

CITY COUNCIL MINUTES

December 13, 2010

Vice Mayor Lane called the December 13, 2010 City Council Meeting to order at 7:00 p.m. with the following in attendance:

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

INVOCATION by Pastor Mark Whitehead, Victory Assembly of God

PLEDGE OF ALLEGIANCE to the flag led by Vice Mayor Lane.

APPROVAL OF THE MINUTES of the meetings of October 25 and November 8, 2010 (all present)

MOTION: Approve the minutes of the regular meeting of October 25 and November 8, 2010.

MOVED: Moved by Durossette/seconded by Vierra

VOTE: **Motion passed Unanimously (4/0)**

CITIZEN COMMUNICATIONS

- Albert Avila, resident commented that the timing had improved at the intersection of Hatch and Central and hoped that this was not all that was going to be done prior to approving the CVS pharmacy project at that location.

Staff responded that they had passed on the complaint to the City of Modesto who control the lights at that intersection and they must have adjusted the timing.

- Len Shepherd, resident, commented that he was glad to see that Council was moving forward with four members and wished everyone a Merry Christmas.

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

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

MOVED: Moved by Vierra/seconded by Ochoa

VOTE: **Motion passed Unanimously (4/0)**

APPOINTMENTS TO BOARDS/COMMISSIONS

- A. Council concurrence of Vice Mayor Lane's recommendation to re-appoint Laurie Smith to the Ceres Planning Commission for a four-year term to expire December 31, 2014.

MOTION: Council concurrence to re-appoint Laurie Smith to the Ceres Planning Commission for a four-year term to expire on December 31, 2014.

MOVED: Moved by Durossette/seconded by Vierra

VOTE: **Motion passed Unanimously (4/0)**

Ms. Smith thanked Council for their continued support and stated that she looked forward to serving for an additional term on the Planning Commission.

CONFLICT OF INTEREST DECLARATION – Councilmember Vierra declared a conflict with Item No. 7 stating that the firm he works for acquired Eco:Logic and Eco:Logic assisted the City in reviewing the twelve different bidders on the project.

CONSENT CALENDAR

1. General Correspondence – **Information Only**
 - a. Current Major Project List as of December 3, 2010.
 - b. IT Division Monthly Report for October, 2010.
 - c. Building Department Monthly Report.
 - d. Recreation Monthly Report for September and October, 2010.
2. Register of Audited Demands for period covering November 5–24, 2010.
3. Set the date of January 10, 2011 for a Public Hearing for the Downtown Specific Plan EIR and Related Matters.
4. Cancellation of the December 27, 2010 City Council Meeting.
5. **Resolution No. 2010-136** declaring certain City property as surplus and ordering its sale/recycling.
6. **Resolution No. 2010-137** awarding a contract to Du-All Safety for Public Works ongoing Safety Program, Safety Training, and Cal/OSHA Compliance.
7. **Resolution No. 2010-138** awarding the Construction Contract for the City of Ceres Waste Water Treatment Plant Headworks and Influent Pump Station Project to Clark Brothers Inc. in the amount of \$2,229,223.00, authorize a \$300,000.00 contingency, provide additional funds of \$80,000.00 to install variable frequency drives and authorize the Acting City Manager to execute the Contract. PULLED DUE TO CONFLICT OF INTEREST.
8. **Resolution No. 2010-139** awarding the construction contract for the Hatch Road Bike/Pedestrian Path Phase III Project – Payne to Central to Ross F. Carroll, Inc. in the amount of \$603,000.00, approving a Budget Amendment to fund the Construction plus a 10% construction contingency and authorizing the Acting City Manager to execute the contract. PULLED FOR FURTHER DISCUSSION.
9. **Resolution No. 2010-140** awarding the construction contract for the Hatch Road Bicycle & Pedestrian Facility Project, Boothe to Mitchell Road to Ross F. Carroll, Inc. in the amount of \$223,249.00, approving a 10% construction contingency and authorizing the Acting City Manager to execute the contract. PULLED FOR FURTHER DISCUSSION.
10. **Resolution No. 2010-141** approving an agreement for the establishment and participation in the Stanislaus Operational Area Organization. PULLED FOR FURTHER DISCUSSION.
11. **Resolution No. 2010-142** approving the purchase of 600 additional ¾” water meters from Golden State Flow Measurement in the amount of \$138,324.00; and approving a Construction Contract Change Order to increase the current Measurement Control Systems budget by \$54,000.00 for installation. PULLED FOR FURTHER DISCUSSION.

MOTION: Approve Consent Calendar Items 1a-d, and 2-6 as recommended by staff.

MOVED: Moved by Durossette/seconded by Ochoa

VOTE: Motion passed Unanimously (4/0)

CONSIDERATION OF ITEM(S) REMOVED FROM THE CONSENT CALENDAR

- 7. Resolution No. 2010-138** awarding the Construction Contract for the City of Ceres Waste Water Treatment Plant Headworks and Influent Pump Station Project to Clark Brothers Inc. in the amount of \$2,229,223.00, authorize a \$300,000.00 contingency, provide additional funds of \$80,000.00 to install variable frequency drives and authorize the Acting City Manager to execute the Contract

MOTION: Approve **Resolution No. 2010-138** as recommended by staff.

MOVED: Moved by Ochoa/seconded by Durossette

VOTE: Motion passed with Councilmember Vierra abstaining (3/0/1)

- 8. Resolution No. 2010-139** awarding the construction contract for the Hatch Road Bike/Pedestrian Path Phase III Project – Payne to Central to Ross F. Carroll, Inc. in the amount of \$603,000.00, approving a Budget Amendment to fund the Construction plus a 10% construction contingency and authorizing the Acting City Manager to execute the contract.

- 9. Resolution No. 2010-140** awarding the construction contract for the Hatch Road Bicycle & Pedestrian Facility Project, Boothe to Mitchell Road to Ross F. Carroll, Inc. in the amount of \$223,249.00, approving a 10% construction contingency and authorizing the Acting City Manager to execute the contract.

Council asked how often the 10% contingency was spent.

Staff responded that the 10% contingency is almost never spent. It is there in case it is necessary; but seldom needed. Staff is always very careful with the contingency.

MOTION: Approve **Resolution Nos. 2010-139 and 2010-140** as recommended by staff.

MOVED: Moved by Ochoa/seconded by Durossette

VOTE: Motion passed Unanimously (4/0)

- 10. Resolution No. 2010-141** approving an agreement for the establishment and participation in the Stanislaus Operational Area Organization

Len Shepherd, resident asked what the Stanislaus Operational Area Organization is comprised of.

City Attorney, Mike Lyons responded that it was comprised of the County of Stanislaus and the City's in Stanislaus County. Their goal is to coordinate emergency response activities and to have a better coordinated response to disasters and emergency activities county-wide.

MOTION: Approve **Resolution No. 2010-141** as recommended by staff.

MOVED: Moved by Ochoa/seconded by Durossette

VOTE: Motion passed unanimously (4/0)

- 11. Resolution No. 2010-142** approving the purchase of 600 additional $\frac{3}{4}$ " water meters from Golden State Flow Measurement in the amount of \$138,324.00; and approving a Construction Contract Change Order to increase the current Measurement Control Systems budget by \$54,000.00 for installation.

Glenn, Gebhardt, Public Works Director, gave an overview of the project. Mr. Gebhardt stated that we are installing a state-of-the-art water metering system of which the City will be proud.

There is a discrepancy in the number of meters needed versus the number of meters originally ordered. After carefully reviewing the list of water customers versus the bid list, performing field verifications and verifying what is in stock versus what still needs to get installed, Triton Water Technologies believes that an additional 600 ¾" meters are needed to finish the project. This represents an increase of 5% over the initial count of 10,935 meter locations. There may however be more.

Council expressed extreme concern over the discrepancies in the numbers of meters required and requested additional information on the number of meter which had already been installed and the number of meter still needing installation.

The Consultant stated that he was not prepared to speak to that this evening. He further stated that he understood Council's frustration as he was also frustrated. He has received several lists from the City with each list being slightly different. He is investigating, trying to find out exactly where the error occurred. The monies are available within the project budget. The funds will need to be shifted from other areas to pay for the additional meter however the dollars are there.

The Consultant also mistakenly thought that there was a contingency approved on a resolution that was presented at a previous meeting but that Resolution was not approved. The item was continued to a later meeting and the final Resolution which was approved included no contingency.

Council felt that 600 meters was too significant a discrepancy to move forward without additional information and requested the following be provided:

- Master list including every house that has had a meter installed and every house that still needs a meter installed.
- Copy of Tritan's Contract and an explanation of our current obligation to them.
- Copies of previous meeting tapes where this item was discussed.

After further discussion by the Council the following motion was made:

MOTION: Continue Item 11, approving the purchase of 600 additional ¾" water meters from Golden State Flow Measurement in the amount of \$138,324.00; and approving a Construction Contract Change Order to increase to the City Council Meeting of January 10, 2011.

MOVED: Moved by Vierra/seconded by Durossette

VOTE: **Motion passed unanimously (4/0)**

UNFINISHED BUSINESS – None.

PUBLIC HEARING

12. Public Hearing to Consider Adjustments to the Billing Method for Water Rates from Flat Fee Rates to Metered Rates, Determination of Protests, and Consideration of **Resolution No. 2010-143**, Adopting Changes to the Water Service Fee Rate Structure Necessitated by State Mandated Water Metering Requirements.

Glenn Gebhardt, Public Works Director, introduced the item to Council stating that at its regularly scheduled meeting of October 11, 2010, the City Council adopted Resolution No. 2010-129 declaring its intent to adjust the water billing method to use metered rates in accordance with the requirement of the State Department of Public Health. This was done after the metered rate schedules were developed by the City's consultants and after input and analysis by the City Council and City staff. Resolution No. 2010-129 also set a public hearing for consideration of the metered water rates for the regular meeting of the City Council on December 13, 2010, tonight, at 7:00 p.m. and further directed City Staff to give notice of the public hearing and the proposed adoption of the metered water rates in the manner required by Proposition 218 and other applicable California law.

8:10 p.m. Vice Mayor Lane opened the Public Hearing

Those speaking in opposition of the Proposed Adjustments to the Billing Method for Water Rates from Flat Fee Rates to Metered Rates:

- Ron Peterson, resident
- Elden Brewster, resident
- Mike Richards, resident
- Don Donaldson, resident
- Len Shepherd, resident

Others Speaking:

- Mike Kline, Resident, asked if the City is going to have a rate for seniors. Staff responded that we currently do not have a plan for a senior rate but we will do some research and bring it back to Council.
- Albert Avila, commented that he did a comparison with some users from the City he currently works for and recommended that we look at tiered rates for the future.

8:50 p.m. There being no one else wishing to speak, the Public Hearing was closed.

Vice Mayor Lane asked the City Clerk if she had calculated the number of protest received both prior to and during this public hearing and the number of protest necessary to constitute a majority protest of the proposed metered water rate structure.

The City Clerk responded that the total number of valid protests received against the proposed metered water rate structure was nine (9). The total number of parcels affected by the new meter based water service rate structure is 11,307. The total number of protests required for a majority protest is 5,654.

The protests received do not constitute a majority protest of the proposed metered water rate structure.

Vice Mayor Lane stated that since a majority protest has not been filed for the proposed metered water rate structure, the Council may proceed to take action on the resolution listed on the agenda.

MOTION: Approve **Resolution No. 2010-143** Adopting Changes to the Water Service Fee Rate Structure Necessitated by State Mandated Water Metering Requirements.

MOVED: Moved by Ochoa/seconded by Vierra

VOTE: **Motion passed unanimously (4/0)**

NEW BUSINESS

13. **Resolution No. 2010-144** awarding an agreement with KorTech to provide Customer Interface Web Portal to access water usage information.

Glenn Gebhardt, Public Works Director, presented a brief staff report to Council stating that this vendor provides a solution that will allow our customers to have the ability to manage their accounts through a web interface. They will have the ability to look at their daily, weekly and monthly usage. It will be a great asset for the community.

MOTION: Approve **Resolution No. 2010-144** as recommended by staff.

MOVED: Moved by Durossette/seconded by Vierra

VOTE: Motion passed unanimously (4/0)

14. **Resolution No. 2010-145** approving Option 1, including costs to implement a “Mock Billing” Program for Metered Water Rates and approving upgrades to the Eden Billing Server.

Glenn Gebhardt, Public Works Director, gave a brief overview to Council. Mr. Gebhardt stated that this will allow the consumer to get an idea of what their metered bill will be while they are still on the fixed rate bill. There are several options, staff is recommending Option No. 1, which is to place the monthly water usage in large print at the bottom of the standard monthly bill and direct customers to an attached card to determine what their bill would be if the metered rates were in effect. Customers could also be directed to the City’s web site where they could put their water usage into an on-line calculator, and it would determine their bill. The advantage is simplicity and cost. The disadvantage is that the exact metered bill is not provided to the customer. They need to take an additional step to determine the metered bill. This approach was used by the cities of Turlock and Ripon.

Council supported Option No. 1 and asked staff to check into the possibility of putting a kiosk into the lobby of City Hall or the Community Center so citizens could look up their bill from here if they do not have access to a computer at home.

MOTION: Approve **Resolution No. 2010-145** as recommended by staff.

MOVED: Moved by Ochoa/seconded by Vierra

VOTE: Motion passed unanimously (4/0)

15. **Ordinance No. 2010-998** Repealing Chapter 2.40 of Title 2 of the Ceres Municipal Code and Adopting a New Chapter 2.40 – Civil Defense to Update Emergency Planning Administration to Coordinate with County Wide Disaster Planning Administration. **First Reading and Introduction.**

City Attorney, Mike Lyons, stated that in order to effectively coordinate the City’s disaster planning administration with a county-wide disaster administration plan, it is necessary to update the existing ordinance, as requirements have changed over the years, and effective working plans and relationships are required to meet Federal, State and local mandates for emergency preparedness planning.

The new chapter also establishes the officers “Director” and “Assistant Director” of Emergency Services. The position of Director would be occupied by the Chief of Police/Acting City Manager/Director of Public Safety and the Assistant Director position would be occupied by the Deputy Fire Chief.

Len Shepherd, resident, spoke in support of this Ordinance Amendment.

MOTION: Waive full reading and have **Ordinance No. 2010-998** read by number and title only.

MOVED: Moved by Vierra/seconded by Ochoa

VOTE: Motion passed unanimously (4/0)

Vice Mayor Lane directed the City Clerk to read **Ordinance No. 2010-998** by title and number only.

Cindy Heidorn, City Clerk, read **Ordinance No. 2010-998** by number and title only.

MOTION: Approve **Ordinance No. 2010-998** Repealing Chapter 2.40 of Title 2 of the Ceres Municipal Code and Adopting a New Chapter 2.40 – Civil Defense to Update Emergency Planning Administration to Coordinate with County Wide Disaster Planning Administration for First Reading and Introduction.

MOVED: Moved by Vierra/seconded by Durossette

VOTE: Motion passed unanimously (4/0)

16. **Resolution No. 2010-146** designating Sheila Cumberland, Finance Director as the Interim Deputy City Manager.

Art de Werk, Acting City Manager, gave a brief overview of the staff report stating that it is Staff's recommendation that Finance Director Sheila Cumberland be appointed as the Interim Deputy City Manager so another person in the organization has the authority to assist the Acting City Manager in his duties and to serve as the Acting City Manager in his absence. As Interim Deputy City Manager, Sheila will retain her primary responsibility as the Finance Director. Furthermore, it is recommended that Sheila's salary be moved from Step C to Step E to properly compensate her in her new role and additional duties.

MOTION: Approve **Resolution No. 2010-146** as recommending by staff.

MOVED: Moved by Durossette/seconded by Vierra

VOTE: Motion passed unanimously (4/0)

COUNCILMEMBER REFERRALS – None.

REPORTS

Council reported on various recent City activities including the recent St. Jude's Parish walk and the opening of Christmas Tree Lane.

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

Chris Vierra, Mayor

Cindy Heidorn, CMC, City Clerk