



**CITY OF CORNING
CITY COUNCIL MINUTES
TUESDAY, AUGUST 11, 2009
CITY COUNCIL CHAMBERS
794 THIRD STREET**

A. CALL TO ORDER: 7:00 p.m.

B. ROLL CALL:

	Council:	Becky Hill Ross Turner Toni Parkins John Leach
	Mayor:	Gary Strack

All Council members were present.

The **Brown Act** requires that the Council provide the opportunity for persons in the audience to briefly address the Council on the subject(s) scheduled for tonight's closed session. Is there anyone wanting to comment on the subject(s) the Council will be discussing in closed session? If so, please come to the podium, identify yourself and give us your comments.

C. ADJOURN TO CLOSED SESSION: 7:02 p.m.

**CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO SECTION 54957.6:
Agency Negotiator: William May, Labor Relations Consultant
Management, Miscellaneous, Dispatch and Public Safety Employees
Bargaining Units**

D. RECONVENE AND REPORT ON CLOSED SESSION: 7:30 p.m.

Mayor Strack announced that Council had met in closed session with the labor negotiator and gave him direction and he will then meet with the individual Bargaining Units.

E. INVOCATION AND PLEDGE OF ALLEGIANCE:

Councilor Leach gave the invocation and City Manager Kimbrough led the Pledge of Allegiance.

F. PROCLAMATIONS, RECOGNITION'S, APPOINTMENTS: None.

G. BUSINESS FROM THE FLOOR:

Dean Cofer announced the name of the Skateboard Park Committee as "Corning Skateboard and Bike Association". He stated that the Committee has 106 people on the Committee and had a booth at the Children's Fair. He updated the Council on the Committee's plans and upcoming events.

Councilor Turner recommended that when the Council comes to the Regular Agenda, due to the number of people present for discussion of Item 17, that Item 17 be moved up to before Item 13. By Council consensus this was approved.

H. CONSENT AGENDA: It is recommended that items listed on the Consent Agenda be acted on simultaneously unless a Councilmember or members of the audience requests separate discussion and/or action.

1. **Waive reading, except by title, of any Ordinance under consideration at this meeting for either introduction or passage, per Government Code Section 36934.**

2. Waive the Reading and Approve the Minutes of the July 14, 2009 Meeting with any necessary corrections.
3. Waive the Reading and Approve the Minutes of the July 28, 2009 Meeting with any necessary corrections.
4. August 5, 2009 Claim Warrant - \$311,956.59.
5. July 2009 Wages and Salaries - \$520,849.63.
6. July 2009 – Treasurer’s Report.
7. July 2009 Building Permit Valuation - \$370,533.94.
8. City of Corning Wastewater Operation Summary Report – July 2009.
9. Approve Three-Year Extension of City Weed and Tree Spraying Agreement with Larry’s Pest & Weed Control.
10. Ordinance 636 Amending the Dollar Amount Limits of Corning Municipal Code Chapter 15.32; Contract and Biding Procedures for Public Projects (Second Reading & Adoption).

Mayor Strack introduced each item on the Consent Agenda by title. Councilor Turner asked to remove Consent Item 9 for further discussion. With no questions on the remaining Consent Agenda Items, Council Turner moved to approve Consent Items 1-8 and 10. Councilor Leach seconded the motion. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

I. ITEMS REMOVED FROM THE CONSENT AGENDA:

9. Approve Three-Year Extension of City Weed and Tree Spraying Agreement with Larry’s Pest & Weed Control.

Councilor Turner asked if the extension of the contract exceeds the requirements of the new adopted Standards for Bids; Mr. Brewer explained that this was done under a Request for Proposals (RFP) not via a bid and should the City not be satisfied with the work, the City is not required to renew.

Councilor Turner then moved to approve the three-year extension of City Weed and Tree Spraying Agreement with Larry’s Pest and Weed Control under Budget item number 114-6175-3000 for \$28,000 per year, the contract will now expire December 31, 2012. Councilor Leach seconded the motion. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

J. PUBLIC HEARINGS AND MEETINGS: Any person may speak on items scheduled for hearing at the time the Mayor declares the Hearing open. ALL LEGAL NOTICES PUBLISHED IN ACCORDANCE WITH LAW.

11. Clark Park Municipal Well Project, consider adoption of the Mitigated Negative Declaration prepared pursuant to the provisions of the California Environmental Quality Act for the construction of a municipal water well in the northwest corner of Estil Clark Park.

Mayor Strack introduced this item by title stating that the City is installing a new water well at Clark Park and Public Works Director John Brewer briefed the Council on the project and it’s requirements. Planning Director John Stoufer informed the Council of the correspondence received related to this project stating that the City had received two letters regarding this item, one from Tehama County Air Pollution Control and another from an agricultural farmer adjacent to the well location.

Mayor Strack then opened the public hearing. With no comments, the public hearing was closed. Councilor Leach asked if the agricultural farmer was okay with this; Mr. Stoufer stated that he had sent him the information related to the well and received no response so we believe that he must be okay with it or he would have contacted the City.

Councilor Hill moved to adopt Findings and Subfindings 1-2 as presented in the Staff Report and adopt the Mitigated Negative Declaration filed for the construction of a Municipal Well in the northwest corner of Estil Clark Park. Councilor Parkins seconded the motion. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

12. Solicit Citizen Input related to the Fiscal-Year 2009-10 California Community Development Block Grant – Economic Enterprise Fund Component Application for Façade Improvement.

Mayor Strack announced that this item had been removed from the Agenda.

K. REGULAR AGENDA:

17. Adopt Urgency Measure – Interim Ordinance No. 637, An Interim Ordinance of the City of Corning Prohibiting Medical Marijuana Dispensaries, Collectives or Cooperatives.

Mayor Strack introduced this Ordinance by title and stated that via this Ordinance, Council would be asking for a 45-day time period to look into the proper zoning and location for the facility. Planning Director John Stoufer stated that pursuant to California Government Code 65858, Council has the ability to adopt an Urgency Measure – Interim Ordinance, with the effective beginning date of the 45-days starting from date of adoption. This 45-days would provide time for the Planning Commission and City Council to review the tremendous amount of information relating to this type of business and make an informed decision.

Mr. Stoufer stated that currently Federal Law prohibits such a business and State Law allows it. He also stated that currently the City does not have Zoning Codes that address this type of business therefore he did not approve the business license request.

Mr. Stoufer briefed the Council on the justification for the Interim Ordinance as an urgency measure.

Councilor Hill asked a question referring to the Controlled Substance Act (CSA); Mayor Strack referred to a section that he believes allows the City Government to set the law. Councilor Hill then asked what justifications the City had for prohibiting the issuance of the Business License and proposed the City issue a provisional 45-day license.

Petitioners and Business owners of Tehama Herbal Collective (THC), Kathy and Ken Prather then addressed the Council. Mr. Prather stated that they had provided the City with copies of their legal documentation, recognized by the Secretary of State and the State Board of Equalization. He stated that according to the State Boards "Code Classification" for their Association, Code 27 - Medicines and Prescriptions, they are in the correct zone, citing that there is a pharmacy just across the street. Various members of the audience spoke in support of THC stating that they currently must travel out of town to obtain their "medicine"; one individual stated she drives to Berkeley. Those speaking stated the need for those with cancer and other ailments and how it would benefit the City to have such a business through keeping the money spent on fuel and taxes here.

Mayor Strack asked Mr. Prather if the product was taxable; Mr. Prather stated that it was.

Councilor Hill moved to have the City issue a 45-day Interim Business License allowing Tehama Herbal Collective to operate their business while the City obtains additional information. With no second to the motion, the motion was not passed.

Councilor Turner moved to adopt as an Urgency Measure, Interim Ordinance 637, An Interim Ordinance of the City of Corning Prohibiting Medical Marijuana Dispensaries, Collectives or Cooperatives. Councilor Leach seconded the motion. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.** Councilor Hill then requested that Council and Staff move quickly on this issue. Mayor and Council directed Staff to move forward, having special meetings if necessary.

Mayor Strack called for a 5-minute recess at 8:26 p.m. Meeting was called back to order at 8:32 p.m.

13. Presentation by Chamber of Commerce Manager Valanne Cardenas.

Valanne Cardenas updated the Council on the upcoming events related to the Olive Festival. She stated that they have vendors coming from all over, some from the Bay Area and one from Arizona. Mrs. Cardenas stated that the Olive Festival is one of the three major events sponsored and a major moneymaker. She challenged the members of City Council and the City Manager volunteer for a shift in the dunk tank, stating that the Chamber would be happy to accept donations in lieu of participating with the dunk tank. Councilor Hill signed up for a shift in the dunk tank.

14. Loss of State Division of Aeronautics 2.5% Match; Corning Municipal Airport Improvement Project.

Mayor Strack introduced this item by title and Public Works Director John Brewer further informed the Council that the State Division of Aeronautics has withdrawn their funding as a measure to balance their budget. Mr. Brewer stated that the City does have the funds in the previously approved account to cover the combined match and the traffic signal, however that would only leave \$28,216. Mr. Brewer offered another funding solution which would be to borrow from the California Department of Transportation-Division of Aeronautics (he stated that he had confirmed that they do still have funding).

Councilor Turner moved to direct Staff to continue collecting bids for the Corning Municipal Airport Improvement Project, and upon bid closure, to present the lowest responsible bidder for Council consideration of bid award, and the "internal" loan from the Traffic Mitigation Fee Account. Councilor Leach seconded the motion. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

15. Study Matter; Raising "Construction Water" Rates within the City of Corning.

Mayor Strack introduced this item by title and Public Works Director John Brewer stated that this is a study matter, however it is hoped that the Council will request a public hearing to raise the "Construction Water" Rates. He then provided the Council with information supporting the raise in rates.

Councilor Leach moved to direct Staff to schedule a public hearing in accordance with Proposition 218 to consider an increase in the water rate for "construction water" obtained from the City's Fire Hydrants to \$5.00 per 1,000 gallons. Councilor Turner seconded the motion. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

16. Rodgers Theatre: Submit \$220,000 Park Bond Application.

Corning Community Foundation President Jaimie Walbery and Treasurer Kyle Lauderdale addressed the Council on behalf of the Rodgers Theatre Committee regarding the Council's prior pledge of the Park Bond Funds (November 13, 2008 City Council Meeting) in the amount of \$220,000. Mr. Lauderdale stated that at the July 30, 2009 meeting the Board of Directors set

the current priority of the Corning Community Foundation is salvaging the roof for protection from further water damage and restore the front face of the building as a visible indicator to the public that the restoration has begun. He stated that they now respectfully request this funding to begin the process.

Councilor Turner asked for confirmation of the available Park Funds; City Manager Kimbrough responded outlining the total funding availability remaining in the Park Acquisition Funds (\$284,528), Parkland Development Funds (\$195,750) and Park Bond Funds (\$220,000).

Council Parkins moved, having considered the commitment of the Corning Community Foundation to restoring the Rodgers Theatre:

- Approve the allocation of the Statewide 2002 Park Bond Issue amount of \$220,000 to the Theatre Committee; and
- Direct City Staff to make application for the Funds and work closely with the Corning Community Foundation.

Councilor Hill seconded the motion. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

18. Approve Resolution No. 08-11-09-01 Adopting the 2009-2010 Budget and Program of Service for the City of Corning, Discussion and Action.

Mayor Strack introduced this item by title. Mayor Strack announced that we still don't have the signed commitment from the employees in relation to the furloughs. City Manager Kimbrough stated that this budget isn't effected one way or the other by the employees and we do now know what effects the State Budget has on the City's Budget which is a reduction of \$147,000 in property taxes that the State will be taking.

Councilor Turner stated he thought the Council should carry the budget forward; the City can operate for months without a budget. City Manager Kimbrough stated that if passed, the Council could amend it at any time.

Councilor Parkins moved to approve Resolution 08-11-09-01 adopting the 2009-2010 Budget and Program of Service for the City of Corning. Councilor Hill seconded the motion. **Ayes: Strack, Hill and Parkins. Opposed: Turner and Leach. Absent/Abstain: None. Motion was approved by a 3-2 vote with Turner and Leach opposing.**

L. ITEMS PLACED ON THE AGENDA FROM THE FLOOR: None.

M. COMMUNICATIONS, CORRESPONDENCE AND INFORMATION:

Mayor and Council received three letters:

1. A letter from Dean Cofer dated August 2, 2009 requesting a response from the City Council regarding his concerns that "individual Council Members and Mayor have often failed to conform to and follow the legal intent of the Municipal Code".

Councilor Hill responded to Mr. Cofer's letter stating that the request he was referring to took place during a public meeting and was made by her to the City Manager in response to the public discussion and was in compliance with Council procedures.

2. A letter from Dean Cofer dated August 3, 2009 relating to the Airport Lease and Fixed Base Operator Agreement and requesting that the Council get a written legal opinion from the City Attorney on this matter and report back to he and the taxpayers/voters as to why it is not necessary to go through the bid process.

Mayor Strack stated that the City Manager had addressed the statements in Mr. Cofer's letter in a Memo to the Editor to the Editor of the Daily News and published in that paper. Mayor Strack then directed the City Manager to provide Mr. Cofer with a copy of this Memo.

3. A letter from a citizen who states, "To support a business downtown, whose primary goods contradict the fundamental teachings of our local school districts, would be

neglecting our duties as role models and diminishing the education system as a whole.”

Mayor Strack stated that this letter is in reference to Tehama Herbal Collective.

N. REPORTS FROM MAYOR AND COUNCIL MEMBERS:

19. Hill: Announced that a presentation of a plaque to former Airport Commissioner Jerry Rindahl (Commissioner from 1996-2009) was held on Thursday, August 6, 2009 at the Corning Airport.

20. Turner: Reported he had attended the Children’s Youth Fair this past Saturday.

21. Parkins: Stated that she would be attending a Landfill Meeting on Wednesday.

22. Leach: Nothing.

23. Strack: Requested City Attorney and City Staff’s assistance with the preparation of a Non-Profit Application for the Skateboard Park Committee should they be asked. By Council consensus this was approved. He also announced that the City has two good applicants for the two vacancies on the Airport Commission and a recommendation will be on the next Agenda.

O. ADJOURNMENT!: 9:35 p.m.

Lisa M. Linnet, City Clerk