



CITY OF EL PASO DE ROBLES

"The Pass of the Oaks"

CITY COUNCIL MINUTES

Tuesday, December 16, 2008 7:30 PM

**MEETING LOCATION: PASO ROBLES LIBRARY/CITY HALL
CONFERENCE CENTER, 1000 SPRING STREET**

**PLEASE SUBMIT ALL CORRESPONDENCE FOR CITY COUNCIL PRIOR
TO THE MEETING WITH A COPY TO THE CITY CLERK**

7:30 PM – CONVENE REGULAR MEETING

CALL TO ORDER – Downstairs Conference Center

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL Councilmembers Nick Gilman, John Hamon, Ed Steinbeck, Fred Strong, and Mayor Duane Picanco,

PUBLIC COMMENTS

- Denise Surber, in regards to Library Resources.
- Library & Recreation Director Annie Robb introduces two members of the Youth Commissioners Margarita Uribe and Alma Lopez who each addressed the Council.
- John Borst presented and asked to have placed into record a letter from Cynthia Hawley on behalf of Concerned Citizens.
- Timothy Buchanon TNC Aloha Ice Cream, requests a temporary business license until D.O.J. is completed.

PUBLIC HEARINGS

1. **Mitigated Negative Declaration for Paso Robles (Nacimiento) Water Treatment Plant and Main East Pipeline**

R. Whisenand, Community Development Director

(Continued from the October 7, 2008 and November 18, 2008 Regular Meetings)

Mayor Picanco called for public comments on Consent Calendar items. There were no comments from the public, either written or oral, and the public discussion was closed.

On a motion by Councilmember Strong, seconded by Councilmember Hamon, by General Consent, the City Council continued the discussion of a Mitigated Negative Declaration for the Paso Robles (Nacimiento) Water Treatment Plant and Main East Pipeline to February 3, 2009, to provide sufficient time to evaluate the greenhouse gas impacts and ensure compliance with the California Environmental Quality Act (CEQA).

Motion passed by the following unanimous roll call vote:

AYES: Gilman, Hamon, Steinbeck, Strong, and Picanco

NOES:

ABSTAIN:

ABSENT:

CONSENT CALENDAR

Mayor Picanco called for public comments on Consent Calendar items. There were no comments from the public, either written or oral, and the public discussion was closed.

2. Approve City Council minutes of December 2, 2008
3. Approve Warrant Register: Nos. 81223—81363 (11/26/08) and 81364—81458 (12/05/08)
4. Receive and file Advisory Body Committee minutes as follows:
Youth Commission meeting of November 5, 2008
5. Read, by title only, and adopt Ordinance No. 952 N.S., establishing the Paso Robles Tourism and Lodging Promotions Business Improvement District pursuant to the Parking and Business Improvement Law of 1989 *(First reading December 2, 2008).*
6. Adopt Resolution No. 08-193 authorizing the recordation of Parcel Map PR 04-0310, a 12-lot subdivision located on Golden Hill Road and Tractor Street (Weyrick)
7. Adopt Resolution No. 08-194 accepting the public improvements of Parcel Map PR 04-0310, located along Golden Hill, N of Highway 46E, and providing connection of Tractor Way to Golden Hill Road and Dallons Drive, into the City's maintenance system (Weyrick).
8. Adopt Resolution No. 08-195 authorizing the recordation of Tract 2972, a condominium subdivision of two buildings into 32 units located at 3500 Dry Creek Road (Nunno).

Consent Calendar Items Nos. 2 - 5 were approved on a single motion by Councilmember Hamon, seconded by Councilmember Strong.

Motion passed by the following unanimous roll call vote:

AYES: Gilman, Hamon, Steinbeck, Strong and Picanco
NOES:
ABSTAIN:
ABSENT:

For Consent Calendar Items Nos. 6 – 8.

AYES: Gilman, Hamon, Strong and Picanco
NOES:
ABSTAIN: Steinbeck
ABSENT:

DISCUSSION

9. Proposition 1B Local Streets Maintenance & Upgrades

D. Monn, Public Works Director

The City Council considered accepting Proposition 1B funds for the South Vine Project. To receive funds the City must apply to the State by December 31, 2008.

Mayor Picanco opened the public hearing. There were no comments from the public, either written or oral, and the public discussion was closed.

Councilmember Strong, seconded by Councilmember Hamon, moved to direct staff to submit an allocation request to the State Controller's Office for Proposition 1B funds in the amount of \$438,765 for the South Vine Pavement Upgrade/Rehab Project.

Motion passed by the following unanimous roll call vote:

AYES: Gilman, Hamon, Steinbeck, Strong and Picanco
NOES:
ABSTAIN:
ABSENT:

10. State Route 101/46 East Improvements

D. Monn, Public Works Director

The City Council considered accepting State grants and provide matching funding commitments to construct improvements associated with State Route 101/46 East.

Mayor Picanco opened the public hearing. Speaking from the public was Dale Gustin. There were no further comments from the public, either written or oral, and the public discussion was closed.

Councilmember Strong, seconded by Councilmember Steinbeck, moved to adopt Resolution No. 08-196, accepting grants from SLOCOG and Caltrans; and committing the City's share of \$1,500,000 to the project from Traffic Impact fees.

Motion passed by the following unanimous roll call vote:

AYES: Gilman, Hamon, Steinbeck, Strong and Picanco

NOES:

ABSTAIN:

ABSENT:

**11. Widen South Vine for Class II Bike Lanes:
Adopt Budget and Award Construction Contract**

D. Monn, Public Works Director

The City Council established a budget and awarded a construction contract to widen South Vine Street for Class II bike lanes. On November 13, 2008 eight bids were received with the Basis of Bid Award amount ranging from \$2,170,000.21 to \$3,437,490.

Mayor Picanco opened the public hearing. Speaking from the public was Dale Gustin, Sheila Baker, Cody Ferguson, Don Jones, Jason Papich, and Tom Hardwick. There were no further comments from the public, either written or oral, and the public discussion was closed.

Councilmember Strong, seconded by Councilmember Hamon, moved to adopt Resolution No. 08-197 to appropriate a budget of \$2,741,886, utilizing all grant funding available; and waive immaterial defects in Rockwood's bid; and award a construction contract to widen South Vine Street to install Class II bike lanes to Rockwood General Contractors in the not to exceed amount of \$2,026,080.21.

Motion passed by the following unanimous roll call vote:

AYES: Gilman, Hamon, Steinbeck, Strong and Picanco

NOES:

ABSTAIN:

ABSENT:

12. Water Treatment for Ronconi Wells

D. Monn, Public Works Director

The City Council authorized the purchase of a Pall Corporation mobile water treatment unit for the Ronconi Wells.

Mayor Picanco opened the public hearing. There were no comments from the public, either written or oral, and the public discussion was closed.

Councilmember Hamon, seconded by Councilmember Strong, moved to adopt Resolution No. 08-198 authorizing the purchase order to Pall Corporation for an amount not-to-exceed \$870,000; and directing City staff to issue purchase orders for required appurtenances in an amount not-to-exceed \$205,000.

Motion passed by the following unanimous roll call vote:

AYES: Gilman, Hamon, Steinbeck, Strong and Picanco

NOES:

ABSTAIN:

ABSENT:

13. Appointment of Members to Council Liaison Committees

D. Picanco, Mayor

(Continued from December 2, 2008).

By General Consent, Appointment of members to Council liaison committees were assigned. (See attached listing)

VOICE VOTE: PASSED UNAMIOUSLY

14. Reschedule City Council Meeting – January 2009

J. App, City Manager

The City Council considered alternative dates for the regularly scheduled January 20, 2009 City Council meeting due to Council attendance at a League of California Cities Conference.

Mayor Picanco opened the public hearing. There were no comments from the public, either written or oral, and the public discussion was closed.

NO ACTION TAKEN TO RESCHEDULE

ADVISORY BODY COMMUNICATION

15. Schedule Dates for Applicant Interviews/Appointments for Planning Commission and Project Area Committee Vacancies

R. Whisenand, Community Development Director

The City Council set dates for interviews of applicants for filling vacancies on the Planning Commission and Project Area Committee.

General Consent moved to set Thursday, January 8, 2009 at 7:00 PM as the date for interviewing applicants and making appointments to the Planning Commission; and set Thursday, January 15, 2009 at 7:00 PM as the date for interviewing applicants and making appointments to the Project Area Committee.

VOICE VOTE: PASSED UNANIMOUSLY

CLOSED SESSION – ADJOURNED TO CLOSED SESSION AT 8:35 P.M.

City Attorney Iris Yang announced Council's authority to go into closed session to discuss the item listed on the agenda.

a. Conference with Legal Counsel – Anticipated Litigation

Government Code Section 54956.9 (b)

Significant exposure to litigation (facts and circumstances not known to adverse party)

Number of cases: Two

It was the consensus of Council to adjourn from regular session at TIME PM.

The City Council thereupon adjourned to Closed Session in the 2nd floor Large Conference Room.

CLOSED SESSION

CALL TO ORDER – Large Conference Room, 2nd Floor

The City Council returned to Regular Session at 9:59 PM.

RETURN TO OPEN SESSION

CLOSED SESSION REPORT

City Attorney Iris Yang announced that there was no reportable actions taken.

By unanimous voice vote, Council moved to adjourn from regular session at 10:00 P.M.

ADJOURNMENT:

- PASO ROBLES CHAMBER OF COMMERCE BOARD OF DIRECTORS HOLIDAY RECEPTION, AT 5:00 PM, AT LA BELLASERA HOTEL & SUITES, 206 ALEXA CT, PASO ROBLES
- THE JOINT PLANNING COMMISSION / CITY COUNCIL BREAKFAST MEETING AT 7:00 AM, FRIDAY, DECEMBER 19, 2008 AT THE TOUCH OF PASO RESTURANT, PASO ROBLES
- THE REGULAR MEETING AT 7:30 PM ON TUESDAY, JANUARY 6, 2009, AT THE LIBRARY/CITY HALL CONFERENCE CENTER, 1000 SPRING STREET

Submitted:

Cathy M. David, Deputy City Clerk
Approved:

**THESE MINUTES ARE NOT OFFICIAL OR A PERMANENT
PART OF THE RECORDS UNTIL APPROVED BY THE CITY
COUNCIL AT A FUTURE REGULAR MEETING.**

To: Paso Robles City Council
From: John Borst

Dec. 16, 2008

Re: AB 3030
Government Code section 53756
Cynthia Hawley Dec. 10, 2008 letter

Gentlemen,

I come before the City Council tonight to place in the Public Record a letter (see attachment) from attorney Cynthia Hawley written at the request of Concerned Citizens for Paso Robles (of which group I am a member and spokesperson). As you each should know by now, Mayor Picanco was sent a letter from Ms. Hawley dated Dec. 10, 2008. In essence, her letter states the City's Oct. 2008 water rate proposal is in violation of Government Code section 53756. That is, as of Jan. 1, 2009 only a schedule of water rates for at most 5 years is lawful when such rates incorporate adjustments for inflation.

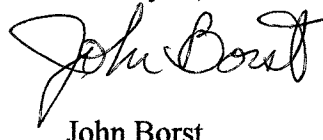
As expressed by Ms. Hawley this new law is applicable to the City's Oct. 2008 schedule of water rates as the proposed rates incorporate adjustments for inflation, span a period of 9 years and will not be passed this year. I seek at this time the legal opinion of the City Attorney (Iris Yang or John Seitz) as to whether or not City officials will now have the proposed Oct. 2008 water rates comply with Government Code section 53756, and if so, to what effect this compliance will have on the development of any water rates that would be proposed for City Council and water customer consideration in 2009.

Please reply to Cynthia Hawley and myself at the below addresses as soon as possible.

Cynthia Hawley
P.O. Box 29
Cambria, CA 93428

John Borst
209 Navajo Ave.
Paso Robles, CA 93446

Thank you,

A handwritten signature in black ink that reads "John Borst". The signature is written in a cursive, flowing style with a large initial "J".

John Borst

CYNTHIA HAWLEY
ATTORNEY AT LAW

December 10, 2008

Mayor Duane Picanco
Paso Robles City Council Members
City of Paso Robles
1000 Spring Street
Paso Robles, CA 93446

Re: Assembly Bill 3030
Government Code section 53756

Dear Mayor Picanco and City Council Members:

I represent Concerned Citizens for Paso Robles in relation to the City of Paso Robles' proposed water rate increases. I have reviewed your October 2008 "Notice of Public Hearing Regarding Proposed Increase in Water Rates," noting the proposal for automatic rate increases extending over a nine year period. According to the September 29, 2008 Kennedy/Jenks Water Rate and Revenue Analysis Report at page 3, the City's projected operating expenses covered by the rate increases include automatic increases for, among other things, *inflationary adjustments*.

As you know, the mandates of Proposition 218 as set out in Articles XIII C and D of the California Constitution are implemented by statute in Government Code sections 53750 et seq. entitled the "Proposition 218 Omnibus Implementation Act". These sections have been amended by recent legislation that affects the legality of your proposed schedule for water rate increases.

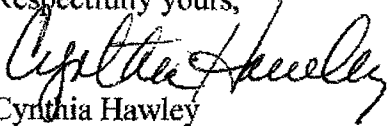
Government Code section 53756 (see attachment) has been added to the Proposition 218 Omnibus Implementation Act and will take effect January 1, 2009. This new law authorizes local agencies to adopt a schedule of fees or charges for water services that include automatic adjustments for increases in the wholesale cost of water and for inflation. *However*, subsection (a) specifically limits the authority to adopt such scheduled increases to those that *do not exceed a period of five years*. Since any adoption of the City's proposed schedule of water rate increases will not take place until after January 1, 2009, adoption of such scheduled increases now falls within the purview of this legislation and its mandates.

Consequently, under Government Code section 53756(a), the City's proposed nine year schedule of water rate increases which include automatic adjustments for inflation is prohibited and your January 20, 2009 approval/adoption of the proposed rate structure would be a violation of this new legislation. Compliance with section 53756 and with the

substantive and procedural mandates of Proposition 218 will entail restructuring your proposed water rate increases and resubmitting the new rate increases to property owners and rate payers according to the notice, hearing, and opportunity to protest required by Proposition 218.

I hope that this information is helpful to you. Your prompt reply to this letter would be appreciated.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Cynthia Hawley".

Cynthia Hawley

Assembly Bill No. 3030 CHAPTER 611

An act to add Section 53756 to the Government Code, relating to local government. [Approved By Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3030, Brownley. Local publicly owned water utility: rate cases.

Articles XIII C and XIII D of the California Constitution generally require that assessments, fees, and charges be submitted to property owners for approval or rejection after the provision of written notice and the holding of a public hearing. Existing law, the Proposition 218 Omnibus Implementation Act, prescribes specific procedures and parameters for local jurisdictions to comply with Articles XIII C and XIII D of the California Constitution. Existing law provides notice, protest, and hearing procedures for the levying of new or increased fees and charges by local government agencies pursuant to Articles XIII C and XIII D of the California Constitution. This bill would authorize an agency providing water, sewer, or refuse collection service to adopt a schedule of fees or charges that authorize automatic adjustments that pass through increases in wholesale charges for water or adjustments for inflation, if prescribed conditions are met, including, but not limited to, that the schedule of fees or charges not exceed a period of 5 years and that the schedule be adopted pursuant to existing law providing notice, protest, and hearing procedures for the levying of new or increased fees and charges by local government agencies.

The people of the State of California do enact as follows:

SECTION 1. Section 53756 is added to the Government Code, to read:

53756. An agency providing water, sewer, or refuse collection service may adopt a schedule of fees or charges authorizing automatic adjustments that pass through increases in wholesale charges for water or adjustments for inflation, if it complies with all of the following:

- (a) It adopts the schedule of fees or charges for a property-related service for a period not to exceed five years pursuant to Section 53755.
- (b) The schedule of fees or charges may include a schedule of adjustments, including a clearly defined formula for adjusting for inflation. Any inflation adjustment to a fee or charge for a property-related service shall not exceed the cost of providing that service.
- (c) The schedule of fees or charges for an agency that purchases wholesale water from a public agency may provide for automatic adjustments that pass through the adopted increases or decreases in the wholesale charges for water established by the other agency.
- (d) Notice of any adjustment pursuant to the schedule shall be given pursuant to subdivision (a) of Section 53755, not less than 30 days before the effective date of the adjustment.

PASO ROBLES CITY COUNCIL LIAISON COMMITTEES

Prepared for December 16, 2008 Discussion

Standing Committees – Other Agencies	Meeting Dates/Location	Current Member
Air Pollution Control District (APCD)	Every odd month/4 th Wed – 9:00 AM - Board of Supervisors Chambers, County Government Center	Hamon Alt: Gilman
Calif Joint Powers Insurance Authority (CJPIA)	Board meets annually; 4 th Thursday of July CJPIA Offices, 8081 Moody Street, La Palma, CA	Picanco Staff: Throop
Economic Vitality Corporation (EVC)	4 th Wednesday – 3:00 PM - 4111 Broad Street, SLO (788-2012)	Steinbeck Alt: Strong
Integrated Management Authority (IWMA)	Every odd month/2 nd Wed – 1:30 PM - Board of Supervisors Chambers, County Government Center	Hamon Alt: Gilman
Local Agency Formation Commission (LAFCO) (Appointment by Mayor's Selection Committee)	3 rd Thursday – 9:00 AM - Board of Supervisors Chambers, County Government Center	Picanco
Nacimiento Water Project Commission	Even months/ 4th Thursday – 4:00 PM - Templeton Community Services District Board Room	Hamon Alt: Picanco
SLO Council of Governments (SLOCOG)	1 st Wednesday - 8:30 AM - Board of Supervisors Chambers, County Government Center	Strong Alt: Gilman
SLO Regional Transit Authority (SLORTA)	1 st Wednesday (alternating months) - 8:30 AM - Board of Supervisors Chambers, County Government Center	Strong Alt: Gilman
Local Associations & Regional Public Agencies	Meeting Dates/Location	Current Member
Airport Land Use Commission (Appointment by Mayor's Select Committee)	3 rd Wednesday - 1:30 PM - Board of Supervisors Chambers, County Government Center	Settle (SLO) Staff Rep: Oxborrow
Chamber of Commerce Board	4 th Thursday - 7:30 AM - Paso Robles – Paso Robles Inn	Picanco, Steinbeck
Citizens Transportation Advisory	Wednesday of alternate months – 6:00 PM - Meeting location TBD	Shellah Baker
Downtown Paso Robles Main Street Assn.	2 nd Monday - 5:45 PM - Paso Robles Main Street Office	Strong, Steinbeck
Economic Opportunity Commission of San Luis Obispo County, Inc. (effective 2008)	3 rd Thursday, 5:00 PM – EOC Board Room, 1030 Southwood Drive, SLO (North County Representative)	Picanco
North County Transit Policy Committee	No regular meetings; meet as required	Strong Alt: Picanco
North County Water Resources Forum	1 st Thursday – 5:00 PM - Templeton Comm. Services District Office	Hamon, Picanco
Paso Robles Events Center Liaison	As Needed at PREC Offices	Picanco, Steinbeck
Paso Robles Groundwater Basin Oversight	(County will establish)	Picanco, Hamon
Paso Robles Housing Authority	2 nd Tuesday – 6:00 PM - George Stephan Oak Park Rec. Building	Strong, Gilman
Paso Robles School District Liaison	Monthly (no specific date) 12:00 - 1:00 PM - PR School District Office	Picanco, Hamon
Paso Robles Wine Country Alliance	As Needed, meeting locations to be announced	Steinbeck, Hamon

PASO ROBLES CITY COUNCIL LIAISON COMMITTEES

Prepared for December 16, 2008 Discussion

Council Liaison to City Advisory Bodies	Meeting Dates/Location	Current Member
Business Improvement District (Hoteliers) New 2008/2009	As needed, meeting locations to be announced (quarterly) Staff Liaison: Assistant City Manager, Director Admin Services	Picanco, Steinbeck
Budget Committee	As needed, meeting locations to be announced	Picanco, Hamon
Citizens Airport Advisory	4 th Thursday - 7:00 PM - Paso Robles Airport - 4900 Wing Way	Hamon, Steinbeck
Library Board of Trustees	2 nd Thursday - 9:00 AM - Paso Robles Library	Strong, Gilman
Parks & Recreation	2 nd Tuesday - 4:00 PM - Centennial Park Conference Room	Hamon, Gilman
Pioneer Museum Board of Trustees	3 rd Weds 4:00 PM Museum, meet semi-annually - July & Dec required Optional - Non-profit - 3 rd Wednesday 4:00 PM Museum	Steinbeck, Gilman
Project Area Committee	As needed, meeting location - 1000 Spring Street, 2 nd Floor Conference Room Staff Liaison: City Planner	Hamon, Gilman
Public Financing Authority	As Needed	Picanco, Strong
Promotions Coordinating Committee	As needed, meeting locations to be announced Staff Liaison: City Manager	No Council Liaison
Redevelopment Agency (2007)	As Needed	Chair: Hamon Vice Chair: Gilman Secy: App
Senior Advisory Board	2 nd Monday - 1:30 PM - Senior Center	Picanco, Steinbeck
Streets & Utilities Committee	As needed - City Hall large conference room - 2 nd floor	Steinbeck, Gilman
Youth Commission	1 st Wednesday - 3:00 PM - PR High School Principal's Conf Room	Picanco, Gilman