

CITY COUNCIL MEETING MINUTES

October 8, 2012

Mayor Vierra called the City Council meeting to order at 7:02 p.m. with the following in attendance:

ROLL CALL Council Members Durossette, Ingwerson, Kline, Lane, Mayor Vierra

INVOCATION by Michael Brinton, PW Director

PLEDGE OF ALLEGIANCE to the flag led by Mayor Vierra

PRESENTATIONS

- A. Proclamation declaring October 14 – 20, 2012 “Freedom from Bullies Week” in the City of Ceres. Requested by Michelle Smith M.A.Ed. and Carrie Clark, M.A. representing California Healthy Workplace Advocates. *Proclamation will be mailed to California Healthy Workplace Advocates as requested.*
- B. Proclamation declaring October 6 & 7, 2012 as Fallen Firefighters Weekend and October 7 – 13, 2012 as National Fire Prevention Week. *Fire Captain Eric Holly accepted the proclamation and thanked Council for their recognition.*
- C. Proclamation declaring October 2012 as National Crime Prevention Month. *Sergeant Trent Johnson accepted the proclamation for the Ceres Police Department.*

CITIZEN COMMUNICATIONS

- Len Shepherd, resident, spoke regarding the Fallen Firefighters Memorial event in Sacramento on October 20, 2012.
- John Goulding, representing Ceres Fire Department, presented the City Council with T-shirts for Breast Cancer Awareness month and invited all Council members to participate in the Fire Ops 101 training on November 3 and 4, 2012.
- Michelle Coxford, Ceres Library, updated Council on Library events for the month of October.
- Gabriel Cordova, resident, voiced concerns regarding the Costa Fields complex which remains locked and unavailable for use by the public. *Mayor Vierra responded that he would be happy to meet with Mr. Cordova to discuss the matter.*
- Shari Richardson, resident, voiced her concerns with the fence which runs along the railroad tracks that borders Hackett Road. Ms. Richardson stated that the fence has an opening which is being utilized by the homeless and those coming from the Stanislaus County Sheriff's department to gain access to the subdivision. It is creating a dangerous situation for the residents, not only with the people coming into the subdivision but for children having such easy access to the railroad tracks. She requested Council permanently close off the access point. *Council directed PS, Code Enforcement and the Planning Dept. to investigate the situation.*

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

ACTION: It was moved by Kline/seconded by Durossette to approve the agenda as posted (or amended) and certification of posting. **Motion passed unanimously. (5/0)**

APPOINTMENTS TO BOARDS/COMMISSIONS - None.

CONFLICT OF INTEREST DECLARATION – None.

CONSENT CALENDAR

1. General Correspondence – **Information Only**
 - a. Recreation Division Monthly Report for August, 2012.
2. Register of Audited Demands for period covering September 19–28, 2012.
3. **Resolution No. 2012-139** amending the Fiscal Year 2012-13 Budget for the approved SAFER Grant for the hiring of six firefighters.
4. Set public hearing date of October 22, 2012, to consider a proposed Text Amendment (12-07 ZOTA) to amend Municipal Code Section 15 Buildings & Construction, to consider the adoption of the 2010 edition of the California Building Code, Title 24 California Code of Regulations.
5. **Resolution No. 2012-140** Setting Terms and Conditions of Employment for Miscellaneous Bargaining Unit.
6. **Resolution No. 2012-141** awarding the Construction Contract for the Mitchell Road Widening Whitmore to Joy Ave., to Breneman, Inc., authorizing a 10% contingency, and authorizing the City Manager to execute the contract. *PULLED FOR FURTHER DISCUSSION.*
7. **Resolution No. 2012-142** awarding the Construction Contract for the Sewer Rehabilitation Project to Nor-Cal Pipeline Services, authorizing a 10% contingency, and authorizing the City Manager to execute the contract.
8. **Resolution No. 2012-143** accepting the Construction Contract for the Mitchell Road Overlay (Phase 1) Project, STPL-5241 (036) as complete, approving the Balancing Contract Change Order, authorizing the filing of the Notice of Completion and Retention Release to the Contractor. *PULLED FOR FURTHER DISCUSSION.*

ACTION: It was moved by Ingwerson/seconded by Kline to approve Consent Calendar Items 1-5 and 7 as recommended by staff. **Motion passed unanimously. (5/0)**

CONSIDERATION OF ITEM(S) REMOVED FROM THE CONSENT CALENDAR

6. **Resolution No. 2012-141** awarding the Construction Contract for the Mitchell Road Widening, Whitmore to Joy Ave., to Breneman, Inc. authorizing a 10% contingency and authorizing the City Manager to execute the contract.

Item pulled for further discussion. Although Hensley Paving was the lowest bidder the City deemed them non-responsive for failing to turn in a fully executed bidder's bond. Hensley Paving filed a protest with the City contesting the City's decision to award the contract to the Breneman Inc. arguing the requirements in the bid documents are unclear.

Council held a lengthy discussion on the bid requirements, the clarity of the bid packet and the validity of the protest submitted.

- Len Shepherd, resident commented that the requirements for the bidder's bond should be printed in bold red letters.
- Troy Pittman, representing Breneman Inc., stated that Hensley Paving failed to notify his company of the protest, as required in the protest instructions. He further stated that although Breneman's main office is in Walnut Creek, he and other employees reside in Ceres. Mr. Pittman requested that Council uphold staff's decision.
- George Silvera, ask for details of the project location.
- Daniel Dooley, representing Hensley's Paving, stated that he felt his bid was submitted correctly, his company is local and urged Council to uphold his appeal and award the contract to Hensley's Paving.
- Dave Pratt, resident, stated that due to the downturn of the economy, many companies are bidding public works projects that have never done so before. They are not familiar with the process. He recommended that staff should revise the bid document to make the requirements more noticeable or provide bidders with a 24 hour window to make corrections.

ACTION: It was moved by Kline/Seconded by Durossette to approve **Resolution No. 2012-141** awarding the Construction Contract for the Mitchell Road Widening, Whitmore to Joy Ave., to Breneman, Inc. authorize a 10% contingency and authorize the City Manager to execute the contract. **Motion passed unanimously. (5/0)**

Council directed staff to schedule a Study Session to discuss the bid process.

8. **Resolution No. 2012-143** accepting the Construction Contract for the Mitchell Road Overlay (Phase 1) Project, STPL-5241 (036) as complete, approving the Balancing Contract Change Order, authorizing the filing of the Notice of Completion and Retention Release to the Contractor.

Councilmember Kline pulled the contract to congratulate staff. The contract came in under budget with 0% contingency used on the project.

ACTION: It was moved by Ingwerson/Seconded by Kline to approve **Resolution No. 2012-143** accepting the Construction Contract for the Mitchell Road Overlay (Phase 1) Project, STPL-5241 (036) as complete, approving the Balancing Contract Change Order, authorizing the filing of the Notice of Completion and Retention Release to the Contractor. **Motion passed unanimously. (5/0)**

PUBLIC HEARING

9. Public Hearing - to consider **Ordinance No. 2012-1010**, a proposed Text Amendment (12-08 TA) to amend Ceres Municipal Code Chapter 6.04 Garbage, to create provisions that help regulate the unauthorized entry into waste containers.

8:32 p.m. Mayor Vierra opened the Public Hearing

- George Silvera and Len Shepherd, residents spoke in support of the Ordinance however both expressed concern that it may be an extra burden on the Police Department.

8:36 p.m. There being no one else wishing to speak, the Public Hearing was closed.

ACTION: It was moved by Lane/Seconded by Ingwerson to waive first reading and have the Ordinance Read by number and title only. **Motion passed unanimously. (5/0)**

Mayor Vierra directed the City Clerk to read the Ordinance by number and title only.

Cindy Heidorn, City Clerk, read the following into the record:

“**Ordinance No. 2012-1010**, a proposed Text Amendment (12-08 TA) to amend Ceres Municipal Code Chapter 6.04 Garbage, to create provisions that help regulate the unauthorized entry into waste containers.”

ACTION: It was moved by Lane/Seconded by Ingwerson to approve for first reading and introduction **Ordinance No. 2012-1010**, a proposed Text Amendment (12-08 TA) to amend Ceres Municipal Code Chapter 6.04 Garbage, to create provisions that help regulate the unauthorized entry into waste containers. **Motion passed unanimously. (5/0)**

10. Public Hearing - to consider **Ordinance No. 2012-1011**, a proposed Text Amendment (12-09 TA) to amend Ceres Municipal Code Chapter 18 – Flood Plain Management and Flood Hazard Identification Regulations.

8:38 p.m. Mayor Vierra opened the Public Hearing.

8:38 p.m. There being no one wishing to speak, the Public Hearing was closed.

ACTION: It was moved by Durossette/Seconded by Lane to waive first reading and have the Ordinance Read by number and title only. **Motion passed unanimously. (5/0)**

Mayor Vierra directed the City Clerk to read the Ordinance by number and title only.

Cindy Heidorn, City Clerk, read the following into the record:

“**Ordinance No. 2012-1011**, a proposed Text Amendment (12-09 TA) to amend Ceres Municipal Code Chapter 18 – Flood Plain Management and Flood Hazard Identification Regulations.”

ACTION: It was moved by Durossette/Seconded by Kline to approve for first reading and introduction **Ordinance No. 2012-1011**, a proposed Text Amendment (12-09 TA) to amend Ceres Municipal Code Chapter 18 – Flood Plain Management and Flood Hazard Identification Regulations. **Motion passed unanimously. (5/0)**

NEW BUSINESS

11. Proposal to submit an Out of Boundary Service Agreement (12-09) to Stanislaus LAFCO on behalf of Ceres Unified School District for an approximately 1,700 foot extension of a City water line that will provide domestic water service to a new elementary school.

- Jay Simmonds, Ceres Unified School District, thanked the Council for consideration of this matter.

Resolution No. 2012-144 adopting a Negative Declaration for an out-of-boundary service application to Stanislaus Local Agency Formation Commission (LAFCO) on behalf of Ceres Unified School District for the Extension of Water Service to property located in the 4700 Block of Central Ave. (APN: 041-009-018)

ACTION: It was moved by Durossette/seconded by Ingwerson to approve **Resolution No. 2012-144** adopting a Negative Declaration for an out-of-boundary service application to Stanislaus Local Agency Formation Commission (LAFCO) on behalf of Ceres Unified School District for the Extension of Water Service to property located in the 4700 Block of Central Ave. (APN: 041-009-018) **Motion passed unanimously. (5/0)**

Resolution No. 2012-145 authorizing the submittal of an out-of-boundary Service Application to Stanislaus Local Agency Formation Commission (LAFCO) on behalf of Ceres Unified School District for the extension of water service to property located in the 4700 Block of Central Avenue (APN: 041-009-018)

ACTION: It was moved by Lane/seconded by Kline to approve **Resolution No. 2012-145** authorizing the submittal of an out-of-boundary Service Application to Stanislaus Local Agency Formation Commission (LAFCO) on behalf of Ceres Unified School District for the extension of water service to property located in the 4700 Block of Central Avenue (APN: 041-009-018). **Motion passed unanimously. (5/0)**

8:46 p.m. Adjourn as City Council to meetings of the Successor Agency of the Former Ceres Redevelopment Agency and the Former Stanislaus Ceres Redevelopment Commission.

8:50 p.m. Reconvene as City Council

COUNCILMEMBER REFERRALS – None.

REPORTS

Council and Staff reported on various recent and upcoming community events including the State of the City Address, Love Ceres Event, CUSD Foundation Dinner, retirement party for Sergeant Borges and the upcoming grand opening of the John F. Kennedy School.

8:55 p.m. There being no further business, Mayor Vierra adjourned the City Council Meeting.

/s/Chris Vierra, MAYOR

/s/Cindy Heidorn, CMC, City Clerk