

CITY COUNCIL MINUTES

February 9, 2009

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

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

EXCUSED: Vice Mayor Vierra

INVOCATION by Nelson DeBrosse, Harvest Presbyterian Church

PLEDGE OF ALLEGIANCE to the flag led by Mayor Cannella

APPROVAL OF THE MINUTES of the regular meetings of January 12 and 26, 2009 and Study Session Minutes of January 15, 2009

MOTION: Approve the Minutes of the Regular meetings of January 12 and 26, 2009 and the Study Session Minutes of January 15, 2009.

MOVED: Moved by Lane/seconded by Ochoa

VOTE: **Motion passed with Vice Mayor Vierra absent (4/0)**

CITIZEN COMMUNICATIONS

- Don Donaldson, representing his youth basketball program, expressed his dissatisfaction with his ability to get the gyms he prefers for his youth sports program. He further expressed his concern that the City is giving gym time to a new affiliated youth sports basketball program.

Doug Lemcke, Recreation Director, responded that City Staff, as well as the School District, feel there is plenty of room for both programs.

- Daniel Abeyta, resident, spoke regarding two houses on Altessa Lane that are currently being used as half-way houses. 1916 Altessa is a women's facility and across the street, at 1943 Altessa, is a men's facility. The neighbors are concerned because the individuals try to intimidate them and they feel uncomfortable when they go outside their homes.

City Manager, Brad Kilger, stated that the State of California has usurped a lot of our local authority to control these types of homes if there are 6 or fewer individuals living in the house. If they meet certain requirements, they are exempted from any City control from a land-use standpoint.

Chief de Werk responded that they are aware of the situation and staff will continue to do what they can legally to make sure the half-way house residents are not breaking any laws from a land-use or a nuisance standpoint.

- Robert Hall, resident, address Council about the parking of commercial vehicles on residential streets. There is a very large tow truck that parks in front of his home. After contacting the City, he was told that the police do not enforce the ordinance for tow truck drivers. He requested that Council enforce the Municipal Code.

Chief de Werk, responded that the City has an ordinance that prohibits vehicles of 10,000 pounds or more from parking on City Streets. When the Ordinance was originally passed, it was to prohibit big rigs from parking in residential areas. Since that time, tow trucks have gotten larger and many now exceed the 10,000 pound limit. At this time, the City Attorney is looking into possible Ordinance revisions.

City Manager, Brad Kilger, stated that the ordinance will be brought before Council at an upcoming Study Session for discussion.

Councilmember Durossette asked what will happen in the meantime. Will we allow the tow trucks to be parked on residential streets?

Mr. Kilger responded that typically when an issue comes up on Ordinance language, the ordinance is stayed and enforcement is stayed until Council makes the final determination to either move forward with an amendment or keep it the way it is.

Council urged staff to move quickly on the item.

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

MOTION: Approve the Agenda as posted and certification of posting.

MOVED: Moved by Durossette/seconded by Lane

VOTE: **Motion passed with Vice Mayor Vierra absent (4/0)**

APPOINTMENTS TO BOARDS/COMMISSIONS – None.

CONFLICT OF INTEREST DECLARATION - Mayor Cannella declared a conflict with Item No. 14, stating that he has worked on the TID Pay Station which is reflected in the staff report.

CONSENT CALENDAR

1. **General Correspondence – Information Only**
 - a. Building Department Monthly Report for January 2009.
2. Register of Audited Demands for period covering January 16 - 29, 2009.
3. **Resolution No. 2009-09** approving the revised City of Ceres First-Time Homebuyer Program guidelines.
4. Open the public review period of the FY 09/10 CDBG Annual Action Plan, and set a public hearing date of March 23, 2009 to close the public review period and consider adoption.
5. **Resolution No. 2009-10** approving a Amendment No. 1 to Professional Services Contract dated October 13, 2008 with Water Solutions, Inc., to perform Professional Consulting Services related to; Water Quality, Treatment, and Water Production.
6. Council review and approval of Measure H Oversight Committee Resolution No. 2009-01 approving the annual report of the committee regarding the expenditure of Measure H Revenues for the FY 07/08.

7. Set Public Hearing date of February 23, 2009 to consider an appeal from the Halferty Development Company, LLC. regarding the proposed Rite Aid development at the Northeast corner of Mitchell Road and Fowler Road.
8. **Resolution No. 2009-11** rejecting the Claim from Sam Whitely through his attorney, The Cartwright Law Firm, Inc.
9. **Resolution No 2009-12** approving a Lot Line Adjustment for Darrel Ledbetter for property located at 2804 and 2808 Blaker Road.
10. **Resolution No. 2009-13** accepting the Service Road Sewer Trunk Design as complete and authorize an appropriation transfer to complete payment to the contractor.

MOTION: Approve Consent Calendar Items 1a - 10 as recommended by staff

MOVED: Moved by Lane/seconded by Ochoa

VOTE: **Motion passed with Vice Mayor Vierra absent (4/0)**

UNFINISHED BUSINESS

11. **Resolution No. 2009-XXX** authorizing staff to issue Requests For Proposals for preparation of Water and Sewer Master Plans.

Staff requested that this item be continued to a City Council Study Session to be held on February 23, 2009.

MOTION: Continue Item 11 to a City Council Study Session to be held on February 23, 2009 at 5:00 p.m.

MOVED: Moved by Lane/seconded by Durossette

VOTE: **Motion passed with Vice Mayor Vierra absent (4/0)**

12. Phase I Reorganization and Expenditure Reduction Plan.

Brad Kilger, City Manager, presented the staff report to Council. Mr. Kilger explained that at the January 26, 2009 Study Session, Council and Staff discussed the Mid-year Budget and the total structural deficit the City would be facing over the next several years. After discussing a draft Action Plan, the City Council acknowledged that time was of the essence in addressing the structural deficit in order to minimize its long-term impact on City services. Council directed staff to implement both the Immediate and Short-term Action Plan items as soon as possible and begin discussions with the City Council's Budget Ad-hoc Committee on the Long-term items.

In response to Council direction, staff has implemented the following action items:

- Instituted a hiring freeze for all positions except sworn public safety positions and positions deemed by the City Manager to be critical to carrying our Council priorities.
- Required City Manager and Administrative Services Director pre-approval for all purchases (including credit card) that exceed \$500 and are not authorized by an existing purchase order.

- The City Manager met with all department staff to explain the City's budget situation and the reason for taking quick action.
- Conducted a rapid evaluation of the City's existing organizational structure. Drawing off of the information provided in the Management Partners Organizational Assessment the City Manager and City Department heads have developed a Phase I Reorganization and Expenditure Reduction Plan. The Plan implemented an immediate reduction in staff positions that minimized the impact to public safety and the existing level of critical public services. With regard to the layoffs, staff would recommend that the Council consider approving a package that provides for severance pay based on years of service, with a maximum of four weeks and medical, dental and vision coverage for the month of March, 2009. The pay will be based on the employee's regular pay base and medical coverage would be based on the coverage currently used by employees. No payments will be made for cafeteria cash outs.

In addition, staff has initiated or is proposing the following actions:

- Conduct a thorough re-evaluation of departmental budgets for additional non-personnel expenditures that can be eliminated.
- Initiated reduction in the number of city credit cards to the minimum needed to be cost effective in small purchases; regularly review card spending patterns for abuse and excessive spending.
- Review of the way various services are provided and focus on alternative methods for providing services to determine if the service and the level of service can be met and is still needed. If not, consider various options for restructuring City services.
- Examine the City's fee structure looking for new fees or for fees which need to be updated to cover costs.
- Investigate opportunities for sole-sourcing certain purchases in order to obtain best pricing.
- Moving all non-sworn 9-80 and 5-40 staff that do not provide 24 hour coverage to the same 9-80 schedule and shutting down City Hall one day, each two weeks, to maximize staff availability for the public during hours of operation

Council reviewed the actions already taken by staff and discussed a variety of options to address the remaining budget deficit.

Mayor Cannella opened the item to Public Comment.

Several individuals addressed Council on behalf of Enrique Perez:

- Ken Groves, resident
- Kenny Keyes, resident
- Daniel Vayeta, resident
- Jose Salizar, resident
- Robert Standford, Modesto, Community Activist
- Joann Tuckman, resident, asked if the response time of the Public Safety Department would be effected by the cuts in staffing.

Chief de Werk responded that the layoffs would not affect any response to life threatening emergencies however, non-emergency calls may not be responded to quite as quickly.

Councilmembers also expressed their sympathy for the employees affected by the implementation of the Phase I Reorganization Implementation and Reduction Plan but stressed that the decisions were based on the current organizational structure of the City and not on personnel.

Council concurred with the Phase 1 Plan actions that resulted in the elimination or lay off of 14 positions to address the City's \$4.1 million structural deficit and gave staff the following direction:

1. Provide additional information on the possible impacts to customer service if a mandatory 9/80 work schedule were implemented. Present the information at a future Council Meeting.
2. Reclassify the Recreation Director to Recreation Manager and place the division in the Public Works Department. Staff to prepare a resolution for the February 23, 2009 Council Meeting.
3. Prepare a resolution for the February 23, 2009 Council Meeting adopting a severance package for those employees who were laid off as a result of the Phase I Plan. Staff to include alternatives that may provide an increase in the amount of severance provided.
4. Move forward with Phase II and begin discussions with the Council Ad-hoc budget committee on additional measures that could be taken to eliminate the structural deficit.

8:33 p.m. Council recessed for a short break.

8:40 p.m. Council reconvened in Open Session.

NEW BUSINESS

13. Provide direction regarding reimbursement of debt owed to the City for start-up costs of the Stanislaus-Ceres Redevelopment Commission, including debt terms and repayment schedule.

Bryan Briggs, Redevelopment/Economic Development Manager, presented an overview of the staff report. Mr. Briggs stated that in 1994 the City of Ceres loaned the SCRC \$241,808 for start-up costs and general administration. The SCRC entered into an MOU with the City that defines the roles of the organization, including the terms of any debt incurred between the parties. The parties may elect to alter the terms of the MOU if they so choose.

The current outstanding balance plus interest owed to the City by SCRC is \$758,471.01. If the City demands full repayment of this outstanding debt, the ability of the SCRC to accomplish projects for the reasonably foreseeable future would be extremely limited. To avoid any undue strain on the ability of the SCRC to accomplish its goals of eliminating blight, the Commission is requesting that the City amend the terms of the MOU to allow for a different repayment schedule.

Council discussed the options available for the repayment of the debt and the following motion was made:

MOTION: Waive the interest and have the principle repaid in one lump sum contingent upon the County taking the same action.
MOVED: Moved by Lane/seconded by Ochoa
VOTE: **Motion passed with Councilmember Durossette voting no and Vice Mayor Vierra absent (3/1)**

14. Provide direction regarding General Plan Policy 4.L.2. as it relates to undergrounding of utility lines for new development in areas that have existing overhead utility lines.

Glenn Gebhardt, City Engineer, addressed Council stating that General Plan Policy 4.L.2 states "The City shall require undergrounding of utility lines in new development and as areas redeveloped, except where not feasible for operational or financial reasons." The undergrounding requirement is also reflected within the Redevelopment Plan Section 516. City staff is interpreting the policy as requiring undergrounding for all frontage road development however, past practice within the City has been intermittent and inconsistent.

Staff believes the intent of the policies is to require undergrounding of all overhead electrical power lines for safety as well as aesthetics. However, staff also believes that the undergrounding requirement should not be applied without discretion.

Municipal Code Ordinance 72-398 and subsequent revisions through 90-745 requires the undergrounding of utilities, and provides requirements and exception to undergrounding of utility lines for new developments, including areas where overhead utility line exists, provision for the establishment of Undergrounding Districts and provision for exclusion or exceptions based on various factors. The current Municipal Code is in conflict with the General Plan because it was not revised to be consistent with the 1997 General Plan and does not reflect the intent of the General Plan Policy regarding undergrounding of utilities.

A number of projects are in process, or have been approved and are within the building plan check phase or have recently been approved with the condition of undergrounding of overhead utilities. Two project proponents, Rite Aid and the TID Pay Station, are indicating that the City's requirement to underground utilities will negatively impact the feasibility of their projects.

Staff is looking for Council direction to clarify the implementation of General Plan Policy 4.L.2 and Redevelopment Plan Section 516 to either clarify, amend, edit or delete via a General Plan Amendment, Redevelopment Plan Amendment and/or Municipal Code Text Amendment to provide clear implementation of the policy which may include establishment of Undergrounding Districts in accordance with the original intent of Ordinance 77-398 and it's subsequent revisions.

After some discussion, Council made the following motion:

MOTION: Direct Staff to develop an Implementation Policy to be agendized for a future Study Session and give staff interim policy direction to offer deferral agreements for two existing projects i.e. Rite Aid and the TID Pay Station, that are in the building permit stage.
MOVED: Moved by Lane/seconded by Durossette
VOTE: **Motion passed with Vice Mayor Vierra absent (4/0)**

15. Council acceptance of the City of Ceres Audited Financial Report for Fiscal Year Ended June 30, 2008.

Stephen Larson representing Caporicci and Larson presented the Basic Financial Statements for the Fiscal Year Ended June 30, 2008. Mr. Larson presented the following Auditor's opinion: a) Financial statements are fairly presented in all material respects; b) Significant accounting policies have been consistently applied; c) Estimates are reasonable; d) Disclosures are properly reflected in the financial statements; e) No disagreements with management; f) No Single Audit findings discovered; g) No accounting issues noted; h) Nine accounting adjustments were proposed by the auditor; i) No material weaknesses in internal accounting controls discovered; j) No compliance issues identified and k) two significant deficiencies were identified.

Mayor Cannella asked Mr. Larson to explain the two significant deficiencies.

Mr. Larson stated that the Significant Deficiencies were:

1. Restatement of Previously Issued Financial Statements. The City has restated its previously issued financial statements to increase utility receivables and revenue balances. The City's internal controls did not identify the misstatement in a timely manner resulting in the restatement. The Auditor's recommendation is that the City enhance its internal control over financial reporting.
2. Bank Reconciliations. During the current fiscal year, the City did not reconcile its bank accounts on a timely basis. The Auditor's recommendation is that the City perform the bank reconciliations on a monthly basis to minimize the possibility that mistakes caused by either the bank or the City will be overlooked.

MOTION: accept the City of Ceres Audited Financial Report for Fiscal Year Ended June 30, 2008.

MOVED: Moved by Lane/seconded by Durossette

VOTE: **Motion passed with Vice Mayor Vierra absent (4/0)**

ADJOURN AS CITY COUNCIL TO THE REDEVELOPMENT AGENCY MEETING

9:29 p.m. Mayor Cannella adjourned the City Council meeting to a meeting of the Redevelopment Agency

RECONVENE AS CITY COUNCIL

9:35 p.m. Mayor Cannella reconvened the City Council meeting.

COUNCILMEMBER REFERRALS

- Correspondence from Scott Stringer dated January 7, 2009.

Brad Kilger, City Manager gave a brief report on the item. Mr. Stringer has requested a reimbursement of funds deposited with the City for the Maple Glen Master Plan. There is a

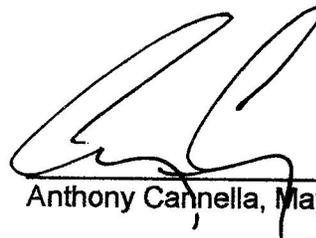
disagreement between Staff and Mr. Stringer relative to what the remaining fund balance was of the deposits made for this particular plan. Mr. Stringer would like Council to take a look at this item. Because it is not an appealable action, it is necessary for Council to determine if they would like to take it up at a future hearing.

Council directed staff to place the item on the March 9, 2009 City Council Agenda for consideration.

REPORTS

Staff reported that the Lion's Club crab feed was a big success.

9:34 p.m. There being no further business Mayor Cannella adjourned the City Council Meeting to the City Council Study Session scheduled for February 23, 2009 at 5:00p.m. in the City Council Chambers located at 2210 Magnolia St.



Anthony Cannella, Mayor



Cindy Heidorn, CMC, City Clerk

CITY COUNCIL STUDY SESSION

MINUTES

February 9, 2009

Mayor Cannella called the Study Session to order at 5:00 p.m. with the following in attendance:

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

EXCUSED: Councilmember Vierra

1. TID Surface Water Project.

Phil Scott, Public Works Director, gave a brief overview of the project history. In 2005, the cities of Ceres, Hughson, Modesto, Turlock and the Keyes Community Services District entered into a Drinking Water Agreement with the Turlock Irrigation District. The purpose of the agreement was to initiate the development of a regional surface water supply project to provide potable water. Keyes Community Services District has since withdrawn from the project.

Initially the facilities were to be owned and operated by TID with bond funding either through TID or by the individual cities. Because of new regulations imposed on TID to provide a higher percentage of renewable energy, they can no longer provide the bond financing and therefore will not be able to own the facilities. TID would still be able to provide project management and direct the operation and management of the facilities.

The four cities have met and discussed this change. It is the consensus that the cities will need to enter into a Joint Powers Agreement or some other type of combined association to provide governance of the design and operation of the facilities. There has also been some discussion regarding the design of the plant. Because of the time involved in setting up a JPA and the time needed to review design alternatives, it is necessary to extend the start of construction until 2010.

A representative of TID, gave an update on the status of the project including cost analysis, current construction climate, project schedule and TID's role in the project.

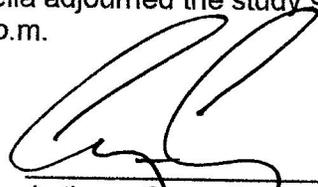
Craig Hill representing Northcross, Hill and Ach addressed Council with regards to the current bond market.

Council and Staff discussed the possibility of doing a 218 in 2010 for both the water project and the meters.

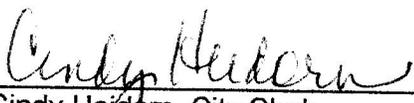
Council Recommendation

Council directed staff to continue working with Hughson, Modesto, Turlock and TID on how to best proceed to implement the Surface Water Project.

6:02 p.m. There being no further business, Mayor Cannella adjourned the study session to the regular City Council Meeting to begin at 7:00 p.m.



Anthony Cannella, Mayor



Cindy Heidorn, City Clerk