

CITY COUNCIL MINUTES

October 27, 2008

Mayor Cannella called the City Council Meeting to order at 7:00 p.m. with the following in attendance:

ROLL CALL Council Members Durossette, Lane, Ochoa, Vierra, Mayor Cannella

INVOCATION by Pastor Mark Whitehead, Victory Assembly of God

PLEDGE OF ALLEGIANCE to the flag led by Mayor Cannella.

PRESENTATIONS

A. Stanislaus County District Attorney, Birgit Fladager.

Birgit Fladager, Stanislaus County District Attorney, gave an update of the District Attorney's Office procedures and current Ceres crime statistics.

B. Proclamation declaring November 5, 2008, Law Enforcement Records and Support Personnel Day.

Art de Werk, Public Safety Director accepted the proclamation.

C. Report from Ceres Youth Commission.

Mariya Kondratyuk, Youth Commissioner, reported on the upcoming activities of the Ceres Youth Commission including the Halloween Festival on October 31, 2008; a murder mystery dinner on November 6, 2008 and Youth and Government Day on November 12, 2008.

APPROVAL OF THE MINUTES of the regular meeting of October 13, 2008.

MOTION: Approve the minutes of the regular meetings of October 13, 2008.

MOVED: Moved by Lane/seconded by Durossette

VOTE: Motion passed unanimously. (5/0)

CITIZEN COMMUNICATIONS

Len Shepherd, resident, expressed his disappointment at the lack of community involvement at Council meetings.

APPROVAL OF 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 Durossette

VOTE: Motion passed unanimously. (5/0)

APPOINTMENTS TO BOARDS/COMMISSIONS - None

CONFLICT OF INTEREST DECLARATION - None.

1. General Correspondence – **Information Only**
 - a. Monthly Legislation Tracking Report – *Final for 2008 Session.*
 - b. Public Works Monthly Report for September, 2008.
 - c. Memorandum – Submission of Concept Proposal to Urban Forestry Grant Program.
 - d. Administrative Services Monthly Report for September, 2008.
2. Register of Audited Demands for period ending October 14, 2008.
3. **Resolution No. 2008-143** setting the fees for the Ceres Community Center.
4. **Resolution No. 2008-144** adopting the Identity Theft Prevention Program.
5. **Resolution No. 2008-145** setting the Terms and Conditions of Employment for Members of the First Line Supervisors/Confidential Bargaining Group.
6. **Resolution No. 2008-146** setting the Terms and Conditions of Employment for Members of the Department Head Bargaining Group.

MOTION: Approve Consent Calendar Items 1a, b, d, and 2-6 as recommended by staff.

MOVED: Moved by Vierra/seconded by Ochoa

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

CONSIDERATION OF ITEM(S) REMOVED FROM THE CONSENT CALENDAR

- 1c. Submission of Concept Proposal to Urban Forestry Grant Program.

Mayor Cannella stated for the record that approval of this item is only for the submission of the Concept Proposal. If the proposal does gain the City an invitation for a full application, the item will be brought to Council for approval and authorization prior to submission.

MOTION: Approve Consent Calendar Item 1c, submission of Concept Proposal to Urban Forestry Grant Program.

MOVED: Moved by Vierra/seconded by Ochoa

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

UNFINISHED BUSINESS - None

PUBLIC HEARING

7. Consideration of Amendment No. 2 to the Consultant Services Agreement with Pacific Municipal Consultants for Public Facility Fees Study in the amount of \$27,427.00 (continued from September 22, 2008). ***Continued to meeting of December 8, 2008.***

7:35 p.m. Mayor Cannella opened the Public Hearing.

7:35 p.m. There being no one wishing to speak, the Public Hearing was closed.

MOTION: Continue Item to the meeting of December 8, 2008.

MOVED: Moved by Vierra/seconded by Ochoa

VOTE: **Motion passed with Councilmembers Lane and Durossette voting No. (3/2)**

8. **Public Hearing and Resolution No. 2008-147** accepting Director of Public Safety Recommendations for Supplemental Law Enforcement Services Fund expenditures and authorizing an amendment to the Fiscal Year 2008/09 Budget.

Brad Kilger, City Manager, introduced the item stating that the City is a recipient of an ongoing supplemental grant program administered by the State of California. As a requirement of funding, a public hearing must be held to consider and determine the use of funds, as presented by the Director of Public Safety. The funds will be used for front line officers hired under the Federal COPS grant, maintenance and supplies at the shooting range and police medical supplies.

7:38 p.m. Mayor Cannella opened the Public Hearing.

7:38 p.m. There being no one wishing to speak, the Public Hearing was closed.

After some discussion, the following motion was made:

MOTION: Approve **Resolution No. 2008-147** accepting Director of Public Safety Recommendations for Supplemental Law Enforcement Services Fund expenditures and authorizing an amendment to the Fiscal Year 2008/09 Budget.

MOVED: Moved by Vierra/seconded by Ochoa

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

9. Public Hearing to consider **Resolution No. 2008-148** the Recommendation and Report of Planning Commission Annual Review of Development Agreement (DA 06-37) as regulated by Ceres Municipal Code Sections 18.70.180 and 18.70.120, to determine if the City should extend the provisions of the Agreement for the potential development of a restaurant located at the northeast corner of Mitchell Road and Fowler Road.

Barry Siebe, Planning Manager, introduced the item explaining that when the City sold the parcel on the northeast corner of Mitchell and Fowler Roads in 2006, the buyer and the City entered into a two-year Development Agreement to facilitate the development of a sit-down dinner house type restaurant at the location. The Development Agreement will expire on February 29, 2009 unless it is extended in accordance with the provisions of the Agreement.

The Halferty Development Company submitted a Pre-Development application to the City to discuss the potential relocation of the existing Rite Aid Pharmacy store to the northeast corner of Mitchell and Fowler Roads and relocating the restaurant site to the remaining interior parcel to the north.

The Planning Commission considered the item on October 6, 2008 and recommended by a 4-0 vote in favor of terminating the Development Agreement. The recommendation was based on the following:

1. The developer made effort to market the subject property as a "restaurant parcel" and no favorable responses were received.

2. Ceres currently has sit down dinner house type restaurants or approved entitlements on properties for such use along Mitchell Road.

7:40 p.m. Mayor Cannella opened the Public Hearing.

- Steve Breckenridge, resident, asked if we had any success with the marketing of the property.
- Greg Smith, Coldwell Banker Commercial, responded that while the City had the parcel 33 restaurants were targeted with a marketing campaign. None were interested. In the last 12 months, Mr. Smith stated that he has received only three calls on the parcel and two of those were fast food restaurants.
- Jim Halferty representing Halferty Development Company addressed Council requesting that Council terminate the Development Agreement.

Mayor Cannella asked Mr. Halferty why he would like the Development Agreement terminated since it expires in four months.

Mr. Halferty responded that he was looking for assurances that the Development Agreement would not be renewed in February and the property would be available for something other than a sit down dinner house type restaurant before he invested a lot of money moving forward with his project.

- Philip Mastagni, property owner spoke in support of Mr. Halferty's project and the termination of the Development Agreement.

7:59 p.m. There being no one else wishing to speak, the Public Hearing was closed.

Council discussed the pros and cons of terminating the agreement as opposed to letting it expire in February. Councilmember Lane pointed out that the original agreement date was September, 2006. The parcel was not created until February, 2007 but the agreement has been in existence for more than two years.

MOTION: Approve **Resolution No. 2008-148** the Recommendation and Report of Planning Commission Annual Review of Development Agreement (DA 06-37) as regulated by Ceres Municipal Code Sections 18.70.180 and 18.70.120, to determine if the City should extend the provisions of the Agreement for the potential development of a restaurant located at the northeast corner of Mitchell Road and Fowler Road.

MOVED: Moved by Lane/seconded by Durossette

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

NEW BUSINESS – None.

8:05 p.m. ADJOURN AS CITY COUNCIL TO THE REDEVELOPMENT AGENCY MEETING

8:7 p.m. RECONVENE AS CITY COUNCIL

COUNCILMEMBER REFERRALS – None.

REPORTS

City Council and Staff reported on various activities including the upcoming Halloween Festival in Smyrna Park and the recent home dedication by Habitat for Humanity.

8:08 p.m. Mayor Cannella adjourned the Council Meeting to Closed Session.

CLOSED SESSION

CONFERENCE WITH LABOR NEGOTIATORS

City Negotiator: Public Law Group

Employee Organization: Police Officers Association

Pursuant to Gov't. Code Section 54957.6

8:38 p.m. reconvened the City Council Meeting in open session with nothing to report.

8:38 p.m. There being no further business, Mayor Cannella adjourned the City Council Meeting.



Anthony Cannella, Mayor

Cindy Heidorn, CMC, City Clerk