

Minutes of the Blythe City Council January 12, 2016

The January 12, 2016 Meeting of the Blythe City Council was called to order at 6:00pm in the Council Chambers by Mayor DeConinck. Also in attendance were Vice Mayor Wade, Council Members Galvan, Reynolds and Egan. Staff in attendance included: Interim City Manager and City Clerk Sutterfield, City Treasurer and Interim Finance Director Elms, Police Chief Mathews, Public Works Director Baldizzone, Planner Burrow and City Attorney Bettenhausen.

The Pledge of Allegiance was led by Mayor DeConinck. The Invocation was offered by Councilman Galvan.

REPORT OUT FROM CLOSED SESSION: City Attorney Bettenhausen stated two items were discussed and direction was given. No formal action was taken.

CONSENT CALENDAR: *Items on the Consent Calendar are considered routine and will be enacted with one motion of the Council. If any item requires individual consideration, it will be removed from the consent calendar and acted upon separately.*
separate action.

1. Posting of the Agenda.

The summary of agenda items were posted on the bulletin boards on the outside of the public entrance to the Council Chamber and near the inside entrance of the Council Chamber on Friday, January 8, 2016.

2. Approval of the Warrant Register.

Recommendation: Approve **1/12/16**, warrants numbered 63433 through 63482 in the amount of \$177,168.29; **1/12/16**, warrants numbered 63483 and 63484 in the amount of \$92,396.72 and **1/12/16**, warrants numbered 63485 through 63550, 63551 through 63555 and 63556 through 63566 in the amount of \$725,824.39.

3. Approval of the Payroll Register.

Recommendation: Approve **1/12/16**, warrants numbered 47894 through 47898 in the amount of \$22,137.83; **1/12/16**, warrants numbered 47899 through 47930 and Direct Deposits numbered 35646 through 35700 in the amount of \$257,882.05; **1/12/16**, warrants numbered 47931 through 47933 in the amount of \$2,133.01; **1/12/16**, warrants numbered 47934 through 47935 in the amount of \$3,290.68; **1/12/16**, warrants numbered 47937 through 47967 and Direct Deposits numbered 35701 through 35755 in the amount of \$252,087.38 and **1/12/16**, warrants numbered 47968 through 47977 and Direct Deposits numbered 35756 through 35851 in the amount of \$58,619.88.

4. Minutes of the December 21, 2015 Special City Council Meeting.

Recommendation: Approve the Minutes of the December 21, 2015 Meeting.

5. City of Blythe Permits Issued in December 2015.

Recommendation: Receive and file this monthly report.

6. City of Blythe Fire Department Monthly Activity Report for December 2015.

Recommendation: Receive and file this monthly report.

7. Recreation Center Donation-Gym Floor.

Recommendation: Accept the donation of \$23,600 from the Rec-N-Crew for the gym floor installed at the Recreation Center in September 2015.

8. NV5 Settlement Agreement and Release.

Recommendation: Authorize the Mayor to sign the Settlement Agreement and Release with NV5 for \$28,333.73 in back charges for the N. Solano Rehabilitation Project.

9. **Levy & Collection of Assessments for Building and Weed Abatement.**

Recommendation: Adopt Resolution No. 2015-036 authorizing the levy and collection of assessments for building and weed abatement at APN's 839080003-1 and 836062012-2.

RESOLUTION NO. 2015-036. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLYTHE ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR PROPERTY BUILDING AND WEED ABATEMENT PURSUANT TO THE PROVISIONS OF THE BLYTHE MUNICIPAL CODE.

Councilman Galvan stated for item #7, Supervisor Benoit gave \$10,000 to the Rec-N-Crew for the floor project at the Rec Center.

Mayor DeConinck stated he has a conflict of interest on item#9 and will recuse himself. He asked for Public Comment on items 1-8. No Public Comment. Vice Mayor Wade moved approval of Consent Calendar items 1-8. The motion was seconded by Councilman Reynolds by unanimous aye vote.

Mayor DeConinck exited the meeting.

Levy and Collection of Assessments for Building and Weed Abatement. Vice Mayor Wade opened Public Comment for Item #9.

Dr. Shalobei stated some City employees are easy to work with and some are not. I do not like discrimination and everyone should be treated the same. This piece of property was mine. I sold it and then foreclosed on it because the person was not making payments. I did not go by letter of the law; I waited two years to foreclose. We don't want to stick it to each other. The sign posted at the property was inadequate, you could not see it. You should do everything possible to try to notice that person and it was not done. When I complained it was showed to City staff. That item was resolved because I was told there would be no lien on the property so I decided not to take legal action to stop it. This is a small town; you can find the person or their address. The City Council should look at these notices. The response time is 10 days, what if they have circumstances that preclude them from responding in time. I think the Ordinance should be changed to allow for information to be received from PVID.

Interim City Manager Sutterfield stated staff did meet with Dr. Shalobei. The grant paperwork stated the property should have a lien placed. Staff did not feel that wording made it a requirement of the grant to lien the property. Later, at the conclusion of the grant we learned the 10% contingency would be held until the liens were put on these properties. Tonight's action is not an automatic lien, its adopting the Resolution for the grant stating we will lien. We only lien property once a year in August so we have time to work with the Dr. and the grant to sort this out. When we pulled title reports, at least twice that I know of, it did not show Dr. Shalobie as the owner. If he can provide us with some paperwork showing the foreclosure and change of ownership, and that the lien is not his responsibility I feel we can work with the grant to sort this out.

Councilman Galvan asked if we were trying to make the grant go away. Interim City Manager Sutterfield stated we don't want the grant to go away, but we don't want Dr. Shalobie to be penalized for what another corporation did or did not do if they are no longer the owner.

Councilman Galvan moved approval of staff's recommendation. The motion was seconded by Councilman Egan with a unanimous aye vote.

Mayor DeConinck rejoined the meeting.

PUBLIC HEARING:

Ordinance No. 837-2016 U, Preserving Local Authority over Regulation and Prohibition of Medical Marijuana Dispensaries and Cultivation. City Attorney Bettenhausen stated the City currently has an ordinance in place banning cultivation; however there are new State laws in place impacting the way cities can enforce these ordinances. The Medical Marijuana regulation and Safety Act is comprised of three bills and creates a state licensing system. This includes licenses for cultivation, manufacturing, distributing, dispensing and delivery. The State will let cities keep some control if they comply with certain requirements. The City will still have the ability to regulate these activities. The Department of Food and Agriculture will issue licenses for cultivation and the Department of Consumer Affairs will regulate and issue licenses for dispensaries, distributors and transporters. They are phasing out the collective requirement. This is allowing for profit enterprises. This Act requires testing of plants and edibles containing marijuana for quality control. The new law enables State agencies to regulate pesticide, water and electricity used for cultivation. It enables regulation for the packaging and labeling of marijuana products. There will be new regulation and penalties for physicians issuing excessive or improper recommendations for marijuana. This new State law does not take away the city's ability to ban or regulate these activities. However, the bill does contain a deadline for the City to have in place a regulation for marijuana cultivation. If the City does not have the appropriate regulation in place by March 1st, it will lose its ability to regulate cultivation. If the City wants to ban or regulate it must do so in the Land Use Ordinance. Currently the City's prohibition resides in the Business License Ordinance. Our recommendation tonight is that Council move the regulation into the zoning code preserving our authority. The State may issue some regulations in 2017 and 2018 for these licenses so it is possible we may need to come back with additional recommendations at that time. We are also recommending an amendment to Title 5 that previously contained the Ordinance to prohibit licenses that fall under this new zoning section.

Interim City Manager Sutterfield stated our voters made it very clear in 2014 that they do not want medical marijuana dispensaries in the City. We are not changing that, but due to these new state laws we need to tighten up our current Ordinance so the State is not able to supersede what our voters have stated.

Public comment. Dr. Shalobei stated this Ordinance is for the City, but how do we regulate the county area which is where most of the farming is. City Attorney Bettenhausen stated the Council only has authority over the City but its my understanding the County is passing a similar ordinance. Dr. Shalobei stated he is against a dispensary that could be abused but am all for cultivation.

City Attorney Bettenhausen stated because this bill was passed in late 2015 and due to the deadline we are asking this be adopted as an urgency ordinance. This would require a 4/5s vote of the Council. To adopt it regularly would put us past the march 1st deadline.

Vice Mayor Wade moved approval of staff's recommendation. The motion was seconded by Councilman Egan with a unanimous aye vote. City Clerk Sutterfield read the Title of the Ordinance into the record.

ORDINANCE NO. 873-16-U. AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLYTHE, CALIFORNIA, PURSUANT TO SECTION 36937 OF THE GOVERNMENT CODE TO AMEND THE BLYTHE MUNICIPAL CODE BY AMENDING CHAPTER 5.22 OF TITLE 5 (BUSINESS LICENSING AND REGULATION) AND ADDITION OF CHAPTER 17.64 OF TITLE 17 (ZONING) TO PRESERVE LOCAL AUTHORITY IN REGARDS TO REGULATION AND PROHIBITION OF MARIJUANA

DISPENSARIES AND CULTIVATION FOR THE IMMEDIATE PROTECTION OF THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE.

NEW BUSINESS:

N. Broadway between Juniper Trail and 10th Avenue Street Rehabilitation Project. Public Works Director Baldizzone stated on December 16th staff received environmental approval from Caltrans. All requirements have been presented and we can start on project design. The project could be under construction in the next fiscal year. It is recommended Council authorize the City Manager to move forward with the design.

Vice Mayor Wade stated if you pave Broadway from Juniper Trail to 10th the rest of the road will look funny. The other part is horrible as well. Can we use Measure A funds to fix Broadway from Chanslorway to Juniper? Public Works Director Baldizzone stated there may be some money to do the street south of this project.

No public comment. Vice Mayor Wade moved approval of staff's recommendation. The motion was seconded by Councilman Reynolds with a unanimous aye vote

6th Avenue Pavement Rehabilitation . Public Works Director Baldizzone stated Riverside County Transportation Department plans to overlay 6th Avenue from Olive Lake to Colorado River Rd. This project was postponed in 2015. As 6th Avenue is a shared road the County has asked for our participation. There is 7,820 feet of ½ width road they will overlay at a cost of \$182,000 to the City. It is recommended Council authorize a purchase order in the amount of \$182,000 for this project and allow staff to amend the budget as necessary to cover the cost of this project.

City Manager Sutterfield stated if there is an agreement the County would like the City to enter into for this project it is recommended Council authorize the Mayor to sign this agreement after it has been reviewed and approved by the City Attorney.

No public comment. Councilman Reynolds moved approval of staff's recommendation as amended. The motion was seconded by Councilman Egan with a unanimous aye vote.

On-Call Geotechnical Engineering Services. Public Works Director Baldizzone stated we have on-call engineering services that include geotechnical studies. There was an issue with one of the project that came in over budget due to the recommendations of the geotechnical engineer. Public Works retained another geotechnical engineer from Landmark Consultants to review these recommendations. They were able to provide a more conservative report which saved money. It is recommended Landmark Consultants be added to the list for on-call engineering services.

City Attorney Bettenhausen stated for any service that exceeds the Public Works Director's authority to sign, authority should be given to the City Manger to enter into a contract with the consultant matching the terms of the existing consultants subject to City Attorney's review and approval.

No public comment. Vice Mayor Wade moved approval of staff's recommendation. The motion was seconded by Councilman Egan with a unanimous aye vote.

WRITTEN COMMUNICAION: None

ORAL REPORTS:

City Manager Sutterfield reported yesterday I had the privilege of attending a book dedication at JROTC. Art Wilson donated a number of books to their class. While I was there I learned of a clean-up event that took place this past Saturday. As a service project JROTC cleaned some problem lots on Carlton that have been an issue for the City.

PUBLIC COMMENT:

Dr. Shalobei thanked Council and staff for a more pleasant experience at the Council meetings. He also thanked Council for paving Barnard St. He asked if City representatives could have a meeting of the minds with Hospital staff every few months.

MEMBER COMMENT: None

ADJOURN:

The City Council meeting was adjourned at 6:52pm.

Joseph DeConinck, Mayor

ATTEST:

Mallory Sutterfield-Crecelius, City Clerk