

**SAN FERNANDO CITY COUNCIL
MINUTES**

**FEBRUARY 6, 2012 – 6:00 P.M.
REGULAR MEETING**

City Hall Council Chambers
117 Macneil Street
San Fernando, CA 91340

CALL TO ORDER/ROLL CALL

Mayor Mario F. Hernández called the meeting to order at 6:10 p.m.

Present:

Council: Mayor Mario F. Hernández, Mayor Pro Tem Brenda Esqueda,
Councilmembers Sylvia Ballin, Maribel De La Torre, and Antonio Lopez

Staff: City Administrator Al Hernández, City Attorney Michael Estrada, and
City Clerk Elena G. Chávez

PLEDGE OF ALLEGIANCE

Mayor Hernández

PRESENTATIONS

a) ECE FIRST 5 LA HIGH SCHOOL RECRUITMENT PROGRAM - Cancelled

The following presentation was made:

b) AIR QUALITY UPDATES WITH EMPHASIS ON AIR QUALITY MANAGEMENT
DISTRICT (AQMD) FUNDING PROGRAMS – MICHAEL CACCIOTTI, AQMD BOARD
MEMBER

APPROVAL OF AGENDA

Motion by Councilmember De La Torre, seconded by Councilmember Lopez, to approve the agenda. By consensus, the motion carried.

PUBLIC STATEMENTS – WRITTEN/ORAL

Francine Jorgenson (resident) said she was protesting the water and sewer rate increases, asked that City Council do the “right thing” regarding Police Chief Tony Ruelas, said it seems fitting that Mayor Hernández step down, and she thanked Councilmember Ballin for adding Item No.s 12 and 13 to the agenda.

Renato Lira (resident) said it was time for Councilmember De La Torre (and Mayor Hernández) to resign and not have taxpayers pay for a recall.

John Lawler, Principal at Cesar Chávez Learning Academies (Valley Regional High School No. 5), talked about Item No. 7 regarding Facility Use and Transportation Agreement and asked for City Council support.

Mike Majers (resident and business owner) said he read the recall response statements, he is sure that each Councilmember has had tickets taken care of, said that bringing back Police Chief Tony Ruelas to remove Police Lt. Jeff Eley was ridiculous, and he’s appalled by what’s going on.

Dee Akemon (resident) read responses to recall petitions and said that she is not part of any special interest group. She is a resident and homeowner and is embarrassed by what’s going on. She does not wish (Councilmembers) any ill, she said to just be dignified and step down.

Yvonne Gomez (resident) said she lives across from San Fernando Elementary School and is concerned about the children’s safety (parents are being careless when dropping them off).

Ron Hernández (resident and business owner) said he was not here to judge, but was here on behalf of Jeff Eley (he loves this City and job and goes above and beyond to protect residents) and asked City Council to reconsider his situation.

Jesse Avila (resident) said they attempted to serve recall papers and Councilmembers sent their children to pick up their automobiles, City Council brought back a disgraced Police Chief to do a deed and open up the City to more liability, they are not following Roberts Rules of Order, and have put residents in a position where they will be paying for a long time.

Linda Jauron (resident) said that she is disappointed in the City Council majority, this is not a game or a joke, the recall petition paperwork will be filed tomorrow morning, and the whole City will be placed under a great deal of scrutiny. She asked them to do what is right and resign.

Irwin Rosenberg (San Fernando Police Officers’ Association (SFPOA) President) said that Councilmembers (in their responses to the recall) chose to attack members of the Police Department instead of taking responsibility for their behavior, lack of leadership and the hostile environment they’ve created. He said that when he met with Mayor Pro Tem Esqueda in November, they asked her to provide information related to police corruption and misconduct

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and she provided none. He said that it was the Police Department and the POA that had to go to the Sheriff's Department and the District Attorney's office to demand an investigation.

Louie Lopez (resident) talked about pool costs, said the police sex scandal should have been handled, is against water rate increases, and applauded Councilmember Ballin to have the wisdom and fortitude to ask the Mayor to step down.

Patty Lopez (resident) said she can't believe that (certain) Councilmembers are still here, she doesn't have anything against them (just wants them to do what's right), distributed information regarding ethics training, and said that if they continue, the fight will be long and costly.

Roberta Jansen (resident) said that Mayor Hernández is no different than any other man or woman in this building and asked who invited the news media to begin with? She said that lots of people (Councilmembers) throughout the years have been accused of being partial, and we need to get on with business.

Norma Virgen said she was here because she has police fears, has many stories, and next time will bring a lot of people to the meeting.

Christine Provencio (resident) said that residents are concerned about what's going on in their neighborhoods (people have been robbed) and wants to see what we can do to get neighborhood watch groups going.

Maria Mireles (resident) said they were in the process of collecting signatures to protest water rate increases and asked for more time to gather them.

Female speaker (did not state name) said that her son died in Pacoima, meetings should be conducted in a way to focus on the good of what's happening in the City, time is wasting, and we need to look after the future of the kids.

Carolina Perez said that they don't care about City Council's personal lives but it does interfere with the City, and she said that Councilmembers should be familiar with the Brown Act and Roberts Rules of Order.

Julian Ruelas (resident) said that this all started with the police and fire contract issues. It is not politically motivated; it's about citizens being tired of having to watch over City Council's every move. He said it's not right that we have to spend money on a recall that doesn't have to happen if they (Councilmembers) would just do what's right.

Iris Ruelas-Villegas (resident) said she would like Hernández, De La Torre, and Esqueda to resign and save the City time and money. She was very upset that Police Lt. Jeff Eley was placed on administrative leave, and said she appreciated that Police Department members attended her mother's funeral services. She also spoke against the proposed water and sewer rates.

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Paul Luna (resident) said that Councilmembers have shamed themselves, their families, and children, and the only way to repay their families is to step down.

Charlotte Lukezich (resident) spoke against the proposed water and sewer rate increases, said that San Fernando is a beautiful City and it's a shame that all of this is happening.

Samuel Beltran (resident) said he's backing up Acting Police Chief Robert Parks 100% and (directing his comments to Councilmember De La Torre) stated she doesn't have any shame or respect for the people here.

Gustavo Franco (resident) would like to keep the Police Department as it is and said all three (Hernández, De La Torre, and Esqueda) need to go.

Alvaro Castellon (San Fernando Police Sergeant) said that Councilmembers Ballin and Lopez are hypocrites because they both had major roles in bringing back Police Chief Ruelas, and said that he is every family's personal watch dog (not just Mayor Pro Tem Esqueda's).

Benita Rivera (resident) said, speaking on behalf of the seniors, it's not right that water rates keep going up and it's not right that they are paying for City Council's disgraces.

Female speaker (did not state name) said it was shameful that certain Councilmembers do not show respect for the speakers, are cutting them off, and she said that residents will continue fighting to get the three (Councilmembers) out.

Diana Lopez said that she is enraged, people have voted for Councilmembers to be up here, and the leaders have abused and betrayed the trust of their followers.

Gilbert Gomez talked about the swimming pool, said that the City Council does not visit the seniors (only when they need a vote), and said if he were them (Councilmembers) he would resign, and he believes that Robert Parks should be the Police Chief.

Ernie Hernández (business owner) said it's embarrassing that people are throwing stones at each other, let the Police Department handle their own business, and said that he is here to show support for Police Lt. Jeff Eley.

Felipa Gribaldo (resident) said that when Hernández and De La Torre were campaigning, they asked for her support. She has become disillusioned (San Fernando is worse) and she talked about the water rate increases (water, food and rent – everything's going up).

Gil Madrid (resident) said that everyone asks him what's going on in the City and it's embarrassing. He said that water rates are unfair and he asked if the increases will improve the infrastructure and the quality of the water? He wished the City Council better luck in conducting themselves because the world is watching.

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David Hernández (Valley Village) said he has a heavy heart regarding what's going on, this community is worth saving, he is pledging his support, and announced he is running for Congress for the brand new district.

CONSENT CALENDAR

Councilmember Ballin removed Item No. 1 for further discussion.

Motion by Councilmember De La Torre, seconded by Councilmember Lopez, to approve remaining Consent Calendar Items:

- 2) APPROVAL OF WARRANT REGISTER NO 12-021
- 3) FINANCIAL STATEMENTS – NOVEMBER AND DECEMBER 2011
- 4) ANNUAL INVESTMENT POLICY
- 5) RESOLUTION AUTHORIZING CITY TREASURER AND DEPUTY CITY TREASURER TO INVEST SURPLUS FUNDS

Items Removed for Further Discussion:

- 1) APPROVAL OF MINUTES OF JANUARY 17, 2012 – REGULAR MEETING

Councilmember Ballin requested a correction to the minutes regarding noted motions pertaining to relieving Mayor Hernández from his duties as presiding officer of the City Council, and nominating Councilmember Lopez to serve as Mayor.

Motion by Councilmember De La Torre, seconded by Councilmember Ballin, to table the minutes until the City Clerk reviews the audio. By consensus, the motion carried.

NEW BUSINESS

- 6) APPROVAL OF NEW TROLLEY ROUTE

Public Works Director Ron Ruiz presented the staff report and responded to questions from Councilmembers.

Motion by Councilmember De La Torre, seconded by Councilmember Lopez, to approve the new Trolley Route. By consensus, the motion carried.

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7) APPROVAL OF FACILITY USE AND TRANSPORTATION AGREEMENT, INCLUDING FEE DEFERRAL, WITH VALLEY REGIONAL HIGH SCHOOL NO. 5

Recreation and Community Services Operations Manager Ismael Aguila presented the staff report. He and City Atty. Estrada responded to questions from Councilmembers.

Motion by Councilmember De La Torre, seconded by Councilmember Ballin, to approve a Facility Use and Transportation Agreement (the revised version distributed at the meeting which includes changes regarding insurance and termination cause) which would:

- a. Authorize the swim team from Valley Regional High School No. 5 to use the San Fernando Regional Pool Facility for swim practices;
- b. Provide for the City to authorize First Transit to make available a trolley to transport the swim team from Valley Regional High School No. 5 to the San Fernando Regional Pool Facility; and
- c. Defer payment of the fees for use of the San Fernando Regional Pool Facility and allow them to be credited to the City and applied to charges that will be incurred by the City in a pending reciprocal-use agreement.

The motion carried with the following roll call vote:

AYES: Hernández, Esqueda, Ballin, De La Torre, Lopez – 5
NOES: None
ABSENT: None

8) CALIFORNIA SUSTAINABLE COMMUNITIES PLANNING GRANT APPLICATION

City Planner Fred Ramirez presented the staff report and responded to questions from Councilmembers.

Motion by Councilmember De La Torre, seconded by Councilmember Ballin, to adopt a Resolution supporting the City's application to the State of California Strategic Growth Council's Sustainable Communities Planning Grant and Incentive Program for a grant to complete a comprehensive General Plan and Zoning Code update. By consensus, the motion carried.

CONTINUED BUSINESS

9) DISSOLVING STANDING COMMITTEES – PROS/CONS

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City Administrator Hernández presented the staff report.

Discussion ensued and staff responded to questions from Councilmembers.

Motion by Councilmember De La Torre, seconded by Mayor Pro Tem Esqueda, to dissolve the Standing Committees. The motion failed with the following vote:

AYES: De La Torre, Esqueda – 2
NOES: Hernández, Ballin, Lopez – 3
ABSENT: None

Motion by Councilmember Lopez to approve the following:

- a. Staff Liaison to post special meeting agendas 48 hours in advance; and
- b. Remove the current staff liaison (PVTTC Standing Committee) and appoint Public Works Director Ron Ruiz as the liaison.

Councilmember De La Torre requested an amendment to continue conducting Standing Committee meetings as currently scheduled.

Councilmember Lopez accepted the amendment. The motion (and amendment) was seconded by Councilmember Ballin and carried with the following vote:

AYES: Lopez, Ballin, De La Torre, Hernández – 4
NOES: Esqueda – 1
ABSENT: None

PUBLIC HEARING

10) PUBLIC HEARING TO INCREASE WATER RATE

Mayor Hernández announced that this was the time and place for the Public Hearing.

City Clerk Chávez reported that the notice of the hearing was given as required by law.

Public Works Director Ruiz gave the staff report.

Mayor Hernández called for public testimony for interested persons to testify for, or against, the proposed water rate increase.

The following individuals spoke against the proposed water rate increase:

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Kenny Majers
Francine Jorgenson
Martin Cisneros
Paul Luna
Charlotte Lukezich
Julian Ruelas
Female speaker (did not state name)
Patty Lopez
Tom Ross (business owner)
Trini Godoy
Jesse Avila
Gil Madrid
Eusenia Flores
Al Covarrubias
Scott (did not state last name)
Irma Del Rio
Mike Majers
Kevin Beaulieu
Danitza Pantoja
Richard Arroyo

The following individual was neither in favor nor against:

Mike Yamane (business owner) inquired about water rates for businesses and said the City needs to use its selling points to keep (and bring in) businesses.

During the (above) public testimony, Mayor Pro Tem Esqueda left the meeting.

There being no further comments, Mayor Hernández closed the public comment portion of the hearing.

Staff responded to various questions/concerns from residents and Councilmembers.

The City Clerk announced that the City had not received a majority of protests.

Discussion ensued regarding extending the hearing date and scheduling a town hall meeting,

Motion by Councilmember Lopez to continue the Public Hearing to the second meeting in March. In the interim (prior to March 19, 2012), staff to conduct a town hall meeting and send out a new notice informing residents of the new Public Hearing date, the town hall meeting, and include a sample protest ballot in the mailer.

Mayor Hernández re-opened the Public Hearing and announced it was continued to the second meeting in March (i.e., March 19, 2012).

Councilmember De La Torre requested an amendment to approve \$8,000 for the cost of putting together the mailer (i.e., notice regarding new Public Hearing date, ballot, and town hall meeting announcement).

Councilmember Lopez accepted the amendment. The motion (and amendment) was seconded by Councilmember Ballin. By consensus, the motion carried.

11) PUBLIC HEARING TO INCREASE SEWER RATE

Motion by Mayor Hernandez, seconded by Councilmember De La Torre, to continue the item to coincide with the continuance of the proposed water rate increase. By consensus, the motion carried.

CITY COUNCIL ITEMS

12) MOTION TO CENSURE MAYOR HERNÁNDEZ FOR CONDUCT DURING THE MEETING OF NOVEMBER 21, 2011

In response to Councilmember Ballin's question, City Atty. Estrada suggested that (in the absence of the Mayor Pro Tem) the Councilmember with most seniority (Councilmember De La Torre) take over this portion of the meeting.

Councilmember Ballin read from her statement of January 17, 2012, in which she expresses various concerns including Mayor Hernández' comments and actions during the meeting of November 21, 2011. She said that if the City Council does not publicly take a position, they are complicit. She believes that the City Council must take proactive steps to begin the process of healing and restoring the public's confidence in its leadership.

Motion by Councilmember Ballin, seconded by Councilmember Lopez, to censure Mayor Hernández for his conduct during the meeting of November 21, 2011.

Mayor Hernández responded to Councilmember Ballin's comments by stating that:

- He separated from his estranged wife in June 2011 (a press release was issued at that time) and he felt it was important to make this new relationship public because *The Sun* was trying to make it an issue;
- Councilmember Ballin's attempt to censure him is purely personal and her judgment is tainted as a result of infidelities that exist between her and her husband; and
- He talked about the process regarding censuring an elected official and if Councilmember Ballin proceeds, she will be moving to violate his civil rights.

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In response to Councilmember Ballin's question whether the motion to censure Mayor Hernández violates his civil rights; City Atty. Estrada stated that he does not believe that it does.

Motion by Councilmember Ballin, seconded by Councilmember Lopez, to censure Mayor Hernández for his conduct at the meeting of November 21, 2011. The motion failed with the following vote:

AYES: Ballin, Lopez – 2
NOES: Hernández, De La Torre – 2
ABSENT: Esqueda – 1

13) REMOVE COUNCILMEMBER HERNÁNDEZ AS MAYOR AND ELECT COUNCILMEMBER LOPEZ AS MAYOR

Councilmember Ballin read her top five reasons why Mayor Hernández should be removed: 1) in September 2011, he made a motion to bring back Police Lt. Tony Ruelas and promote him to Police Chief (even though the City was in litigation as a result of Ruelas' actions; 2) on November 21, 2011, he publicly disrespected a business owner in the Council Chambers (our business community should trust they are welcome to the meetings without the threat of being publicly disrespected by the Mayor or Councilmembers); 3) Mayor Hernandez was a proponent to bringing into the City a private fire/life safety company (which did not have a proven track record); 4) he did not fulfill his responsibility to complete negotiations with the POA (instead he delegated this responsibility to Councilmember De La Torre); and 5) he brought negative national attention to our City which continues to impact the residents, business owners, City employees, stake holders and prospective business owners.

Motion by Councilmember Ballin, seconded by Councilmember Lopez, to relieve Mayor Hernández from his duties as presiding officer of this Council.

In response to Councilmember Ballin's comments, Mayor Hernández said his vote is only one of five (regarding negotiating with an independent fire company) and he was the only "No" vote on bringing back and promoting Ruelas.

The motion failed with the following vote:

AYES: Ballin, Lopez – 2
NOES: Hernández, De La Torre – 2
ABSENT: Esqueda – 1

In response to Councilmember Ballin's question, City Atty. Estrada stated that Mayor Hernández was allowed to vote on this issue.

14) MOTION TO CENSURE COUNCILMEMBER BALLIN

Mayor Hernández said that his motion to censure Councilmember Ballin was based on two issues.

- First, is the continued negative attention by Councilmember Ballin being drawn to his personal life and insinuating that he is no longer able to continue in his capacity as Mayor. He said that since this was only personal, and for the benefit of special interest groups, he withdraws his claim.
- However, the second issue (of which he will proceed and request an investigation) is that he feels it was inappropriate, and a misuse of public/utility funds, for Councilmember Ballin to host an all expense paid family vacation to Hoover Dam (under the under the guise of a Metropolitan Water District inspection trip). He would like to direct staff to communicate with the Metropolitan Water District to initiate an investigation as to whether public/utility funds were used for this trip. He requested to agendaize this for the next meeting.

No action taken on Item No. 14.

15) TERMINATION OF CITY ADMINISTRATOR’S EMPLOYMENT AGREEMENT

Councilmember Ballin said she would like to postpone this item until all five Councilmembers are present.

STANDING COMMITTEE UPDATES

No. 1 Budget, Personnel and Finance (BPF)

Mayor Hernández – no updates.

No. 2 Housing, Community & Economic Development and Parking (HCEP)

Councilmember De La Torre – no updates.

No. 3 Natural Resources, Infrastructure, Water, Energy and Waste Management (NRIW)

Councilmember Ballin – no updates.

No. 4 Public Safety, Veteran Affairs, Technology and Transportation (PVTT)

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Councilmember Lopez – no updates.

No. 5 Education, Parks, Arts, Health and Aging (EPAH)

Mayor Pro Tem Esqueda (absent) – Recreation and Community Services Operations Manager Aguila reported they discussed concession stand update, the marketing banner campaign (to help offset impact fees for the little leagues), and they talked about the Skate Plaza.

GENERAL COUNCIL COMMENTS

Councilmember De La Torre: 1) she is very disappointed in some members of community (they don't have their facts straight); 2) regarding statements made by the media (her children have hired an attorney); 3) she doesn't appreciate being disrespected at the podium; 4) the recall effort is about Councilmembers that have said "enough is enough"; and 5) she is here to do a job and will continue to work for the residents of this community.

Councilmember Lopez said it's been a long night and he thanked audience members.

Councilmember Ballin stated (in response to Police Sgt. Castellon's comments) that when she first became a Councilmember, Mayor Pro Tem Esqueda invited her to meet with (then) Police Lt. Tony Ruelas at Police Sgt. Castellon's home. She had an open mind, saw this as an opportunity to understand the organization, and believed several Councilmembers who said that he (Ruelas) was what the Police Department wanted. She later realized it was wrong, and she said it was the Mayor who made the motion to bring him (Ruelas) back.

As far as Mayor Hernández' comments about her personal life, Councilmember Ballin said she has nothing to hide and would be happy to share it with anyone outside (not at the dais) if they wanted to hear about it.

Mayor Hernández said that that was Councilmember Ballin's personal version of history. He said that by the time Ruelas' agreement had been negotiated (four Councilmembers had voted to bring him back), he only motioned to execute the agreement that the four (Councilmembers) had already initiated.

Councilmember Ballin said to refer to the minutes of September 19, 2011 that were attached to today's agenda.

STAFF COMMUNICATIONS

None.

RECESS TO CLOSED SESSION (12:12 P.M.)

By consensus, Councilmembers recessed to the following Closed Session, thereafter to adjourn.

- A) PUBLIC EMPLOYEE PERFORMANCE EVALUATION
G.C. 54957

Title: City Administrator

This item was not discussed.

- B) PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE
G.C. 54957

(Two Positions)

This item was not discussed.

- C) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
G.C. 54956.9(a)

Name of Case: Barajas v. City of San Fernando, et al
Case No.: BC 459915

The City Council, by a vote of 3-0 (Esqueda and Ballin were absent), re-approved a proposed settlement of this lawsuit.

I do hereby certify that the foregoing is a true and correct copy of the minutes of February 6, 2012 meeting as approved by the San Fernando City Council.

Elena G. Chávez
City Clerk