

**SAN FERNANDO CITY COUNCIL  
MINUTES**

**FEBRUARY 21, 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 6:16 p.m.

Present:

Council: Mayor Mario F. Hernández, Mayor Pro Tem Brenda Esqueda, Councilmembers Sylvia Ballin, Maribel De La Torre, and Antonio Lopez (arrived at 6:26 p.m. - previously notified staff that he was running late)

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

**PLEDGE OF ALLEGIANCE**

Mayor Hernández

**PRESENTATIONS**

The following presentation was made:

- a) RECOGNITION OF RATTLER SWIM TEAM OLYMPIC QUALIFIERS

**APPROVAL OF AGENDA**

City Administrator Hernández requested to add an item to Closed Session to discuss the consideration of an appointment of a public employee (Police Chief).

City Attorney Estrada explained that adding this item would require a \*four-fifths vote and two findings: 1) the need to act arose after the agenda was posted; and 2) there is a need to act before the next regularly scheduled meeting.

City Administrator Hernández replied to questions from Mayor Pro Tem Esqueda and explained that the Police Department is short-handed.

**SAN FERNANDO CITY COUNCIL**

**MINUTES – February 21, 2012**

**Page 2**

Motion by Mayor Hernández, seconded by Councilmember De La Torre, to add this item to the agenda. The motion \*failed with the following vote:

AYES: Hernández, Esqueda, De La Torre – 3  
NOES: Lopez, Ballin – 2

Motion by Councilmember De La Torre, seconded by Councilmember Ballin, to approve the agenda (no changes). By consensus, the motion carried.

**PUBLIC STATEMENTS – WRITTEN/ORAL**

Mayor Hernández read the Rules of Decorum and Order reminding the public that they must observe the same rules applicable to the City Council.

Renato Lira (resident) said that he has, again, been threatened (called) by Councilmember De La Torre to not show up.

As a point of clarification and for the record, Councilmember De La Torre stated that she has never placed a phone call to Mr. Lira.

Renato Lira (continued) inquired about items on the Warrant Register, asked why the City is spending money for food service and trips, said things are getting worse, and he asked Mayor Hernández to step down.

In response to Mayor Pro Tem Esqueda's request for clarification regarding Mr. Lira's comments, Recreation and Community Services Operations Manager Ismael Aguila reported that the seniors have fundraisers and use their own money for their trips (the City only holds their funds).

Samuel Beltran (resident) said he would not take the commander's job, every time he picks up the local paper it has to do with the Police Department, he talked about incidents where he was shot and someone ran him down, and said that they (Council) were being impeached/fired, not recalled.

Paul Luna (resident) said that the corrected recall petitions have been submitted to the City and they look forward to getting them back as soon as possible so they can begin circulating the petitions for signatures. He thanked everyone in advance for giving this matter its due attention.

Irwin Rosenberg (SFPOA President) said he was dumbfounded to hear that the City Council majority, City Attorney, and City Administrator have identified a candidate to run the Police Department.

Mayor Pro Tem Esqueda said she does not appreciate the constant unfounded accusations (i.e., "Council majority") made toward her.

**SAN FERNANDO CITY COUNCIL**

**MINUTES – February 21, 2012**

**Page 3**

Irwin Rosenberg (continued) said that he is extremely disappointed (this candidate is probably someone that will agree with the Council majority). He has sent a letter to the Attorney General and District Attorney's Office requesting an investigation based on information that three Councilmembers have had meetings behind closed doors and covered windows. He also asked if Decorum Rules apply to Councilmembers?

Doude Wysbeek (resident and former Mayor/Councilmember) said he was born and raised in Europe, was on the San Fernando City Council for 16 years, and believes "Gestapo tactics" are used to run this public meeting. Regarding agenda Item No. 8, he reported that he was on the MWD Board for 10 years and the Inspection Trips are part of the job (City Council should be ashamed of the accusations made against Councilmember Ballin).

David Hernández invited everyone to the Welcome Home Vietnam Veterans Day event on March 31, 2012, at Veterans Park in Sylmar.

Margie Carranza (Sylmar) said she is campaigning for State Assembly but does not want to take on District 39 with a problem city. San Fernando has a drastic problem, is the "talk of the town", and it's very embarrassing.

Julian Ruelas (resident) asked about the progress on the fire/safety issue and whether the City is current on its payments to L.A. Fire Dept. (City Administrator Hernández will contact him tomorrow). As far as Rules of Decorum and Order, he asked that Councilmembers hold up their end of the bargain (no accusations of business owners and residents, and not interrupting during the public's three-minute comment period).

Gilbert Berriozabal said he was here to show support for (former) Police Sgt. Nichole Hanchett. He was disappointed to learn that when she reached out to the City with complaints regarding the way she was treated, she was instead sacrificed as a scapegoat (a cowardly approach to the situation).

Mayor Pro Tem Esqueda responded that the article in the local paper that Mr. Berriozabal referred to has misinformation and she asked City Attorney Estrada what can we do (as a City) to protect ourselves?

City Atty. Estrada responded that he will discuss this with the counsel handling the case as to the extent that clarification can be made public.

Gil Madrid (resident) said he felt offended that Mayor Pro Tem Esqueda left during the last Council meeting, thinks the YouTube video (regarding the police officer giving out a citation) was a set up, and suggested that the next presentation (on the proposed water and sewer charge increases) include a pie chart showing where all the dollars go.

**CONSENT CALENDAR**

Motion by Councilmember De La Torre, seconded by Councilmember Ballin, to approve the Consent Calendar Items:

- 1) APPROVAL OF MINUTES OF:
  - a) JANUARY 17, 2012 – REGULAR MEETING
  - b) FEBRUARY 6, 2012 – REGULAR MEETING
- 2) APPROVAL OF WARRANT REGISTER NO 12-022
- 3) APPROVAL OF USED CAR DEALERSHIP PERMIT: iDRIVEX AUTO LLC (610 ILEX STREET)

By consensus, the motion carried.

**NEW BUSINESS**

- 4) RESOLUTIONS AUTHORIZING ACQUISITION OF SUPPLEMENTAL COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FROM THE CITIES OF AVALON AND EL SEGUNDO

City Planner Fred Ramirez presented the staff report.

Motion by Councilmember De La Torre, seconded by Councilmember Ballin, to:

- a. Adopt a Resolution authorizing the appropriation of \$79,279.75 from the General Fund to acquire an additional \$112,375 in unexpended CDBG funds at a discounted rate from the City of Avalon (\$50,650) and the City of El Segundo (\$61,725); and
- b. Adopt Resolutions authorizing the City Administrator to execute agreements for the City of San Fernando to acquire supplemental CDBG funding allocations from the City of Avalon and the City of El Segundo, respectively at discount rates, using resources from the General Fund.

By consensus, the motion carried.

- 5) SOLID WASTE CONSULTING SERVICES

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

**SAN FERNANDO CITY COUNCIL**

**MINUTES – February 21, 2012**

**Page 5**

Motion by Councilmember De La Torre, seconded by Councilmember Ballin, to:

- a. Direct staff to prepare a Request For Proposals (RFP) for consulting services to assist staff in the procurement of solid waste and recyclables collection services;
- b. Direct staff to work with the City Attorney to develop an agreement to extend the current contract with Crown Disposal to provide solid waste and recyclables collection services for a period not greater than four months beyond the current agreement termination date of October 30, 2012;
- c. Authorize the City Administrator to execute the agreement; and
- d. Appoint Mayor Hernández and Mayor Pro Tem Esqueda to an Ad Hoc to assist staff with the process.

By consensus, the motion carried.

6) LAS PALMAS PARK OUTDOOR FITNESS AREA

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

Motion by Councilmember De La Torre, seconded by Councilmember Ballin, to:

- a. Authorize the City Administrator to execute the Right of Entry Permit, License and Agreement between the City and Trust of Public Land (TPL) for purchase of exercise equipment; and
- b. Adopt a Resolution approving an allocation of Quimby Funds for construction of the Las Palmas Park Outdoor Fitness Area in an amount not to exceed \$6,838.

By consensus, the motion carried.

**CITY COUNCIL ITEMS**

7) TERMINATION OF CITY ADMINISTRATOR'S EMPLOYMENT AGREEMENT

Councilmember Ballin announced that this item will be discussed in Closed Session.

8) DIRECT STAFF TO COORDINATE INVESTIGATION WITH METROPOLITAN WATER DISTRICT (MWD) REGARDING POTENTIAL MISUSE OF PUBLIC/UTILITY FUNDS REGARDING RECENT MWD WATER INSPECTION TOUR BY COUNCILMEMBER SYLVIA BALLIN

**SAN FERNANDO CITY COUNCIL**

**MINUTES – February 21, 2012**

**Page 6**

Mayor Hernández said that he placed this item on the agenda in light of the water rate increase discussions, the City being a client of MWD, and the perception of misappropriation of funds.

Motion by Mayor Hernández, seconded by Councilmember De La Torre, to direct staff to refer and request an investigation from the Metropolitan Water District.

Councilmember Ballin said she will defer making detailed comments (pending further information regarding the Mayor's request) and submitted (for the record) a letter from MWD General Manager Jeffrey Kightlinger which provides clarification regarding the Inspection Trip Program.

She recommends that City Atty. Estrada be the City's lead in contacting MWD and that he contact MWD's Chairman of the Board John Foley; General Manager Jeffrey Kightlinger; and Interim General Counsel Marcia Scully.

She said an interesting assumption has been made (in malice) which could have been handled with a phone call instead of a public accusation.

Councilmember De La Torre said that based on allegations made by the Mayor (i.e., more than a majority of those attending the Inspection Trip were family members), she agreed it is a misuse of water rate payers dollars and the trip could have been better utilized by inviting other members of the City and business community.

Councilmember Lopez said he was invited (as well as other Councilmembers) but unfortunately he canceled at the last minute, and if someone else took his place, then that was appropriate.

The (above) motion failed with the following vote:

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

**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.

**SAN FERNANDO CITY COUNCIL**

**MINUTES – February 21, 2012**

**Page 7**

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

Councilmember Ballin – Public Works Director Ruiz gave an update on the upcoming Town Hall meeting (regarding the proposed water and sewer rate increases) scheduled for March 12, 2012, at 6:00 p.m.

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

Councilmember Lopez – Public Works Director Ruiz reported that an item scheduled for the next City Council meeting will be regarding bus shelter designs and staff will be looking for direction regarding request for proposals for a group to assist with advertising/marketing opportunities.

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

Mayor Pro Tem Esqueda – Recreation and Community Services Operations Manager Aguila will be scheduling a meeting soon to move forward with the Skate Plaza item and (possibly) concession stands.

**GENERAL COUNCIL COMMENTS**

Councilmember De La Torre asked that the Police Department take a police incident report from Renato Lira regarding the accusations he made earlier (if he's going to make public accusations/lies, then she would like that he make a police report).

She said that several years ago, someone from DCFS brought to her attention that he was accused of alleged sexual abuse of a child. She said that she wants people to understand that she is being threatened by someone who the Police Department has dealt with on numerous occasions.

Councilmember Ballin interjected by stating that we cannot be attacking our residents.

City Atty. Estrada said that, although he appreciates that Councilmember De La Torre refutes and denies allegations against her, he strongly discouraged her from making (or repeating) allegations regarding anyone.

Councilmember De La Torre added: 1) that The Sun printed a lie about one of her sons who has hired an attorney; 2) reported that she has talked to the FBI (there are a lot of issues that are being addressed); and 3) the issue regarding Nichole Hanchett is a personnel matter and if someone is terminated by the City, it's for cause (not based on any type of discrimination).

Councilmember Lopez apologized to the Rattler Swim Team that he arrived late and (in response to his question) Mayor Pro Tem Esqueda reported that she would be attending the Closed Session.

**SAN FERNANDO CITY COUNCIL**

**MINUTES – February 21, 2012**

**Page 8**

Councilmember Ballin asked what is the status regarding the City's grants and request for proposals? She inquired whether we have we received all grant monies, and said that we need timelines before these fall through the cracks (suggested perhaps including this information in the City Administrator's Monthly Report).

Mayor Pro Tem Esqueda: 1) said she wears her heart on her sleeve; 2) votes for what's best for the community; 3) talked about the last recall (things that happened in the first recall that weren't right, are happening in this recall); 4) has gotten calls from employees saying that Gilbert Berriozabal is asking them to find out things that are wrong with the City on behalf of him and Councilmember Lopez (although she does not believe Councilmember Lopez is involved); and 5) said that staff should not be involved with the recall and they need to do their job.

Mayor Hernández said he would like to call for a special meeting (either Thursday or Friday) to discuss the appointment of an interim candidate for the Police Department.

In response to Mayor Pro Tem Esqueda's question regarding holding a Town Hall meeting (to allow the community to ask questions of Councilmembers), City Atty. Estrada said that the City Council can schedule a meeting any time.

Regarding Mayor Pro Tem Esqueda's comment, Councilmember Lopez clarified that he has nothing to do with Gilbert Berriozabal or the recall and has not directed anyone to acquire information.

**STAFF COMMUNICATIONS**

City Administrator Hernández reported that the upcoming Town Hall meeting (regarding the proposed water and sewer rate increases) will be an informational meeting conducted by staff.

Mayor Pro Tem Esqueda said she would like to attend (as a resident, she is concerned about the potential increases).

City Atty. Estrada said, as he understands it, it will be an informational meeting where residents can get their questions answered (results will be reported to the City Council).

City Administrator Hernández requested that the City Council form an Ad Hoc to review the City Attorney RFPs.

**RECESS TO CLOSED SESSION (8:00 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



**SAN FERNANDO CITY COUNCIL**

**MINUTES – February 21, 2012**

**Page 9**

No reportable action. No motions.

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

(Two Positions)

Motion by Councilmember Ballin, seconded by Councilmember Lopez, to return Police Lt. Jeff Eley to active duty from administrative leave. The motion failed with the following vote:

AYES: Ballin, Lopez – 2  
NOES: Hernandez, De La Torre, Esqueda – 3

Motion by Councilmember Ballin, seconded by Councilmember Lopez, to terminate contract with Al Hernandez as City Administrator. The motion failed with the following vote:

AYES: Ballin, Lopez – 2  
NOES: Hernandez, De La Torre, Esqueda – 3

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

Name of Case: Armando Patino v. City of San Fernando  
WCAB Case No.: VNO 0534961  
Claim No.: 20060004SFE

No discussion (matter put over until a future meeting).

*I do hereby certify that the foregoing is a true and correct copy of the minutes of February 21, 2012 meeting as approved by the San Fernando City Council.*

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*Elena G. Chávez  
City Clerk*