

**REGULAR MEETING
CALIFORNIA CITY CITY COUNCIL
TUESDAY, January 02 2007, 6:00 p.m.
Council Chambers, 21000 Hacienda Blvd.
MINUTES**

OPENING CEREMONIES:

Mayor Evans opened the meeting at 6:00 p.m. Following the Pledge of Allegiance and invocation, the deputy clerk called the roll:

PRESENT: Council members Edmiston, Lessenevitch, Schafer, Strong,
Mayor Evans

ABSENT: None

Also Present:

City Manager William Way; City Attorney Wayne Lemieux; Police Chief Lunsford; Lieutenant Colerick, Deputy City Clerk Greene

ADOPTION OF AGENDA:

Mr. Way announced that an item has come to our attention regarding the Calif. Dept. of Transportation and their desire to shut down a portion of our operation at the airport.

Motion by Councilman Lessenevitch, second by Councilman Schafer, to add a closed session item to the agenda, making the finding that the need had arisen for action by Council subsequent to the posting of the agenda and to adopt the agenda. Motion carried.

PRESENTATIONS: None

STAFF ANNOUNCEMENTS/REPORTS:

Mr. Way announced again that one January 11th, there will be a Public Finance Forum at 7pm at the Middle School. Also a council "visioning" meeting has been changed from Sat. Jan.6th to Feb. 3rd.

CIVIC/COMMUNITY ORGANIZATION ANNOUNCEMENTS:

Ed Waldheim reported that the EDC breakfast is Thurs. Jan. 4th, with the Events Committee meeting following.

PUBLIC BUSINESS FROM THE FLOOR:

John (last name not audible) a local business owner who is also a care giver for a tenant at Desert Jade. He has a complaint about the City's response to this tenants issue regarding a policy of Desert Jade. He has called numerous departments with no response. Mr. Way requested that

the gentlemen leave his phone number for him that he will call him tomorrow to set up a time for a meeting.
Ed Waldheim thanked the dirt team for the great job they did over this past holiday weekend.

CONTINUED BUSINESS 1:

Tobacco Retailer Ordinance - City Manager

Mr. Way reported that this ordinance comes recommended by Kern County. Attorney Lemieux reiterated that the county health official is already the ex officio health officer for California City for all other matters. This ordinance was adopted by the County Board of Supervisors. The County Health Officer has asked all of the cities to likewise adopt the same ordinance. The County Health Officer will be the one that enforces this. They have assured us that there will be no cost to the city. All cities are being encouraged to adopt ordinance so that there is uniformity across the county.

Councilmember Edmiston was informed by the attorney that the county would be issuing these permits and also enforcing them Councilmember Edmiston is concerned that retailers can be in business up to 30 days before being issued their permit.

Councilmember Schafer voiced concerns that there are no penalties for not displaying permit when the state code does levy a fine. Also would like it to reflect under administrative violations that anyone who appears to be under the age of 18 years be carded, instead of 27 years. He is also feels that under administrative penalties the sanctions that may be imposed are very weak. He believes we should follow the penalties outlined in the state code.

Mayor Evans asked what precipitated this action by the county. Attorney Lemieux explained that the County Health Officer wrote a letter to all the cities asking them to adopt the ordinance. Mr. Lemieux stated he would contact the health officer to see if there was a problem with adding these changes. He also stated that if we are different in our ordinance than everyone else than there is a good chance that ours will be overlooked. Councilmember Schafer recommends that we implement the law as adopted by the State of California, and impose fines accordingly.

Lt. Colerick's input is that the county's punitive action should match the states'.

Council's consensus is that they want to address in this ordinance the states statue and not water it down like the county has. Also to have legal counsel confer with the county regarding council's concerns.

No other direction was given to staff, item to be continued until the meeting of 1/16/07.

CONTINUED BUSINESS 2:

Food Grading Ordinance - City Manager

Mr. Lemieux explained that the County Board of Supervisors adopted this ordinance grading food establishments and they instructed their health officer to do the work, therefore he has requested that the cities adopt same ordinance so that he will cover this area as well. Councilmember Schafer wants “teeth in it” as does the Police Chief. It was reiterated that fees for inspections and re inspections would go to the county. Our code enforcement officer would have a conservative involvement since he is not trained on the county codes.

Motion by Councilmember Edmiston, second by Councilmember Lessenevitch to give first reading by Title Only, with Further Reading Waived of “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALIFORNIA CITY AMENDING THE CALIFORNIA CITY MUNICIPAL CODE AS IT RELATES TO FOOD ESTABLISHMENT GRADING” Roll Call vote as follows:

AYES: Edmiston, Lessenevitch, Schafer, Strong, Evans
NAYS: None
ABSTAIN: None
ABSENT: None

NEW BUSINESS 1:

Distribution of monies received for building permits - City Manager

Mr. Way reminded that council that Mr. Stafford came forward asking that this issue be placed on an agenda as a discussion of use of building permit revenues to the city. He believes the best way to proceed is for Mr. Stafford to offer his comments and concerns to the council. Mr. Way first outlined that council has been given information regarding building department revenue and expense history for the last 26 years. Also given was an average of those 26 years. It was found that the City on an average has lost \$66,000 or their expenditures have exceeded their revenues by \$66,000. through June 30, 2006. From July 1, 2006 through November 30, 2006 the revenue was \$294,000 against an expenditure level of \$229,000, making an approximate difference of revenue over expenditures of \$64,000. Also provided was a page from the book, Principals of Governmental Accounting and Financial Reporting. Highlighted information included the term “fund” which means; a fiscal and accounting entity with a self balancing system set of accounts. Therefore the building permit activity should be in its own fund, a separate set of self balancing accounts for all building inspection activity would be set up as a separate fund similar to the general fund. Also the general fund is to account for all financial resources except those required to be accounted for in another fund. He explained that the important reference to the term “required”. The general fund is used to account for all general activities of the city. Most cities to his knowledge have their building inspection

activities accounted for within the general fund. The result that brings forward comes from yet another reference in the Principal states that governmental units should establish and maintain those funds required by law and some financial administration only the minimum number of funds consistent with legal and operating requirements should be established. The City has established within the general fund revenue lines for plan checks, building permits, along with building inspection activities. The report that Mr. Hicks prepared for council reflects that activity. In no single fiscal year is the revenue for building permits and plan check fees ever going to equate directly with the expenses associated with those operations. You have to take them as aggregate numbers over time. Mr. Stafford stated he has been after a report like the one presented for the past year. His main concern is that the excess funds generated by the building fund not be lumped into the general fund to be spent. He feels those funds should be earmarked for some specific purpose. He was told my staff that the current monies made in excess in that department we being used to pay back that department for operating in the red for the last 23 years. He doesn't accept the fact that the building department is now even. He wants to know where those monies that went into the general fund were spent. He believes if the building department exceeds its projected revenue, it should be reflected at the end of the year for that department. If not he wants an explanation as to where the funds were spent. He doesn't want to see the department go back to being undermanned as in previous years. He believes this department can be protected by holding aside the exceeded revenues. Councilmember Edmiston did some research of his own with the building department. He found that out of an average fee of \$13,000, after you take all the fees to that go directly to other entities, the city receives about \$2,200. He feels there is no extra money, especially with the ups and downs of the department during the year. Mayor Evans asked Mr. Hicks that in the years where the department was over budget, where did the funds come from that filled in the gap. Mr. Hicks explained that the building department activities were subsidized by other revenue sources such as property tax, sales tax. Mayor Evans also asked what the process is when we have a year with excessive revenue. It was explained that there is a gradual (over more than one fiscal year) upgrading of the number of employees for the affected department to meet the obvious demand that is there since revenue is increased due to increased activity. Since in the building industry there is such a flexibility factor, you can not afford to make immediate reactions. If the trend continues upward with your revenues, where they are consistently exceeding your expenditures, then the city has requirement by law to adjust the fees downward that you are charging. Mayor Evans stated he thinks it is a good idea to have a reserve to maintain the department when building slows down.

Mr. Stafford complimented the building department on the excellent job they are doing.

City Attorney Lemieux clarified that with the Prop 13 series of initiatives the city cannot charge any fee that exceeds the reasonable cost of service.

Implicated in that principal is the fact you can not charge money for building permits and then use those funds for the park and rec.

department. If you have excess money from the building permits and you don't need them for the building permits then you have exceeded the cost of service. Also we have to keep with what is outlined in the master fee resolution. At some time you have to assess what is a reasonable reserve.

Mayor Evans explained that there are fixed costs, we have a person who has to man it, whether we have 2 plans or 200 plans. The trick comes in when we have a peak of activity and a value of activity. Over the long run we need to minimize the peaks and the valleys. It is all agreed that monies made in the building department have to be spent in that department.

Mr. Stafford feels that the amount of \$650,000. is what the building dept. has in the black as of right now.

Mayor Evans reminded everyone that over the last 23 years this department has spent \$2 million more than we received in revenue. His opinion is that we are still upside down after applying the \$800,000 which that department has currently in the black. We have simply not caught up yet. Mr. Way explained that a new budget format was used when the budget was adopted. This format showed the anticipated expenditures for various departments and we outlined what those expenditures were and attempted to identify the line item from which we intended to take the revenue to pay for those expenditures. That is the budgeting process. He also wanted to stress that the \$2 million dollar figure includes prepaid revenue ie; AVEK fees paid prior to the cost increasing.

Mayor Evans thanked Mr. Stafford for his point on this issue and assured him that this would be looked at carefully during the budget process. Mr. Stafford feels that no other department is being made to repay their debts to the general fund.

NEW BUSINESS 2:

Election of Mayor Pro Tem - Mayor Evans

Mayor Evans nominated Councilmember Lessenevitch for the position.

All councilmembers were in favor of the nomination.

Mayor Evans voiced his intention that the office of Pro Tem be held for one year, giving someone else to have the opportunity.

NEW BUSINESS 4:

Nominee for KCAPCD Board of Directors - City Manager

Mr. Way stated that Tehachapi and California City exchange representations on this district board of directors in alternate years. This year is our opportunity to have a representative. In the past the Mayor had served on the board.

Councilmember Edmiston recommended that Councilmember Schafer and Strong be considered. Councilmember Strong feels that perhaps someone with more seniority should be considered.

Motion by Councilmember Edmiston, Second by Mayor Evans to appoint Councilmember Schafer to the board of directors for the KCAPCD. Mayor Pro Tem Lessenevitch volunteered to be the alternate. Motion carried.

NEW BUSINESS 5:

Request to use City designated park for parking area - City Manager

Lt. Colerick reminded the council about the motocross track that has been running successfully for the past months. To alleviate parking of visitors to his business he is requesting the use of two city parks, A1 and A2. Staff recommends he be able to proceed through the CEQA process.

Councilmember Edmiston voiced some concerns in regards to the city's liability, if and when the city wants to develop it themselves, imposing a time limit, and the environmental issues.

Councilmember Schafer inquired if this was going to be a lease of the land. Attorney Lemieux confirmed that yes it would be a lease with a maximum term until the city wanted to develop the property for park purposes. This property can be used for temporary purposes. The lease agreement would include insurance requirements, etc. Mr. Elmes currently carries \$1 million liability insurance on his track. The purpose of wanting to use this land for parking is for big events where promoters will not come out if they have to park on private property. He would be responsible for grubbing the property as well as keeping it watered.

Council, all in favor, authorizes staff to go forward toward an agreement with Mr. Elmes, completing the CEQA process and checking with PARSAC for amount of liability insurance that should be required. Upon completion staff will bring back final document for council approval.

COUNCIL AGENDA:

Mayor Pro Tem Lessenevitch - City is becoming more and more affected by recreational off roaders. He feels the city needs to take a role in guiding this people in the behavior we expect from them. Perhaps a brochure or booklet. We need to begin to take leadership over these people.

Councilmember Schafer - Wanted an update on NE corner of town at Randsburg-Mojave, striping on North Loop, and meter reading.

Councilmember Edmiston - complimented the code enforcement and fire department for taking down signs on the weekends.

Mayor Evans - Feels the financial reports are hard to understand and hopes that in the future the council and the public can find the information they need in a glance. Software change is needed. Complimented police officers on their customer service.

CONSENT CALENDAR/PUBLIC COMMENT:

CC 1. Check register dated 12/27/06

CC 2. Ratify Ortalli settlement

Motion by Councilman Edmiston, second by Mayor Pro Tem Lessenevitch to approve Consent Calendar. Roll Call vote as follows:

AYES: Edmiston, Schafer, Strong, Lessenevitch. Evans

NAYS: None

ABSTAIN: None

ABSENT: None

CLOSED SESSION:

CS 1. Per Govt. Code Section 54957.6, confer with Labor Negotiator William Way regarding California City Firefighters Association and CCPOA.

CS 2. Per Gov't Code Section 54956.9; confer with Legal Counsel existing litigation, Guy vs City of California City

CS 3. Per Gov't Code Section 54956.9; confer with Legal Counsel regarding potential litigation, Lakeshore Condominiums

CS 4. Per Gov't Code Section 54956.9; confer with Legal Counsel regarding existing litigation, Fitzpatrick vs California City

CS 5. Per Gov't Code Section 54956.9; confer with Legal Counsel regarding potential litigation, AV Groundwater

Council recessed at 7:52 pm to closed session. Upon reconvening at 9:09 pm City Attorney Lemieux reported that the council voted to reject the Lakeshore Condominiums claim due to lateness. No other action to report.

ADJOURNMENT:

Motion by Mayor Pro Tem Lessenevitch, second by Councilmember Edmiston to adjourn at 9:17 pm. Motion carried.

Respectfully submitted by,

Denise Hilliker, City Clerk