

## CITY COUNCIL MINUTES

**October 24, 2011**

Mayor Vierra called the October 24, 2011 City Council Meeting to order with the following in attendance:

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

**INVOCATION** by Ken Sylvia, Youth for Christ

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

**APPROVAL OF THE MINUTES** of the Special Meeting of August 25<sup>th</sup>, the Regular Meetings of September 12<sup>th</sup> and September 26<sup>th</sup>, and the Study Session of September 12, 2011. (All present)

**MOTION:** Approve the minutes of the Special Meeting of August 25<sup>th</sup>, the Regular Meetings of September 12<sup>th</sup> and September 26<sup>th</sup>, and the Study Session of September 12, 2011.

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

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

### CITIZEN COMMUNICATIONS

- Michelle Coxford, representing the Ceres Public Library gave a brief report to Council on the upcoming activities and opportunities for library patrons in November.
- Linda Pitman, resident, spoke again about her concerns with the use of amplified music at the Whitmore Mansion. Ms. Pitman said the noise issues are getting better but the noise and the parking problems still cause quality of life issues for her and her neighbors. She thanked Council and Staff for their assistance but she is moving forward with her petition.

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

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

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

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

### APPOINTMENTS TO BOARDS/COMMISSIONS

**A. Resolution No. 2011-142** approving appointments to the Governing Board of the Stanislaus Regional Water Authority.

**MOTION:** **Resolution No. 2011-142** approving the appointment of Mayor Vierra as a member of the Governing Board of the Stanislaus Regional Water Authority and Bret Durossette as an Alternate.

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

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

**CONFLICT OF INTEREST DECLARATION - None****CONSENT CALENDAR**

1. General Correspondence – **Information Only**
  - a. Recreation Division Revenue and Participation Report May-September, 2011.
  - b. IT Division Monthly Report for September, 2011.
  - c. Building Division Activity Report for August and September, 2011.
  - d. 1<sup>st</sup> Quarter Budget Report.
2. Register of Audited Demands for period covering October 10–13, 2011.
3. **Resolution No. 2011-143** accepting Office of Justice Programs, Bureau of Justice Assistance 2011 Bulletproof Vest Partnership Grant and Approving a FY 2011-12 Budget Amendment.
4. **Resolution No. 2011-144** awarding a contract to Industrial Electrical Company for Service and Maintenance of the Water Division's SCADA and Electrical Systems in an amount not to exceed \$100,000.00 and authorizing the Acting City Manager to execute the contract.
5. Waive Second Reading and Adopt **Ordinance No. 2011-1005** amending Title 13, Chapters 13.04, Water Systems and 13.12, Sewer System to Make the Water and Sewer Code Provisions Consistent with the Change of Water Service Billing from a Flat Rate to a Meter Based Rate and to make other Miscellaneous Amendments.
6. Set Public Hearing date of November 28, 2011 to consider the Execution of the Ceres Freeway Agreement with the State of California Department of Transportation.
7. **Resolution No. 2011-145** approving Fiscal Year 2010-2011 Carryover Appropriations and Amending the FY 2011/12 Budget. **PULLED FOR FURTHER DISCUSSION.**

MOTION: Approve Consent Calendar Items 1a – 6 as recommended by staff.

MOVED: Moved by Ochoa/seconded by Durossette

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

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

7. **Resolution No. 2011-145** approving Fiscal Year 2010-2011 Carryover Appropriations and amending the FY 2011-12 Budget.

Len Shepherd, resident requested an explanation of the staff report.

Deputy City Manager Sheila Cumberland responded that there are certain 2010-2011 appropriations that need to be carried over to the 2011-2012 fiscal year. Most of the appropriations were approved as part of Employee Bargaining Agreements, some are related to grant funding and some were purchases not received before the end of the fiscal year.

MOTION: Approve Consent Calendar Item 7 as recommended by staff.

MOVED: Moved by Durossette/seconded by Lane

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

**UNFINISHED BUSINESS** – None.

**PUBLIC HEARING**

8. Public Hearing to consider **Ordinance No. 2011-1006** approving a Zoning Ordinance Text Amendment (11-02 ZOTA) for the modification of various definitions listed in the City of Ceres Zoning Ordinance.

Tom Westbrook, Planning/Bldg./Housing Manager presented a brief report to Council. Mr. Westbrook stated that in August of 2011 the Council adopted a new schedule of user fees and charges for the processing of development applications and other related services that are completed throughout the Planning Division. As a result of the revised user fee service schedule, staff compared the services listed in the schedule to the definitions listed in Section 18.04.002 of the City's Zoning Ordinance and noticed this section lacked some of the definitions for these services and concluded that further clarification is needed for certain existing definitions in the section so as to further educate the public's understanding of the Division's planning terminology and processes.

The Planning Commission considered staff's proposed changes to the definitions section (18.04.002) of the Zoning Ordinance in addition to other Code sections that would be affected by the amendments and approved the changes proposed by staff.

The recommendation to approve the amendments is based on the following reasons:

1. The proposed Zoning Ordinance Text Amendment will have no adverse effect on properties and it will promote better communication between staff and the general public of the Planning Division's process, thereby improving customer service relations with developers and the general public.
2. The proposed Zoning Ordinance Text Amendment is consistent with the proposed and intent of the residential designations listed in the Ceres General Plan.
3. The proposed Zoning ordinance Text Amendment is consistent with City zoning designations.

7:25 Mayor Vierra opened the Public Hearing

7:25 There being no one wishing to speak, Mayor Vierra Closed the Public Hearing.

**MOTION:** Waive First Reading and have **Ordinance No. 2011-1006** read by title only.

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

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

Mayor Vierra directed the Clerk to read **Ordinance No. 2011-1006** by Title Only

City Clerk read the title into the record as follows:

**"Ordinance No. 2011-1006**, Ordinance of the City Council of the City of Ceres Amending Various Definitions of Title 18, Chapters 18.04, 18.08, 18.10, 18.12, 18.14, 18.16, 18.18, 18.20, 18.22, 18.24, 18.26, 18.28, 18.30, 18.32, 18.34, 18.40, 18.46 And 18.50 of the Ceres Zoning Ordinance"

MOTION: Approve for First Reading and Introduction **Ordinance No. 2011-1006**, Amending Various Definitions of Title 18, Chapters 18.04, 18.08, 18.10, 18.12, 18.14, 18.16, 18.18, 18.20, 18.22, 18.24, 18.26, 18.28, 18.30, 18.32, 18.34, 18.40, 18.46 And 18.50 of the Ceres Zoning Ordinance

MOVED: Moved by Lane/seconded by Durossette

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

9. Public Hearing to consider **Resolution No. 2011-146** approving the creation of Agricultural Preservation Boundaries to year 2050 that will be included in a countywide effort that includes all nine Cities and Stanislaus County.

Tom Westbrook, Planning/Building/Housing Manager, addressed Council stating that in December 2010 the Local Agency Formation Commission (LAFCO) discussed an item to review the agricultural preservation strategies, including agricultural mitigation, of other LAFCO's across the State. Based on input from that meeting, LAFCO met with the Stanislaus county Mayors' Group to discuss their efforts to develop a Stanislaus County Growth Management Plan. The mayors presented draft map to the LAFCO Commission outlining a long-term growth envelope outside of which the mayors felt comfortable designating as the agricultural preservation area.

On September 14, 2011, the Stanislaus County Mayors, City Managers and Planning Directors all met to further discuss the draft map and to establish parameters for each City to present to their respective Planning Commission and City Councils.

Staff presented four options to the Planning Commission:

Option 1 – Ceres General Plan Study Area

Option 2 – Ceres General Plan Study Area extended in the south to Keyes Road

Option 3 – Ceres General Plan Study Area pulled west ¼ mile from Washington Road

Option 4 – Hybrid/City Council Recommended Boundary

The Planning Commission recommended Option 3.

Councilmember Durossette expressed concern stating that we have not had a General Plan update in a long time and he would like to have a Study Session to discuss this in depth.

7:35 p.m. Mayor Vierra opened the Public Hearing.

- Len Shepherd, resident, stated that we should institute a 20 year moratorium on building until we get the infrastructure in place.
- Ken Groves, resident stated that we need to concentrate westward and agreed that we need to improve infrastructure first.
- County Supervisor Jim DeMartini commented that this is not an Ag Preservation Plan but rather a massive expansion of city limits. If we adopt these boundaries, there will not be any agricultural land or compact growth; all we will have is urban sprawl.

7:53 p.m. There being no one else wishing to speak, the Public Hearing was closed.

After further Council discussion of the General Plan Update and the need for more information, Council made the following motion:

MOTION: Continue the Public Hearing item approving the creation of Agricultural Preservation Boundaries to year 2050 that will be included in a countywide effort that includes all nine Cities and Stanislaus County to a study session to be held on November 28, 2011 at 5:30 p.m.

MOVED: Moved by Lane/seconded by Ochoa

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

10. Public Hearing to consider **Resolution No. 2011-147** approving an amendment to the West Landing Specific Plan Public Facilities Financing Plan to Provide for Certain Traffic Improvements.

Tom Westbrook, Planning/Building & Housing Manager addressed Council stating that at the City Council meeting of June 27, 2011, the West Landing project was approved. At that meeting, the Stanislaus County Public Works Director, Mr. Matt Machado raised concerns regarding the status and financing of street intersections which are projected to receive traffic from the land uses included in the plan area. In response to Mr. Machado's concerns, staff proposed and Council approved the flowing language to Chapter 2 of the Financing Plan under City Principles for Backbone Infrastructure:

*It is the City's intention to work cooperatively with the City of Modesto and County of Stanislaus where required traffic infrastructure improvements have cross-jurisdictional implications to identify and implement equitable mechanism(s) for the funding of such improvements and include Project participation in such mechanism(s).*

Subsequent to the meeting, staffs of the City, County and City of Modest have met to discuss the most equitable and efficient way to ensure that necessary street improvement are provided when required and the role of the project in this provision.

Mr. Westbrook outlined the proposed amendment as follows:

In implementation of the language of Chapter 2 noted above, it is proposed to add the following Item 6 to the list of Financing Mechanisms set forth in the Implementation Plan section of Chapter 2 of the Financing Plan.

6. Prior to any development in the Plan Area, adopt an Interim Traffic Fee based on the following principles and provisions:
  - a. Establish an Interim Fee to fund traffic improvements which could generate about \$6,500,000 to fund traffic improvements in the vicinity of the project but beyond the area for which the project is providing fronting improvements. Based on the project projection of 7,746 PM peak hour trips, this would translate into a fee generating about \$840 per PM peak hour trip. It is anticipated that the fee would be allocated to land uses in accordance with the formula used in the City's PFF.
  - b. In the event that a zonal fee applicable to the project is adopted prior to the adoption of the Specific Plan implementation program, then that fee will supersede the provisions of this proposal. In the event that a zonal fee is adopted subsequent to the adoption of the Specific Plan financing implementation program, then that fee will supersede and replace the traffic fee adopted pursuant to this proposal. In that event, any interim fees collected but not yet disbursed will be used to implement traffic improvements as identified by and at the sole discretion of the City of Ceres. Expenditures from the Interim Fee Fund shall be subject to the approval and discretion of the Ceres City Council.
  - c. Establish the following initial list of eligible intersections:

- I. Intersections which are currently in the County, and which will remain in the County indefinitely
  - 3 Carpenter/Whitmore (south half in County, north half in Modesto SOI, see below)
  - 11 Carpenter /Service
  
- II. Intersections which are currently in the County, but which are in the Modesto SOI
  - 2 Crows Landing/Hatch
  - 3 Carpenter/Whitmore (north side in Modesto SOI, see above)
  - 19 Carpenter/Maze
  - 20 Carpenter/Paradise
  - 24 Crows Landing/Glenn •
  - 25 Crows Landing/El Paso
  - 26 Crows Landing/7<sup>th</sup>
  
- III. Intersections which are currently in the County, but which are in the Ceres SOI
  - 15 Central/Service
  - 27 South 9<sup>th</sup>/River

The first amendment is proposed as a clean-up amendment to the West Landing Specific Plan Public Facilities Financing Plan in response to concerns raised by Stanislaus county Public Works Director Matt Machado and reflects discussion and agreement amount staff representing the Cities of Ceres and Modesto and Stanislaus County. It will make provision for assistance with funding improvements to intersections not abutting the West Landing project but which will receive trips from and be affected by the project.

8:00 p.m. Mayor Vierra opened the Public Hearing

Stanislaus County Supervisor, Jim DeMartini, addressed Council stating that the County is in agreement with the amended plan.

8:01 p.m. There being no one else wishing to speak, the Public Hearing was closed.

**MOTION:** Approve **Resolution No. 2011-147** approving an amendment to the West Landing Specific Plan Public Facilities Financing Plan to Provide for Certain Traffic Improvements.

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

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

## **NEW BUSINESS**

- 11. **Resolution No. 2011-148** accepting the one year summary report of the Regional Transportation Impact Fee Group and approving the preparation of a Regional Nexus Study for the 2011 Regional Transportation Impact Fee Program by and between the Cities of Ceres, Hughson, Modesto, Newman, Oakdale, Patterson, Riverbank, Turlock, Waterford, the County of Stanislaus and the Stanislaus Council of Governments, ad amending the FY 2011/12 Budget to appropriate funds.

Amy Ghedney, City of Modesto, gave a presentation to Council. Ms. Ghedney explained that the Regional Transportation Impact Fee, RTIF, working group is composed of City Managers from each of the nine cities, County staff and Stanislaus Council of Governments (StanCOG) staff who are working collaboratively to create a regional transportation impact fee.

The group has agreed that it is time to proceed with a nexus study to determine the appropriate projects and fee for new development for a regional transportation impact fee. StanCOG, pending approval from their policy board, will fund \$50,000 of the cost to do this work and administer the contract, with the remaining cost, not to exceed \$50,000 will be divided among each City Council and the Board of Supervisors.

An equitable regional transportation impact fee is needed to provide funds for the construction of roadway improvements for “Regional” transportation corridors that are impacted by development. The goal is to develop a regional fee that is acceptable to all cities and the county.

**MOTION:** Approve **Resolution No. 2011-148** accepting the one year summary report of the Regional Transportation Impact Fee Group and approving the preparation of a Regional Nexus Study for the 2011 Regional Transportation Impact Fee Program by and between the Cities of Ceres, Hughson, Modesto, Newman, Oakdale, Patterson, Riverbank, Turlock, Waterford, the County of Stanislaus and the Stanislaus Council of Governments, and amending the FY 2011/12 Budget to appropriate funds.

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

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

**COUNCILMEMBER REFERRALS** – None.

**REPORTS** – Councilmember Ochoa reported that StanCOG approved the Whitmore Overpass landscaping project.

8:24 p.m. Mayor Vierra adjourned the City Council Meeting to Closed Session

#### **CLOSED SESSION**

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION  
GOV'T CODE §54956.9(c) Determination of whether or not to initiate litigation.

9:02 p.m. Mayor Vierra reconvened in open session with nothing to report.

9:02 p.m. There being no further business, the meeting was adjourned.

/s/ Chris Vierra, Mayor

/s/ Cindy Heidorn, City Clerk