

CITY COUNCIL MINUTES

April 13, 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, Vierra, Mayor Cannella

INVOCATION by Pastor Randy Clark

PLEDGE OF ALLEGIANCE to the flag led by Mayor Cannella.

PRESENTATIONS

A. Proclamation declaring the week of April 12-18, 2009 as Nation Library Week in Stanislaus County.

Amy Taylor, representing the Ceres Library accepted the proclamation.

B. Proclamation declaring the week of April 12-18, 2009 as National Telecommunicators Week.

Cheryl Carpenter, Support Services Supervisor, accepted the proclamation on behalf of the Public Safety Department.

APPROVAL OF THE MINUTES of the regular meeting of February 23, 2009.

MOTION: Approve the Minutes of the regular meeting of February 23, 2009.

MOVED: Moved by Vierra/seconded by Lane

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

APPROVAL OF THE MINUTES of the regular meeting of March 23, 2009.

MOTION: Approve the Minutes of the regular meeting of March 23, 2009.

MOVED: Moved by Durossette/seconded by Ochoa

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

CITIZEN COMMUNICATIONS

- Kevin Oxford, resident, stated that he built a wall on his property that is in violation of the required 15' setback. He is in the process of filing a variance however he would like to get the fee waived. He requested that Council put this item on a future agenda for discussion.
- Don Donaldson expressed his frustration with the Ceres Shock Basketball Organization and feels that sports organizations who have teams that are not comprised of 100% Ceres Youth should not be allowed to use our facilities.
- Len Shepherd, resident, commented on the importance of Public Safety Dispatchers.
- Mel Yeakley, resident, addressed Council concerning an issue he is trying to straighten out with the City regarding an insufficient check written by a contractor he used 14 months ago for a new HVAC System in his home. *Council requested a report from staff regarding the situation.*

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

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

MOVED: Moved by Lane/seconded by Vierra

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

APPOINTMENTS TO BOARDS/COMMISSIONS – None.

CONFLICT OF INTEREST DECLARATION Councilmember Lane and Vice Mayor Vierra declared a conflict with Item No. 13, both members have property within 500 feet of Smyrna Park. Vice Mayor Vierra declared conflicts with Closed Session Items regarding the River Bluff Regional Park and the Maple Glen Master Plan as his company has done work within the last 12 months with both firms involved in the anticipated litigation. Councilmember Lane also declared a conflict with the Existing Litigation Case involving Mark Neri, based on personal affiliations with Mr. Neri.

CONSENT CALENDAR

1. General Correspondence – **Information Only**
 - a. Administrative Services Monthly Report for February, 2009.
 - b. Engineering Dept. Monthly Report for February, 2009.
 - c. Building Department Monthly Report for March, 2009.
 - d. Quarterly Grant Update for Quarter Ending March 31, 2009.
2. Register of Audited Demands for period covering March 13 – 20, 2009.
3. Waiver of Second Reading and Adoption of **Ordinance No. 2009-992** clarifying and eliminating the existing time limit on incurring debt and amending and extending certain time limitations with respect to the Redevelopment Plan for the Ceres Redevelopment project.
4. **Resolution No. 2009-29** authorizing application to the U.S. Department of Justice, Bureau of Justice Assistance for a *Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG)*.
5. **Resolution No. 2009-30** authorizing application to the U.S. Department of Justice, Bureau of Justice Assistance for a *Recovery Act: Edward Byrne Memorial Competitive Grant*.
6. **Resolution No. 2009-31** approving Budget Amendment and Job Descriptions to add the Associate Engineer and Water Superintendent positions.
7. **Resolution No. 2009-32** approval of Agreement with Management Partners and amendment to Agreement with L. Patrick Samsell for Budget, Finance and Human Resources Consulting Services and approval of retention of Liebert Cassidy Whitmore for labor negotiation services and amending the Budget to appropriate funds.
8. **Resolution No. 2009-33** approving the Disadvantaged Business Enterprise (DBE) Program and Implementation Agreement for Race Conscious Clauses and Requirements for the City of Ceres.
9. **Resolution No. 2009-34** approving an amendment to the severance package for employees laid off as a result of the deficit reduction plan.

MOTION: Approve Consent Calendar Items 1a-d and 2-5 as recommended by staff.

MOVED: Moved by Lane/seconded by Vierra

VOTE: Motion passed unanimously. (5/0)

CONSIDERATION OF ITEM(S) REMOVED FROM THE CONSENT CALENDAR

6. **Resolution No. 2009-31** approving Budget Amendment and Job Descriptions to add the Associate Engineer and Water Superintendent positions.

Council felt the Associate Engineer position, which is currently part of a Bargaining Unit should be placed on hold until after the budget process. The Water Superintendent position is a new position and could move forward however, given the status of the current budget, the salary should be cut by 5%.

MOTION: Approve **Resolution No. 2009-31** approving the Water Superintendent Position with a 5% Salary reduction and pull the Associate Engineer Position until after the FY 2009/10 Budget process.

MOVED: Moved by Vierra/seconded by Lane

VOTE: Motion passed unanimously. (5/0)

7. **Resolution No. 2009-32** approval of Agreement with Management Partners and amendment to Agreement with L. Patrick Samsell for Budget, Finance and Human Resources Consulting Services and approval of retention of Liebert Cassidy Whitmore for labor negotiation services and amending the Budget to appropriate funds.

Council expressed some concern that staff was continuing to use consultants.

Staff explained that Management Partners is being requested to facilitate discussions on budget stabilization. Management Partners has provided extensive consulting services to the City, including facilitating Council goal-setting and performing organizational assessments of City departments. L. Patrick Samsell is being requested to provide budget analysis services. Mr. Samsell has a detailed knowledge of the City's accounting systems and processes and has considerable municipal financial management experience. Liebert Cassidy Whitmore is being recommended to provide services as labor negotiators. They will replace the current labor negotiator used by the City. Staff stressed that the consultant will be working on a multi-year strategy for the City.

After some discussion, Council made the following motion:

MOTION: Approve **Resolution No. 2009-32** approval of agreement with Management Partners and amendment to agreement with L. Patrick Samsell for Budget, Finance and Human Resources Consulting Services and approval of retention of Liebert Cassidy Whitmore for labor negotiation services and amending the Budget to appropriate funds.

MOVED: Moved by Vierra/seconded by Ochoa

VOTE: Motion passed unanimously. (5/0)

8. **Resolution No. 2009-XX** approving the Disadvantaged Business Enterprise (DBE) Program and Implementation Agreement for Race Conscious Clauses and Requirements for the City of Ceres.

Council expressed concerns that the new requirements will be too burdensome on the City and we do not have enough information to feel comfortable making a decision on item tonight. Mayor Cannella requested a copy of Document 49CFR26 referenced in the material. Mayor Cannella also mentioned that he would like to speak with the Stanislaus County Mayor's Group to see what is being done in other cities.

MOTION: Continue to the meeting of April 27, 2009

MOVED: Moved by Lane/seconded by Vierra

VOTE: Motion passed unanimously. (5/0)

9. **Resolution No. 2009-34** approving an amendment to the severance package for employees laid off as a result of the deficit reduction plan.

Len Shepherd, resident, requested that the item be pulled and asked for clarification on the item. Staff addressed his concerns.

MOTION: Approve **Resolution No. 2009-34** approving an amendment to the severance package for employees laid off as a result of the deficit reduction plan.

MOVED: Moved by Lane/seconded by Durossette

VOTE: Motion passed unanimously. (5/0)

UNFINISHED BUSINESS

10. Request to table this item, continued from previous Council meetings, regarding an agreement for professional consultant services with RBF Consulting to perform professional planning services relating to the 2009 Update of the Housing Element of the General Plan.

MOTION: Table item for an indefinite period.

MOVED: Moved by Vierra/seconded by Lane

VOTE: Motion passed unanimously. (5/0)

PUBLIC HEARING - None

NEW BUSINESS

11. Report to inform Council of transit issues involving funding, submittal of TDA-LTF Claim, Prop 1B Capital Transit Funding application, potential fare increases, potential revision to CAT Route B, potential revision to CDAR "No Show and Cancellation Policy," alternatives, and public workshop.

Kay Dunkel, Administrative Program Analyst, explained to Council that City Staff would like to hold a public meeting/workshop in the afternoon on April 23, 2009 to receive input on the following:

- a. Proposed changes to Ceres Area Transit Route B to include more commercial areas in an attempt to increase ridership and fare box receipts;
- b. Potential Ceres Dial-A-Ride and Ceres Area Transit fare increases in order to fully cover the cost of transit service. The increases will take effect July 1, 2009 and range from \$.25 to \$.50 depending on Fare Category.
- c. Revision on the Ceres Dial A Ride "No Show and Cancellation Policy" to reduce the number of people who call for a ride and do not show up;
- d. Other potential changes if the Transit Development Act funding is reduced for FY 2009/10.

Ms. Dunkel further stated that if Council concurs, staff will hold a public meeting/workshop in April, hold a Public Hearing in May and ultimately return to Council in June to formally approve the TDA claim.

Len Shepherd, resident, commented that he felt it would be fiscally responsible for the City to consolidate public transit with other cities and/or the County.

Staff is requesting that Council approve the following:

1. Approval for staff to solicit community input on the anticipated budget, service level, and fees for Ceres Transit in FY2009/10;
2. Endorse draft changes to Ceres Transit Service routes and "no show" policy;
3. Endorse draft (TDA) clause for FY 2009/2010;
4. Endorse funding application for Prop 1B Transit Capital Funds;
5. Endorse a schedule of public meetings to review budget, service level, and fees for Ceres Transit

MOTION: Approve Items 1-5 as listed above and recommended by staff.

MOVED: Moved by Vierra/seconded by Lane

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

10. **Resolution No. 2009-35** approving a Budget Amendment to fund connection of an existing 36"/42" Dry Sewer Main into the Sewer System, and to fund an alternative analysis of the Barbour's Lift Station and 12" Sewer Main in Mitchell Road.

Glenn Gebhardt, City Engineer, presented a brief synopsis of the item. As a result of the Wastewater System Capacity Analysis of the City's sewer collection system by ECO:LOGIC, staff has discovered capacity limitations in the sewer collection system. One location is the sewer trunk line from Service Road through Don Pedro Road (#1). The second location is the 12" main downstream of the Barbours Lift Station (#2).

Staff offered the following suggestion for area #1. There is a new larger dry sewer main in Service Road that runs from the Wastewater Treatment Plan (WWTP) to Central Avenue. The pipe was planned to be used when the new WWTP headworks construction is completed in about two-years. However, computer modeling has confirmed that connecting this new pipe now will relieve the surcharging, reducing the risk of spills. This temporary connection is not ideal since the new main is at a lower elevation and the larger main (42") must connect to a 24" main just before the WWTP.

Staff discussed the following solutions for area #2. One interim solution which is immediately available, is to force new users to hold their sewage during most of the day and pump the sewage into the City system between midnight and 4 a.m. when the flows are low enough that the system is not surcharged. A second potential interim solution is to modify the most recently constructed 12" main downstream of Barbours Lift Station and convert it into a force main from the lift station to Don Pedro Road. The benefit would be to keep the higher pressures within the pipe, rather than allowing it to surcharge sewer in the manholes. The lift station pumps would also need to be modified to enable them to pump the flow this extended distance.

Council expressed concern that these two problems were not discovered during the modeling recently completed by ECO:LOGIC for the Water and Sewer rate study. This should have been identified as part of the rate study.

Council asked if the capacity for the 36/42" main was funded as part of an area benefit.

Staff responded that they would check and report back.

Prior to hiring a design firm, Council wants this question answered.

Neil Caldwell, representing ECO:LOGIC responded that at the time of the study, Service Road was thought to be just an extension and was removed from the project.

Charlie Bunker, Principal representing ECO:LOGIC, stated that he felt the problem should have been caught and brought to the attention of the Council. He feels that problem was worsened due to the delay of the headworks project. He understands Council's frustration and offered to do the additional modeling needed at no cost to the City.

MOTION: Approving **Resolution No. 2009-35** approving a Budget Amendment to add an appropriation to design and construct a connection to the 36"/42" dry sewer main; request a report back from staff regarding the funding source of the 36"/42" main prior to awarding a design contract; acknowledge and accept the offer by ECO:LOGIC to conduct the alternative analysis of the Barbours Lift Station and downstream main at no cost to the City.

MOVED: Moved by Vierra/seconded by Lane

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

11. **Resolution No 2009-36** approving preparation and execution of Amendment No. 2 to the Cell Tower Lease Agreement with Verizon Wireless.

Vice Mayor Vierra and Councilmember Lane recused themselves from the item.

Mike Lyons, City Attorney, explained to Council that the City has an existing lease agreement with Verizon Wireless for use of City park property in Smyrna Park adjacent to the baseball facilities for use as a cell tower facility. Verizon wishes to expand the leased area to accommodate the installation of an emergency generator and provide for an increase in the monthly rental amount. When City staff reviewed the existing site, the City discovered that although Verizon is currently leasing only 480 sq. ft., it has installed protective chain link fencing encompassing an area containing 1,351 sq. ft. The City requested an increase in rents from \$922.41 per month to \$1,923.50 per month to allow

Verizon to leave the fence in place and install the emergency generator. Verizon has rejected our request and has counter-offered to increase the rent to \$1,350.00 per month.

After some Council directed staff to take the following action:

Council directed staff to reject Verizon's offer to increase the rents from \$922.41 per month to \$1,350.00 per month and direct Verizon to remove their protective chain link fencing since they are not paying rents on the additional property.

9:00 p.m. Mayor Cannella adjourned the City Council Meeting to the Redevelopment Agency.

9:05 p.m. Mayor Cannella reconvened the City Council Meeting

COUNCILMEMBER REFERRALS

A. Update on proposed half-way house on Willetts Way.

Mike Lyons, City Attorney, gave an update to Council on the proposed half-way house on Willetts Way. Staff has determined that the owner of the property has filed an application for a licensed sober living facility with the State Department of Alcohol and Drug Programs. No action has been taken on the application at this time. Facilities that are licensed for six or fewer persons (excluding licensee, licensee's family, and licensee's employees), the City has little if any regulatory power. The City is preempted by state law.

REPORTS

Council and staff reported on various recent activities including the Vice Mayor recent trip to Washington DC as a representative of the San Joaquin Valley Air Quality Control Board, the remodel of the Carriage House at the Whitmore House currently underway, and the Ceres Farmer's Market.

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(a)

Name of Case: Mark Neri v. City of Ceres

Administrative Hearing regarding employee Mark Neri's appeal to an order of termination.

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code Section 54956.9(b)

(2 potential cases)

One potential case involves the dispute between the City and the designers of the lower bluff of the River Bluff Regional Park for repair of the outflow channel and bank into the Tuolumne River.

One potential case involves the claim of the developer of the Maple Glen Master Plan and Annexation for reimbursement of funds spent by the City for the processing of the project.

PUBLIC EMPLOYEE ANNUAL PERFORMANCE EVALUATION

Title: City Manager

Pursuant to Government Code Section 54957

10:45 p.m. Mayor Cannella reconvened in open session with nothing to report.

10:45 p.m. There being no further business, the meeting was adjourned.

Anthony Cannella, Mayor

Cindy Heidorn, CMC, City Clerk