

CITY COUNCIL MINUTES

November 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, Vierra, Mayor Cannella

EXCUSED: Councilmember Ochoa

INVOCATION by Pastor Holloway, Valley View Church of the Nazarene

PLEDGE OF ALLEGIANCE to the flag led by Mayor Cannella.

APPROVAL OF THE MINUTES of the regular meeting of October 12, 2009.

MOTION: Approve the minutes of the regular meeting of the regular City Council Meetings of October 12, 2009.

MOVED: Moved by Vierra/seconded by Lane

VOTE: **Motion passed with Councilmember Ochoa absent. (4/0)**

APPROVAL OF THE MINUTES of the regular meeting of October 26, 2009. (Durossette Excused)

MOTION: Approve the minutes of the regular meeting of the regular City Council Meetings of August 24, 2009 and September 28, 2009.

MOVED: Moved by Lane/seconded by Vierra

VOTE: **Motion passed with Councilmember Durossette abstaining and Councilmember Ochoa absent. (3/0)**

CITIZEN COMMUNICATIONS

- David Yonan, resident, requested Council's help regarding the TID Hughson-Grayson 115kV Transmission Line and Substation Project. Mr. Yonan has been voicing his concerns to TID with respect to the proposed location of the transmission lines and is frustrated with the lack of response from TID.
- Len Shepherd, resident discussed the upcoming Veteran's Day holiday and urged everyone to honor those who serve.

APPROVAL OF AGENDA AS POSTED OR AMENDED AND CERTIFICATION OF POSTING

MOTION: Add Item #9 to the Agenda: Consideration of staff's draft response letter to the TID letter regarding the Final EIR for the Hughson-Grayson 115kV Transmission Line & Substation Project

MOVED: Moved by Vierra/seconded by Durossette

VOTE: **Motion passed with Councilmember Ochoa absent. (4/0)**

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

MOVED: Moved by Vierra/seconded by Lane

VOTE: **Motion passed with Councilmember Ochoa absent. (4/0)**

APPOINTMENTS TO BOARDS/COMMISSIONS - None

CONFLICT OF INTEREST DECLARATION - None

CONSENT CALENDAR

1. Register of Audited Demands for period covering October 19 - 29, 2009.
2. **Resolution No. 2009-116** approving Amendment No. 1 to the agreement for Consultant Services with Pacific Municipal Consultants (PMC) for finalization of the City of Ceres Municipal Services Review (MSR).
3. **Resolution No. 2009-117** awarding the Contract for the Rockefeller Well 22 Treatment System Upgrade Construction Project to Amerine Systems, Inc. and authorizing the City Manager to execute said agreement.

MOTION: approve Consent Calendar Items 1 – 3 as recommended by staff.

MOVED: Moved by Vierra/seconded by Durossette

VOTE: Motion passed with Councilmember Ochoa absent. (4/0)

UNFINISHED BUSINESS

4. **Resolution No. 2009-118** awarding the Street and Parking Lot Sweeping Project agreement to Contract Sweeping Services and authorizing the City Manager to Execute said Agreement.

This item is continued from the City Council Meeting of October 12, 2009 at which time, Council directed staff to provide additional information regarding street sweeping services and the bid submitted by Contract Sweeping Services. Specifically Council requested the following:

1. Confirm the number of miles. If we go with the low bidder, he needs to send us a letter stating that his bid is based on the actual number of miles.
2. Put an accurate map with the agreement and provide a street listing.
3. Confirm the age of the equipment used by Contract Sweeping Services.
4. Calculation based on the number of miles we have to sweep and the amount of time it would take based on 7 mph so we can determine whether or not it is possible to adequately sweep the City with only one truck in service.

Staff complied with Council's request and provided an updated map with a listing of all streets; confirmed the number of miles to be swept, confirmed the age of equipment used by Contract Sweeping Services to be within the requirement and confirmed that it was possible for one truck to sweep all City Streets within a month.

Council discussed the current condition of the streets and the variables that added to the difficulties of adequately cleaning them. They also discussed various steps that could be taken to improve the quality of street sweeping including a lower speed limit and modifications to the current leaf and limb policy. After further discussion, Council decided to approve the contract for a 12-month period and directed staff to provide new performance criteria stands and criteria for a quality assurance/quality control process.

MOTION: Approve **Resolution No. 2009-118** awarding the Street and Parking Lot Sweeping Project agreement to Contract Sweeping Services, *Contract to be for a 12-month period; Staff to provide new performance criteria standards and criteria for QA/QC process and authorizing the City Manager to Execute said Agreement.*

MOVED: Moved by Vierra/seconded by Durossette

VOTE: Motion passed with Councilmember Ochoa absent. (4/0)

PUBLIC HEARING

5. **Public Hearing** - to consider **Resolution No. 2009-119** accepting the Director of Public Safety's recommendations for use of the Supplemental Law Enforcement Services Fund (SLESF) grant and authorizing an amendment to the FY 2009/10 Budget.

Mike Borges, Deputy Chief of Police, addressed Council stating that as a requirement of funding, a public hearing must be held to consider and determine the use of funds, as presented by the Director of Public Safety. In prior years, this funding was used to cover partial costs of police officers previously hired under a Federal COPS grant and for maintenance at the shooting range.

This year the Director's recommendation has been modified to allocate the entire \$100,000 for front-line officers hired under the Federal COPS grant.

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

7:45 p.m. There being no one wishing to speak, the Public Hearing was closed.

MOTION: Approve **Resolution No. 2009-119** accepting the Director of Public Safety's recommendations for use of the Supplemental Law Enforcement Services Fund (SLESF) grant and authorizing an amendment to the FY 2009/10 Budget.

MOVED: Moved by Durossette/seconded by Vierra

VOTE: **Motion passed with Councilmember Ochoa absent. (4/0)**

6. **Public Hearing** – to consider **Resolution No. 2009-120** upholding the Planning Commission's denial of a variance request pertaining to an existing privacy wall at 3207 Blaker Road, thereby denying the appeal from Kevin Oxford.

Tom Westbrook, Acting City Planner, introduced the item explaining that in January 2009, the City received a complaint that the privacy wall on Mr. Oxford's property located at 3207 Blaker Road was too close to the sidewalk along Blaker Road. Staff determined from site inspections that the wall exceeds the 6-foot maximum height, is encroaching within an existing public utility easement and was not constructed per the building plans as it is constructed at seven (7) feet back from the property line along Blaker Road in lieu of the 15 feet from the property line as required by Zoning Code.

As a result, the applicant had two options available to resolve the issue: 1) demolish the wall and rebuild it so that it meets the height and minimum set back requirement; or 2) request approval of a variance to allow the wall to remain in its current position.

On May 8, 2009, Mr. Oxford submitted the variance application which was considered at the Planning Commission Meeting of September 21, 2009. After a thorough review of the property and considering the applicant's testimony, the Planning Commission was unable to make all the findings necessary to grant the variance. This resulted with the Planning Commission denying the variance.

On October 1, 2009, Mr. Oxford appealed the Planning Commission's decision to the City Council.

7:54 p.m. The Public Hearing was opened.

- Kevin Oxford addressed Council stating why he felt he should keep his wall where it is currently located.
- Len Shepherd, spoke in support of Mr. Oxford.

8:19 p.m. There being no one else wishing to speak, the Public Hearing was closed

Council, in general, felt that granting the variance would set a precedent for future variance requests of a similar nature, which are not in the best interest of the City. The wall is not only too close to the property line it is a safety hazard as it impedes the neighbor's driveway.

MOTION: Approve **Resolution No. 2009-120** upholding the Planning Commission's denial of a variance request pertaining to an existing privacy wall at 3207 Blaker Road, thereby denying the appeal from Kevin Oxford.

MOVED: Moved by Durossette/seconded by Vierra

VOTE: **Motion passed with Councilmember Ochoa absent. (4/0)**

NEW BUSINESS

7. **Resolution No. 2009-121** approving the Sewer System Management Plan (SSMP) as written to comply with the Statewide General Waste Discharge Requirements (GWDR).

Phil Scott, Director of Public Works, addressed Council stating that the City is required to certify to the State that Ceres has a Council approved Sewer System Management Plan that prescribes effective management of a wastewater collection system as defined by the Statewide General Waste Discharge Requirement. This definition includes:

- Maintaining or improving the condition of the collection system infrastructure in order to provide reliable service into the future.
- Cost-effectively minimizing infiltration/inflow and providing adequate sewer capacity to accommodate design storm flows; and
- Take all feasible steps to minimizing the number and impact of sanitary sewer overflows that occur.

Adoption of the SSMP creates no cost to the City however, implementation of the SSMP as required by the State will require the City to continue to adequately fund a CIP program that will provide for rehabilitation and replacement of the sewer collection system as would be deemed prudent and necessary to maintain flow and capacity in the pipes. To avoid fines or penalties from the State, future expenditures would also be required to adequately fund the operations to ensure the effective and proper maintenance of the collection system to reduce or eliminate SSOs, provide for a Fats, Oil and Grease program, provide for emergency response, and monitor and evaluate the system. Council will have the opportunity to review and approve these future expenditures either through the budget process for Operations and Maintenance or through the appropriation of funds for the CIP program.

MOTION: Approve **2009-121** approving the Sewer System Management Plan (SSMP) as written to comply with the Statewide General Waste Discharge Requirements (GWDR).

MOVED: Moved by Durossette/seconded by Vierra

VOTE: **Motion passed with Councilmember Ochoa absent. (4/0)**

8:40 p.m. Council recessed for a short break.

8:45 p.m. Council reconvened in open session.

8. **Resolution No. 2009-122** approving the Joint Powers Authority (JPA) establishing the Stanislaus Animal Services Agency and authorizing the Mayor to execute the Agreement.

Mike Lyons, City Attorney addressed Council stating that City Staff believes that participation in the JPA which establishes a multi-jurisdictional animal control shelter with operational and capital costs shared by the Member Agencies offers the most cost effective manner of providing the level of animal shelter facility services required by the City.

The City's share of the annual debt payment for construction of the facility is estimated to be \$38,195 in FY 2010/11 and \$63,821 annually thereafter until 2035. The City's share of the operational costs of the new facility cannot be determined with complete certainty at this time. City Staff continues to explore the most cost effective method of providing animal patrol and canvassing services. That analysis will be provided to the Council at a later date.

After some Council discussion regarding the obligation to the City should the other cities not approve the JPA, the following motion was made:

MOTION: Resolution No. 2009-122 approving the Joint Powers Authority (JPA) establishing the Stanislaus Animal Services Agency and authorizing the Mayor to execute the Agreement, *contingent upon approval by the City of Modesto and the County of Stanislaus.*

MOVED: Moved by Vierra/seconded by Lane

VOTE: Motion passed with Councilmember Ochoa absent. (4/0)

9. Consideration of staff's draft response letter to the TID letter regarding the Final EIR for the Hughson-Grayson 115kV Transmission Line & Substation Project.

Council reviewed and authorized submission of the letter, directed staff to add legal language prior to submission to the TID Board. They also discussed additional actions they could take and decided the following:

- o Vice Mayor Vierra will attend the next TID Board meeting to be held on November 17, 2009.
- o Councilmember Lane to meet with TID Chairperson Fernandez prior to the November 17th Board Meeting.

COUNCILMEMBER REFERRALS – None.

REPORTS

Council and staff reported on various activities including the success of the computer classes for seniors at the Community Center and the upcoming fundraiser for the High Schools, the chicken cook-off to be held at Food 4 Less.

9:10 p.m. There being no further business, Mayor Cannella adjourned the meeting.

Anthony Cannella, Mayor

Cindy Heidorn, CMC, City Clerk