

## SPECIAL MEETING MINUTES

### The City Council/Successor Agency of the City of Firebaugh Vol. No. 14/02-26

**Location of Meeting:** Firebaugh Police Department, Training Room

1575 11<sup>th</sup> Street, Firebaugh, CA 93622

**Date/Time:** February 26, 2014/ 6:30 p.m.

**CALL TO ORDER** Meeting called to order by Mayor Pro Tem Chris DeFrancesco at 6:30 p.m.

**ROLL CALL**

**PRESENT:** Mayor Chris DeFrancesco  
Mayor Pro Tem Craig Knight  
Council Member Brady Jenkins  
Council Member Freddy Valdez  
Council Member Marcia Sablan

**ABSENT:**

**OTHERS:** City Attorney Laurie Avedisian; City Manager, Kenneth McDonald; Police Chief Elsa Lopez; Public Works Director, Ben Gallegos; Deputy City Clerk, Rita Lozano; City Engineer, Mario Gouveia; Eric Fortes, Gilbert Coelho, Sadie Navarro and John Baltierra.

**PLEDGE OF ALLEGIANCE:** Council Member Knight led pledge of Allegiance.

#### NEW BUSINESS

1. **THE CITY COUNCIL OF THE CITY OF FIREBAUGH TO CONSIDER TOMATEK'S REQUEST ON WAIVER/ADJUSTMENT OF IMPACT FEES FOR CONDITIONAL USE PERMIT – CUP 2013-01.**

Development impact fees for this project were calculated by City Staff based on the City's impact study of 2004, as follows: Storm Drain Fee - \$48,620.00, Traffic Fee - \$30,129.00, Public Safety Fee - \$6,875.00, Parks and Recreation Fee - \$79,200.00; Total Development Impact Fees = \$164,824.00.

After further research and discussion, staff recommends the following actions: Storm Drain Fee - reducing the fee to 25% of the calculated amount from \$48,620.00 to \$12,155, Traffic Fee – no waiver of fees, Public Safety Fee - no waiver of fees, Parks and Recreation Fee – reduction of 50% to the amount from \$79,200.00 to \$39,600; FISCAL IMPACT a reduction or waiving of development impact fees calculated at the total of \$164,824.00 to \$88,759.00 (reduction of \$76,065.00).

*City Attorney Avedisian provided an overview of the processing stating the City had an impact fees study done in 2004 that creates a presumption that there are different types of impacts from different types of developments; the time to challenge the study has long time passed, so there is that presumption that there are impacts. TomaTek has taken an advantage a provision in the resolution, implanting fees which allows a developer to appeal fees to Council by demonstrating and showing that there is no responsibly relationship between the fee being charged because there will be no impact. That is what TomaTek is attempting to do by their letter and presentation, so Council now will make that determination if there is an impact actually an impact or some reason to waive some or all the fees. In terms of the recommend waiver of fees proposed there is no legal problem with approving staff recommendation but City will need to have a clear record of the action taken for any potential litigation. This is Council's opportunity to determine if there an impacts because the fees cannot be charged at a later time, impact fees can only be charged prior to the development, which the study provides the rate for the presumption of impacts.*

With regard to the Storm Drain Fee, Public Works Director Gallegos stated the City maintains the gravesite landscaping in front of TomaTek which is financial supported by the Parks & Recreation Funding and TomaTek's storm drain basin from their site is set up to discharge runoff to the City's industrial wastewater treatment plant under heavier rainfall conditions. Therefore, staff and Council find that TomaTek's statement is incorrect in terms of claiming they maintain a 100% of on-site retention. A reduction of 75% is justified.

Council, based on recommendations and testimony from staff, determined that construction of the new warehouse is likely to result in increased traffic to and from the warehouse, including trucks which would need to pick up finished product. If new employees are hired, that would also increase traffic. Therefore, this fee was not reduced.

TomaTek representative Eric Fortes stated that TomaTek does not dispute the Public Safety Fee.

Council, based on recommendations and testimony from staff, determined that construction of the new warehouse is likely to result in an increased need for parks. Although TomaTek claims that it has no immediate plans to hire new employees, the construction of the warehouse creates increased capacity to hire employees in the future. There is no mechanism in place to allow the City to collect impact fees if new employees are hired in the future. Since Council must make the determination whether there are impacts now, Council believes it is reasonable to grant a partial waiver of the impact fees, but not a full waiver.

***Motion to accept all the fees as presented in the staff research/report by Council Member Valdez, seconded by Council Member Knight; motion passes by 4-1 vote; DeFrancesco – no.***

***ADJOURNMENT - Motion to adjourn meeting by Council Member Knight, seconded by Council Member Jenkins; motion passes by 5-0 vote, meeting adjourned at 7:30 p.m.***