



**CITY OF CORNING
CITY COUNCIL MINUTES**

**TUESDAY, SEPTEMBER 28, 2010
CITY COUNCIL CHAMBERS
794 THIRD STREET**

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

B. ROLL CALL:

Council:

Vacant

Ross Turner

Toni Parkins

John Leach

Mayor:

Gary Strack

All members of the Council were present.

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

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

1. **Proclamation – October 21, 2010 “Lights on After School” Day in the City of Corning.**

Mayor Strack presented the Proclamation to Karla Stroman, SERF After School Program Administrator, Tehama County Department of Education. Ms. Stroman informed the Council and audience members of the various programs/activities that are available to County Students at each of the school sites in Corning from 4:30 p.m. to 6:30 p.m.

E. BUSINESS FROM THE FLOOR:

Dean Cofer: Addressed the Council regarding the proposed tax increase to fund the Fire Dispatch Center. He stated that he spoke in opposition of this, however it was approved by the City Council on April 27, 2010 by a 3-1 vote with Councilor Turner opposing. He stated that to the best of his knowledge, without obtaining Council approval, the Mayor and/or City Staff, acting on their own, decided to ignore Council's legal instructions to place a tax increase on the November ballot. He said that he had confirmed via speaking with Mrs. Vice at the County Elections Department that the City has not placed this on the November ballot, and also that the County Elections Department was informed by City Clerk Linnet that the City has hired a Consultant, also without Council approval I might add, to examine other alternatives, including the possible creation of a Fire District. He stated that this could be confirmed by speaking with Mrs. Vice at the County Elections Department. He stated that he has reviewed all of the Council Minutes since April 27th and there was never any Council action recorded rescinding or revising the original motion and have spoke with two Council Members that confirmed that there was no Council action to rescind or revise the Council action of the April 27th Council Meeting, and further that there has been no action to approve the hiring of a Consultant.

Mr. Cofer then respectfully requested the following:

1. To know the legal justification for Staff's failing to place this tax increase on the November ballot as instructed by the 3-1 vote of the Council;
2. The name of the Consultant, if any; and
3. To be advised of what dicipline will be given to the Staff Member or Members who flaunted the Council's legal instructions.

Mayor Stracks: Stated that if the Council would go to the August 6th Project Reports there is a report on this subject. Councilor Turner stated that this was never discussed with the Council, Councilor Leach also stated it was never brought to the Council. Mayor Strack asked if they read the Project Reports; Councilor Turner stated that yes, he does.

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Councilor Turner: Stated he was going to be short fused on this, he doesn't give a damn, he stated he is being criticized about his health and everything else, being told that he has a very bad illness, this is why his moods have changed. He stated that there is no fact to this at all. He further stated that at the April 27th meeting there was a vote taken and at that time he suggested that the Council look into the possibility of a vote on a weighted property vote in addition to a popular vote of the residents. There was never anything discussed about that at another time or never anything brought forward to be discussed other than the Project Report you read, this was not discussed at any other meetings.

Mayor Strack: Stated that it is the Councilmembers responsibility to see what the City Manager does. If you were voted onto the Council, you guys and I are his boss. City Manager Kimbrough sent out a project report stating that he was working with City Attorney Mike Fitzpatrick, which he assumes is the Consultant that has been hired (City Clerk Linnet stated that she had stated to Mrs. Vice that the City was looking into hiring a Consultant to assist with this). He further stated that he is not aware that a Consultant had been hired. Mayor Strack stated that the "Project Report" states the fact that this is being looked at by the City Attorney and Mr. Kimbrough as to the possibility of being put on the water bill with a target date of sometime in February. If you as a Council member disagree with this, it is your job to talk to him. Councilor Turner stated he would save his comments for later.

Dean Cofer: Stated that was an absolutely ridiculous position, the law is very clear, the Council is the boss. They took a motion, 3-1 on April 27th; you can put anything you want in the Friday Reports or any other report you want to put it in, it did not come before the Council and the public was not aware of it. The last the public heard was that Council instructed Staff to have it on the November ballot, period... end. Anything else is grossly illegal and you know it Mayor, and I'm sure your hired gun here knows it as well.

Mayor Strack: First of all he would like to know what the illegal part is. He stated that he realizes and agrees with Mr. Cofer that the Council agreed to put it on the ballot. Mr. Cofer responded that it speaks for itself, the tax increase is not on the November ballot as ordered by the City Council and as understood by the public, it is not there, it is illegal Mayor. Mayor Strack asked the City Attorney to address this.

City Attorney Michael Fitzpatrick stated that it is not a violation of any civil or criminal law that he is aware of, Council has given direction to Staff and that is between the Council and the Staff. Councilor Leach asked why isn't it on the ballot when the Council voted for it to be there, 3-1. Mayor Strack said that this question should have come in August. He stated that it is his understanding that when the Council votes on an issue and it doesn't come back before them, that is what the Staff is to do.

City Manager Kimbrough asked the Mayor if he could respond to this since he was the one that made the decision not to move forward on this issue. Councilor Turner asked Mr. Kimbrough what authority he had to make that decision and go against a 3-1 vote. Mr. Kimbrough stated that Corning is not that formal of a City and Staff has a working relationship with the Council that allows us to communicate back and forth...after some heated words from Councilor Turner Mayor Strack stated that this is not going to continue like this. He then asked what the Council would like to do, whether to agendize this for a closed session for further discussion or what. Councilor Leach requested a Closed Session for the next meeting under the title of City Manager's evaluation. This was approved by consensus of the Council.

John Richards (representative of the Skateboard and Bike Park Association): Addressed the Council regarding the letter received from City Manager Kimbrough regarding damage that local bicyclists were causing at the Corning Christian Assistance Office on Fourth Street. Mr. Richards stated he had contacted Elementary School Superintendent Steve Kelish about possibly scheduling an assembly to discuss this issue with the students. Mr. Kelish informed

him that they School couldn't do this, however they did put something into the School's newsletter regarding the issue.

Bernadette Pryatel: Addressed the Council regarding comments to her from her daughter, former City employee Camille Caler, and statements her daughter said she made to Mayor Strack regarding issues at City Hall.

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.

2. **Waive reading, except by title, of any Ordinance under consideration at this meeting for either introduction or passage, per Government Code Section 36934.**
3. **Waive the Reading and Approve the Minutes of the September 14, 2010 City Council Meeting with any necessary corrections:**
4. **September 8, 2010 Claim Warrant - \$109,021.91.**
5. **September 8, 2010 Business License Report.**
6. **Change Order No. 1, Amending 2010 Street Improvement Project to Include Additive Bid Item No. 4 Plus Additional Asphalt and Mobilization Costs.**
7. **Award Bid for the Rodgers Theater Improvement Project Including the Alternative Bid Item for Asbestos Containing Materials Abatement to Don Azevedo Construction.**
8. **Authorize Staff to Seek Proposals for the Pruning of 514 Palm Trees.**
9. **Approve Teichert Construction Request for Release of the Remaining 5% Retention for the Airport Runway Improvement Project and Authorize Payment of \$105,093.28.**

Mayor Strack requested that Item 7 be pulled for further discussion.

Councilor Parkins moved to approve Consent Items 2-6 and 8-9. 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.**

G. ITEMS REMOVED FROM THE CONSENT AGENDA:

7. **Award Bid for the Rodgers Theater Improvement Project Including the Alternative Bid Item for Asbestos Containing Materials Abatement to Don Azevedo Construction.**

Public Works Director John Brewer presented project information relating to Consent Agenda Item 7; specifically the "cool roof", the new HVAC (Air Conditioning) Unit, Heating Unit, and Asbestos removal. He stated that Don Azevedo presented the low bid for the project and stated that the additive Bid Item is to eliminate and dispose of all additional asbestos found during construction outside any asbestos mentioned in the original bid package.

Councilor Leach moved to award the Bid for the Rodgers Theater Improvement Project in the amount of \$171,929 and include the alternative Bid Item for additional abatement of asbestos containing materials in the amount of \$4,680 for an overall total of \$176,609 to Don Azevedo Construction. Councilor Parkins 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.**

H. PUBLIC HEARINGS AND MEETINGS: None.

I. REGULAR AGENDA: None.

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

K. COMMUNICATIONS, CORRESPONDENCE AND INFORMATION: None.

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

10. Turner: Thanked Public Works Director John Brewer for the installation of the raised crosswalks on Toomes and Houghton Avenues.

11. Parkins: None.

12. Leach: None.

13. Strack: None.

M. ADJOURNMENT!: 8:00 p.m.

Lisa M. Linnet, City Clerk