

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF SAN LUIS OBISPO
TUESDAY, FEBRUARY 17, 2004 - 4:00 P.M.
COUNCIL CHAMBER, 990 PALM STREET
SAN LUIS OBISPO, CALIFORNIA

ROLL CALL:

Council Members

Present: Council Members John Ewan (arrived 7:30 p.m.), Christine Mulholland, Allen K. Settle, Vice Mayor Ken Schwartz and Mayor Dave Romero

Absent: Council Member Ewan (early session only)

City Staff:

Present: Ken Hampian, City Administrative Officer; Jonathan Lowell, City Attorney; Lee Price, City Clerk; Wendy George, Assistant City Administrative Officer; John Mandeville, Community Development Director; Bill Statler, Finance Director; Deborah Linden, Police Chief; Mike McCluskey, Public Works Director; Jay Walter, City Engineer; Barbara Lynch, Assistant City Engineer; Shelly Stanwyck, Economic Development Manager; Phil Dunsmore, Associate Planner

PRESENTATION

Water Division Manager Henderson and Waste Water Treatment Plant Division Manager Hix introduced the following new employees in the Utilities Department: Dan Silveira, Water Treatment Operator and Ernie Redman, Waste Water Reclamation Operator.

Mayor Romero presented the Employee Suggestion Award to Andrew Collins, Building Maintenance Technician, assigned to the Swim Center, who suggested a revision to the chemical treatment system at the pool that saved the City \$6,000 for the first year.

CONSENT AGENDA

Mayor Romero pulled C5. Council Member Mulholland indicated she would be voting No on C3.

ACTION: Moved by Settle/Schwartz to approve the consent agenda, with the exception of Item C5, as recommended by the City Administrative Officer; motion carried 4:0

C1. APPROVE MINUTES OF TUESDAY, JANUARY 27, 2004 SPECIAL MEETING, THURSDAY, JANUARY 29, 2004 SPECIAL MEETING AND TUESDAY, FEBRUARY 3, 2004 REGULAR MEETING.

ACTION: Moved by Settle/Schwartz to waive oral reading and approve as presented; motion carried 4:0.

C2. PILOT PLANT STUDY FOR NEW SEDIMENTATION PROCESS AT THE CITY'S WATER TREATMENT PLANT.

ACTION: Moved by Settle/Schwartz to 1) approve Amendment No. 2 to the contract with Black and Veatch to conduct the pilot plant study of the Actiflo process at the Water Treatment Plant for an additional compensation of \$76,185. 2) Authorize the transfer of \$104,785 from Water Fund Working Capital to the project account to fund the contract amendment and additional associated costs; motion carried 4:0.

C3. FINAL ADOPTION OF ORDINANCE NO. 1445 (2004 SERIES), REZONING PROPERTY AT 215 BRIDGE STREET FROM CONSERVATION/OPEN SPACE (C/OS-5) TO MANUFACTURING (M) AND CONSERVATION/OPEN SPACE (C/OS-5). CITY FILE #: GP/R/ER 64-03.

ACTION: Moved by Settle/Schwartz to adopt Ordinance No. 1445 (2004 Series) on second reading; motion carried 3:1:0, Mulholland opposed, Ewan absent

C4. REQUEST FOR PROPOSAL FOR AN ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BROAD/ORCUTT AREA RESIDENTIAL GENERAL PLAN AMENDMENT AND REZONE PROJECT; ER 114-02.

ACTION: Moved by Settle/Schwartz to approve the Request for Proposal and preliminary scope of work for environmental studies; motion carried 4:0.

C5. REVISIONS TO THE GUIDELINES FOR PUBLIC ART.

Mayor Romero pulled this item to discuss Public Art Jury Criteria #2. Principal Administrative Assistant Kiser provided background and offered some alternative language. Council Member Mulholland spoke in favor of the alternative. Vice Mayor Schwartz offered a suggestion to further modify the language. The Council agreed to modify Public Art Jury Criteria #2 to read as follows:

"Public Art should be considerate of the immediate site and neighborhood in terms of historic, social and cultural characteristics, architectural scale, materials, land use, and geographical an environmental context."

ACTION: Moved by Schwartz/Settle to adopt Resolution No. 9523 (2004 Series) approving revisions to the City's Guidelines for Public Art, as amended; motion carried 4:0.

C6. CONFIDENTIAL EMPLOYEES' COMPENSATION ADJUSTMENTS.

ACTION: Moved by Settle/Schwartz to adopt Resolution No. 9524 (2004 Series) adjusting compensation for the City of San Luis Obispo Confidential Employees; motion carried 4:0.

C7. DECLARATION OF SURPLUS PROPERTY AT 3265 ROCKVIEW PLACE AND AUTHORIZATION TO SEEK PURCHASE PROPOSALS.

ACTION: Moved by Settle/Schwartz to approve Resolution No. 9525 (2004 Series) declaring the City-owned lot at 3265 Rockview Place to be surplus and authorize staff to seek proposals from parties interested in purchase of property; motion carried 4:0.

BUSINESS ITEMS

1. **2003-04 MID-YEAR BUDGET REVIEW.**

Finance and Information Technology Director Statler presented an in-depth review of the budget at mid-year, as outlined in the staff report and accompanying document. ACAO George provided a status report on the Major City Goals and Other Council Objectives. Staff requested indefinite deferral of the 2001-03 objective of considering an expansion of the "Downtown Commercial Zone". Public Works Director McCluskey provided a special update on the major City Goal relating to the Railroad Safety Trail by explaining that the City is awaiting the decision of the UPRR senior vice president regarding the major issue of right-of-way.

There were no public comments.

ACTION: Moved by Settle/Mulholland to 1) Approve revenue and expenditures changes, including budget requests for operating programs and capital improvement plan (CIP) projects totaling \$307,100 in 2003-04 and \$873,100 in 2004-05, as summarized in the Mid-Year Budget Review document. 2) Confirm the previously planned occupancy of the office space currently under construction at 919 Palm Street by City staff from Community Development and Public Works, and authorize staff to work on finalizing relocation plans. 3) Approve "Action Plan" revisions, including an indefinite deferral of the 2001-03 objective of considering an expansion of the "Downtown Commercial Zone"; motion carried 4:0.

2. **SAN LUIS OBISPO COUNTY HOUSING TRUST FUND.**

Deputy Community Development Director Draze presented the report.

Public Comments:

Anita Robinson (on behalf of the SLO County Housing Trust Fund Executive Director Jerry Rioux) summarized activities and accomplishments over the past two years. She formally presented a grant funding request for \$60,000 to come out of the City's inclusionary housing fund with an understanding that it is match funding. In response to Council inquiry, she noted that others who have granted funding requests include the County, EOC, the Housing Authority, United Way of SLO and the Community Foundation.

Speaking in support of granting the request:

John Dunn, Avila Beach
George Moylan, SLO Housing Authority/Director, SLO County Housing Trust Fund
Steve Delmartini, San Luis Obispo Association of Realtors

Speaking in opposition:

MaryBeth Schroeder, San Luis Obispo

—end of public comments—

Council Member Mulholland expressed concern that too much money is necessary to set up and argued that the City already has an established CDBG program and a new staff member dedicated to affordable housing. She agreed to support this request, but issued concern that the City is expected to provide affordable housing and yet is not in the

business of constructing homes. She added that she is troubled by the lack of contribution or commitment to assistance by the private sector. Vice Mayor Schwartz concurred, adding that this may be worth the gamble if it is understood that it is a one time opportunity to charge this group with a goal we commonly share (to produce more affordable housing for workforce people).

Council Member Settle and Mayor Romero offered supportive comments.

ACTION: Moved by Settle/Mulholland to 1) Determine that the San Luis Obispo County Housing Trust Fund ("SLOTF") grant request for \$60,000 meets City Affordable Housing Fund award criteria set by previous Council action. 2) Authorize the City Administrative Officer to negotiate and execute an agreement with SLOTF, consistent with provisions set forth in this staff report, for a one-time grant of up to \$60,000 from the City's Affordable Housing Fund; motion carried 4:0.

3. COMMUNITY TOURISM PROMOTION BRAND IMAGE.

Economic Development Manager Stanwyck and Promotional Coordinating Chair Griffin presented the new promotional logo. There were no public comment.

ACTION: Moved by Mulholland/Settle to approve the phrase "Experience the SLO Life" to be used as the City's Community Tourism Promotion slogan and approve a graphic image for use with this design; motion carried 4:0.

The Mayor called a recess at 6:20 p.m. At 7:00 p.m. the meeting resumed.

PUBLIC COMMENT

Gary Fowler, San Luis Obispo, reiterated concerns that there may be conflicts in the use of space at the Ludwick Center and asserted that seniors are not getting their fair share.

Michael Dubin, San Luis Obispo, asked the Council to restore bus service to the airport.

Paul Bonjour, San Luis Obispo, and Jim Halls, San Luis Obispo, (representing the Laguna Neighborhood Association) urged the Council to expedite a program to calm traffic in the area.

Jan Howell Marx, Sierra Club Local Chapter Housing Committee, urged the Council to review the official position of the Sierra Club outlining recommendations relevant to the Housing Element Update (which she submitted and is on file in the Office of the City Clerk).

Mary Beth Schroeder, San Luis Obispo, reiterated her position that the seniors should be provided with a senior center at 1341 Nipomo Street.

PUBLIC HEARINGS

4. INTRODUCTION OF AN ORDINANCE AMENDING THE MUNICIPAL CODE TO DEFINE WHEN BEER AND WINE SALES MAY BE ALLOWED ON A SITE IN CONJUNCTION WITH AUTOMOTIVE FUEL SALES (TA 108-03).

Note: Council Member Ewan arrived at 7:30 p.m.

Associate Planner Dunsmore presented the staff report. City Attorney Lowell offered an amendment to Chapter 17.08.040 (I) and (J)(3) by changing "retail outlet" to "service station", and further to change 17.080.040 (J)(2) to read as follows:

"The sale of beer and wine at this location does not jeopardize the public health, safety or welfare, e.g. will not result in an over-concentration of selling or serving alcoholic beverages in the vicinity".

The City Attorney emphasized that the amendments proposed will bring the City's regulations into compliance with State law.

Mayor Romero opened the public hearing.

Mary Beth Schroeder, San Luis Obispo, spoke in opposition.

Mayor Romero closed the public hearing.

Council Member Mulholland argued that the impetus for this change was the application by Costco and argued that she doesn't believe it is important to change the City's rules and regulations specifically for the benefit of a certain class of business. She asserted that she will stand with the minority of the Planning Commission and vote No.

Mayor Romero pointed out that Council previously directed staff to return with these text amendments.

Council Member Settle also expressed opposition asserting that the City must maintain local control.

ACTION: Moved by Ewan/Schwartz to introduce Ordinance No. 1446 (2004 Series) repealing section 5.36.020, and amending sections 17.08.040 as modified by staff and 17.100 of the Municipal Code for consistency with the Business and Professions Code, allowing the sale of beer and wine at service stations subject to development standards to protect the public health, safety and welfare and approval of an Administrative Use Permit; motion carried 3:2 (Settle, Mulholland opposed).

5. APPEAL OF THE PLANNING COMMISSION'S ACTION APPROVING A USE PERMIT TO ALLOW A CAR WASH IN CONJUNCTION WITH AN EXISTING SERVICE STATION AT 1308 MONTEREY STREET (AP-PC 131-03).

Associate Planner Dunsmore presented the staff report and responded to Council questions.

Mayor Romero opened the public hearing.

Co-appellants Betty Aten and Steve Mann, 1315 Palm Street, summarized concerns as outlined in the appeal and additional correspondence submitted for the record citing objections to issues relating to noise, circulation, fumes and incompatibility with the neighborhood. The appellants were accompanied by approximately 15 neighbors who stood to demonstrate concurrence. Additionally, the appellant reported that they had signatures on petitions from approximately 176 people who indicated that they would not support approval of a carwash if they had to live next to it.

Applicant's representative Geroge Garcia (George Garcia & Design) presented the proposed site plan, described the design and construction materials, and addressed issues raised by

the neighbors. Following his presentation, Mr. Garcla responded to Council questions regarding noise, parking, design and pending sale of the property.

Speaking in support of the appeal and urging project denial:

Debra Jones, San Luis Obispo (also submitted a letter from neighbor Jeanne)
Mike Dubin, San Luis Obispo
Mary Beth Schroeder, San Luis Obispo
Scott Hagemann, San Luis Obispo
Jennifer Santos, San Luis Obispo
Henry Santos, San Luis Obispo
Dennis Ahearn, San Luis Obispo
Julia Blair, San Luis Obispo
Greg Christensen, San Luis Obispo
Gary Fowler, San Luis Obispo
Vern Ludwick, San Luis Obispo

Mayor Romero closed the public hearing.

In response to inquiry from **Vice Mayor Schwartz**, **City Attorney Lowell** explained that the Planning Commission approved the request but the Council has the discretion to overturn that decision by upholding the appeal, based on findings. He added that there is no property right at stake, but rather a request which may be granted or denied.

Individual Council comments followed. The Council unanimously agreed that the proposed use was incompatible with the neighborhood.

ACTION: Moved by **Mulholland/Settle** to adopt **Resolution No. 9526 (2004 Series)**, upholding the appeal thereby overturning the action of the PC and denying the use permit to allow a car wash; motion carried 5:0.

Mayor called a break at 9:23 p.m. Meeting resumed at 9:30 p.m.

BUSINESS ITEMS, CONTINUED

6. FOOTHILL BRIDGE REPLACEMENT PROJECT, SPECIFICATION NO. 90197D.

Assistant City Engineer Lynch presented the staff report. **City Attorney Lowell** reported that a question had been raised about whether or not the City would be liable in any way to property owners because of placing them into a flood zone when they were not previously in a flood zone. He clarified that any action by the Council to re-designate property will not involve any compensation nor will it create a situation whereby the City would owe damages to the property owners because of the change. **City Attorney Lowell** encouraged open communication with the property owners. **Assistant City Engineer Lynch** discussed four findings for necessity and noted that a 4/5 vote is required for action. She also pointed out that a city water line will need to be moved and the cost of the work will save the General Fund \$10,500 because the total cost can be paid out of water enterprise funds.

Council questions followed. **Assistant City Engineer Lynch** clarified that long-term permanent easements required are generally within the creek and will not prevent property owners to develop. When asked if there was any new information about the ability to gain easements on the Sierra Vista Hospital side of the creek, **Assistant City Engineer Lynch** reported that negotiations primarily concern themselves with compensation and emphasized that there is no impact to what the property owner wants to do. **CAO Hampian**

added that discussions with top management indicate that a reasonable, cooperative solution is likely to be reached before the matter would have to go to court. Council Member Mulholland and Vice Mayor Schwartz pointed out that the City accommodated the hospital when they asked for zoning changes and a street abandonment to allow for expansion and expressed a desire to see the hospital treat the City equitably.

Public Comments:

Mary Beth Schroeder, San Luis Obispo, urged better planning and studying to reduce the costs.

David Singer, REG Property Management (representing property owner Judith Carlson who owns 1051 Murray and 1061 Murray), indicated that his client's properties have been placed into the flood plain and isn't sure how the properties will be impacted by this action. Staff provided additional explanation.

---end of public comments---

Council Member Settle supports staff recommendations; Council Member Mulholland agreed, the bridge must be fixed. Council Member Ewan will support and emphasized that the improvements will be long-term for the adjacent property owners.

Mayor Romero voiced his continuing disappointment with the City decision to construct a bridge rather than repair the existing culverts. He expressed again his opinion that the culverts could have been repaired for a fraction of the cost, in a fraction of the time, which would have minimized traffic disruption and would have retained some flood retention capability. He reluctantly agreed to approve the plans and specs.

Vice Mayor Schwartz expressed concern that the City is not replacing bridges in a timely manner. Public Works Director McCluskey commented that several have rusted out, failed and have already been repaired. He added that without a storm drain fund proactive replacement remains unfunded.

ACTION: Moved by Settle/Mulholland to 1) approve plans and specifications for "Foothill Bridge Replacement Project, Specification No. 90197D." 2) Authorize staff to advertise for bids upon receipt of authorization from the State and authorize the City Administrative Officer to award the contract if the lowest responsible bid is no more than 5% over the Engineer's Estimate. 3) Confirm the findings of the Programmatic Environmental Impact Statement/Environmental Impact Report for the Waterway Management Plan regarding overriding considerations on flooding. 4) Approve Amendment 8 with Martin, Rivett & Olson for Construction Management and Environmental Monitoring Services in the amount of \$576,000 and authorize the Mayor to execute the amendment. 5) Adopt Resolution No. 9527 (2004 Series) of Necessity for easements for the Foothill Bridge Replacement Project. 6) Authorize the City Administrative Officer to enter into an agreement with Meyer/Nave for legal assistance in filing eminent domain actions not to exceed \$70,000. 7) Appropriate \$1,109,400 from grant funds and \$277,300 from the General Fund (\$250,800 from the CIP Reserve, \$16,000 from the General Fund unreserved fund balance) and \$10,500 from the Water Fund to provide necessary funding for construction and to provide the required deposition of funds for eminent domain; motion carried 5:0.

Staff asked for feedback on the question that should a contractor propose closing down Foothill Blvd. to through traffic during Cal Poly's summer session 2004 (perhaps between June graduation and first date of WOW week) with a goal of

completing the project in one summer, would the Council agree to it. Council was receptive and provided staff with flexibility on this issue.

COUNCIL LIAISON REPORTS

Vice Mayor Schwartz reported on the February 4th meeting of the San Luis Obispo Council of Governments (see report on file in the Office of the City Clerk).

Council Member Mulholland reported on the February 4th County Water Resources Advisory Committee and the February 10th Downtown Association Board meeting.

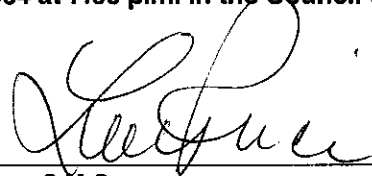
Mayor Romero attended the February 11th Promotional Coordinating Committee meeting.

Mayor Romero and Council Member Ewan will be attending the Seismic Task Force meeting on February 18th.

COMMUNICATIONS

Brief Council discussion followed regarding concerns expressed by Mr. Fowler regarding the use of the Ludwick Center. The matter was referred to staff.

There being no further business to come before the City Council, Mayor Romero adjourned the meeting at 10:30 p.m. to Tuesday, February 24, 2004 at 7:00 p.m. in the Council Chamber, 990 Palm Street, San Luis Obispo.



Lee Price, C.M.C.
City Clerk

APPROVED BY COUNCIL: 3/1/2004
LP:jo