

**CERES CITY COUNCIL
REGULAR MEETING MINUTES
March 12, 2007**

The regular meeting was called to order at 7:00 p.m. by Mayor Cannella with the following in attendance.

PRESENT: Council Members Lane, Phipps, Ochoa, Vierra and Mayor Cannella.

INVOCATION was given by Pastor Claudio Kelly, First Methodist Church.

PLEDGE OF ALLEGIANCE was led by Mayor Cannella.

APPROVAL OF THE MINUTES of the regular meeting of February 26, 2007.

MOTION: Approve the minutes of the regular meeting of February 26, 2007 as recommended by staff.

MOVED: Moved by Phipps/seconded by Lane

VOTE: Motion passed unanimously. **(5/0)**

CITIZEN COMMUNICATION

Leonard Sheppard, 2841 Fowler Road, commended Council and staff on the progress of Fire Station 4.

APPROVAL OF THE AGENDA AS POSTED OR AMENDED AND CERTIFICATION OF POSTING

MOTION: Approve the agenda as posted or amended and certification of posting.

MOVED: Moved by Lane/seconded by Vierra

VOTE: Motion passed unanimously. **(5/0)**

CONFLICT OF INTEREST DECLARATION – Mayor Cannella declared a conflict with Item 5, stating that his firm did work on the Westpointe No. 4 Subdivision. Vice Mayor Phipps declared a conflict with Items 3, 4 and 9 citing proximity to his personal residence.

CONSENT CALENDAR – M/S Lane/Phipps to approve 1 & 2, 6, 10 – 12 & 14. Vote 5/0.

1. General Correspondence – **Information Only.**
 - a. Human Resources monthly report for January & February 2007.
 - b. 2006/07 Truck Purchase.
2. Register of Audited Demands for the period covering February 23 - March 2, 2007.
3. **Resolution No. 2007-48** accepting the River Bluff Regional Park – Phase 2 CRBRP Project as complete, approving the Balancing Contract Change Order and authorizing the filing of the Notice of Completion. ***Pulled for Conflict of Interest.***
4. **Resolution No. 2007-49** accepting the River Bluff Regional Park – Phase 2A Project as complete, approving the Balancing Contract Change Order and authorizing the filing of the Notice of Completion. ***Pulled for Conflict of Interest.***

5. **Resolution No. 2007-50** accepting the Westpointe No. 4 Subdivision as complete, accepting the dedications and authorizing the filing of Notice of Completion. ***Pulled for Conflict of Interest.***
6. **Resolution No. 2007-51** authorizing renewal of website maintenance agreement with Alpha Internet Systems, Inc.
7. **Resolution No. 2007-52** approving installation of manual gates at Smyrna Park and amending the FY 2006-07 Budget to appropriate funds. ***Pulled for further discussion.***
8. **Resolution No. 2007-53** approving Park Safety Enhancements and amending the FY 2006/07 Budget to appropriate funds. ***Pulled for Conflict of Interest.***
9. **Resolution No. 2007-54** denying the appeal filed by Innovative Structures thereby affirming the Planning Commission decision to deny Conditional Use Permit Amendment 04-36, a proposal to modify elevation treatment for buildings within a previously approved business center located in the 1300 block of Mitchell Road. ***Pulled for Conflict of Interest.***
10. **Resolution No. 2007-55** approving contract Change Order No. 5 for the Blaker Reservoir Project to install the foundation for the Blaker Well Treatment System and authorize the City Manager to sign said Change Order.
11. **Resolution No. 2007-56** establishing classification, description and compensation range for the position of Operations and Maintenance Director.
12. **Resolution No. 2007-57** upgrading compensation ranges for positions falling below new State minimum wage laws.
13. Authorization for Mayor Anthony Cannella and Council Member Ken Lane to renew discussions with ELS regarding long term leases. ***Pulled for further discussion.***
14. **Resolution No. 2007-58** deleting two Part-Time Maintenance Worker positions and replacing with a Full-Time Maintenance Worker Position in the Streets Division and approving an amendment to the FY 2006-07 Budget to appropriate funds.

ITEMS PULLED FROM CONSENT CALENDAR

3. **Resolution No. 2007-48** accepting the River Bluff Regional Park – Phase 2 CRBRP Project as complete, approving the Balancing Contract Change Order and authorizing the filing of the Notice of Completion.

MOTION: Approve **Resolution No. 2007-48** accepting the River Bluff Regional Park – Phase 2 CRBRP Project as complete, approving the Balancing Contract Change Order and authorizing the filing of the Notice of Completion.

MOVED: Moved by Lane/seconded by Ochoa

VOTE: Motion passed with Vice Mayor Phipps abstaining. **(4/0/1)**

4. **Resolution No. 2007-49** accepting the River Bluff Regional Park – Phase 2A Project as complete, approving the Balancing Contract Change Order and authorizing the filing of the Notice of Completion.

MOTION: Approve **Resolution No. 2007-49** accepting the River Bluff Regional Park – Phase 2A Project as complete, approving the Balancing Contract Change Order and authorizing the filing of the Notice of Completion.

MOVED: Moved by Lane/seconded by Ochoa

VOTE: Motion passed with Vice Mayor Phipps abstaining. **(4/0/1)**

5. **Resolution No. 2007-50** accepting the Westpointe No. 4 Subdivision as complete, accepting the dedications and authorizing the filing of Notice of Completion.

MOTION: Approve **Resolution No. 2007-50** accepting the Westpointe No. 4 Subdivision as complete, accepting the dedications and authorizing the filing of Notice of Completion.

MOVED: Moved by Lane/seconded by Vierra

VOTE: Motion passed with Mayor Cannella abstaining. **(4/0/1)**

7. **Resolution No. 2007-52** approving installation of manual gates at Smyrna Park and amending the FY 2006-07 Budget to appropriate funds.

Councilmember Vierra asked staff if CYB and other entities that are utilizing the park were notified that the gates were being installed and the hours of operation?

Doug Lemcke, Parks, Recreation and Facilities Director, confirmed that CYB has been contacted.

Councilmember Vierra asked for clarification between the gate referred to in Item 7 and the Gate referred to in Item 8.

Mr. Lemcke explained that due to the need to take immediate safety precautions, Item 7 references a manual gate that is currently being installed at the entrance on Rose Avenue. The gate referred to in Item 8, is an electronic gate that will be installed at the same entrance. Once the electronic gate is installed, the manual gate will act as a back-up in the event of a malfunction.

MOTION: Approve **Resolution No. 2007-52** approving installation of a manual gate at Smyrna Park and amending the FY 2006-07 Budget to appropriate funds.

MOVED: Moved by Lane/seconded by Vierra

VOTE: Motion passed unanimously. **(5/0)**

8. **Resolution No. 2007-53** approving Park Safety Enhancements and amending the FY 2006/07 Budget to appropriate funds.

Councilmember Vierra asked for clarification on the park safety enhancements being requested with funding from the FY 2006/07 Budget. The staff report referenced item 1-9 and A-D. Included in the items referenced as 1-9 are: for Smyrna Park - solar powered gates with pucks, Ontel Security monitoring, No Parking Signs, Bollards, additional lighting and a security keypad alarm system for the concession stand; for CRBRP - solar powered gates with pucks; and night vision goggles for public safety officers. The staff report also included an additional list labeled A-D which includes security cameras, vehicle infrared devices, motocross bikes for public safety access to the CRBRP lower terrace and a monitoring station at Public Safety Dispatch.

Doug Lemcke, Director of Parks, Recreation and Facilities responded that staff is requesting an amendment to the FY 2006/07 Budget for items 1 – 9 only and stated that items A-D would be submitted for consideration in the 2007/08 fiscal year budget.

MOTION: Approve **Resolution No. 2007-53** approving Park Safety Enhancements as outlined in items 1 – 9 only and amending the FY 2006/07 Budget to appropriate funds.

MOVED: Moved by Vierra/seconded by Phipps

VOTE: Motion passed unanimously. **(5/0)**

9. **Resolution No. 2007-54** denying the appeal filed by Innovative Structures thereby affirming the Planning Commission decision to deny Conditional Use Permit Amendment 04-36, a proposal to modify elevation treatment for buildings within a previously approved business center located in the 1300 block of Mitchell Road.

Mayor Cannella stated that he voted to uphold the denial of the Planning Commission action because it could not be shown that the design is consistent with the Mitchell Road Corridor Plan. If the applicant can come back with a new design that is consistent with the Mitchell Road Corridor Plan he would be willing to consider the new plan.

Brad Kilger, City Manager stated that the applicant does have the ability to file an amendment to the new CUP as long as it is different than what was originally submitted.

MOTION: Approve **Resolution No. 2007-54** denying the appeal filed by Innovative Structures thereby affirming the Planning Commission decision to deny Conditional Use Permit Amendment 04-36, a proposal to modify elevation treatment for buildings within a previously approved business center located in the 1300 block of Mitchell Road.

MOVED: Moved by Vierra/seconded by Lane

VOTE: Motion passed with Vice Mayor Phipps abstaining. **(4/0/1)**

13. Authorization for Mayor Anthony Cannella and Council Member Ken Lane to renew discussions with ELS regarding long term leases.

Councilmember Vierra expressed concern with the City meeting with ELS (Equity LifeStyle Properties, Inc.) to renew discussions regarding long term leases.

Mike Lyons, City Attorney, responded that the City received a correspondence from ELS on January 31, 2007, indicating a willingness to meet and discuss any issues of concern. Mr. Lyons stated that the cities within Stanislaus County and the County are still discussing the possibility of a county-wide mobile home park rent stabilization ordinance, but while that is pending, staff and those Council members who have been involved in the Mobile Home Park Rent Control Ad Hoc Committee, thought it might be in the best interest of the City to meet with ELS and see if there has been any change of position on their part. Any changes in the long term lease would affect only the leases that ELS is currently offering to those residents of Colony Park. It does not affect any other Mobile Home Park residents in the City.

Councilmember Vierra asked if the residents of Colony Park have been informed of the meeting?

Councilmember Lane responded that the residents of Colony Park have been made aware of the meeting.

Mr. Lyons expressed that if anything comes of the discussions, the item would come back to the Council for consideration.

Having no further questions, Council took the following action:

MOTION: Approve Mayor Anthony Cannella and Council Member Ken Lane to renew discussions with ELS regarding long term leases.

MOVED: Moved by Vierra/seconded by Phipps

VOTE: Motion passed unanimously. (5/0)

OLD BUSINESS

- 14. Ordinance No. 2007-971** amending Title 18, Chapter 18.04 to add a definition for medical marijuana dispensaries and amending Chapter 18.46, Section 18.46.020 to prohibit uses relating to the distribution and/or cultivation of medical marijuana in all zoning districts.

City Attorney, Mike Lyons, introduced the item stating that it was approved for first reading and introduction at the Council meeting of April 23, 2007 and is before Council now for second reading and adoption.

Supervisor DeMartini stated that the Council is considering passing a similar ordinance and requested a copy of the ordinance be sent to County Counsel for review.

Council, having no questions, took the following action:

MOTION: Waive full reading and have **Ordinance No. 2007-971** read by title and number only.

MOVED: Moved by Phipps /seconded by Vierra

VOTE: Motion passed unanimously. (5/0)

Mayor Cannella directed the City Clerk to read Ordinance 2007-971 by number and title only.

MOTION: Adopt **Ordinance No. 2007-971** amending Title 18, Chapter 18.04 to add a definition for medical marijuana dispensaries and amending Chapter 18.46, Section 18.46.020 to prohibit uses relating to the distribution and/or cultivation of medical marijuana in all zoning districts.

MOVED: Moved by Phipps/seconded by Ochoa

VOTE: Motion passed unanimously. (5/0)

- 16. Resolution No. 2007-XX** establishing a policy and procedures relating to the use of eminent domain by the City of Ceres.

Ken Craig, Community Development Director, gave Council a brief overview of the item, outlining the concerns voiced representatives of the Maple Glen Master Plan and the steps Staff has taken to help alleviate their concerns.

Mr. Craig stressed to Council that the passage of the resolution does no more than embody the eminent domain law as it exists now and provide staff and the community at large with a clear understanding of the City Council's intent. It does not create or modify the laws which the City is bound to. The importance of its adoption as a written policy is in providing clear and unambiguous direction to the Community-at-large as to the City's intent on the issue of eminent domain.

- Steve Madison, representing the BIA, addressed Council regarding his concerns with the passage of the resolution stating that some of the provisions in the resolution create uncertainty for development.
- Len Shepherd, resident, spoke in opposition of eminent domain law.

Councilmember Vierra questioned the necessity of passing the resolution when the only thing it does is clarify existing law.

Councilmember Lane concurred.

Vice Mayor Phipps commented on a letter he received from Steve Herum, counsel for the BIA, questioning the CEQA guidelines and Vice Mayor Phipps requested a response from staff.

Mr. Craig stated that although Tim Cremin (Meyers Nave), outside counsel representing the City has not had a chance to review the letter, he could address Council in general on the matter.

7:39 p.m. - Mayor Cannella recessed for a short break to allow Mr. Cremin the opportunity to review the letter.

7:43 p.m. – Mayor Cannella reconvened in open session.

Mr. Cremin, responded that he reviewed the letter from Mr. Herum, who basically voices two concerns with the Resolution. Nothing in the objections identifies a legal deficiency that would prevent Council from adopting the Resolution tonight.

Mayor Cannella commented that he does support the use of eminent domain but only when it is necessary. This resolution does not give us additional power nor does it take power away from us. While he appreciates the efforts of staff, he feels that this resolution is unnecessary at this time.

MOTION: No Motion was made on this item. Item died due to lack of a motion.

NEW BUSINESS

17. **Resolution No. 2007-59** approving the assignment of Development Agreement for property located at the northeast corner of Fowler and Mitchell Roads to the Mastagni 2000 Trust.

Mike Lyons, City Attorney gave a brief staff report on the item.

Council requested staff provide them with the beginning and ending dates for the obligation to market the corner portion of the property for development of dinner house type restaurant.

MOTION: **Resolution No. 2007-59** approving the assignment of Development Agreement for property located at the northeast corner of Fowler and Mitchell Roads to the Mastagni 2000 Trust.

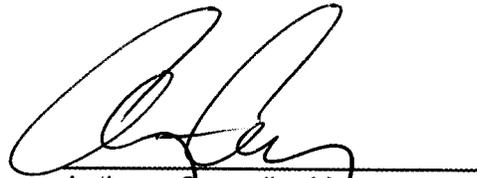
MOVED: Moved by Phipps/seconded by Ochoa

VOTE: Motion passed unanimously. **(5/0)**

REPORTS

Mayor Cannella, Vice Mayor Phipps, Council Members and staff gave report on various City related issues.

ADJOURNMENT Mayor Cannella adjourned the meeting at 7:50 p.m.



Anthony Cannella, Mayor

ATTEST:



Cindy Heidorn, CMC, Deputy