

**MINUTES  
REGULAR MEETING  
CITY COUNCIL & REDEVELOPMENT AGENCY  
CITY OF YUBA CITY  
APRIL 1, 2008  
Closed Session 6:00 P.M.  
Regular Meeting 7:00 P.M.**

**Closed Session 6:00 p.m.—Butte Room**

Conferred with real property negotiators Steven Jepsen and Steve Kroeger pursuant to Government Code Section 54956.8 regarding negotiations with Kam Takhar of Crowne Development regarding possible sale of the following property or portions thereof: APN 52-380-17, located at the southwest corner of C and Wilbur Ave (Redevelopment Agency).

**Regular Meeting 7:00 p.m.—Council Chambers**

**Call To Order**

The City Council of the City of Yuba City was called to order by Mayor Ramirez at 7:00 p.m.

**Roll Call**

Present: Councilmembers Gill, Maan, McBride, Miller, and Mayor Ramirez  
Absent: None

**Invocation**

Police Chief Richard Doscher gave the invocation.

**Pledge of Allegiance to the Flag**

Councilmember Miller led the Pledge of Allegiance to the Flag.

**Presentations and Proclamations**

1. **Proclamation for Child Abuse Prevention Month** – Mayor Ramirez presented a Child Abuse Prevention Month proclamation to Maria Escutia of Casa de Esperanza.
2. **Proclamation for Autism Awareness Month** – Mayor Ramirez presented a proclamation for Autism Awareness Month to Bill Fuller.
3. **Proclamation for DMV/Donate Life California Month** – Mayor Ramirez presented a proclamation to Tim Crompton for DMV/Donate Life California Month.
4. **Senior Commission Presentation** – Senior Commissioner June Bone gave the report.

**Public Hearings**

**5. Yuba City Lighting and Landscape Maintenance District No. 5, Zone of Benefit H\_8**

Public Works Director George Musallam noted this lighting and landscape district is for the installation of one street light at the northern end of Klamath Lane. There is only one property owner in this lighting and landscape district, and he has waived his right to receive notice.

Mayor Ramirez opened the public hearing. Hearing no comment, he closed the public hearing.

Councilmember Gill moved to adopt Resolution No. 08-025 confirming diagram and assessment and levying assessment for Fiscal Year 2007-2008 for Lighting and Landscape Maintenance District No. 5, Zone of Benefit H\_8. [Improvements associated with 996 Klamath Lane]. Councilmember Miller seconded the motion that passed with a unanimous vote.

**6. Daniel P. Cervantes Fire Station No. 4 – Award of Contract**

Public Works Director George Musallam said this item deals with the construction contract for Fire Station No. 4. About 15 bids were submitted with Aulabaugh Construction being the lowest at \$4,059,239. Construction is anticipated to begin in the spring and be completed the end of summer. The project entails construction of the fire station and the detention basin, and site improvements. Special circumstances occurred during the bidding process that requires a public hearing and receiving testimony according to the Public Contract Code. After the bid opening, the City was informed by Aulabaugh Construction that they had inadvertently made a clerical error in listing the

subcontractor for the HVAC system. The City Attorney has directed staff to hold a hearing and take testimony from all parties involved. Staff has reviewed the events leading up to the error on the HVAC system. Both bids were received prior to the bid opening at the City. RB Spencer submitted a lower bid than Airtex. As far as the City is concerned, we are obligated to pay only the bid amount received from Aulabaugh Construction no matter which subcontractor does the work.

Mayor Ramirez opened the public hearing. Police Chief Richard Doscher administered an oath to the three individuals who planned to testify. All three responded affirmatively.

City Attorney Timothy Hayes reminded Council that the issue before them is whether there was an inadvertent clerical error.

Nitin Patel of Airtex Air Conditioning and Heating of Rancho Cordova spoke. His company was informed they were to be substituted due to a clerical error. In their opinion, substitution is not allowed.

Charles Aulabaugh of Aulabaugh Construction, Chico, having been duly sworn, apologized to Airtex for the error. Mr. Aulabaugh said this project rightfully belongs to R.B. Spencer who was the low bidder. He proceeded to explain the process in determining the subcontractors. At the end of this hectic process, R.B. Spencer's bid amount was included but the name was not changed from Airtex.

Robert Spencer of RB Spencer, having been duly sworn, acknowledged the process contractors have in determining their bids is very chaotic. He submitted documents to Council showing the time emails and faxes were sent to Mr. Aulabaugh.

Hearing no further comment, Mayor Ramirez closed the public hearing.

Mr. Musallam reiterated this was a clerical error in the listing of the subs. In order to deal with it, there are specific procedures in the Public Contracts Code. City Attorney Timothy Hayes stated Public Contracts Code lists a dozen situations in which you may change a listed subcontractor. One of those is when an inadvertent clerical error was made by the contractor. When an objection is made, a public hearing must be held. If Council determines an inadvertent clerical error was made, Council can allow the substitution. Mr. Musallam responded to Council's questions. After discussion, Councilmembers agreed, although unfortunate, a clerical error was made by Aulabaugh Construction and RB Spencer should have been listed as the subcontractor.

Finance Director Robin Bertagna said the total budget for this project is \$5.9 million. The project is to be funded one-half by the General Fund and one-half by the Fire Department's impact fees. Funds are available in the general fund but only \$420,000 is available in the Fire Department's impact fee account. She explained the options available for financing construction of Fire Station No. 4: Borrow internally from unallocated impact fees or finance it externally. Ms. Bertagna recommended a 10 year lease arrangement at a rate of approximately 3.76% with about \$40,000 in borrowing costs. The investment portfolio is presently earning 4.161%. If Council concurs with a lease, Council must decide whether to finance the entire project or only the part for which we currently do not have funds. Staff recommends financing the entire project. The debt service would be approximately \$751,000 per year, split equally between the General Fund and the Fire Department's share of impact fees. Staff is requesting direction tonight and will return to the next meeting with an agreement if a lease arrangement is selected.

Ms. Bertagna responded to questions from Council. City Manager Steven Jepsen noted the lease arrangement is an opportunity to obtain money cheaper than what we are earning on our portfolio. Mayor Ramirez said he supports financing the full amount in a lease arrangement.

Having conducted a public hearing to receive testimony regarding the clerical error by the Aulabaugh Construction, the lowest bidder, regarding substitution of a subcontractor for the HVAC system, Councilmember Gill moved to find that there was an inadvertent clerical error and to approve Aulabaugh's request to substitute the HVAC subcontractor; award the subject contract to the lowest responsive bidder, Aulabaugh Construction, at a base bid amount of \$4,059,239.00; authorize the City Manager to execute the contract on behalf of the City; authorize the City Manager to execute a Professional Services Agreement with Beverly Prior Architects in the amount Time & Material, Not-to-exceed \$200,000 for Bidding and Construction Administration Services; and adopt Resolution No. 08-026 declaring the City of Yuba City's official intent to reimburse certain expenditures from proceeds of indebtedness. Councilmember Miller seconded the motion that passed with the following vote:

AYES: Councilmembers Gill, Maan, McBride, Miller, and Mayor Ramirez  
NOES: None  
ABSENT: None

## **Public Communication on Items Not on the Agenda**

7. **Written Requests** - none
8. **Appearance of Interested Citizens** - none

## **Bid Openings**

### **9. Franklin Road 16-inch Waterline Project**

Public Works Director George Musallam stated this item is related to Fire Station No. 4. Plans have been prepared for the project. The water line is part of our Master Plan. In the future, it will be extended to properties to the west. We received in excess of 15 bids. TerraCon Pipelines was the lowest bidder. Staff recommends approval.

Councilmember Gill noted it is nice to see bids coming in under the engineer's estimate.

Councilmember Maan moved to award Contract No. 07-08, Franklin Road 16-inch Waterline Project, to TerraCon Pipelines, Inc., of Healdsburg, CA in the amount of their bid of \$261,737.00; authorize the City Manager to execute the contract on behalf of the City, following approval by the City Attorney; and authorize the City Manager to execute an internal reimbursement agreement whereby costs associated with construction and contract administration of the Franklin Road 16-inch Waterline are reimbursed by the Water Fund as water development impact fees become available over a maximum 15 year period. Councilmember Gill seconded the motion that passed with a unanimous vote.

## **Consent Calendar**

City Manager Steve Jepsen asked that staff review Item 12. Utilities Director Bill Lewis said the state has passed bond issues in previous years. They are primarily administered by the Department of Water Resources (DWR). Priority of projects was a concern for DWR so they asked the regions to establish their priorities and present one plan. Yuba County Water Agency is the lead agency for the Yuba County Integrated Regional Water Management Plan. There are 15-20 governmental agencies involved in this plan, including Yuba City. Reclaimed wastewater is part of the plan. Yuba City was sought out because of our involvement in reclaimed wastewater. The plan primarily covers flood management on the east side of the Feather River and the Yuba River. Yuba City is also involved in the Sacramento Valley Integrated Regional Water Management Plan. The new Sutter Butte Flood Control Agency may want to form an Integrated Regional Waster Management Plan for flood issues on the west side of the Feather River.

Councilmember Miller moved to adopt the consent calendar as presented. Councilmember Gill seconded the motion that passed with a unanimous vote.

### **10. City Council Approval of Minutes of March 17 & 18, 2008**

Approved the Council meeting minutes of March 17 & 18, 2008.

### **11. Roadway Functional Classification Change**

Adopted Resolution No. 08-027 accepting the addition of functionally classified roadways to the California Road System (CRS) Maps.

### **12. Yuba County Integrated Regional Water Management Plan**

Adopted Resolution No. 08-028 supporting the Yuba County Integrated Regional Water Management Plan (IRWMP).

## **General**

### **13. Development Impact Fees for the Hetherington Place Subdivision**

Community Development Director Aaron Busch noted this item is a fee waiver request regarding the Hetherington Place Subdivision on Franklin near Walton. Construction of the subdivision began in 2004, and in 2006 the developer abandoned the site. It has the potential to turn into a blighted subdivision. In 2007, staff met with developers who might be interested in completing the project but that was not productive. In late 2007, staff met with Todd Retzloff of Trident Investment Corporation. He represents a variety of developers interested in taking over the subdivision. At that time, staff quoted Mr. Retzloff the impact fees that were in effect in 2005 when the subdivision was originally permitted. The new impact fee ordinance went into effect January 1, 2008 and only includes the annual inflationary adjustment and levee fees. The number Mr. Retzloff was quoted did not include the two inflationary adjustments. Past practice was that the impact fee charged was that in effect at the time of application. The new impact fees charged are those in effect at the time they are paid, whether that is when the building permit is issued or at occupancy. The price went from \$11,064/per unit to \$12,401/unit. Mr. Retzloff has asked to pay the 2005 impact fee, which is a total difference of \$40,000 for the project.

Five lots in the project were sold by the original developer to individuals even though Certificates of Occupancy were never issued. One or two units are now occupied. Staff has filed a Notice of Non Compliance with the County Recorder. Any time there is a title change, impact fees will be collected on those five units. These five units are not a part of this item. Staff requests direction from Council.

Councilmember McBride asked how those five lots got power without a Certificate of Occupancy. Staff was unable to answer that question. Councilmember Gill asked if the owners know the properties were never finalized. Mr. Busch said yes, they have notified. Councilmember Miller noted most units have PG&E meters. Mr. Busch said past practices allowed that, but future measures will prevent that from occurring. Councilmember McBride asked why Mr. Retzloff did not obtain the permits in 2007. Mr. Busch said he will allow Mr. Retzloff to answer that question.

Todd Retzloff, 1110 Civic Center Blvd., Yuba City, said he also represents the lender. It wasn't until the end of November 2007 that a foreclosure occurred. There are many legal issues with the project. Title insurance is still unavailable. Until resolved, the vandalism and blight will continue. Interested developers were quoted the 2005 impact fees, and he asked that Council honor that quote. He said the impact fees could be paid in 30 days. Mr. Retzloff responded to questions from Council.

Mayor Ramirez noted we made some clerical errors and this is a project in trouble. He asked Mr. Busch what we have done to prevent occupancy before a Certificate of Occupancy has been issued. Mr. Busch said a checks and balance system is in place. You can not request a final inspection until impact fees are paid. Then the gas meter tags will be issued.

Councilmember Miller moved to reduce the impact fees for the Hetherington Place Subdivision by \$1,337/lot on the 30 available lots and that this offer is good for the next 30 days (by May 2, 2008). If the impact fees are not paid in the next 30 days, then the impact fees will be set at the 2008 impact fee schedule. Councilmember Gill seconded the motion that passed with a unanimous vote.

City Manager Steve Jepsen clarified the impact fees being charged are based on the fees in effect in 2005 at the time the original building permits were taken out, which was the old policy of the City. This is a pipeline project and other pipeline projects were extended this same courtesy.

#### **14. City Hall Administration Area Remodel**

Public Works Director George Musallam said this is a remodel of the Administration area. Plans and specifications have been prepared by Estrada Engineering. He said plans call for an additional four offices and a conference room. Cost is estimated at \$173,244. The cost includes balancing of the HVAC system for all of City Hall. An alternate option was also presented at a cost of \$56,000. Councilmember McBride asked what the cost of balancing is. Mr. Musallam responded approximately \$30,000.

Councilmember Gill moved to adopt Resolution No. 08-029 approving the plans and specifications for the City Hall Administration Area Remodel (cost estimate \$173,244) and authorize advertisement for bids on the project. Councilmember Maan seconded the motion that passed with a unanimous vote.

### **Business from the City Council/Redevelopment Agency Board**

#### **15. City Council Reports**

- Councilmember Gill had nothing to report.
- Councilmember Maan had nothing to report.
- Councilmember Miller had nothing to report.
- Mayor Pro Tem McBride had nothing to report.
- Mayor Ramirez had nothing to report.

All Councilmembers expressed their concerns for Mayor Ramirez's son, Nathan, and wished him a speedy recovery.

### **Adjournment**

Mayor Ramirez adjourned the regular City Council meeting of the City of Yuba City at 9:12 p.m.

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Rory Ramirez  
Mayor

ATTEST:

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Terrel Locke  
City Clerk