

MINUTES

REGULAR MEETING OF THE CITY COUNCIL TUESDAY, JUNE 8, 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 7:01 p.m.

2. ROLL CALL

City Council: Council Member Joe Costello, Council Member Chuck Fellows, Council Member Caren Ray, 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, Fire Chief Mike Hubert, Building Official John Hurst, Assistant City Engineer Mike Linn, and Director of Community Development Teresa McClish.

3. FLAG SALUTE

Members of Arroyo Grande Police Department Explorer Post 542 led the Flag Salute.

4. INVOCATION

Father Ken Brown, St. Patrick's Catholic Church, delivered the invocation.

5. SPECIAL PRESENTATIONS

None.

6. AGENDA REVIEW

6.a. Ordinances Read in Title Only.

Council Member Costello moved, Mayor Pro Tem Guthrie seconded, and the motion passed unanimously that all ordinances presented at the meeting shall be read in title only and all further readings be waived.

7. CITIZENS' INPUT, COMMENTS, AND SUGGESTIONS

Kevin Rice expressed concerns about the Council's selection of its new Council Member.

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. There were no public comments received.

Council Member Fellows requested that Item 8.d. (Award of Contract to Central Coast Fence, Inc. for Construction of the Soto Pond No. 1 Fence Replacement Project) be pulled.

Action: Council Member Fellows moved, and Mayor Pro Tem Guthrie seconded the motion to approve Consent Agenda Items 8.a. through 8.e., with the exception of Item 8.d., with the recommended courses of action. The motion passed on the following roll-call vote:

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

8.a. Cash Disbursement Ratification.

Recommended Action: Ratified the listing of cash disbursements for the period May 16, 2010 through May 31, 2010.

8.b. Consideration of Approval of Minutes.

Recommended Action: Approved the minutes of the Special and Regular City Council Meetings of May 25, 2010, as submitted.

8.c. Consideration of Resolutions for the 2010 General Municipal Election.

Recommended Action: Adopted Resolution No. 4282 as follows: **"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010, FOR THE ELECTION OF CERTAIN OFFICERS OF THE CITY"**; 2) Adopted Resolution No. 4283 as follows: **"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN LUIS OBISPO TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 2, 2010, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE"**; and 3) Adopted Resolution No. 4284 as follows: **"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATE STATEMENTS SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010"**.

8.e. Consideration of Adoption of an Ordinance Adding Chapter 9.29 Entitled "Proximity Restrictions to Children's Facilities for Registered Sex Offenders" to the Arroyo Grande Municipal Code.

Recommended Action: Adopted 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"**.

ITEMS PULLED FROM THE CONSENT AGENDA

8.d. Consideration of an Award of Contract to Central Coast Fence, Inc. for Construction of the Soto Pond No. 1 Fence Replacement Project, PW 2010-06.

Recommended Action: 1) Award a contract for the Soto Pond No. 1 Fence Replacement Project to Central Coast Fence, Inc. in the amount of \$33,161.40; 2) Authorize the City Manager to approve change orders for 10% of the contract amount, \$3,315.00, for unanticipated costs during the construction phase of the project; 3) Find that the subject project is categorically exempt from CEQA pursuant to Section 15303(d); 4) Approve transfer of \$30,673.00 remaining from the Soto Sports Complex Draining Pumps and Piping project; 5) Approve transfer of \$9,327.00 of unused Park Improvement Funds that were carried over from the Village Green Improvement Project; and 6) Direct the City Clerk to file a Notice of Exemption.

Council Member Fellows stated he had visited the site and noted the fence is in good condition and functional, the posts are in good shape, the fabric of the chain link is not the most attractive; however, it has very little rust; acknowledged that some of the barbed wire is failing and needs to be replaced; and stated he did not see a need for spending \$40,000 to move and replace the fence. He stated the barbed wire could be removed and staff could repair the remaining areas.

Mayor Pro Tem Guthrie inquired about the status of temporary banners in the City, and also expressed concern that unused funds for projects are sitting in accounts after projects are complete. He inquired whether unused funds could be transferred or moved back to the enterprise funds and would like to see a policy created to address this. He also expressed concern about spending money to replace the fence; however, he recognized it is unattractive.

City Manager Adams explained that the issue regarding placement and display of temporary banners would be coming back to the Council for consideration in August, and further responded to concerns expressed about the existing painted chain link fence as it relates to the proposed project, and how the project is budgeted.

Council Member Ray also inquired about the funds that would be left in the Park Improvement Fund and requested clarification.

Assistant City Engineer Linn clarified that the City received \$150,000 from the Parkside development project which was specifically earmarked for improvement of the three major drainage facilities in that area. He explained that this was the fourth and last in a series of projects that were identified for use of the funds; that City staff had done most of the work in-house on the other projects which resulted in major cost savings; and that this was the last project to beautify the area and make it look more like a park.

Further Council discussion and comments concerning the fence replacement ensued; that it would be consistent with the look around other drainage basins in the City; that this fence had been identified by the America In Bloom judges as needing repair; that the fence would be moved back and a landscape border added; and that the replacement project would address existing liability and safety issues.

In response to a question regarding barbed wire on top of the fence, City Manager Adams explained that there would not be barbed wire on top of the fence; however, the area would be appropriately signed to discourage access into the basin as recommended by the City's insurance administrator.

In response to additional budget questions, Assistant City Engineer further clarified that the funds for this project cannot be used on any other project and that it was specifically for this drainage area.

Council Member Fellows suggested that instead of spending the money on this project that staff bring back cost estimates to repair the fence

Council Member Fellows moved that instead of spending the \$40,000 projected cost on removing a serviceable fence that needs some repair, that staff bring back the costs to repair the very small areas of chain link fence that have been pushed down, which is about 12 feet out of approximately 1,600 feet. Council Member Costello asked if that would include the costs involved in moving the fence back three feet and grading. Council Member Fellows said that he would not mind that because it would allow the grading if the fence is taken out. The motion failed due to lack of a second.

Action: Mayor Pro Tem Guthrie moved to approve staff's recommendations with the additional provision that the remaining unexpended funds from the Village Green project be transferred back to the Park Improvement Fund. Council Member Costello seconded, and the motion passed on the following roll call vote:

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

9. PUBLIC HEARINGS

9.a. Consideration of Five Cities Fire Joint Powers Authority.

City Manager Adams and Fire Chief Hubert presented the staff report and recommended the Council: 1) Approve a Joint Exercise of Powers Agreement ("Agreement") with the City of Grover Beach and Oceano Community Services District (OCSD) to form a Five Cities Fire Joint Powers Authority (JPA); 2) Adopt a Resolution approving the FY 2010-11 Annual Budget for the JPA; 3) Adopt a Resolution approving the Memorandum of Understanding (MOU) with the International Association of Fire Fighters Local 4403; 4) Appoint a Board Member to the JPA Board of Directors and an alternate; 5) Direct staff to request a proposal from the City of San Luis Obispo for contract police and fire dispatch services and continue to work on recommendations for a joint dispatch operation for Arroyo Grande, Grover Beach and OCSD.

Council questions ensued regarding the Agreement's termination clause; the cost percentage between the cities and clarification that the costs will be reviewed annually; status of discussion with the City of San Luis Obispo regarding joint dispatch operations; concern that the proposed budget for gas and oil may be too low; clarification that each agency's operational budget was reviewed in order to provide estimates for the Fire JPA budget and that they may need adjustments; the Board meeting schedule which would be established at the first meeting following the July 9th start date; the Board Secretary position which would be the Chief's current Executive Secretary; confirmation that a quorum would constitute all three Board Members in order to conduct meetings and do business; clarification concerning legal services to the Fire JPA; and whether there would be any attempt to standardize ordinances for various issues such as weed abatement and fireworks.

Mayor Ferrara opened the public hearing.

Jim Hill, OCSD President, spoke in support of the formation of the Five Cities Fire Joint Powers Authority.

Raffaele Montemurro, OCSD General Manager, spoke in support of the formation of the Five Cities Fire Joint Powers Authority.

Terry Fibich, Arroyo Grande resident and former Arroyo Grande and Grover Beach Fire Chief, spoke in support of the formation of the Five Cities Fire Joint Powers Authority.

PJ Ferguson, President of the Local 4403, spoke in support of the formation of the Five Cities Fire Joint Powers Authority.

John Keen, N. Elm Street, spoke in support of the formation of the Five Cities Fire Joint Powers Authority. He requested the Council keep item #5 separate and stated that the issue regarding joint dispatch services needs to come back for further evaluation.

Hearing no further comments, Mayor Ferrara closed the public hearing.

Council comments ensued in support of the Joint Powers Agreement with the City of Grover Beach and OCSD to form a Five Cities Fire Joint Powers Authority; and support to continue reviewing options for joint dispatch services.

Action: Council Member Costello moved to approve a Joint Exercise of Powers Agreement with the City of Grover Beach and Oceano Community Services District (OCSD) to form a Five Cities Fire Joint Powers Authority (JPA). Council Member Fellows seconded, and the motion passed on the following roll call vote:

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

Action: Council Member Costello moved to adopt a Resolution as follows: ***“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ADOPTING THE FISCAL YEAR 2010-11 BUDGET FOR THE FIVE CITIES FIRE JOINT POWERS AUTHORITY”***. Mayor Pro Tem Guthrie seconded, and the motion passed on the following roll call vote:

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

Action: Council Member Costello moved to adopt a Resolution as follows: ***“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ADOPTING A SALARY AND BENEFIT PROGRAM FOR EMPLOYEES REPRESENTED BY THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL 4403 FOR THE FIVE CITIES FIRE JOINT POWERS AUTHORITY AND REPEALING THOSE SECTIONS OF RESOLUTION NO. 4263 ADOPTED ON MARCH 9, 2010 IMPACTING SAID EMPLOYEES”***. Council Member Ray seconded, and the motion passed on the following roll call vote:

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

Action: Mayor Pro Tem Guthrie moved to appoint Council Member Costello to the JPA Board of Directors and Mayor Ferrara as the alternate. Council Member Ray seconded, and the motion passed on the following roll call vote:

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

Action: Council Member Costello moved to direct staff to request a proposal from the City of San Luis Obispo for contract police and fire dispatch services and continue to work on recommendations for a joint dispatch operation for Arroyo Grande, Grover Beach and OCSD.

Council Member Fellows seconded, and the motion passed on the following roll call vote:

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

Mayor Ferrara called for a break at 8:25 p.m. The Council reconvened at 8:35 p.m.

10. CONTINUED BUSINESS ITEMS

10.a. Consideration of Updated Analysis of Water Supply and Usage.

City Manager Adams presented the staff report and recommended the Council: 1) Continue efforts to purchase temporary Lopez water from the City of Pismo Beach and/or the Oceano Community Services District (OCSD) if a temporary emergency purchase of State water can be obtained from those jurisdictions; 2) Direct staff to prepare modifications to the Municipal Code to permanently establish existing mandatory conservation measures; 3) Direct staff to begin funding the half-time Water Conservation Coordinator position in the Water Fund rather than Water Neutralization Fund when the next rate structure is prepared; 4) Authorize staff to offer financial incentives to pay 75% of the costs of water efficiency measures identified in the water audits of major users; 5) Direct staff to continue to work with neighboring jurisdictions on recycled water alternatives, determine cost of obtaining use of the Conoco Phillips pipeline for recycled water, and establish communications with agricultural property owners regarding use of recycled water; 6) Direct staff to prepare a Resolution increasing Water Neutralization fees so that development impact fees will cover the full estimated capital costs of acquiring State water; 7) Appropriate \$25,000 from the Water Fund to develop a public education program regarding the status of the City's water supply and proposed measures to provide adequate long-term supply; and 8) Direct staff to plan for preparation of a ballot measure at the June 2012 election to enable purchase of up to 450 acre feet of State water if a conditional purchase can be negotiated successfully with the County and Central Coast Water Authority.

Steve Tanaka, Wallace Group, gave a presentation entitled "Secondary Recycled Water Options to Augment Water Supply".

Council questions ensued regarding the proposed funding to develop a public education program, how the amount of \$25,000 was determined, and what the program would include; what a proposed ballot measure would look like; why ConocoPhillips would not provide an estimated price for obtaining use of its pipeline for recycled water; what quantity of water is required to be pumped to keep seawater intrusion at bay; clarification regarding State water drought insurance and/or drought buffer costs; and comparison of seawater desalination to indirect potable reuse/recycled water as it relates to energy consumption.

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

John Keen, N. Elm Street, spoke about residential and landscape water conservation efforts and suggested that the water rates be reviewed again.

Steve Ross, Garden Street, also spoke about water conservation efforts and his reduction of water use; however, he expressed concern that the tiered rate system is causing him to pay more. He further spoke about the use of recycled water.

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

Council comments ensued in support of staff's recommendations; that there are no easy solutions to getting more water; acknowledgement that water conservation efforts must continue; concern that there may be a perception that the proposal might cause more growth; concern about how the \$25,000 for a proposed educational program would be spent; acknowledgement that the City has been working on both long and short term water supply strategies and is not looking to lock into any one option now; support for public education efforts; support for updating the Municipal Code to permanently establish existing mandatory conservation measures; that the tiered rate structure is in its first year of implementation and each year thereafter should result in savings; some concern about offering financial incentives to pay 75% of the costs of water efficiency measures identified in the water audits of major users; that the use of the ConocoPhillips pipeline may be the best solution; use of tertiary treated water on agricultural lands; a request to staff to provide an outline of what would be included in the public education effort for \$25,000; that the City will need to continue to seek funding sources, including grants; and that there is a need for a mid to long term strategy to focus on public education not only on the State water issue, but all water issues.

Action: Mayor Pro Tem Guthrie moved to: 1) Continue efforts to purchase temporary Lopez water from the City of Pismo Beach and/or the Oceano Community Services District (OCSD) if a temporary emergency purchase of State water can be obtained from those jurisdictions; 2) Direct staff to prepare modifications to the Municipal Code to permanently establish existing mandatory conservation measures; 3) Direct staff to begin funding the half-time Water Conservation Coordinator position in the Water Fund rather than Water Neutralization Fund when the next rate structure is prepared; 4) Authorize staff to offer financial incentives to pay 75% of the costs of water efficiency measures identified in the water audits of major users; 5) Direct staff to continue to work with neighboring jurisdictions on recycled water alternatives, determine cost of obtaining use of the Conoco Phillips pipeline for recycled water, and establish communications with agricultural property owners regarding use of recycled water; 6) Direct staff to prepare a Resolution increasing Water Neutralization fees so that development impact fees will cover the full estimated capital costs of acquiring State water; 7) Appropriate \$25,000 from the Water Fund to develop a public education program regarding the status of the City's water supply and proposed measures to provide adequate long-term supply; and bring back the proposed program/plan and contract proposal on a future Agenda for consideration and final approval; and 8) Direct staff to plan for preparation of a ballot measure at the June 2012 election to enable purchase of up to 450 acre feet of State water if a conditional purchase can be negotiated successfully with the County and Central Coast Water Authority. Council Member Costello seconded, and the motion passed on the following roll call vote:

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

11. NEW BUSINESS ITEMS

11.a. Consideration of Ballot Measures for Appointive City Clerk and City Treasurer.

City Manager Adams presented the staff report and recommended the Council: 1) Direct staff to present a Resolution on the June 22, 2010 agenda for consideration to place two measures on the November 2nd ballot asking voters to make the City Clerk and City Treasurer appointive positions; 2) Provide comments on the draft ballot measures and ballot arguments; and 3) If approved by a majority of voters, direct staff to place on a future agenda an ordinance for consideration to delegate appointment authority to the City Manager.

In response to concerns expressed by Council Member Fellows about the appointment process as it relates to lack of public or Council input, City Manager Adams explained the current hiring process for department directors, that the process is flexible, and Council has been involved and provided input about the process in the past. City Manager Adams noted that for the Police Chief position, he makes the final hiring decision; however, the appointment is required to be confirmed by the Council.

Mayor Ferrara invited comments from those in the audience who wished to be heard on the matter, and upon hearing no comments, he closed the public comment period.

Council comments ensued in support of the proposed ballot measures; acknowledgment that the positions have evolved beyond what the electoral process originally intended; that these are very technical positions now; that future recruitments should have some Council input; clarification regarding current hiring practices; that ultimately, the Council is ultimately the approving body of any budget and expenditures that the Treasurer would be overseeing; support for the City Manager to have the hiring authority; recognition that the City Clerk is a department director position; clarification that having a City Treasurer position is a statutory requirement pursuant to State law; that the current structure and process is good now and this action to make the positions appointive is long overdue; support for the proposed ballot measures with a suggestion to balance the qualifications as well as the financial impacts; that future recruitments for the positions should have some Council input; that the proposed arguments in favor should focus equally on necessary qualifications as well as the financial aspect.

Action: Council Member Costello moved to direct staff to present a Resolution on the June 22, 2010 agenda for consideration to place two measures on the November 2, 2010 ballot asking voters to make the City Clerk and City Treasurer appointive positions. Mayor Pro Tem Guthrie seconded, and the motion passed on the following roll call vote:

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

Action: Council Member Costello moved that the draft ballot measures and arguments as presented are acceptable; however, staff was directed to continue to work on the arguments to incorporate Council comments into the ballot arguments; and further, if approved by a majority of voters, direct staff to place on a future agenda an ordinance for consideration to delegate

appointment authority to the City Manager. Council Member Fellows seconded, and the motion passed on the following roll call vote:

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

12. CITY COUNCIL MEMBER ITEMS

None.

13. CITY MANAGER ITEMS

None.

14. COUNCIL COMMUNICATIONS

Council Member Ray thanked all the department directors for meeting with her last week and recognized the outstanding job everyone is doing running their departments.

15. STAFF COMMUNICATIONS

City Manager Adams thanked Council Member Ray for her flexibility in scheduling all the various meetings with himself and the department directors.

16. COMMUNITY COMMENTS AND SUGGESTIONS

Colleen Martin, Olive Street, invited the Council to attend the Lucia Mar Unified School District Board Meeting on June 15th at 7:00 p.m. at which time the Board would recognize the individuals who recently came to the rescue of a local girl during an violent attack; and then expressed concern about the City's political sign ordinance and the fact that it is not being enforced.

Steve Ross, Garden Street, commented on Item 11.a. (Consideration of Ballot Measures for Appointive City Clerk and City Treasurer) and stated the City should have a Plan B in place if the ballot measures do not pass; and suggested an ordinance be drafted that requires certain qualifications of a City Clerk and City Treasurer. He also referred to Item 8.d. (Soto Pond No. 1 Fence Replacement Project) and commented that the problems appear to be caused by people climbing over the fence.

17. ADJOURNMENT

Mayor Ferrara adjourned the meeting at 10:20 p.m.

/s/ Tony Ferrara, Mayor

ATTEST:

/s/ Kelly Wetmore, City Clerk

(Approved at CC Mtg 07/13/2010)