

REGULAR MEETING MINUTES

**ARVIN CITY COUNCIL / SUCCESSOR AGENCY TO THE
ARVIN COMMUNITY REDEVELOPMENT AGENCY / ARVIN HOUSING AUTHORITY /
ARVIN PUBLIC FINANCING AUTHORITY**

SEPTEMBER 04, 2018

CALL TO ORDER @ 6:00PM

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL: Mayor Gurrola absent; All others present.

1. Approval of Agenda as To Form.

Motion to add Closed Session Item 8C to the agenda:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

(Pursuant to Government Code § 54956.9(d)(1))

**Ronald Austin v. Arvin Police Department, et al., Kern County Superior
Court Case No. BCV-18-101803**

Motion CM Robles Second CM Martinez Vote 4-0

Motion to approve the agenda with the addition of Closed Session Item 8C.

Motion CM Robles Second CM Madrigal Vote 4-0

2. PUBLIC COMMENTS

(This is the opportunity for the public to address the City Council on any matter on the agenda or any item of interest to the public that is within the subject matter jurisdiction of the City Council.)

3. CONSENT AGENDA ITEM(S)

A. Approval of Demand Register(s) of August 17, 2018 – August 30, 2018.

B. Approval of Payroll Register(s) of August 24, 2018.

**C. Approval of the Minutes of the Special Meeting(s) of August 01, 2018 and
Regular Meeting(s) of August 21, 2018.**

**D. Approval of A Resolution of the City Council of the City of Arvin Approving the
Second Amendment to Professional Services Agreement By and Between the
City of Arvin and the DeWalt Corporation for City Engineer Services.**

Resolution No. 2018-58

Agreement No. 2018-22

AN.

- E. Approval of A Resolution of the City Council of the City of Arvin Approving the Proposed Changes for the Sycamore Drainage Project and Authorizing the City Manager to Sign and Execute Change Orders.

Resolution No. 2018-59

Staff recommends approval of the Consent Agenda.

Consent Agenda Item 3E pulled for discussion.

Motion to approve the Consent Agenda Items 3A – 3D.

Motion CM Martinez Second CM Robles Vote 4-0

Motion to approve Consent Agenda Item 3E.

Motion CM Madrigal Second CM Robles Vote 4-0

4. PUBLIC HEARING(S)

- A. A Public Hearing to Consider A Resolution of the City Council of the City of Arvin Approving Conditional Use Permit 2017-Petro Lud - Stockton Project - Oil and Gas Exploratory and Production Well -APN 189-351-36 Southwest Corner of Sycamore Road and Meyer Street, Establishment of a Drill Pad No Larger than 300'-0" X 500'-0" and Four (4) Exploratory Well Sites Which May Be Converted Into Production Wells and Adoption of a Related CEQA Exemption Findings Pursuant to the California Environmental Quality Act. (Item continued from Meeting of August 21, 2018: public comment/hearing portion of proceeding was closed at that meeting) (City Planner)

Staff recommends consideration for adoption of the attached Resolution.

- **Mr. Kennan Behrle, Attorney for Westminster Capital, Inc. and Ms. Chelsea Tu, Senior Attorney for the Center for Race, Poverty, & the Environment addressed item 4(A) in the public comment period.**
- **When continued item 4(A) was called, the City Clerk read a statement into the record from Mayor Gurrola as follows:**

“Colleagues and members of the public, unfortunately I am not able to attend this evening’s City Council meeting. I have an announcement to make regarding Agenda Item 4(A) – the hearing on the appeal of the Conditional Use Permit 2017 – Petro Lud approval by the Planning Commission.

As you know, I have not shied away from controversy or tough decisions to protect public health and safety, and I have been a strong advocate for clean air, clean water, and renewable energy. While I recognize that the City’s original oil and gas production ordinance is applicable to this particular matter, I have a strong personal conviction that the ordinance is so inadequate that no approvals should be issued under that ordinance for any type of project under any conditions. Balanced against this conviction is the responsibility of a decision-maker to apply the law as written and to be fair

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and impartial in a quasi-judicial proceeding such as this. However, my feelings regarding the ordinance, and my bias against any project that may be proposed under it, are so strong that I do not believe that I could be a fair and impartial decision-maker in this matter at this time. For these reasons, even if I were in attendance I would like the City Council and public know that I am reluctantly recusing myself from Agenda Item 4(A) in order to ensure a fair process. In the event that the updated oil and gas ordinance would apply to a future project that was before the Council, I would look at the facts and circumstances at that time to determine if I am able to participate in those matters as a fair and impartial decision-maker.”

- **The City Attorney advised of the City’s obligation to comply with state law regarding these sorts of recusals, and that the matter could proceed in the absence of the Mayor given his recusal.**
- **The City Attorney advised that two additional letters had been received from Center for Race, Poverty and the Environment, as well as a letter from Stoel Reeves, attorney for the Applicant. As the public comment portion of the proceeding had already been closed prior to the additional letters being received by the City, these letters were not currently part of the administrative record, but had been lodged with the City Clerk. The City Attorney provided a legal assessment of the letters and legal options to the City Council, as well as a recommendation regarding clarification of the drill site dimensions of 400 ft. by 400 ft.**
- **At the request of the appellants, and upon no objection by the Applicant, the City Council re-opened public comments limited to addressing issues related to item(s) attached to the Agenda Report for September 4, 2018. To the extent that the belated correspondence or comments made by appellants during general public comment addressed these issues, those portions and comments were added to the administrative record.**
- **Both Mr. Berhle and Ms. Tu spoke for a fourth time on behalf of appellants. Three (3) members of the public (Juan Flores representing Center on Race, Poverty and the Environment; Salvador Partida representing A Committee For A Better Arvin, and Arvin resident Estella Escoto) spoke a second time against the project. Nine (9) members of the public including Representatives Gustavo Aguirre and Cesar Aguirre from the Central California Environmental Justice Network spoke against the project. Five (5) members of the public spoke in favor of the project, and one member (an adjacent landowner) made a request to place landscaping or some type of buffer between their property and the project site.**
- **The City Council again closed the public testimony portion of the hearing, and the City Attorney addressed the additional comments.**
- **After deliberation and questions to the City Attorney, the City Council moved to adopt the proposed resolution, with appropriate edits to resolution to reflect drill pad dimensions 400’ ft. x 400’ ft. consistent with the Planning Commission approval.**

Motion to approve the Resolution with appropriate edits to resolution to reflect drill pad dimensions 400' ft. x 400' ft. consistent with the Planning Commission approval.

Motion MPT Ortiz

Second CM Robles

Vote 4-0

Resolution No. 2018-60

- B. A Public Hearing to Consider Introduction of an Uncodified Ordinance of the City Council of the City of Arvin for a Third Amendment to the Development Agreement with Auburn Oaks Developers, LLC, and CEQA Determination. (City Planner)**

Staff recommends the City Council consider introducing the Ordinance to be read by title only, open the hearing, allow for public testimony, close the hearing, waive first reading of the Ordinance, and approve the introduction of the Ordinance.

Hearing opened.

No public testimony received.

Hearing closed.

Motion to waive first reading of the Ordinance to be read by title only and approve the introduction of the Ordinance.

Motion CM Robles

Second CM Martinez

Vote 4-0

- 5. WORKSHOP – Discussion and Update Regarding General Plan and Housing Element Implementation (City Planner)**

6. STAFF REPORTS

A. General Fund Fiscal Year-End 17/18 Update (Finance Director)

B. Monthly Financial Report – June 2018 Update (Finance Director)

7. COUNCIL MEMBER COMMENTS

8. CLOSED SESSION ITEM(S)

**A. Conference with Legal Counsel: Anticipated Litigation (Pursuant to Government Code § 54956.9(d)(4)
Two Potential Cases**

**B. Public Employee - Appointment (Pursuant to Government Code §54957)
Title: City Manager**

**C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Pursuant to Government Code § 54956.9(d)(1))**

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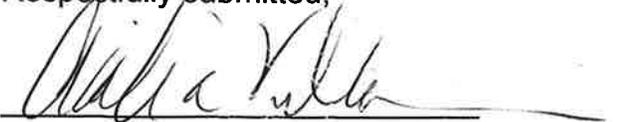
CLOSED SESSION REPORT BY CITY ATTORNEY:

Item 8A and 8C: No reportable action.

Item 8B: The City Council was pleased to announce it had selected Jerry Breckinridge as the new City Manager, subject to contract approval, and that he would be serving as the acting Chief of Police at the Council's request until a new Chief was appointed.

9. ADJOURNED @ 8:57pm

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Cecilia Vela", written over a horizontal line.

Cecilia Vela, City Clerk