

**City Council Special Meeting
February 2, 2005**

920 Front Street

CALL TO ORDER

Mayor Ortiz called the Special Meeting of the City Council of the City of Soledad to order at 5:00 p.m.

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.

ON-SITE VISIT

On-Site Visit at 920 Front Street to Consider an Appeal of a Conditional Use Permit for Operation of a Mini-Market Within an Existing Building

ADJOURNMENT

There being no other business to come before the Council, Mayor Ortiz adjourned the Special Meeting at 5:30 p.m.

City Council Regular Meeting

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

Community Development Director Don Fleming led the Pledge of Allegiance.

PEACEBUILDERS' PLEDGE

Mayor Ortiz asked all present to join him in reciting the PeaceBuilders' 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 stated that she had attended the First 5 Monterey County Grants Workshop. They ask that a group be organized of six members to apply for grants for South County children age 0-5 for \$4,000 each. She said that other groups can apply for grants of unspecified amounts. Councilmember De La Rosa stated that First 5 had split a pool of a total of

\$85,000 into two groups, \$35,000 for the 0-5 age groups and \$50,000 for the other group of grants. All groups must be comprised of six people minimum to apply.

Councilmember Stephens asked if the grants could be used for after school programs. Councilmember De La Rosa said they could be used for those and PTA programs but the First 5 Program would not give the funds directly to the schools. The funds would have to be applied for through a group of parents or members of the organization representing them.

Councilmember De La Rosa stated that applications were available by calling (831) 444-8549 or visiting their website at www.first5monterey.org.

Councilmember Bourke stated that he would be attending the Chamber of Commerce Citizen of the Year Banquet on Friday, February 4th at the YMCA.

COUNCIL PRAISES

Councilmember De La Rosa, upon learning that he had announced his resignation of employment from the City effective February 10, 2005, praised Trini Fernandez for his work as City taxi driver. She praised him for his work and stated that he had always smiled when he drove by.

Councilmember Stephens praised Bobbie Reynolds for her recognition as Citizen of the Year. She thanked staff for cleaning up the trash she had mentioned at the previous Council meeting.

Councilmember Bourke thanked the Soledad Police Department for their professional handling of the bomb scare and the "Stranger Danger" incident at the high school.

Mayor Ortiz praised Bill Shaw for the event at the Shopping Center. He said Mr. Shaw continues to bring events to Soledad that encourage community involvement.

Councilmember De La Rosa mentioned that she was at the Valley Donuts 2 and China One Grand Opening events and that the old car show that was part of it had a great turn out. She said she heard several people mention that they hoped this event be continued so that they could bring their cars out more often.

Councilmember De La Rosa also stated that she would be attending the first Monterey Bay League Division Executive Meeting on Monday, February 7th and asked the Council to share any comments or concerns with her before the meeting.

PRESENTATIONS

Proclamation Honoring Bobbie Reynolds 2004 Citizen of the Year

Mayor Ortiz stated that staff had prepared a proclamation for Bobbie Reynolds to be presented at the Chamber of Commerce Banquet on February 4th. Staff asked for the Council's approval of the Proclamation.

Council consensus was to approve the Proclamation with minor corrections.

PUBLIC COMMENT

Fred Ledesma, 1395 Appalachian Drive, and owner of Ledesma Insurance at 155 Kidder Street, addressed the Council. He stated that they planted the trees outside their office on Kidder Street in 1989 based on the City's list of what was acceptable. He said they also installed root guards. They made some minor repairs two years ago and over the past two years have paid a few hundred dollars in medical payments to people who have been hurt on the sidewalks in front of their office.

He stated that he recently fixed the sidewalks. Now that the City has begun the sidewalk repair program, he felt he deserved some compensation for his out of pocket expense incurred repairing the sidewalks. He said if the Council decided not to pay for that, he asked for at least the cost for the trees.

He said the other concern was his original letter was sent in October and he was just now being heard four months later. He said residents, especially in matters regarding safety, deserve to be heard more expediently.

CONSENT CALENDAR

ITEM #1 WAS PULLED FROM THE CONSENT CALENDAR BY COUNCILMEMBER STEPHENS.

Item #1: Approval of Minutes

- a) City Council Regular/Redevelopment Agency Special Meeting November 19, 2003
- b) Redevelopment Agency Regular/City Council Special Meeting October 27, 2004

ITEM #2 WAS PULLED FROM THE CONSENT CALENDAR BY COUNCILMEMBER DE LA ROSA.

Item #2: Approval of Warrants

35229 - #35334

Item #3: Authorize City Manager to Advertise for Two Recreation District Boardmembers

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

ITEM #1 WAS PULLED FROM THE CONSENT CALENDAR BY COUNCILMEMBER STEPHENS.

Item #1: Approval of Minutes

- a) City Council Regular/Redevelopment Agency Special Meeting November 19, 2003
- b) Redevelopment Agency Regular/City Council Special Meeting October 27, 2004

Councilmember Stephens stated that she had not been present for either of the meetings and would abstain from voting on the minutes.

MOTION: Item #1 (a and b) was approved by a majority vote on a motion by Councilmember Bourke and a second by Councilmember De La Rosa, with Councilmember Stephens abstaining.

ITEM #2 WAS PULLED FROM THE CONSENT CALENDAR BY COUNCILMEMBER DE LA ROSA.

Item #2: Approval of Warrants

35229 - #35334

Councilmember De La Rosa stated that she had a question on the last page of the warrant list, regarding the check to Willdan Associates for the Public Works Director. City Manager Chapa stated that staff had planned on pulling that item off the warrant list due to the amount being over and above the contract amount. She stated that a corrected invoice would be sent and a check reissued.

MOTION: The Approval of Warrants with the adjustment to the last page was approved unanimously on a motion by Councilmember De La Rosa and a second by Councilmember Stephens.

PUBLIC HEARINGS

Item #4: 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 (Continued from January 19th City Council Meeting)

It is recommended that the City Council continue this agenda matter to the February 16, 2005 City Council meeting.

Resolution No. 3587, “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. 3587, “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.”

Mayor Ortiz said that staff had requested that this item be continued to the February 16th City Council Meeting.

Community Development Director Don Fleming restated that due to information received at the Special Meeting at 5:00 p.m., staff was asking the Council to continue the item to the February 16th Council Meeting.

Jose Ramos, attorney for Mr. Nijmeddin, said he felt it was not appropriate to comment at that time since the matter was being continued to the next Council Meeting. Ms. Kemp, attorney for Ms. Swensen, stated the same.

Councilmember Bourke asked both attorneys to submit all documents as soon as possible for the Council to have enough time to review. Councilmember Stephens suggested, as Councilmember De La Rosa had at the last meeting, that all parties sit down and discuss parking issues in the downtown.

MOTION: 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 was continued to the February 16, 2004 City Council Meeting on a unanimous motion by Councilmember Bourke and a second by Councilmember Stephens.

The City Attorney indicated for the record that the agendized site visit had occurred at 5:00 p.m., that all of the Councilmembers were present, and that the project applicant, project opponents and their respective attorneys were also in attendance.

BUSINESS

Item #5: Ordinance No. 614, “An Urgency Ordinance of the City of Soledad Establishing a Moratorium on the Issuance of Building Permits Requiring Sewer Connections and Making Findings Related Thereto (Second Amendment).”

City Attorney Michael Rodriguez stated that the Council had before them the second amended Ordinance with the changes reflected from the previous Council Meeting of January 19th. Mr. Rodriguez stated there were two exceptions discussed at the last Council Meeting, the first being the use of septic tanks and portable restrooms and the second being the one for one exceptions. He said the second amendment to the Ordinance No. 614 would require a 4/5 vote of the Council to take effect.

City Attorney Rodriguez stated that at the January 19th meeting, there was also some discussion of providing an exemption for some outstanding projects. He said the Council had been provided with a revised list of those pending projects that were in process. He said that Mr. Fleming could speak to those.

Community Development Director Don Fleming stated that there were eleven projects pending before the moratorium. Councilmember Bourke said in the original staff report, there were eighteen projects listed. He asked why there were now only eleven. Mr. Fleming stated that some of the previous projects had been eliminated from the list due to items such as two exceeding allowable permit time, some had withdrawn their applications, one required a subdivision map before proceeding, and one having excessive lot coverage. City Manager Chapa added that two projects had been submitted after the moratorium.

Councilmember Bourke asked City Attorney Rodriquez if residents use super low-flow fixtures, could they install more toilets. Mr. Rodriquez said he would defer to Mr. Fleming, but he felt it was still required to be a one for one exchange. Mr. Fleming confirmed that it was a one fixture unit for one fixture unit exchange.

City Attorney Rodriquez clarified that Ordinance No. 614 was an amendment to the original Ordinance No. 612.

MOTION: Ordinance No. 614 was unanimously approved on a motion by Councilmember Bourke and a second by Councilmember Stephens.

Mayor Pro Tem Saavedra voiced concern regarding permits above and beyond the 200 plus issued. He asked if there was going to be a comment on those permits. Mayor Ortiz asked whether he meant those issued before or after the moratorium. Mayor Pro Tem Saavedra said he meant after the moratorium. City Manager Chapa stated that discussions had taken place at last week's regularly scheduled weekly Wastewater Treatment Plant Committee Meeting regarding the Diamond Ridge development and whether there were some additional permits allowed and whether there was a number.

She stated that at the Committee Meeting earlier today, it was mentioned that all of Diamond Ridge had received permits as part of the approximate 218 on the original list of approved permits. She stated that she understood there were 13 permits, part of the original 218, that did not get pulled until December. She said that CHISPA housing and some commercial buildings were mentioned as being part of the original 218 approved permits that had not been pulled.

Councilmember De La Rosa asked about the revised list of 11 projects that Mr. Fleming had provided to the Council. She asked if they were part of the original 218 projects that were approved for connection to the sewer plant. She stated that if this was the case, those on the list should have been able to come pick up their building permits as well. Mr. Fleming confirmed that the 11 projects presented to the Council were on the original list but that there was some confusion due to the moratorium as to whether permits could be issued for these projects.

Councilmember Bourke asked if the Regional Water Resource Control Board would have a problem with the City honoring the 218 approved permits. City Attorney Michael Rodriquez said they were aware of it and they did not comment but if the City had a spill it would not make a difference how many permits were approved, because if there were a spill the City would be unable to allow any further connections.

Councilmember Bourke said he felt the Council should treat the eleven projects in the same manner as all projects that were included in the original 218 and he made a motion to such. Mayor Pro Tem Saavedra said he stood corrected on his comment and whole heartedly supported that recommendation.

City Attorney Michael Rodriquez stated that this matter was not agendized for action that night. However, since the Council was only asking the Staff to continue with its existing practice with respect to processing the 218, Staff could receive direction to merely continue in such efforts. Council directed staff to proceed with processing all projects included in the original 218 pending projects exempted from the moratorium, including the 11 pending projects set forth on the list provided by Mr. Fleming at this evening's meeting, in accordance with past practice.

Item #6: Review, Discuss and Provide Direction Regarding the Survey Conducted on Mayors' Compensation

Assistant City Manager De La Rosa stated that staff surveyed various cities, approximately 37 general law cities. He stated that Article I, Section 5 (D) of the Council Rules, Policies and Procedures ("RPP's") allows for an elected Mayor to receive an additional compensation; however, not an appointed Mayor.

He stated that 6 out of 37 cities provide their Mayors with an additional compensation of \$25 - \$100 per month. He also stated that 4 out of 6 are elected Mayors.

Assistant City Manager De La Rosa stated that staff was asking Council for direction on the Mayor's compensation. He stated staff would then come back with an Ordinance to amend the Council's Rules, Policies and Procedures.

Mayor Pro Tem Saavedra said he felt with the amount of time that the Mayor dedicates to City efforts, he should receive additional pay. Councilmember Bourke agreed but wasn't sure what the amount should be.

Councilmember De La Rosa agreed that the Mayor should receive an additional compensation, but stated due to the community's reaction to the proposed Council pay increase last year, she was unsure of what the amount should be.

Councilmember Stephens said she researched on the Internet and studies showed that citizens of most communities recommend \$100-\$150 for elected Mayors as an additional compensation.

Mayor Ortiz said something to consider over the next several years was that the increase might be something used to attract future people to run for the office of Mayor. Mayor Pro Tem Saavedra proposed \$150 for City Council Meetings and \$50 for Redevelopment Agency Meetings.

Assistant City Manager De La Rosa asked through City Attorney Michael Rodriquez if the Redevelopment Agency had a limit on compensation for the Chairman. Attorney Rodriquez said he would have to research that.

Discussion ensued as to the amount the Mayor should receive.

MOTION: Mayor's Compensation of additional \$100 per month was approved by a majority vote on a motion by Councilmember Bourke and a second by Councilmember Stephens, with Mayor Ortiz abstaining.

Item #7: Resolution No. 3588, "Adopting Amended City of Soledad City Council Rules, Policies and Procedures."

City Attorney Michael Rodriguez stated that, as directed by the Council on January 19th, staff had made revisions Article III Section 3. (2) with regards to clarifying that the Mayor Pro Tem only serves in the capacity of the Mayor until the Mayor is able to resume such duties, or in the case of a vacancy, until the vacancy is filled pursuant to Article I, Section 4. (C) of the Rules, Policies and Procedures (RPP's) (Either by appointment or special election.)

Mr. Rodriguez stated that staff believed the amended RPP's accurately reflected the changes directed by the Council and recommended approval of Resolution No. 3588.

Mayor Pro Tem Saavedra stated that regarding page 8, Section 1, in the first paragraph, Article IV regarding appointing members to committees he felt the elected Mayor should now have the authority to nominate and appoint the members of Council committees.

Mr. Rodriguez said if that change was made, then page 3, Section 4. (B) would also need to be changed to reflect the similar change.

Councilmember Bourke said he liked it the way it was.

Mayor Ortiz said he felt he should have some authority to make decisions, otherwise why would a person run for elected Mayor. Mayor Ortiz said he would like to see the elected Mayor have the authority to nominate and appoint members to Council committees.

Councilmember Bourke said he wanted to have input.

Councilmember De La Rosa stated that she would be satisfied if the wording on page 8, Section 1, Article IV was changed to read "The Mayor nominates..." City Attorney Rodriguez added that he would also make the appropriate changes to page 3 Section 4. (B).

Councilmember Stephens suggested that the policy be amended that in the future everyone must apply in writing for future committees. Councilmember De La Rosa said she felt the application process should remain the same but she did not think the Mayor should make the sole appointment. Councilmember Stephens restated that there should be some wording added that there was an application process required. Mayor Pro Tem Saavedra agreed with Councilmember Stephens but felt the applications should require skills and experience specific to the committees that they were applicable to.

Council Direction was given to the City Attorney to make the changes to the City of Soledad City Council Rules, Policies and Procedures and bring back for approval to the February 16, 2004 City Council Meeting.

CITY COUNCIL COMMITTEE UPDATES

- a) **Street Naming** - None
- b) **Energy Plant** – City Manager Chapa said staff met with the representatives of the Energy Plant on January 28th. She said staff will look at the Conditional Use Permit (CUP) and see if there are any violations. Mayor Ortiz asked if anyone monitors the amount of smoke being emitted. City Manager Chapa said the Monterey County Air Quality Control Board monitors the plant.
- c) **Miravale Section 16** - None
- d) **Development Review** - None
- e) **Overall Landscape Review** – None
- f) **Restroom** - City Manager Chapa said that the Little League Park restrooms were almost complete and Lum Park restrooms were almost done as well. Councilmember Bourke asked about the wood for the covered picnic area. He asked if there were enough funds to pay for replacement wood. City Manager Chapa said the wood had rotted when it was moved and staff was going to replace it. She stated that if any extra expenses were incurred it would be back before the Council for approval.
- g) **ADA** – Mayor Pro Tem Saavedra said there was a meeting scheduled for the next day.
- h) **Revolving Loan Fund** - None
- i) **Oldtown Soledad Beautification Association** - None
- j) **Parks** - None
- k) **Redevelopment Neighborhoods** – Councilmember De La Rosa said the next meeting was scheduled for February 16th at 6:00 p.m. at Las Jicamas.
- l) **CAC** - None
- m) **SR146 (Roads)** - None

- n) **Tree** - None
- o) **Wastewater Treatment Plant** - None

CITY MANAGER’S REPORT

Update of Emergency Work at the Wastewater Treatment Plant

City Manager Chapa said the approved Manito agreement was in the final engineering stages. Staff has consultants working on obtaining funding sources.

She stated that regarding the Prison Wastewater Treatment plant, the State was in the process of preparing the Rite of Entry Report. She said several items would be on the February 16th agenda regarding the lease of the prison facility.

City Manager Chapa also stated that two individuals were being interviewed for the temporary Project Manager position for the Wastewater project. She will be bringing this before the Council at the next City Council meeting, as it will exceed the City Manager’s \$15,000 limit.

CITY COUNCIL ITEMS

Councilmember De La Rosa said she felt the City might be able to come up with a matching funds program for businesses and possibly residences for sidewalk repairs. Mayor Ortiz said he had mentioned it during the election, especially for areas such as Vosti Street and Palm Avenue.

Mayor Pro Tem Saavedra also mentioned the drainage problem on Palm Avenue between Fourth and Fifth Streets.

Councilmember Bourke asked if Rehabilitation loans could be used for sidewalks. Mayor Ortiz said they could but most residents were not educated in what the program could be used for.

City Manager Chapa said that staff could research what funds were available under the LTF and Gas Tax funds for a possible future matching funds program for sidewalk replacement.

Councilmember Stephens agreed it was a good idea but felt it was a budget issue for next year.

Councilmember De La Rosa asked if staff had a list of conditional use permits that might have violations that the Council was not aware of. City Manager Chapa said that if there were any staff would notify the Council.

Councilmember De La Rosa said she had a letter from First 5 Monterey County regarding MiniGrants and an upcoming meeting on March 8th from 8:00 a.m. to 5:00 p.m. and on March 9th from 8:00 a.m. to 2:00 p.m. in Soledad for another Stake Holder Meeting. She was requesting that the item be agendaized for the next City Council Meeting for approval to use City Hours to hold the Meetings at the YMCA.

Councilmember Stephens stated that she drove by the Biomass plant earlier that day and saw a large puddle of standing water. She also saw overgrown landscaping in that area. She asked Don Fleming to look into the conditional use permit for the plant.

Councilmember Stephens also asked Mayor Ortiz to form a committee to address parking issues downtown.

Councilmember Bourke stated that the fields near the biomass plant are covered by the woodchip fibers and Mr. Mueller said it was damaging his crops. City Manager Chapa said the Air Quality Control Board Attorney was already looking into action due to their refusal to comply with conditions of their conditional use permit. She said the City is looking into revoking their conditional use permit if they are in non-compliance.

Councilmember Bourke also stated that in the State of the State Address the Governor mentioned dissolving PERS; he asked what happens to the City's ability to attract employees if PERS is lost. City Manager Chapa said the City Managers had discussed this at their last monthly meeting and their main focus currently is to keep their eye on the topic but no action was to be taken at this time. Councilmember De La Rosa said she would bring it up at the Monterey Bay Division League Executive Board Meeting on February 14th.

Mayor Ortiz asked if the garbage on Orchard Lane had been cleaned up. Community Development Director Don Fleming said it had been addressed and as it was on Nader Agha's property, he was investigating how to clean it up.

Mayor Ortiz stated that next week he would be attending the ACCAP conference on February 8th and 9th with Mayor Pro Tem Saavedra and City Manager Chapa. He said they would be leaving Tuesday afternoon and returning Thursday afternoon.

CLOSED SESSION

At 8:30 p.m. Mayor Ortiz called for a recess to convene to Closed Session to discuss the following items:

1. The City Council will recess to closed session pursuant to Government Code Section 54956.9(a) to confer with its Attorney regarding pending litigation which has been formally initiated. The title of the claim is - Ledesma

MEETING RECONVENED

At 8:58 p.m. Mayor Ortiz reconvened the meeting from Closed Session.

REPORT OF ACTION TAKEN IN CLOSED SESSION

Mayor Ortiz reported that:

- Item #1 Council denied the Ledesma Claim by a vote of 5 to 0, although Staff was provided with direction to attempt to resolve this matter prior to the initiation of litigation within the terms and conditions provided by the Council.

ADJOURNMENT

There being no other business to come before the Council, Mayor Ortiz adjourned the meeting at 9:00 p.m.

RICHARD V. ORTIZ, Mayor

Approved: February 16, 2005

NOELIA F. CHAPA, City Clerk