

**SUSANVILLE CITY COUNCIL
SUSANVILLE COMMUNITY DEVELOPMENT AGENCY
SUSANVILLE MUNICIPAL ENERGY CORPORATION
SUSANVILLE PUBLIC FINANCING AUTHORITY**

Regular Meeting Minutes

November 19, 2014 – 6:00 p.m.

City Council Chambers 66 North Lassen Street Susanville CA 96130

Meeting was called to order at 6:00 p.m. by Mayor Brian R. Wilson.

Roll call of Councilmembers present: Kathie Garnier, Nicholas McBride, Rod E. De Boer, Lino P. Callegari and Brian R. Wilson.

Staff present: Jared G. Hancock, City Administrator, Peter M. Talia, City Attorney and Gwenna MacDonald, City Clerk.

1 APPROVAL OF AGENDA:

The Council discussed an amendment to the agenda adding closed session discussion regarding the potential lease of the golf course operations. It was determined that the amendment would not be considered.

Motion by Councilmember Garnier, second by Councilmember De Boer, to approve the agenda as originally submitted; motion carried unanimously. Ayes: Garnier, McBride, Callegari, De Boer and Wilson.

2 PUBLIC COMMENT REGARDING CLOSED SESSION ITEMS: No comments.

3 CLOSED SESSION: At 6:02 p.m. the Council recessed to closed session to discuss the following:

- A PUBLIC EMPLOYMENT – pursuant to Government Code §54957:
 - 1 Employee status report
- B CONFERENCE WITH LEGAL COUNSEL – Anticipated litigation: Significant exposure to litigation pursuant to Government Code §54956.9 (b): one potential claim

Closed session adjourned at 6:45 p.m.

4 RETURN TO OPEN SESSION: At 7:00 p.m. the City Council reconvened in open session.

Staff present: Thomas Downing, Police Chief; James Moore, Fire Battalion Chief; Dan Newton, Public Works Director; Deborah Savage, Finance Manager; and Gwenna MacDonald, City Clerk.

Mr. Hancock stated that prior to closed session the agenda was approved without the amendment to include closed session discussion regarding a possible lease of the golf course. He clarified that the original agenda posted November 14, 2014 was the agenda which had been approved. He stated that in closed session Council gave direction regarding Item 3B, and there was no reportable action.

Peter Talia provided the thought of the day.

Two new full time permanent employees were introduced: Tillery Williams, Project Manager, and Daniel Gibbs, City Engineer.

5 **BUSINESS FROM THE FLOOR:** No comments.

6 **CONSENT CALENDAR:** Mayor Wilson reviewed the items on the Consent Calendar:

A Receive and file minutes from City Council's October 15, 2014 meeting

B Approve vendor warrants numbered 92443 through 92540 for a total of \$115,787.31 with zero dollars in payroll warrants

Motion by Councilmember Garnier, second by Councilmember De Boer, to approve Item 6A; motion carried. Ayes: Garnier, De Boer, Callegari and Wilson. Abstain: McBride.

Motion by Councilmember McBride, second by Councilmember De Boer, to approve Item 6B; motion carried unanimously. Ayes: Garnier, McBride, De Boer, Callegari and Wilson.

7 **PUBLIC HEARINGS:**

7A **Consider Resolution No. 14-5119 considering request for variance to minimum lot size, width and front yard setback for parcel located at Grand Avenue and North Street** Mr. Hancock reported that at the last meeting Council considered a variance request and directed staff to review conditions of approval, continuing the public hearing to provide time to conduct a thorough investigation. The resulting research has shown that the process for determining conditions of approval is quite involved and staff is proposing to continue the public hearing to allow time to ensure that the necessary process is followed and that all of the required points are considered.

At 7:07 p.m. Mayor Wilson opened the continued public hearing and requested comments from the public.

Jeff Morrish, NST Engineering, spoke on behalf of the applicant, expressing his concern over the time frame that the process has taken.

Motion by Councilmember De Boer, second by Councilmember Callegari, to continue the public hearing to December 3, 2014; motion carried unanimously. Ayes: Garnier, McBride, De Boer, Callegari and Wilson.

8 **COUNCIL DISCUSSION/ANNOUNCEMENTS:**

Commission/Committee Reports:

9 **NEW BUSINESS:**

9A **Consider Resolution No. 14-5123 approving Agreement for Fire Training Center** Battalion Chief Moore reported that in 2002 the City entered into a five-year agreement with fire departments in the area and the Lassen County Fire Officers Association (LCFOA) to use the Fire Training Center located on Susanville Municipal Airport property. A few modifications have been made to the agreement to address stricter alcohol and drug use provisions and to require that any construction upon property must be pre-approved by the City. The signature pages have also been updated to include all local fire agencies to be authorized to use the facility. The training center is an important part of the fire training community, providing an opportunity for local Fire Departments to train together and build strong inter-departmental working relationships.

Motion by Councilmember Callegari, second by Councilmember Garnier, to approve Resolution No. 14-5123; motion carried unanimously. Ayes: Garnier, McBride, De Boer, Callegari and Wilson.

9B Consider request of lot line adjustment fee waiver from Honey Lake Valley Recreation Authority Mr. Hancock reported that the Honey Valley Lake Valley Recreation Authority (HLVRA) is in the process of acquiring the Roosevelt Pool property and a portion of the adjacent parcel located at 720 Richmond Road for the purpose of building a new community swimming pool. The two parcels will be combined into one through the lot line adjustment process, which requires completing an application with the City and paying an application fee. The HLVRA will be paying the direct costs associated with the lot line adjustment, and has requested that the City waive the \$600 application fee.

Motion by Councilmember Garnier, second by Councilmember De Boer, to waive the application fee as requested; motion carried unanimously. Ayes: Garnier, McBride, De Boer, Callegari and Wilson.

9C Consider approval of Resolution No. 14-5121 approving inter fund loan agreement Ms. Savage explained that between 2000 and 2002, the City of Susanville made loans to the Susanville Community Development agency to fund the preparation and implementation of a redevelopment plan. A total of \$284,983 was loaned from the CDBG Revolving Loan funds, and the City and Community Development Agency entered into promissory notes for the loans. With the State wide mandatory dissolution of Redevelopment agencies, the Susanville Community Development Agency was dissolved in February 2012 and the City of Susanville became the successor agency, assuming obligation for repayment of the loans.

The original promissory notes did not specify a repayment period, and the update of the loan agreements provides an opportunity to revise the terms of repayment. The original loans imposed an interest rate of six percent per year, however interest has not been recorded on the loans since fiscal year 2006-2007. The rate of six percent is excessive in the current low-interest environment over the past several years, and staff is recommending an interest rate equal to what is earned on funds invested through the Local Agency Investment Fund (LAIF).

Ms. Savage explained that the rate varied from one-quarter to six and one half percent since the loans originated, and has been less than one percent for the past four years. The interest has been retroactively recalculated using the LAIF rates from inception through September 30, 2014, and accruing previously unrecorded interest requires a write up of the loan balances by a net of \$5,395. The loans are already reflected in the City's accounting records and annual financial report. Three options have been provided, including payoff of all the loan now, payoff over three years, or payoff over five years.

Councilmember De Boer asked if staff had any preference regarding the options suggested.

Ms. Savage responded that staff would recommend the five-year pay off with an annual review.

Mayor Wilson commented that he was not comfortable with a retroactive adjustment of the interest rate.

Ms. Savage responded that staff has researched the issue in the Health and Safety Code, and received assistance from the City's financial consultant, Kevin Harper, and this re-calculation of interest is legal and has Mr. Harper's support.

Councilmember Callegari stated that it was his understanding when the Redevelopment Agency was dissolved that there was an obligation for repayment, adding that a demand letter for repayment should be included.

Mr. Hancock reviewed the process of dissolution that impacted all of the State's redevelopment agencies, clarifying that the City had an Agency, but a project area had never been approved and there was no revenue generated by the agency. The money loaned by the CDBG program will be repaid by the General Fund under the terms of the redevelopment dissolution process.

Motion by Councilmember Garnier, second by Councilmember Callegari, to approve Resolution No. 14-5121; motion carried by polled vote. Ayes: Garnier, McBride, De Boer and Callegari. No: Wilson.

10 **SUSANVILLE COMMUNITY DEVELOPMENT AGENCY:** No business.

11 **SUSANVILLE MUNICIPAL ENERGY CORPORATION:** No business.

12 **CONTINUING BUSINESS:**

12A **Consider Ordinance No. 14-0997 regulating the cultivation of Marijuana: waive first reading and introduce** Mr. Hancock explained that the proposed ordinance was included on the agenda to provide an update to the Council regarding the revisions made to the text as a result of the workshop that was held in September. He suggested that Council provide feedback and ensure that the final draft is acceptable, and bring back for vote at a future meeting. He turned the floor over to Chief Downing.

Chief Downing reported that on August 6, 2014 the City Council considered an ordinance concerning medical marijuana cultivation. The proposed ordinance would have limited cultivation of medical marijuana to residential zones and only in a detached, fully enclosed and secured structure, prohibiting any outdoor cultivation. The Council gave direction to staff to conduct a public workshop, obtain feedback, and explore additional ways to address all aspects of the issue of medical marijuana cultivation. The workshop was conducted on September 10, 2014, and attended by approximately 25 members of the public who were all afforded the opportunity to speak. The majority of those in attendance agreed that some regulation was needed, and offered many suggestions for regulation including plot size, proposed set back requirements, security measures and registration options.

Chief Downing pointed out that the report included in the agenda summarized the actions that sixteen other jurisdiction have taken, and summarized the existing Susanville Municipal Code regulations. He noted that the City of Susanville's police powers as authorized in Article XI, Section 7 of the California Constitution, as well as under the City of Susanville Municipal Code, provides the authority for the City to regulate land uses throughout the city and to enact regulations for the preservation of public health, safety and welfare of its residents and community. The City also has the authority through City Council to declare actions and activities that constitute a public nuisance. In short, based upon the included research, you will find that the City has the ability to choose to not regulate the cultivation of medical marijuana all the way up to completely banning cultivation or any regulations in-between that the City Council sees fit.

Chief Downing reviewed the language of the revised proposed ordinance, including definitions, standards, limitations, registration, appeals, violations and remedies. He clarified that compliance searches within the residence would only be conducted in the area designated for growing, and invited questions, comments or suggestions from the City Council.

Councilmember Callegari asked if the ordinance would in any way prohibit land owners from restricting the ability of their tenants to grow marijuana, regardless if it were being grown for medicinal use.

Chief Downing responded that the civil code provides for the ability of landowners to restrict that activity. There being no questions or comments from the City Council, Mayor Wilson invited comments from the public.

Michael Mankins read from a prepared statement, informing the Council that he had requested crime statistics from the police department, and that none had been provided. He agreed that there needs to be regulations, suggesting that the police enforce the laws that are already in place and not adopt new ones. He attended the workshop, which was productive, but commented that the four armed police officers in attendance made it appear as if instead of to protect and serve, the department intends to criminalize and prosecute. Mr. Mankins continued that he had a problem with the Chief of Police writing the laws, and he believes that by stepping up to speak on behalf of those who are legally growing medicine, he is being harassed and targeted. He spoke generally regarding his frustration with State law enforcement response to a law that provides residents the legal right to grow their own medicine.

Steve Mankins read from a prepared statement and offered various reasons why restricting cultivation to outdoors only does not work. He believes that the City is attempting to make criminals out of sick people who will turn to black market and illegal sources for their medicine. Gangs will step in fill the void and he reiterated that crime statistics had been requested. He added that there was plenty of time to refine the ordinance, and stated that those who are participating in the process and growing their medicine legally deserved respect and consideration.

Annie Westerbeck commented that she owns an acre of property and has been growing for about five years. Over the years she has made numerous visits to the City to get information to be sure that her growing followed all the restrictions that have been imposed. She has tried to follow the model of a collective and asked if State law trumps local law. She has an issue with the growing area being limited to two people, what if it is a family situation where there are three medical users under one roof. She added that the restrictions seem to be unfair to those who have been cooperative and trying to follow the restrictions to the letter.

Ken Davis questioned the set-back requirements and restriction of growing on specific properties that are within 1,000 feet of parks, schools or childcare facilities, which would seem to eliminate the majority of properties in Susanville. He lives right next to a park and cannot grow on his property, so he grows on Annie's property. If he did not have that opportunity, he would have to go without his medicine. He commented that there are many renters who are sick, and the ordinance would have a terrible impact on them as well.

Gary Feldt stated that he attended the City's workshop and the meeting recently held by the County. He is not a grower or user, but it seemed like overall what people asked for was something reasonable. He agreed that with the 1,000 foot restriction, it probably does eliminate the majority of the residential properties in town. He thanked the Chief and City Council for their effort to work with the public, adding that overall the ordinance seems reasonable and the City has done its due diligence to keep the citizens informed and involved.

Dave Slama observed that the 100 square foot plot limitation amounted to a ten by ten foot plot and that is not enough room for a garden. Overall, he was supportive of the ordinance.

Ken Davis commented that six plants, growing six feet tall, would take approximately 20 by 30 feet of outdoor growing space.

Chief Downing clarified that the restriction to limit growing within 1,000 feet of schools, parks, and childcare facilities was challenged in Tehama County, and subsequently upheld by the Court of Appeals who ruled in favor of Tehama County.

Councilmember Garnier asked how much space was required to grow one plant.

There was a general discussion among those present, with the variables of indoor growing versus outdoor affecting the ultimate size of the plant, with the general consensus being that one mature plant would require approximately a three foot by three foot growing plot.

Dave Slama asked how the city planned to differentiate between indoor or outdoor grows for the 1,000 foot limitation.

Chief Downing responded that if the plants are grown outside with no protection other than a fence that would trigger the 1,000 foot rule. If it is contained safely indoors or in a structure in the yard that can be locked, it offers more deterrent from theft or crime.

There was a general discussion regarding building permit requirements for outdoor structures, fencing requirements, and the number of allowable plants.

Councilmember De Boer stated that he does not like the idea of it being grown in the great outdoors with only a fence for protection. Anyone can climb a six foot fence and then you have a whole other set of issues to deal with.

Councilmember Callegari remarked that he supports taking care of sick people who need medicine prescribed by a doctor, and the problem is the number of people who are misusing it. At some point the City and medical users need to work together to meet the basic need. The 99 plant rule is far in excess of what one person would ever use for their own medical condition.

An unidentified member of the public stated that the number of plants varies depending on how the medicine is administered, whether it is vaporized, used as a poultice, and the method of administration is between the doctor and patient.

Annie Westerbech noted that there is also a difference in plant varieties and sizes, and depending on growth some can be very small.

There was extensive discussion regarding the space required to grow plants, and the merits of in-ground growing versus containers, fencing required to protect outdoor grows from theft and vandalism, and the wattage required for successful indoor growing.

Mayor Wilson reminded the public that there would be no vote taken on the ordinance at the meeting, and thanked everyone for their comments.

12B Consider Ordinance No. 14-1000 amending Chapter 17.104 of the Susanville Municipal Code to include Smoking Lounges: Waive first reading and introduce Mr. Hancock reported that the item regarding the regulation of smoking lounges was not considered an urgent item, and suggested it would be in the best interests to allow Council more time to look at. He asked that the Council read

through it, and comment back to staff. This would provide an opportunity to make sure that it properly addresses the concerns of the County.

12C Consider awarding the Susanville Municipal Airport Apron Reconstruction Project to Dig It Construction, Inc. Mr. Hancock reported that bids for the Apron Reconstruction project at the Susanville Municipal airport were received and opened on August 14, 2014. The City received two bid proposals from Hat Creek Construction in the amount of \$610,897.00, and from Dig It Construction Inc. in the amount of \$491,434.50. The City's Airport Consultant, C & S Companies, has recommended the City award the base bid and bid alternate one to Dig It Construction Inc. in the amount of \$491,434.50. The Federal Aviation Administration and Department of Transportation, Division of Aeronautics approved this recommendation and executed a Grant Agreement with the City for the construction of this project.

Mayor pro tem McBride asked if it was standard to see such a large gap in bid amounts for projects.

Mr. Hancock responded that it is not uncommon in larger projects, and can be the result of a number of variables including the contractor's existing workload, availability of materials, and the City prepares an engineer's estimate on larger projects to be sure that the bids received are reasonable and appropriate to the project.

Dan Newton added that C & S Companies has taken the lead on the project and prepared a bid analysis for the project.

Mayor pro tem McBride asked what the City's options for recourse are in the event the work completed is not up to par, adding that it is an airport not a parking lot, and paving is a big safety concern.

Mr. Newton explained the inspection process required during large construction projects, and shared information regarding past projects completed by Dig It Construction. When the City received bids for the rehabilitation of Riverside Drive, Dig It was the lowest bidder by nearly a quarter of a million dollars. In that instance the savings was due to the utilization of waste materials. The project was completed and there were no issues with the contractor.

Mayor pro tem McBride suggested installing a pipe under the taxi way now that the City has acquired the Johnstonville Well.

Mr. Hancock responded that the option had been explored and it was determined that the installation of a main water line would be located elsewhere, and not under the new apron area.

Motion by Councilmember Callegari, second by Mayor pro tem McBride, to award the Susanville Municipal Airport Apron Reconstruction project to Dig It Construction, Inc.; motion carried unanimously. Ayes: Garnier, McBride, De Boer, Callegari and Wilson.

13 CITY ADMINISTRATOR'S REPORTS:

13A Senior Golf Cart Tours Update Mr. Hancock reported that the City recently partnered with the Bureau of Land Management for their annual fall colors tour up the Bizz Johnson trail. This has been an annual excursion, with the City providing golf carts driven by volunteers to transport residents of the Lassen Nursing Rehabilitation Center and Eagle Lake Village Senior Living Center for an afternoon in the outdoors. The residents enjoyed themselves, and Bureau of Land Management staff have extended their appreciation to the City Council and golf course staff for supporting the event.

14 **COUNCIL ITEMS:**

14A **AB1234 travel reports:**

A AB1234 travel reports:

Councilmember Garnier requested an update regarding panhandling restrictions and enforcement.

Mayor pro tem McBride deferred to Battalion Chief Moore, who invited Council to witness a live burn training exercise to be conducted at the airport training area on November 22, 2014.

15 **ADJOURNMENT:** Motion by Councilmember De Boer, second by Councilmember Garnier to adjourn; motion carried unanimously. Ayes: Garnier, McBride, De Boer, Callegari and Wilson.

Meeting adjourned at 8:29 p.m.

Respectfully submitted by

Brian R. Wilson, Mayor

Gwenna MacDonald, City Clerk

Approved on: December 17, 2014