

**City Council Regular Meeting
January 19, 2005**

CALL TO ORDER

Mayor Richard Ortiz called the regular City Council Meeting of the City of Soledad to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE

Honorio Della led the Pledge of Allegiance.

PEACEBUILDERS' PLEDGE

Mayor Ortiz asked all present to join him in reciting the PeaceBuilder's Pledge.

ROLL CALL

Present when the meeting was called to order were Councilmembers: Christopher Bourke, Stefanie De La Rosa, Patricia Stephens, Mayor Pro Tem Juan Saavedra and Mayor Richard Ortiz.

MAYOR'S REPORTS

None

COUNCIL'S ANNOUNCEMENTS

Councilmember De La Rosa announced she had attended the presentation and dinner hosted by the Soledad Police Department on their accomplishments for the year 2004. She stated she enjoyed the power point presentation. Vice Chairman Saavedra echoed Councilmember De La Rosa's comments.

Councilmember Stephens announced she had met with Miguel Gutierrez, attended the AMBAG meeting and the Chief's dinner.

Councilmember Bourke also attended the Chief's dinner and the AMBAG meeting.

Mayor Ortiz welcomed the high school students in the audience and encouraged them to ask questions, if necessary.

COUNCIL PRAISES

Councilmember De La Rosa praised Bobby Mora on his years of service with the City and wished him well. Mayor Pro Tem Saavedra echoed Councilmember De La Rosa's comments and wished Bobby well.

Councilmember Stephens praised Chief Cox on his accomplishments and the dinner and also music teacher Victoria Ziegler for being one of four teachers in the nation to be honored with the Holland Opus Award.

Councilmember Bourke praised Chief Cox and Bobby Mora.

Mayor Ortiz praised Chief Cox even though he was unable to attend the presentation. He also praised Bobby Mora for his years of service and dedication to the City of Soledad and Community.

PRESENTATIONS

None

PUBLIC COMMENT

Sharon Gish, President and CEO of the South County YMCA stated she was here to introduce her members of the Board and also Monica Sullivan, Interim Branch Director. She stated that David Hager, Program Director, had retired and they would be looking to hire someone.

CONSENT CALENDAR

Item #1: **Approval of Minutes**

None

Item #2: **Approval of Warrants**

#35129 - #35228

Item #3: **Resolution No. 3583, “Authorizing the City Manager to Purchase Two Comminutors from Smith Lovelace for an Amount not to Exceed \$70,000 and Allocating \$54,000 from the Unallocated Wastewater Fund Balance.”**

ITEM #4 WAS PULLED FROM THE CONSENT CALENDAR BY COUNCILMEMBER DE LA ROSA

Item #4: **Resolution No. 3584, “Authorizing the City Manager to Enter into a Memorandum of Understanding with the Soledad Unified School District to Establish a Healthy Start and After School Program at Main Street School.”**

MOTION: The Consent Calendar (Items #1, 2 and 3) was approved by unanimous vote on a motion by Mayor Pro Tem Saavedra and a second by Councilmember Bourke.

ITEM #4 WAS PULLED FROM THE CONSENT CALENDAR BY COUNCILMEMBER DE LA ROSA

Item #4: **Resolution No. 3584, “Authorizing the City Manager to Enter into a Memorandum of Understanding with the Soledad Unified School District to Establish a Healthy Start and After School Program at Main Street School.”**

Councilmember De La Rosa stated that she had attended a First 5 meeting back in November and asked Staff to get her a copy of that information to use for this Program since she cannot locate her copy. City Manager Chapa stated she would follow up.

MOTION: Resolution No. 3584 was adopted by a unanimous vote on a motion by Councilmember Bourke and a second by Councilmember De La Rosa.

PUBLIC HEARINGS

Item #5: City Fiscal Year 2005-2006 Community Block Grant (CDBG) Program

Staff presentation

Community Development Director Fleming presented the staff report. He stated that this was first presented to Council at their December 15, 2004 meeting. This item was continued to tonight and Staff was directed to seek more citizen input and to meet with the Redevelopment Neighborhood Committee (RNC) to solicit their input.

Community Development Director Fleming stated since December he had received inquiries from two committees, which included the Alliance on Aging and the Redevelopment Neighborhood Committee for lighting but with no specific amounts. Staff is recommending that the City apply for another housing rehabilitation grant of \$300,000 since there continues to be requests for assistance.

Mayor Ortiz asked if Gabilan College had responded and Staff indicated they had not.

Mayor Pro Tem Saavedra suggested it would be wise to connect the Agency with the Chamber and OSBA to expand the program further.

Councilmember Bourke asked if there had been any concerns with Eden Valley that the Alliance on Aging was requesting funding and Staff responded they had not.

Councilmember Stephens added that she had read that the government was considering cutting these programs by 50%.

Open and close hearing to the public

Mayor Ortiz opened the hearing to the public, and seeing that there were no comments, closed the hearing.

MOTION: Councilmember Bourke motioned and Councilmember Stephens seconded the motion to submit an application for grant funding to the Department of Housing and Community Development for the entire amount of \$300,000 for rehabilitation by a unanimous vote.

Item #6: Approving (or Denying) an Appeal of the Approval of a Conditional Use Permit (CUP) for Operation of a Mini-Market Within an Existing Building at 920 Front Street

Resolution No. 3585, “Announcing Findings and Approving a Conditional Use Permit For Operation of a Mini-Market Within an Existing Building at 920 Front Street (APN 022-038-005) in the C-2 (General Commercial) Zoning District. ”

OR

Resolution No. 3585, “Announcing Findings and Denying an Application For a Conditional Use Permit For Operation of a Mini-Market Within an Existing Building at 920 Front Street (APN 022-038-005) in the C-2 (General Commercial) Zoning District.”

Staff presentation

Community Development Director Fleming presented the staff report. He stated that this request had been continued by the Planning Commission in 2003 to allow preparation of an additional traffic study. The study was done on July of 2004 and it indicated that the traffic impact of the proposed use would not adversely impact traffic circulation in the area.

He stated that the Planning Commission considered the CUP at their December 9, 2004 meeting. He said that subject to the CUP, the mini-market can be found to conform with all City codes and requirements, except that required on-site parking does not meet City requirements. After the public hearing, the Planning Commission voted to approve the application.

Community Development Director Fleming stated that Christine Gianascol Kemp, attorney representing Valley Liquors had appealed the Planning Commission decision. He added that the Council's consideration of the request is *de novo* and Council should consider all aspects of the application as if it were a new application.

City Attorney Michael Rodriquez reviewed the request and stated that the Council could grant the request as originally submitted, modify the Commission's approval in some manner to address specific concerns such as parking or overturn the Planning Commission's decision.

Mayor Ortiz asked if Staff had the opportunity to review the two letters received today from both attorneys and City Attorney Rodriquez stated he and Staff had reviewed them.

Open hearing to the public

Mayor Ortiz opened the hearing to the public. Christine Gianascol Kemp, attorney for Yun Swenson of Valley Liquors addressed the Council. She stated that the Planning Commission had found that a Mitigated Negative Declaration could be approved for this project and that the City Council determined that the project was exempt from CEQA. She stated both bodies are incorrect. She felt that the project required an Environmental Impact Report because there are unavoidable impacts associated with traffic that cannot be mitigated. She said that the expanded initial study found that there were significant traffic impacts. The staff report to the Planning Commission stated that the analysis results in the conclusion that there is a significant impact related to additional traffic and a traffic impact fee mitigation is recommended. She said that a traffic impact fee is not an adequate mitigation unless there is an adopted Traffic Mitigation Fee Program and the City does not have one.

Ms. Kemp stated that the other issue is the lack of parking. She felt the City was in violation of their own Code. The original application indicated seven parking spaces but the traffic consultant indicated there was only enough room for six parking spaces. The City's parking ordinance requires one parking space for every 500 square feet of leasable space not useable space. The City's interpretation of useable spaces would reduce the interior usable space to 1200 square feet, not the 1400 square feet that is being allowed.

Ms. Kemp stated that several of the CUP findings were not supported by the evidence. She also went over several inadequate conditions of approval. She concluded her presentation by asking the Council to require an Environmental Impact Report for this to go forward or to deny the project altogether. She added that the operation of this site as an auto parts store did not create the kinds of problems and impacts that will occur with using this site as a mini-mart.

Councilmember De La Rosa stated she had met with Mr. Tankersley of Soledad Hardware yesterday and after discussing the situation with him felt that it is imperative to fill the space. Mayor Pro Tem Saavedra stated he had spoken to Mr. Peverini and Mr. Tankersley today.

Jose Rafael Ramos, attorney for the applicant addressed the Council. He asked Keith Higgins, Traffic Engineer hired by the applicant, Abraham Nijmeddin, to explain the traffic study.

Mr. Higgins stated that he felt the project itself would not have any impact. He reviewed the Parking Survey results collected on April 7, 2004. He said the survey results showed 72 parking spaces available in the area that was surveyed. During the peak hour of the day which was 8:00 a.m., the maximum being used was 29. He said the usage of off-site parking was deemed appropriate in the downtown area according to City Ordinances due to the severe lack of available parking throughout the downtown area. Since deliveries have to be done off of Front Street, they should be limited to off-peak hours. He added that Mr. Nijmeddin had letters from his vendors stating they would try to deliver in the early morning before 7:00 a.m. instead of during the day.

Mr. Ramos stated that he would like to address three points in this appeal hearing. He discussed his findings regarding a traffic mitigation program, the lack of substantial evidence of cumulative impacts by the project and the consistency of parking of the Zoning Ordinance.

Mr. Ramos asked the Council to consider a matter of fairness. He said that Mr. Westcott across the street was allowed to reduce his parking substantially and Mr. Nijmeddin is asking to reduce the required 7 parking stalls to 6 stalls with one being a handicap space. He stated that the previous planner had recommended a limited negative declaration, not a complete environmental impact report.

Dennis Peverini stated that the proposed delivery area would be blocking the fire hydrant. The tire and wheel shop, the car wash and the liquor store would use the off-street parking. He said they have been doing business in the 900 block of Front Street for over 40 years. He showed the Council pictures of cars parking on his property that were already causing problems.

Yun Swenson of Valley Liquors asked the Council to deny the use permit. She stated she had limited parking and allowing this project to go through would create parking problems for her customers. Councilmember De La Rosa asked if the parking problems had caused her to lose business and she answered not yet.

Close hearing to the public

There being no other public comment, Mayor Ortiz closed the hearing to the public.

Mayor Ortiz stated that information was received late and would like Staff to research the documents. The Council consensus was to have Staff review the documentation from the two attorneys and the information from the traffic engineer's study to see that the project has complied with the requirements recommended by Staff and that the project meets the CEQA requirements. Mayor Ortiz also felt that a site visit would be in order.

MOTION: Councilmember Stephens motioned and Councilmember Bourke seconded the motion to continue Resolution No. 3585 to the February 2nd meeting by a unanimous vote.

BUSINESS

Item #7: Resolution No. 3586, “Accepting the City of Soledad Draft Wastewater Treatment and Disposal Master Plan, Directing Staff to Submit Said Plan with a Discharge Permit Application to the California Regional Water Quality Control Board, and Directing Staff to Complete Environmental Analysis of the Plan.”

Public Works Director Price presented the Draft Wastewater Treatment and Disposal Master Plan. He went over the phases of the Plan and stated that to reach a population of 43,500 the City would have to complete Phase 1 up to Phase 11 estimating build out in the year 2038.

Councilmember Stephens asked if Staff was satisfied with reserving 2.1 MGD for both prisons and Public Works Director Price stated Staff was satisfied.

Councilmember De La Rosa asked if the prisons were penalized if they went over the agreed amount of flow. Public Works Director Price stated they were not because we take an average.

Public Works Director Price stated that this plan addresses domestic and commercial wastewater treatment and disposal, but it does not address water, sewage collection or storm drain issues. He said that the purpose of this Plan is to serve as a blueprint for prompt, responsible, cost-effective action to avoid a wastewater spill into the Salinas River, to mitigate existing wastewater disposal and treatment deficiencies and to expand the capacity of the City’s wastewater facilities consistent with the City’s General Plan.

Public Works Director Price stated the Draft Plan had been reviewed by the Council and the Planning Commission at a joint meeting and after several revisions, Staff is now asking the Council to accept the Plan and forward it to the Regional Water Quality Control Board.

Public Works Director Price reviewed the emergency procedures to avoid a spill into the Salinas River as well as the process to mitigate existing City plant disposal and treatment deficiencies, the process to mitigate the existing plant treatment deficiency and a summary of mitigation of existing disposal and treatment deficiencies.

Public Works Director Price reviewed the phases of the expansion of the City’s wastewater facilities including the timeline. He said that Phase 2 of the plan is the project to renovate the CDC wastewater treatment facility for interim (4 – 6 years) secondary treatment and disposal use. He added that this phase should be completed by September of 2005 if the lease and tentative purchase agreements can be executed by the end of February 2005.

In summary, Public Works Director Price stated that by adopting this resolution to accept the Soledad Draft Wastewater Treatment and Disposal Master Plan, Council is committing to a timeline for rehabilitation of the prison’s wastewater plant and bringing it online. He said that we needed to acquire the requisite permitting document from the Regional Water Quality

Control Board to allow the City of Soledad to operate the prison wastewater facility for an interim period. The Board could then consider permitting the prison facility in a way that would allow the City the additional capacity to bridge the building moratorium while the City seeks funding to acquire additional land. He said this would allow the General Plan consultant to move forward with one of the elements needed to complete the environmental documents.

MOTION: Resolution No. 3586 was adopted on a motion by Councilmember Bourke and a second by Councilmember De La Rosa by a unanimous vote.

Item #8: Ordinance No. 614, “A Second Amendment to the Urgency Ordinance of the City of Soledad Establishing a Moratorium on the Issuance of Building Permits Requiring Sewer Connections and Making Findings Related Thereto.”

City Attorney Michael Rodriguez stated that after the January 13th meeting when Staff received direction from the City Council to make changes to the ordinance, he realized there was not enough time to notice the item for tonight. He stated he would like to review the items and would have Staff publish the notice in the newspaper for the required 10-day period for the meeting of February 2nd. He reviewed the proposed exceptions including 1) Septic Tank/Portable Restroom Facilities, 2) School Exception, and 3) a One for One Exception. He stated that he is adding an appeal process, by Council only, for erroneous decisions by Staff in the calculation of fixture unit for fixture unit process.

City Attorney Rodriguez stated that the School exception was not necessary. They would only need an encroachment permit and probably would not need to hook up until August of 2006.

Mayor Pro Tem Saavedra asked if the exceptions were locked in once they were decided upon. City Attorney Rodriguez stated they could be changed but ten days public notice must be given. Staff will incorporate the changes and bring the ordinance back to the Council for consideration at their February 2nd meeting.

Item #9: City of Soledad Terms and Conditions for Interim Lease of California Department of Corrections Wastewater Treatment and Disposal Facility – Discuss and Provide Staff with Appropriate Direction.

Public Works Director Price reviewed the staff report. He stated that City Staff had prepared suggested terms and conditions for the interim lease and reviewed and discussed them with the Wastewater Treatment Plant Committee. The Committee recommended that these items be brought to the Council for discussion and direction.

Staff prepared terms and conditions for an Interim Lease and for a Long-Term Lease with an Option to purchase. Public Works Director Price suggested that neither arrangement should be tied to rates. Rates would be determined in accordance with the appropriate State and Federal laws or Codes that govern municipal rate setting.

City Attorney Rodriguez suggested that a provision to the lease be added stating that this will not automatically allow for the increase in capacity at the prison facility.

The consensus of the Council was to proceed with the final document.

Item #10: Review and Discuss Personnel Policy No. 380 “City Vehicle Assignment and Operation Policy”

Interim Finance Officer Kristie Quitevis presented the staff report. She stated that at the January 5th Council meeting, Councilmember Stephens had requested that this policy be placed on this agenda.

Councilmember Bourke asked if the responding person in charge on the 24-hour shift using the Fire Command Vehicle has the necessary radio equipment needed in the engines at the station.

Councilmember Stephens asked what was the purpose of the Fire Command Vehicle. She said her definition was that the person driving the vehicle is the first person on the scene to do the assessment of the scene.

Councilmember De La Rosa stated that these questions should be addressed to the City Manager not Staff. Mayor Pro Tem Saavedra agreed.

Councilmember Stephens stated that citizens had mentioned to her that City vehicles were being used for personal business at times other than working hours and this is why she brought this up.

The consensus of the Council was to leave the policy as is for now.

Item #11: Introduction of Proposed Modifications to the City of Soledad City Council Rules, Policies and Procedures

City Attorney Rodriguez stated that Staff is introducing the proposed modifications per Council direction at the January 5th meeting. For the most part, the modifications deal with the recent selection of the City’s first elected Mayor. He pointed out Article I, Section 4 (D) regarding additional compensation for the Mayor. He stated the amount will be determined at a later date.

In Article II, Section 8 refers to a single councilmember requesting to have an item placed on a pending agenda. He said he had referred to ‘Robert’s Rules of Order’ and other documents for guidance. He added that changes must be introduced at a regular meeting and thereafter acted upon at a subsequent regular meeting. If Council agrees to the changes then Staff will bring this back for formal action at the meeting of February 2, 2005.

MOTION: Mayor Pro Tem Saavedra motioned and Councilmember Stephens seconded the motion to approve the recommended changes by a unanimous vote.

Item #12: Code of Ethics

City Manager Chapa stated that Councilmember Bourke submitted a letter requesting that the item be placed on the agenda in August of 2004. In September 2004 the Council discussed the issue and a motion was made and seconded to table the item until after the pending election. Now that the election is over Councilmember Bourke is again asking that Council consider directing Staff to research and prepare a Code of Ethics to be formally adopted by the City Council.

Councilmember Bourke stated that every meeting at the League of California Cities has a session on ethics and so does every issue of Western City.

Mayor Pro Tem Saavedra stated that he signed the Code of Fair Campaign Practices form during the election and he felt this was enough. Councilmember De La Rosa agreed and added that when elected you also say and sign an Oath of Office.

Councilmember Stephens stated the Code of Fair Campaign Practices form is optional.

MOTION: Mayor Pro Tem Saavedra motioned and Councilmember De La Rosa seconded the motion to table the Code of Ethics request by a majority vote. Councilmembers Bourke and Stephens cast the ‘no’ votes.

CITY COUNCIL COMMITTEE UPDATES

- a) **Street Naming** - None
- b) **Energy Plant** – A meeting is scheduled for Friday January 21st at 3:30 p.m.
- c) **Miravale Section 16** - None
- d) **Development Review** - None
- e) **Overall Landscape Review** - None
- f) **Restroom** - None
- g) **ADA** – A meeting is scheduled for January 27th at the Valley Harvest Inn.
- h) **Revolving Loan Fund** - None
- i) **Oldtown Soledad Beautification Association** - A meeting is scheduled for next Wednesday.
- j) **Parks** – Staff was instructed to send an application to Darryl Sinclair to see if he was interested in applying for the Committee.
- k) **Redevelopment Neighborhoods** – Assistant City Manager De La Rosa stated that a meeting was held last night and that lighting is still a priority. They are still looking at the alleyways.
- l) **CAC** - None
- m) **SR146 (Roads)** - None
- n) **Tree** – Community Development Director Fleming stated he had two people interested in being in the Committee from the Public, Maria Rusconi and Tony Acosta.
- o) **Wastewater Treatment Plant** - None

CITY MANAGER’S REPORT

Update of Emergency Work at the Wastewater Treatment Plant – City Manager Chapa stated this had been covered.

CITY COUNCIL ITEMS

Councilmember De La Rosa reminded everyone of the Monterey Bay Division dinner on January 24th in Scotts Valley at 6:30 p.m. She also asked Staff to look into unreinforced masonry buildings requiring plaques on the front of the building advising the public.

Councilmember Stephens asked Staff to check into the piles of tires and trash on Front and Soledad Streets.

Councilmember Bourke asked about the power to the north end of Front Street. City Manager Chapa stated that she would have Public Works Director Price check into it. Public Works Director Price stated that P G & E has been giving Staff updates and he will forward the information to the Council.

CLOSED SESSION

None

ADJOURNMENT

There being no other business to come before the Council, Mayor Ortiz adjourned the meeting at 10:45 p.m.

RICHARD V. ORTIZ, Mayor

Approved: March 1, 2006

NOELIA F. CHAPA, City Clerk