



Minutes
Regular Joint City Council/ * Redevelopment Agency Meeting
130 S Second St., Civic Center Plaza, Chowchilla
March 22, 2010
6:00 PM Closed Session - 7:00 PM Open Session

CALL TO ORDER **7:00 PM**
ROLL CALL:

Present:
Mayor/Chairman: Kopshever
Mayor Pro Tem/Vice Chair: Alexander
Council/Board Members: Chavez, Haworth, White

City staff and contract employees present: Acting City Administrator/Police Chief Jay Varney, Assistant City Administrator/Finance Director Wayne Padilla, Interim Deputy Director of Public Works/Fire Chief Harry Turner, Acting City Clerk Cindy Black, Contract Attorney Neal Costanzo, Contract Engineer Mike Giersch, and Contract Planner Tom Skinner

PUBLIC ADDRESS – CLOSED SESSION ITEMS

No reportable items.

6:00 pm CLOSED SESSION

- 1: Conference with Real Property Negotiators, Gov. Code Section 54956.8**
Property: 26 W Robt. Blvd
- 2: Conference with Real Property Negotiators, Gov. Code Section 54956.8**
Property: 1401-1410 Mariposa
- 3: Conference with Real Property Negotiators, Gov. Code Section 54956.8**
Property: Located at 360 N 1st

7:00 pm OPEN SESSION

INVOCATION: Pastor Walker

PLEDGE OF ALLEGIANCE: Mayor Pro Tem Alexander

CLOSED SESSION REPORT: **Meeting of 3/8/2010:** Nothing to report.

CEREMONIAL/PRESENTATIONS

None.

PUBLIC ADDRESS

Lori Frontella, Chowchilla, CA, noted that the agenda along with staff reports are available on the City's website before 5:00 p.m. on the Fridays before each Council meeting.

Norma Frontella, 116 Humboldt, commended Council for their support of the Enterprise Zone, however, criticized Council for outsourcing payroll when the jobs are needed here.

COUNCIL AND STAFF REPORTS – Section 2

2.1: COUNCIL REPORTS: Legislative Items:
Oral / Written Reports:

Council Member White participated in a public speaking contest for youth. He thanked Mayor Pro Tem Alexander for his participation of Little League and Softball opening day ceremonies. He also commended the Mayor at the State of the County event.

Council Member Chavez also attended the Little League opening day ceremony.

Mayor Pro Tem Alexander emceed the Softball opening day ceremony, was guest speaker at Little League opening day ceremony.

2.2: AD HOC/COMMITTEE UPDATES: Oral / Written Reports:

2.3: STAFF REPORTS: Written/Oral Reports:

1. Wayne Padilla – Oral Report

Assistant City Administrator/Finance Director Padilla updated Council regarding Finance, fiscal year closeout. He reported on a grant audit. Council Member White asked ACA/Finance Director Padilla if the amount of money used to contract out payroll is sufficient to pay someone's salary to do payroll in-house. ACA/Finance Director Padilla noted that it was.

2. Harry Turner – Oral Report

Interim Deputy Director of Public Works/Fire Chief Harry Turner noted the report regarding low-water pressure in the west side. A survey was sent out to residents in that area and there were a few surveys turned in that noted low water pressure. Staff is troubleshooting each reported low water pressure complaint.

CONSENT CALENDAR - Section 3

3.1: Consideration of Minutes of the Regular Joint Council/Redevelopment Agency Meeting of March 8, 2010 (Black/Page 1)

3.2: Consideration of Resolution # 19-10 Approving Program Supplement Agreement No. N012 to Administering Agency – State Agreement NO. 06 – 5258R Washington Road Reconstruction and Widening Project (Turner/Page 5)

3.3: Consideration of Resolution # 20-10 Approving Weed Abatement for 2010 (Turner/Page 12)

Motion by Council Member White, seconded by Mayor Pro Tem Alexander, to approve the Consent Calendar as presented, including Resolution numbers 19-10 and 20-10. Motion passed unanimously by roll call vote.

PUBLIC HEARINGS – Section 4**4.1: Second Reading and Adoption of Ordinance Adding Chapter 17 to Title 10 of the Municipal Code of the City of Chowchilla; the Creation of an Easement by a Recorded Covenant of Easement (Costanzo/Page 16)**

Contract Attorney Costanzo presented this item. This will protect any easements the City may have in case the property changes hands on any project.

Lori Frontella, Chowchilla CA, asked if this item had changed from the February 22, 2010 meeting to now, since the February 22 the public hearing staff report noted this item was going to be scheduled for the second reading at the March 8, 2010 meeting. Contract Attorney Costanzo noted there was not enough time in between the first reading and when the notices for public hearing was posted, therefore it was delayed until this Council meeting date. Ms. Frontella also commented on the City's website and public hearing notices.

Acting City Clerk Black noted that Item 4.1 was advertised in the Chowchilla News, as stated. Council directed staff to work at being consistent on posting notices in both website and the local newspaper.

Motion by Mayor Pro Tem Alexander, Seconded by Council Member Haworth, to approve the Second Reading and Adoption of Ordinance Adding Chapter 17 to Title 10 of the Municipal Code of the City of Chowchilla; the Creation of an Easement by a Recorded Covenant of Easement. Motion passed unanimously by roll call vote.

4.2: Review of the Final Grantee Performance Report for the Closeout of Grant 04-STBG-1954 & 06-STBG-2586 CDBG Program (Padilla/Page 21)

A required public hearing, Patrick Isherwood and Lupe Cortez, Self-Help Enterprises, presented a PowerPoint presentation to publically disclose how the grant money was utilized, the amount of money spent and any matching funds the City provided.

The Mayor opened the public hearing.

David Rogers, 23860 Road 16, commended the Self- Help Enterprises team for all of their financing efforts.

Motion by Council Member White, seconded by Council Member Haworth to accept the Final Grantee Performance Report for the Closeout of Grant 04-STBG-1954 and 06-STBG-2586 of the CDBG Program, as presented. Motion passed unanimously by voice vote.

4.3: Shasta Villa Tentative Parcel Map No. 09-0020, Resolution # 23-10 (Costanzo/Page 52)

Contract Attorney Costanzo presented the item. Concerned homeowners surrounding the project have presented three demands on this project and are as follows:

- The two pedestrian gates that face Elm Street will be removed and no replacement gates will be placed at any other location
- The Emergency Vehicle Access gate located on Elm Street will be relocated to Santa Cruz Blvd.
- The developer will construct a 6-foot wall as opposed to a wrought iron type of fence at a minimum will be constructed with stucco and at a maximum will be constructed with a block wall.

If these demands are met, the residential group will withdraw their objections.

Mayor Kopshever asked Acting City Administrator Varney to report on the mediation meetings held. Acting City Administrator Varney noted the attitude was overall positive and commended staff on their professionalism.

The Mayor opened the Public Hearing.

Richard Harriman, 1130 L Street, Suite B, Modesto, 95354, on behalf of the Chowchilla Citizens for Responsible Neighborhood Development, thanked staff for their cooperation in this matter. He wanted to point out that there is a landscaping plan that is supposed to be approved that was not negotiated or reviewed and the group would like to review and comment on it.

Large trees will be planted on the inside of the wall to help with residential privacy, according to statements made by Acting City Administrator Varney.

A landscape plan will come back to the City and residents are encouraged to attend the public review meeting to have their comments and/or concerns addressed.

Judy Perry, 120 Phillip Way, thanked staff for their participation and the community for coming together, standing behind each other.

Mike Scott, 120 Phillips, thanked Acting City Administrator Varney for today's earlier meeting as it was in short notice. He commented that a six-foot wall is acceptable. A stucco wall is not sturdy enough.

Christopher Smith, 116 Kites Way, asked that future notices have/list common names of the areas to which the notice is referring to make it easier for residents to understand precise area.

Acting City Administrator Varney noted that not all lands are assigned APN numbers at the time of initial review; usually occurs after the land has been developed in which case common names are used.

Mark Garner, 108 Kites Way, noted he is worried about the property management company assigned to the project. ACA Varney noted that the initial management company is selected by the developer. The City does have the right to remove the management company if it turns out they are not doing a good job.

Lori Frontella, Chowchilla, CA, asked if the different Landscape Districts are already formed. She also asked if the increase has to be voted on or not. Acting City Administrator Varney noted the districts are already formed. Contract Engineer Giersch noted there has to be a 2/3 vote to establish a district. At any rate, any increase process will be adhered to by law.

Sue Afferino, 321 Molly, asked the developer if they are using local subcontractors, if so are they being paid prevailing wages.

Tim Miller, Miller Planning and Designs for Corporation for Better Housing, noted that they are in agreement with the demands made by the surrounding residents, including the six-foot wall. In regards to the landscape review, the City has the final authority to approve the plan. He noted they use Beacon Management for their facilities and that if the developments are not maintained properly they can lose their funding.

Lori Frontella, Chowchilla, asked if there was an EIR for this project. Contract Attorney replied there was a Mitigated Negative Declaration. Ms. Frontella inquired if the ingress and egress was mitigated? Contract Planner noted that there was a traffic study made where there was concern over traffic on a few streets. It was zoned as an R-3 zoned site.

Council Member White noted that one of the issues the surrounding homeowners had was that they were told of different future development than what is being built now. How can homeowners be informed of any changes? Contract Planner Skinner noted that the City cannot regulate what a developer tells its buyers, only the land use. The important thing to ask a developer is not only what will possibly be built around the housing development, but also if there is a possibility that the land will be sold in the future, such as it did in this case.

Council Member White added that he would like to be able to avoid this happening again. he asked staff to review the process and to make it more effective for all.

Council Member Chavez commented that the City cannot legislate a private industry. He encouraged the public to let their concerns be heard regarding businesses or lack thereof.

Mayor Pro Tem Alexander inquired if the widening of Washington Blvd. is due to the Shasta Villas development. Planner Skinner replied that the street widening is a part of the City's General Plan as it is a major collector street to not only this project, but all current and potential residential areas around it. Council Member White noted that the Countrywood Shopping Center's property owner does not want to sell right now. Mayor Kopshever noted that there is a lot of planning for when the market picks up.

Motion by Council Member White, seconded by Mayor Pro Tem Alexander, to approve Resolution #23-10, Shasta Villa Tentative Parcel Map No. 09-0020 with mitigations made by Council. Motion passed unanimously by roll call vote.

Judy Perry, 120 Phillips Way, thanked staff and the developer for their cooperation. She asked that the notices include a Spanish translation.

DEFERRED BUSINESS – Section 5

None

NEW BUSINESS – Section 6

6.1: Consideration of Bid Protest of Bid Award Made March 8, 2010 to ADP, Inc. (Padilla/Page 107)

Assistant City Administrator/finance Director Padilla noted the reasons for going with a reputable firm to process payroll. Council has the opportunity to accept or reject the protest.

Acting City Administrator/Police Chief Varney noted that he and the City's attorney met with the bid protestor, Ryan Jones, and amicably discussed ideas for future bids such as this one. It was said that local firms should also be included in the bid process, not just larger national firms, even if the City believes a smaller firm could not handle the job.

Ryan Jones, 605 N 8th Street, noted his main concern was that local businesses have an opportunity to participate on City bids.

Council Member White agrees with the legal element of the way this bid was handled, however, he also agrees with Mr. Jones' thought of offering local businesses bid requests as well. The concern he has is that he was not aware that anyone local provided payroll services on a scale large enough to serve the City.

Mr. Jones suggested to work with the Chowchilla Chamber of Commerce when bids are available to allow for local businesses to be aware of and apply for the bid opportunity.

Council Member White noted that although state law allows the City to avoid bidding locally, this shouldn't be the only reason not to give our local businesses the opportunity to bid on any project, large or small.

Contract Attorney Costanzo noted that this particular situation was an urgent one due to the reassignment of the former payroll employee; therefore, the decision had to be made swiftly due to payroll reporting deadlines.

Padilla explained all the reasons why the City had to do this. He used the example of Madera County, where there were payroll employees who were not adequately supervised and large scale embezzlement occurred. It didn't make sense to employ someone for twenty-four hours a week to only do payroll (this would create high turnover or force to pay this employee at a high level). The cost differential between in house and outsourcing, ADP was a little pricier, however the job would be done at a large scale with a small scale pay and no turnover and little to no risk.

Lori Frontella, Chowchilla, noted that when she was employed at the City, she not only was the Clerk, but she also did payroll. She suggested to hire someone rather than outsource it.

Mayor Kopshever observed that there are conflicting remarks from the protestor and suggested to go by the law presented by the attorney and what is reflected on the staff report to make their decision to reject or accept the bid protest.

Motion by Council Member Haworth, seconded by Mayor Pro Tem Alexander, to reject the Bid Protest of Bid Award Made March 8, 2010 to ADP, Inc. Motion passed unanimously by roll call vote.

6.2: Consider and Authorize Submission of Draft Housing Element to State Housing and Community Development Department (Skinner/Page 115)

The Housing Element is mandated by state law and must be updated periodically, or every five years. There is great liability to the City if the Housing Element is not up to date. The City may be sued, stopping any projects that could be active, construction funding for streets and housing can cease, as well as tax credit funds. The goal is to submit the report by the end of the month after staff review and comment.

6.3: Consideration of Resolution # 21-10 Engineering Services Agreement between City of Chowchilla and Giersch & Assoc Inc. - Washington Road Reconstruction and Widening between Maple St. and Defender St. (Giersch & Assoc./Page 127)

Mayor Kopshever stated he would like to review the final financial analysis of the project before issuing a Notice of Completion.

Motion by Council Member White, seconded by Mayor Pro Tem Alexander, to approve Resolution #21-10, Engineering Services Agreement between City of Chowchilla and Giersch & Assoc Inc. - Washington Road Reconstruction and Widening between Maple St. and Defender St. as presented. Motion passed unanimously by roll call vote.

6.4: Consideration of Resolution # 22-10 Consenting to the Assignment of Contractual Obligations Under the Subdivision Agreement for Tract No. 90-22 Phase 4, 5 & 6 from Ryland Homes to Jorge Coronado Revocable Living Trust (Wiederhold/Page 145)

ACA/Police Chief Varney presented the item. Doug Goldsmith, Ryland Homes, stated the project was not sold. They have sold off all of their assets. The buyer is Jorge Coronado who wants to begin building. The Ryland bonds will be replaced by bonds provided by Mr. Coronado approved by the City Attorney.

Planner Skinner noted that there is nothing to prohibit low-income housing in being developed there. If it wasn't a condition imposed by the City with Ryland in the original subdivision development agreement, there is nothing the City can do to not allow low-income housing to be developed.

Ryan Jones, 605 N 8th Street, inquired if the City can gain contractual guarantees to oblige the new developer to build equivalent homes. Contract Attorney Costanzo noted the developer has to build equivalent homes such as so many homes per acre. The developer must conform to existing building codes and municipal codes. What they do not have to comply with is building something that is going to be used for the envisioned purpose as long as the physical thing they are going to construct conforms to what was approved.

Lori Frontella, Chowchilla, inquired what the zoning area is. It is R-1, single-family homes. Therefore, the developer would have to come to council and change the zone. She doesn't see the problem.

Mr. Goldsmith noted it was the buyers' intent to build the same homes Ryland built. The lots are all finished.

Motion by Mayor Pro Tem Alexander, seconded by Mayor Kopshever, to approve Resolution #22-10, Consenting to the Assignment of Contractual Obligations Under the Subdivision Agreement for Tract No. 90-22 Phase 4, 5 & 6 from Ryland Homes to Jorge Coronado Revocable Living Trust. Motion passed unanimously by roll call vote.

ANNOUNCEMENTS – Section 7

| | |
|--------|--|
| Apr 2 | Furlough Friday, City Offices Closed |
| Apr 3 | City of Chowchilla's 35th Annual Easter Egg Hunt |
| Apr 10 | 6th Annual K-9 Benefit Dinner |
| Apr 12 | Council/RDA Meeting, Civic Center, 6PM Closed, 7PM Open Session |
| Apr 14 | Chowchilla District Chamber of Commerce Board Meeting, Civic Center, 12:00PM |
| Apr 15 | Heritage Preservation Commission Meeting, Civic Center, 7PM |
| Apr 16 | Furlough Friday, City Offices Closed |
| Apr 19 | Airport Advisory Committee Meeting, Civic Center, 4PM |
| Apr 20 | Parks & Recreation Commission Meeting, Civic Center, 7PM |
| Apr 21 | Planning Commission Meeting, Civic Center, 7PM |
| Apr 26 | Council/RDA Meeting, Civic Center, 6PM Closed, 7PM Open Session |
| Apr 30 | Furlough Friday, City Offices Closed |

CLOSED SESSION – Continued if Necessary

- 1: **Conference with Real Property Negotiators, Gov. Code Section 54956.8**
Property: 26 W Robt. Blvd
- 2: **Conference with Real Property Negotiators, Gov. Code Section 54956.8**
Property: 1401-1410 Mariposa
- 3: **Conference with Real Property Negotiators, Gov. Code Section 54956.8**
Property: Located at 360 N 1st

ADJOURNMENT

ATTEST:

APPROVED:

Acting City Clerk Cindy Black

Mayor Jim Kopshever