

City of Patterson  
City Council Special Meeting  
December 1, 2015  
(Closed Session)  
Minutes

**1. Call to Order**

The special meeting of the City Council of the City of Patterson was called to order in City Hall, City Council Chambers, 1 Plaza, Patterson at 6:04 p.m. by Mayor Molina.

Present: Councilmembers Farinha, Novelli, McCord, Lustgarten and Mayor Molina (5)

Staff Present: City Manager Irwin, City Attorney Hallinan and Interim Human Resources Manager Smith (3)

At this time, Mayor Molina announced the items to be discussed in Closed Session and opened the items to public comments.

The City Council will adjourn to Closed Session to address the following:

- a. Conference with Labor Negotiator per Government Code Section 54957.6.  
Agency Negotiator: Ken Irwin, City Manager. Employee Organization: Patterson Management, Mid-Management Employee Association.
- b. Conference with Labor Negotiator per Government Code Section 54957.6.  
Agency Negotiator: Ken Irwin, City Manager. Employee Organization: International Association of Fire Fighters, Local 4577 Patterson Firefighters Association
- c. Public Employment – City Manager Performance Evaluation (Pursuant to Government Code Section 54957)
- d. Conference with Legal Counsel, Existing Litigation Pursuant to Subdivision (d) of Paragraph (1) of California Government Code Section 54956.9. Name of Case: City of Patterson v. Sheree Lustgarten, Case No. 2015853.

Councilmember Lustgarten addressed the following:

- Court okayed for Councilmember Lustgarten to contact City Manager Irwin and have conversation through phone and email.
- Report on funds spent on the entire investigation, received report from Liebert Cassidy Whitmore, needs report from City Attorneys.
- Her door card access key does not work, she cannot enter City Hall. City Manager Irwin explained the sign-in log internal procedure for safety purposes to be used by people in order to enter back offices in City Hall.

**2. Statements of Conflict – none.**

**3. Items from the Public – none.**

**4. Adjourn to Closed Session**

(Councilmember Lustgarten was not in Closed Session for Item No. 1. d.)

At 6:08 p.m. the Patterson City Council adjourned to Closed Session.

**5. Report from Closed Session (if any)**

Mayor Molina reported that City Council provided direction to staff in regards to Closed Session Item No. 1. a. b. and c.

In regards to Item No 1. d. Mayor Molina reported that City Council has confirmed reopening a restraining order, request leave to sue from Attorney General to seek to remove Councilmember Lustgarten from office.

**6. Adjournment**

There being no further business, the special meeting (Closed Session) of the City Council of the City of Patterson of December 1, 2015 was adjourned at 7:03 p.m.

Approved by the Patterson City Council on February 2, 2016.

City of Patterson  
City Council Regular Meeting  
December 1, 2015  
Minutes

**1. Call to Order**

The regular meeting of the City Council of the City of Patterson was called to order in City Hall, City Council Chambers, 1 Plaza, Patterson at 7:05 p.m. by Mayor Molina.

Present: Councilmembers Farinha, Novelli, McCord, Lustgarten and Mayor Molina (5)

Staff: City Manager Irwin, City Attorney Hallinan, Interim Finance Director Burke, Public Works Director Willett, City Planner Andrews, Interim Fire Chief Breasher, Recreation & Community Services Director Flanders, Deputy Public Works Director Andrade, Public Works Analyst Encinas and Basalusalu, City Planner Andrews, City Engineer Ulloa, Police Sgt. Josh Clayton and City Clerk Vela (14)

Excused: Police Chief Dirkse (1)

**2. Pledge of Allegiance**

**3. Statements of Conflict – none.**

**4. Items from the Public**

David Keller, Patterson – addressed the City Council about the Villages of Patterson Project meetings, would like to attend meetings because he is a land owner in the project. Mr. Keller addressed the City Council turning in a list of street lights out in Patterson.

Eric Bendix, Patterson – addressed the City Council congratulating the CERT class. Mr. Bendix requested for the CERT graduate members to pass a Department of Justice (DOJ) background test, similar to what City Commissions/Board members are required to pass every two years. Mr. Bendix addressed the item of School Board members and City Councilmembers not being required to pass a (DOJ) test. Mr. Bendix recommended that City Councilmembers and School Board Members have a DOJ background done immediately like all City employees.

Mike Anderson, Patterson – addressed the City Council asking questions on sewer rates, farmers market in Patterson, Department of Justice (DOJ) background test, American Legion organization – sending letters to their loved ones, care packages, hard time for our service men/women in the holidays.

Sandra McDowell, Patterson – addressed the City Council on the items of veterans, military, CERT graduates, congratulating the City of Patterson for reducing water use by

44 percent, best in the State. Mrs. McDowell addressed the City Council speaking about the awful campaign against Councilmember Lustgarten. Mrs. McDowell addressed the City Council on the item of information being distorted. Mrs. McDowell addressed the City Council/Public – stating the public needs to look at information and ask questions.

## **5. Consent Calendar**

**All items are approved by a single action. Any item may be removed from the Consent Calendar for separate discussion upon request from a member of the Public, Staff and/or Councilmember.**

- 5.1 Motion to Waive Readings - All Readings of Ordinances and Resolutions, Except by Title are hereby waived.
- 5.2 Approve City Council Meeting Minutes of October 6, 2015, October 15, 2015 and October 20, 2015 (Closed & Open Session) and November 3, 2015 (Closed & Open Session)

Councilmember Lustgarten addressed the approval of the minutes of October 15, 2015 stating they needed to reflect the vote being a 4-1 vote not 4-0 vote, with Councilmember Lustgarten voting no. City Clerk Vela to correct the minutes as stated.

Councilmember Lustgarten addressed the minutes of November 3, 2016 under Council Items, Item No. 8.1. The vote being 4-1 vote with Councilmember Lustgarten voting no. City Clerk Vela to correct the minutes as stated, striking out the word unanimously.

- 5.3 Approve City Department Reports for the Month of October 2015 (Community Development, Fire, Public Works and Recreation & Community Services)
- 5.4 Approve City Committee and Commission Reports for the Month of October 2015 (Beautification Committee, Parks & Recreation Commission and Planning Commission).
- 5.5 Approve Resolution No. 2015-66, Accepting the Project XX (Restoration Hardware) as Complete, Authorizing Staff to File the Notice of Completion and Commence the Warranty Period.

Mayor Pro Tem Farinha moved to approve Consent Calendar items 5.1 through 5.5. The motion was seconded by Councilmember Lustgarten and unanimously approved by a 5-0 roll call vote.

## **6. Scheduled Presentations and Public Hearings**

**6.1 Presentation:** Westside Regional Community Emergency Response Team (CERT) 2015 Charter Class Graduation – Swearing In of (19) Disaster Service Workers:

- Jennifer Ambrosino
- Brian Becker
- Alfred Edgmon

- George Gabriel
- Richard Heckathorn
- Gabriela Hernandez
- Joseph Hernandez
- Juan Hernandez
- Jessica Janto-Trethewey
- Andrew King
- Cynthia Mattingly
- Robin McManus
- Hugo Rayo
- Adriana Rodriguez
- Jose Rodriguez
- Lori Striker
- Dale Vanderbilt
- Lucio Venegas
- Sandra Dougherty

Interim Fire Chief Breasher reviewed his report – power point presentation.  
 Patterson Fire Prevention Specialist Carrie Silveira addressed the history of CERT.  
 Patterson Fire Captain Mike Ambrosino addressed the CERT group exams.  
 City Clerk Vela administered the Oath of Allegiance/Acknowledgement to the 19  
 Disaster Service Workers.

**6.2 Presentation:** Informational Presentation on the Draft Wastewater Master Plan.

City Manager Irwin reviewed his staff report.

Jennifer Bratt with BlackWater Consulting Engineers, Inc. reviewed her report – power point presentation regarding the Wastewater Quality Control Facility.

Justin Peterson with NV5 reviewed his report – power point presentation.

The City Council addressed the following:

Population Trigger point based on capacity.

KDN Development Agreement

Arambel Development Agreement

Villages Development Agreement

General Plan

Live Work mixed uses

Commercial mixed uses

Storm drainage areas by Creekside Schools very high traffic areas - pedestrian and vehicles

Level or intensity of storms

Wastewater Collection System Model, buildout scenario.

At 8:38 p.m. Mayor Molina opened the item to public comments.

Mike Anderson, Patterson – addressed the City Council asking questions about Diablo Grande pushing for a better sewer system. Mr. Anderson addressed the Diablo Grande

lawsuit. Mr. Anderson addressed the City's population, suggesting for Council to come back with more maps, more studies of Patterson.

Tony Porcella, Patterson – addressed the City Council about Patterson not meeting the ten year commitment as is.

Keith Calloway, Patterson – addressed the City Council on the item of water usage because of the water rationing. Asking if sewer was down because of water rationing. Mr. Calloway suggested Kellogs fertilizer as used by Lowes, Home Depot. Mr. Calloway suggested ways of making revenue. Mr. Calloway suggested the use of a plant used in Carson – set up a plan at the wastewater treatment plant to make fertilizer using sewage and converting it to fertilizer. Mr. Calloway suggested for the City to watch Netflix, a program that the City of Newport Beach uses to recycle their wastewater. Mr. Calloway suggested the City to set up a program of selling non-potable water to the public to water their lawns.

Jennifer Bratt with Blackwater Consulting Engineering, Inc. stated that Tertiary Treatment was being considered in the plan as stated by Mr. Calloway.

At 8:51 p.m. there being no further business, Mayor Molina closed the item from further public comments.

**6.3 Public Hearing:** Open & Close the Public Hearing for Adopting the Sewer Rates and Approve Resolution No. 2015-67, a Resolution of the City Council of the City of Patterson, California, Declaring the Results of a Noticed Protest Proceeding and Approving Certain Actions for Rates, Fees and Charges for Wastewater (Sewer) Service(s) in Accordance with the City's Ordinance No. 609 and the City of Patterson Municipal Code Title 13 Utilities, Chapter 13.02 Sanitary Code.

Public Works Director Willett reviewed his staff report.

Catherine Tseng, Senior Financial Analyst & Vice President, Bartle Wells Associates reviewed her report – power point presentation.

The City Council addressed the following:

- 5% v. 6% calculations.
- Commercial and residential increase – amount perceived or allowable (buffer zone)
- review rates each year.
- What can be done for seniors – per Prop. 218 – discounts for low income not age based. City would have to supplement loss of revenue from general fund reserves. Prop. 218 voted by the citizens of the State of California in 1998. Impacts of the discount for low income citizens. Use City's garbage low income discount program for comparison.
- Use most conservative rates. Comfortable with the 6% rate increase.
- City can still qualify for SRF Loan if City has a low income discount if city can show source of funds for loss of revenue.
- Current deficiencies, Phase III of project, Arambel Development Agreement collection of funds. Restoration Hardware development.

- Sewer rate charges. Citizens paying Mello Roos – pay for infrastructure not maintenance.

City Manager Irwin and Interim Finance Director Burke addressed Councilmember Lustgarten's questions/concerns.

At 9:39 p.m. Mayor Molina opened the item to Public Hearing to public comments.

Juanita Klien, Patterson – addressed the City Council about spending \$100 for roaches coming out of the sewer in her home. Ms. Klein addressed the City Council speaking against sewer rate increases.

Levit Alexander, Patterson – addressed the City Council stating her concerns about raising rates. Ms. Alexander addressed the City Council speaking against sewer rate increases.

Keith Calloway, Patterson – addressed the City Council speaking on the proposed sewer rates, Mello Roos, Capital Improvement Projects funding; ratepayers v. growth. Mr. Calloway addressed the City Council speaking against sewer rate increases.

Tony Porcella, Patterson – addressed the City Council asking questions about the City's \$2 million in deficiencies.

The City Council addressed the following:

- bring back a proposal for discounted rates for those that qualify for low income.
- \$2 million replace of existing capacity. Capital Improvement Projects Funding; ratepayers v. growth.
- low income reduced rate discount – city staff to review and report back.
- put in 3% rate increase in December and bring back the rest in July 2016. City staff to review projections, review applications process (TID qualification model used for City garbage rate discount). Staff to bring analysis back for consideration. Bring back the 6% needed or 3% or something else in July (at budget time)

At 10:24 p.m. there being no further public comments, Mayor Molina closed the Public Hearing.

At this time, City Clerk Vela announced that 65 protests out of 6,300 were received, therefore tonight's Results of the Noticed Protest Hearing Proceedings are in favor of the sewer rate increase.

Mayor Pro Tem Farinha moved to provide a discount program, bring those numbers forward by staff at the next meeting or the one thereafter, with that said, Mayor Pro Tem Farinha motioned to approve Resolution No. 2015-67. The motion was seconded by Councilmember McCord and approved by a 4-1 vote. Councilmember Lustgarten voted no.

## **7. City Staff Reports**

## **7.1 Public Works Department**

- a. Approve the City's Sewer System Management Plan (SSMP) Internal Audit.
- b. Receive Water Conservation Update Report and Consider Seasonal Revision to Outdoor Water Use Schedule.

The City Council was in consensus to postponed these items to the next City Council meeting of December 15, 2015.

## **7.2 City Manager**

Consider Cancelling the Tuesday, January 5, 2016 Regular City Council Meeting Due to the Holidays and Scheduling Conflicts (Verbal Report)

The City Council was in consensus as stated.

## **8. Council Items**

### **8.1 City Council Reports**

Mayor Molina:

- StanCOG (Councilmember McCord Alternate) – meeting Dec. 16<sup>th</sup> will discuss the ½ cent sales tax, county wide initiative for Nov. 2016 Election.
- Stanislaus County Mayors Dinner – nothing to report.
- Patterson/West Stanislaus Fire Services Committee – nothing to report. (Councilmember Farinha 1<sup>st</sup> Alternate, Councilmember Novelli 2<sup>nd</sup> Alternate)
- Stanislaus County Disaster Council (Councilmember McCord Alternate) – nothing to report.

Mayor Pro Tem Farinha – nothing to report on items.

- San Joaquin Air Pollution Control District – Valley-wide Special City Selection Committee (Councilmember Novelli Alternate)
- Stanislaus County Hazardous Waste Advisory Committee (Councilmember McCord Alternate)

Councilmember Novelli – nothing to report on items.

- Patterson Representative – League of California Cities (LOCC)
- Stanislaus County Economic Development & Workforce “Alliance” (Councilmember Novelli Alternate)
- Economic Development Action Committee (EDAC) (Councilmember Novelli Alternate)

Councilmember Lustgarten – nothing to report.

Councilmember McCord – noting to report.

- Westside Health Care Task Force

### **8.2 Other Matters**



Mayor Pro Tem Farinha addressed the item of picking up a lot of trash as he walks around town. Mayor Pro Tem Farinha encouraged people to take the lead and pick up trash, but not pick up dangerous trash.

Councilmember Lustgarten addressed the item of a City Sunshine Ordinance. Councilmember Lustgarten requested for staff to bring back the Ordinance for review/approval. City staff to review/report back.

Councilmember Lustgarten addressed her requests for information regarding receivables, etc. Councilmember Lustgarten to email City Manager Irwin her list of requested items.

Councilmember Lustgarten addressed Closed Session Item d. Conference with Legal Counsel, Existing Litigation Pursuant to Subdivision (d) of Paragraph (1) of California Government Code Section 54956.9. Name of Case: City of Patterson v. Sheree Lustgarten, Case No. 2015853. Councilmember Lustgarten stated that since the City Council had taken this route, she was requesting the opportunity to have a vote on legal counsel since the City was going after her as a councilmember not as a volunteer.

Councilmember Novelli addressed the thanksgiving holiday, hoping everyone had a wonderful thanksgiving with friends and family. Councilmember Novelli wished everyone a wonderful holiday season, be safe, spread kindness. Councilmember Novelli addressed the Patterson-Westley Chamber of Commerce Santa Claus is coming to Town, Saturday, December 5, 2015 in Downtown Patterson.

Mayor Molina addressed the Chamber of Commerce Tree Lighting Ceremony and City Council Christmas Tree.

## **9. Adjournment**

There being no further business, the regular meeting of the City Council of the City of Patterson of December 1, 2015 was adjourned at 10:34 p.m.

Approved by the Patterson City Council on February 2, 2016.