

MINUTES OF THE REGULAR CITY COUNCIL MEETING OF
THE CITY OF VERNON HELD MONDAY, APRIL 26, 2010,
IN THE COUNCIL CHAMBER OF THE CITY HALL LOCATED
AT 4305 SANTA FE AVENUE, VERNON, CALIFORNIA

MEMBERS PRESENT: Gonzales, McCormick, Davis, Maisano, Newmire

MEMBERS ABSENT: None

The meeting was called to order at 9:00 a.m. by Mayor Gonzales.

The City Clerk announced that there were no changes to the agenda.

The City Clerk announced that this was the time allotted for public comments.

The Mayor asked if there was anyone in the audience who wished to address the City Council. No one responded.

The Consent Calendar was presented.

CONSENT CALENDAR

Fire Department

1. Activity Report for the period of April 1 through April 15, 2010, to be received and filed.

Health & Environmental Control

1. March 2010 Monthly Report, to be received and filed.

Light & Power

1. Resource Procurement Report for the month of February 2010, to be received and filed.

Police Department

1. Activity Log and Statistical Summary of Arrest and Activities for the period of April 1 through April 15, 2010, to be received and filed.

Treasurer's Department

1. Approval of the following Warrant Registers covering the period of April 13 through April 19, 2010.
 - a. Warrant Register No. 1310, totaling \$534,070.35, which consists of the following:
 - Ratification of wire transfers totaling \$314,822.76;
 - Ratification of the issuance of early checks totaling \$20,637.07; and
 - Authorization to issue pending checks totaling \$198,610.52.
 - b. Light & Power Warrant Register No. 275, totaling \$3,162,909.02, which consists of the following:
 - Ratification of wire transfers totaling \$3,043,571.58;

- Ratification of the issuance of early checks totaling \$1,008.78; and
 - Authorization to issue pending checks totaling \$118,328.66.
- c. Gas Warrant Register No. 63, totaling \$36,799.56, which consists of the following:
- Ratification of the issuance of early checks totaling \$6,567.06; and
 - Authorization to issue pending checks totaling \$30,232.50.
- d. Payroll Warrant Register No. 646, covering the period of February 14 through March 13, 2010, which totals \$3,003,859.98, and consists of the following:
- Ratification of electronic fund transfers (EFT) totaling \$2,929,571.63;
 - Ratification of the issuance of early checks totaling \$57,292.99; and
 - Checks paid through prior General Fund Warrant Register totaling \$16,995.36.

It was moved by McCormick, seconded by Maisano, that the matters on the Consent Calendar be approved as recommended. Motion carried. 5-0

RESOLUTION NO. 2010-51 - A Resolution of the City Council of the City of Vernon Approving and Authorizing the City's Membership in ICLEI - Local Governments for Sustainability USA (ICLEI USA), Appointing the City's Elected Official Liaison and Authorizing the City Administrator to Make Other Appointments Consistent Therewith.

The Mayor asked the City Administrator to explain the ICLEI USA membership.

City Administrator Donal O'Callaghan explained that the proposed membership is in line with the sustainability program the City is working on with other outside consultants. He introduced Mr. Krishna Nand, Environmental Program Manager for the City, and asked Mr. Nand to provide some additional information on the matter.

Mr. Nand stated that the City is trying to develop a sustainability program for the entire City. The ICLEI USA organization helps manage sustainability programs all over the United States. One benefit of the ICLEI USA membership is access to sophisticated software developed by the organization for calculating greenhouse gas emissions. Another benefit is exposure to a wide range of sustainability programs around the country.

City Administrator O'Callaghan stated that the ICLEI USA membership will give the City access to software and documents on programs that have already been carried out in the country. The membership will work hand-in-hand with the sustainability program the City is working on with one of its consultants, Mr. Cliff Gladstein.

City Administrator O'Callaghan stated that a major issue with regard to sustainability is the reduction of greenhouse gas emissions. Current legislation provides for the use of credit awards to reduce greenhouse gas footprints. The

City's footprint is fairly low compared to other cities, but the City needs to be prepared moving forward because the credit awards are going to become very expensive.

It was moved by McCormick, seconded by Maisano, that Resolution No. 2010-51 be approved and adopted. Motion carried. 5-0

The City Clerk advised that Resolution No. 2010-51 calls for the appointment of the City's Elected Official Liaison to ICLEI USA.

It was moved by Davis, seconded by Newmire, that Mayor Gonzales be appointed to serve as the City's Elected Official Liaison to ICLEI USA. Motion carried. 5-0

RESOLUTION NO. 2010-52 - A Resolution of the City Council of the City of Vernon Authorizing the Execution of an Application for an Enforcement Assistance Grant from the California Department of Resources Recycling and Recovery (CalRecycle).

It was moved by McCormick, seconded by Davis, that Resolution No. 2010-52 be approved and adopted. Motion carried.

The City Clerk announced that this was the time to hold the discussion regarding a City policy on the donation of surplus property.

City Administrator O'Callaghan asked the City Attorney to explain this matter.

City Attorney Laurence Wiener stated that surplus property is property that the City no longer has a need for, and explained the matter as follows: The Vernon City Code does not provide for the donation of surplus property. It provides only for the sale of surplus property for value. Typically, ordinances that provide for the sale of surplus property are interpreted to provide for the fact that if the property has so little value that the cost of going through the sale process exceeds the value of the sale, then the property can be disposed of by some alternative means, including donations. Some charter cities do have provisions which allow for the donation of surplus property, whereas general law cities do not as the Constitution does not allow them to do so. As a charter city, Vernon has the option to amend its code to provide for the donation of surplus property. There is a conflict between the City Code and the City's practice in that the City has a tradition of donating surplus property. The matter was brought to the City Council to determine whether or not a code amendment was desired.

City Attorney Wiener advised that staff was seeking to determine whether the City Council preferred to continue the current donation practice and amend the code accordingly, or follow the current code and discontinue the donation practice. He posed the following two questions to the City Council:

1. Does the City want to continue to make donations of surplus property or should the City sell surplus property only for value?

2. If it is decided to continue the practice of donating surplus property, should any restrictions be placed on said practice, such as donations only to non-profit organizations?

The Mayor called for any comments on the surplus property matter.

Councilman Davis recommended that, because of the current economy, the City sell surplus property, so at least some income is derived.

Mayor Pro Tem McCormick recommended that the City continue the past practice of donating surplus property to non-profit organizations.

The Mayor asked if donations were handled based on the value of the property.

City Attorney Wiener responded that, based on his discussions with staff, he was under the impression that donations of surplus property have traditionally been made even when the property has material value.

Mayor Pro Tem McCormick provided an example of one such donation, whereby an out-of-service fire engine was donated to a fire academy.

The Mayor asked when the last donation of this type was done.

Fire Chief Mark Whitworth responded that the last out-of-service fire engine was donated to a fire academy in Rio Hondo and prior to his term as Fire Chief, an engine was donated to Mexico. The past donations of surplus property were approved and authorized by City Council resolutions. Because of liability issues, one of the department's primary concerns is that the surplus property donated is not used in the same capacity as it was prior to being declared surplus.

The Mayor stated that he recalled the donation of the fire engine to Mexico and that it went to a fire station to be used in its original capacity.

Fire Chief Whitworth advised that donations to other countries fall under a different set of laws, which allowed that donation to be handled in that manner. The out-of-service engine donated to Rio Hondo is used for training purposes only and kept in a controlled environment with instructors.

Councilman Davis made a motion that surplus property be sold for value, unless it will cost the city more to sell the property than the property is worth, in which case the property could be donated.

City Administrator O'Callaghan recommended to the City Attorney that an evaluation of surplus equipment be done.

City Attorney Wiener agreed that evaluations could be done in each case, but clarified that staff was seeking City Council direction with regard to cases in which surplus property has true value, value that exceeds the cost of the sale. He

restated that the current ordinance provides that surplus property shall be sold for value. Ordinances in some other cities also provide for alternative means of disposal, which usually means some sort of donation.

The Mayor stated that, because of the current economy, surplus items of great value should not be donated. He recommended that a restriction be placed on the value of surplus property considered for donation.

City Attorney Wiener advised that establishing a threshold amount, under which surplus property would be allowed to be donated, was also an option.

Councilman Newmire recommended that the City consider retaining certain surplus property, particularly fire apparatus, for future display/use in a Vernon City or Vernon Fire museum.

Councilman Maisano raised a concern with the issue of the City's liability in the case of donations that the Fire Chief touched on earlier.

City Attorney Wiener recommended that, regardless of whether surplus property is donated or sold, in cases where such property has potential liability in terms of its future use, the City should enter into an agreement with the receiving party to release the City of any liability.

The Mayor asked if staff was seeking a motion from the City Council on this matter.

City Attorney Wiener responded that some direction or motion from the City Council was desired, and stated that, based on the comments heard to this point, one of two motions seemed appropriate: (1) amend the ordinance to allow for donations, perhaps with certain conditions, such as limiting the value of the property subject to donation; or (2) leave the current ordinance as is and sell surplus property, at least in the cases where the sale exceeds the value of the property.

Councilman Davis renewed his motion to sell surplus property, unless it would cost the City more to sell the property than the property is worth, in which case the property could be donated. Councilman Maisano seconded the motion. Motion carried. 5-0

The City Clerk announced that this was the time to hold the discussion regarding the consolidation of the Code Inspector and Fire Marshall into one office facility.

City Administrator O'Callaghan advised that he had spoken with the Fire Chief and the Director of Community Services regarding this matter and explained as follows: Consolidating the Code Inspector and Fire Marshall into one office facility would better utilize the talents of both positions with regard to the inspection and enforcement requirements under the California Building Code and Vernon Fire Code. Because of the parallels and overlaps between the two codes and, thus, the duties of the two positions, having them work alongside each other in the same location would be more convenient for the public and ensure that the fire protection requirements under both codes are being met from the earliest

stages of code inspections. The Fire Marshal is currently located at one of the fire stations and the Code Inspector is located in the Community Services Department in City Hall.

City Administrator O'Callaghan clarified that he was proposing only to place Fire Marshal Jed Hulsey and Code Inspector Bill Wilson together in the same office facility, and was not proposing to consolidate the Fire Marshal and Code Inspector positions into one position.

Councilman Maisano asked for the Fire Chief's input on this matter.

Fire Chief Mark Whitworth concurred with the City Administrator's recommendation to consolidate the Code Inspector and Fire Marshal into the same office facility to enable them to work together on a regular basis. He advised that the two positions are currently working together on field inspections and addressing the code. He stated his willingness to take on the assignment of overseeing the new consolidated office. He also advised that Fire Marshal Hulsey was present to address any concerns.

City Administrator O'Callaghan clarified that the reporting structure would not change - the Fire Marshal would continue to report to the Fire Chief and the Code Inspector would continue to report to the Director of Community Services. He was simply seeking to increase the fluidity of communications between the two positions themselves, and their communications with the public and City businesses. Other cities seem to be looking toward this direction and Vernon should look into it as well.

Fire Chief Whitworth stated that the fire prevention component of code inspection is paramount in Vernon, and reiterated that the Fire Marshal and Code Inspector should be working together to ensure that the fire prevention component is being addressed at every stage of code inspection. He asked that Fire Marshal Hulsey be permitted to address the City Council and provide his input on the matter.

Fire Marshal Hulsey affirmed the Fire Chief's statement of the paramount importance of fire prevention. While he and the Code Inspector do work together on a regular basis, working out of separate office facilities creates certain limitations on day-to-day operations. He concurred with the City Administrator and the Fire Chief that working with the Code Inspector in the same office facility would create a more cohesive relationship, enable them to accomplish more, and be beneficial to the City's businesses.

Councilman Newmire asked the Fire Marshal if the proposed setup would take away from his other duties, such as fire investigations and public education.

Fire Marshal Hulsey responded that it would not, and would probably enable him to accomplish a little more with respect to fire code inspections.

City Administrator O'Callaghan, in response to Councilman Newmire's question, stated that the proposed setup would enable the Code Inspector to do more in terms of outreach

and communication with customers, which is also an important part of code enforcement. Fire Marshal Hulsey agreed with this statement.

Councilman Davis stated that he was in agreement with a one-stop shop setup, especially for new businesses coming into Vernon. Because the matter involves the Building Department, he asked the Director of Community Services to provide his input.

Director of Community Services Kevin Wilson advised that the Vernon City Code currently provides for the City Administrator to assign certain portions of the Uniform Fire Code to the Director of Community Services, and that the Code Inspector is currently implementing those sections that have previously been assigned to him. He concurred that there would be some benefits to consolidating the Fire Marshal and Code Inspector into one office facility, but explained that the two positions are currently working on different aspects of code inspection and enforcement, and recommended further examination of how the two positions might better coordinate their duties moving forward. The Code Inspector currently focuses on the construction aspect, while the Fire Marshal currently focuses on the maintenance aspect.

City Administrator O'Callaghan acknowledged a good point raised by the Director of Community Services, which is that only one section is conducting inspections when the building is being constructed. He explained that both sections should be involved in inspections from the earliest stages forward, as the Code Inspector is primarily implementing the Building Code and the Fire Marshal is implementing the Fire Code. The two should run together and be in close communication with each other throughout the construction and maintenance of buildings, especially for the benefit of the public.

Director of Community Services Wilson clarified that the Code Inspector is currently enforcing those sections of the Fire Code that he has been assigned as they relate to building construction.

Fire Chief Whitworth advised that state law provides that fire code enforcement falls under the Fire Chief/Fire Marshal. He explained that, as part of that duty, some sections of the Fire Code that relate to building inspection issues have previously been assigned to the Director of Community Services. While he is in concurrence with consolidating the Fire Marshal and Code Inspector into one office facility, because any potential fire-related liability issues would fall within the realm of the Fire Chief, Fire Marshal, and Fire Code, he clarified that the responsibility of the Fire Code should fall entirely under the Fire Chief.

The Mayor concurred with the City Administrator's recommendation to consolidate the Fire Marshal and Code Inspector into one office facility and agreed that the cooperative efforts between the two positions should begin at the construction stage. The new setup would help the inspections proceed in a more timely fashion and minimize potential problems related to the construction of new buildings.

The Mayor asked if a resolution effectuating this change would be brought back to the City Council.

City Attorney Wiener advised that, unless there is an objection from the City Council, this change is within the discretion of the City Administrator and the respective Department Heads, as it is simply a housing issue intended to encourage cooperation.

The City Clerk announced that this was the time for conference/seminar reports from elected officials for the period of March 29 through April 25, 2010.

The Mayor advised that none of the Councilmembers attended conferences or seminars during the period of March 29 through April 25, 2010.

The City Clerk announced that this was the time for reports and announcements from the City Administrator.

City Administrator O'Callaghan reported on the upcoming second phase of the Wind Project, which will likely include the sale of approximately 18,000 acres of remaining land and a power purchase agreement for approximately 80 to 100 megawatts of renewable energy coming back into the City. The amount of energy the City would seek to purchase would depend on what it sees as the renewable energy program in the coming years and what would be required to move in-line with state legislation. He is working with Barclay's, one of the City's financial advisors who was the main representative on the first phase of the Wind Project, and City Attorney Wiener, on drafting a new agreement for the second phase. City Administrator O'Callaghan stated that he would report further and seek City Council direction in the next few weeks.

The Mayor asked if the sale of the 18,000 acres would occur in one lump sum, or be split as it was in the first phase.

City Administrator O'Callaghan responded that he believes it will be one sale, given where the markets are, but that it could be split into two tranches, so that the pricing could be set based on the pricing of the first tranche. He stated that he will seek advice from the City's financial advisors regarding how to best structure the second phase, advise the City Council accordingly, and obtain input from the Council at that time.

The City Clerk announced that this was the time for reports and announcements from members of the City Council.

Councilman Maisano explained that he didn't have a chance to really say anything upon his appointment to another City Council term at the previous meeting, so he took this opportunity to express how very thankful he is to be able to serve with the other four gentlemen on the City Council. He stated that, in light of the world economy and its effect on municipalities such as Vernon, this is a challenging time for the City Council to be as creative as possible and get all the information needed to make the proper decisions.

None of the other Councilmembers had anything to report at this time.

The City Council recessed into closed session to discuss the items listed on the closed session agenda.

Regular City Council Meeting Minutes
April 26, 2010

Closed Session Reports: The City Attorney reported that the City Council unanimously voted to reject a claim related to a power outage on March 3, 2010.

It was moved by McCormick, seconded by Newmire, that the meeting be adjourned at 9:54 a.m. Motion carried.

Hilario Gonzales
Mayor

ATTEST:

Willard G. Yamaguchi
City Clerk