

MINUTES
REGULAR MEETING OF THE CITY COUNCIL

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

Monday, May 8, 2017 – 6:00 p.m.

Mailing Address: Ceres City Hall, 2720 Second Street, Ceres, CA 95307-3292
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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 May 8, 2017 Regular City Council meeting to order.

ROLL CALL

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

INVOCATION

Invocation was led by Mark Whitehead, Chaplain.

PLEDGE OF ALLEGIANCE

Pledge of Allegiance led by Mayor Vierra

PRESENTATIONS

None.

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

Hiram Cueto spoke regarding cannabis testing and explained the testing process. He asked the Council consider laboratory licensing in the City for the testing of cannabis.

Leonard Shepherd commented that the City of Ceres has the best Police and Fire Departments in California. He also spoke regarding the recent shooting in the City.

Dave Pratt stated that he attended the Ceres Street Faire held this past weekend. He also stated that there will be a job fair for veterans at the SOS Club this Wednesday from 10:00 a.m. to 3:00 p.m. in Modesto. The job fair is also open to civilians.

Lee Brandt announced that the Centennial Committee has selected a Ceres Centennial logo. He also asked that Council and the public post their ideas on how to celebrate the City's Centennial on the Ceres Centennial Celebration Facebook page.

Mark Grey from Modesto stated that he is a compliance officer for Medical marijuana and applauds what Council is doing. He explained the medical marijuana testing process and asked that Council consider allowing licensing of testing sites in the City.

Mike Miller, president of the Ceres Professional Firefighters Local 3636 reminded Council about the Fire Ops 101 training that will be held this Saturday at the Modesto Regional Fire Center.

APPOINTMENTS TO BOARDS/COMMISSIONS

None.

CONFLICT OF INTEREST DECLARATION

No conflicts were 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 May 8, 2017, City Council meeting was posted on May 5, 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 April 24, 2017 Regular City Council meeting.
4. Register of Audited Demands for Period covering April 14, 2017 through April 19, 2017. (Dean)
5. General Correspondence – **Information Only**
 - a. Redevelopment & Economic Development Department Monthly Report – April (Hallam)

6. **Final Adoption of Ordinance No. 2017-1040**, amending Chapter 9.30 of the Ceres Municipal Code, related to fireworks sales and Section 15.10.150 of the Ceres Municipal Code, relating to safe and sane fireworks sales. (Wells)
7. **Resolution No. 2017-037**, accepting the Evans Road CDBG Improvement Project as Complete, Authorizing the Filing of the Notice of Completion, Approve the Balancing Contract Change Order and Retention Release to the Contractor. (Jordan)

Mayor Vierra asked if any Council Member or citizen would like an item pulled from the Consent Calendar and be heard under separate motion. Item 6 was removed from Consent.

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 Vice Mayor Kline, seconded by Councilmember Ryno, approving Consent items as presented. Motion passes 5/0/0 by the following roll call vote:

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

CONSIDERATION OF ITEM(S) REMOVED FROM THE CONSENT CALENDAR

Item 6/Len Shepherd and Dave Pratt

Ceres residents Len Shepherd and Dave Pratt pulled the item for clarification of the fine amount and the revisions to the Fire Code. City Manager Wells detailed the changes to the Fire Code and the fine amount.

MOTION: Motion by Vice-Mayor Kline, seconded by Councilmember Ryno, approving Final Adoption of **Ordinance No. 2017-1040**. Motion passes 5/0/0 by the following roll call vote:

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

UNFINISHED BUSINESS

None.

NEW BUSINESS

8. **Resolution No. 2017-038**, awarding the Construction Contract for the Ceres Downtown Renovation Project to George Reed, Inc., Authorize a 9% Contingency, Approve the Budget Amendment and Authorize the City Manager to Execute the Contract. (Jordan)

Daryl Jordan, Engineering Director/City Engineer gave the report. He stated that George Reed was the only bidder for the Downtown renovation project. Therefore, George Reed, Inc. was the responsive and responsible bidder in the amount of \$3,196,223.63 with a nine percent contingency in addition to the bid. Mr. Jordan asked for Council direction on either approving and awarding the contract to George Reed, Inc., or directing staff to rebid. However, if it is decided to rebid, that probably cannot be done until the fall or winter.

Council Member Durossette asked if Mr. Jordan believes that the amount bid is a fair amount. Mr. Jordan responded yes, it is a fair bid.

Mayor Vierra stated that although the City only had one bidder, his concern with putting it off is that currently there is quite a bit of construction activity and waiting could result in higher prices. He also commented on the General Plan booth at the Street Fair this weekend and the comments from the public regarding residents wanting a nice downtown.

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 Councilmember Durossette, seconded by Councilmember Lane, approving **Resolution No. 2017-038**. Motion passes 5/0/0 by the following roll call vote:

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

PUBLIC HEARING

(Continued from the April 24, 2017 Council Meeting)

9. Public Hearing to Consider Zoning Ordinance Text Amendment (ZOTA) 17-04; **Ordinance No. 2017-1039**, and a Development Agreement for the Kase Manufacturing project located at 4111 Brew Master Drive. (Wells)

City Manager Wells gave the report and recapped the last conversation with Council and the action by the Planning Commission. He discussed the following: 1) Existing Cannabis, 2) Medical Cannabis Pilot Project, 2) Zoning Code Amendments, 3) Ordinance 2017-1039, and 4) Development Agreement. He further referenced and reviewed the change that was made to the Development Agreement. On the top of page 10, a revision was made to the way the language is on the deposit and slight formatting changes. A copy of the blue lined version of the Development Agreement was provided to Council.

Vice Mayor Kline referenced page 4, of the first paragraph and asked how the City notifies the State if they don't want an adult use medical marijuana act license, because it states the City does not give them a license for the adult use, but the State does. City Manager Wells commented that they would have to demonstrate they have a license. Vice Mayor Kline stated if he read it right, the City does not have to issue them a license. City Manager Wells responded that it is a requirement as the business permit is the license. If the City does not give them a business permit, then they don't get a State license. Vice Mayor Kline stated that it says the City has to notify the State. City Manager Wells commented that that's not the case with medical cannabis under MCRSA; the City is not required to

notify the State, because the State won't issue a license without demonstration that they already have one. Vice Mayor Kline commented that it states that it's up to the local agency to tell the State to not issue a license. Mr. Wells responded that that's under AUMA. Vice Mayor Kline asked for clarification on how the City notifies the State not to issue a license. City Manager Wells responded that they would have to set up a process to notify the State under Proposition 64; two separate issues.

Council Member Ryno stated that with the deletion of the prohibition of cannabis dispensaries and now the Development Agreement allows it, is there absolutely no loop hole where someone could come into town and open a store front dispensary. City Manager Wells commented that the City's Ordinance prohibits it, except for this narrow exception. City Attorney Hallinan stated that it would be illegal and shut down. Council Member Ryno stated that the Development Agreement states that there will be a yearly review, but if some neighbors are having concerns, is there something in the Development Agreement that would allow dialog with Mr. Reynolds prior to that year. City Manager Wells responded yes, there are different locations where there's a "meet and confer" if the City has issues, to meet with them and try to work out those issues and address them as they come instead of having to wait a year. Council Member Ryno referenced the first *whereas* on page three of the Ordinance. It recites the Planning Commission's recommendation that the money be put into law enforcement. She stated that Council needs to discuss if they want it to go strictly into the General Fund. Personally, she would like to see a revenue account, a line item that shows it, so that they can see how much money is received similar to what was done with the money received from the K9 sale. City Manager Wells commented that it would be a separate line item, a revenue line item. Council Member Ryno commented that the Ordinance states that it's the Planning Commission's recommendation that the funds will be used for law enforcement. City Manager Wells stated that it's a recommendation and it can be removed, but it would be up to Council to give that direction.

Mayor Vierra at 6:38 p.m. opened the Public Hearing. He asked, if anyone from the Public had any comments and the following citizens spoke:

Mark Gray Modesto, resident and former medical marijuana compliance officer in Nevada, spoke regarding the Seed-to-Sale tracking program that helps prevent diversion of marijuana into the City. He detailed how the cannabis is tracked and barcoded from when the product is grown, harvested and distributed. He discussed the odor issues that can be controlled with charcoal filters. He further stated that he owned a medical cannabis business in Modesto and discussed how cannabis helped him during his battle against cancer. He also spoke in support of cannabis testing in the City.

Leonard Shepherd stated that he is in support of Mr. Mr. Reynolds' project and that this is a chance to make Ceres a big name in medical marijuana.

Mike Miller commended Council on the design of the Ordinance that specifies that the fees collected will go to public safety. He thinks that this project is going have a great impact to public safety. There will be more instances of EMS calls and auto accidents as a result of medical marijuana. Funds will be needed for inspection of businesses and personnel will need to have the tools and the training to mitigate incidents. He hopes a portion of the monies are reserved for Fire.

Paula Redfern commented that since the facility is less than a mile from Fire Station 3 and due to all the electricity being used, would there be a chance that Station 3 will be opened and some of the fees from the development agreement be used to keep it open. She is concerned about the clause in the Ordinance that states that Council, may from time to time, add additional medical cannabis business as part of the pilot program. She thinks that it is a great project, but worries that once the money starts coming in, that it could be decided to allow a medical dispensary and/or another facility. She would like an assurance that the City will not allow a dispensary until the three year process is complete.

Council Member Durossette thanked Mr. Reynolds and staff for working on this project. He stated that this project is going to be a blue print, not just for Ceres, but other cities. There is a lot of need for this in regards to the medical side of it. He further stated that it is General Fund money and should go to General Fund expenses like public safety.

Vice Mayor Kline stated that as he looks at what the City is about to undertake, the City is basically blazing a way for a whole new business and how people look at this type of drug. He thanked City Staff, the City Attorney for working on this project and thanked Mr. Reynolds for bringing this project to Ceres, as there are many places he could have selected. He thanked him for working with the City Manager to move it forward. He further thanked the Planning Commission, as he read their comments and questions, it helped answer some of his questions. He's not a fan of the Recital K of the Development Agreement; in particular, where it states that the service impact fee as defined is to be used for law enforcement. Public Safety is over 80% of budget and he does believe that at least 80% or more of these fees will be used for Public Safety. He does not want it earmarked specifically for public safety when they already are 80% of the budget. He also referenced Section 1.9 Amendment of Agreement and commented that he can give the City Manager latitude with minor amendments, but before they are made, it's the responsibility of Council to understand the amendments and would like to add "upon notification of Council." He does want to give the City Manager and staff some latitude, but before the amendments are in place he would like for staff to at least notify City Council. Furthermore, regarding Section 2.4 Minor Change to Amendment for Permitted Uses; for those amendments they should come to Council. Before any other types of additional licenses are added it does need to come back for Council approval. He believes four different types of licenses were agreed to be looked into. However, he would like any additional licenses to return to Council for approval, so that Council knows what licenses will be added. He recalls that when this topic was initially discussed, there were 17 different license types and Council narrowed it down to four or five. He would like to add, "with Council approval," as he believes this is doing a disservice if it does not come before Council for approval. City Manager Wells stated that Council gave direction regarding three specific licenses Distribution, Cultivation and Manufacturing. He knows that based on the current licensing, Cultivation and Manufacturing, based on what is currently written, is needed. However, the distribution is somewhat questionable and he is waiting to see how the framework will roll out as to whether that is absolutely necessary for Mr. Reynolds to operate the business as he is currently proposing. It may not be needed, but the language is included so that it can be enacted quickly if the State requires a distribution license. He wants to be able to move quickly and not impact the overall business operation. This is why Section 2.4 was drafted that way, to allow flexibility. Obviously if there are any of those changes, he will notify Council. It's drafted so they can move quickly and adjust to State law.

Mayor Vierra inquired if any of the other 17 license types that they did not include would all come back to Council. City Manager Wells confirmed that those would come back to Council. He just included those two specific ones, as those are the ones that would likely be triggered as a potential and he really does not see the need for the transporter license based on the current operation of the business. However, the distribution is a little bit murky based in terms of how it will work with their licensing as it is currently set up.

Council Member Ryno commented that she agrees with Vice Mayor Kline, that Council should be notified if the licensing does change because Council was given the option of all these different licenses and they chose the ones that they wanted to have in the City. She also does not want the *whereas* on page 3 of the Ordinance, specifically where it states that funds will be used for law enforcement services. She thinks that needs to be discussed as part of the budget.

Vice Mayor Kline stated that Council meets every two weeks and he would ask Mr. Reynolds if it had to come back to Council for approval of the distributor or transporter license, would two weeks hurt. Vice Mayor Kline acknowledged that Mr. Reynolds is stating that coming back to Council in a two week period would not affect his path. He further commented that since they are blazing the saddles and when this project gets up and rolling, there might not be a few of them on the Council, but they still have a responsibility since they started this project.

Council Member Durossette moved to approve the item with Council Member Lane seconding. Mayor Vierra asked if the motion made was with the changes that Vice Mayor Kline and Council Member Ryno requested.

City Manager Wells interjected that the motion needs to be clarified. He clarified that it's an Ordinance with the first reading waived. He also stated that the resolution and the *whereas* of the Ordinance is just stating the fact of what the Planning Commission did. It has no bearing or action that says that the funds will augment law enforcement. It does not require that, as it is written today, the use of the funds be specifically for public safety. It's just documenting what the Planning Commission recommended.

Council Member Ryno asked, it's in the Ordinance, correct? City Manager Wells responded yes, it's on the *whereas*. If Council would like to clarify, another statement can be added to the Ordinance to state that they don't want the funds allocated to just that. Council Member Ryno stated that she would be more comfortable with that.

City Manager Wells asked the City Attorney if he had any recommended language.

Vice Mayor Kline asked if that Ordinance is separate from the Zoning Ordinance Text Amendment and if they can act on the Zoning Ordinance first and then move onto the Ordinance 2017-1039. City Manager Wells responded yes.

Vice Mayor Kline asked Council Member Durossette to pull the previous motion he made. Motion was pulled.

MOTION: Motion by Councilmember Durossette, seconded by Vice Mayor Kline, Approving Zoning Ordinance Text Amendment No. 17-04 a Zoning Ordinance Text

Amendment of the Ceres City Council Amending Sections 18.04.002 and 18.46.020 of the Ceres Municipal Code. Motion passes 5/0/0 by the following roll call vote:

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

Doug White, Deputy City Attorney advised that the last sentence under Section K of the Agreement could be removed as it is unnecessary for the agreement. It's a statement of fact of what the Planning Commission recommended, but if Council thinks it will cause confusion, Council can move for adoption with elimination of the last sentence. In particular, Section K - On May 1, 2017, the Planning Commission, in a duly noticed and conducted public hearing, satisfied Ceres Municipal Code section 18.70.1100 by considering Optionee's application for this Agreement. ~~The Planning Commission recommended that the City Council adopt the Agreement with a recommendation that the Infrastructure and Service Impact Fee (as defined below) be used for law enforcement services.~~ The second sentence can be stricken with the Municipal Code requirements still being satisfied.

City Manager Wells commented that the change recommended by Deputy City Attorney White would clear up the Ordinance. The Ordinance enacts the Development Agreement. He then referenced the Development Agreement and Vice Mayor Kline's proposed changes. He stated that there's a couple different ways that could be addressed, which are: 1) have the requirement of City Manager approval with Council ratification, and 2) Change the language to say City Council approval.

Doug White, Deputy City Attorney stated that it can be done either way.

Tom Hallinan, City Attorney stated that there is also a third option. It can be revised to state that at end of discussion of the City Manager approving minor amendments the following text can be added, "which shall be provided to the City Council before execution." City Manager Wells stated that would be on Section 1.9 of the Development Agreement. City Manager Wells then referenced Section 2.4 and commented that there are three options: 1) Authorize City Manager to move forward and notify Council before moving forward, 2) Move forward and Council ratification after the fact, and 3) Council action before approval.

Council Member Ryno stated that she prefers Council approval. Vice Mayor Kline clarified that when he referenced Section 1.9 Amendment of Agreement, he would like to give the City Manager latitude for the minor changes with notification to Council. So there's no ratification. However, in regards to Section 2.4 Minor Change Amendment to Permitted Use, he thinks it should require Council approval/action.

Mr. White stated that they could just replace the word City Manager with City Council on Section 2.4.

MOTION: Motion by Vice Mayor Kline, seconded by Councilmember Ryno, to adopt **Ordinance 2017-1039 with the following amendment:** Whereas, the Ceres Planning Commission, in a duly noticed and conducted public hearing, satisfied Ceres Municipal Code section 18.70.1100 by considering a Development Agreement for the Project. ~~The~~

~~Planning Commission recommended that the City Council adopt the Development Agreement with a recommendation that the Development Agreement's Infrastructure and Service Impact Fee be used for law enforcement services. He would like that removed.~~
Section 1.9 of the Amended Development Agreement to state that the City Manager has latitude for minor amendments upon notification of the City Council, it does not have to come back to Council for approval, but just Council notification. Section 2.4. of the Amended Development Agreement revise to state that any minor changes will come before Council for approval, instead of the City Manager.

City Manager Wells asked if the Development Agreement needs to be referenced as part of the motion for clarification. Deputy City Attorney White stated that part of the motion just to be clear, includes the Ordinance as it relates to the pilot program and the development agreement.

Motion passes 5/0/0 by the following roll call vote:

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

DISCUSSION ITEMS

None.

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.

Vice Mayor Kline requested that a discussion regarding the possibility of allowing the licensing of cannabis testing facilities be placed on a future agenda. City Manager Wells stated that with the other projects and the approval of the budget coming up, that this discussion can be tentatively scheduled for September.

REPORTS

At this time, any Council Members or City Staff will make an announcement, or report briefly on his or her activities.


- Mayor Vierra stated that at the Ceres Street Faire and while at the General Plan booth, he noticed the comments from citizens requesting that when the new Walmart is ready and the old building is sold, it should be converted to a movie theatre. He asked staff to start having those type of discussions. He also commented on the cars on display at the Street Faire and their participation in the parade.
- City Council
 - Vice Mayor Kline thanked City staff for the General Plan booth and getting the community involved.
 - Council Member Lane commented on the Street Faire and how it was successful. There was a big crowd on Saturday and not too many problems. He thanked Police and Fire and City staff for their participation.
 - Council Member Durossette thanked everyone on the committee that helped plan the Street Faire. He also thanked Randy Moore for his assistance and the kids that helped clean up. It's a testament of what a community the City has.

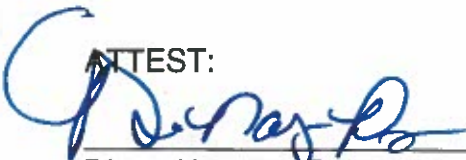
- City Manager Wells reported on the Ceres Street Faire and thanked the organizations and City staff that assisted. The event showcases the best of Ceres and it is a great community event. He stated that the Measure L Citizens Committee is being formed and you can access the application on the City's Website and the StanCOG website. Applications are due by the end of the month. He also let Council know that the draft budget binders are available for the May 15 Budget Workshop. A discussion regarding the Centennial Committee will be brought to Council after the budget.
- City Attorney – Nothing to report.
- Departments
 - Tom Westbrook, Director of Community Development reported on the General Plan Update booth and the community participation and comments. He also reported that the AG business luncheon will be held on May 18th.
 - Daryl Jordan, Director of Engineering/City Engineer reported that the with the award on the Downtown Renovation contract, he will return to Council with a schedule of the project and will also reach out to business owners.
- Supervisor Jim DeMartini, commented that he enjoyed the Street Faire and Car Show.

ADJOURNMENT

The next regularly scheduled City Council Meeting is scheduled to be held on Monday, May 22, 2017 at 6:00 p.m. in the City Council Chambers located in the Community Center at 2701 Fourth Street, Ceres, CA

There being no further business, Mayor Vierra adjourned the meeting at 7:12 p.m.


Chris Vierra, Mayor

ATTEST:

Diane Nayares-Perez
City Clerk