



MINUTES
REGULAR CITY COUNCIL MEETING AND JOINT MEETING OF THE CITY
COUNCIL AND THE BOARD OF DIRECTORS OF THE COMMUNITY
REDEVELOPMENT AGENCY OF THE CITY OF COTATI
WEDNESDAY MARCH 11, 2009
6:00 PM CLOSED SESSION
7:00 PM REGULAR SESSION
City Council Chambers, City Hall, 201 W. Sierra Avenue

6:00 PM CALL TO ORDER AND ROLL CALL FOR CLOSED SESSION

Mayor Guardino called the meeting to order at 6:06 p.m.

Councilmembers present at roll call: Barich, Gilardi, Orchard, Mayor Guardino.

Staff present: Administrative Services Director Jone Hayes, Deputy City Clerk Tamara Taylor, City Manager Dianne Thompson.

Mayor Guardino opened the floor to public comments; there being no one wishing to speak he closed the public comment period and adjourned to closed session.

CLOSED SESSION (CITY MANAGER'S OFFICE)

CONFERENCE WITH LABOR NEGOTIATORS (Government Code Section 54957.6)

City Designated Representative: City Manager

Employee Organizations: (1) Cotati Employees Association (2) Cotati Police Officers Association (3) Cotati Police Management Association

7:00 PM (REGULAR SESSION)

CALL TO ORDER OF REGULAR CITY COUNCIL MEETING

Mayor Guardino called the meeting to order at 7:04 p.m.

ROLL CALL

Councilmembers present: Barich, Coleman-Senghor, Gilardi, Orchard, Mayor Guardino

Staff present: Administrative Services Director Jone Hayes, Assistant to the City Manager/Acting Community Development Director Marsha Sue Lustig, Director of Public Works/City Engineer Damien O'Bid, City Attorney Rich Rudnansky, Deputy City Clerk Tamara Taylor, City Manager Dianne Thompson.

PLEDGE OF ALLEGIANCE

Mayor Guardino led the pledge of allegiance.

1. APPROVAL OF MINUTES OF FEBRUARY 25, 2009 REGULAR MEETING AND NOTICE OF WAIVING OF READING OF ALL RESOLUTIONS AND ORDINANCE INTRODUCED AND/OR ADOPTED UNDER THIS AGENDA (*Action*)

Moved by Councilmember Gilardi seconded by Councilmember Barich, and passed unanimously to approve the minutes of the February 25, 2009 regular meeting as presented.

ANNOUNCEMENTS

Mayor Guardino thanked Oliver's Market for donating the food and the citizens who have made those arrangements.

The Cotati City Council invites individuals who are committed to working for the betterment of the City of Cotati to apply for appointment to the City's Design Review Committee (DRC). There are currently three vacancies on the DRC for two regular positions (which must be filled by Cotati citizens) and one alternate position (which must be a design professional). For an application call 665-3622 or download an application from the city's website at ci.cotati.ca.us.

City Council meeting audio recordings are now available via podcast. Link to the podcast from the City's website at ci.cotati.ca.us.

The Spring/Summer Recreation Schedule is available on the City's aforementioned website. To request a paper copy please feel free to visit or call the Recreation Department at 792-4600 ext. 669

SONOMA STATE UNIVERSITY REPRESENTATIVE REPORT

Sonoma State University Student representative Dylan Reed provided a verbal report to Council.

STUDENT HONORARY MAYOR REPORT

Adam Nelson of Creekside Middle School was unable to attend the meeting; no report was given

CITY MANAGER'S REPORT

City Manager Dianne Thompson reported the following:

- The Downtown Specific Plan and its draft Environmental Impact Report (EIR) which has been distributed for comments. It is expected that the final EIR will issued and

adoption hearings will begin by the Planning Commission in June, followed by hearings by the City Council.

- East Cotati Avenue construction has resumed with the good weather, completion is expected in 2-3 weeks.
- Staff continues to monitor federal stimulus funding and projects.

APPROVAL OF FINAL AGENDA

Mayor Guardino announced that item 4 would be heard first, followed by item 3, then item 5.

CITIZEN BUSINESS

Chuck Roetter of Cotati spoke in favor of retaining funding for the Recreation Department. He explained that he held his son's birthday party at the Community Center and had requested donations in lieu of gifts. His son Memphis presented a check for \$835. He asked that a subcommittee be appointed for fundraising for recreational events.

Joan Simon of Cotati addressed the City Council regarding information on the City Council biography section of the City's website. She submitted suggestions for revising that section. She also suggested a city blog to which Councilmembers could contribute. She encouraged the City to follow the same regulations that are imposed on its property owners even though it is exempt.

Ken Coleman of Cotati addressed the City Council regarding past spending practices and staffing levels. He encouraged the City to hold open meetings about the budget. He expressed opposition to additional taxes and to the upcoming survey.

Michelle Berman of Cotati regarding the vocal minority and the silent majority and questioned why they aren't at the meeting. She spoke in opposition to the consultant survey approved at the previous meeting. She discussed possible budget cuts and indicated that all departments will be affected.

City Attorney Rudnansky responded to questions from the Council regarding the Council biographies.

Mayor Guardino thanked the attendees for coming to the meeting.

City Manager Thompson clarified the regulations regarding A-frame signs.

Council concurred to make efforts to keep citizens informed on the state of the city.

DIRECTION ON FUTURE AGENDA ITEMS

The Council concurred to schedule formation of a subcommittee to oversee fundraising for recreation events and review of the League of California Cities position on AB 155 (Mendoza) Municipal Bankruptcy on a future agenda:

Discussion ensued regarding the safety of Putnam Park and staff's response to photographs of the park provided by Councilmember Barich. Council concurred for Councilmember Barich to work with staff to address his concerns.

CONSENT CALENDAR

Item 2 on the Consent Calendar was pulled for discussion.

2. ACCEPTANCE OF PUBLIC IMPROVEMENTS AND AUTHORIZATION TO FILE THE NOTICE OF COMPLETION (NOC) FOR THE WEST SIERRA AVENUE/EAST COTATI AVENUE REHABILITATION, PROJECT NO. E06-26 (Public Works/Engineering) (Action)

Director of Public Works/City Engineer Damien O'Bid presented the staff report.

Mayor Guardino opened the floor to public comments.

Adrienne Lauby of Cotati asked for clarification regarding the original specifications for the project and questioned using rising oil prices as a reason for increasing the contract amount.

There being no one else wishing to speak, Mayor Guardino closed the public comment period.

City Manager Thompson and Director of Public Works/City Engineer O'Bid responded to the speaker's questions, as well as questions from Council regarding the extent of the project and the format of the contract regarding cost-sharing.

Moved by Councilmember Gilardi, seconded by Councilmember Orchard, and passed unanimously to accept the improvements and authorize filing of the Notice of Completion (NOC) for the West Sierra Avenue/East Cotati Avenue Rehabilitation, Project No. E06-26.

REGULAR AGENDA

3. CONSIDERATION OF RESOLUTION TO ESTABLISH A CODE OF ETHICS CITY COUNCIL POLICY (City Manager) (Action)

This item was heard after item 5.

City Manager Dianne Thompson presented the staff report.

Mayor Guardino granted Councilmember Barich's request to comment on this item prior to Council asking questions of staff and the public comment period. Councilmember Barich expressed concern that this item was to have been discussion of a code of conduct for the public rather than a code of ethics policy for Councilmembers. He expressed opposition to the proposed policy, and indicated that he believes that it is a violation of his right to free speech.

City Manager Thompson responded to questions regarding the scheduling of this item.

Mayor Guardino opened the floor to public comments.

John Moore of Cotati spoke in support of the proposal and read a statement written about him from a Councilmember Barich's website, 'Laughable Cotati'.

Joan Simon of Cotati stated that she had requested a code of conduct for Councilmembers. She addressed the Council in support of the proposal and expressed concern regarding comments written by Councilmember Barich on the 'Laughable Cotati' website.

Adrienne Lauby of Cotati requested clarification and offered suggestions regarding several sections of the proposed policy. She expressed support for the proposal.

Jan Kurvers of Cotati commented on the proposal and, asked that wording be added regarding fulfilling commitments of appointed representatives.

Linell Hardy of Cotati expressed support for the proposal as a good start. She expressed support for a clear delineation regarding what a Councilmember can say as a Councilmember and as a private citizen. She expressed concern regarding the City's liability for Councilmembers' comments.

Mike Kurvers of Cotati expressed support for the proposal. He commented regarding the nature and extent of the duties and expectations of the Mayor, Vice Mayor and Councilmembers and discussed concerns regarding the appropriateness of Councilmembers responding to comments made during Citizens' Business.

Michelle Berman of Cotati addressed the Council regarding the need for mutual respect, her opposition to pledging allegiance to the flag, Councilmembers feeling harassed by citizen comments and her belief that the City Council is held to a higher standard. She expressed opposition to a Councilmember commenting on an item prior to public comment.

Michael Cherimello of Dixon, California indicated that the proposed Code of Ethics Policy is redundant, since most of it is covered under Robert's Rules of Order or under AB1234 ethic training. He cited various court decisions regarding free speech.

There being no one else wishing to speak, Mayor Guardino closed the public comment period.

Mayor Guardino called a recess at 9:07 p.m. and reconvened at 9:27 p.m.

City Manager Thompson responded to questions regarding the source of the proposed Code of Ethics.

Discussion ensued briefly relative to the codes of ethics of other cities and decisions of the courts that cities may devise a code of ethics.

City Attorney Rudnansky responded to questions as to the definition of a code of ethics as an aspiration of shared values that goes beyond the law, that a code of ethics does not

violate the right of free speech and that formal censure is a recognition that the code has been violated.

City Attorney Rudnansky responded to additional questions relative to how a perceived violation of a code of ethics may be addressed, the appropriate time for Councilmember comments during discussion of various types of agenda items, the city seal, and the role of the City Manager in personnel management.

Discussion by the Council ensued regarding the interpretation and clarification of various sections of the proposed Code of Ethics, the appropriateness of Councilmembers responding to comments made by the public during Citizens' Business and that a Code of Ethics does not preclude a Councilmember from speaking for him/herself.

The majority of Councilmembers expressed support for the Code of Ethics and directed that final approval with the following revisions be scheduled for the March 25, 2009 City Council meeting:

- Preamble: Indicate that this code is a representation of shared values;
- City logo is restricted
- #3, clarify or remove the term 'personal charges';
- #5, last bullet point, clarify that it is the Mayor's discretion to respond or direct to City Manager;
- #8, clarify the term 'office', do not use the term 'never', place 'As appropriate' in front of the last paragraph (to read, "As appropriate, staff will be involved...");
- #19 remove reference to League of California Cities Code of Ethics; signature not required; document to be provided to newly elected Councilmembers.
- Add a section that states that attendance is expected where the Councilmember is an appointed representative or where the Councilmember as agreed to attend.

Councilmember Barich indicated support for a code of conduct for members of the public, rather than a code of ethics for members of the City Council.

4. RESOLUTION OF SUPPORT FOR OLD REDWOOD HIGHWAY REHABILITATION SOUTH PROJECT FOR GRANT FUNDING THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (Public Works/Engineering) (Action)

This item was heard prior to item 3.

City Manager Dianne Thompson presented the staff report and responded to questions from the Council regarding the project location, cost and funding.

Discussion ensued regarding the long-term cost to the public of grant funding.

Mayor Guardino opened the floor to public comments.

Michelle Berman of Cotati requested clarification as to where redevelopment funds come from.

There being no one else wishing to speak, Mayor Guardino closed the public comment period.

Administrative Services Director Hayes responded to Ms. Berman's question.

Discussion ensued regarding grant funding.

The majority of Councilmembers expressed support for the proposal.

Councilmember Barich expressed opposition to the use of federal economic stimulus grant funding.

Moved by Councilmember Orchard seconded by Councilmember Gilardi, and passed 4-1 (Councilmember Barich voting no) to adopt Resolution No. 2009-05 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COTATI AUTHORIZING THE FILING OF AN APPLICATION FOR FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA) FUNDING AND STATING THE ASSURANCE TO COMPLETE THE PROJECT.

5. DISCUSSION AND POSSIBLE DIRECTION REGARDING ADMINISTRATIVE POLICY NO. 2004-02, SIGNING CORRESPONDENCE (City Manager) (Action)

City Manager Dianne Thompson presented the staff report.

Discussion ensued relative to letterhead used in previous years with all of the Councilmembers' names listed and the cost of changing such letterhead every two years, the appropriateness of the Mayor having authority to sign routine correspondence such as letters of thanks and congratulations so as not to burden Council, the ability of a Councilmember to express his or her individual opinion, and the practice of submitting letters of interest for Mayors' and Councilmembers' Association appointments on letterhead.

Mayor Guardino opened the floor to public comments.

Rudolph Rentzel of Petaluma stated that he was an attorney representing George Barich. He indicated that free speech extends to use of stationery that, that individual stationery can be used and that Councilmembers have a right under the constitution to create their own stationery. He discussed use of the City seal, which may be limited by state or local law.

Joan Simon of Cotati expressed her belief that the policy must be as clear as possible. She stated that a Councilmember has a right to use his/her title. She opposed the use of City letterhead for personal letters and noted that it's important to state at the beginning of a

letter that the writer is speaking for him or herself. She opposes the use of a self-created city logo.

Michael Cherimello of Dixon discussed the state Assembly practices for use of stationery. He indicated that a Councilmember responding to a citizen concern should be able to use the letterhead and that use of the city logo should not be restricted.

Michelle Berman of Cotati expressed her belief that Councilmember Barich's use of email and city letterhead has been inappropriate.

Adrienne Lauby of Cotati addressed the Council in support of a revised policy that would allow a Councilmember to use his/her title and would restrict the use of the City's logo. She commented on Sebastopol's process for getting items on the agenda.

Mr. Cherimello asked to address the Council again. Mayor Guardino responded that the speaker had already addressed the Council regarding this item and if public comments were re-opened he could speak again.

There being no one else wishing to speak, Mayor Guardino closed the public comment period.

Discussion ensued relative to the right of Councilmembers to their title, the ability of individual Councilmembers to express their own opinion on their own letterhead, that the word 'we' in correspondence from Councilmember implies the entire City Council, the right of the City as a corporation to restrict the use of its logo, that in a smaller city it is easier to misrepresent than in cities that have a larger constituency, how using City letterhead implies endorsement, that City business cards containing the City logo are used for identification purposes, and that the policy is not intended to impede free speech.

In response to a question from Councilmember Barich, Councilmember Gilardi summarized why she signed a letter written by Supervisor Mike Kerns to then President-elect Obama regarding the federal stimulus package. Councilmember Gilardi pointed out that she had signed the letter in her official capacity as legislative liaison appointed by the City Council and that she had reported to Council about the letter.

Further discussion ensued as to the proposed policy, with the majority of the Council in agreement to revise the policy to authorize the use of City letterhead for the Mayor to sign routine correspondence such as letters of thanks and commendation, for Councilmembers to submit letters of interest for Mayors' and Councilmembers' Association and City Selection Committee, Association of Bay Area Government & League of California Cities appointments to the City Manager's office to be placed on letterhead for the Councilmember's signature, to restrict the use of the City logo, and to add that the rationale for this policy is implied endorsement.

Councilmember Barich opposed the revisions and recommended expanding the policy to allow each Councilmember use of the City logo and stationery.

Moved by Councilmember Gilardi seconded by Councilmember Orchard, and passed 4-1 (Councilmember Barich voting no) to amend Administrative Policy No. 2004-02, Signing Correspondence on City letterhead on behalf of Cotati City Council as noted above.

ADJOURNMENT OF REGULAR MEETING OF THE CITY COUNCIL AND CALL TO ORDER OF JOINT MEETING OF CITY COUNCIL AND COMMUNITY REDEVELOPMENT AGENCY BOARD OF DIRECTORS

Mayor Guardino adjourned the regular City Council meeting and called the joint meeting to order at 11:37 p.m.

CONSENT CALENDAR

Item 6 was pulled for discussion; Administrative Services Director Hayes clarified that the K-9 per diem was coming out of the K-9 donations.

Moved by Councilmember Gilardi seconded by Councilmember Orchard, and passed unanimously to approve item 6 on the Consent Calendar.

6. WARRANTS AND AUDITED CLAIMS FOR FEBRUARY 12TH, 2009 – FEBRUARY 25TH, 2009 (Administrative Services) (Action)

This motion receives and files warrants and audited claims for February 12th, 2009 – February 25th, 2009.

ADJOURNMENT OF JOINT MEETING; RECONVENING OF REGULAR MEETING OF CITY COUNCIL

Mayor Guardino adjourned the joint meeting and reconvened the regular meeting at 11:38 p.m.

CITY COUNCIL REPORTS (Discussion)

Councilmembers discussed recent correspondence and reported on recent and upcoming activities, including reports from meetings attended at City expense.

ADJOURNMENT OF REGULAR CITY COUNCIL MEETING

Mayor Guardino adjourned the regular meeting at 11:49 p.m.

Respectfully Submitted,

Tamara Taylor, Deputy City Clerk