

**CITY COUNCIL
SPECIAL STUDY SESSION MINUTES**

December 8, 2008

Vice Mayor Vierra called the December 8, 2008 Special Study Session to Order at 5:00 p.m. with the following in attendance:

ROLL CALL: Council Members Durossette, Lane, Ochoa, Vierra, Mayor Cannella (arrived 6:20 p.m.)

1. WEST CERES MASTER PLAN

Sandy Vance, Wood Rodgers, gave a brief overview of the last Council Study Session discussion resulting in the current Conceptual Land Use Plan and the West Ceres Specific Plan Community Vision.

Rebecca Gorton, representing Lamphier Gregory, discussed the community outreach meeting held with residents of Carol Lane to discuss concerns and things that could be done to help mitigate the impact to those residences. Some of the suggestions included increased setbacks and height limits on adjacent buildings. Ms. Gorton stated that she is confident that the Conceptual Plan will work for the residents of Carol Lane as well as all other interested parties.

Gary Potter, resident, stated that weekend traffic on Crows Landing Road is very heavy due to the Flea Market. He is concerned this development will exacerbate the problem.

Bob Kachel, Planning Commissioner, responded that the area is going through a major upgrade which will help alleviate some of the parking and traffic issues.

Dana McGeary, Modesto City Schools, expressed concern that Modesto City School District is not being kept apprised of the progress of the project.

Council expressed concern that the students that live in the area may ultimately be attending Modesto City Schools unless an agreement between the School Districts is reached.

Vice Mayor Vierra commented that while the communities which were presented tonight looked very nice, he is not sure that it translates to what is needed or wanted in Ceres. Vice Mayor Vierra stressed that everyone needs to understand that once the design guidelines are adopted, it is a very difficult process to get them changed.

Councilmember Lane concurred.

Dale Ketner, resident, urged Council to take into consideration the impact the development will have on the residents on Carol Lane prior to approving anything.

Council Recommendation

Council directed staff to continue moving forward with the EIR, based on the land use plan presented and at the same time negotiations need to happen with Modesto City Schools and Ceres Unified School District regarding the possible moving the boundaries to include the area in the Ceres Unified School District.

2. VERNON/JORGENSEN RIVER PROPERTY PUBLIC USE PROPOSAL

Mr. Perra representing the property owners of the two parcels located at 1260 Mitchell Road, explained to Council that he originally approached City staff for help in ridding the property of debris from homeless encampments, homeless persons and to remove dead vegetation to minimize the risk of fire. Since it had become too difficult for the property owners to maintain the property, he suggested that maybe the property could be developed for some public use and the City could maintain the property. Upon further thought, the property owners have decided to put a fence up on the property to keep the homeless people from trespassing however, they would like the City to maintain the fence.

Council Direction

The parcel does not belong to the City; the fence will not encroach on any City property therefore, the City should not be involved in any way.

3. REPORT ON COUNTY ANIMAL SHELTER

Brad Kilger, City Manager, gave a brief status report highlighting the latest proposal from the County. The highlights include:

- 1) The County will not upgrade the old building, but build a new structure at on Crows Landing Road.
- 2) The County has requested a 'letter of interest' from each City interested in relocating to the new animal shelter. This will not obligate the City in any way.
- 3) The County CEO will be taking to the Board of Supervisors a request to rescind the termination letters that were recently sent to the participating cities so the current contract will continue after 12/31/08.
- 4) April/May, 2009 the participating Cities will enter into a JPA indicating that they will participate in and help fund a new facility. To date, the only City which has stated that they will not relocate at the new facility is Riverbank.
- 5) Staff has made a preliminary analysis regarding the partnering with the City of Turlock Animal Control. Extensive expansion to their facility would be needed and there would be no real cost savings to the City.

Council Direction

Council directed staff to submit a letter of interest to the County. Council will make a final determination in April or May, 2009.

There being no further business Mayor Cannella adjourned the Special Study Session at 6:42 p.m. to a short break prior to the Regular City Council Meeting beginning at 7:00 p.m.



Anthony Cannella, Mayor



Cindy Hejdorn, CMC
City Clerk

CITY COUNCIL MINUTES

December 8, 2008

Mayor Cannella called the December 8, 2008, Regular 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 Dave Broyles, Ceres Christian Church

PLEDGE OF ALLEGIANCE to the flag led by Mayor Cannella.

APPROVAL OF THE MINUTES of the Special City Council Study Sessions of October 9 and November 5, 2008 and the City Council Meetings of November 10 and November 24, 2008.

MOTION: Approve the minutes of the Special City Council Study Sessions of October 9 and November 5, 2008 and the City Council Meetings of November 10 and November 24, 2008.

MOVED: Moved by Lane/seconded by Durossette

VOTE: Motion passed unanimously. (5/0)

CITIZEN COMMUNICATIONS

- Leonard Shepherd, resident, commented on the annual Christmas Festival and thanked Council for their efforts.
- Nancy Smith, representing the Animal Advisory Board spoke regarding the need for a new animal shelter and urged Council support.
- Martin Lomeli, resident, requested a written documentation regarding the code violations at his parents property located at 2004 Walnut.
- Blair Bradley, resident, spoke in opposition of the water and sewer rate increases.

APPROVAL OF AGENDA AS POSTED (OR AMENDED) AND CERTIFICATION OF POSTING

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

MOVED: Moved by Vierra/seconded by Ochoa

VOTE: Motion passed unanimously. (5/0)

APPOINTMENTS TO BOARDS/COMMISSIONS

- A. Council concurrence of Mayor Cannella's recommendation to reappoint Mr. Robert Caulton to the Mosquito Abatement District Board of Trustees.
- B. Council concurrence of Mayor Cannella's recommendation to reappoint Ms. Kay Dunkel to the Stanislaus County Local Task Force on Solid Waste Management.
- C. Approve **Resolution No. 2008-160** reappointing Mr. Leonard Shepherd to the Tuolumne River Regional Park Citizen's Advisory Committee.

MOTION: Approve all appointments to boards and commission and **Resolution 2008-160** as recommended by staff.

MOVED: Moved by Vierra/seconded by Ochoa

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

CONFLICT OF INTEREST DECLARATION

Vice Mayor Vierra declared a conflict with Items No. 10 and 14 stating that his firm does work with Teichert Construction and DSS Company dba Knife River Consulting.

Mayor Cannella declared a conflict with Items No. 10 and 14 stating that his firm has done work with Teichert Construction and DSS Company dba Knife River Consulting in the previous twelve months.

CONSENT CALENDAR

1. General Correspondence – **Information Only**
 - a. Administrative Services Monthly Report for October, 2008.
 - b. Building Department Monthly Report for November, 2008.
 - c. Recreation Department Monthly Reports for September and October, 2008.
2. Register of Audited Demands for period covering November 20 – November 24, 2008.
3. **Resolution No. 2008-161** accepting the Temporary Pump Station at the Ceres Lions Park Well as complete, approving the Balancing Contract Change Order and authorizing the filing of the Notice of Completion and retention release to the Contractor.
4. **Resolution No. 2008-162** authorizing the City Manager to execute the Proposition 50 Water Use Efficiency Drought Grant Agreement with the State of California for grant funds to be applied to the Meter Retrofit Program.
5. **Resolution No. 2008-163** approving the donation of retired 2000 Ford Expedition to the Keyes Fire Protection District.
6. **Resolution No. 2008-164** authorizing the City Manager to execute the agreement and the purchase of a Thermoplastic Pavement Marking System from Line Master Engineering, Inc., in the purchase amount of \$73,398.29.
7. **Resolution No. 2008-165** approving Amendment No. 2 to the Cooperative Agreement with the State of California Department of Transportation for the SR99/Whitmore Avenue Interchange Project to Facilitate Credit of State Regional Improvement Program Funds to Stanislaus County Regional Shares.
8. **Resolution No. 2008-166** approving Amendment No. 2 to the Standard Agreement for Professional Consultant Services with Erler & Kalinowski, Inc. (EKI) and amending the FY 2008/09 Budget to Appropriate Funds. **Pulled for further discussion.**
9. **Resolution No. 2008-167** approving Addendum No. 4 to the Scope of Services for Wastewater Collection System Capacity Evaluation and Utility Rate Update with ECO:LOGIC Engineers and amending the FY 2008/09 Budget to appropriate funds. **Pulled for further discussion.**

10. **Resolution No. 2008-168** accepting the 2008 Storm Drain Project as complete, approving the balancing contract change order, authorizing the filing of the notice of completion and retention release to the contractor. **Pulled due to Conflict of Interest.**
11. **Resolution No. 2008-169** accepting the Improvement Agreement and the Final Map for the Ceres Gateway Center. **Pulled and Continued to a Special Meeting on 12/18/08.**
12. **Resolution No. 2008-170** approving renewal of agreement with Giuliani and Kull Inc. for contract implementation and plan check services and amending the FY 2008/09 Budget to appropriate funds.
13. Council acceptance of the FY 2007/08 Public Facility Expenditure Report for Developer Fees.
14. **Resolution No. 2008-171** awarding the bid for the 2008 Hatch Road Overlay Phase II Project to DSS Company dba Knife River Construction and amending the FY 2008/09 Budget to appropriate funds. **Pulled due to Conflict of Interest.**
- 14A. **Resolution No. 2008-172** Setting the Terms and Conditions of Employment of Members of the Mid-Management Bargaining Group.

MOTION: Approve Consent Calendar Items 1a-c, 2-7, 13 and 14A as recommended by staff.

MOVED: Moved by Vierra/seconded by Lane

VOTE: Motion passed unanimously. (5/0)

CONSIDERATION OF ITEM(S) REMOVED FROM THE CONSENT CALENDAR

8. **Resolution No. 2008-166** approving Amendment No. 2 to the Standard Agreement for Professional Consultant Services with Erler & Kalinowski, Inc. (EKI) and amending the FY 2008/09 Budget to Appropriate Funds.

Mayor Cannella reiterated that staff should make every effort to hire local firms. The amendment from EKI includes \$3,000 for travel which would not have been charged if the firm had been local.

MOTION: Approve **Resolution No. 2008-166** approving Amendment No. 2 to the Standard Agreement for Professional Consultant Services with Erler & Kalinowski, Inc. (EKI) and amending the FY 2008/09 Budget to Appropriate Funds.

MOVED: Moved by Lane/seconded by Ochoa

VOTE: Motion passed unanimously. (5/0)

9. **Resolution No. 2008-167** approving Addendum No. 4 to the Scope of Services for Wastewater Collection System Capacity Evaluation and Utility Rate Update with ECO:LOGIC Engineers and amending the FY 2008/09 Budget to appropriate funds.

Overview: In January, 2008, the City contracted with ECO:LOGIC to complete a Wastewater System Capacity Assessment. The results from the capacity analysis showed several areas with the potential for sewer overflows that were not consistent with past field observations. One reason for the discrepancy was the limited amount of rainfall that occurred.

In order to meet the requirements of the Regional Water Quality Control Board, it is necessary to complete additional monitoring. The data from this monitoring will be used to validate or invalidate assumptions made in the preliminary evaluation.

Mayor Cannella expressed concern that staff did not do an RFP for the additional monitoring.

Staff responded that they did not see any other option to be efficient. An RFP would have taken too long and changing vendors would have been costly.

Mayor Cannella asked if this was a mandate from the State to do the additional monitoring now.

Staff concurred that it was a State mandate.

Mayor Cannella stressed again that had Council been aware of the need for additional monitoring two months ago when staff was informed, we may have been able to explore ways to use a local firm to do the work.

MOTION: Resolution No. 2008-167 approving Addendum No. 4 to the Scope of Services for Wastewater Collection System Capacity Evaluation and Utility Rate Update with ECO:LOGIC Engineers and amending the FY 2008/09 Budget to appropriate funds.

MOVED: Moved by Vierra/seconded by Lane

VOTE: Motion passed unanimously. (5/0)

10.

11. **Resolution No. 2008-168** accepting the 2008 Storm Drain Project as complete, approving the balancing contract change order, authorizing the filing of the notice of completion and retention release to the contractor.

MOTION: Approve **Resolution No. 2008-168** accepting the 2008 Storm Drain Project as complete, approving the balancing contract change order, authorizing the filing of the notice of completion and retention release to the contractor.

MOVED: Moved by Durossette/seconded by Ochoa

VOTE: Motion passed with Mayor Cannella and Vice Mayor Vierra abstaining. (3/0/2)

11. **Resolution No. 2008-169** accepting the Improvement Agreement and the Final Map for the Ceres Gateway Center. **Pulled and Continued to a Special Meeting on 12/18/08.**

MOTION: Continue to a Special Council Meeting on to be set on December 18, 2008.

MOVED: Moved by Lane/seconded by Vierra

VOTE: Motion passed unanimously. (5/0)

12. **Resolution No. 2008-170** approving renewal of agreement with Giuliani and Kull Inc. for contract implementation and plan check services and amending the FY 2008/09 Budget to appropriate funds.

Mayor Cannella stated for the record that this contract was being approved for plan check and inspection services only and any additional work required would need an RFP.

MOTION: Resolution No. 2008-170 approving renewal of agreement with Giuliani and Kull Inc. for contract implementation and plan check services and amending the FY 2008/09 Budget to appropriate funds

MOVED: Moved by Durossette/seconded by Ochoa

VOTE: Motion passed unanimously. (5/0)

14. **Resolution No. 2008-171** awarding the bid for the 2008 Hatch Road Overlay Phase II Project to DSS Company dba Knife River Construction and amending the FY 2008/09 Budget to appropriate funds.

Ken Craig, Community Development Director, advised Council that the City has received a letter of protest from Teichert Construction. The City Attorney has reviewed the protest letter and he has determined that our recommendation continues to be that you award the bid to DSS Company. The issues raised in the protest letter do not factor in any determinations with regards to the bidding cost for the project.

Mike Lyons, City Attorney, stated that a formal written protest has been filed by Teichert Construction for the failure of the low bidder to provide disadvantaged business information regarding their sub-contractors. Yes, the information was required by the bid documents however, it is clearly an inconsequential discrepancy and would not invalidate the bid. Our recommendation is that you 1) reject the protest filed by Teichert Construction and 2) award the bid to the low bidder.

MOTION: Deny the protest of Teichert Construction.

MOVED: Moved by Durossette/seconded by Ochoa

VOTE: Motion passed with Mayor Cannella and Vice Mayor Vierra abstaining. (3/0/2)

MOTION: Resolution No. 2008-171 awarding the bid for the 2008 Hatch Road Overlay Phase II Project to DSS Company dba Knife River Construction and amending the FY 2008/09 Budget to appropriate funds.

MOVED: Moved by Ochoa/seconded by Durossette

VOTE: Motion passed with Mayor Cannella and Vice Mayor Vierra abstaining. (3/0/2)

UNFINISHED BUSINESS

15. 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 October 27, 2008. Staff recommends this item be continued to a date uncertain.*

MOTION: Remove Item from the Agenda.

MOVED: Moved by Lane/seconded by Vierra

VOTE: Motion passed unanimously. (5/0)

PUBLIC HEARING

16. Public Hearing to consider proposal to annex and prezone two parcels that total 57.89 +/- acres at 3831 and 3967 Hatch Road for Dirk Wyatt.

Resolution No. 2008-173 adopting a negative declaration for the Prezoning and annexation of three parcels that total 57.89 +/- acres at 3831 and 3967 Hatch Road. Application Numbers 08-15 Annex and 08-16 PZ. Dirk Wyatt, Applicant.

Ordinance No. 2008-990 adopting a prezone to PC, Planned Community for three parcels that total 57.89 +/- acres at 3831 and 3967 Hatch Road. Application Number 08- 08-16 Prezone, Dirk Wyatt, Applicant.

Resolution No. 2008-174 approving a request to process an annexation of three parcels that total 57.89 +/- acres at 3831 and 3967 Hatch Road and Authorizing the City to submit an Annexation Application to Stanislaus LAFCO, Application Number 08-15 Annex, Dirk Wyatt, Applicant.

Tom Westbrook, Senior Planner, gave a brief history of the project. Mr. Westbrook further stated that the properties are within the City’s primary sphere of influence and therefore, can be annexed into the City which meets previously established General Plan Policies and objectives.

Dirk Wyatt, Applicant, thanked staff for their assistance with the project and urged Council support.

MOTION: Resolution No. 2008-173 adopting a negative declaration for the Rezoning and annexation of three parcels that total 57.89 +/- acres at 3831 and 3967 Hatch Road. Application Numbers 08-15 Annex and 08-16 PZ. Dirk Wyatt, Applicant.

MOVED: Moved by Lane/seconded by Vierra

VOTE: Motion passed unanimously. (5/0)

MOTION: Waive full reading and have **Ordinance No. 2007-990** read by title and number only.

MOVED: Moved by Vierra/seconded by Lane

VOTE: Motion unanimously. (5/0)

MOTION: Approve **Ordinance No. 2008-990** adopting a prezone to PC, Planned Community for three parcels that total 57.89 +/- acres at 3831 and 3967 Hatch Road for **First Reading and Introduction.**

MOVED: Moved by Lane/seconded by Vierra

VOTE: Motion passed unanimously. (5/0)

MOTION: Resolution No. 2008-174 approving a request to process an annexation of three parcels that total 57.89 +/- acres at 3831 and 3967 Hatch Road and Authorizing the City to submit an Annexation Application to Stanislaus LAFCO, Application Number 08-15 Annex, Dirk Wyatt, Applicant.

MOVED: Moved by Lane/seconded by Ochoa

VOTE: Motion passed unanimously. (5/0)

NEW BUSINESS

17. Report on Street Sweeping Services performed by Contract Sweeping Services.

Phil Scott, Public Works Director, introduced the item stating that at the November 10, 2008 Council Meeting, the Council directed Public Works staff to investigate and report on the level of service provided by the current street sweeping contractor.

In the past 12 months, the City has received 11 complaints of service. Each complaint was resolved in the required timeframe. As part of the performance assessment, Public Works staff monitored the activities of the sweeping contractor. Staff observed that the contractor followed the sweeping schedule, followed the routes, operated at the correct sweeping

speed as outlined in the contract, used sufficient water to control dust and only missed two street sections.

Mr. Scott pointed out that the City's leaf and limb policy contributes to the debris in the streets and recommended that the City consider implementing a waste wheeler container pick-up program for leaves and limbs.

The Contractor has agreed to meet with the City every six month to evaluate their performance and is more that happy to work with staff to correct any deficiencies they have. The first meeting is scheduled for May, 2009.

Councilmember Lane commented that he has seen a lot of sand in the gutters. He also suggested that the sweeper increase service around parks and schools to twice a week.

Council accepted report.

COUNCILMEMBER REFERRALS – None.

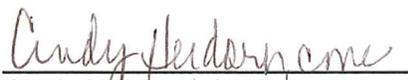
REPORTS

City Council and Staff reported on various activities including the success of the recent Christmas Festival and opening of Christmas Tree Lane.

8:18 p.m. - There being no further business Mayor Cannella adjourned the City Council Meeting to the Council Study Session scheduled for December 18, 2008 at 5:30 p.m. in the City Council Chambers located at 2210 Magnolia St.



Anthony Cannella, Mayor



Cindy Heidorn, CMC
City Clerk