

Jackson City Council
Minutes
Regular Meeting of May 9, 2005

COUNCIL MEMBERS PRESENT:

Al Nunes
RosaLee Pryor Escamilla, Mayor
Marilyn Lewis
Andrew Rodriguez, Vice-Mayor
Drew Stidger

CITY STAFF PRESENT:

Michael Daly, City Manager
Scott Morrison, Police Chief
Susan Peters, City Planner
Gisele Cangelosi, City Clerk

COUNCIL MEMBERS ABSENT:

None

Mayor Pryor Escamilla called the meeting to order at 7:00 p.m.

Mayor Pryor Escamilla requested the City Council and the public to keep in mind the City Council Meeting Ground Rules.

1. CEREMONIAL. Presentation of Certificates of Appreciation for Amador County Sesquicentennial/Jackson Centennial Mural. Mayor Pryor Escamilla presented a Certificate of Appreciation to Dave Butow, Rand Huggett, Dic Stam and Amador Crane.

2. APPROVAL OF AGENDA.

Moved by Councilmember Lewis, seconded by Vice-Mayor Rodriguez, and unanimously carried to approve the City Council Agenda dated May 9, 2005.

3. PUBLIC MATTERS NOT ON THE AGENDA.

None.

4. CONSENT CALENDAR.

- a. Approval of Minutes of April 25, 2005 meeting.
- b. Approval of Expenditure Report for the period of April the amount of \$440,271.37 including salary related items for April in the amount of \$247,813.35.
- c. Receive Jackson Police Department Monthly Report.
- d. Receive Jackson Fire Department Monthly Reports.
- e. Receive Building Department Monthly Reports for April 2005.
- f. Adopt Resolution Approving Budget Adjustment to Fund Amador County Recreation Agency in FY 2005/06.

Moved by Councilmember Lewis, seconded by Councilmember Stidger, and unanimously carried to approve the Consent Calendar as presented except for:

1. **Councilmember Lewis dissenting on the approval of Check 222851 in the amount of \$7,165.54 for the Rollston, Henderson and Crabb on the Expenditure Report.**

5. ADMINISTRATIVE REPORTS.

Police Chief Morrison reported on the following items:

1. Substantial drug arrest - possession for sales and other drug related paraphernalia.
2. Apprehension of a parolee in possession of prohibited and dangerous weapons, syringes and controlled substances.
3. Sergeant Christy Stidger and Community Service Officer Mike Collins taught a half-day DARE lesson at Mule Creek for employees and visitors. The Police Department has been invited to this very successful event one day event for the last three years.

City Planner Susan Peters reported on the following items:

1. Jackson Hills revised draft environmental impact report has been released for the sixty-day review. Staff has been busy getting the document out to all responsible agencies and interested parties.
2. Staff has been processing the Notices of Intent to Develop for submittal on tonight's agenda.
3. Staff continues to work on the Zoning Ordinance update. Staff hoped to submit the update to the Planning Commission at their May 16 meeting.

City Manager Daly reported on the following items:

1. Pine Meadows Subdivision Planned Development and Final Map 55 Amendments will be on the next City Council meeting.
2. Deadline for the Measure E Request for Proposal has passed and four proposals were received: Historic Jackson Business Association, Amador Chamber of Commerce, Amador Council of Tourism and the Main Street Theater Works. The Measure E Advisory Committee will be reviewing the proposals and providing recommendations at the next City Council meeting.
3. The second Interagency Communication Summit meeting is scheduled for Wednesday, May 18 at 8:30 a.m. at the American Legion Hall and will be opened to the public. Some of the special agencies and other external organizations will be making presentations regarding their future planning issues and items they will be dealing with.
4. Fire Chief Morton will be recuperating for approximately four to six weeks from back surgery. Assistant Chief Dale Fishback will be the Commander and Chief of the Fire Department during his absence.

DISCUSSION CALENDAR

6. Public Hearing – Review of “Notice of Intent to Develop” Applications for Resource Constraints and Priority Allocation Policy.

City Planner Peters stated in February 2005, the City Council concurred with the Planning Commission's recommendation to allocate 116 Housing Equivalent Dwelling Units (HEUs) for project applications in calendar year 2005 under the provisions of the City's recently adopted Priority Allocation Policy. The Resource Constraints and Priority Allocation Policy requires the City Council to award the HEU allocation by May 31, 2005.

Subsequently staff advertised a request for Notices of Intent to Develop in the *Amador Ledger-Dispatch* and the *Sacramento Bee*. Additionally, staff directly notified area and interested developers along with members of the Amador County Board of Realtors. The City received four Notices of Intent to Develop by the March 31, 2005 deadline:

- Stonecreek Development (Bob Hix) – 8 single family residential units and park on 4.27 acres, located of Scottsville Boulevard.
- Shealor Property – 26 single family residences on 6.25 acres, located on North Main.
- Jackson Hills Golf Course and Residential Community (New Faze Development) - 18 hole Golf Course and 540 housing units on 516 acres.
- The Ranch at Jackson Creek (Reynen & Bardis) – Phase 1 – 45 single-family residences. Total build out area of the proposed subdivision is 227 acres, located on French Bar Road.

On April 18, 2005 and May 2, 2005 the Planning Commission conducted public hearings to consider the Notices of Intent to Develop submitted in accordance with the Resource Constraints and Priority Allocation Policy. The Planning Commission, with the assistance of staff, created a criteria matrix with which to review and rank the Notices.

After tallying the results of the matrix and a discussion of the merits of each project, the Commissioners awarded the Stonecreek Development and Shealor Property projects their complete allocation requests, a total of 34 HEUs. The lesser impacts of these two projects was the significant factor in awarding them their full allocation requests. It was determined The Ranch at Jackson Creek was not defined enough to warrant an allocation at this time and the remaining 82 HEUs were awarded to the Jackson Hills Golf Course and Community project.

She stated tonight's action would be to adopt Resolution No. 2005-28 approving the Planning Commission recommendation of the following 116 Housing Equivalent Unit allocation for 2005:

DEVELOPMENT PROJECT	HEU ALLOCATION
Stonecreek Development	8
Shealor Property	26
Jackson Hills Golf Course & Community	82
The Ranch at Jackson Creek	0

The City Council and staff discussed the following concerns:

1. The criteria matrix reviewed the impacts, benefits and ranked the Notices of Intent to Develop.
2. After submittal of an application the applicant has one year to complete their entitlement process.
3. The HEU allocation only gives the developer a "right to apply".
4. Developers can request an extension but typically an application should be ready in six months.
5. All developments with an allocation are subject to the application process, which includes environmental review in accordance with the California Environmental Quality Act.
6. Any project applying would still have to be in compliance with the existing General Plan and it would be probably advisable to be consistent with the proposed draft General Plan.

7. The Resource Constraints and Priority Allocation will be reviewed yearly in order to get an overview of the whole situation, such as existing resource constraints, allocations that have been used and what's likely to be submitted in the future.

Mayor Pryor Escamilla opened the public hearing.

Martin Tuttle, New Faze Development, Jackson Hills Golf Course & Community, was present to support the Planning Commission's recommendation and felt their project was an infill project that would integrate the golf course community and homes into the existing fabric of Jackson.

Cameron Stewart, Hartford Land Management, Shealor Property, was present to answer questions of the City Council and felt their project was a small infill property with minimal impacts to the community.

Robert Hix, Stonecreek Development, was present to answer questions of the City Council. The project will be 8 lots with a small park off of Scottsville Road and all of the utilities have been run to the property. This property is surrounded by development on all four sides.

Hearing no further comments from the public, Mayor Pryor Escamilla closed the public hearing.

Councilmember Nunes stated the Planning Commission and staff did an exceptional job reviewing and ranking the submitted Notices of Intent to Develop.

Councilmember Lewis stated she would have no questions, however she felt the City Attorney should review this matter after hearing the public input. City Manager Daly stated everything been done in accordance with the resolution and the Resource Constraints and Priority Allocation Policy.

Councilmember Lewis requested clarification that the City Council was only approving the Notice of Intent to Develop and not the projects. City Manager Daly stated tonight's action was to approve the Planning Commission recommendation of the following 116 Housing Equivalent Unit allocation for 2005 and not approval of the projects.

Councilmember Lewis requested the important reminder statement regarding awarding allocations, as noted in the staff report, be noted into the record and available to the public.

“Important Reminder: Awarding a development with an HEU allocation only allows a developer to apply for land use entitlements. All development with an allocation is still subject to the application process, which includes environmental review in accordance with the California Environmental Quality Act.”

Mayor Pryor Escamilla inquired what would happen to an allocation if during the environmental process the project was not approved, would those allocations go into the next year's allocation. City Planner Peters stated the City Council could consider that situation when reviewing the state of development in the city and before establishing the next year's allocation.

Mayor Pryor Escamilla requested staff continue to review the allocation criteria matrix process and current ranking system with possible revision for next year’s process. City Planner Peters stated staff would review the allocation criteria matrix process in order to refine the process.

Jeanne Plasse, Jackson, stated in the future developers should be better prepared when submitting their Notices of Intent to Develop to the Planning Commission for consideration.

City Planner Peters informed Ms. Plasse the Planning Commission took that into consideration during the ranking and criteria matrix process.

Moved by Councilmember Stidger, seconded by Councilmember Nunes, and unanimously carried to approve adopt Resolution No. 2005-28 approving the Planning Commission recommendation of the following 116 Housing Equivalent Unit allocation for 2005:

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7. Review of Agreement with Amador Water Agency.

City Manager Daly stated on March 14, 2005, the City received a letter from the Amador Water Agency (AWA) indicating that the City would not be entitled to receive any more water than what was delivered to the City by AWA in 2004. This notification, based on language in the water delivery agreement between the City and the water agency, stated that, “the City of Jackson’s entitlement for water for 2005 shall be the amount of water which the Agency actually delivered to the City for the 2004 calendar year.” The City Council reviewed this issue at the March 28, 2005, City Council meeting and approved transmittal of a letter to the Amador Water Agency requesting additional water delivery capacity in 2005. The AWA Board of Directors reviewed this request on April 14, 2005, and did not approve any additional capacity, but directed the AWA General Manager to meet with City staff to discuss revising the agreement to place the City on the same type of water capacity request process as other areas in the Amador Water System (serving Sutter Creek, Ione, Martell and other areas in the vicinity of these locations).

He stated he and Mayor Escamilla met with Jim Abercrombie and AWA Board members Heinz Hamann and Terrance Moore on April 25. At that meeting, the water agency provided some language revision proposals for both the 1985 agreement and the 1998 amendment to resolve the inconsistency of the water delivery provision with other areas in the Amador Water System and address some other issues in the agreements, as well as a statement related to the importance of the Amador Transmission Project towards any future capacity beyond what remains in the canal and the City’s comments on the environmental impact report. As a result of that meeting and proposal from the water agency, staff put together some discussion points related to those four issues. The City Council was provided a copy of those four issues.

Councilmember Nunes requested that City Manager Daly explain issue four, which states, “if the City

and Agency both request to provide service to the area, the determination of the provider of water and wastewater service shall be made by the Local Agency Formation Commission based on consistency with Cortese-Knox Local Government Reorganization Act regulations for municipal service areas.”

City Manager Daly stated the City’s water service area was defined the 1992 settlement agreement between the City and the AWA. The agreement states that the City may provide service in the designated service areas outside city limits. The AWA wants some language that states whom ever is providing water service to an area outside the city limits should also provide the wastewater service to that area as well for the efficiency to maintain the system with the same crew as well as providing billing for the water and wastewater. He stated the areas outside the city limits are now much more regulated by the Cortese-Knox Act which discusses establishing municipal service areas based on sphere of influence and planning areas. The proposed language that specifies consistency with the Cortese-Knox Act, as determined by LAFCO, would provide the City and water agency with a fair method of determining service areas in the future.

Councilmember Nunes inquired how this language would affect the Wicklow Way Subdivision. City Planner Peters stated the 1992 agreement shows that project in the City’s water service area and that the City has the first right of refusal for that project.

Councilmember Lewis stated the City paid thousands of dollars on the 1992 agreement to get the City’s water service area defined. She stated to come back now to negotiate away our protection and take on the wastewater was wrong, it should be on a different level or category. City Manager Daly stated legal counsel would review that proposed revision before the City entered into any final language.

Ron Regan, Jackson, stated his concern was regarding non-issuance of building permits for his development in Argonaut Heights and felt the developers were not provided proper notice. He stated unless the City wants to get into some major legal complications it was very important for the City of Jackson and AWA to come to a hasty resolution.

Councilmember Lewis inquired if the City or the AWA had contacted Mr. Regan that there would be no more building permits. Mr. Regan stated the City had informed him.

Mayor Pryor Escamilla stated for the record, the City was not issuing building permits since the receipt of the water agency letter stating they would not allocate any water over and above what was used in 2004 and that was an interim action. She stated if the City had had more notice, the public would have had been more notice. She agreed this matter needs to be resolved quickly and that was the reason this matter was on tonight’s agenda.

Tom Blackman, Coldwell Banker, stated the City Council has had plenty of warning because this contract has been in effect for a long time. He stated previous City Councils have not moved on this issue and never requested water allocations even though it is in the contract to do so. There are a lot of projects under construction in the City with no water available and that’s a serious serious problem for our City of Jackson and City Council. He urged the City Council to get something settled extremely fast.

Gary Clark, Jackson View, stated he had been informed that their building permits would be issued if they had a hold harmless letter. Mr. Blackman has 20 homes sold of the first 25 building permits they intended on pulling next week. Now they are being told the hold harmless letter would not satisfy their right to building permits issuance.

City Manager Daly stated there was never a City proposal for a hold harmless agreement. Mr. Clark stated that's what they were told at the last meeting with the City Manager and Building Inspector White. City Manager Daly stated that had been proposed however it was never approved and staff was advised by legal counsel that not a good route to take.

Councilmember Lewis stated her personal opinion that the City of Jackson was more or less being blackmailed into submitting and not maintaining the water in our creeks. She stated the Council should keep going forward until we obtain legal counsel.

Mayor Pryor Escamilla stated her point of view it was that the City Council's intention was to move as quickly as possible on this matter. She felt the meeting with AWA was very productive as far as understanding what their issues are and that both parties recognize the 1985 agreement was not a well-written or effective agreement.

City Manager Daly stated the focal issue with the 1985 agreement was the request for future water delivery. The City and AWA both agree that existing lots should be treated similarly in all areas of the Amador water system based on their rules and regulations and believe that should not hold up the resolution of the 1985 agreement issue.

Councilmember Stidger asked Jim Abercrombie, AWA General Manager, what was the City's water usage in relation to last year usage, so the City Council could look into approval building permits for ministerial projects that are currently taken place.

General Manager Abercrombie stated the City's usage was currently 3 percent over last year's usage and that was even with the very wet spring. The usage actually was about 8 percent increase over the past year.

Councilmember Lewis inquired why AWA waited until this year to notify the City of Jackson of the water entitlement matter. She stated it would have been nice if the AWA had brought up this agreement not at deadline and putting the stress on the developer, that was just wrong.

General Manager Abercrombie noted the City was notified in 2002, 2003 and 2004 that all future developments would be requiring a will serve commitment contingent on the pipeline agreement. He stated unfortunately it was one of those things, everybody is busy, everybody has a lot of commitments and the water agency is running out of capacity. He stated it would have been nice for both agencies to sit down and negotiate the water service agreements many years ago. He stated from the agency perspective, they want to resolve this issue, they want the City of Jackson treated like their other customers. He agreed the 1985 agreement is archaic, however they need the capacity with the pipeline in order to treat the City the same.

Mayor Pryor Escamilla directed staff to continue working with the Amador Water Agency to amend the water delivery agreement and other contractual issues as identified, with particular emphasis on prompt resolution to allowing water service connections for ministerial projects.

8. Award of Bid for General Plan Land Use/Circulation Element and Zoning Ordinance Environmental Impact Report.

City Manager Daly stated on March 28, 2005, the City Council was presented with an option for hiring a consultant to begin the EIR for the Land Use Element, Circulation Element and Zoning/Development Ordinance. The City had obtained an estimate for this project from Pacific Municipal Consultants due to their familiarity with the environmental issues in the area and their previous work associated the Jackson Hills Golf Course and Community EIR preparation.

At that meeting staff was directed to seek additional competitive bidders to see if other firms might be interested in performing this work and for cost comparison purposes. Staff was also asked to determine if a legal conflict of interest may exist that would prevent one consultant from preparing an EIR for a City project and a private development project at the same time.

The request for proposals notice was published in the newspaper and e-mailed or faxed to fifteen environmental planning consulting firms located in northern California. Staff utilized the list on the American Planners Association Northern California Chapter web site as a directory of potential firms. Regarding the potential conflict issue, interim City Attorney Dennis Crabb was consulted and he concurred with staff that there is no conflict of interest, since in both situations noted above the consultant was working for the City of Jackson.

The request for proposal deadline was Friday, April 22, and only one bid was received which was a submittal from Pacific Municipal Consultants. A project cost of \$145,986 is proposed by PMC to complete this work. A timeline of 41.5 weeks is the estimated time to complete and certify the EIR.

He stated four other firms provided the City with letters or e-mails stating that they were unavailable to perform the requested project. In telephone follow-ups with additional firms, they also stated the workload factor as a reason for not submitting proposals, as well as a sense that PMC would probably be best prepared to perform this project due to the technical information they have compiled on the area. It is a very busy time for planning consultants with the high level of development occurring in the region.

Moved by Councilmember Stidger, seconded by Councilmember Nunes, and unanimously carried authorizing staff to enter into a contract with Pacific Municipal Consultants to prepare an Environmental Impact Report (EIR).

City Manager Daly stated he would prepare a resolution for approval on the next agenda consent calendar.

9. COUNCIL REPORTS.

Councilmember Lewis reported on the following items:

1. Attended the Amador County Air District meeting and she has once again requested they release funds for the walkway from Rollingwood instead of returning those funds to the State. She stated City Manager Daly would be submitting a letter to the Air District requesting that the City be allowed those funds.
2. Attended the Amador County Waste Management meeting and was informed the County would like to use these funds for a County project. She requested an agenda item at the next meeting to discuss the City desire to obtain those fees for a City project. City Manager Daly stated there is an application form to obtain those funds and he could have an item on the next agenda to confirm the City's interest in utilizing those funds.

Mayor Pryor Escamilla reported on the following items:

1. Attended the Indian Gaming Local Community Benefit Committee meeting to review the applications and the committee will be meeting again on May 19.
2. The next ACRA Board meeting this Wednesday, May 11 at 3:00 p.m. at the County Administrative Building located at the Airport and that members of the public are welcome.

10. CLOSED SESSION.

- a. Public Employment. Title: City Attorney (Pursuant to Government Code Section 54957)

Reconvened to Open Session at 8:52 p.m.

Moved by Councilmember Lewis, seconded by Councilmember Nunes, and unanimously carried offer a contract with Thomas Gibson with the firm of Best, Best & Krieger as the new City Attorney for the City of Jackson.

11. ADJOURNMENT

Adjourn: 9:53 p.m.

ATTEST:

Gisele L. Cangelosi, City Clerk

Date Approved: November 14, 2005