

**REGULAR MEETING
of the
CITY OF RIALTO
CITY COUNCIL
City of Rialto, acting as Successor Agency to the
Redevelopment Agency**

**MINUTES
December 12, 2017**

A regular meeting of the City Council of the City of Rialto was held in the City Council Chambers located at 150 South Palm Avenue, Rialto, California 92376, on Tuesday, December 12, 2017.

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This meeting was called by the presiding officer of the Rialto City Council in accordance with the provisions of **Government Code §54956** of the State of California.

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CALL TO ORDER

Mayor Robertson called the meeting to order at 5:02 p.m.

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The roll was called and the following were present: Mayor Deborah Robertson, Mayor Pro Tem Ed Scott, Council Member Joe Baca Jr., Council Member Rafael Trujillo and Council Member Andy Carrizales. Also present were City Administrator Michael Story, City Attorney Fred Galante, City Treasurer Edward Carrillo and Deputy City Clerk Maria Rodriguez.

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CLOSED SESSION

- 1 Conference with Legal Counsel - Existing Litigation: The City Council will discuss the following pending litigation(s) pursuant to Government Code Section 54956.9(d)(1):

- (a) Robert Williams III v. City of Rialto

- WCAB SAC0000178758 & SAC0000178736

- (b) Geoffrey v. City of Rialto

- WCAB SAC0000178701 & SAC0000180256

- (c) Carl E. Jones, Christopher Hice v. City of Rialto, et al

- U.S. District Court, Case No: 5:17-cv-01650-GW-(KKx)

CLOSED SESSION

- 2 Conference with Labor Negotiator regarding the following recognized employee organization pursuant to Government Code Section 54957.4:

Agency designated representatives:

Fred Galante, City Attorney

Mike Story, City Administrator

Employee organizations:

Interim City Administrator, Unrepresented

RMMA Bargaining Unit

RCEA Bargaining Unit

RPBA Mgmt. Bargaining Unit

RPBA General Bargaining Unit

RFMA Bargaining Unit

Rialto Firefighters Local 3688

- 3 Conference with Legal Counsel - Anticipated Litigation: Significant exposure to litigation pursuant to paragraph (2) of Subdivision (d) of Government Code Section 54956.9. Number of cases: One case.

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Motion by Mayor Pro Tem Scott, second by Council Member Carrizales and carried by 5-0 vote to go into Closed Session at 5:07 pm. Council City Council returned at 6:15 pm.

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CALL TO ORDER

Mayor Robertson called the meeting to order at 6:20 p.m.

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The roll was called and the following were present: Mayor Deborah Robertson, Mayor Pro Tem Ed Scott, Council Member Joe Baca Jr., Council Member Rafael Trujillo, and Council Member Andy Carrizales. Also present were City Administrator Michael Story, Deputy City Clerk Maria Rodriguez, City Attorney Fred Galante and City Treasurer Edward Carrillo.

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Pledge of Allegiance and Invocation

Mayor Pro Tem Scott led the pledge of allegiance.

Pastor Harry Bratton-Greater Faith Grace Bible Church gave the Invocation.

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City Attorney's Report on Closed Session

City Attorney Fred Galante stated that City Council met in Closed Session and discussed the item listed on the Agenda.

- 1a. Conference with Legal Counsel – existing litigation. Workers Compensation matter, Robert Williams III v. City of Rialto. City Council received an update and gave direction. No further reportable action was taken.

City Attorney's Report on Closed Session

- 1b. Conference with Legal Counsel – existing litigation. Workers Compensation matter, Geoffrey v. City of Rialto. City Council received an update and gave direction. No further reportable action was taken.
- 1c. Conference with Legal Counsel – existing litigation. Carl E. Jones, Christopher Hice v. City of Rialto. City Council received an update and gave direction. No further reportable action was taken.
2. Conference with Labor Negotiator concerning the employee organizations listed on the Agenda.
Motion by Council Member Baca Jr., second by Mayor Pro Tem Scott and carried by a 5-0 vote to direct beginning December 24, 2017 that Robb Steel serve as the Acting City Administrator with a salary that equates to the current City Administrator rate and standard CGMA benefit package.
City Council received an update to the balance of the bargaining groups listed on the agenda and no further reportable action was taken.
3. Conference with Legal Counsel – Anticipated Litigation: Significant exposure to litigation. City Council received an update and gave direction. No further reportable action was taken.

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PRESENTATIONS AND PROCLAMATIONS

- 1 Resolution-In Memoriam of Vernon Thompson Jr. - Mayor Deborah Robertson
- 2 ~~Certificate of Recognition-Marion Black-Mayor Deborah Robertson~~
- 3 Certificate of Recognition-Jr. Peewee Panthers Championship Council Member Joe Baca Jr.
- 4 Annual Holiday Parade Highlights
- 5 INLAND EMPIRE ECONOMIC PARTNERSHIP- 5th Annual Turning Red Tape to Red Carpet Awards to Rialto – first award for the development of the Rialto Marketplace and the second award was for a public-private partnership at the Wastewater Treatment Plant.

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ORAL COMMUNICATIONS

No one came forward to speak.

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Consideration of Removing or continuing any items on the Agenda

Council Member Carrizales stated that he will need to abstain from Consent Calendar items E.5, E.7, E.10 and TAB 8 due to a conflict of interest he has with the Renaissance Project. He will also need to abstain from TAB 1 due to the proximity of the project to his home.

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City Administrator Story stated that they need to pull TAB 12 and bring it back at the January 9, 2018 City Council Meeting.

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CONSENT CALENDAR

A. WAIVE FULL READING OF ORDINANCES

1. Waive reading in full, all ordinances considered at this meeting.

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B. APPROVAL OF WARRANT RESOLUTIONS

B.1 Resolution No. 8 (08/25/17)

B.2 Resolution No. 8A (08/25/17)

C. APPROVAL OF MINUTES

- C.1 Regular City Council Meeting – November 28, 2017

D. CLAIMS AGAINST THE CITY

- D.1 Claim Equilon - Appeal Measure U

E. MISCELLANEOUS

- E.1 Request City Council to Approve Agreements for Temporary Construction Easements with Three (3) Property Owners on Randall Avenue between Cactus Avenue and Riverside Avenue in the Total Amount of \$13,250.00 for the Randall Avenue Widening Project, City Project No. 140809.
- E.2 Request City Council to (1) Accept the Baseline Road and Acacia Avenue Traffic Signal Upgrade Project , City Project 140815; (2) Authorize Filing of the Notice of Completion; and (3) Authorize Release of Retention to Old Republic Surety Company.
- E.3 Request City Council to (1) Adopt Resolution No. 7252 Authorizing the Public Works Director/City Engineer to Execute Various Documents Required for Transportation Projects with State and Federal Funding, Including Right-of-Way Certifications; (2) Adopt Resolution No. 7253 Adopting the Caltrans Local Assistance Procedures for Architectural and Engineering Consultant Selection and Procurement for Services Related to Federal- and State-Funded Transportation Projects.
- E.4 Request City Council to (1) Accept the Riverside Avenue and Linden Avenue Traffic Signal and Street Improvement Project, City Project 120802; (2) Approve Contract Change Order No. 1 in the Amount of \$44,395.50; (3) Authorize Filing of the Notice of Completion; and (4) Authorize Release of Retention to Vance Corporation, Inc.

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Motion by Mayor Pro Tem Scott, second by Council Member Baca Jr. and carried by a 5-0 vote to approve the consent calendar. Council Member Carrizales abstained from voting on Item E.5, E.7, and E.10.

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**TAB 1 – Draft EIR for Pepper Avenue
Specific Plan**

Council Member Carrizales left the dais at 6:52 pm

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Gina Gibson Williams, Development Services, presented the staff report regarding the Draft EIR for the Pepper Avenue Specific Plan.

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ORAL COMMUNICATIONS

Mayor Robertson declared the public hearing open.

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John Peukert, Rialto resident, expressed concerns regarding the noise levels.

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Motion by Council Member Baca Jr., second by Council Member Trujillo and carried by a 5-0 vote to close the public hearing.

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Mayor Robertson stated that she has concerns too regarding the noise readings. Why wasn't a noise reading taken at Chestnut/Winchester/Walnut, as well as the interchange off ramps?

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John Moreland, KTG Group, Inc. stated the reason for the modification was that a monitor was placed at the terminus of Walnut and Shirley Bright identified in the noise section of the Draft EIR. It was identified as R4 and the reading was 57 decibels and was taken May 2016 after the Pepper Ave. extension was open. The reason why they are seeing these dots along Pepper and Eucalyptus, the measurements were based on traffic. Generally, the more cars on the street, more noise. They analyzed Pepper Ave., Mariposa, Winchester and Eucalyptus. They only found significant impacts in the cumulative 2035 condition. This means in 2035 when all the projects are built out, it exceeds the City's level of service threshold. With those streets, even in the 2035 condition, Winchester, Eucalyptus and Mariposa did not have any significant impacts. The traffic study they had didn't identify a higher volume of traffic along Walnut Ave. or Chestnut. It's their observation that the noise levels will be further reduced.

The R4 that was taken was on the roadway. The dots represent the predicted noise levels within 25 ft. of the roadway.

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Mike Harden, ESA PCR, stated the noise section of the EIR is prepared by noise experts. When they do the noise modeling they have various noise measurements in the document.

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**TAB 1 – Draft EIR for Pepper Avenue
Specific Plan**

Mayor Robertson asked if they did a projection of truck traffic in the future?

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Mr. Harden stated yes, there will be a breakdown. There will be a percentage of truck traffic versus passenger cars.

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Mayor Robertson stated in regards to traffic fair share fees. She heard no other funding will be available at this time. However because of the interchanges are being constructed, they anticipate they will need widening. How do they look at that in the future?

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Mr. Eisenbeisz stated as the need develops based the growth of the traffic. Each individual project will come in with an analysis and they can make a determination of improvements based on growth of the traffic and the volume generated by each individual project.

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Mayor Robertson stated that once the ramps open a lot of the traffic will be related to truck traffic and not directly from the commercial developments because the regional truck traffic is already on the roads. Those project level analysis will also do counts. They will have a good measuring stick.

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Mayor Robertson asked how will they be able to measure and mitigate against the increased noise levels based on the activity, if they don't have a mitigation plan now.

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Mr. Eisenbeisz stated that they have some mitigation built into this for the noise.

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Mayor Robertson stated what she's talking about is that they always tend to do their plans and show that there is no significant impacts to anybody. Yet it becomes cumulative to the community and existing residents. If a resident feels they should have a mitigation plan then what would that plan look like?

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Ms. Gibson Williams stated that sound tends to travel in straight line then drops off so a wall would be a typical mitigation. There is a mitigation measure in the plan itself. Again it doesn't take it below 65 decibels. The cumulative traffic data from all the projects might make something discernible.

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**TAB 1 – Draft EIR for Pepper Avenue
Specific Plan**

Mayor Robertson stated that every project is going to stand alone, so how are they going to find when it hits threshold? And who will have that responsibility for mitigating?

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Ms. Gibson Williams stated in the document, the noise study has a mitigation measure. The acoustical engineer has to submit evidence along with the application.

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Mayor Robertson stated that they are getting ready to adopt the specific plan and there are concerns about the noise but they did not, in the construction of the freeway put in any walls. They are projecting 70.4 decibel levels. On the freeway now, 69 decibels. She doesn't want a lawsuit later on down the road from residents because they have a circular thing and no one is taking ownership or responsibility for mitigating. She is trying to raise the question now and ask what do they need to do as far as due diligence.

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Mayor Pro Tem Scott stated additionally, he has questions about the development scenarios. Why is the residential shown as an overlay? Because there is a potential there won't be any residential but commercial? What is the definition of commercial?

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Ms. Gibson Williams stated yes, that is correct. Community Commercial would be the same as it is outside the overlay zone.

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Mayor Pro Tem Scott stated that he is referring to the bait and switch like what happened at the Renaissance. They came in with a lot of commercial, retail, housing and at the end of the day it ended up all warehouse.

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Ms. Gibson Williams stated in the specific plan, they stated no industrial, it's strictly prohibited. They would need to come before City Council to make that request.

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Mayor Pro Tem Scott stated there is a note for 125,000 sq. ft. of business park, is that incubator type?

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Ms. Gibson Williams stated yes, and there is a strict definition of business park but it's not industrial in nature.

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TAB 1 – Draft EIR for Pepper Avenue Specific Plan

Council Member Baca Jr. stated hopefully they can address any noise mitigation in that area. He prefers scenario 1 because he like the idea of the residents having more retail. He likes they don't allow industrial. Also not having the police dept. having to respond to the residential in the far corner of the city that borders San Bernardino. This is a good opportunity to draw people to the retail. Do they have any retail that has shown any interest?

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Ms. Gibson Williams stated yes, at the ICSC Conference there has been quite a bit of interest. Things could start happening as quickly as 8 weeks from adoption of the specific plan to submit documents. The on/off ramps do not need to be completed.

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Council Member Trujillo stated that he attended the community meeting and the biggest question was the traffic light on Winchester and Pepper Ave. he is happy to see it's on the list. He too prefers scenario 1 with the retail.

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Mayor Robertson asked what is a community commercial zone? Also, explain why there is a residential overlay. Yes, her preference would be scenario 1, retail and business park. If they take out the residential overlay how would that help or hurt them relating to them meeting the annual housing needs assessment.

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Ms. Gibson Williams stated that keeping it the overlay zone assists them in meeting the regional housing needs assessment by offering an area that would allow residential to take place.

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Mayor Robertson stated that if they eliminate the residential overlay where would it put them?

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Ms. Gibson Williams stated that there are other opportunities in the Lytle Creek Specific Plan, Foothill Blvd. Specific Plan and Renaissance Specific Plan.

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Mayor Robertson stated going back to the noise element, what more can they do to address the noise elements. The main concern is for the existing residents as development occurs.

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**TAB 1 – Draft EIR for Pepper Avenue
Specific Plan**

Ms. Gibson Williams stated that City Council could instead of having the information being taken care of with an acoustical engineer and when subsequent development takes place, direct staff to determine where the impacts may fall, and decide on a buffer.

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Mr. Eisenbeisz stated that it would make sense to program that into the program level so it doesn't fall onto the one developer that happens to come in and trip the threshold. This way it's already programmed in. then it can be built at the time it needs to or built upfront. Then it's all built into the cost structure and part of the fee.

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Mayor Robertson stated this is good and what they should do is factor it in now.

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Ms. Gibson Williams stated that they will need to modify the language in the Resolution. Add a condition or write it into the Resolution on how they would mitigate for sound. There would need to be some identification and analysis of where those would be.

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Mayor Robertson stated she doesn't think they need to go that far. Just something where they would mitigate and at the same time they don't impact anyone's views. They need to make sure to recognize they anticipate there will be a concern, because there is a concern now and she doesn't think the concern will go away. They need to be proactive.

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City Attorney Galante stated reading attachment page 4-14, it has that provision that can be revised. It currently says, a combination of sound barrier walls, earthen berms and landscaping shall be designed and implemented by qualified acoustical consultant as necessary. Part of that would be revised to say, additionally any property owners within a certain distance within the proposed project could qualify for sound barrier improvements.

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Robb Steel, Asst. City Administrator stated that the area they are considering for the sound walls were not identified in the impact area for the environmental document. Adding the cost of the mitigation to the development impact fee could be problematic because there needs to be a nexus to impact and the levy. So if this is their intention then it may be a City expense that can't be passed onto developers. This is a special request and they will need to see if who can be burdened with the cost.

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TAB 1 – Draft EIR for Pepper Avenue Specific Plan

City Attorney Galante stated that the implementation of the fair share would be a separate action so they have some opportunity to analyze that.

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Ms. Gibson Williams stated she wanted to point out to Mayor Pro Tem Scott that on page 5-13 it states that warehouses are a prohibited use. They can also say warehouse/distribution centers so there is no room for error.

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Motion by Council Member Trujillo, second by Council Member Baca Jr. and carried by a 4-0 vote to approve Resolution No. 7258 for the Draft Environmental Impact Report (Environmental Assessment Review 2017-0072) and Resolution No. 7259 for Specific Plan 2017-0001, commonly known as the Pepper Avenue Specific Plan(Master Case 2017-0042) with the revisions outlined by the City Attorney.

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Council Member Carrizales returned to the dais at 7:49 p.m.

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TAB 2 - 2014-2021 Housing Element of the Rialto General Plan

Gina Gibson Williams presented the staff report regarding the 2014-2021 Housing Element of the Rialto General Plan.

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Dave Barquist, Kimley Horn gave an overview of the 2014-2021 Housing Element of the Rialto General Plan.

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Mayor Robertson declared the public hearing open. No one came forward.

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Motion by Council Member Baca Jr., second by Council Member Trujillo and carried by a 5-0 vote to close the public hearing.

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Council Member Trujillo asked about the at risk units such as Southpointe.

Mr. Barquist stated that there are three complexes, Southpointe Villa – 100 units, Citrus Grove – 152 units and Vista Cascade - 42 units. Southpointe Villas are Section 8 and are privately owned. Citrus Grove and Vista Cascade are low income housing tax credit programs. They learned subsequent to the adoption of the plan that there was some RDA funding in that so there is an additional covenant for 55 years.

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TAB 2 - 2014-2021 Housing Element of the Rialto General Plan

Motion by Council Member Baca Jr., second by Mayor Pro Tem Scott and carried by a 5-0 vote to Adopt Resolution No. 7260 Approving General Plan Amendment No. 2017-0004 entitled "A Resolution of The City Council Adopting the 2014-2021 Housing Element of the Rialto General Plan".

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TAB 3 - Second Amendment to the Professional Services Agreement for Contract Financial Officer Services with MV Cheng & Associates

Assistant City Administrator Robb Steel presented the staff report regarding Second Amendment to the Professional Services Agreement for Contract Financial Officer Services with MV Cheng & Associates.

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Motion by Mayor Pro Tem Scott, second by Council Member Trujillo and carried by a 5-0 vote to Approve the Second Amendment to the Professional Services Agreement for Contract Financial Officer Services with MV Cheng & Associates in an Amount Not to Exceed \$50,000 for a Total Contract Amount of \$100,000.

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TAB 4 – Print Vendor for Rialto Progress Magazine

Perry Brents, Community Services Director presented the staff report regarding the Print Vendor for Rialto Progress Magazine.

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Motion by Council Member Baca Jr., second by Council Member Carrizales and carried by a 5-0 vote to Approve Advantage Business Forms as print vendor to facilitate the production of the Annual Calendar along with the winter/spring and summer 2018 issues of the Rialto Progress Magazine in the Amount of \$64,000.

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TAB 5 - Metrolink Parking Lot Expansion Project

John Dutrey, Dev. Svcs. Dept., presented the staff report regarding the conveyance of property for the Metrolink Parking Lot Expansion.

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Motion by Council Member Baca Jr., second by Council Member Carrizales and carried by a 5-0 vote to (1) the First Amendment to the Affordable Housing, Financing and Disposition and Development Agreement by and between the Rialto Metrolink South Housing Partners LP and the RHA, and (2) the Amendment to the Promissory Note between the Rialto Metrolink South Housing Partners LP and the Rialto Housing Authority increasing the Debt from \$250,000 to \$450,000; Request the City Council Authorize (3) the Release of Request for Bid No. 18-052 for the Metrolink Parking Lot Expansion Project, City Project No. 170808; Request the City Council and the Rialto Housing Authority Approve a (4) Purchase and Sale Agreement conveying a portion of Rialto Housing Authority property situated on the north side of Bonnie View Drive and west of Riverside Avenue (APN 0130-021-33 and APN 0131-021-40) to the City of Rialto for total cost of \$359,000.

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TAB 6 - Temporarily Reducing Sewer Connection Fees for Hotels with and without Restaurants

Robb Steel, Development Services Director, presented the staff report regarding the Temporarily Reducing Sewer Connection Fees for Hotels with and without Restaurants.

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Motion by Council Member Baca Jr., second by Council Member Trujillo and carried by a 4-0 vote to Resolution No. 7261 Temporarily Reducing Sewer Connection Fees for Hotels with and without Restaurants until June 30, 2018. Council Member Carrizales abstained from voting.

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TAB 7 – Construction and Credit Agreement with Caprock Partners LLC.

Robb Steel, Development Services Director presented the staff report regarding the Construction and Credit Agreement with Caprock Partners LLC.

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Motion by (1) Adopt Resolution No. 7262 Approving a Construction and Credit Agreement by and between the City of Rialto and Caprock Partners LLC, and (2) Adopt Budget Resolution No. 7263 amending the FY17/18 Budget to Appropriate \$396,700 from Specified Development Impact Fee Accounts.

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TAB 8 – Construction Fee Credit and Reimbursement Agreement with Lewis-Hillwood Rialto Company

Council Member Carrizales left the dais at 8:23 p.m.

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Robb Steel, Development Services Director presented the staff report regarding the Construction Fee Credit and Reimbursement Agreement between the City of Rialto and Lewis-Hillwood Rialto Company LLC.

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Motion by Council Member Trujillo, second by Council Member Baca Jr. and carried by a 4-0 vote to (1) Adopt Resolution No. 7264 Approving a Construction Fee Credit and Reimbursement Agreement by and between the City of Rialto and Lewis-Hillwood Rialto Company LLC, and (2) Adopt Budget Resolution No. 7265 amending the FY17/18 Budget to Appropriate \$14,550,000 from Various Development Impact Fee Accounts. Council Member Carrizales abstained from voting.

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Council Member Carrizales returned to the dais at 8:27 p.m.

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TAB 9 – Third Amendment with Willdan Engineering

Robb Steel, Development Services Director presented the staff report regarding reducing contract amount for Professional Services Agreement with Willdan Engineering.

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TAB 9 – Third Amendment with Willdan Engineering

Motion by Council Member Baca Jr., second by Council Member Trujillo and carried by a 5-0 vote to Approve a Third Amendment to the Professional Services Agreement with Willdan Engineering, Inc., Reducing the Contract Amount from \$530,620 to \$450,620; and Approve a Second Amendment to the Professional Services Agreement with Interwest Consulting Group, Increasing the Contract Amount from \$50,000 to \$130,000, to Reallocate Costs for Building Services from Willdan Engineering Inc. to Interwest Consulting Group for Fiscal Year 2017/18.

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TAB 10 – Ratifying and Confirming the Adjustments of Water and Sewer Rates effective February 1 , 2018

Tom Crowley, Utilities Manager presented the staff report regarding the Ratifying and Confirming the Adjustments of Water and Sewer Rates effective February 1, 2018.

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Mayor Robertson stated that she thought there was a higher number that they elected to not go to and this would be the lesser of what they could have legally implemented.

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Mr. Crowley stated that is correct.

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Motion by Mayor Pro Tem Scott, second by Council Member Carrizales and carried by a 5-0 vote to Approve Resolution No. 7266 of the City Council of the City of Rialto Ratifying and Confirming the Adjustments of Water and Sewer Rates effective February 1, 2018 and Resolution No. 005-17 of the Rialto Utility Authority Ratifying and Confirming the Adjustments of Water and Sewer Rates effective February 1, 2018.

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TAB 11 - Engineering Design of the Etiwanda Corridor Active Transportation Program

Azzam Jebseheh, Public Works Dept. presented the staff report Engineering Design of the Etiwanda Corridor Active Transportation Program.

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Motion by Mayor Pro Tem Scott, second by Council Member Carrizales and carried by a 5-0 vote to Award a Professional Services Agreement to KOA Corporation and Authorize the Issuance of a Purchase Order in the amount of \$83,130 for Engineering Design of the Etiwanda Corridor Active Transportation Program Improvements Project, City Project No. 160805.

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TAB 12

TAB 12 was removed and is scheduled to return at the 1/9/18 City Council Meeting.

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REPORTS

Mayor and City Council gave their reports.

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ADJOURNMENT

Motion by Mayor Robertson, second by Council Member Baca Jr. and carried by a 5-0 vote to adjourn the City Council Meeting at 9:25 p.m. in memory of:

Graciano Gomez

leader, mentor and political force in the Inland Empire

1924-2017

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MAYOR DEBORAH ROBERTSON

ATTEST:

DEPUTY CITY CLERK MARIA RODRIGUEZ