

## CITY COUNCIL MINUTES

July 25, 2011

Mayor Vierra called the July 25, 2011 City Council Meeting to order at 7:00 p.m. with the following in attendance:

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

**INVOCATION** by Michael Brinton, City of Ceres Public Works Director

**PLEDGE OF ALLEGIANCE** to the flag led by Mayor Vierra

### CITIZEN COMMUNICATIONS

- Michelle Coxford, representing the Ceres Library gave a report on the upcoming events for July/August at the Ceres Library.
- Len Shepherd, resident, thanked the Public Safety Department for all their hard work.
- George Silveria, resident, commented on the recent valve turning machine the City purchased. Jeremy Damas, invited him to come out and see it in operation while the City was in his area and it worked really well and is a good machine.

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

**MOTION:** Approval of the Agenda as posted (or amended) and certification of posting.

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

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

**APPOINTMENTS TO BOARDS/COMMISSIONS** – None.

**CONFLICT OF INTEREST DECLARATION** – None.

### CONSENT CALENDAR

1. General Correspondence – **Information Only**
  - a. Public Works Monthly Report for June, 2011.
  - b. IT Department Monthly Report for June, 2011.
2. Register of Audited Demands for period covering July 1 – 13, 2011.
3. Set Public Hearing date of August 8, 2011 to consider adoption of a new schedule of fees and charges for Planning, engineering, Fire Police and Parks.
4. **Resolution No. 2011-95** Ordering the Levy and Collection of Special Taxes for Fiscal Year 2011/12 within the City of Ceres Community Facilities District No. 1 (Public Services)
5. **Resolution No. 2011-96** Ordering the Levy and Collection of Special Taxes for Fiscal Year 2011/12 within the City of Ceres Community Facilities District No. 2 (Public Services)

6. **Resolution No. 2011-97** accepting the Hatch Road Bike & Pedestrian Facility Project, Boothe Road to Mitchell Road, CML-5241(030) as Complete, Approving the Balancing Contract Change Order, Authorizing the filing of the Notice of Completion and Retention Release to the Contractor.
7. **Resolution No. 2011-96** accepting the Hatch Road Bike Path Phase III Project, Payne Central, CML-5241(032) as complete, approving the Balancing Contract Change Order, Authorizing the filing of the Notice of Completion and Retention Release to the Contractor.
8. **Resolution No. 2011-99** issuing a Purchase Order to Golden State Flow Measurement, Inc. in the amount of \$97,871.00 for the purchase of water meters to complete the City's Water Meter Installation Project. PULLED FOR FURTHER DISCUSSION.
9. **Resolution No. 2011-100** approving the claim of the City of Ceres to the Stanislaus Council of Governments for Non-Transit Funds and authorizing the City Engineer to sign and submit said claim on behalf of the City.
10. **Resolution No. 2011-101** accepting the Costa Fields Renovation Project as complete and authorizing the filing of the Notice of Completion. PULLED FOR FURTHER DISCUSSION.
11. **Resolution No. 2011-1-2** approving agreements for the lease of City owned real property located at 3012 Fifth Street and 2936 Fifth Street and authorize the Acting City Manager to Execute the Lease Agreements. PULLED FOR FURTHER DISCUSSION.
12. **Resolution No. 2011-103** approving the 2011/12 Capital Improvement Water Projects and Budget Amendment to the 2011/12 Budget.

MOTION: Approve Consent Calendar Items 1a, 1b, 2-7, 9 and 12 as recommended by staff.

MOVED: Moved by Lane/seconded by Durossette

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

#### **CONSIDERATION OF ITEM(S) REMOVED FROM THE CONSENT CALENDAR**

8. **Resolution No. 2011-99** issuing a Purchase Order to Golden State Flow Measurements, Inc. in the amount of \$97,871.00 for the purchase of water meters to complete the City's Water Meter Installation Project.

Councilmember Durossette asked if this would complete the project.

Staff concurred that it would.

Len Shepherd, resident, asked how the meters were missed.

Staff responded that these meters were not missed; they are meters that are located in the City right-of-way medians and other public properties and therefore do not have an account in the billing system.

Don Donaldson, resident asked if the recent water billing rate increase was related to the new meters.

Staff responded that the recent increase was a scheduled rate increase and not related to the installation of the water meters.

MOTION: Approve **Resolution No. 2011-99** as recommended by staff.

MOVED: Moved by Durossette/seconded by Lane

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

**10. Resolution No. 2011-101** accepting the Costa Fields Renovation Project as complete and authorizing the filing of the Notice of Completion

Vice Mayor Lane pulled the item to thank staff for their work on the project and for rectifying the last minute issues that needed to be corrected. It is a really great facility.

Councilmember Ochoa commented that he received an e-mail from the parent of a member of a traveling team who recently used the field, and they were really impressed by the facility.

**MOTION:** Approve **Resolution No. 2011-101** as recommended by staff.

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

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

**11. Resolution No. 2011-102** approving agreements for the lease of City owned real property located at 3012 Fifth Street and 2916 Fifth Street and authorize the Acting City Manger to execute the Lease Agreements.

Len Shepherd, resident, asked for an explanation of the staff report.

City Attorney, Mike Lyons explained that these properties are residential homes owned by the City that are going to be leased by Mr. Shane Parsons, who will renovate them and lease them to members of Project YES which is a County program who provides employment to at-risk youth.

**MOTION:** Approve **Resolution No. 2011-102** as recommended by staff.

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

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

**UNFINISHED BUSINESS** – None.

**PUBLIC HEARING**

13. Public Hearing to consider **Resolution No. 2011-104** amending/approving the annual report, confirming the assessment and ordering the levy for the 1987 Landscape and Lighting District for FY 2011/12.

Michael Brinton, Public Works Director gave a brief staff report stating that each year, per Streets and Highway Code Section 22621, the City needs to reset the assessments for the Landscaping and Lighting District. The City Council has adopted a resolution determining to undertake the proceedings and now must approve the Report, confirm the Assessment and Diagram, Levy the Assessment, Order the Levy and certify that the levy of assessments is in compliance with Proposition 218.

To continue collecting the Landscape and Lighting District assessments, the City must complete this process. This is the final action to adopt the assessments. The process must be completed by this date to allow ample time to process the paperwork necessary for the Assessor to place the assessments against the properties. Stanislaus County requires each agency that wants an assessment placed on the tax rolls to certify that the assessment complies with the applicable laws and Proposition 218. All of 1987 Landscape and Lighting District assessments are exempt from Proposition 218, as they are the same or lower than the previous year; having been only adjusted based on an inflation rate voted on by the property owners.

7:26p.m. The Public Hearing was opened.

7:26p.m. There being no one wishing to speak, the Public Hearing was closed.

MOTION: Approve **Resolution No. 2011-104** amending/approving the annual report, confirming the assessment and ordering the levy for the 1987 Landscape and Lighting District for FY 2011/12.

MOVED: Moved by Durossette/seconded by Lane

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

## NEW BUSINESS

14. **Ordinance No. 2011-1002**, Amending Title 13, Chapter 13.04, Section 13.04.130(G) to further define acts which constitute tampering with City water meters and making account holders responsible for charges associated with tampering. (First Reading and Introduction).

Mike Lyons, City Attorney introduced the staff report stating that the Water Division has been experiencing a marked increase in the frequency of meter tampering incidents since the installation of metered water service technology through out the City. This conduct is apparently driven by a level of unhappiness with the City's implementation of State mandated metered rates. Some water service customers have placed obstructions on or about the meter boxes damaging the antenna for the reading of the meter, and others have clipped wires to the automated reading equipment and otherwise disabled the equipment. Such conduct has resulted in considerable time and expense incurred by the City to repair such damage.

The City does not currently have an effective deterrent to such conduct. It is obviously apparent that the damage to the meters is being perpetrated by the resident(s) of the premises receiving the water service. Pursuing criminal sanctions for damaging City property is time consuming and often difficult to prove. The City's current ordinance provision makes it unlawful to tamper with the water service connection, but it does not make the water customer responsible for the damage to City facilities.

The proposed ordinance amendment defines more explicitly the acts which constitute meter tampering; makes the water service account holder responsible for the actual cost of the repairs, imposes a charge for meter tampering to be set by resolution of the City Council, and allows all charges and expenses to be added to the customer's regular water bill. Further, water service will not be restored until all costs and charges have been paid.

Don Donaldson, resident, asked would be responsible for the meter repairs for rental properties.

Staff responded that the responsible party is the account holder. So if the account is in the Landlord's name, it is the Landlord's responsibility.

MOTION: Waive First Reading and have **Ordinance No. 2011-1002** read by title only.

MOVED: Moved by Lane/seconded by Ochoa

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

Mayor Vierra directed the Clerk to read **Ordinance No. 2011-1002** by Title Only

City Clerk read the title into the record as follows:

“**Ordinance No. 2011-1002**, an Ordinance of the City Council of the City of Ceres, Amending Title 13, Chapter 13.04, Section 13.04.130(G) to further define acts which constitute tampering with City water meters and making account holders responsible for charges associated with tampering”.

MOTION: Approve for First Reading and Introduction **Ordinance No. 2011-1002**, Amending Title 13, Chapter 13.04, Section 13.04.130(G) to further define acts which constitute tampering with City water meters and making account holders responsible for charges associated with tampering.

MOVED: Moved by Lane/seconded by Durossette

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

15. **Ordinance 2011-1003** establishing the prima facie speed limit on various streets in the City of Ceres. (First Reading and Introduction).

Michael Brinton, Public Works Director, introduced the item stating that cities and counties in California are required to follow the California Vehicle Code to establish speed limits within their jurisdictions. Following the CVC allows local law enforcement to use radar equipment to enforce the speed limit. Additionally, the CVC allows a local authority, by ordinance or resolution to determine and declare a 25 mile per hour prima facie limit in a residence district.

Both Aristocrat Drive, Morgan Road to Malik Drive, and Malik Drive, Hackett Road to north end, meet this requirement of the CVC and thus allow the City of Ceres to set the speed limit at 25 mph. Traffic speed surveys were performed for 42 street segments thorough out the City. The recommended posted speed limit is the 85th percentile speed rounded to the nearest 5 miles per hour (mph) increment. Additionally, the speed limit can be reduced 5 miles per hour based upon engineering judgment of field conditions such as roadside development and environment, road characteristics, parking practices and pedestrian conditions. Of the 42 speed surveys conducted, 17 were reduced 5 mph due to these conditions.

The Engineering and Traffic Survey, used to identify the 85th percentile speed, combined with the characteristics of each street were used to determine the proposed speed limit for each of the identified streets.

*Mayor Vierra asked how the street segments were chosen and if requested, could additional streets be surveyed.*

Staff responded that they surveyed the streets throughout the City that had been done previously. If additional streets are requested they could certainly be added to the study.

*Council had some questions regarding the method of setting a speed limit based on the 85<sup>th</sup> percentile of street traffic.*

Chief de Werk responded that the 85<sup>th</sup> percentile is a State law and the City has no control over it. If we drop the speed limit lower than the 85<sup>th</sup> percentile, it would not be enforceable.

The following residents commented on the staff report:

- Len Shepherd, resident, commented that people drive too fast on Moffett.
- Don Kool, resident, commented that not only do people drive too fast they do not stop at stop signs.
- Don Donaldson, resident, commented that speed bumps help deter speeders and requested one be placed on Joy Avenue at the curve.
- Hugo Molina, resident, stated that he disagrees with the State Law that requires the City to set the speed limit to the 85th percentile. Just because everybody speeds doesn't make it right.

*Council requested a Study Session to discuss additional roads to be studied where speeding is a regular problem and other traffic calming measures.*

MOTION: Waive First Reading and have **Ordinance No. 2011-1003** read by title only.

MOVED: Moved by Durossette/seconded by Ochoa

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

Mayor Vierra directed the Clerk to read **Ordinance No. 2011-1003** by Title and number only.

City Clerk read the title into the record as follows:

“**Ordinance No. 2011-1003**, an Ordinance of the City Council of the City of Ceres establishing the prima facie speed limit on various streets in the City of Ceres.”

MOTION: Approve for First Reading and Introduction **Ordinance No. 2011-1003**, establishing the prima facie speed limit on various streets in the City of Ceres

MOVED: Moved by Lane/seconded by Ochoa

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

16. **Resolution No. 2011-105** approving a contract and appointing Toby Wells Director of Engineering/City Engineer.

Art de Werk, Acting City Manager/Police Chief, gave a brief overview of the process staff took in recruiting and hiring a Director of Engineering/City Engineer. The City commenced an open recruitment for the position on April 1, 2011 Fifteen applications were received for the position and all applicants were interviewed and rated by two separate panels The top three rated candidates were interviewed by the Interim Deputy City Manager, Sheila Cumberland who recommended that the Acting City Manager appoint Mr. Toby Wells to the position.

The City has negotiated an Employment Agreement with Mr. Wells and he has executed the Agreement.

The City Manager seeks the Council's ratification of the appointment and approval of the Employment Agreement. If approved the City Council, Mr. Wells will commence his duties on August 1, 2011.

Mr. Wells is a highly qualified licensed Civil Engineer with diverse experience in both the public and private sector. He possesses the technical and managerial skills necessary to provide a high level of leadership and direction to the department. He is currently working for the City under contract as a professional consultant providing critical engineering services, both technical and managerial. He has demonstrated his skill and competency during his period of employment and has gained a solid understanding of the operations of the department, its strengths and its challenges. In this sense, he is uniquely positioned to hit the ground running with little down time to acquaint himself with department operations and personnel. He has an historical attachment to the area, having lived and worked in the valley for the bulk of his life. He will be a fine addition to City staff.

The proposed Employment Agreement contains the same terms and conditions as those contained in the agreement with the City's prior Director of Engineering/City Engineer The salary is set at Range J90, Step E (\$10,814 00 per month), but reduced to Step C (\$9,809 00 per month) in recognition of the City's need to make budgetary reductions Other benefits are the same as those given to other Department Head positions.

**MOTION:** Approve **Resolution No. 2011-105** as recommended by staff.

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

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

### **COUNCILMEMBER REFERRALS**

Follow-Up Items: Future Study Session to discuss additional roads to be studied where speeding is a regular problem and other traffic calming measures.

**REPORTS** – None.

There being no further business, Mayor Vierra adjourned the meeting at 8:05 p.m.

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Chris Vierra, Mayor

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Cindy Heidorn, CMC  
City Clerk