MINUTES OF THE REGULAR CITY COUNCIL MEETING OF THE CITY OF VERNON HELD TUESDAY, APRIL 2, 2019, IN COUNCIL CHAMBER OF CITY HALL LOCATED AT 4305 SANTA FE AVENUE, VERNON, CALIFORNIA

CALL TO ORDER & FLAG SALUTE

Members Present: Yvette Woodruff-Perez, William Davis, Luz Martinez, Leticia Lopez, Melissa Ybarra

Members Absent: None

The meeting was called to order at 9:00 a.m. by Mayor Woodruff-Perez; City Administrator Carlos Fandino led the flag salute.

CHANGES TO THE AGENDA

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

PUBLIC COMMENT

Marissa Olguin, Vernon Chamber of Commerce, expressed her satisfaction with the City’s current reforms and independence, and applauded the City Council for their showing of self-governance.

At 9:05 a.m. City Council entered into the first Closed Session of the meeting. Prior to entering Closed Session, City Clerk Ayala announced that Mayor Woodruff-Perez would not be participating during Closed Session Agenda Item No. 1 due to a conflict of interest.

CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

   Significant exposure to litigation.
   Government Code Section 54956.9(d)(2) and (4)

   Number of potential cases: 1

   Threat of litigation dated March 19, 2019 from Mayor Yvette Woodruff-Perez.

At 9:28 a.m. City Council exited Closed Session. City Attorney Hema Patel reported that one item was discussed with no reportable action taken.

PRESENTATION

2. Swear-In Ceremony
Recommendation: No action required by City Council. This is a presentation only.

Police Chief Anthony Miranda introduced newly promoted Sergeant, Corporal Daniel Onopa and provided a brief summary of Sergeant Onopa’s distinguished career as Police Officer.

City Clerk Ayala administered the Oath of Office, to Sergeant Daniel Onopa.

Sylvia Onopa pinned the badge on her husband, Sergeant Daniel Onopa.

CONSENT CALENDAR

3. Minutes of the Regular City Council Meeting held on March 19, 2019
   Recommendation: A. Receive and File

4. Approval of RDA Obligation Retirement Account Warrant Register No. 50
   Covering the Period of January 08 through March 25, 2019
   Recommendation: A. Approve RDA Obligation Retirement Account
   Warrant Register No. 50 which totals $330.00 and consists of the following:

   1) Ratification of electronic payments totaling $330.00.

5. Approval of Operating Account Warrant Register No. 19 Covering the Period
   of March 12 through March 25, 2019
   Recommendation: A. Approve Operating Account Warrant Register No. 19
   which totals $9,344,269.74 and consists of the following:

   1) Ratification of electronic payments totaling $9,163,057.11.
   2) Ratification of the issuance of early checks totaling $151,317.67.
   3) Authorization to issue pending checks totaling $29,894.96.

6. Fire Department Activity Report for the Period of March 1 through March 15, 2019

7. Vernon Police Department Activity Log and Statistical Summary for the period of March 1 through March 15, 2019

8. Amendment No. 2 to the Services Agreement between the City of Vernon and NewGen Strategies & Solutions, LLC
   Recommendation: A. Find that approval of this action does not constitute a “project” pursuant to section 15378(b)(2) of the Guidelines to the California Environmental Quality Act (“CEQA”), because such action constitutes an administrative activity; and even if the adoption of the proposed item did constitute a project, it would be exempt in accordance with CEQA Guidelines
section 15061(b)(3), the general rule that CEQA only applies to projects that may have an effect on the environment; and

B. Approve Amendment No. 2 to the Services Agreement with NewGen Strategies & Solutions, LLC to spend an additional $25,000 and to extend the term of the Agreement from December 31, 2018 to April 30, 2019; and

C. Authorize the City Administrator to execute Amendment No. 2, in substantially the same form as submitted herewith, for additional work related to the Cost of Service/Rate Design Study for Vernon Public Utilities.

9. A Resolution to Adopt a Project Funded by Senate Bill 1: The Road Repair and Accountability Act of 2017

Recommendation: A. Find that the approval of the proposed action, does not constitute a “project” pursuant to sections 15378(b)(2) and (4) of the Guidelines to the California Environmental Quality Act (“CEQA”), because it constitutes an administrative activity and government funding mechanism that does not involve any commitment to any specific project which may result in a potentially significant impact on the environment; and even if the adoption of the proposed resolution did constitute a project, it would be exempt from CEQA in accordance with CEQA Guidelines Sections 15302, because the proposed project consists of the replacement of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced; and 15061(b)(3), the general rule that CEQA only applies to projects that may have an effect on the environment; and

B. Adopt a resolution adopting a project funded by Senate Bill 1: The Road Repair and Accountability Act of 2017 for Fiscal Year 2019/2020.


Recommendation: A. Receive and File.

Council Member Melissa Ybarra requested Agenda Item No. 9 be pulled from the consent calendar and addressed individually.

No public comment provided.

It was moved by Melissa Ybarra and seconded by William Davis to approved Consent Calendar Item Nos. 3 through 8 and Item No. 10. Motion carried, 5 - 0.

Yes: Yvette Woodruff-Perez, William Davis, Luz Martinez, Leticia Lopez, Melissa Ybarra
No: None
9. A Resolution to Adopt a Project Funded by Senate Bill 1: The Road Repair and Accountability Act of 2017
   **Recommendation:** A. Find that the approval of the proposed action, does not constitute a “project” pursuant to sections 15378(b)(2) and (4) of the Guidelines to the California Environmental Quality Act (“CEQA”), because it constitutes an administrative activity and government funding mechanism that does not involve any commitment to any specific project which may result in a potentially significant impact on the environment; and even if the adoption of the proposed resolution did constitute a project, it would be exempt from CEQA in accordance with CEQA Guidelines Sections 15302, because the proposed project consists of the replacement of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced; and 15061(b)(3), the general rule that CEQA only applies to projects that may have a significant effect on the environment; and
   B. Adopt a resolution adopting a project funded by Senate Bill 1: The Road Repair and Accountability Act of 2017 for Fiscal Year 2019/2020

Council Member Ybarra inquired as to the funding for the proposed project and the possibility to obtain additional funds and lobbying the State. Daniel Wall, Director of Public Works, replied accordingly.

No public comment.

It was moved by Melissa Ybarra and seconded by Leticia Lopez to approve Consent Calendar, item No. 9. Motion carried, 5 - 0.

Yes: Yvette Woodruff-Perez, William Davis, Luz Martinez, Leticia Lopez, Melissa Ybarra
No: None

**NEW BUSINESS**

11. A Resolution Approving Censure of Mayor Yvette Woodruff-Perez and Relieving the Mayor of Her Title for the Duration of Her Term
   **Recommendation:** A. Find that approval of the resolution is exempt under the California Environmental Quality Act (CEQA), because such action is a governmental administrative activity that will not result in direct or indirect physical changes in the environment, and therefore does not constitute a “project” as defined by CEQA Guidelines section 15378; and
   B. Adopt a resolution approving censure of Mayor Yvette Woodruff-Perez and relieving the Mayor of her title for the duration of her term.

City Clerk Maria Ayala read the proposed Resolution and announced that this was an item brought forth by City Council and Mayor Pro Tempore Davis would report on the item.
Mayor Pro Tempore Davis reported on the proposed.

No public comment provided.

A dialogue ensued between Council as to the appropriate course of action, the Mayor’s actions, etc. Mayor Woodruff-Perez also provided a statement as it pertained to the flag salute occurrence from the March 5, 2019 City Council Meeting.

Mayor Woodruff-Perez inquired as to the implication of the word “Censure” in the Resolution. Special Legal Counsel, Jeffrey Ballinger (Best Best & Krieger), responded accordingly.

It was moved by Melissa Ybarra and seconded by Leticia Lopez to approve the proposed Resolution with an amendment to item “B” eliminating the language “and relieving the Mayor of her title for the duration of her term” and A. Find that approval of the resolution is exempt under the California Environmental Quality Act (CEQA), because such action is a governmental administrative activity that will not result in direct or indirect physical changes in the environment, and therefore does not constitute a “project” as defined by CEQA Guidelines section 15378; and B. Adopt an amended resolution approving censure of Mayor Yvette Woodruff-Perez and relieving the Mayor of her title for the duration of her term. Motion carried, 5 - 0.

Yes: Yvette Woodruff-Perez, William Davis, Luz Martinez, Leticia Lopez, Melissa Ybarra
No: None

12. A Resolution of the City Council of the City of Vernon to Establish and Implement an Energy Cost Adjustment Billing Factor, Procedure and Computation Method Which Establishes an Energy Cost Adjustment to be Billed Under All Rate Schedules for Energy Transmitted, Distributed, and Supplied to City of Vernon Electrical Consumers and Repealing Resolution Nos. 9697 and 9892

**Recommendation:** A. Find that approval of the proposed Resolution does not constitute a “project” pursuant to section 15378(b)(2) of the Guidelines to the California Environmental Quality Act (“CEQA”), because the plan to replace the existing Fuel Cost Adjustment with a new Energy Cost Adjustment referenced in the proposed Resolution constitutes an administrative activity; and even if the adoption of the proposed plan did constitute a project, it would be exempt in accordance with CEQA Guidelines section 15061(b)(3), the general rule that CEQA only applies to projects that may have an effect on the environment; and

B. Adopt a Resolution to establish and implement an Energy Cost Adjustment Billing Factor ("ECABF"), procedure and computation method which establishes an Energy Cost Adjustment to be billed under all rate schedules for energy transmitted, distributed, and supplied to the City's electrical consumers and repealing Resolution Nos. 9697 and 9892.
Abraham Alemu, Integrated Resource Manager of Public Utilities, reported on the proposed.

No public comment provided.

It was moved by Melissa Ybarra and seconded by Luz Martinez to: A. Find that approval of the proposed Resolution does not constitute a “project” pursuant to section 15378(b)(2) of the Guidelines to the California Environmental Quality Act (“CEQA”), because the plan to replace the existing Fuel Cost Adjustment with a new Energy Cost Adjustment referenced in the proposed Resolution constitutes an administrative activity; and even if the adoption of the proposed plan did constitute a project, it would be exempt in accordance with CEQA Guidelines section 15061(b)(3), the general rule that CEQA only applies to projects that may have an effect on the environment; and B. Adopt a Resolution to establish and implement an Energy Cost Adjustment Billing Factor (“ECABF”), procedure and computation method which establishes an Energy Cost Adjustment to be billed under all rate schedules for energy transmitted, distributed, and supplied to the City's electrical consumers and repealing Resolution Nos. 9697 and 9892. Motion carried, 5 - 0.

Yes: Yvette Woodruff-Perez, William Davis, Luz Martinez, Leticia Lopez, Melissa Ybarra
No: None

13. A Resolution Amending Electric Rate Schedule Nos. CS, D, GS-1, GS-2, LS-1, LS-2, OL-1, PA-1, PA-2, PA-TOU, TC-1, TOU GS-1, TOU GS-2, TOU PA-1, TOU-D, TOU-G, and TOU-V and Adopting Electric Rate Schedule No. TOU-Vt regarding Electrical Rates to be Charged for Electrical Energy Distributed and Supplied by the City within its Boundaries

Recommendation: A. Find that adoption of the proposed Resolution does not constitute a “project” pursuant to section 15378(b)(2) of the Guidelines to the California Environmental Quality Act (“CEQA”), because the plan to augment the existing electric rate structure constitutes an administrative activity; and even if the adoption of the proposed Resolution did constitute a project, it would be exempt in accordance with CEQA Guidelines section 15061(b)(3), the general rule that CEQA only applies to projects that may have an effect on the environment; and

B. Adopt a Resolution Amending Electric Rate Schedule Nos. CS, D, GS-1, GS-2, LS-1, LS-2, OL-1, PA-1, PA-2, PA-TOU, TC-1, TOU GS-1, TOU GS-2, TOU PA-1, TOU-D, TOU-G, and TOU-V and adopting Electric Rate Schedule No. TOU-Vt, authorizing the implementation of a four-year electric rate adjustment plan whereby rates for all customer classes would increase by 0.8% effective July 1, 2019; an additional 1.9% effective July 1, 2020; an additional 4% effective July 1, 2021; and an additional 4% effective July 1, 2022.

Abraham Alemu, Integrated Resource Manager of Public Utilities, reported on the proposed.

Public Comment:
Marissa Olguin, Vernon Chamber of Commerce, thanked City staff who worked hard to reach out to the community and electric users to inform them about the adjustment plan. She expressed gratitude to City Administrator, Carlos Fandino, who took the time to speak to all ‘top users’ and to the City on its transparency efforts.

It was moved by Melissa Ybarra and seconded by Leticia Lopez to: A. Find that adoption of the proposed Resolution does not constitute a “project” pursuant to section 15378(b)(2) of the Guidelines to the California Environmental Quality Act (“CEQA”), because the plan to augment the existing electric rate structure constitutes an administrative activity; and even if the adoption of the proposed Resolution did constitute a project, it would be exempt in accordance with CEQA Guidelines section 15061(b)(3), the general rule that CEQA only applies to projects that may have an effect on the environment; and B. Adopt a Resolution Amending Electric Rate Schedule Nos. CS, D, GS-1, GS-2, LS-1, LS-2, OL-1, PA-1, PA-2, PA-TOU, TC-1, TOU GS-1, TOU GS-2, TOU PA-1, TOU-D, TOU-G, and TOU-V and adopting Electric Rate Schedule No. TOU-Vt, authorizing the implementation of a four-year electric rate adjustment plan whereby rates for all customer classes would increase by 0.8% effective July 1, 2019; an additional 1.9% effective July 1, 2020; an additional 4% effective July 1, 2021; and an additional 4% effective July 1, 2022. . Motion carried, 5 - 0.

Yes: Yvette Woodruff-Perez, William Davis, Luz Martinez, Leticia Lopez, Melissa Ybarra
No: None

14. A Resolution Approving and Accepting the Grant Deed Dedicating in Fee a Portion of the Property Located at 5400 Alcoa Avenue

Recommendation: A. Find that accepting the Grant Deed is exempt from the California Environmental Quality Act (“CEQA”) in accordance with CEQA Guidelines Section 15301(c) because if any construction occurs as a result of accepting and executing the Grant Deed, the work would merely involve negligible expansion of an existing street; and

B. Adopt a Resolution Approving and Accepting the Grant Deed Dedicating in Fee a Portion of the Property Located at 5400 Alcoa Avenue.

Daniel Wall, Director of Public Works, reported on the proposed.

Mayor Pro Tempore Davis inquired as to the removal of any power poles or power lines. Director Wall responded accordingly.

Councilmember Ybarra inquired as to the adding of parking and widening of the streets. Director Wall responded accordingly.

It was moved by Melissa Ybarra and seconded by Luz Martinez A. Find that accepting the Grant Deed is exempt from the California Environmental Quality Act (“CEQA”) in accordance with CEQA Guidelines Section 15301(c) because if any construction occurs as a result of accepting and executing the Grant Deed, the work would merely involve negligible expansion of an existing
street; and B. Adopt a Resolution Approving and Accepting the Grant Deed Dedicating in Fee a Portion of the Property Located at 5400 Alcoa Avenue. Motion carried, 5 - 0.

Yes: Yvette Woodruff-Perez, William Davis, Luz Martinez, Leticia Lopez, Melissa Ybarra
No: None

**ORAL REPORTS**

Anthony Miranda, Police Chief reported on the following: on March 23rd through 24th, Vernon PD competed in the “Baker-to-Vegas” Challenge Cup Relay; a combined team formed by San Gabriel, Pasadena City College, and Vernon departments came in a solid 2nd Place.

Bruce English, Fire Chief reported on the following: on March 27th Vernon Fire Department graduated two new firefighters; and all fire station exhaust connections have been replaced with more efficient connections.

Abraham Alemu, Integrated Resource Manager of Public Utilities reported on the following: an update on the compliance report with the State; and announced the City had met its procurement target.

Maria Ayala, City Clerk reported on the following: April 9, 2019 election update including registered voters and ballots returned to date; and announced that due to typographical errors on the ballot under Measure S and Measure T it was determined the best course of action would be to nullify both ballot measures at this time, with the City fully intending to bring them back for next year’s election.

Carlos Fandino, City Administrator reported on the following: City’s outreach event was well attended by the public; candidates attended with two candidates addressing the public.

Maria Ayala, City Clerk, announced that Mayor Yvette Woodruff-Perez will not be participating on the discussion of item No. 16 due to conflict of interest. She further explained that item No. 16 will be moved to the end of the meeting. City Council announced that Closed Session Agenda Item No. 16 would be the last item addressed in Closed Session.

At 10:20 a.m. City Council entered into the second Closed Session of the meeting. Prior to entering Closed Session, City Clerk Ayala announced that Mayor Woodruff-Perez would not be participating during Closed Session Agenda Item No. 16 due to a conflict of interest.

**CLOSED SESSION**

15. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Government Code Section 54956.9(d)(2)

In the Matter of: Victoria Golf Course Site (Former BKK Carson Dump) Carson, California
California Environmental Protection Agency, Department of Toxic Substances Control
Docket No. HSA-CO 05/06-114
Docket No. I&SE-RAO 05/06-014

Number of potential cases: 1

The City is a potential real party in interest with liability for environmental remediation at a landfill located in Carson, CA.

16. CITY COUNCIL CONFERENCE WITH LABOR NEGOTIATORS
Government Code Section 54957.6

Agency Designated Representative: Carlos Fandino, City Administrator

Employee Organizations: Vernon Firemen's Association and Vernon Fire Management Association

17. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Government Code Section 54956.9(d)(1)

Name of Case: Bicent (California) Malburg LLC et al. vs. City of Vernon et al., U.S. Dist. Ct. C.D. Cal., Case No. 2:19-cv-02178, removed from Cal. Sup. Ct., Case No. 19STCV08859

18. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Government Code Section 54956.9(d)(2) and (4)
Number of potential cases: 1

The City is currently in a dispute with Bicent (California) Malburg, LLC (“Bicent”), the owner and operator of the Malburg Generating Station (“MGS”), which has resulted in Bicent initiating suit against the City (see “Existing Litigation” closed session item). Prior to the initiation of the suit, the City issued multiple Notices of Default under that certain Power Purchase Tolling Agreement, dated as of April 10, 2008 (as amended, the “PPTA”). The City’s claims relate to, among other things, Bicent’s failure to timely repair equipment, failure to timely produce documents requested under the PPTA, misrepresentation of available capacity, and improper overbilling (by over $ 6 million). The City’s claims also include various statutory claims arising out of the improper billing by Bicent of Vernon. The City is seeking to terminate the PPTA and recover millions in damages.

Mayor Woodruff-Perez stepped out of Closed Session at the time Closed Session Agenda Item No. 16 was heard.
At 10:47 a.m. City Council exited closed session and back into open session.

City Attorney Hema Patel reported that four items were discussed with City Council approval pertaining to Closed Session Agenda Item No. 15 for a Tolling Agreement between the City of Vernon and the County of Los Angeles.

**ADJOURNMENT**

With no further business, at 10:48 a.m. Mayor Woodruff-Perez adjourned the meeting.

Yvette Woodruff-Perez
Mayor

ATTEST:

Maria E. Ayala
City Clerk