



**CITY OF CORNING
CITY COUNCIL MINUTES
TUESDAY, JULY 14, 2009
CITY COUNCIL CHAMBERS
794 THIRD STREET**

A. CALL TO ORDER: 7:30 p.m.

B. ROLL CALL:

Council:

**Becky Hill
Ross Turner
Toni Parkins
John Leach
Gary Strack**

Mayor:

All members of the City Council were present except Mayor Strack.

C. INVOCATION AND PLEDGE OF ALLEGIANCE:

Councilor Leach gave the invocation and Chris Prest and Jacob Woodby of Boy Scout Troop No. 62 led the Pledge of Allegiance.

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

E. BUSINESS FROM THE FLOOR:

Mr. Dean Cofer requested to present a prepared statement to Council noting that it might take more than the allotted 3 minutes. Vice Mayor Hill asked the members of Council if they wished to grant Mr. Cofer more than the allotted 3 minutes and by Council consensus they agreed.

Mr. Cofer then read his statement regarding part-time employee, City Attorney Michael Fitzpatrick's retirement with CalPERS (previously agendized and discussed at the June 23, 2009 City Council Meeting). Mr. Cofer alleged in his statement that the City Attorney and City Manager had misled/lie to the Council and the voters in the information previously provided. Mr. Cofer presented these allegations based upon his interpretation of information found through researching the CalPERS Procedures Manual, speaking with CalPERS representatives and through information provided via Public Records Act Requests to the City of Corning. He then suggested that:

- a. The 2005 Agreement providing CalPERS Retirement to Mr. Fitzpatrick be declared null, void, and unenforceable;
- b. Mr. Fitzpatrick cannot be allowed to profit from his enrollment in PERS as he was never entitled to be so enrolled,
- c. Council vote no on the recommendation that the City and Mr. Fitzpatrick enter into a new agreement regarding retirement benefits.

Mr. Cofer then stated that should the Council decide to pay the refunded PERS contributions to City Attorney Fitzpatrick per his Contract it is his opinion that these payments would be found to be contrary to public policy and construed to be an illegal gift of public funds. He also strongly recommended that the City Council engage outside legal assistance to investigate and advise on how the City should proceed. Following this statement Mr. Cofer stated he had sent copies of this letter to the Tehama County and Trinity County District Attorneys, the Tehama and Trinity County Grand Juries, CalPERS Compensation Review Department, and the CA State Bar Association. He also stated that both Mr. Fitzpatrick and City Manager Stephen Kimbrough should be terminated.

Vice Mayor Hill stated Council will take this under advisement.

Councilor Turner asked that this item be agendized for a future meeting and a Closed Session scheduled.

- F. **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 June 18, 2009 Special Meeting with any necessary corrections.
 3. July 10, 2009 Claim Warrant - \$295,176.41.
 4. June 2009 Wages and Salaries - \$355,074.76.
 5. June 2009 – Treasurer’s Report.
 6. Business License Report – June 2009.
 7. June 2009 Building Permit Valuation - \$164,300.00.
 8. City of Corning Wastewater Operation Summary Report – June 2009.
 9. Resolution No. 07-14-09-01 Revoking the No Parking Zone Located at 3070 Highway 99-W established through adoption of Resolution 04-08-08-01 on April 8, 2008.
 10. Corning Police Department: Response to Grand Jury Findings

Councilor Turner moved to approve Consent Agenda Items 1-10. Councilor Leach seconded the motion. **Ayes: Hill, Turner, Parkins and Leach. Opposed: None. Absent: Strack. Abstain: None. Motion was approved by a vote of 4-0 with Strack absent.**

G. **ITEMS REMOVED FROM THE CONSENT AGENDA:** None.

H. **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. **Approve Engineers Report and Adopt Resolution No. 07-14-09-02 Setting the Fiscal-Year 2009-2010 Assessment at \$63.09 per Parcel for Landscaping and Lighting District 1, Zone 1**

Vice Mayor Hill introduced this item by title. Public Works Director John Brewer stated that there are 14 parcels and the assessment cost per lot has not changed and remains \$63.09 per parcel.

Vice Mayor Hill opened the public hearing. With no comments from the audience Vice Mayor Hill closed the public hearing. Councilor Parkins moved to approve the Engineer’s Report and adopt Resolution Number 07-14-09-02 setting the Fiscal-Year 2009-2010 Assessment at \$63.09 per parcel for Landscaping and Lighting District 1, Zone 1. Councilor Turner seconded the motion. **Ayes: Hill, Turner, Parkins and Leach. Opposed: None. Absent: Strack. Abstain: None. Motion was approved by a vote of 4-0 with Strack absent**

12. **Approve Engineers Report and Adopt Resolution No. 07-14-09-03 Setting the Fiscal-Year 2009-2010 Assessment at \$142.10 per Parcel for Landscaping and Lighting District 1, Zone 3**

Vice Mayor Hill introduced this item by title. Public Works Director John Brewer stated that there are 30 parcels and based upon the annual Engineer’s report no change is proposed in the previous fiscal year assessment of \$142.10 per parcel.

Vice Mayor Hill then opened the public hearing. Joe DeScala asked if the type of landscaping is stated within the Landscape and Lighting District documents; he was informed that it was and that this information is available at City Hall. With no further comments Vice Mayor Hill closed the public hearing. Councilor Parkins moved to approve the Engineer's Report and adopt Resolution Number 07-14-09-03 setting the Fiscal-Year 2009-2010 assessment at \$142.10 per parcel for Landscaping and Lighting District 1, Zone 3. Councilor Leach seconded the motion. **Ayes: Hill, Turner, Parkins and Leach. Opposed: None. Absent: Strack. Abstain: None. Motion was approved by a vote of 4-0 with Strack absent**

13. Approve Engineers Report and Adopt Resolution No. 07-14-09-04 Setting the Fiscal-Year 2009-2010 Assessment at \$4,772.90 per Parcel for Landscaping and Lighting District 1, Zone 4.

Vice Mayor Hill introduced this item by title. Public Works Director John Brewer stated that there is currently only one parcel, the Salado Orchard Apartment Complex, and based upon the annual Engineer's report no change is proposed in the current fiscal-year assessment of \$4,772.90 for the one parcel.

Vice Mayor Hill then opened the public hearing. Mr. DeScala asked if the property owner had been informed of this assessment; Mr. Brewer informed Mr. DeScala yes, in fact they had requested the assessment district. With no further comments, the public hearing was closed. Councilor Parkins moved to approve the Engineer's Report and adopt Resolution Number 07-14-09-04 setting the Fiscal-Year 2009-2010 Assessment at \$4,772.90 for Landscaping and Lighting District 1, Zone 4. Councilor Turner seconded the motion. **Ayes: Hill, Turner, Parkins and Leach. Opposed: None. Absent: Strack. Abstain: None. Motion was approved by a vote of 4-0 with Strack absent**

14. Ordinance No. 635 – An Ordinance of the City of Corning adding a chapter to Title 5 of the Corning Municipal Code that would regulate street vending in the City.

Vice Mayor Hill introduced this item by title and Planning Director John Stoufer outlined the proposed Ordinance. Vice Mayor Hill asked how the City plans on setting the price for business licenses and Councilor Leach asked how this would be monitored; Mr. Stoufer responded to these questions.

Vice Mayor Hill then opened the public hearing. Mr. Bucky Bowen asked if this would apply to the Farmers Market and was informed that they would be exempt. Mr. DeScala asked if this is a new issue/problem questioning why it is being considered now. Vice Mayor Hill stated that the City Council requested this be researched and prepared. Mr. Alan Turner asked about the requirement for providing location of restroom facilities and Mr. Louis Davies asked about Business License Fees. With no further discussion the public hearing was closed.

Councilor Parkins moved to adopt the four Subfindings and Findings presented in the Staff Report for Ordinance 635 and to waive the first reading of Ordinance No. 635, the Ordinance to implement regulations for Street Vendors within the City of Corning. Councilor Leach seconded the motion. **Ayes: Hill, Turner, Parkins and Leach. Opposed: None. Absent: Strack. Abstain: None. Motion was approved by a vote of 4-0 with Strack absent** The Ordinance was then introduced by title.

I. REGULAR AGENDA:

15. Accept 2-year time extension for tentative tract map 06-1009, pursuant to Section 66452.6 of the Subdivision Map Act and Section 16.18.010 (C) of the Corning Municipal Code consider a 2-year time extension for Tentative Tract Map 06-1009.

Vice Mayor Hill stated she would be abstaining from voting on this item due to a possible conflict of interest (she then left the room at 8:08 p.m.). Councilor Turner introduced this item by title

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and Planning Director John Stoufer provided more information relating to this item stating that this last week the Governor has already approved an automatic one-year extension on all projects. Councilor Turner asked if the extraction of trees from the property had any bearing on this extension and was informed no.

Councilor Leach moved to approve a two-year time extension for Tentative Tract Map 06-1009 subject to the original 51 Conditions as approved by the Corning City Council on August 8, 2006. Councilor Parkins seconded the motion. **Ayes: Turner, Parkins and Leach. Opposed: None. Absent: Strack. Abstain: Hill. Motion was approved by a vote of 3-0 with Strack absent and Hill abstaining.**

16. Review and Approval of Corning Municipal Airport Improvement Plans and Financing Plan

Vice Mayor Hill introduced this item by title and City Manager Kimbrough outlined the improvement plans and specifications. Public Works Director John Brewer further explained the plans such as moving the runway to the north, construction of a new apron area, etc. Mr. Brewer stated that the total cost would be approximately 2.75 million dollars with 95% of the project funded hopefully by an FAA Grant; the City's portion will be approximately \$65, 625. He also proposed financing options for the City's share of costs such as borrowing from Caltrans Aeronautics, or possibly an external loan from the City's Transportation Fund with a repay equivalent to the interest it is currently earning.

Vice Mayor Hill asked if we expect to obtain the funding through stimulus funds. Mr. Brewer stated no.

Councilor Leach stated he was hesitant to enter into a long-term loan at this time and asked if there was a reason to do this at this time. Mr. Brewer responded stating that according to the City's consultant Robert Wadell, if we hesitate we would go to the bottom of the list in regards to FAA funding. Mr. Brewer also explained the Airport Avigation Agreement with the High School and the safety issues in relation to the proximity of the High School to the Airport.

Vice Mayor Hill asked if the City currently had the funds in the Development Impact Fee Fund; she was informed by the City Manager yes the City did.

Councilor Turner stated he believed using Option 3 utilizing the City's reserve funds to be the soundest option.

Councilor Leach suggested that Mr. Brewer bring this back to the Council at the July 28th City Council meeting for further discussion, possibly with additional funding options. By Council consensus this item will be agendaized for the July 28th City Council meeting for further discussion and possible action.

J. ITEMS PLACED ON THE AGENDA FROM THE FLOOR:

Dean Cofer requested that the Airport Lease be placed on the next Agenda. He also stated that he requested that the Council place discussion of revoking the Council reduced stipend on this Agenda and was disappointed that it wasn't.

Brian and Carol Carpenter, Corning Fixed Base Operators (for Corning Airport) requested that the Airport Lease be placed on the Council Agenda in August as they will not be able to attend the next meeting and this discussion directly affects them. By Council consensus this item is to be agendaized for the August 11, 2009 meeting.

K. COMMUNICATIONS, CORRESPONDENCE AND INFORMATION:

Vice Mayor Hill read the Memo from City Manager Kimbrough, City Attorney Michael Fitzpatrick and Administrative Assistant Lisa Linnet stating their commitment to the Furlough Plan and their participation in said Plan.

L. REPORTS FROM MAYOR AND COUNCIL MEMBERS:

17. Hill: Informed the Council that she has made it to the next round in her bid for a position on the League of California Cities Board of Directors.

18. Turner: Nothing.

19. Parkins: Announced that the JPA meeting is to be held here tomorrow.

20. Leach: Announced that the Community Action meeting is next Thursday and that he turns 67 tomorrow.

21. Strack: Absent.

M. ADJOURNMENT!: 8:38 p.m.

Lisa M. Linnet, City Clerk