335-F a request by Core Engineering Group, PLLC, on behalf of Greater Yuma Port Authority followed by discussion and possible action to approve the Final Plat for Magrino Industrial Park Subdivision Unit No. 2. The subject property is located south of County 25th Street between Avenues "E" and "D". (John Starkey)

Mr. John Starkey, Building Safety Director, explained that this item is the final plat approval for Magrino Industrial Park Phase II, a subdivision next to the Port of Entry II and the land is owned by the Greater Yuma Port Authority. The County applied for a grant and received an amount of \$500,000.00 to build the roads in this area; the property is located south of County 25th Street between Avenues D and E.

Mayor G. Sanchez asked if there were any Conditions of Approval. Mr. Starkey responded that they are Conditions of Approval as follows:

1. Posting of assurances prior to the recording of the subdivision plat.
2. Deferral of perimeter wall requirement until development of those lots occurs. The requested wall for deferral is shared with adjacent property owners to west along Lots 1 and 13 as well as a portion of Vaughan Street.
3. The following infrastructures shall be constructed as part of the next development phase:
 - Vaughan Street shall be extended to Avenue D
 - Port Authority Avenue shall be extended south of the paving limits of this project
 - Avenue D box culvert and complete access across the 242 lateral

- Subdivision water system shall be looped with a 12" waterline along Avenue D
4. Minor engineering details must be worked out between the Public Works Director and the Design Engineer prior to construction

MOTION: Council Member R. Walshe/Council Member A. Luna-Carrasco to approve the final plat for the Magrino Industrial Park Unit No. 2, approval is subject to the conditions set forth in attachment A. Motion passed unanimously. (Attachment A is with the completed Agenda Packet filed at the Office of the City Clerk.)

6. Presentation, discussion and possible action on any and all matters regarding request for funds by the Gadsden Elementary School District Marching Band to participate at the 2016 Cabalgata de los Reyes Magos in Madrid, Spain on January 5, 2016. (Liliana Navarrete)

Ms. Liliana Navarrete, Marching Band Parent Committee President, explained to the Mayor and City Council the 2015 report which included the official invitation letter to participate in the 2016 "Cabalgata de los Reyes Magos" in Spain, itinerary, proof of payment, fundraisers, donations, expenses and list of participants. Ms. Navarrete added that the total duration of this trip is eight (8) days.

Miss Teresa Muñoz, Member of the Marching Band, thanked the Mayor and City Council for the donations and support to make their New England participation a reality. Miss Muñoz talked about her participation experience in London and how this educational trip helped her in addition she elaborated on the hard work every participant performed as well as their parents.

Miss Dalila Navarrete, Member of the Marching Band, thanked the Mayor and City Council for their time and support and stated that she has been a member of the marching band for four (4) years. Miss Navarrete mentioned that her siblings had the opportunity to participate at the event in New England last year, however she did not and would love to be able to participate next year in the 2016 Cabalgata de los Reyes Magos in Spain.

Mayor G. Sanchez stated that last year when the City assisted them a special request was asked and that was to provide a video of the students' performance in London. This video was going to be presented to the Mayor and City Council on their return at a Council meeting and did not happen. Ms. Navarrete responded that there was an issue with the recording of the video of that event, however she added they are committed to make sure that for the 2016 Cabalgata a video will be done to be presented to the Mayor and Council. Mayor G. Sanchez said that it is important as the City must justify the expenses and suggested that the marching band wear t-shirts that read San Luis, Arizona and bring back pictures demonstrating that the t-shirts were used. Mayor G. Sanchez furthermore added that at the moment the City does not count

with funds for this purpose and asked why was this item an action item if the City cannot award any kind of funding at the moment.

Council Member R. Walshe suggested using the City of San Luis logo on the t-shirts.

Mr. Glenn Gimbut, City Attorney, responded that it does not need to be an action item, however, it probably is good politics to show that the City Council is interested in this therefore making a motion to direct staff to bring this to study at the budget retreat for discussion.

MOTION: Council Member A. Luna-Carrasco/Council Member M.C. Ramos to direct staff to study this item for the budget retreat discussion for FY 2015-2016. Motion passed unanimously.

7. Discussion and possible action on any and all matters regarding the awarding of bid to Desert Valley Cabinets, LLC, in the amount of \$23,242.50 for the construction of the courtroom's bench which includes Judge's bench work area, Clerk's work area, Witness stand, Counsel's tables (2) with fence partition and Jury box. (Rosendo Morales)

Mr. Rosendo Morales Jr., Court Magistrate, explained that the Court received three (3) bids from Desert Valley Cabinets, LLC in the amount of \$23,242.50; Big Adventure Construction, Inc., in the amount of \$24,888.00 and Pilkington Construction Co., Inc. in the amount of \$30,390.00 for the construction of the Courtroom's bench and related areas. The lowest bidder is Desert Valley Cabinets, LLC in the amount of \$23,242.50.

MOTION: Council Member A. Luna-Carrasco/Council Member M.C. Ramos to award bid for the construction of the Courtroom's bench to Desert Valley Cabinets, LLC, in the amount of \$23,242.50. Motion passed unanimously.

8. Discussion and possible action on any and all matters regarding the approval and authorization of the renewal of the Standard Software Management Agreement (SSMA) with "New World Systems" to obtain software support service over the next five (5) years beginning July 1, 2015. (Katie St. Louis)

Ms. Katie St. Louis, Finance Director, stated that the contract renewal ensures that the City will be able to take advantage not only of software updates and upgrades as the company continues to invest in future research and development but also the ability of obtaining telephone support as well as additional training. The contract is for five (5) and the annual amounts are illustrated on contract.

MOTION: Council Member R. Walshe/Council Member A. Luna-Carrasco to approve and authorize the renewal of our maintenance agreement with New World Systems for uninterrupted support services of the Logos Software. Motion passed unanimously.

9. Discussion and possible action to confirm and ratify authority of City Attorney to represent City in Francisco Villa v. Rosendo Morales and seek award of attorney's fees and costs from Dale Wren and Francisco Villa. (Glenn Gimbut)

Mr. Glenn Gimbut, City Attorney, explained that On February 14, 2014, Mr. Francisco Javier Villa dressed as a woman, went to the parking lot of the local restaurant, Mariscos El Navegante, approached a waitress, and had her come over to him. He then asked her if she noticed something on him, and she stated he appeared to have woman's breasts, and then he asked her if she noticed something else on him, to which she replied he appeared to be wearing woman's slippers. Mr. Villa then told her to look at his genital area, which he referred to as a "bump" that every man has. He then asked her a second time to look at his "bump" the waitress left the area and called the police. Mr. Villa then got in his car and drove away. The waitress said she knew Mr. Villa from previous contacts. The police obtained driver license photographs of the two Francisco Villa's known in the database, and the waitress identified Francisco Javier Villa. When police contacted the defendant, he admitted that he went to the restaurant dressed as a woman, admitted he was the person involved, admitted the conversation, but his defense was that he meant no disrespect. He was given a citation for disorderly conduct.

Mr. Dale Wren is the attorney for Mr. Villa and has filed several motions with the clear purpose to delay criminal proceedings. Mr. Rosendo Morales Jr., Court Magistrate, in a very well written decision denied these motions, in particular a motion to suppress and a motion to dismiss. Because the motions were denied, Mr. Wren has filed a groundless petition in special action in the Superior Court suing Judge Morales and the City as the real party in interest. Judge Morales sent that suit to Mr. Gimbut's office for defense. In conjunction with Ms. Sonia Ramirez, City Prosecutor, Mr. Gimbut filed a motion to dismiss, asking in part, for an award of attorneys' fees for the filing of a groundless complaint in violation of both the statues of the state of Arizona and the rules of procedure for special actions.

Mr. Wren has claimed Mr. Gimbut has no power to defend the City without the blessing of the City Council, and no power to seek an award of attorneys' fees, so he, on behalf of his client, has actually asked for this public discussion. Mr. Gimbut believes he has such power granted pursuant to section 31.23 of the City Code. Since his client has, by his verification of the so-called petition in special action, has sworn that the police report is true and accurate, Mr. Villa himself has agreed with the events as stated.

Mr. Gimbut is asking tonight that the City Council ratify and approve the defense of the special action by the Office of the City Attorney, and approve seeking an award of attorneys' fees and cost for the bringing of a groundless action brought solely for the purpose of harassment and delay. Therefore Mr. Gimbut asked that the City Council adopt the motion that they see in the packet. He is also asking for help from the media. If there has been any other person who has had a similar experience with Mr. Francisco

Javier Villa, he would ask that they be in contact with the San Luis Police Department so that the City can investigate.

Mayor G. Sanchez asked Mr. Gimbut to clarify what he meant by seeking an award of attorneys' fees and costs. Mr. Gimbut responded that the City is not spending any money but he will be asking for his time spent on this case at \$250.00 an hour and will be asking that the court award that as a sanction for filing on a groundless lawsuit. The City got sued and he is doing his job by defending the City as stated in the City Code Section 31.23.

MOTION: Council Member M.C. Ramos/Council Member A. Luna-Carrasco to confirm and ratify the authority of the City Attorney to respond and defend against the special action litigation entitled Francisco Villa versus Rosendo Morales, Yuma County Superior Court number S1400CV201500107, and to ratify and approve the filing of the Motion to Dismiss dated March 4, 2015, seeking both dismissal of the action and an award of attorneys' fees and costs from both Dale Wren and Francisco Villa, and to reconfirm the authority to represent the City of San Luis as well as Judge Morales as authorized by Section 31.23 of the City Code and to take such actions as the City Attorney deems necessary in the defense of said action in the Superior Court and the prosecution of Francisco Villa in the Municipal Court. Motion passed unanimously.

10. Discussion and possible action on any and all matters pertaining to the appointment of members to serve on the City of San Luis Planning and Zoning Commission. (John Starkey)

Mr. John Starkey, Building Safety Director, explained that two (2) terms of two (2) Board Members expired January 31, 2015. Ms. Guillermina Fuentes and Mr. Daniel Bazua have expressed their interest in continuing to serve on the Planning and Zoning Commission and wish to be re-appointed. The City Council does not have to re-appoint them, other members can be appointed however no applications from other people have been received or called the office to inquire about it.

Mayor G. Sanchez asked when the terms were extended to be four (4) year terms. Mr. Starkey responded that they have always been four (4) year terms and added that the board members are appointed by the City Council.

MOTION: Council Member A. Luna-Carrasco/Council Member M.C. Ramos to appoint Guillermina Fuentes to the Planning & Zoning Commission with a term expiration of January 31, 2019. Motion passed unanimously.

MOTION: Council Member A. Luna-Carrasco/Council Member M.C. Ramos to appoint Daniel Bazua to the Planning & Zoning Commission with a term expiration of January 31, 2019. Motion passed unanimously.

12. Discussion and possible action on any and all matters regarding Resolution No. 1091. A resolution of the Mayor and City Council of the City of San Luis, Arizona, authorizing the submission of a Planning Assistance for Rural Areas grant application to the Arizona Department of Transportation for a Border Pedestrian and Bicycle Access study that will be undertaken with the assistance of the Yuma Metropolitan Planning Organization. (Jenny Torres)

Ms. Jenny Torres, Community Development Director, stated that the Arizona Department of Transportation is sponsoring a Planning Assistance for Rural Areas grant, the City of San Luis is able to apply. Ms. Torres explained the different types of developments and application process. Furthermore she added that the planning study is for the determination of the infrastructure to evaluate what the border crossing is, the cost should not exceed \$250,000.00. If awarded, the study will be conducted at the San Luis Port of Entry I and the study will be undertaken by the Yuma Metropolitan Planning Organization with the cooperation of City staff.

MOTION: Council Member A. Luna-Carrasco/Council Member M.C. Ramos to adopt Resolution No. 1092. Motion passed unanimously.

MOTION TO ADJOURN AS CITY COUNCIL AND TO CONVENE AS BOARD OF ADJUSTMENT

MOTION: Council Member A. Luna-Carrasco/Council Member M.C. Ramos to adjourn as City Council and convene and Board of Adjustment. Motion passed unanimously.

BOARD OF ADJUSTMENT ITEM

BOA1. Public Hearing followed by discussion and possible action concerning Variance Case No. 2014-026. A request by Jose M. Villaseñor, agent for Comite de Bienestar, owner for a variance to reduce the street side yard setback from 10 feet to 6 feet 7 inches on property located at 3567 E. Los Olivos Drive, San Luis, Arizona.
(John Starkey)

A. Open Public Hearing

MOTION: Council Member A. Luna-Carrasco/Council Member M.C. Ramos to open the public hearing. Motion passed unanimously.

Mr. Jose Guzman, Assistant Planner, explained that this is a request by Mr. Jose M. Villaseñor, agent for Comite de Bienestar, for a variance to reduce the street side yard setback from 10 feet to 6 feet 7 inches. The reason for the request is for the construction of a house for the Mutual Self-Help Homeowner Program which does not fit in the lot. The applicant wanted to apply for a variance for thirteen (13) lots and ten (10) of the lots needed a minor variance. The Hearing Officer denied the request for the ten (10) lots because they did not meet the four (4) required criteria as required by State

Statute and the Zoning Ordinance. Mr. Guzman added that the lots in this subdivision are linear and are not designed for the grid system.

Mayor G. Sanchez stated that these are self-help homes and they are fine for the permits through federal funding and when they submit the plans they are told that they have to abide to all the Planning & Zoning restrictions when they submit their applications. Mr. Guzman responded that he is not aware about that however they used to have lots in Bienestar 8 and they were able to put these plans and right now they have the lots in Bienestar 9A and the lots there are linear.

Mayor G. Sanchez stated and asked that if the lots are not big enough, then how applications get approve. Mr. Guzman said that he did not think that the applications got approved but the plans.

Mr. Glenn Gimbut, City Attorney, explained that if the variance is not approved the applicant will have to find another lot or modify the plans. State law is being applied here and this is the reason the Hearing Officer denied the request, there cannot be conditions that are self-imposed or self-created by an applicant and here the conditions are self-created because the applicant wants to build a particular home. What bothers Mr. Gimbut is who runs the power of the City, the City Council or Rural Development because basically they are suggesting that if Rural Development approves this then the City has no right to say no.

Mayor G. Sanchez added that this is the reason why the City of San Luis needs bigger lots, people want bigger homes. Developers should understand this as the City of San Luis is changing and there is no reason why this community should be getting smaller lots.

B. Close Public Hearing

MOTION: Council Member A. Luna-Carrasco/Council Member M.C. Ramos to close the public hearing. Motion passed unanimously.

C. Action on Variance Case No. 2014-026

MOTION: Council Member M.C. Ramos/Council Member A. Luna-Carrasco to deny the variance to reduce the street side yard setback from 10 feet to 6 feet 7 inches on property located at 3567 E. Los Olivos Drive. Motion passed unanimously.

MOTION TO ADJOURN AS BOARD OF ADJUSTMENT AND RECONVENE AS CITY COUNCIL

MOTION: Council Member A. Luna-Carrasco/Council Member M.C. Ramos to adjourn as Board of Adjustment and reconvene as City Council. Motion passed unanimously.

13. Summary of current events by Mayor, Council Members, City Manager, and/or City Staff pursuant to A.R.S. §38-431.02 (K).

Mr. Glenn Gimbut, City Attorney, reported that last week he filed on behalf of the City the amended application for the Certificate of Necessity with the Arizona Department of Health Services for ambulance service. This was a joint effort that involved heavy input from the Arizona Department Health Services and their staff.

Ms. Jenny Torres, Community Development Director, reported that as part of her department's goals she is trying to build a better relationship with the educational sector. Ms. Torres has been working with the Gadsden School District on the right of way issues; with Arizona Western College for a possible future location for another Arizona Western College building; and with the high school for Intergovernmental Agreements for possible projects that she will present at the Budget Retreat. She was also asked to be part of the review committee for the high school for Principals. The educational sector likes the idea of working with the City of San Luis and would like to come to a Council meeting and provide a presentation.

Mayor G. Sanchez reported that today was the ground breaking for the manganese filtration system, this took the City more than three (3) years and \$620,000.00; this is going to be a bigger and better filtration system.

CALL TO THE PUBLIC

There were no comments from the public

EXECUTIVE SESSION:

14. Discussion and possible action to hold an executive session pursuant to A.R.S. §38-431.03.A.3 and A.R.S. §38-431.03.A.4 for consultation for legal advice with the City Attorney and attorneys for the City with respect to current litigation with Arizona Public Service Company and for Council to consider its position with respect to such litigation; instruct its legal counsel with regards to settlement negotiations; and discuss possible partial settlement.

VOTE TO HOLD EXECUTIVE SESSION(S) PURSUANT TO A.R.S. § 38-431.03.A.3 and A.R.S. §38-431.03.A.4

MOTION: Council Member A. Luna-Carrasco/Council Member M.C. Ramos to go into Executive Session at approximately 8:15 p.m. Motion passed unanimously.

MOTION TO GO BACK TO REGULAR SESSION

MOTION: Council Member A. Luna-Carrasco/Council Member M.C. Ramos to go back into Regular Session at approximately 8:48 p.m.

15. Discussion and possible action to approve or disapprove partial settlement of tax litigation with Arizona Public Service Company. (Glenn Gimbut)

MOTION: Council Member R. Walshe/Council Member M.C. Ramos to approve the partial settlement agreement in consolidated case number TX2014-000404, Maricopa County Superior Court, entitled Arizona Public Service Company versus City of San Luis, as made at the pretrial settlement conference on March 19, 2015, conditioned upon the settlement being only a partial settlement of case number TX2014-000005, Maricopa County Superior Court, related to governmental sales, annexations or prison sales. In making this condition it is understood that the City of San Luis retains all rights to pursue a claim that Arizona Public Service Company's actual liability for the franchise fee offset issue for the period in question was understated, up to the full amount of the assessment, and Arizona Public Service Company is not in any way prejudiced from arguing against any such increase. Motion passed unanimously.

16. Adjournment

MOTION: Council Member A. Luna-Carrasco/Council Member M.C. Ramos to adjourn the meeting at approximately 8:50 p.m. Motion passed unanimously.



Certification of Council Minutes

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Council meeting of the San Luis City Council held on March 25, 2015. I further certify the meeting was dully called and held and that the quorum was present and that the City Council approved these minutes at their Regular Council meeting held on April 22, 2015.

Dated this 23th day of April 2015.

/s/ Melissa Lopez, Deputy City Clerk