

## MINUTES

REGULAR MEETING OF THE CITY COUNCIL/REDEVELOPMENT AGENCY  
TUESDAY, APRIL 27, 2010  
COUNCIL CHAMBERS, 215 EAST BRANCH STREET  
ARROYO GRANDE, CALIFORNIA

### **1. CALL TO ORDER**

Mayor/Chair Ferrara called the Regular City Council/Redevelopment Agency meeting to order at 7:02 p.m.

### **2. ROLL CALL**

City Council/RDA: Council/Board Member Chuck Fellows, Council/Board Member Ed Arnold, Council/Board Member Joe Costello, Mayor Pro Tem/Vice Chair Jim Guthrie, and Mayor/Chair Tony Ferrara were present.

City Staff Present: City Manager Steven Adams, City Attorney Tim Carmel, Director of Legislative and Information Services/City Clerk Kelly Wetmore, Chief of Police Steve Annibali, Community Development Director Teresa McClish, Associate Planner Kelly Heffernon, and Building Official Johnathan Hurst.

### **3. FLAG SALUTE**

Zack Braun, representing Central Coast Masonic Lodge #237, led the Flag Salute.

### **4. INVOCATION**

Pastor Robert Banker, Open Door Church, delivered the invocation.

Mayor Ferrara stated there had been a request from Council Member Arnold to have Item 15, Council Communications, moved up as the next Agenda item and he would grant the request.

### **15. CITY COUNCIL MEMBER ITEMS**

Council Member Arnold announced his resignation from the City Council, stating that it was a very sad time for him. He reflected on his last six years on the Council and the two years prior to that on the Planning Commission which he has enjoyed. He acknowledged that he has become a distraction to the City which is not beneficial to anyone. He said that the events of the past six months have been distressing and he hoped that in the end everyone would see he was not the bad guy as depicted in the press, but until then, he did not see how he could effectively serve the City.

Mayor Ferrara stated that despite the circumstances, the Council acknowledged and thanked Council Member Arnold for his years of service to the City.

Council Member Arnold stepped down from the dais and left the meeting.

### **5. SPECIAL PRESENTATIONS**

#### **5.a. Honorary Proclamation Recognizing May 2010 as "Bike Month".**

Mayor Ferrara presented an Honorary Proclamation recognizing May 2010 as "Bike Month" and May 17-21, 2010 as "Bike to Work and School Week". Jim DeCecco, representing Rideshare, accepted the Proclamation and announced a Bike Month Kick-Off Party to be held Saturday, May 1, 2010 from 1:00 p.m. to 4:00 p.m. at Branch Street Deli in the Village.

**5.b. Mayor's Commendation Recognizing Angela Kraetsch, Administrative Services Director.**

In the absence of Administrative Services Director Kraetsch due to illness, Mayor Ferrara postponed the Mayor's Commendation to the next meeting.

**6. AGENDA REVIEW**

**6.a. Ordinances Read in Title Only.**

Council/Board Member Fellows moved, Council/Board Member Costello seconded, and the motion passed unanimously that all ordinances presented at the meeting shall be read by title only and all further readings be waived.

**7. CITIZENS' INPUT, COMMENTS, AND SUGGESTIONS**

Gary Fowler, San Luis Obispo resident, referred to the lighted street signs located at Oak Park Boulevard and James Way, and West Branch Street and Rancho Parkway, and stated that they have not been working for some time. He noted that attempts to contact the contractor were made without response, and he felt the signs are too expensive to not be maintained by the contractor.

**8. CONSENT AGENDA**

Mayor/Chair Ferrara invited members of the public who wished to comment on any Consent Agenda Item to do so at this time.

Tim Moore, Fair Oaks Avenue, expressed concern regarding Item 8.I. (Revised Purchase and Sale and Improvement Agreement with NKT Commercial) with regard to the bond amount and timeframe for posting, as well as the timeframe for the buyback period and requested this item be revisited

Mike McConville, East Branch Street, expressed concerns regarding Item 8.h. (Lucia Mar Unified School District Stanley Avenue Project) with regard to the bioswale, landscape and building maintenance issues; equipment and parking issues; drainage; and ADA handrail requirements. He requested the item be continued for further review.

Upon hearing no further comments, Mayor/Chair Ferrara closed the public comment period.

In response to public comment, City Attorney Carmel clarified the issue of underlying security int Item 8.I. (Purchase and Sale and Improvement Agreement) stating that the offer to buy back the building came to the City gratuitously from the applicant and the City was in no position to demand any additional security or to change the type of security investment. He stated the agreement had already been negotiated, the buyback offer was a show of good faith, and an offer of a security interest in the form of a bond may have been discussed; however, the agreement calls for a requirement to post a \$600,000 trust deed on property with sufficient equity to secure a good faith obligation to perform under the repurchase provision.

Council Member Fellows requested Items 8.e., 8.h., and 8.I. be pulled.

**Action:** Council/Board Member Costello moved, and Council/Board Member Fellows seconded the motion to approve Consent Agenda Items 8.a. through 8.k., with the exception of Items 8.e., 8.h., and 8.I., with the recommended courses of action. The motion passed on the following roll-call vote:

**AYES:** Costello, Fellows, Guthrie, Ferrara  
**NOES:** None  
**ABSENT:** Arnold

**8.a. Cash Disbursement Ratification.**

**Action:** Ratified the listing of cash disbursements for the period April 1, 2010 through April 15, 2010.

**8.b. Consideration of Statement of Investment Deposits.**

**Action:** Received and filed the report of current investment deposits as of March 31, 2010.

**8.c. Consideration of Adoption of a Resolution to Ratify and Confirm the City's Election to Receive, and Continue to Receive, its Statutory Pass-Through Payments from the Arroyo Grande Redevelopment Agency Under Health & Safety Code Section 33607.5.**

**Action:** Adopted Resolution No. 4271 as follows: ***"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE RATIFYING AND CONFIRMING THE CITY'S ELECTION TO RECEIVE, AND TO CONTINUE RECEIVING, ITS STATUTORY PASS-THROUGH PAYMENT FROM THE ARROYO GRANDE REDEVELOPMENT PROJECT PURSUANT TO HEALTH AND SAFETY CODE SECTION 33607.5"***.

**8.d. Consideration of Approval of Minutes.**

**Action:** Approved the minutes of the Special City Council Meeting of March 29, 2010 and the Regular City Council/Redevelopment Agency Meeting of April 13, 2010, as submitted.

**8.f. Consideration of an Award of Contract to Granite Construction Company for Construction of the West Branch Resurfacing Project, PW 2008-08.**

**Action:** 1) Awarded a construction contract for the West Branch Street Resurfacing Project to Granite Construction Company in the amount of \$820,764; and 2) Authorized the City Manager to approve change orders for 10% of the contract amount, \$82,076, for unanticipated costs during the construction phase of the project.

**8.g. Consideration of an Award of Contract to Ferravanti Grading & Paving for Construction of the Pearwood Avenue Rehabilitation Project, PW 2010-03.**

**Action:** 1) Awarded a contract for the Pearwood Avenue Rehabilitation Project to Ferravanti Grading & Paving in the amount of \$98,860; and 2) Authorized the City Manager to approve change orders for 10% of the contract amount, \$9,890, for unanticipated costs during the construction phase of the project.

**8.i. Consideration of a Resolution Rescinding the Approval of the Mitigated Negative Declaration, Vesting Tentative Parcel Map Case No. 05-001 and Minor Exception Case No. 05-006 (605 Eman Court).**

**Action:** Adopted Resolution No. 4273 as follows: ***"RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE VACATING, SETTING ASIDE AND RESCINDING THE APPROVAL OF A MITIGATED NEGATIVE DECLARATION, VESTING TENTATIVE PARCEL MAP CASE NO. 05-001 AND MINOR EXCEPTION CASE NO. 05-006 (605 EMAN COURT)"***.

**8.j. Consideration of a Resolution Approving a Third Side Letter of Agreement to the Service Employees International Union Local 620 Memorandum of Understanding.**

**Action:** 1) Adopted Resolution No. 4274 as follows: ***"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE APPROVING A THIRD SIDE***

**LETTER OF AGREEMENT TO THE SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 620 MEMORANDUM OF UNDERSTANDING**"; and 2) Authorized the City Manager to execute the Agreement.

**8.k. Consideration of Acceptance of Easements and Approval of Conservation Easement Agreement Between the City and the County of San Luis Obispo.**

**Action:** 1) Adopted Resolution No. 4275 as follows: "**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ACCEPTING A GRANT DEED FOR THE PUBLIC SAFETY FACILITY PROPERTY LOCATED WITHIN THE INCORPORATED AREA OF THE CITY OWNED BY THE COUNTY OF SAN LUIS OBISPO (APN 007-011-046)**"; and 2) Adopted Resolution No. 4276 as follows: "**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ACCEPTING A QUITCLAIM DEED FOR THAT PORTION OF PECAN PLACE WITHIN THE INCORPORATED AREA OF THE CITY OWNED BY THE COUNTY OF SAN LUIS OBISPO (APN 077-192-018)**"; and 3) Approved the Conservation Easement Agreement between the City and the County.

**ITEMS PULLED FROM THE CONSENT AGENDA**

**8.e. Consideration of First Amendment to Contract for Animal Services.**

**Recommended Action:** Approve the First Amendment to the Contract for Animal Services with the County of San Luis Obispo not to exceed the amount of \$136,624 and authorize the Mayor to execute the Agreement.

In response to a request from Council Member Fellows, Chief Annibali provided an update on animal services, explained that a committee had been formed to review the animal services program, accounting methodologies, and the potential for a future decrease in costs for animal services. He explained that the proposed amendment to the original Agreement was requested by the County to close out this fiscal year.

**Action:** Council Member Fellows moved, and Council Member Costello seconded the motion to approve Item 8.e., with the recommended course of action. The motion passed on the following roll-call vote:

**AYES:** Fellows, Costello, Guthrie, Ferrara  
**NOES:** None  
**ABSENT:** Arnold

**8.h. Consideration to Adopt a Resolution Accepting Certain Improvements for Conditional Use Permit No. 06-006 in Connection with the Lucia Mar Unified School District Stanley Avenue Project.**

**Recommended Action:** Adopt a Resolution accepting certain improvements for Conditional Use Permit 06-006 located on Stanley Avenue, South of Huasna Road and release the bond guaranteeing the improvements.

Council Member Fellows stated he shared the concerns expressed during public comment and had met with staff and Mr. Baker from Lucia Mar Unified School District at the site. He referred to the drainage and inquired what type of filter was required in the pipes to keep the silt and pollutants out of

the creek. Director McClish briefly responded regarding conditions of approval for the project relating to construction of the bioswale; deferred questions regarding the filters to the Lucia Mar representative; and addressed issues and concerns regarding the pedestrian walkway along Stanley Avenue.

Council Member Fellows stated the issues surrounding the walkway are significant and suggested postponing approval of the project in order to address the issues relating to the walkway.

Further discussion ensued regarding drainage.

Kevin Baker, representing Lucia Mar Unified School District, responded to the concerns expressed regarding drainage; maintenance of the site; that the handrails are ADA approved; that fill-in plants along the fence are to be planted; that there is no oil changing at this location; that striping of the parking lot still needs to be done; that the proposed decomposed granite (DG) path was a problem, however, the District would be amendable to a walkway; that the project is 98% done and the District does not want to re-bond; and noted that the filters in the pipes are inspected every three months.

City Manager Adams recommended that the Council approve the item contingent upon the District adding a delineation of a pedestrian area and path that would need to be approved by the Community Development Director.

**Action:** Council Member Fellows moved to approve Item 8.h. contingent upon the Lucia Mar Unified School District and the City working together to reestablish the walkway and adopt Resolution No. 4272 as follows: **“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ACCEPTING CERTAIN IMPROVEMENTS FOR CONDITIONAL USE PERMIT NO. 06-006; LOCATED ON STANLEY AVENUE SOUTH OF HUASNA ROAD; APPLICANT: LUCIA MAR UNIFIED SCHOOL DISTRICT”**. Council Member Costello seconded, and the motion passed on the following roll-call vote:

**AYES:** Fellows, Costello, Guthrie, Ferrara  
**NOES:** None  
**ABSENT:** Arnold

**8.I. Consideration of Revised Purchase and Sale and Improvement Agreement with NKT Commercial for Acquisition of Property at 300 East Branch Street and Sale and Development of City Property at 200 and 208 East Branch Street and the Adjacent Parking Area.**

**Recommended Action:** Approve the revised Purchase and Sale and Improvement Agreement with NKT Commercial.

Council Member Fellows stated he did not feel this item should be on the Consent Agenda and referred to Page 8 of the minutes in Agenda Item 8.d. from the March 29, 2010 Special Council Meeting regarding Council Member Costello’s motion as it related to repurchase of the building by NKT Commercial within six years. He noted that the Agreement states “between two years and six years”, which seems like a substantial change. City Manager Adams explained that is was based on the offer from Mr. Tompkins, which was clearly two to six years. Council Member Costello stated he had no issues with the proposed language and provided clarification on the intent of his motion to

accept Mr. Tompkins' good faith offer. City Attorney Carmel noted that if the revised Agreement was not approved, there was an existing, approved Agreement in place without a buy-back provision.

Council Member Fellows noted he believed the buyback provision was not a benefit to the City after the City does a half million dollars worth of improvements to the building, wait two years, or maybe the market turns around, because the City would never exercise that provision under those conditions, and therefore he did not support the proposal.

**Action:** Council Member Costello moved, and Mayor Pro Tem Guthrie seconded the motion to approve Item 8.I., as amended, with the recommended course of action. The motion passed on the following roll-call vote:

**AYES:** Costello, Guthrie, Ferrara  
**NOES:** Fellows  
**ABSENT:** Arnold

**9. PUBLIC HEARINGS:**

None.

**10. CONTINUED BUSINESS:**

None.

**11. NEW BUSINESS:**

**11.a. Consideration of Request for Resignation of Council Member Arnold and Review of Recall and Replacement Process.**

Mayor Ferrara stated that in light of Council Member Arnold's resignation, the focus of the report would be on the replacement process.

City Attorney Carmel presented the staff report and recommended the Council review the information and provide staff with direction on the process to fill a Council vacancy.

Mayor Ferrara invited comments from those in the audience who wished to be heard on the matter, and upon hearing none, he closed the public comment period.

Council comments ensued in support of an appointment to fill the vacancy of Council Member instead of calling for a special election; a suggestion for conducting a public forum for applicants to involve public participation and input in the process; and discussion concerning the use of an application and what information should be required concerning background and qualifications.

Mayor Pro Tem Guthrie moved to schedule a Special Meeting of the City Council to consider the nomination process for filling the Council vacancy on Wednesday May 5, 2010 at 7:00 p.m. Council Member Costello seconded, and the motion passed on the following roll-call vote:

**AYES:** Guthrie, Costello, Fellows, Ferrara  
**NOES:** None  
**ABSENT:** Arnold

**11.b. Consideration of Greenhouse Gas Emissions Inventory Report for the City of Arroyo Grande.**

Associate Planner Heffernon presented the staff report and recommended the Council receive the presentation and file the Greenhouse Gas Inventory Report.

Tammy Seal, project manager with PMC, gave a presentation on the Greenhouse Gas (GHG) Emissions Inventory and provided background information on the legislative history to reduce greenhouse gas emissions; explained that the GHG inventory includes a comprehensive list of emissions and sources in the City limits, identifies activities that cause GHG emissions, and allows the City to track emission trends, develop reduction strategies, and measure progress; reviewed findings on a community-wide basis and on government operations; and reviewed forecast and reduction targets. She concluded by providing an overview of the next steps to set emission reduction targets, calculate emission reductions from City programs and policies in place since 2005, and to develop a Climate Action Plan to achieve reduction targets.

Council questions and discussion ensued regarding the reduction of emissions; how emissions in the City could be reduced or controlled since the vehicles using the transportation corridor (Highway 101) that goes through the City are the largest contributor; if funds are available for staff time to prepare the Climate Action Plan and to implement efforts to reduce emissions; negative consequences for not reducing emissions; that the City's averages are higher because of energy consumption from water and wastewater facilities; and whether air monitoring data is being used in any of the municipal plans. There was further discussion with regard to the transportation component and the importance of awareness and coordination with Caltrans to recognize that the main freeway line is causing major additional emissions impact to the City.

Mayor Ferrara invited comments from those in the audience who wished to be heard on the matter.

Mike McConville, E. Branch Street, commented on the amount of farmland in the City, and referred to farmland operations versus residential (housing) as it relates to which land use produces more gas.

John Keen, N. Elm Street, referred to the Highway 101 corridor as it relates to how impacts from vehicle miles travelled on the freeway (Highway 101) is calculated into the City's total emissions.

Upon hearing no further comments, Mayor Ferrara closed the public comment period.

Mayor Ferrara provided an update from the League of California Cities Board meeting concerning the legislation and stated the Board had deferred taking a position; however, staff was directed to write another letter to the Governor regarding AB 32 and SB 375.

There was no formal action taken on the Greenhouse Gas Inventory Report. The Council received and filed the Greenhouse Gas Inventory Report.

**12. CITY COUNCIL REPORTS:**

**(a) MAYOR TONY FERRARA:**

- (1) San Luis Obispo Council of Governments/San Luis Obispo Regional Transit Authority (SLOCOG/SLORTA).** Reported that the SLOCOG Board discussed general funding availability for projects; Reported that the 2010 Census update is going well and a report was received on participation rates since April 6<sup>th</sup>.
- (2) South San Luis Obispo County Sanitation District (SSLOCSO).** Reported that piping inconsistencies have been fixed and are running better to meet emission and outflow standards; chemical use per month has been cut in half.
- (3) Brisco/Halcyon/Hwy 101 Interchange Project Subcommittee.** No report. Noted that a status report will be given to the Council at the May 11<sup>th</sup> meeting.
- (4) Other.** None

**(b) MAYOR PRO TEM JIM GUTHRIE:**

- (1) South County Area Transit (SCAT).** Reported that ridership is down; reported that the State came through with some transit funding and will be able to continue full operations as in the past.
- (2) Community Action Partnership.** Moving forward with the City of San Luis Obispo to be the applicant for the Homeless campus.
- (3) California Joint Powers Insurance Authority (CJPIA).** No report.
- (4) Homeless Services Coordinating Council (HSOC).** Continuing to seek grant funds for homeless services throughout the County; reported that an Executive Director has been hired.
- (5) Economic Vitality Corporation (EVC).** No report. Next meeting is tomorrow.
- (6) Tourism Committee.** Will be rolling out the branding on May 13<sup>th</sup>.
- (7) Other.** None.

**(c) COUNCIL MEMBER JOE COSTELLO**

- (1) Zone 3 Water Advisory Board.** Has not met since March. Next meeting is May 20<sup>th</sup>.
- (2) Air Pollution Control District (APCD).** Has not met since March 24<sup>th</sup>. Next meeting is scheduled for April 26<sup>th</sup>.
- (3) Fire Oversight Committee.** Has not met since the last report.
- (4) Other.** None.

**(d) COUNCIL MEMBER ED ARNOLD (ABSENT)**

- (1) Other.** None.

**(e) COUNCIL MEMBER FELLOWS:**

- (1) Integrated Waste Management Authority Board (IWMA).** Attended meeting.

- (2) **County Water Resources Advisory Committee (WRAC).** Has recommended to the County to make a high priority investigation of seawater intrusion; reported that Lopez Lake is at 63% capacity; noted that even though there has been quite a bit of rain, water conservation efforts should continue in the ensuing dry season; reported that 798 boats/vessels have come through Lopez Lake to date and 5 have been turned away for being wet as part of an effort to keep invasive mussels out of the lake.
- (3) **Other.** None.

**13. CITY COUNCIL MEMBER ITEMS:**

- a) **Request for City Council to direct staff to submit a letter to Caltrans requesting preparation of an Environmental Impact Report (EIR) regarding the proposed gap closure project at El Campo and Route 101 (FERRARA)**

Mayor Ferrara requested, and the Council concurred, to consider at the next City Council meeting direction to staff to submit a letter to Caltrans requesting preparation of an EIR for the closure of the gap on Hwy 101 at El Campo and Route 101. He provided information related to the project to the Council for review.

**14. CITY MANAGER ITEMS:**

None.

**15. COUNCIL COMMUNICATIONS:**

Council Member Fellows requested that staff follow up with regard to Mr. Fowler's public comments regarding lighted street signs. City Manager Adams acknowledged the request and stated he would follow up on the matter.

Mayor Ferrara referred to the Annual Volunteer Appreciation Dinner on April 30<sup>th</sup> and encouraged the Council to attend if they are available; provided to staff a publication received in the mail regarding how to remove sidewalk trip hazards on tight budgets; and also provided economic development information to staff which came from one of the League partners from a group called Bingo Innovations.

**16. STAFF COMMUNICATIONS:**

City Manager Adams issued a plea to the community to complete the Census forms and emphasized the importance to the City and region in completing the Census.

**17. COMMUNITY COMMENTS AND SUGGESTIONS:**

None.

**18. ADJOURNMENT**

Mayor/Chair Ferrara adjourned the meeting at 9:22 p.m. to the Special City Council meeting on May 5, 2010 at 7:00 p.m.

**/s/ Tony Ferrara, Mayor/Chair**

**ATTEST:**

**/s/ Kelly Wetmore, City Clerk**

**(Approved at CC Mtg 05/25/2010)**