



**CITY OF CORNING
CITY COUNCIL MINUTES
TUESDAY, JUNE 14, 2011
CITY COUNCIL CHAMBERS
794 THIRD STREET**

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

B. ROLL CALL:

Council:

**Toni Parkins
John Leach
Darlene Dickison
Dave Linnet
Gary Strack**

Mayor:

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

C. PLEDGE OF ALLEGIANCE: Led by the City Manager.

D. INVOCATION: Led by John Leach.

Persons of no religious persuasion will not be expected in any manner to stand or to participate other than to remain quiet out of respect for those who do choose to participate.

E. PROCLAMATIONS, RECOGNITION'S, APPOINTMENTS, PRESENTATIONS:

Presentation: Certificate of Appreciation to the Volunteers from the Church of Jesus Christ of Latter Day Saints for their "Helping Hands Project" work completed at Northside Park.

Vice Mayor Toni Parkins presented a Certificate of Appreciation to Jerry Lequia, Church of Jesus Christ of Latter Day Saints congregation member on behalf of the Church's Volunteers that participated in the Church's worldwide "Helping Hands" project work completed at Northside Park.

F. BUSINESS FROM THE FLOOR: None.

G. 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 May 24, 2011 City Council Meeting with any necessary corrections:**
- 3. June 8, 2011 Claim Warrant - \$169,985.76.**
- 4. June 8, 2011 Business License Report.**
- 5. May 2011 Building Permit Valuation - \$136,896.**
- 6. May 2011 Wages and Salaries - \$317,196.51.**
- 7. May 2011 – Treasurer's Report.**
- 8. City of Corning Wastewater Operation Summary Report – May 2011.**
- 9. Approve Contract Change Order No. 5 increasing the Solano/Marguerite Avenue Traffic Signal Installation Project by \$7,255 for a total Project cost of \$297,210.47.**
- 10. Approve Progress Pay Estimate No. 5 in the amount of \$74,054.86 to Franklin Construction for the 2010 Traffic Signal Installation Project.**

11. Ordinance No. 646 amending Chapter 15.32 of the Corning Municipal Code regarding the Informal Bid Limit of the "Contract and Bidding Procedures for Public Projects". (Second Reading and Action)

Vice Mayor Parkins introduced the items listed on the Consent Agenda. Councilor Leach asked to pull Consent Item 9 for further discussion.

Councilor Dickison moved to approve Consent Agenda Items 1-8 and 10-11. Councilor Leach seconded the motion. **Ayes: Parkins, Leach, Dickison and Linnet; opposed: none. Absent: Strack; abstain: none. Motion was approved by a 4-0 vote with Strack absent.**

H. ITEMS REMOVED FROM THE CONSENT AGENDA:

9. Approve Contract Change Order No. 5 increasing the Solano/Marguerite Avenue Traffic Signal Installation Project by \$7,255 for a total Project cost of \$297,210.47.

Councilor Leach asked Public Works Director John Brewer if this would be the last change order for this project; he was informed no. Mr. Brewer explained that there will be another in the amount of \$3,200 that is associated with additional paving work needed because of issues relating to the depth of street asphalt at the site. He stated that this will be presented to the Council at the next meeting.

Councilor Leach asked if we had resolved the turn lane issue; Mr. Brewer stated yes. Councilor Leach then asked the City Manager how this additional cost will affect the City's finances; Mr. Kimbrough explained that the City is prepared for these types of contingencies on street projects.

Ross Turner, explaining that this project was presented when he was on the Council, stated that at no time does he remember discussion of the City providing a retaining wall along Marguerite and Solano Streets for the property owner on the southeast corner of the intersection. Mr. Brewer stated his belief that the retaining wall was included in the original plans presented to the Council and explained that the retaining wall was provided in lieu of the City paying costs for additional surveying and to purchase the necessary right-of-way from the property owner.

Councilor Leach moved to approve Contract Change Order No. 5 increasing the Traffic Signal Installation Project Contract by \$7,255. Councilor Linnet seconded the motion. **Ayes: Parkins, Leach, Dickison and Linnet; opposed: none. Absent: Strack; abstain: none. Motion was approved by a 4-0 vote with Strack absent.**

I. PUBLIC HEARINGS AND MEETINGS:

12. Ordinance No. 645, Medical Marijuana Dispensaries: An Ordinance of the City of Corning adding a Chapter to Title 17 of the Corning Municipal Code that would define and prohibit the establishment of medical marijuana dispensaries in the City of Corning. (First Reading)

Vice Mayor Parkins introduced this item by title and Planning Director John Stoufer briefed the Council on the contents of the proposed Ordinance. Mr. Stoufer emphasized that the law is unclear, however he believes that to date approximately 100 jurisdictions have approved a ban on Dispensaries.

Mr. Stoufer explained that State Law does not currently define Dispensaries; therefore as part of this Ordinance, it includes a definition of a Marijuana Dispensary in Section 17.65.020. He then publicly read this section defining Dispensaries. Mr. Stoufer explained that within the proposed Ordinance, Section 17.65.030 Prohibition of Marijuana Dispensaries states: "Notwithstanding any other provision of this Code, the establishment, development, construction, maintenance, or operation of a Marijuana Dispensary is hereby prohibited, and is not a permitted or conditionally permitted use in any zoning district, even if located within an otherwise permitted use." He then referred the Council to the City Attorney for further explanation.

City Attorney Michael Fitzpatrick informed the Council of the termination date of the existing Interim Ordinance, explaining that the City currently has no Zoning District for this type of

business within the City. He stated that even if the Council does not take action prior to the termination date of the existing Interim Ordinance, a Dispensary could not open in the City of Corning. Mr. Fitzpatrick then outlined the Council's options related to this item tonight.

John Stoufer reminded Council prior to opening the public hearing that the issue being considered tonight relates to Dispensaries only and has nothing to do with cultivation. He also recommended that the Council refer this item back to the Planning Commission should the Council decide to make substantial changes to the proposed Ordinance.

Vice Mayor Parkins opened the Public Hearing at 7:50 p.m.

Speakers in favor of the Ordinance: There were four speakers from the audience in favor of the proposed Ordinance. One speaker, Pastor Ken Kellinger encouraged the adoption of the Ordinance and claimed to have counseled a teenager claiming to have acquired marijuana from a man who had obtained the marijuana from Tehama Herbal Collective when it was operating in town. Another speaker stated she was in favor of the proposed Ordinance and cited health issues she has experienced such as headaches when exposed to the odor/smoke from the marijuana. Another audience member stated her belief that we don't need another Dispensary, stating they can go to a pharmacy to obtain their marijuana. It was explained that because marijuana possession is still against federal law, pharmacies cannot dispense it.

There were three speakers from the audience opposed to the Ordinance including former Tehama Herbal Collective owner/operator Ken Prather. Sharon Novack stated her belief that it is our Christian duty to be compassionate and allow the dispensing of medical marijuana for those suffering and to stand behind those that have voted for this. Another audience member stated his support for allowing Dispensaries and why.

Ken Prather addressed the Council stating that not having a Dispensary in town was "inhumane and unfair" and claimed that illegal marijuana sales have increased in Corning since his Collective was closed. He stated that he had asked for an alternative zone when he located THC on Solano Street and read from a document relating to SB 420 and Prop. 215. He cited the City of Los Angeles and the City of Chico as examples of Cities allowing and regulating Dispensaries. Mr. Prather stated he felt that the proposed Ordinance which defines a Dispensary as four or more people, in combination with the Cultivation Ordinance was unfair. He stated his belief that the cost to cultivate marijuana within the City under the current Cultivation Ordinance's standards were to cost prohibitive for many on a fixed income to produce. He also stated that traveling out of town to obtain medical marijuana was also cost prohibitive for many. He appealed to the Council to work with the Ad-Hoc Committee and re-evaluate this Ordinance.

Councilor Leach said he has done some research on the subject and has received and read the emails sent to him, he understands that there is a need for medical marijuana; however he also realizes that there is some abuse of it as well. He announced that he discussed the issue with the City Attorney earlier tonight regarding his concerns of possible lawsuits relating to this issue. Councilor Leach stated that he has a lot of mixed emotions on the issue and he would like this to go back to the Ad-Hoc Committee to discuss the possibility of allowing a zone within the City for this.

Councilor Linnet stated he discussed this issue with Mr. Prather for about 2 hours last week and one of the questions he asked Mr. Prather was whether a Dispensary serving only City residents would work. He also confirmed with Mr. Prather that not having a Dispensary in Corning was not preventing those in need of medical marijuana from obtaining it in Chico or Redding. He also stated that he is not against someone using it for medical purposes; however he is against a Dispensary within the City.

Councilor Dickison stated that she is not against the use of it for medical reasons, however she feels that it is abused. She stated that she has no problem with the use for medical reasons; however she is against a Dispensary in the City.

Councilor Parkins stated that she sees the issue as a no win situation. She said that she is not against it for those needing it for medicinal purposes; however she stated that the majority of the feedback she has received from City residents on this issue is that they do not want a Dispensary in town, or they believe the City is not ready one at this time. She further stated that she also doesn't agree with all of the Where As' as stated currently in the Ordinance. She then asked for Council's direction.

Councilor Leach then read an article from the Red Bluff Daily News related to this issue.

Ken Prather stated that THC was a Collective, and stated that he would like to know how THC was defined as a Dispensary. He emphasized that THC was a Collective that dispensed the marijuana. He stated that the City is defining us as a Dispensary and are discussing banning us. Mr. Prather stated he didn't think the City should ban us to try and eliminate recreational use of marijuana; stating that the City is driving them to the illicit drug market. He again referred to SB420 and Prop. 215.

Planning Director Stoufer again explained the definition of a Dispensary under the proposed Ordinance and emphasized that with the adoption of this Ordinance Dispensaries would be banned within the City. He further stated that the City is not banning Collectives or Cooperatives, but rather placing limitations via member numbers for Collectives and Cooperatives. He stated that 4 or more people dispensing marijuana within the City under the proposed Ordinance would be defined as a Dispensary. Mr. Stoufer explained that a Cooperative or Collective is defined as 3 or less members.

City Attorney Michael Fitzpatrick explained the Council's motion options relating to this item.

Vice Mayor Parkins closed the public hearing at 8:42 p.m.

Councilor Dickison suggested accepting it for the first reading and continuing the public hearing to the next meeting for discussion. Vice Mayor Parkins stated that she had already closed the public hearing.

Councilor Linnet stated he agreed with City Manager Kimbrough that taking no action tonight is just postponing a decision.

City Attorney Fitzpatrick stated that while the public hearing had been closed tonight, the public can still speak on the issue and voice their concerns at the next meeting where it will be brought back to Council.

Councilor Leach moved to introduce and waive the first reading of Ordinance No. 645, the Ordinance adding a Chapter to Title 17 of the Corning Municipal Code that would define a Medical Marijuana Dispensary and prohibit the establishment of a dispensary, as defined, within any Zoning District in the City of Corning. Councilor Dickison seconded. **Ayes: Parkins, Leach, Dickison and Linnet; opposed: none. Absent: Strack; abstain: none. Motion was approved by a 4-0 vote with Strack absent.**

J. REGULAR AGENDA:

13. Request Council's approval to install City sewer connection for Sunsweet Dryers located at 23760 Loleta Avenue.

This item was introduced by Vice Mayor Parkins and explained by City Public Works Director John Brewer. Mr. Brewer confirmed that the business was located within the City's "Sphere of Influence" and announced a correction in the recommendation that would state "authorize" rather than "install". Councilor Dickison then moved to authorize the connection to the City's sewer system for Sunsweet Dryers located at 23760 Loleta Avenue. Councilor Linnet seconded

the motion. **Ayes: Parkins, Leach, Dickison and Linnet; opposed: none. Absent: Strack; abstain: none. Motion was approved by a 4-0 vote with Strack absent.**

14. Plan for filling the Assistant Public Works Director Position following the anticipated retirement of current Assistant Public Works Director Carl Crain.

Vice Mayor Parkins introduced this item by title and Public Works Director John Brewer and City Manager Kimbrough outlined the proposed plan. Mr. Brewer explained that the person selected for this position must possess a rare combination of training and people skills, both of which Mr. Crain has. Mr. Kimbrough pointed out that this position is that of a senior member of management and is a critical position requiring a lot of knowledge and versatility. The person in this position supervises projects dealing with sewerline, waterline, stormwater drainage system, and street construction and maintenance. This position also supervises maintenance of all City buildings and parks.

Councilors Linnet and Leach both asked if the position would be first advertised in house. Mr. Kimbrough stated that the advertisement for the position would be open to the public; however any interested employees are welcome to apply. Both Leach and Linnet stated their concerns of not advertising in house first so as to protect the promotional ladder.

Following a lengthy discussion, Councilor Dickison moved to approve the draft recruitment and succession plan for replacing Assistant Public Works Director Carl Crain upon his retirement. Motion received no second. **Item not passed for lack of a second on the motion.**

15. Establish monthly City Awards for "Business of the Month" and "Employer of the Month" and appoint award recommendation committee members.

This item was introduced by Vice Mayor Parkins and City Manager Kimbrough explained that Councilor Linnet presented the idea for such awards to Mayor Strack and himself. City Clerk Lisa Linnet put together the Staff Report based upon Mr. Linnet's ideas. Councilor Linnet stated that this is geared towards the small businesses and was not in conjunction with any awards/certificates issued to businesses by the Chamber of Commerce.

Councilor Dickison stated that the Chamber currently issues similar awards and asked how these awards would differ from theirs. Councilor Linnet responded stating that the proposed awards would be an acknowledgement from the City and be directed more towards the small businesses.

Vice Mayor Parkins asked if those recommended for the committee had been contacted; she was informed that they had.

Councilor Leach moved to approve the establishment of monthly "Business of the Month" and "Employer of the Month" awards and the appointment of Councilman Dave Linnet, Police Chief Tony Cardenas and Fire Dispatcher/Volunteer Fireman Rocky Peterson to serve on the selection committee. Councilor Linnet seconded the motion. **Ayes: Parkins, Leach, Dickison and Linnet; opposed: none. Absent: Strack; abstain: none. Motion was approved by a 4-0 vote with Strack absent.**

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

L. COMMUNICATIONS, CORRESPONDENCE AND INFORMATION: None.

M. REPORTS FROM MAYOR AND COUNCIL MEMBERS: City Councilmembers will report on attendance at conferences/meetings reimbursed at City expense (Requirement of Assembly Bill 1234).

Parkins: None

Leach: None

Dickison: Reported that the LAFCO meeting had again been canceled for lack of agenda.

Linnet: Reported that we are keeping ahead of the graffiti in town.

Strack: Not present.

Pastor Ken Killinger stated that he prays for the City Council. He then asked about the progression with the Skateboard Park. Planning Director John Stoufer provided a brief update of the Park status.

N. ADJOURNMENT!: 9:10 p.m.

Lisa M. Linnet, City Clerk