

CITY COUNCIL MINUTES

January 25, 2010

Mayor Cannella called the January 25, 2010 City Council 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 Adrian Condit, Village Chapel Free Will Baptist Church,

PLEDGE OF ALLEGIANCE to the flag led by Mayor Cannella.

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

MOTION: Approve the minutes of the regular meeting of November 23, 2009.

MOVED: Moved by Durossette/seconded by Lane

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

CITIZEN COMMUNICATIONS

- Mike Lynch representing the California High Speed Rail Authority, spoke regarding an upcoming Scoping Hearing to be held in Modesto and urged Council and staff to attend.
- Kathy Richards representing National Meter and Automation, spoke regarding a recent bid she submitted for the water meter retrofit project. Ms. Richards stated that the City had indicated to her that they were interested in an AMR (drive-by) solution and not an AMI (fixed network) solution which is much costlier. Based on that information she did not bid an AMI solution which ultimately, the City chose. She stated that she felt her company has an AMI solution that is cheaper and better than the other vendors. She requested Council allow her company to put up a collector in the City to show the Council features and abilities of her solutions.

Staff informed Ms. Richards that the item would be presented again to the Council on February 8, 2010. If Ms. Richards is interested in discussing further, she needs to contact staff prior to that meeting.

- Frank Johnsen, Modesto, presented a plaque to Police Chief Art de Werk, for his work with the Hindu/American community.

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 Vierra

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

APPOINTMENTS TO BOARDS/COMMISSIONS - None

CONFLICT OF INTEREST DECLARATION – Vice Mayor Lane declared a conflict with item No. 4. Mo-Cal Office Solutions is his employer.

Mike Lyons, City Attorney, stated that California Government Code Section 1090 prohibits a City from contracting with a company where a councilmember is employed. However, Government Code has a provision for such contracting when the councilmember has a “remote interest” in the contract and if the fact of that interest is disclosed to the body or board of which the officer is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.

Mr. Lyons certified that Councilmember Lane meets all the requirements to have a remote interest in the contract. Those requirements are as follows: 1) Mo-Cal has at least 10 other employees; 2) Councilmember Lane was employed by Mo-Cal for at least three years prior to accepting his initial term of office to the Council; 3) Councilmember Lane owns less than 3% of the business; 4) Councilmember Lane is not an officer or director; 5) Councilmember Lane did not participate in any of the discussions relating to the contract proposal.

CONSENT CALENDAR

1. General Correspondence – **Information Only**
 - a. Public Works Dept. Monthly Report for December, 2009.
 - b. Information Technology Division Monthly Report for December, 2009.
 - c. Recreation Dept. Monthly Report for November and December, 2009.
2. Register of Audited Demands for period covering December 15, 2009 – January 13, 2010.
3. **Resolution No. 2010-05** authorizing the submission of an application to the State of California Office of Traffic Safety DUI Enforcement and Awareness Program Grant for 2010.
4. **Resolution No. 2010-06** approving a 36-month lease and maintenance agreement with Mo-Cal office solutions for one copier at the Ceres Community Center. **PULLED DUE TO CONFLICT OF INTEREST.**
5. **Resolution No. 2010-07** approving a Consultant Services Agreement with Minagar & Associates to design the 2010 Traffic Signal Synchronization and Retiming Project. **PULLED FOR FURTHER DISCUSSION.**

MOTION: Approve Consent Calendar Items 1-3 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

4. **Resolution No. 2010-06** approving a 36 month lease and maintenance agreement with Mo-Cal Office Solutions for one copier at the Ceres Community Center.

MOTION: Approve **Resolution No. 2010-06** as recommended by staff.

MOVED: Moved by Durossette/seconded by Ochoa

VOTE: Motion passed with Councilmember Lane abstaining (4/0/1)

5. **Resolution No. 2010-07** approving a Consultant Services Agreement with Minagar & Associates to design the 2010 Traffic Signal Synchronization and Retiming Project. **PULLED FOR FURTHER DISCUSSION.**

Council asked staff if they were confident with this vendor and they were satisfied the signal synchronization and retiming will be effective.

Glenn Gebhardt, Interim Development Services Director, confirmed that staff was confident that this consultant is qualified to correct the problems we are having.

MOTION: Approve **Resolution No. 2010-07** as recommended by staff.

MOVED: Moved by Lane/seconded by Ochoa

VOTE: Motion passed unanimously (5/0)

UNFINISHED BUSINESS - None

PUBLIC HEARING - None

NEW BUSINESS

6. Council acceptance of the City of Ceres Audited Financial Report for Fiscal Year Ended June 30, 2009.

Mr. Steve Larson representing Caporicci and Larson presented a brief overview of the audit reports. Caporicci and Larson gave an unqualified opinion to the Financial Statements. The unqualified opinion is the highest or best opinion that an auditor can give.

MOTION: Accept the City of Ceres Audited Financial Report for Fiscal Year Ended June 30, 2009.

MOVED: Moved by Lane/seconded by Ochoa

VOTE: Motion passed unanimously (5/0)

7. City of Ceres Fiscal Year 2009/10 Mid-Year Budget Reports. Approve **Resolution No. 2010-08** amending the FY 2009/10 City of Ceres General Fund Budget and Reducing the Revenue Budget in the amount of \$540,074 and reducing Appropriations Budget in the amount of \$27,710 and

Sheila Cumberland, Finance Director, introduced the item stating that the total revenue received as of December 31, 2009 equals 44.4% of the budget. General Fund revenue received equals 42.1%. The total encumbrances, as of December 31, 2009 equals 39.1% of the budget. This year the General Fund expenditure budget exceeds the revenue budget by \$1,131,871 due to the original budget and carryover projects. The analysis of General Fund revenue indicates several revenue sources will not meet budgeted estimates, therefore budget amendment reductions are recommended. CDBG Budget amendment is recommended to incorporate funds approved by the City Council and included in the current fiscal year's Annual Action Plan into the City of Ceres FY 2009-10 Budget.

MOTION: Approve **Resolution No. 2010-08** amending the FY 2009/10 City of Ceres General Fund Budget and Reducing the Revenue Budget in the amount of \$540,074 and reducing Appropriations Budget in the amount of \$27,710.

MOVED: Moved by Vierra/seconded by Lane

VOTE: Motion passed unanimously (5/0)

MOTION: Approve **Resolution No. 2010-09** amending the FY 2009/10 City of Ceres Annual Budget

and Appropriating \$277,509 of Community Development Block Grant (CDBG) Funds for the Fifth Street Projects.

MOVED: Moved by Vierra/seconded by Lane

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

8. **Ordinance No. 2010-XXX** approving a text amendment to permit the parking and driving of tow trucks on residential streets which have a gross manufacturer's weight rating exceeding ten thousand pounds. **First Reading and Introduction.**

Mike Lyons, City Attorney, introduced the item explaining that Council first discussed this issue at its Study Session of April 16, 2009. At that meeting, Council directed staff to prepare an Ordinance Amendment for consideration by the Council to address the problem of rotation program tow truck drivers not being able to park and maintain their larger flat-bed type tow trucks at their personal residence because of the weight restriction applicable to such vehicles when operated on restricted streets. Council also wished to see various options including application of the ordinance to only rotation list providers; application to all tow truck operators in the City, whether or not they are on the City's rotation list program; application to all tow truck operators in the City, whether or not they are on the City's rotation list program; operational restrictions when tow trucks are maintained and operated from a private residence and an option for requiring approval of owners and occupants of residences within 300 feet of the residence where the tow truck is maintained.

Staff has prepared two forms of the proposed ordinance. The first limits its application to rotation list program providers, and the second expands the ordinance amendment to include all tow truck operators in the City. Each ordinance amendment contains operational restrictions, and each contains an option to require approval of the owners and occupants of residences within 300 feet.

Staff believes that the operational restrictions contained in both ordinances will help to mitigate the effect that the maintenance of such vehicles will have on neighboring residential properties.

- Ken Groves, resident, asked Council and staff how many tow truck companies are currently on rotation that would be affected by this ordinance amendment.

City Attorney Lyons responded that there are eight (8) tow truck companies. All of the rotation tow providers and the private citizens who initially raised the issue of the parking of the tow trucks were all notified in advance of the meeting and provided a copy of the staff report.

- Robert Hall, resident, was not in support of an ordinance amendment that would allow tow trucks to park on residential streets.

After some Council discussion concerning the wear and tear on the residential streets and the impacts on neighborhoods. Various options were discussed including passing the amendments effective for only one-year to see what the effects might be.

MOTION: Approve **Ordinance No. 2010-XXX** adopting the Ordinance Amendment that limits application to only rotation tow providers, requires the approval of neighbors within 300 feet of tow operators residence and has a term limit of one-year at which time Council will review.

MOVED: Moved by Vierra/seconded by Cannella

VOTE: **Motion failed with Durossette, Lane and Ochoa voting No. (2/3)**

The Ordinance Amendment is denied. No changes will be made to the current Ordinance.

8:30 p.m. - ADJOURN AS CITY COUNCIL TO THE REDEVELOPMENT AGENCY MEETING

8:34 p.m. - RECONVENE AS CITY COUNCIL & REDEVELOPMENT AGENCY FOR JOINT CLOSED SESSION

COUNCILMEMBER REFERRALS – Councilmember Durossette requested the addition of the Farmers Market and Concert in the Parks to an upcoming Study Session.

REPORTS – Vice Mayor Lane reported on a recent League of California Cities Policy Committee Meeting.

8:38 p.m. Council and Agency Adjourned to CLOSED SESSION

AGENCY CLOSED SESSION ITEM

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property: 2400 Herndon Road

Negotiating parties: Brad Kilger, Executive Director or his designee

Under negotiation: Instruction may include price, terms of payment or both

Purpose of Proposed Acquisition: General purposes consistent with the Redevelopment Agency's Plan

Pursuant to Gov't Code Section 64956.9

COUNCIL CLOSED SESSION ITEM

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

9:14 p.m. – Council and Agency Reconvened in Open Session with nothing to report.

9:14 p.m. – There being no further business, Mayor Cannella adjourned the meeting.

Anthony Cannella, Mayor

Cindy Heidorn, CMC
City Clerk