



MINUTES

REGULAR MEETING OF THE CITY COUNCIL

CITY OF CERES, CALIFORNIA
City Council Chambers, 2701 Fourth Street

Monday, March 13, 2017 – 6:00 p.m.

Mailing Address: Ceres City Hall, 2720 Second Street, Ceres, CA 95307-3292
Phone: (209) 538-5700 Fax: (209) 538-5780

Members of the public are advised that all cellular telephones and any other communication devices are to be turned off upon entering the City Council Chambers.

CALL TO ORDER

Mayor Vierra called the March 13, 2017 Regular City Council Meeting to order.

ROLL CALL - Present:

Mayor: Vierra
Vice Mayor: Kline
Council Members: Durossette, Lane, Ryno

Absent: None.

INVOCATION

Invocation was given by Mark Whitehead, Chaplain.

PLEDGE OF ALLEGIANCE

Pledge of Allegiance was led by Mayor Vierra.

PRESENTATIONS

None.

CITIZEN COMMUNICATIONS to the Council on matters not included on the agenda (five minutes).

Lonnie Davis, from Davis Guest Home spoke regarding Laura’s Law (Assisted Outpatient Treatment). He asked Council write a letter to the Stanislaus County Board of Supervisors asking them to implement Laura’s Law. Laura’s Law is a California state law that allows for court-ordered assisted outpatient treatment for those with history of mental issues. He spoke regarding the benefits of the law and how it could help the City.

Rhonda Allen, member of the Homeless Action Council and an advocate of the National Alliance on Mental Illness also spoke about Laura’s Law and encouraged Council to support Laura’s Law.

Dave Pratt spoke regarding the Stanislaus County Employment Committee and stated that it assists veterans find jobs. It also has a “stand down” program that helps the homeless veterans obtain identification cards, medical assistance and provides other various services.

Len Shepherd encouraged Council write a letter supporting Laura’s Law. He also spoke about people maintaining their yards.

APPOINTMENTS TO BOARDS/COMMISSIONS

None

CONFLICT OF INTEREST DECLARATION

No conflicts declared.

CONSENT CALENDAR

All matters listed on the consent calendar are considered routine in nature and will be enacted by a single motion unless otherwise requested by an individual Council Member or public for special consideration. Otherwise the recommendation of staff will be accepted and acted upon by roll call vote.

1. Clerks Report of Posting. The agenda of the regular March 13, 2017, City Council meeting was posted on March 8, 2017. (Nayares-Perez)
2. Waive Readings. All Readings of Ordinances and resolutions are waived. (Nayares-Perez)
3. Approval of Minutes (Nayares-Perez)
 - a. Minutes of the February 27, 2017 Regular City Council meeting.
4. Register of Audited Demands for Period covering February 22, 2017 through March 1, 2017. (Dean)
5. General Correspondence – **Information Only**
 - a. Public Works monthly report for January 2017. (Damas)
 - b. Redevelopment & Economic Development Department Monthly Report for February 2017. (Hallam)

c. Legislative Update. (Wells)

6. **Resolution No. 2017-021**, authorizing the City Manager to execute an agreement with Kjeldsen, Sinnock & Neudeck, Inc. (KSN) for Control System Improvements to the Wastewater Treatment Plant Export Station and authorize the Finance Director to approve a budget amendment. (Damas)
7. **Resolution No. 2017-022**, authorizing the City Manager to execute an agreement with Parkson Corporation to purchase an Aqua Guard® Continuous Self-Cleaning Bar/Filter Screen, and authorize the Finance Director to approve a budget amendment. (Damas)
8. **Resolution No. 2017-023**, approving the Mid-Year Budget Amendment for Fiscal Year 2016/2017. (Wells/Dean)

Mayor Vierra asked if any Council Member or citizen would like an item pulled from the Consent Calendar and be heard under separate motion.

Mayor Vierra asked, if anyone from the Public had any comments. There being no comments, Mayor Vierra brought the item back to Council for direction.

MOTION: Motion by **Council Member Durossette**, seconded by **Vice-Mayor Kline**, approving **Consent items as presented**. **Motion passes 5/0/0** by the following roll call vote:

AYES:	5	Council Members:	Durossette, Lane, Ryno, Vice-Mayor Kline Mayor Vierra
NOES:	0	Council Member:	None
ABSENT:	0	Council Member:	None

CONSIDERATION OF ITEM(S) REMOVED FROM THE CONSENT CALENDAR

No items were removed from Consent.

UNFINISHED BUSINESS

None.

PUBLIC HEARING

None.

NEW BUSINESS

None.

DISCUSSION ITEMS

9. Marijuana Discussion (Wells)

City Manager Wells gave the report and provided a brief history of the marijuana legislation over the years and discussed Proposition 64, which was passed by the California Voters in November of last year that allows up to 6 plants per residence and allows local agency reasonable regulation. He discussed the differences between the Federal and State perspectives on marijuana and reviewed the 2014 Attorney General Cole memo, which addressed the Federal vs. State issues. City Manager Wells reviewed the previous Council direction which was to provide more information regarding: 1) Pursuing the creation of “reasonable regulations” of indoor personal cultivation (Prohibit outdoor Cultivation); and 2) Providing additional information on commercial medical cannabis (No commercial recreational cannabis operations). “Reasonable” Regulations for residential indoor cultivation were discussed, as well as, an overview the Medical Cannabis Regulation and Safety Act (MCRSA). City Manager Wells detailed the State Regulatory Structure, the MCRSA License Types and Policy Considerations and discussed the regulations and permit process that the City of Waterford and Indian Wells recently enacted.

Council Member Lane commented that in regards to indoor permitting, he believes that the permit is a good thing, but if the fee is too high, some people might not obtain permits. City Manager Wells stated that the permit fee is a user fee based on staff time, such as plan checking or onsite inspection. At this time, an exact amount cannot be determined as the fee must be justified with actual staff time and costs, based on the criteria of the permit.

Council Member Durossette commented on the possible dangers to the inspectors from electrical and environmental exposure.

Mayor Vierra questioned if the City does not review the plans of a grower and an electrical fire occurs and a neighbor’s house is burned, will the neighbors be liable to sue. City Manager Wells commented that he would think so. City Attorney Hallinan stated that he concurs with the City Manager. However, the City could possibly have an immunity as it does not have to regulate. A discussion regarding complex and simple permits was held.

Council Member Ryno commented that somebody can grow six plants without modifying their electrical. She would like to include if electrical is modified, that plans should be submitted. Also, if it is stated that nothing is going to be modified, then the applicant should agree to an inspection at any time to confirm.

Vice Mayor Kline stated that some of the Indian Wells permit process was good, but he also thought it includes some criteria that people could get around. However, with a permit process, the City would have knowledge of the growers in the City.

Council Member Ryno commented that if a permit is required and a neighbor complains about the smell, wouldn’t the City have a right to allow inspection and for those with no permit, an enforcement would apply.

Vice-Mayor Kline stated that he likes the idea of having two different kinds of permits. One for elaborate changes that include electrical changes, etc. and one simple permit. City Manager Wells stated that there could be one permit with two different processes.

Council Member Ryno commented if a permit process is put in place, she prefers Indian Wells, as it is more broken down into categories and easier to follow.

Mayor Vierra questioned if the six allowed plants are for personal use or can people sell them. City Manager Wells stated that, technically you can't sell them, but you can give away.

Council Member Lane inquired about the 100 square foot indoor growth area in relation to the six plants. Indoor cultivation in garages and sheds were discussed. City Manager Wells stated that there should be no exterior visibility from the property and that under Prop. 64 an outdoor green house is allowed, as long as it is not visible from the public. However, only one is allowed.

Mayor Vierra discussed the limitation of the residential grow area. He opened up the indoor cultivation, with the maximum of six plants portion of the presentation for public comment and the following persons spoke:

Melvin Yeakley stated that marijuana is a big problem in Ceres and that most of the marijuana grown in the City is being sold for profit. There will be an increase in break-ins. If registration is enacted, growers should be registered and permitted with the toughest requirements. The safety of the inspectors should be taken to consideration.

Dave Pratt stated that he thought Prop. 64 was passed to allow for the collection of taxes.

Leonard Shepherd stated that he is in favor of a permit and that it should state that it cannot be used by anyone except for those that live in the house and should be used only for those living in the home.

Paula Redfern stated that as a Code Enforcement Officer, she has inspected many marijuana growers. Her concern as a Code Enforcement Officer is mold, blocked off points of egress, and electrical overloads that could cause fires. She does not believe a grow area should be allowed in bedrooms and if allowed in a residence, the only place should be a secured garage out of public view. She believes that accessory structures should be an option, and if it is an option it should be up to 150 square foot with a firewall. Also, permits are definitely needed. She commented that she reviewed both the Waterford and Indian Wells Ordinances and if you combine the two, you would have a pretty decent Ordinance. She stated that a building permit and a building inspector are needed to inspect for electrical loads, plumbing considerations and environmental health issues. She further stated that the health of code enforcement officers should be considered to prevent exposure to spores and odor.

A lengthy discussion ensued regarding the investigation of complaints of odor from residences, complaints of operating without a license, as well as administrative citations and fines. City Manager Wells stated that a violation of the permit would cause the permit to be revoked. Mayor Vierra asked what would be in place for people operating without a permit. City Manager Wells stated that the city could create a process with the help of the

City Attorney and code enforcement. Mayor Vierra commented that the fine for should be substantial possibly; \$1,000 or higher. The City Attorney stated that the City has the option of processing it criminally or as an administrative citation. If processed criminally it would be a misdemeanor with six months and a \$1,000 fine.

Lee Brandt, stated that he's curious about differences between California law and Washington and Colorado.

Mayor Vierra brought the item back to Council for comments.

Mayor Vierra commented that he likes what he saw in the Indian Wells Ordinance and if the City moves forward with the permit, he would to include the following: 1) If allowed, encompass not only the City limits, but also the sphere of influence. 2) No concentrated manufacturing, with additional fire insurance coverage required in case something happens that burns down an adjacent structure or having the applicant sign that they are responsible and liable for any fires; electrical chemical or anything that could be a detriment to their neighbor. He further commented that he likes it being an annual permit and also treating it as a building inspection. In addition, no commercial business operation can be run from the homes. His greatest concern is that neighbors don't have to smell odors coming from indoor pot growing.

Council Member Lane commented on the stipulation that states a landlord can allow a renter to grow marijuana. He does not agree with that, and thinks the homeowner should have that right. City Manager Wells stated that the City does not have a legal right to state growing is not allowed by a renter, but the landlord does have the right.

A lengthy discussion ensued regarding renters growing marijuana and landlord or property manager permission, as wells as allowing duplexes and properties that have more than one APN. Council Member Lane stated that tenants should not be allowed to grow.

Mayor Vierra polled Council in regards to their support of creating a permit process.

Action: Council collectively decided in favor of a permit process. Mayor Vierra stated that Council favors the format of Indian Wells, a few things from Waterford. City Manager Wells stated that there are other Ordinances out there, but felt that these two were representative of all of the issues. He stated there are also others that are in draft that have not been adopted, but the City could extract some best practices from those.

Mayor Vierra asked staff to come forth with something that Council can move forward with and return in 12 months to see how it's working.

City Manager Wells asked for direction regarding the limitation of square footage and plant size. Staff recommended for ease a 100 sq. ft. limit and a 10 ft. in height limit. Mayor Vierra requested 120 sq. ft. with a setback. Staff will return to Council with a draft Ordinance and the permit process. After it is effective, within 30 days of adoption, staff will return to Council with a resolution to establish the permit fees. Mayor Vierra asked that the cost for law enforcement to accompany the inspectors be included in the fee.

Policy Direction No. 2

City Manager Wells discussed Policy Direction No. 2 and recapped Council direction from the last meeting, which was: Provide additional information on commercial medical cannabis (No commercial recreational cannabis operations and No outdoor cultivation). He provided an overview of the Medical Cannabis Regulation and Safety Act (MSCRA) and discussed the three Legislative bills that made up the regulation that were approved in 2015. The bills are AB 243; AB 266; and SB 643. It requires dual license as the State will not issue a license without local agency license, prior to State application. It has a complex regulatory structure and license development is currently underway. State licenses are not expected until early 2018. City Manager Wells stated that there are 17 different types of permits. He further reported that Council had stated they had interest in exploring potentially allowing limited medical marijuana business operations. Staff would need direction on which of the licenses to consider and develop further.

Mayor Vierra asked, if anyone from the Public had any comments and the following citizens spoke:

Ceres Fire Department Engineer Joe Spani asked that Council consider the regulations and how they will affect the firefighters who are at the forefront. He further commented that firefighters and paramedics will be exposed to more dangers such as: fires, elevated levels of carbon dioxide and the use of toxic chemicals.

Paula Redfern stated that she recently attended a meeting of Code Enforcement Officers and it was commented that they are inundated with commercial growth calls. Calaveras County is having problems with dispensaries.

Stanislaus County Board Supervisor, Jim DeMartini commented that at this time the City only needs to allow the six plants per house. The City is not required to permit or regulate anything further than that.

Mike Reynolds, a Ceres resident and former Central Valley High School coach stated that he grew up in Ceres and is a member of Cross Point Church. He stated that his son was diagnosed with epilepsy and a chromosome disorder. His son Kase suffered from 1,000 seizures a day and as a result of cannabis they have been reduced to five to 10. Prior to cannabis, they had tried three pharmaceuticals. His son was in constant pain and could not be touched. Because of cannabis, his son's quality of life has greatly improved. Mr. Reynolds would like to stay in Ceres and wants the best for his son. Currently he must travel to Oakland, Monterey and Southern California to get it. He would rather be home and would like to stay in Ceres. He asked that Council consider allowing a pilot program where cannabis can be grown and distributed for medical purposes.

Mayor Vierra asked for clarification on the direction requested from staff. City Manager Wells suggested a small number of indoor commercial growing operations and possible manufacturing and the potential 10A be looked at. He also stated that staff is recommending that no dispensaries be allowed at this point.

Action: Mayor Vierra polled Council if they are supportive of moving forward with looking into allowing manufacturing, small cultivation and distribution. Council majority was reached. Council Member Ryno stated she is supportive, but with conditions.

Council Member Ryno asked how it will be zoned. City Manager Wells stated that it would likely be zoned industrial.

City Manager Wells stated that staff will research on how to control and regulate and return to Council with options. Mayor Vierra stated he would like to keep it small and as the process moves forward, Council can refine it.

COUNCILMEMBER REFERRALS

Any Council Members that would like to have an agenda item placed on a future agenda shall make a request under this section of the agenda.

None.

REPORTS

At this time, any Council Members or City Staff will make an announcement, or report briefly on his or her activities.
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- Mayor Vierra apologized for not attending Blaker Brewing ground breaking ceremony as he was out of town.
- City Council – Nothing to report.
- City Manager – Announced that the next Centennial Committee meeting will be held on March 22nd. Also, the Every Student Succeeding Breakfast will be held this week. He also gave an update on flooding issues previously reported at Don Pedro Dam. It is below the flood elevation at this time.
- City Attorney – Nothing to report.
- Departments
 - Tom Westbrook, Director of Community Development reported that on March 27th City Council will consider the preferred land use alternative. He is hopeful to get the agenda report and supporting documents to Council by the end of the week.
 - Daryl Jordan, Director of Engineering/City Engineer gave an update regarding the lower River Bluff.
- County Supervisor – Supervisor DeMartini had nothing to report.

ADJOURNMENT

The next regularly scheduled City Council Meeting is scheduled to be held on Monday, March 27, 2017 at 6:00 p.m. in the City Council Chambers located in the Community Center at 2701 Fourth Street, Ceres, CA
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There being no further business, Mayor Vierra adjourned the meeting at 8:19 p.m.

Chris Vierra, Mayor

ATTEST:

Diane Nayares-Perez
City Clerk