



CITY OF CORNING
CITY COUNCIL MINUTES
Tuesday, July 27, 2010
WOODSON ELEMENTARY SCHOOL GYMNASIUM
150 NORTH TOOMES AVENUE

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

B. ROLL CALL:

Council:	Vacant
	Ross Turner
	Toni Parkins
	John Leach
Mayor:	Gary Strack

All Councilmembers were present with one vacancy remaining on the Council.

C. PLEDGE OF ALLEGIANCE: Led by City Manager Stephen Kimbrough.

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

E. BUSINESS FROM THE FLOOR:

City Clerk Lisa Linnet requested to add to the Agenda as an urgency item due to the July 31st deadline, a Public Hearing to accept public comments regarding the Annual Grantee Performance Report for the fiscal year 2009-2010 Community Development Block Grant (CDBG) Program Income. She informed the Council that a notice had been published in the local paper stating that a Public Hearing would be held on this date at the City Council Meeting to accept public comments.

Councilor Turner moved to add to the Agenda a Public Hearing to accept public comments regarding the Annual Grantee Performance Report for the fiscal year 2009-2010 Community Development Block Grant (CDBG) Program Income. Councilor Leach seconded the motion.

Ayes: Strack, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None.

Motion was approved by a vote of 4-0 with one vacancy remaining on the Council. Mayor Strack announced that this item would be added to the Agenda as the first item under Public Hearings

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. July 21, 2010 Claim Warrant - \$175,190.41.**
- 3. July 21, 2010 Business License Report.**
- 4. June 2010 Wages and Salaries - \$346,082.13**
- 5. June 2010 – Treasurer's Report.**
- 6. Waive Recreational Use Fee for 2nd Annual Tucker Mesker Memorial Scholarship Softball Tournament Fundraiser.**

7. **Waive Lifeguard Fee for the Use of the City Pool for the High School Cross Country Running Team.**
8. **Award Bid and Authorize City Manager to Sign 3-year Landscape and Turf Maintenance Agreement with Ken Vaughan & Sons at a cost of \$10,800 per year.**
9. **Approve and Accept the Notice of Completion for the Airport Runway Improvement Project.**
10. **Approve and Accept Landscape and Turf Maintenance Amendment #1 to add Landscaping Services at North and Fourth Streets (301 Fourth St.).**
11. **Authorize Staff to Seek Bids for Re-roofing and Energy Efficiency Improvements to Rodgers Theater.**
12. **Authorization to fill Maintenance Worker Vacancy.**

Mayor Strack introduced each item on the Consent Agenda by title.

Councilor Turner moved to approve Consent Agenda Items 1-12. Councilor Leach seconded the motion. **Ayes: Strack, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion was approved by a 4-0 vote with one vacancy remaining on the Council.**

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.

13. **Public Hearing to accept public comments regarding the Annual Grantee Performance Report for the fiscal year 2009-2010 Community Development Block Grant (CDBG) Program Income.**

City Manager Kimbrough introduced this item and briefly explained the program stating that a Public Hearing to accept public comments is a condition of the grant process. Mayor Strack then opened the Hearing for public comments. With no comments received the Mayor then closed the public hearing. **No Council Action other than conducting the Public Hearing is required.**

14. **Consider Extending Interim Ordinance No. 637; Prohibiting Medical Marijuana Dispensaries, Collectives or Cooperatives within any Zoning District in the City of Corning for 1 year.**

Planning Director John Stoufer explained that this is an extension of the current Ordinance and requires a 4-5 approval vote by the Council for the Ordinance to be extended and this is the last time the Ordinance can be extended. He provided background information on the existing Ordinance, information on the proposed ballot measure relating to marijuana cultivation and use, explained the Ordinance's proposed findings and conditions, and stated that the City is still awaiting the court opinion on the Anahiem ruling.

Councilor Turner clarified that the Ordinance proposed tonight relates only to zoning, not sale or cultivation of marijuana.

Mayor Strack then declared the public hearing open:

Pastor Ken Killingel spoke noting the recent loss of a Corning School teacher who was hit by a car driven by someone under the influence of marijuana and stated that he hopes the City keeps this Ordinance in place.

Lois Cosby spoke also citing the recent incident where a local teacher was struck down and killed by a driver under the influence of marijuana. She stated that a decision regarding this Ordinance

is not hard for the Council, or a decision on the legality of this should not be hard for the voters present here tonight. She urged the Council to consider the consequences before they vote encouraging them to extend the ban.

Ken Prather: Stated that the loss of Corning's School Teacher is tragic, stating that we all feel that loss. He stated that individuals must be held accountable and responsible for their actions, whether they have a Doctors recommendation or not. Mr. Prather stated that the predictions of John Stoufer regarding vandalism, increased crime, etc. have not come true. He stated that recently he and his wife have approached the Foster Care Program to obtain legal rights to care for two of their grandchildren and have passed their extensive screening program.

Mr. Prather stated that to date the City has made no effort to legally zone an area within the City for a Marijuana Dispensory or Cooperative.

Mayor Strack stated that he disagrees with Mr. Prather on his statement that the City has made no effort to legally zone an area within the City Limits. Mayor Strack stated that a Committee has been set up to discuss this and the City has approved a Cultivation Ordinance.

Toni Parkins: Stated that she has spoken with people on both sides of this issue, many in favor of allowing a Dispensary, however the majority of those she has spoken with does not want this type of business in our town and on our Main Street.

With no further comment, Mayor Strack closed the public hearing. Councilor Parkins moved to adopt the seven (7) Factual Subfindings and Legal Findings as presented in the Staff Report and Extend Interim Ordinance 637, an Interim Ordinance of the City of Corning prohibiting the operation of profit or non-profit Medical Marijuana Dispensaries, Collectives or Cooperatives within any Zoning District in the City of Corning for 1 year until August 6, 2011 pursuant to Section 65858 (a) of the California Government Code. Councilor Turner seconded the motion. **Ayes: Strack, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion was approved by a 4-0 vote with one vacancy remaining on the Council.**

I. REGULAR AGENDA:

15. Approve Agreement for Temporary City Manager Services between the City of Corning and Stephen J. Kimbrough.

Mayor Strack introduced this item by title and Stephen Kimbrough stated that the information has been presented to the Council. Councilor Leach stated that through information he has received from other parties, most part-time employees only receive certain benefits paid such as FICA, MICA and Unemployment Insurance. City Manager Kimbrough stated that private and public employment are different, and in this case you have a full-time City Manager and Police Chief that looked at the budget and tried to find a way to save the City money, as close to \$200,000 as possible, and protect the City's reserve, that was the inspiration behind this move to retire 3-years prematurely. The question here is, is it of value to the City for the City Manager and City Police Chief to go to part-time?

Councilor Turner asked if the association he belongs to as City Manager highly recommends against part-time City Managers; Mr. Kimbrough stated that they have been highly critical of the Bell retirement. He also asked that if there were any legal statute that limits the benefits for part-time employment. Mr. Kimbrough stated that there are no legal prohibitions or statute either way it is left to the discretion of the City Council. He further stated that he had planned, and believed he had told the Council over the years that he planned to retire in July of 2013. Mr. Turner stated he believed that Mr. Kimbrough told him this when he came back on the Council.

Mayor Strack: Mayor Strack stated that what it really comes down to is the City saves \$93,000 with this proposal. He also stated that many of the suggestions brought by Concerned Citizens

have been acted upon such as Public Works Director and Police Chief's Auto Allowance which has been removed, the Building Official going to part-time, etc.

Mr. Kimbrough stated it was important for people to recognize that sick leave, retirement, etc. all stop upon retirement. Mr. Kimbrough stated that nothing in this contract changes the terms for removal of the City Manager.

Councilor Turner clarified the terms relating to the removal of the City Manager after 90 days of a new election. So if following the election and being seated they would have to wait a minimum of 90 days to take any action to remove the City Manager.

Councilor Turner commended Steve and Tony both for their offer; however without the Health Insurance payment by the City you could round that out to \$100,000 and that would be greatly appreciated. Mayor Strack stated if he was asking about the \$13,000 for Health Insurance for both the City Manager and Police Chief's Insurance, why can't he give up \$30, the 10% of his Council pay?

Parkins moved for Mayor and Council to recognize the commitment of City Manager Stephen J. Kimbrough to the City of Corning by approving this temporary City Management Services Agreement. Mayor Strack seconded the motion. **Ayes: Strack and Parkins. Opposed: Turner and Leach. Absent/Abstain: None. Motion not approved by a 2-2 vote with one vacancy remaining on the Council.**

Mayor Strack then stated that based upon the outcome of this issue, he was removing Items 16 and 17 from the agenda for discussion/action.

Council Turner moved to adopt a Continuing Budget Resolution thereby continuing last year's budget and budget figures until a new Council is seated. Councilor Leach seconded the motion. **Ayes: Turner and Leach. Opposed: Strack and Parkins. Absent/Abstain: None. Motion not approved by a 2-2 vote with one vacancy remaining on the Council.**

16. Approve Part-Time Employment Agreement for Chief of Police with Anthony F. Cardenas. (Based upon the action of the previous item Mayor Strack removed from the Agenda.)

17. Adoption of 2010-2011 Program of Service and Annual Budget. (Based upon the action taken on Item 15 Mayor Strack removed this item from the Agenda.)

J. ITEMS PLACED ON THE AGENDA FROM THE FLOOR:

K. COMMUNICATIONS, CORRESPONDENCE AND INFORMATION:

L. REPORTS FROM MAYOR AND COUNCIL MEMBERS:

18. Turner: Announced that he would not seek another term on the City Council.

19. Parkins: Nothing

20. Leach: Nothing

21. Strack: Nothing

M. ADJOURNMENT!: 8:26 p.m.

Lisa M. Linnet, City Clerk