



CITY OF EL PASO DE ROBLES

"The Pass of the Oaks"

CITY COUNCIL MINUTES

Tuesday, June 2, 2009 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 John Hamon Nick Gilman, Ed Steinbeck, Fred Strong, and Mayor Duane Picanco,

PUBLIC COMMENTS

- Public Works director introduced Matt Thompson the new Wastewater Resource Manager.
- Sheila Baker complimented the transportation center and requested portable bathrooms be maintained.
- Jeremy Howard representing Green Build announced the "Green Build Sweepstakes."
- Tim Gepner regarding handicap parking needed in the downtown around the park.
- John Borst regarding written comments submitted May 5, 2009 not included in the City Council Minutes – resubmitted for inclusion.

PRESENTATIONS

1. Recognition of the Project Area Committee

R. Whisenand, Community Development Director

Mayor Duane Picanco recognized the following Project Area Committee (PAC) members present for fulfilling term in office:

Robert A. Fonarow	Thomas K. Hardwick	Bonnie Hall
Bonnie Hall	Chuck S. Sawyer	

The following PAC members not present will have certificates of service sent to them.

Warren H. Frankel	Robert M. Burgess	Wesley D. King
Russell J. Surber	James P. Mwangi	

2. Water Conservation Update

D. Monn, Public Works Director

Water Conservation Manager Keith Larson presented an update on the current water conservation efforts. Water use is down 16% to 20% from last year. Twenty Water Conservation Assistants have been hired with training ongoing. Home delivery of information begins Wednesday, June 3rd with grocery store outreach beginning Thursday, June 4th as well as radio spots and free landscape workshops.

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.

3. Approve City Council minutes of May 19, 2009

D. Fansler, City Clerk

4. Approve Warrant Register: Nos. 84253—84348 (05/15/09) and 84348 - 84483 (05/22/09)

J. Throop, Administrative Services Director

5. Receive and file Advisory Body Committee minutes as follows:

Library Board of Trustees meeting of April 9, 2009

Senior Citizen Advisory Committee meeting of April 13, 2009

Parks and Recreation Advisory Committee meeting of April 14, 2009

Promotions Coordinating Committee meeting of April 14, 2009

Youth Commission meeting of April 15, 2009

Councilmember Fred Strong pulled Consent Item #6 from the agenda. Consent Calendar Items Nos. 3 - 5 were approved on a single motion by Councilmember Hamon, seconded by Councilmember Steinbeck.

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.

Motion passed by the following unanimous roll call vote:

AYES: Gilman, Hamon, Steinbeck, Strong and Picanco

NOES:

ABSTAIN:

ABSENT:

DISCUSSION

7. Water Conservation and Shortage Contingency Plan Urgency Ordinance)

D. Monn, Public Works Director

For City Council to consider a Water Conservation and Shortage Contingency Plan by adopting two ordinances, first Adopt Urgency Ordinance No. 09-956 N.S. that requires one reading and would take effect immediately, and second to Adopt Ordinance No. 09-957 N.S. that adopts the same water conservation plan but is a regular Ordinance that requires a second reading and takes effect 30 days after second reading.

Water Resources Manager Chris Alakel presented the City Staff Report.

Mayor Picanco opened the public hearing. Speaking from the public was Cody Ferguson, Dale Gustin, Kathy Barnett and Joyce Frank. 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 Urgency Ordinance No. 09-956 N.S. and introduce the first reading of Ordinance No. 09-957 N.S. with the following revision to be made to both Ordinances; Section 14.02.100 B3 – The decision of the City Manager or his designee is final unless the applicant files a written appeal to City Council within 10 days.

Motion passed by the following unanimous roll call vote:

AYES: Gilman, Hamon, Steinbeck, Strong and Picanco

NOES:

ABSTAIN:

ABSENT:

8. Water Rate Referendum Special Election

J. App, City Manager

For the City Council to set a date for the water rate referendum special election.

City Manager Jim App presented the City Staff Report.

Mayor Picanco opened the public hearing. Speaking from the public was Kathy Barnett, John Borst, Carl Hanson and Mary Winfry. There were no further comments from the public, either written or oral, and the public discussion was closed.

Councilmember Steinbeck, seconded by Councilmember Strong, moved to Adopt Resolution No. 09-071 setting November 3, 2009 as the date for a Special Election for the purpose of Submitting a Referendum to the Voters to ratify or Reject Ordinance No. 953 N.S. Adopting Water User Rates.

Motion passed by the following unanimous roll call vote:

AYES: Gilman, Hamon, Steinbeck, Strong and Picanco

NOES:

ABSTAIN:

ABSENT:

9. Highway 101 Median Barrier Project

R. Whisenand, Community Development Director

For City Council to consider and provide recommendations to SLOCOG and Caltrans on a proposed Highway 101 median project.

Community Development Director Ron Whisenand presented City Staff Report.

Mayor Picanco opened the public hearing. Speaking from the public was Ron DeCarli, Kathy Barnett, Sheila Baker and Tom Hardwick. There were no further comments from the public, either written or oral, and the public discussion was closed.

Councilmember Hamon, seconded by Councilmember Strong, moved to request Caltrans retain existing landscape treatment (oleanders and existing trees) and install Thrie beam barriers to prevent cross-over accidents.

Motion passed by the following unanimous roll call vote:

AYES: Gilman, Hamon, Steinbeck, Strong and Picanco

NOES:

ABSTAIN:

ABSENT:

10. County Vector Control District

J. App, City Manager

San Luis Obispo County proposes a special benefit assessment district to fund vector control services. The City may cast votes for property it owns (278 City owned properties with assessment totaling \$2,191.00 per year).

City Manager Jim App presented the City Staff Report.

Mayor Picanco opened the public hearing. Speaking from the public was Joann Switzer, Cody Ferguson, Tom Hardwick, Joyce Frank and Kathy Barnett. 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 authorize an negative vote for the County Vector Control Benefits Assessment ballots for all city-owned parcels

Motion passed by the following roll call vote:

AYES: Hamon, Steinbeck, Strong and Picanco

NOES: Gilman

ABSTAIN:

ABSENT:

11. City Wastewater Treatment Plant – Supplemental Environmental Review

D. Monn, Public Works Director

For the City Council to consider expanding environmental investigation and documentation for upgrade to the City Wastewater Treatment plant rehabilitation project. Public Works Director presented the City Staff Report.

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 Gilman, moved to Adopt Resolution No. 09-071 appropriating \$27,167 from Sewer Enterprise funds to Budget No. 601-910-5224-683 and authorize the expanded work scope associated with the future rehabilitation of Paso Robles Wastewater Treatment Plant

Motion passed by the following unanimous roll call vote:

AYES: Gilman, Hamon, Steinbeck, Strong and Picanco

NOES:

ABSTAIN:

ABSENT:

6. Authorize an amendment to an agreement between the City, AJ Contractor Supply and the Templeton Community District for fire-suppression water service within the City's Sphere of Influence.

R. Whisenand, Community Development Director

Community Development Director Ron Whisenand presented the City Staff Report.

Mayor Picanco opened the public hearing. Speaking from the public was Jamie Kirk with AJ Contractors. 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 modify and update the agreement with AJ Contractor Supply and TCSD to allow for water service limited to fire suppression purposes at 2450 Ramada Drive.

Motion passed by the following unanimous roll call vote:

AYES: Gilman, Hamon, Steinbeck, Strong and Picanco

NOES:

ABSTAIN:

ABSENT:

COUNCIL COMMENTS:

- Mayor Picanco suggested an Ad Hoc Committee meeting regarding Olsen/Beechwood Property. Staff recommended until waiting until circulation element is in place. Councilmember Strong announced that he will be in Sacramento on June 3, 2009.
- Councilmember Steinbeck complimented the Festival of the Arts.
- Councilmember Gilman requested a public disc of Development Impact (AB1600) Fees.

ADJOURNMENT:

- PASO ROBLES ECONOMIC FORECAST, 8:00 A.M. WEDNESDAY, JUNE 10, 2009 AT THE PASO ROBLES INN HISTORIC GRAND BALLROOM
- CITY COUNCIL BUDGET WORKSHOP, 7:00 P.M. THURSDAY, JUNE 11, 2009 AT THE LIBRARY/CITY HALL CONFERENCE CENTER , 1000 SPRING STREET
- POLICE SERGEANT BOLINGER'S RETIREMENT, 5:00 P.M. JUNE 13, 2009 AT THE PASO ROBLES ELKS LODGE
- THE REGULAR MEETING AT 7:30 PM ON TUESDAY, JUNE 16, 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

May 5, 2009

In May 2006 the City of Modesto hired Brown and Caldwell (Resolution 2006-303) to conduct a Wastewater (Sewer) Rate Study for \$108,000 and a Wastewater (Sewer) Connection Fee Study in the amount of \$35,000.

On Dec. 12, 2006 the Berkeley City Manager recommended to the City Council that Harris & Associates be contracted with for an amount not to exceed \$103,000 to provide a Sewer Service Charge Rate Analysis and conduct resulting rate setting hearings for proposed service charge modifications for the period December 12, 2006 through October 30, 2007. (See attachment)

In light of the above, entering into a contract with Kennedy/Jenks Consultants and TJ Cross Engineers for \$205,000 seems excessive, ill advised and a reckless spending of taxpayer money. Other vendors should be contacted for their bid.

Also, this is a job/service that appears, under the purchasing code of the City, required to be put out to bid (or rebid). According to the Purchasing and Payment Procedures Manual, Section 6:

"For the acquisition of professional services in excess of \$10,000, the executive manager shall solicit written request for qualifications (RFQ) from at least three potential professional service providers. The executive manager shall forward a written recommendation to the full City Council for contract approval. Upon City Council approval, the executive manager shall forward a purchase order to the City's purchasing authority for approval. Professional services in this section refers to professions that are licensed, certified, degreed or have some other special distinction that sets them apart from other service providers; e.g. engineers, architects, doctors or financial consultants."

This is a requirement of the purchasing code that cannot be waived by the City's Purchasing Authority. As 6.04.160 of the Purchasing Code or Ordinance 645 reads under the title, "Authority to hire consultants:"

The restrictions and provisions of this chapter shall not apply to contracts involving the acquisition of professional or specialized services such as, but not limited to, those rendered by architects, attorneys, engineers, programmers, economists and other specialized consultants. Selection for such services will be made by an evaluation of proposals solicited from capable professionals, and approved by the council, whenever the cost of the work to be performed is of an estimated value in excess of the amount specified by council resolution. This section shall not prohibit the purchasing authority from requiring proposals for work with an estimated

cost of less than the council specified amount if, in the discretion of the purchasing authority, selection based on the valuation of proposals would better serve the interest of the city. (Ord. 645 N.S. § 2 (part), 1992)

I would like to hear from Mr. Monn about the other two vendors he contacted, if any. And if none, why he believes his proposal is exempt from Section 6 of the Purchasing Code and/or Ordinance 645 as evidenced in his April 21, 2009 and May 5, 2009 memo to the City Manager. That is, no mention is made in his memo of other vendors contacted, or a reason given for why 2 others vendors/consultants weren't contacted to bid on the sewer project.

I would also appreciate hearing from each of the City Council members as to why they feel 6.04.160 does or does not apply to the request by Mr. Monn and the Resolution associated with this agenda item now under discussion.

Finally, the Court in *San Marcus Water District v. San Marcus Unified School District* (1986) recognized "revenues collected as a result of the 'sewage facilities charge' are used by the city to provide capital for sewer construction, i.e. to finance local improvements. Such a charge for capital funding is little more than a disguised special assessment." Also, special assessments may in reality be special taxes if the property assessed receives no special benefit beyond that received by the general public. (*Knox v. City of Orland*, supra, 4 Cal.4th at pp. 142-143; *Silicon Valley Taxpayers Association v. Santa Clara County Open Space Authority*, 2008). **Special assessments under Proposition 218 require an "engineers report". Section 4(b) states: "All assessments shall be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California."** The study proposed by Mr. Monn appears to call for such a report.