

MINUTES

REGULAR MEETING OF THE CITY COUNCIL TUESDAY, MAY 25, 2010 COUNCIL CHAMBERS, 215 EAST BRANCH STREET ARROYO GRANDE, CALIFORNIA

1. CALL TO ORDER

Mayor Ferrara called the Regular City Council meeting to order at 7:04 p.m.

2. ROLL CALL

City Council: Council Member Chuck Fellows, Council Member Joe Costello, Mayor Pro Tem Jim Guthrie, and Mayor 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, and Community Development Director Teresa McClish.

3. FLAG SALUTE

Members of Boy Scout Troop 489 led the Flag Salute.

4. INVOCATION

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

5. SPECIAL PRESENTATIONS

5.a. Honorary Proclamation Declaring June 7 & 8, 2010 as “Special Olympics – Law Enforcement Torch Run Days”.

Mayor Pro Tem Guthrie presented an Honorary Proclamation Declaring June 7 & 8, 2010 as “Special Olympics – Law Enforcement Torch Run Days”. Kristen Arias, Global Messenger for Special Olympics, accepted the Proclamation.

5.b. Special Presentation to the City Council from the League of Women Voters.

Sharon Whitney, representing League of Women Voters of San Luis Obispo County, acknowledged the City Council for engaging the citizens in the process for filling a vacancy on the City Council and presented them with a written commendation.

6. AGENDA REVIEW

6.a. Ordinances Read in Title Only.

Council Member Fellows moved, Council 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

Susan Flores, E. Branch Street, commented on the City’s new website design; acknowledged the pictures on the site provided by Vivian Krug; stated it was very user friendly and very nice; and it is a good reflection of what the City offers.

8. CONSENT AGENDA

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

Mike McConville, E. Branch Street, referred to Item 8.i. (Acceptance of the City Hall Parking Lot and Bioswale Improvements and the Crown Hill and Corbett Canyon Road Sidewalk Improvements Project), and expressed concerns regarding the bioswale behind City Hall which does not appear to be a true drainage bioswale; that it appears to be a drainage ditch lined with rock; and suggested that the plans be reviewed and approved by the City's engineers before accepting the project.

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

Council Member Fellows requested Item 8.l. be pulled for a separate roll call vote.

Mayor Ferrara requested Item 8.i. be pulled for clarification.

Action: Council Member Costello moved, and Council Member Fellows seconded the motion to approve Consent Agenda Items 8.a. through 8.k., with the exception of Items 8.i., and 8.l., with the recommended courses of action. City Attorney Carmel referred to Supplemental Information concerning Item 8.g. and noted a Resolution had been included for Council's consideration. The Council acknowledged receipt of the information. The motion passed on the following roll-call vote:

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

8.a. Cash Disbursement Ratification.

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

8.b. Consideration of Statement of Investment Deposits.

Action: Received and filed the report of current investment deposits as of April 30, 2010.

8.c. Consideration of Fiscal Year 2010-11 Appropriation Limit.

Action: Adopted Resolution No. 4278 as follows: "**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ADOPTING A TAX PROCEEDS EXPENDITURE APPROPRIATION LIMIT FOR FISCAL YEAR 2010-11**".

8.d. Consideration of Approval of the City of Arroyo Grande Investment Policy.

Action: Approved the City of Arroyo Grande Investment Policy.

8.e. Consideration of Approval of Minutes.

Action: Approved the minutes of the Regular City Council/Redevelopment Agency Meeting of April 27, 2010; the Special City Council Meeting of May 5, 2010 and the Regular City Council Meeting of May 11, 2010, as submitted.

8.f. Consideration of a Resolution Approving a Third Side Letter of Agreement to the Arroyo Grande Police Officers' Association Memorandum of Understanding.

Action: 1) Adopted Resolution No. 4279 as follows: "**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE APPROVING A THIRD SIDE LETTER OF AGREEMENT TO THE ARROYO GRANDE POLICE OFFICERS' ASSOCIATION MEMORANDUM OF UNDERSTANDING**"; and 2) Authorized the City Manager to execute the Agreement.

- 8.g. Consideration of Authorization to Lease Purchase a New Quint 100 Foot Aerial Platform Fire Apparatus.**
Action: 1) Authorized the City Manager to execute a purchase order not to exceed \$930,000 to Pierce Manufacturing, Inc. for the purchase of one Quint 100' aerial platform fire apparatus; and 2) Adopted Resolution No. 4280 as follows: **"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE PURCHASE AGREEMENT WITH OSHKOSH CAPITAL TO PURCHASE ONE 100-FOOT QUINT AERIAL PLATFORM FIRE APPARATUS"**.
- 8.h. Consideration of a Resolution Authorizing City Participation in the San Luis Obispo County Energy Watch Partnership.**
Action: Adopted Resolution No. 4281 as follows: **"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE AUTHORIZING PARTICIPATION IN THE SAN LUIS OBISPO COUNTY ENERGY WATCH PARTNERSHIP (SLOEWP)"**.
- 8.j. Consideration of Acceptance of the East Branch Streetscape Project, PW 2009-01.**
Action: 1) Accepted the project improvements as constructed by Brough Construction, Inc. in accordance with the plans and specifications for the East Branch Streetscape Project, PW 2009-01; 2) Approved a transfer of \$10,402 from the Pavement Management Program CIP project; 3) Directed staff to file a Notice of Completion; and 4) Authorized release of the retention, thirty-five (35) days after the Notice of Completion has been recorded, if no liens have been filed.
- 8.k. Consideration of an Award of Contract to Souza Construction, Inc. for Construction of Streets Resurfacing in the Vicinity of Arroyo Grande High School, PW 2010-08.**
Action: 1) Awarded a contract for construction of streets resurfacing in the vicinity of Arroyo Grande High School to Souza Construction, Inc. in the amount of \$347,350; 2) Authorized the City Manager to approve change orders for 10% of the contract amount, \$34,735, for unanticipated costs during the construction phase of the project; 3) Found that the project is categorically exempt from CEQA pursuant to Section 15301(c); and 4) Direct the City Clerk to file a Notice of Exemption.

ITEMS PULLED FROM THE CONSENT AGENDA

- 8.i. Consideration of Acceptance of the City Hall Parking Lot and Bioswale Improvements and the Crown Hill and Corbett Canyon Road Sidewalk Improvements Project, PW 2008-07A.**
Recommended Action: 1) Accept the project improvements as constructed by D-Kal Engineering Inc. in accordance with the plans and specifications for the City Hall Parking Lot & Bioswale Improvements and the Crown Hill and Corbett Canyon Road Sidewalk Improvements Project, PW 2008-07A; 2) Direct staff to file a Notice of Completion; and 3) Authorize release of the retention thirty-five (35) days after the Notice of Completion has been recorded, if no liens have been filed.

Community Development Director McClish stated the bioswale construction was completed some time ago and it has come to staff's attention that there have been some inquiries about the landscape planting included in the bioswale and that staff could verify some details and bring it back to the Council.

Action: Mayor Ferrara moved to continue the item and direct staff to review the matter further and bring more information back to Council. Council Member Costello seconded the motion. The motion passed on the following roll-call vote:

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

8.I. Adoption of an Ordinance Amending Title 16 to Clarify Agricultural Conversion and Mitigation Requirements.

Recommended Action: Adopt an Ordinance amending Title 16 of the Municipal Code (Development Code) to clarify agricultural conversion and mitigation requirements.

Council Member Fellows noted he had voted against the proposed Ordinance at the previous meeting as it was written with no mitigation for the loss of approximately two and a half acres of agricultural land and requested a separate roll call vote.

Action: Mayor Pro Tem Guthrie moved to approve Item 8.I. as recommended, and Council Member Costello seconded the motion. City Attorney Carmel read the full title of the Ordinance as follows: ***“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE AMENDING TITLE 16 OF THE MUNICIPAL CODE (DEVELOPMENT CODE AMENDMENT 10-001) TO CLARIFY AGRICULTURAL CONVERSION AND MITIGATION REQUIREMENTS”***. The motion passed on the following roll-call vote:

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

9. PUBLIC HEARINGS:

None.

10. CONTINUED BUSINESS:

None.

11. NEW BUSINESS:

11.a. Consideration of Introduction of a Proposed Ordinance Adding Chapter 9.29 Entitled “Proximity Restrictions to Children’s Facilities for Registered Sex Offenders” to the Arroyo Grande Municipal Code.

Chief Annibali presented the staff report and recommended the Council introduce an Ordinance adding Chapter 9.29 entitled “Proximity Restrictions to Children’s Facilities for Registered Sex Offenders” to the Arroyo Grande Municipal Code.

Council questions and discussion ensued regarding Sections 9.29.030.A. (Prohibitions) and 9.29.020 (Definitions) in the proposed Ordinance as it relates to interpretation and enforcement and the potential difficulty for field officers to make certain determinations; that the language is recommended

to make the Ordinance more defensible; acknowledgment that the Ordinance was modeled after a similar Ordinance in Orange County and whether a synopsis of arrest/conviction statistics were available from that County.

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 included support for the proposed Ordinance.

Action: Council Member Costello moved to introduce an Ordinance as follows: **“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ADDING CHAPTER 9.29 ENTITLED “PROXIMITY RESTRICTIONS TO CHILDREN’S FACILITIES FOR REGISTERED SEX OFFENDERS” TO THE ARROYO GRANDE MUNICIPAL CODE”**. Council Member Fellows seconded, and the motion passed on the following roll call vote:

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

11.b. Consideration of Appointment to Fill City Council Vacancy.

City Manager Adams presented the staff report and recommended the Council: 1) Approve an appointment to fill the existing City Council vacancy; and 2) The individual appointed be sworn in and take the Oath of Office administered by the City Clerk.

Discussion ensued regarding the proposed ranking process and the Council agreed that each Council Member would rank their top 3 applicants (#1=first choice, #2=second choice, and #3=third choice) and then apply the same ranking (#4) to the remaining applicants.

Mayor Ferrara invited each applicant, in alphabetical order, to make a three (3) minute presentation.

The following applicants addressed the Council: Tim Brown; William Honeycutt; Shannon Kessler; George Martin; Jamie Ohler; and Caren Ray.

Mayor Pro Tem Guthrie asked applicants Caren Ray and Shannon Kessler if they would run for election in November if they were not appointed tonight.

Shannon Kessler responded that at this time, she did not intend to run for election in November.

Caren Ray responded she was undecided at this time; however, it was definitely something she was considering and she would continue to consider it as the summer approaches.

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

Greg McGowan, Short Street, expressed appreciation for the high level of public involvement in the process for replacing a Council Member and supported the appointment of Tim Brown to the Council.

Lynn Titus, Lierly Lane, spoke in support of the appointment of Tim Brown to the Council.

Joel Couser, Arroyo Grande resident, spoke in support of the appointment of Caren Ray to the Council.

Doug Tait, Arroyo Grande resident, stated he had work worked with both Tim Brown and Caren Ray on the Planning Commission for several years; had worked with Tim Brown on other issues; and supported the appointment of Tim Brown to the Council.

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

Council Member Fellows commented that he has known and worked with Tim Brown on the Planning Commission; provided an overview of Tim Brown's professional background; and spoke in support of the appointment of Tim Brown to the Council.

Each Council Member then proceeded with the completion of their ranking sheet and submitted them to the City Clerk. Each individual ranking sheet was displayed for the benefit of the public; City Manager Adams announced the results on each ranking sheet; and City Clerk Wetmore entered the results onto a Final Ranking Sheet. Upon final tabulation, the final applicant results were displayed and City Manager Adams announced that applicants Tim Brown and Caren Ray tied as the top two applicants. He then turned the discussion and deliberation back to the Council.

Mayor Ferrara commented that both Tim Brown and Caren Ray would do a tremendous job and that regardless of the outcome there would be other opportunities. He stated his decision was based on the applicants responses at the public forum, knowledge of current issues, and the ability of the appointee to hit the ground running. He congratulated all the candidates, particularly Shannon Kessler, who he believed was very well prepared and impressive with her presentations. He referred to feedback he received from citizens regarding a woman on the Council and the need for diversity. He noted that Caren Ray was recommended for appointment to the Planning Commission by former Council Member Arnold and that this would be a continuation of his term. While he supported the appointment of Caren Ray, he concluded by stating he would be equally happy with either of the top two applicants and that they both currently serve the City well.

Council Member Costello expressed appreciation for the participation of all the applicants; believed that there were two applicants that stand above the rest and that either one of them has proven they can and will serve the City well; agreed there is a need for some gender balance on the Council; and supported Caren Ray as the top applicant.

Council Member Fellows acknowledged this was a big decision and took a moment to read excerpts from written comments received in support of Tim Brown from the following citizens: Greg McGowan; Lynn Titus; Doug Tait; Gordon and Manetta Bennett; Jeanette Tripodi; Lori Jill Virnig; Duke and Lori Sterling; Don and Anna Unkovich; Rick and Vicki Phillips; and Nick Alter. He then explained why he supported Tim Brown as the top applicant; acknowledged that he would like to see a woman on the Council, however, he was more in favor of appointing the best person for the job.

Mayor Pro Tem Guthrie agreed that experience with City issues was needed; that elections are the time for bringing a new perspective to the Council; that the Council should be looking for the

most experienced people who have the most background on the direction in which the City is going, which were clearly Tim Brown and Caren Ray; acknowledged he served with Tim Brown through the General Plan Update and that Tim has better command of the General Plan; however, the Council is replacing a Council Member who was elected to serve and that Caren is closer to the political temperament of former Council Member Arnold and would therefore continue the intent of the election that took place, which was his reason for selecting Caren Ray as the number one choice. He acknowledged he would be honored to work with either applicant.

Action: Mayor Pro Tem Guthrie moved to nominate and appoint Caren Ray to fill the existing City Council vacancy. Council Member Costello seconded the motion, and the motion passed on the following roll-call vote:

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

City Clerk Wetmore administered the Oath of Office to newly appointed Council Member Caren Ray. Council Member Ray then took her seat at the dais.

Council Member Fellows stated he was impressed with the credentials of the applicants and encouraged them to get involved on one of the City's advisory bodies such as the Planning Commission or Architectural Review Committee.

12. CITY COUNCIL REPORTS:

(a) MAYOR TONY FERRARA:

- (1) San Luis Obispo Council of Governments/San Luis Obispo Regional Transit Authority (SLOCOG/SLORTA).** 1) SLOCOG has not met since his last report. 2) SLORTA met to discuss the new budget; will be dependent on transit funding coming from the State.
- (2) South San Luis Obispo County Sanitation District (SSLOCS).** Currently reviewing the Policy and Procedure Manual and Code of Ethics.
- (3) Brisco/Halcyon/Hwy 101 Interchange Project Subcommittee.** Next meeting is scheduled for July 7th.
- (4) Other.** None.

(b) MAYOR PRO TEM JIM GUTHRIE:

- (1) South County Area Transit (SCAT).** Has not met since his last report.
- (2) Community Action Partnership.** Continues to move forward as the lead agency for the Homeless Campus in the City of San Luis Obispo.
- (3) California Joint Powers Insurance Authority (CJPIA).** No report.
- (4) Homeless Services Coordinating Council (HSOC).** Announced that Trish Garcia has been hired as the Executive Director, who will be assisting in the coordination of grant applications and various services.
- (5) Economic Vitality Corporation (EVC).** Has not met since his last report.

- (6) **Tourism Committee.** Reported that the new logo and promotional materials have been launched and will be used to promote the Village and the City of Arroyo Grande.
 - (7) **Other.** None.
- (c) **COUNCIL MEMBER JOE COSTELLO**
- (1) **Zone 3 Water Advisory Board.** 1) Reported that Lopez Dam is 63% full; 2) Continuing to work with Federal representatives on the Habitat Conservation Plan, which is a slowly moving project; and have initiated a reduced flow from the Dam; and 3) Working on a Plant Efficiency Assessment Review.
 - (2) **Air Pollution Control District (APCD).** Received a report on the dust affecting Nipomo – several measures are being proposed to mitigate; working with State Parks and Recreation to adopt a Memorandum of Agreement to pursue mitigation measures to reduce the particulate matter coming from the Oceano dunes.
 - (3) **Fire Oversight Committee.** Met last week to finalize the Fire Joint Powers Authority Agreement; will be going to the various agencies for formal approval in the next couple of weeks.
 - (4) **Children In Motion Subcommittee.** Meetings are moving forward to identify measures to resolve fiscal issues related to the Children In Motion program.
- (d) **COUNCIL MEMBER FELLOWS:**
- (1) **Integrated Waste Management Authority Board (IWMA).** 1) A copy of the IWMA Budget was provided to the City Clerk for Council review; 2) Reported on an education program for the schools in the County regarding recycling, composting, and waste reduction programs in an effort to meet or exceed AB939 waste diversion mandates; reported that the goal for FY 2010-11 is to reach over 10,000 students with in-class presentations regarding recycling and natural resources and composting; and 3) the Board recommended to authorize the IWMA President to send letters of support for AB 1998 (plastic bags) and AB 1238 (prohibit fast food outlets from using non-recyclable and non-compostable materials).
 - (2) **County Water Resources Advisory Committee (WRAC).** 1) Reported that no vehicles have been turned away from Lopez or the other lakes; and 2) reported that the WRAC Chair contends that there is evidence of saltwater intrusion and requested the City Manager comment on the matter. City Manager Adams stated staff would be providing an update and analysis at the June 8th meeting.
 - (3) **Other.** None.

Mayor Ferrara suggested that Council Member Ray review her schedule and see what her availability would be to serve on any of the Regional Committees. Following brief discussion, staff was directed to place Committee Assignments on Regional Committees on a future Agenda for discussion.

13. CITY COUNCIL MEMBER ITEMS:

None.

14. CITY MANAGER ITEMS:

None.

15. COUNCIL COMMUNICATIONS:

None.

16. STAFF COMMUNICATIONS:

City Manager Adams announced the City would host a Critical Needs Action Plan Public Workshop on Thursday, May 27, 2010 at 6:00 p.m. at the Woman's Club and Community Center.

City Manager Adams also announced the Annual Strawberry Festival would be held this weekend, on May 29th and 30th.

17. COMMUNITY COMMENTS AND SUGGESTIONS:

Mike McConville, E. Branch Street, congratulated Council Member Ray on her appointment to the Council; commented on Council Member Costello's report on dust and stated that dust from leaf blowers in the City is also a problem and suggested a study be considered with a consideration to ban use of leaf blowers in the City.

Steve Ross, Garden Street, congratulated Council Member Ray on her appointment to the Council; and suggested ideas for use of reclaimed water to recharge the groundwater basin to help prevent seawater intrusion.

John Keen, N. Elm Street, congratulated Council Member Ray on her appointment to the Council.

Shannon Kessler, Tally Ho Road, thanked the Council and requested consideration of appointment to the now vacant Planning Commission seat.

Susan Flores, E. Branch Street, referred to the pothole in front of South County Realty which needs to be fixed before the Strawberry Festival; and referred to the upcoming public workshop which should address where the City is going to get the money for the parking lot project; and congratulated Council Member Ray on her appointment to the Council.

18. ADJOURNMENT

Mayor Ferrara adjourned the meeting at 8:50 p.m.

/s/ Tony Ferrara, Mayor

ATTEST:

/s/ Kelly Wetmore, City Clerk

(Approved at CC Mtg 06/08/2010)