



**CITY OF CORNING
CITY COUNCIL MINUTES**

**TUESDAY, SEPTEMBER 22, 2009
OLIVE VIEW SCHOOL GYMNASIUM
1402 FIG STREET, CORNING, CA**

A. CALL TO ORDER: 7:00 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.

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. **No comments were received.**

C. ADJOURN TO CLOSED SESSION: 7:01 p.m.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to subdivision (b) of Section 54956.9:

2 Issues

D. RECONVENE AND REPORT ON CLOSED SESSION: 7:34 p.m.

Mayor Strack announced that the Council had met with the City Attorney and received legal direction.

E. INVOCATION AND PLEDGE OF ALLEGIANCE:

Councilor Leach gave the Invocation. Mayor Strack explained that a member of City Staff was sent to obtain the American Flag, however it was bolted down in the City Council Chambers. He then asked everyone to please stand and join in the Pledge of Allegiance led by City Manager Kimbrough.

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

G. BUSINESS FROM THE FLOOR: None.

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 August 25, 2009 Special Study Session between the City Council and Planning Commission, and the August 25, 2009 Regular City Council Meeting with any necessary corrections.**
- 3. September 16, 2009 Claim Warrant - \$161,946.50.**

4. **Business License Report – September 2009.**
5. **Approve Agreement with Premier West Bank for Check Fraud Detection Service.**
6. **Approve Transfer of Municipal Airport Ground Lease to Brian and Carol Carpenter, Rainbow Aviation Services, Inc. for Buildings A & B.**

Councilor Hill requested Consent Item 5 be removed from the Consent Agenda for a separate vote stating that because she is employed by Premier West Bank she will abstain from voting on this issue due to a conflict of interest.

Councilor Turner then moved to approve Consent Agenda Items 1 through 4 and 6. Councilor Parkins seconded the motion. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion was approved by a vote of 5-0.**

I. ITEMS REMOVED FROM THE CONSENT AGENDA:

5. **Approve Agreement with Premier West Bank for Check Fraud Detection Service.**

Councilor Leach moved to approve Consent Agenda Item 5. Councilor Parkins seconded the motion. **Ayes: Strack, Turner, Parkins and Leach. Opposed: None. Absent: None. Abstain: Hill. Motion was approved by a 4-1 vote with Hill abstaining.**

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.

7. **Consider Extending Interim Ordinance No. 637: The City Council will consider extending Interim Ordinance No. 637 pursuant to Section 65858 (a) of the California Government Code. If the extension is adopted by a four-fifths vote of the Council it will prohibit the establishment or operation of profit or nonprofit Medical Marijuana Dispensaries, Collectives or Cooperatives within any Zoning District in the City Limits of the City of Corning for 10 months and 15 days.**

Mayor Strack introduced this item by title and informed those present that we are not discussing the merits of medical marijuana, we are discussing the extension of Interim Ordinance No. 637. He stated that we have a list of those wishing to speak on this issue and are limiting speakers to two minutes so that all those present wishing to speak will have their chance.

Planning Director John Stoufer addressed the Council outlining the reasons for the proposed extension of Ordinance 637. Mr. Stoufer suggested that the Council, should they decide to extend Ordinance 637, adopt the Findings and Subfindings prior to approving the ordinance extension. He also suggested the formation of an Ad-Hoc Committee should the Ordinance be extended.

Mayor Strack confirmed that the Ordinance being discussed tonight does not impact marijuana cultivation within the City. Councilor Turner asked if the discussion currently taking place within the Tehama County Board of Supervisors has any bearing on the City's decision; he was informed that it does not.

Mayor Strack then opened the public hearing. The following individuals made statements to the City Council:

Ernest Middleton: Stated he was not in favor of such a business in the City.

Darryl Stewart: Stated that as a parent, he doesn't believe we need such a business in the City.

Kim Brown: Stated she is opposed to having a dispensary here, she stated that as a teacher (High School) she believes that it sends a wrong message to students. She stated that our young people deserve better; they deserve our protection.

Ken Prather: Stated he believes Mr. Stoufer's draft Ordinance to be one sided. He also stated that he doesn't know what the emergency is. Mr. Prather stated that he has shown that Tehama Herbal Collective (THC) is in compliance with both State Law and the Health and Safety Codes. He also stated that they are closed to the general public and minors.

THE CITY OF CORNING IS AN EQUAL OPPORTUNITY EMPLOYER

Megan Prather: Stated that should some patients that currently purchase their marijuana at THC be unable to purchase it at this establishment, they would then illegally purchase it on the street.

Jeff Fletcher: Stated that he works for THC and was in favor of the business citing its benefits to the residents and surrounding community.

Harold Tobisch: Stated that he is surprised at the hypocrisy shown here tonight. He stated that the State has passed the Medical Marijuana Laws and questioned why the "Meth" issue isn't being addressed with the same intensity as the medical marijuana establishment. He stated that he is a medical marijuana patient and that there are people chronically and terminally ill in this town that benefit from this.

Glenn Valuroso: Stated that he is a 61 year old Vietnam Veteran wounded in Vietnam. He stated that he did not, and does not agree with medical marijuana use for "fun" or as a recreational drug. He does however support the use of medical marijuana for medicinal reasons. He stated that he is currently on three separate drugs to control his pain, and although marijuana does not completely take away his pain, it helps.

Vickie Burton: Stated that her use of medical marijuana has reduced her need for pain medication. She also pointed out that not all medical marijuana users can grow it, it is expensive to grow...and sometimes after putting all the time and money into growing it, it doesn't work. She stated that this City needs this.

Sandy Powell: Stated that her niece was very ill and used marijuana and it helped her. She said she was not against its use, however she stated that in some Cities there are numerous Dispensaries/Collectives, etc. Ms. Powell said that she doesn't want it in our downtown...it doesn't belong there.

Kelly Fleming: Stated that she doesn't think it is right that it be available on Solano Street. Ms. Fleming stated that all she has to do is smell it and it counter acts other medication she is on.

Lee Zweifel: Stated that he is not from Corning, he is from Paradise. He informed the Council that he has used medical marijuana for the last four years and it has reduced his use of other pain medications. He stated it would be disrespectful to those who now come to Corning for their medical marijuana to make them go back to Sacramento, etc. He said that Corning offers a great service now. Mr. Zweifel stated that there have been times when he has contemplated suicide prior to his use of medical marijuana.

Debbie Johnson: Stated she is asking the Council to do their homework on this issue. She believes there is a real need for medical marijuana. She stated that there is a difference between medicating and abuse. Ms. Johnson said that there is a way that all parties can win; there is always negotiation as long as there is communication.

Gloria Foreman: Stated that she resides in Chico and is present tonight as a business person. She informed the Council that this business could be a valued tool to the Community. Ms. Foreman cited her experience at another facility.

Laurie: She stated that she is dealing with cancer and would rather take marijuana than morphine. She informed the Council that she had tried other forms of marijuana and they haven't worked. She pointed out that this is bringing us revenue to our small businesses in town. She also stated that it is the responsibility of those who have prescriptions to keep it from small children.

Terrance Lawson: Stated that he thinks it is ridiculous that the City is considering shutting down the Collective.

Andrea: Implored the Council to extent the Ordinance so that the Council has all the information needed to make an informed decision.

John Richards: Stated it is sad the way things have taken place between the Federal and State Governments in relation to this issue. He informed the Council that he is neither for or against this, however it is amazing how many younger people are using it. He said he doesn't understand why it can't be distributed through a pharmacy. He also stated that he hopes it is not allowed within the City. His final statement was that it is just wrong.

Joseph Greenwood: Stated that he is 28 years old and that he believes the issue is whether or not it is sold downtown. He doesn't believe that it should be downtown.

Steve Sparks: Stated that he is 27 and the father of two. He said that it comes down to family values, it is a medicine, you teach your children to stay out of the area where the marijuana is. He informed the Council that he is unable to take pain medication because they make him severely ill. He said marijuana is medicine and is helpful when used the right way. He also stated that he can't afford to go out of town to obtain his medicine.

Matt Turner: Stated that THC provides a safe place to obtain medicinal marijuana; the last time he tried to get it on the street he was robbed.

With no further comments, Mayor Strack declared the public meeting closed at 8:44 p.m.

Councilor Leach stated that he is not for, or against it and apologized to Mr. Prather for not visiting the Cooperative. He stated that there is so much information about this issue and he does not want to make a wrong decision, therefore his recommendation is probably what Staff has recommended.

Councilor Turner stated he has not gone into THC and doesn't plan to. He stated he would like to see the Ordinance carried forward. He stated that he doesn't care whether he is loved or hated, he will do what he thinks is best for this Community. He stated that he finds it ironic that a lot of the support for this item is coming from outside of the Community.

Councilor Leach moved to adopt the seven (7) Subfindings and Findings as presented in the Staff Report and extend Interim Ordinance No. 637, an Ordinance prohibiting the operation of profit or non-profit Medical Marijuana Dispensaries, Collectives or Cooperatives within any Zoning District in the City of Corning for 10 months and 15 days, or until Monday, August 9, 2010, pursuant to Section 65858(a) of the California Government Code; and to form an Ad-Hoc Committee to work with Staff to collectively prepare an Ordinance regarding the cultivation and distribution of medical marijuana. Councilor Turner seconded the motion.

Mayor Strack called for a vote at which time Councilor Hill moved to make a substitute motion to add two additional words (any additional) to the motion prior to profit or non-profit, making the motion to be "an Ordinance prohibiting the operation of **any additional** profit or non-profit Medical Marijuana Dispensaries, Collectives or Cooperatives within any Zoning District in the City of Corning for 10 months and 15 days, or until Monday, August 9, 2010..."

After some heated discussion between Councilor Turner and Councilor Hill on whether a substitute motion may be made or, whether a vote should be taken on the motion made and seconded that is on the floor, City Attorney Michael Fitzpatrick made the determination that a substitute motion could be made. Councilors Leach and Turner both conceded to the substitute motion.

Mayor Strack clarified that this substitute motions statement would allow the existing business to continue, and would just not allow any new businesses of this type. With this clarification, Councilors Leach and Turner both rescinded their approval of the substitute motion and reaffirmed the original motion and second and called for a vote. The final vote on the Ordinance was: **Ayes: Strack, Turner, Parkins and Leach. Opposed: Hill. Absent/Abstain: None. Motion was approved by a vote of 4-0 with Hill opposed.**

Councilor Hill moved to form an Ad-Hoc Committee to work with Staff to collectively prepare an Ordinance regarding the cultivation and distribution of medical marijuana with the following people serving on this Committee: Jesse Lopez and Ryan Reilly from the City's Planning Commission, Mayor Strack and Councilor Hill from the City Council, and Planning Director John Stoufer and Police Chief Tony Cardenas from City Staff. Councilor Turner seconded the motion. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None.**

The public was informed at this time that Ad-Hoc Committees are not required to agendize and post notices of their meetings.

When the vote on this issue was completed and the Prather's were leaving the meeting, Kathy Prather announced that THC was not going to close.

K. REGULAR AGENDA:

8. Voluntary Reduction in City Council Salaries.

Mayor Strack introduced this item stating that he had requested it be agendized. He then motioned for the City Council to voluntarily take a 10% reduction in the monthly stipend. Councilor Hill seconded the motion. Councilor Parkins confirmed that this was voluntary on the part of the members of Council. **Ayes: Strack, Hill and Parkins. Opposed: Turner and Leach. Motion was approved by a 3-2 vote with Turner and Leach opposed.**

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

M. COMMUNICATIONS, CORRESPONDENCE AND INFORMATION: None.

N. REPORTS FROM MAYOR AND COUNCIL MEMBERS:

9. Hill: Reported on her attendance at the League of California Cities Conference.

10. Turner: Stated that while at the Airport this week he had introduced himself to an employee of Teichert Construction. He informed the Council that Teichert Construction is moving their equipment to the Airport and that they were surprised by the amount of traffic on Marguerite Avenue.

11. Parkins: Nothing to report.

12. Leach: Stated he had attended two meetings this week; the Tripartite Board and 3-Core (formerly Tri-County Economic Development).

13. Strack: Nothing to report.

O. ADJOURNMENT!: 9:02 p.m.

Lisa M. Linnet, City Clerk