

## **CITY COUNCIL MINUTES**

**Monday, July 13, 2009**

### **CALL TO ORDER**

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

**INVOCATION** by Pastor Joe Halloway, Ceres Valley View Church of the Nazarene

**PLEDGE OF ALLEGIANCE** to the flag led by Mayor Cannella.

### **PRESENTATIONS**

A. Ceres Earthquakes Boys U-14 Soccer League.

Mayor Cannella presented a certificate to the Ceres Earthquakes Boys Under 14 Soccer League and congratulated them on their successes.

Coach Hernandez accepted the certificate and thanked Council for their support.

B. Ceres Red, White and Blue Gala Committee presentation.

Ceres Red, White and Blue Gala Committee Members presented the Ceres Community Foundation with a check in the amount of \$8,600 for recreation scholarships for Ceres youth.

### **CITIZEN COMMUNICATIONS**

Martin Thorpe, Stockton CA, requested he be placed on a future agenda to discuss a dispute he is having with the City regarding a project he bid for the City.

### **APPROVAL OF AGENDA AS AMENDED AND CERTIFICATION OF POSTING**

**MOTION:** Approve the agenda as amended 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**

Vice Mayor Vierra declared a conflict with Item No. 7 stating that his firm did the surveying work on the original project.

### **CONSENT CALENDAR**

1. Register of Audited Demands for period covering June 19 – July 1, 2009.

2. **Resolution No. 2009-64** declaring intention to establish assessments for FY 2009/10 for the 1987 Landscaping and Lighting District and appointing a time and place for a public hearing for hearing protests in relation thereto.
3. Approve **Resolution No. 2009-65** authorizing the City to enter into an agreement between the City and Stanislaus County to file a grant application for phase II of the Neighborhood Stabilization Program (NSP2).

MOTION: Approve Consent Calendar Items 1-3 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 - None**

#### **UNFINISHED BUSINESS**

4. **Resolution No. 2009-XXX** electing to provide workers' compensation coverage for certain City volunteers.

Betina McCoy, Interim Assistant Finance/HR Director, presented the report to Council stating that this item was continued from the June 29, 2009 meeting in order for Staff to provide the City Council with information regarding city options related to insurance coverage for volunteers. The City utilizes a number of regular volunteers to assist staff in conducting city business. There are currently 20 VIPs, 15 Explorers and 4 Chaplains. These volunteers, classified as non-safety, are not automatically covered by worker's compensation.

The City is a member of the Central San Joaquin Valley Risk Management Authority (CSJVRMA), a pool of over 50 local agencies and participates in its workers' compensation and liability programs. In the workers' compensation pool, the city is responsible for up to \$100,000 of each claim.

Since City volunteers provide valuable services to the City, Staff believes that they should be provided workers' compensation benefits in the event they sustain an injury while performing such services. In addition, the provision of workers' compensation coverage to volunteers insulates the City from possible civil lawsuits by volunteers.

There is no fiscal impact for covering these workers. Our premium is adjusted up or down based on the prior five-years. If we do move forward with workers' compensation coverage any claims submitted would not impact our premium for six years. Additionally due to the handling of the current volunteer injury, should Council choose to not provide workers' compensation coverage for volunteers, the City will be required to reimburse the workers' compensation provider for the costs incurred to date.

Council expressed concerns regarding the potential cost to the City and asked staff to investigate the following:

- o What other of alternative coverage options are available and what is the cost.

- o What is the exposure to the City through Workers' Compensation and what is the cost.

Council also dismissed the option of requiring the volunteers to sign a waiver citing that waivers will not hold up in court.

After some further discussion, the following motion was made:

**MOTION:** Continue the item to the meeting of July 27, 2009.

**MOVED:** Moved by Ochoa/seconded by Lane

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

## **PUBLIC HEARING**

5. Public Hearing to consider a Zoning Ordinance Text Amendment (ZOTA) 09-04; proposal to amend Municipal Code Section 18.42 Signs to allow on-site electronic changeable copy signs. The amendment will also allow service club signs to be developed on existing public right-of-ways in the City of Ceres. Dirk Wyatt/City of Ceres, applicants.

**Resolution No. 2009-XX** adopting a Negative Declaration for a Zoning Ordinance Text Amendment to amend the Ceres Municipal Code Chapter 18.42 to allow provisions for on-site electronic changeable copy signs and allowances for service club signs in public right-of-way. Application Number ZOTA 09-04.

**Ordinance No. 2009-994** amending certain sections of Title 18, Chapter 18.42 of the Ceres Municipal Code to allow provisions for on-site electronic changeable copy signs and allowances for service club signs in public right-of-way. **First Reading and Introduction**

Tom Westbrook, acting City Planner, addressed Council and explained that the Applicant, Dirk Wyatt, requested a continuance of this item to September 14, 2009. Since this is an advertised Public Hearing, the hearing still needs to be conducted.

7:39 p.m. – The Public Hearing was opened

7:39 p.m. – There being no one wishing to speak, the Public Hearing was closed.

**MOTION:** Continue the item to the meeting of September 14, 2009.

**MOVED:** Moved by Durossette/seconded by Vierra

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

6. Public Hearing to consider **Resolution No. 2009-67** approving a solid waste rate increase to pass-through the Stanislaus County Fink Road Landfill tipping fee increase.

Kay Dunkel, Administrative Analyst, addressed Council stating that The Stanislaus County Board of Supervisors increased the tipping fee at the Stanislaus County Fink Road Landfill from \$30.00/ton to \$33.00/ton effective July, 2009. Tipping fees are levied on a per-ton basis for solid waste disposed. The County has not changed the tipping fee at the Landfill in approximately 12 years. Approximately 34% of Ceres' waste is disposed at Fink Road Landfill and approximately 66% is disposed at the Stanislaus Resource Recovery Facility (the Waste-to Energy Facility).

The solid waste rates in Ceres need to increase because the cost to Bertolotti Disposal to dispose of the waste has increased. The fee increase proposed is only to cover the additional costs to dispose of waste at the Fink Road Landfill. The City is asking no additional costs for administration. The increase is a “pass-through” only.

7:44 p.m. – The Public Hearing was opened.

- o County Supervisor Jim DeMartini, commented that the County has not had a rate increase in 12 years. They do not make a profit on the landfill, it is an enterprise fund that they only break even on. The County is now spending \$3 million to build a new cell and found it necessary to increase the rates to help defray the cost. The increase will be on average about \$0.17 per month per household.

7:44 p.m. – There being no one wishing to speak, the Public Hearing was closed.

**MOTION:** Approve **Resolution No. 2009-67** approving a solid waste rate increase to pass-through the Stanislaus County Fink Road Landfill tipping fee increase

**MOVED:** Moved by Vierra/seconded by Lane

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

## **NEW BUSINESS**

Vice Mayor Vierra recused himself from the dais.

7. **Resolution No. 2009-68** approving a Consultant Services Contract with EN GEO, Inc. to review Headcut Failure at Ceres River Bluff Regional Park, approving a Budget Amendment and authorizing the City Manager to execute a contract.

Glenn Gebhardt, City Engineer, introduced the item. In 2007 the City contracted for the design and construction of improvements to the lower terrace of the Ceres River Bluff Regional Park. In October 2007, the outfall area failed. The City believes that the failure of the outfall was caused by the faulty design by the architect employed by the City. An expert analysis is needed to properly assess the cause of the incident and the liability of the architect. Although EN GEO has a local Ripon office, they are well known in the Bay Area for expert analysis and legal testimony regarding land slope failures. Since the headcut failure analysis needs to include the resulting damage and because the area of damage will be removed and regarded with the reconstruction of the new outfall structure, this analysis needs to be completed soon.

Council asked staff if the City will be able to recover the costs of this analysis from the Architect.

Staff responded that based on the findings of EN GEO, Council will have the opportunity to decide if they want to try to recover those fees from the architect. Based on the evidence, that typically is part of the recovery.

Mayor Cannella asked regarding the timing of the project.

As soon as the analysis is done, we will be able to go out to bid for construction.

MOTION: Approve **Resolution No. 2009-68** approving a Consultant Services Contract with ENGEO, Inc. to review Headcut Failure at Ceres River Bluff Regional Park, approving a Budget Amendment and authorizing the City Manager to execute a contract.

MOVED: Moved by Lane/seconded by Ochoa

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

Vice Mayor Vierra rejoined the meeting.

8. **Resolution No. 2009-69** approving Amendment No. 3 to the Employment Agreement with Brad L. Kilger

Mayor Cannella stated that the City is experiencing the most significant fiscal crisis in a long time, possibly since the great depression. It is Council's view that we need to do everything we can to close the gap between revenues and expenditures. It is also Council's view that any changes should begin at the top of the organization and then work down the ladder.

Council approached the City Manager about adjusting his contract to reflect the reality of this financial situation. Up and down the State, Cities are being forced to cut essential services like police and fire and we would like to minimize those cuts in the future.

The City Manager has accepted a revised contract which adjust his salary and benefits to the 2006 level, resulting in a 20% cut in salary and benefits. The City Manager is showing leadership to the rest of this organization during a time when it is important. This is the first step of many to close the gap.

Council thanked the City Manager for accepting the contract and his willingness to do so.

MOTION: Approve **Resolution No. 2009-69** approving Amendment No. 3 to the Employment Agreement with Brad L. Kilger.

MOVED: Moved by Vierra/seconded by Lane

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

**COUNCILMEMBER REFERRALS – None.**

## **REPORTS**

Council reported on the recent POA dinner held at the American Legion Hall.

7:58 p.m. Mayor Cannella adjourned the meeting to Closed Session.

**CLOSED SESSION**

CONFERENCE WITH LABOR NEGOTIATOR

City Negotiator: Liebert, Cassidy, Whitmore

Employee Organization: Miscellaneous Bargaining Unit

Employee Organization: First Line Supervisors/Confidential Bargaining Group

Employee Organization: Mid-Management Employees

Employee Organization: Department Heads

Employee Organization: Ceres Department of Public Safety Firefighters Association

Employee Organization: Ceres Police Officers' Association

*Pursuant to Gov't. Code Section 54957.6*

9:45 p.m. Council reconvened with nothing to report.

9:45 p.m. There being no further business, Mayor Cannella adjourned the meeting.

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Anthony Cannella, Mayor

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Cindy Heidorn, CMC  
City Clerk