

ADJOURNMENT AND CONTINUATION
of the
CITY OF RIALTO
CITY COUNCIL
City of Rialto, acting as Successor Agency to the
Redevelopment Agency

MINUTES
September 26, 2018

A special 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 Wednesday, September 26, 2018.

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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 Deborah Robertson called the meeting to order at 6:00 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 Baca Jr. and Council Member Rafael Trujillo. Also present were Interim City Administrator Ahmad Ansari, City Attorney Fred Galante, and City Clerk Barbara McGee. Council Member Andy Carrizales and City Treasurer Edward Carrillo were absent.

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SUBSEQUENT NEED

City Attorney Galante stated that 2 items came to the attention of staff after the posting of the original agenda.

TAB 27 Discussion of the deferral of water and sewer collection and sewer treatment fees, development impact fees. There is an immediate need to take action as to the existing fees in light of proposed amendments.

Motion by Mayor Pro Tem Scott, second by Council Member Trujillo and carried by a 4-0 vote to add TAB 27 to the Agenda. Council Member Carrizales was absent.

SUBSEQUENT NEED

TAB 28 There is an immediate need to take action to address payment due to the contractor for a change order at Bud Bender Park for the installation of lighting fixture due to issues with the foundation of the area.

Motion by Mayor Pro Tem Scott, second by Council Member Trujillo and carried by a 4-0 vote to add TAB 28 to the Agenda. Council Member Carrizales was absent.

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CLOSED SESSION

City Attorney Galante read the remaining items on Closed Session:

2. Public Employee Performance Evaluation pursuant to Government Code Section 54957 Title: Interim City Administrator
3. Public Employee Performance Evaluation pursuant to Government Code Section 54957 Title: City Attorney
4. Conference with Labor Negotiator regarding the following recognized employee organization pursuant to Government Code Section 54957.6:

Agency designated representatives:

Fred Galante, City Attorney

Ahmad Ansari, Interim City Administrator

Employee organizations:

CGMA Bargaining Unit

RPBA General Bargaining Unit

RPBA Management Bargaining Unit

RMMA Bargaining Unit

RCEA Bargaining Unit

RFMA Bargaining Unit

Rialto Firefighters Local 3688

5. Conference with Real Property Negotiator. The City Council will confer with its real property negotiator concerning the following properties pursuant to Government Code Section 54956.8:

(a) Subject: Price & Terms-Property Lease for Cell Tower

Property: 1451 N. Linden Avenue, Rialto, CA

APN # 0264-211-22

Negotiators: Robb R. Steel, ACA/Dev. Svs. Director

Martin Aljovin, VP

Asset Optimization/SBA 2012 TC Assets, LLC

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Motion by Council Member Trujillo, second by Council Member Baca Jr. and carried by a 4-0 vote to return to Closed Session at 6:07 pm. Council Member Carrizales arrived at 6:20 p.m.

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CALL TO ORDER

City Attorney's Report on Closed Session

Mayor Deborah Robertson called the meeting back to order at 8:47 p.m.

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

2. Public Employee Performance Evaluation: Interim City Administrator. City Council held a discussion, provide direction and no further reportable action was taken.
3. Public Employee Performance Evaluation: City Attorney. City Council held a discussion, provide direction and no further reportable action was taken.
4. Conference with Labor Negotiator regarding the following recognized. The City Council held a discussion as to the bargaining units identified on the Agenda, provided direction and no further reportable action was taken.
5. Conference with Real Property Negotiator concerning the property at 1451 N. Linden Ave. Motion by Council Member Baca Jr., second by Council Member Trujillo and carried by a 4-0 vote, Council Member Carrizales abstained to agree to affirm the existing lease with SBA, approve a short-term site agreement between the City and Sprint/Spectrum LP for a temporary cell tower site located at 1451 N. Linden Ave. the general terms of that short-term lease are a term of one year that may be terminated by the tenant within a 30 day notice and at \$1600 per month.

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TAB 27 - of water and sewer collection and sewer treatment fees

City Attorney Galante stated this TAB is in regards to the water and sewer collection and sewer treatment fees. An adjustment would be appropriate such that the reduced amount of all three of those fees would be appropriate to apply. The recommendation is to defer those three fees to the certificate of occupancy stage.

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Mayor Pro Tem Scott stated for clarification that it would only be until such time that the City Council ratifies the new rates.

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City Attorney Galante stated that the City Council will formally receive a Resolution that amends those fees.

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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 TAB 27.

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TAB 28 – Bud Bender Park Change Order

City Attorney Galante stated that TAB 28 is in regards to a change order for the Bud Bender Park lights, installation costs and issues that have arisen as a result of undergrounding.

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TAB 28 – Bud Bender Park Change Order

Robert Eisenbeisz, Public Works Director presented the staff report regarding the Bud Bender Park Change Order.

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Mayor Robertson stated they said they were putting in four lights. Those were on the design plans at the time they laid everything out for Bud Bender Park. Was there actual soils testing done at those locations where they knew where the light structures were going.

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Mr. Eisenbeisz stated that the actual borings were previously with the prior project and were not in these exact locations. It only affected 2 of the 4 lights.

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Mayor Robertson stated but they knew where the lights were to go. These lights had a certain spec to be poured based on the foundation. Are these lights any different than the ones they did at Metrolink Parking?

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Mr. Eisenbeisz stated that it's very different, they are much taller and larger lights. They are actually replacing the wooden pole lights that were on the old field. They didn't have additional borings for this particular project. Borings that were done for the original Bud Bender Park renovation project were right near there but it didn't cover the specific location where these two lights go. This was an add-on project as a second phase to address the old lights at the existing old field that were not part of the renovation.

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Mayor Pro Tem Scott stated wouldn't it have been appropriate based on the fact that Bud Bender is a former landfill that they would have done soil testing below the locations that were designated for the new lights.

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Mr. Eisenbeisz stated in hindsight yes.

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Mayor Pro Tem Scott stated that they need to come up with a policy to deal with stuff like this. He appreciates the fact they did not stop the project that they moved forward and got the lights in and operating. There is also an issue of authorizing work without approvals. They need to have some type of emergency process in place when a situation happens that there is some kind of approval. There needs to be a procedure and it needs to be followed.

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Mayor Robertson asked if this project carried a contingency fee.

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Mr. Eisenbeisz stated that there was no contingency with the award of the contract. If they had a standard 10% contingency this would have exceed that.

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Mayor Robertson asked so at some point no one did an estimate before going beyond the 10%?

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Mr. Eisenbeisz stated that they were not sure how much excavation would be required.

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Mayor Robertson asked at what point was this brought to staff's attention that this was becoming an issue because they started June 12th.

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Mr. Eisenbeisz stated that he became aware the middle of August and he didn't know the extent of the cost until last week.

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Mayor Robertson asked if this is the final number, \$137,939?

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Mr. Eisenbeisz stated that would be final total with the change order added to it. They haven't approved any change order yet, they provided all the information with the estimate.

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Mayor Robertson stated its now 3x the original amount of the project. She has a problem with the price and someone should have known how much they were going over the original cost.

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Council Member Baca Jr. asked if they didn't have these two unforeseen light pole issues would have had enough funds to cover the project?

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Mr. Eisenbeisz stated yes.

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Council Member Baca Jr. stated that he doesn't like the idea of having to spend the extra money. The only thing he can say they are happy about is when the lights are up and the kids have access. Hopefully they can do better planning in the future.

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Mayor Robertson stated that she is bothered that no one raised a red flag and they could have done some proactive adjustments.

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Council Member Trujillo asked when they made the plans was there an opportunity to some adjustments to where the lights were going to take place knowing that area was having problems. Was there an alternative plan?

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Mr. Eisenbeisz stated that they didn't know they had that subservice condition or they would have taken account of it. They had just done a project in the park and they had a geotech report that didn't identify that condition. Again, the boring were not in the location where this was at. This was unknown to them at the time they designed the project.

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Mayor Pro Tem Scott stated the reality is that it was former dumpsite and if he recalls right when they did the geotech on the other portion of the park that was built, they did extra work to ensure there were no issue with the landfill below it. Its takes him back, that if they didn't sample in those areas and based on the size of the poles and footings they should have done four borings in those locations to ensure that the soil was stable below it. That is a standard thing to do in construction. The fact they took out 160 yards, that is a lot of material to take out and he can see why it cost what it did. At least they would have been able to budget for it and would have known and perhaps looked for different locations. He understands they maybe didn't do additional soil work to save money but sometimes that is not a smart thing to do.

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Mayor Robertson stated that she objects to this item. She is not objecting to the person getting paid but objecting to having to deal with an item that didn't seem like anyone in the professional capacities thought enough to get an estimate and raise an alarm and bring it forward to City Council in August. She has a problem when he states they had to do other things. She doesn't think they had to do any borings out at that site with anything they had constructed to level they had to do for these lights. At some point they should have known and she wants to be on record opposed.

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Motion by Council Member Baca Jr., second by Mayor Pro Tem Scott and carried by a 4-1 vote to approve the Payment Change Order. Mayor Robertson vote No.

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ADJOURNMENT

Motion by Mayor Pro Tem Scott, second by Council Member Trujillo and carried by a 5-0 vote to adjourn the City Council Meeting at 9:11 p.m.
~~Veteran and Member of~~

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MAYOR DEBORAH ROBERTSON

ATTEST:

CITY CLERK BARBARA MCGEE