

# CLOVIS CITY COUNCIL MEETING

December 14, 2009

7:00 P.M.

COUNCIL CHAMBER

Meeting called to order by Mayor Armstrong  
Flag Salute led by Councilmember Flores

Roll Call: Present: Councilmembers Ashbeck, Flores, Magsig, Whalen  
Mayor Armstrong  
Absent: None

## 7:01 CONSENT CALENDAR

Motion by Councilmember Magsig, seconded by Councilmember Ashbeck, that the items on the Consent Calendar, except items F1 and F2, be approved, including the waiver of the reading of the ordinance. Motion carried.

- A1) Approved - Minutes for the December 7, 2009 Council meeting.
- A2) Adopted – **Ord. 09-23**, R2005-11A3, a request to amend the Master Planned Community (M-P-C) Zone District to provide for a new housing product and lot configuration for the property located southeast of Harlan Ranch Boulevard between DeWolf and Highland Avenues within Planning Areas 22A and 22C. Floyd Harlan, owner; 5757 Enterprises, LP, applicant; Harbour & Associates, representative. (Vote: 5-0)
- C1) Approved - **Res. 09-148**, Adoption of the 2008-2009 Annual Report for the Clovis Community Development Agency.
- C2) Approved – Authorize a 60-Day Extension of the Deferment Agreement with Portal Sierra Partners for the Portal Sierra I Development at the Research and Technology Business Park.
- C3) Received and Filed - 2008-2009 Blight Progress Report, Loan Report, and Property Report for the Clovis Community Development Agency.
- E1) Received and Filed - General Services Department Monthly Report for October 2009.
- F3) Approved – Authorize the City Manager to execute an Amendment to the Enterprise Canal at Dry Creek Improvements Construction Agreement with Fresno Irrigation District (FID) for construction activities on the siphon at Enterprise Canal and Dry Creek.
- F4) Approved – Final Acceptance for CIP 08-12, Rubberized Cape Seal 2008 (Re-Bid).
- G1) Received and Filed - Police Department Monthly Report for October 2009.

7:02 CONSENT CALENDAR ITEM (F1) - APPROVED – **RES. 09-149**, FINAL MAP FOR TRACT 5655, LOCATED SOUTH OF SHEPHERD AVENUE AND EAST OF DEWOLF AVENUE (WATHEN-CASTANOS); AND CONSENT CALENDAR ITEM (F2) APPROVED – **RES. 09-150**, ANNEXATION OF PROPOSED TRACT 5655, LOCATED SOUTH OF SHEPHERD AVENUE AND EAST OF DEWOLF AVENUE, TO THE LANDSCAPE MAINTENANCE

Councilmember Magsig indicated that he would abstain on these items due to a potential conflict of interest and left the dais at 7:02.

City Engineer Steve White presented a brief report on the two items. There being no public comment, Mayor Armstrong closed the public portion. Discussion by the Council. Motion by Councilmember Ashbeck, seconded by Councilmember Flores, for the Council, by Resolution 09-149, approve the Final Map for Tract 5655, located south of Shepherd Avenue and east of DeWolf Avenue. Motion carried with Councilmember Magsig abstaining. Motion by Councilmember Ashbeck, seconded by Councilmember Flores, for the Council, by Resolution 09-150, approve an Annexation of Proposed Tract 5655, located south of Shepherd Avenue and east of DeWolf Avenue, to the Landscape Maintenance. Motion carried with Councilmember Magsig abstaining.

Councilmember Magsig returned to the dais at 7:04 p.m.

Mayor Armstrong adjourned the meeting for the Council to sit as the Board of the Clovis Community Development Agency.

Adjourned: 7:04 p.m.

Reconvened: 7:09 p.m.

7:09 ITEM 1A1 - CONTINUED – A REQUEST FROM PICAYUNE RANCHERIA OF THE CHUKCHANSI INDIANS FOR THE CITY COUNCIL TO TAKE ACTION TO KEEP INDIAN GAMING ON INDIAN LANDS AND OPPOSE TAKING OFF-RESERVATION LANDS INTO TRUST FOR INDIAN GAMING PURPOSES

City Manager Kathy Millison indicated that the applicant, Joe Alberta, was not present and requested the item be continued to later in the meeting. It was the consensus of City Council to postpone discussion on the item to allow Mr. Alberta to be present. Discussion by the Council. 9:12 - It was the consensus of City Council to continue this item to the meeting of January 11, 2010.

7:10 ITEM 1A2 - APPROVED – RES. 09-151, AGREEMENT FOR PROFESSIONAL LEGAL SERVICES AS CITY ATTORNEY

City Manager Kathy Millison presented a report on a request to approve a two year agreement for Professional Legal Services as City Attorney. Kathy Millison indicated that the current two-year Agreement for Professional Services as City Attorney will expire on December 31, 2009. Kathy Millison indicated that the firm of Lozano Smith has provided legal services as City Attorney under contract with the City of Clovis since August 1992. Kathy Millison indicated that David Wolfe was appointed as City Attorney in 2007 upon the retirement of Tom Riggs. Mr. Wolfe is requesting a two-year renewal of that Agreement. Kathy Millison indicated that this renewal proposes changes only to compensation for the period January 1, 2011 through December 31, 2011. Kathy Millison indicated that all other terms and conditions remain the same. Kathy Millison indicated that for the second year of the Agreement the renewal proposes an hourly rate increase from the current \$175 per hour to \$180 per hour for attorney services effective January 1, 2011 and an increase for Council/Board meeting attendance from \$600 per meeting to \$650 per meeting. There being no public comment, Mayor Armstrong closed the public portion. Discussion by the Council. Motion by Councilmember Whalen to come back with an amended agreement to reflect a 5.7% reduction. Motion died due to a lack of a second. Motion by Councilmember Magsig, seconded by Councilmember Ashbeck, to approve a one year contract with no increase and to return in one year to evaluate. Motion carried.

7:28 ITEM (1B1) - APPROVED - AUTHORIZE THE CITY MANAGER TO ENTER INTO A LICENSE AGREEMENT WITH GUADALAJARA RESTAURANT IN THE PARKWAY TRAILS SHOPPING CENTER (LOCATED ON THE NORTHEAST CORNER OF NEES AND WILLOW AVENUES) FOR THE PRIVATE USE OF TRAIL RIGHT-OF-WAY FOR PATIO DINING

Community and Economic Development Director Tina Sumner presented a report on a request to authorize the City Manager to enter into a license agreement with Guadalajara Restaurant in the Parkway Trails shopping center (located on the northeast corner of Nees and Willow Avenues) for the private use of trail right-of-way for patio dining. Tina Sumner indicated that Guadalajara Restaurant is requesting the ability to use 800 square feet of trail right-of-way behind their restaurant for patio dining. Tina Sumner indicated that if the recommendation is approved, the project would be processed for a Conditional Use Permit to establish the conditions for the project. Tina Sumner indicated that based on the conditions of the use permit, the City and Guadalajara Restaurant would execute a License Agreement for use of the property at a price of 10 cents per square foot. Richard Garcia, representing the Guadalajara Restaurant, spoke in support of the request. Discussion by the Council. Motion by Councilmember Whalen, seconded by Councilmember Flores, for the Council to authorize the City Manager to enter into a license agreement with Guadalajara Restaurant in the Parkway Trails shopping center (located on the northeast corner of Nees and Willow Avenues) for the private use of trail right-of-way for patio dining. Motion carried.

7:39 ITEM (1B2) - RECEIVED AND FILED - REPORT ON ACTIONS TAKEN TO IMPROVE THE BUSINESS LICENSE PROCESS AND COMMUNICATION WITH BUSINESS

Community and Economic Development Director Tina Sumner presented a report on Actions Taken to Improve the Business License Process and Communication with Business. Tina Sumner indicated that a task force of representatives from each department was formed to examine the City's regulatory process as it relates to business license applications and improve the City's ability to communicate with business. Tina Sumner indicated that the business license application has been revised to better capture pertinent information the departments can use to evaluate the application. Tina Sumner indicated that business license applications will be reviewed at the weekly Current Applications meeting, and those businesses that need additional assistance will be assigned to a staff person for one-on-one assistance. Tina Sumner indicated that in addition, better lines of communication will be established with businesses by sending a welcome letter, using the business license renewal process to send out an annual informational flyer, and creating an email group to distribute information on a regular basis. There being no public comment, Mayor Armstrong closed the public portion. Discussion by the Council. It was the consensus of Council to receive and file the report.

7:46 ITEM (1C1) - APPROVED – **RES. 09-152**; AMENDMENT TO THE FY2009-2010 GENERAL SERVICES DEPARTMENT / RECREATION SECTION BUDGET TO REFLECT AN INCREASE IN THE AMOUNT OF \$27,500

General Services Supervisor Shonna Halterman and Recreation Supervisor Glen Beatriz presented a report on a request to amend the FY2009-2010 General Services Department / Recreation Section Budget to reflect an increase in the amount of \$27,500. Shonna Halterman indicated that when the FY09-10 budget was approved in June 2009,

funding for full-time recreation staff was only budgeted through December 31, 2009, with the anticipation that other funding sources would become available. Shonna Halterman indicated that the recreation section requires approximately \$13,750 per month during the remainder of FY09-10 in order to provide for staff and to continue operating the Recreation Center and programs. Shonna Halterman indicated that with the majority of recreation programs and revenue occurring in the spring, it is essential that programs continue. Shonna Halterman indicated that staff has identified two funding sources to allow the Recreation Center to remain open January and February 2010. Shonna Halterman indicated that funding will be provided through \$10,500 raised by the Friends of Clovis Area Recreation and \$17,000 from rebates the City received from the sale of bonds for Clovis Community Hospital. Shonna Halterman indicated that additional fund raising efforts and revenue sources are being pursued to meet the needs for March through June. Shonna Halterman indicated that approval of the budget amendment will allow the Recreation Center to remain open January and February 2010. There being no public comment, Mayor Armstrong closed the public portion. Discussion by the Council. Motion by Councilmember Ashbeck, seconded by Councilmember Magsig, for the Council, by **Resolution 09-152**, amend the FY2009-2010 General Services Department / Recreation Section Budget to reflect an increase in the amount of \$27,500. Motion carried.

7:51 ITEM (1C2) - REPORT AND RECOMMENDATION – REGARDING THE EMPLOYER BASED TRIP REDUCTION RULE PROPOSED BY THE SAN JOAQUIN VALLEY AIR DISTRICT

Personnel and Risk Manager Jeff Cardell presented a report regarding the Employer Based Trip Reduction Rule Proposed by the San Joaquin Valley Air District. Jeff Cardell indicated that the San Joaquin Valley Air Pollution Control District (District) is developing an Employer Trip Reduction Rule (ETRIP) known as Proposed Rule 9410. Jeff Cardell indicated that in its current form, the proposed rule requires employers with 100 or more employees at a worksite to register with the District and develop and administer a trip reduction plan, with full compliance mandated by January 1, 2014. Jeff Cardell indicated that as proposed, the rule will require a commitment of City resources which are not currently available and represents an additional financial burden to large employers in Clovis. Jeff Cardell indicated that the District is planning to present a final draft to the Governing Board for adoption at the December 17, 2009, Governing Board meeting. Jeff Cardell indicated that staff is recommending Council oppose the proposed rules. Seyed Sadredin, representing the San Joaquin Valley Air Pollution Control District, spoke in support of the proposed Employer Based Trip Reduction Rule. Discussion by the Council. Motion by Councilmember Whalen, seconded by Councilmember Ashbeck, for the Council to oppose the Employer Based Trip Reduction Rule as currently proposed but to direct staff to continue to work with the District to resolve questions and concerns raised. Motion carried.

8:54 ITEM 1D1 - RECEIVED AND FILED – LANDFILL STATUS REPORT CONCERNING RECLAMATION PROJECT, CELL EXPANSION, AND RELATED PROJECTS

Assistant Public Utilities Director Luke Serpa presented a Landfill Status Report concerning reclamation project, cell expansion, and related projects. Luke Serpa indicated that the landfill reclamation project was expected to be complete, but the limits of the buried waste have exceeded the initial estimates, and even the latest revised estimates. Luke Serpa indicated that city staff and Kroeker, Inc. continue to make steady

progress. Luke Serpa indicated that depending on weather and on the deviation from the anticipated limits of the buried waste, the excavation should be complete as early as next summer, or as late as the end of 2010. Luke Serpa indicated that new methane monitoring wells have been installed in order to meet the State's updated requirements. Luke Serpa indicated that methane has been detected in one of the new wells at levels that exceed regulatory standards resulting in a violation of the facility's permit. Luke Serpa indicated that staff is working to adjust the operating parameters of the gas extraction system to bring the facility back into compliance. Luke Serpa indicated that work is progressing on the design and permitting of the next phase of expansion of the facility. Luke Serpa indicated that preliminary indications are that the current liner system will be approved for use in the next phase as hoped, and that there is sufficient remaining capacity in the currently lined area to allow the construction of the next phase to be deferred at least a year. There being no public comment, Mayor Armstrong closed the public portion. Discussion by the Council. It was the consensus of City Council to receive and file the report.

9:00 ITEM (2A) - APPROVED INTRODUCTION – **ORD. 09-24**, AMENDING SECTION 2.1.01 OF CHAPTER 2 OF TITLE 2 OF THE CLOVIS MUNICIPAL CODE RELATING TO CITY COUNCIL MEETING TIME

Assistant City Manager John Holt presented a report on a request to amend Section 2.1.01 of Chapter 2 of Title 2 of the Clovis Municipal Code Relating to City Council Meeting Time. John Holt indicated that Section 2.1.02 of the Clovis Municipal Code mandates that the City Council shall meet the first three Mondays of each month at 7:00 p.m., unless such Monday is a legal holiday, in which event such meeting shall be held on the next business day. John Holt indicated that initial discussion of this item began on November 9, 2009, at the request for review by Councilmember Magsig to consider a change of the day for Council meetings. John Holt indicated that during that discussion, it was the consensus of Council to not change the meeting day from Monday, but to direct staff to bring back for consideration a change to the start time of city council meetings from 7:00 p.m. to 6:00 p.m. John Holt indicated that staff is recommending the effective date of ordinance April 1, 2010. There being no public comment, Mayor Armstrong closed the public portion. Discussion by the Council. Motion by Councilmember Ashbeck, seconded by Councilmember Flores, for the Council to approve the introduction of Ordinance 09-24, amending Section 2.1.01 of Chapter 2 of Title 2 of the Clovis Municipal Code Relating to City Council Meeting Time. Motion carried.

9:06 ITEM 2B - APPROVED - **RES. 09-153**, SUPPORTING THE LOCAL TAXPAYER, PUBLIC SAFETY AND TRANSPORTATION PROTECTION ACT OF 2010

City Manager Kathy Millison presented a report on a request to support the Local Taxpayer, Public Safety and Transportation Protection Act of 2010. Kathy Millison indicated that a coalition of local government, transportation and transit advocates recently filed a constitutional amendment with the California Attorney General, called the Local Taxpayer, Public Safety, and Transportation Protection Act of 2010, for potential placement on California's November 2010 statewide ballot. Kathy Millison indicated that this staff report requests that Council consider the endorsement of the Local Taxpayer, Public Safety and Transportation Protection Act of 2010, which is a proposed constitutional amendment and authorize the listing of the City of Clovis in support of this initiative. There being no public comment, Mayor Armstrong closed the public portion.

Discussion by the Council. Motion by Councilmember Ashbeck, seconded by Councilmember Whalen, for the Council, by Resolution 09-153, support the Local Taxpayer, Public Safety and Transportation Protection Act of 2010. Motion carried.

#### 9:12 CLOSED SESSION

- A. Government Code Section 54956.9(c)  
CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION  
Deciding whether to initiate litigation: 1 case; bonds for Patriot Tract Nos. 4724, 4953, 4996, 5437
  
- B. Government Code Section 54956.9(c)  
CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION  
Deciding whether to initiate litigation: 1 case; actions relating to Surface Water Treatment Plant

Mayor Armstrong adjourned the meeting from Closed Session at 9:29 p.m. and reported out action on Item "A" above.

Motion by Councilmember Magsig, seconded by Councilmember Flores, to initiate litigation against the two bonding companies – American Motorists Insurance and Bond Safeguard Insurance Company. Motion carried.

#### ADJOURNMENT

Mayor Armstrong adjourned the meeting of the Council to January 11, 2010

Meeting adjourned: 9:30 p.m.

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Mayor

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City Clerk