

CITY COUNCIL MINUTES

April 27, 2009

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

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

INVOCATION by Pastor Adrian Condit

PLEDGE OF ALLEGIANCE to the flag led by Mayor Cannella.

PRESENTATIONS

A. Report by Ceres Youth Commission.

Laguine Brauer and Christian Ochoa, Youth Commissioners, reported on the recent activities and upcoming events of the Ceres Youth Commission including plans for the Teen Room at the Ceres Community Center and a recent Earth day cleanup activity at the River Bluff Regional Park.

B. Presentation to the Ceres Youth Commission by the Ceres Lions Club.

Members of the Ceres Lions Club presented a check for \$1,000 to the Ceres Youth Commission.

C. Presentation of Ceres Lions Club for the remodel of the Carriage House at the Historic Whitmore House.

Mayor Cannella presented a plaque to the Lions Club from the Council and City in appreciation of their donation of over 400 hours of labor and material to remodel the Carriage House of the Historic Whitmore House.

CITIZEN COMMUNICATIONS to the Council on matters not included on the agenda (five minutes).

- Len Shepherd, resident, commented that he prefers the uniqueness of building in Ceres as opposed to a uniform color scheme and style.

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

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

MOVED: Moved by Lane/seconded by Ochoa

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

APPOINTMENTS TO BOARDS/COMMISSIONS – None.

CONFLICT OF INTEREST DECLARATION

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.

CONSENT CALENDAR

1. General Correspondence – **Information Only**
 - a. Engineering Dept. Monthly Report for March, 2009.
 - b. Recreation Dept. Monthly Report for March, 2009.
 - c. Public Works Dept. Monthly Report for March, 2009.
2. Register of Audited Demands for period covering March 31 – April 14, 2009.
3. Set Public Hearing Date of May 11, 2009 to Review Proposed Changes to the Ceres Area Transit (CAT) and Ceres Dial-A-Ride (CDAR) Fares, Ceres Area Transit Routes, and Ceres Dial-A-Ride “No Show and Cancellation Policy” and Review Transit Service Levels and Funding Budget.

MOTION: Approve Consent Calendar Items 1a-c, 2 and 3 as recommended by staff.

MOVED: Moved by Vierra/seconded by Durossette

VOTE: Motion passed unanimously. (5/0)

CONSIDERATION OF ITEM(S) REMOVED FROM THE CONSENT CALENDAR – None.

UNFINISHED BUSINESS

4. **Resolution No. 2009-36** approving a second amendment to the consultant services contract with Harris and Associates dated May 14, 2007. (G. Gebhardt)

Glenn Gebhardt, City Engineer, addressed Council explaining that the contract with Harris and Associates for construction management services at the Ceres Community Center will expire on May 8, 2009. Staff is requesting Council extend the contract through June 30, 2009 to oversee the closeout process for the Ceres Community Center. The amendment is for a not-to-exceed amount of \$32,000.

MOTION: Approve **Resolution No. 2009-36** approving a second amendment to the consultant services contract with Harris and Associates dated May 14, 2007.

MOVED: Moved by Lane/seconded by Ochoa

VOTE: Motion passed unanimously. (5/0)

5. **Resolution No. 2009-37** approving the Disadvantaged Business Enterprise (DBE) Program and Implementation Agreement for Race Conscious Clauses and Requirement for the City of Ceres. **Continued from April 13, 2009.**

Council wanted to stress that this only applies to projects that involve Federal funds not to projects that involve State or Local funding.

MOTION: Approve **Resolution No. 2009-37** approving the Disadvantaged Business Enterprise (DBE) Program and Implementation Agreement for Race Conscious Clauses and Requirement for the City of Ceres.

MOVED: Moved by Ochoa/seconded by Durossette

VOTE: Motion passed unanimously. (5/0)

PUBLIC HEARING - None

COUNCILMEMBER REFERRALS (Council Members wishing to have an agenda item placed on a future agenda shall make a request under this section of the agenda.)

Request for waiver of variance fees for 3207 Blaker Rd., Ceres.

Tom Westbrook, Senior Planner, gave Council a brief synopsis of the history of the project. Mr. Oxford, residing at 3207 Blaker Road, pulled a building permit to remodel his home in February, 2008. The approved set of building plans show a 6' privacy wall being placed at the 15' exterior side-yard setback line on Blaker Road. Mr. Oxford deviated from the approved set of building plans and built the wall at 11' from the back of sidewalk. A complaint was received by the City's Building Division about the construction of a wall at 3207 Blaker Road. The Building Inspector conducted a site visit and determined that the wall was not constructed to the building plans.

At the City Council Meeting of April 13, 2009, Mr. Oxford asked the Council to waive Variance fees in the amount of \$793.00 for the wall he mistakenly built within the 15' exterior side-yard setback area of his property. In staff's opinion, mistakenly building the wall in the wrong location would not qualify for an exceptional or extraordinary circumstance which is one of the mandatory findings for approval of a Variance.

Mr. Oxford addressed Council briefly and requested their assistance.

After some discussion, Council decided they did not want to place this item on an agenda for further discussion.

NEW BUSINESS

- 6. Resolution No. 2009-38** approving a consultant services contract to design the Whitmore Avenue Overlay/Reconstruction project from Central Ave. to Rose Ave., and Hatch Road Bicycle and Pedestrian Facility project from Booth Rd. to Mitchell Rd., approving a budget amendment, and authorizing the City Manager to execute a contract.

Glenn Gebhardt, City Engineer, addressed Council stating that the proposals for the projects have been reviewed by staff and recommends that the two projects be awarded to Hawkins and Associates. The project is funded by CMAC and some LTF funds. The bids ranged from \$30,400 to \$130,000. Hawkins and Associates submitted a bid in the amount of \$39,500.

Council had a question regarding the disparity in bid amounts.

Mr. Gebhardt responded that the two firms that were higher included a block of technical work for the overlay project which staff felt was not necessary.

- Len Shepherd, urged Council to make sure the contract included everything prior to approval so the Contractor does not ask for additional funds later.

Council asked if the contract had a liquidated damages clause so the City would not be liable for any additional expenses if the Contractor did not stay on schedule.

Staff responded that that this contract did not but one could be added if Council so wished.

Council directed staff to add a liquidated damages clause to the contract.

MOTION: Approve **Resolution No. 2009-38** approving a consultant services contract with Hawkins & Associates to design the Whitmore Avenue Overlay/Reconstruction project from Central Ave. to Rose Ave., and Hatch Road Bicycle and Pedestrian Facility project from Booth Rd. to Mitchell Rd., modify the contract to include a liquidated damages clause, approve a budget amendment and authorize the City Manager to execute a contract.

MOVED: Moved by Vierra/seconded by Lane

VOTE: Motion passed unanimously. (5/0)

REPORTS

Council and staff reported on various recent activities including the upcoming Street Faire on May 2 - 3, 2009 and the recently held Hispanic Leadership Council Mariachi Fund Raiser.

7:45 p.m. – Mayor Cannella adjourned the Council Meeting to Closed Session.

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

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

(1 potential case)

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

8:40 p.m. – Mayor Cannella convened in open session with nothing to report.

8:40 p.m. There being no further business, Mayor Cannella adjourned the meeting.

Anthony Cannella, Mayor

Cindy Heidorn, CMC, City Clerk