

Jackson City Council  
Minutes  
Regular Meeting of May 23, 2005

**COUNCIL MEMBERS PRESENT:**

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

**CITY STAFF PRESENT:**

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

**COUNCIL MEMBERS ABSENT:**

None

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

**1. APPROVAL OF AGENDA.**

**Moved by Councilmember Lewis, seconded by Councilmember Stidger, and  
unanimously carried to approve the City Council Agenda dated May 23, 2005.**

**2. PUBLIC MATTERS NOT ON THE AGENDA.**

Duke Foster, Watershed Coordinator, Dry Creek Watershed, stated the City of Jackson would be hosting the first stakeholder meeting on June 30 at 6:00 p.m. at the Jackson Civic Center and will be open to the general public. This will be a two-year program assessing the watershed between Highway 88 north to the Amador/El Dorado County line and in the Buena Vista/Ione Area. The committee will review and address concerns and develops a report and/or plan that would provide for long term management and restoration of the watershed.

Warren Carleton, stated his concerns was regarding an article in the Ledger Dispatch reporting that the City of Jackson was trying to find more water for Jackson. He asked City Manager Daly if this winter was dry and the next two summers hot, would there be enough water and would the citizens of Jackson be required to ration water.

City Manager Daly stated the water delivery agreement with AWA is for just this year, and the City does not anticipate being under the same arrangement for 2006. He stated with the conservation due to the weather this year the City does not anticipate coming close to the 427,000,000 million gallons that were used last year and there should be no water rationing.

### **3. CONSENT CALENDAR**

- a. Approve Contract for City Attorney Services with the firm of Best, Best & Krieger designating Thomas Gibson as City Attorney.
- b. Approval of Minutes of January 10, 2005 meeting.
- c. Approval of Expenditure Report for the period of May the amount of \$ 69,314.14.
- d. Accept March, 2005 Treasurer's Report and Sales Tax Report.
- e. Adopt Resolutions Approving Subordination of CDBG Loan to the Amador-Tuolumne Community Action Agency and Recording Deed of Trust.
- f. Adopt Resolution Designating "No Parking" Areas on Both Sides of Argonaut Lane Adjacent to Argonaut High School.

**Moved by Councilmember Lewis, seconded by Councilmember Nunes, and unanimously carried to approve the Consent Calendar as presented.**

Mayor Pryor Escamilla welcomed and introduced the City of Jackson's new City Attorney, Thomas Gibson with the firm of Best, Best & Krieger.

Mayor Pryor Escamilla thanked City Manager Daly for posting the "City of Jackson Council Meeting Ground Rules" which helps remind the City Council to conduct the meeting with the utmost decorum.

### **4. ADMINISTRATIVE REPORTS.**

Police Chief Morrison reported on the following items:

1. The Gold Country Cruise Car Show was held last Saturday and was a great success. He commended Toni Fancher for a tremendous job and noted the Police Department would continue to support her and the annual car show.
2. The Every 15 Minutes program will be held Tuesday, May 24 at 11:30 a.m. at the Amador High School.

City Planner Susan Peters reported on the following items:

1. Staff continues to work on the Zoning Ordinance update.
2. Staff is working on a format for handling encroachment permits with Caltrans.
3. Pine Meadows Subdivision Planned Development and Final Map 55 Amendments will be on the next City Council meeting.
4. Public Hearing has been scheduled for the June 13 City Council meeting to confirm required Park Features for Gold Country Estates (Woodside Homes).

City Attorney Gibson thanked the City Council for the opportunity and noted he was looking forward to working with the City. He introduced his associate Attorney Dennis Cota, who primarily works of police matters particularly with litigation.

City Manager Daly reported on the following items:

1. Amador County Transportation Commission hosted the second Interagency Communication Summit on Wednesday, May 18. Charles Field and Mel Welsh put that event together and it was well attended. Lots of special districts and special agencies had an opportunity to

discuss issues that they are facing through out Amador County with the influx of growth. The third event in that series is scheduled for Wednesday, June 22 at 6:00 p.m. at the American Legion Hall and will be a public forum to allow members of the public to ask questions of all these different organizations.

2. Attended the Indian Gaming Special Distribution Fund committee and it appears the City will be funded one patrol car, emergency equipment for the vehicles and a little over \$6,000 for the automatic external defibrillators. The City is appreciative to the Jackson Rancheria and the funding that will be available for that process.
3. Public Hearing for the Notice of Preparation for the Sutter Amador Hospital Environmental Impact Report has been scheduled for June 13 and the comment deadline is June 17. A copy of the report is available at City Hall and at the Jackson Library.

## **DISCUSSION CALENDAR**

### **5. Jackson Business Improvement District Public Hearing.**

City Manager Daly reported on April 25, 2005, the City Council adopted, Resolution No. 2005-26, declaring its intention to continue the Downtown Jackson Business Improvement District and to set assessments for FY 2005-06. The Council's action responded to the recommendations of the BID Advisory Board which were presented at the same meeting.

Pursuant to State law, copies of the resolution of intention were mailed to each business in the proposed district. Recipients were advised of an intent to modify business classifications, assessments, and district boundaries and the plan of work for the coming year. Recipients were also advised of the protest hearing date and procedures for filing protests with the City Council.

State law requires protests be made in writing to count toward the protest vote. The law provides written protest must be received from the businesses representing no more than 50 percent of the total assessment value if the Council desires to continue BID activities. One hundred eighteen (118) businesses were identified as being within the proposed boundaries and were mailed copies of the resolution of intention. Those businesses represent a BID assessment value of \$15,635 with a reduction of \$2,410 due to a drop in the recommended assessment rates. So far the City has received protest letters from two businesses on Main Street, Badger Paw and Jackson Stationary. The protest value is \$400.00 dollars which is 2.56% percent of the total assessment for the next year's district.

Mayor Pryor Escamilla opened the public hearing. Being there was no public comment, Mayor Pryor Escamilla closed the public hearing.

**Moved by Councilmember Nunes, seconded by Vice-Mayor Rodriguez and unanimously carried to approve carried to adopt Resolution No. 2005-31 approving the Jackson Business Improvement District and Setting Assessments for the 2005/2006 Fiscal Year.**

### **6. Circulation Element Amendment.**

City Planner stated the Planning Commission reviewed the proposed draft amendments at its

meeting on May 16 and recommended forwarding the document to the City Council for consideration. She reported as part of the Resource Constraints and Priority Allocation Policy, traffic was identified as a significant resource constraint. Additionally with the results of the having an environmental impact report prepared for the Jackson Hills Project, several deficiencies in the City's existing traffic and circulation system were identified as exceeding the thresholds that were set in current Circulation Element of the City's General Plan.

She stated the Planning Commission decided the best way to handle this deficiency would not be to lower the threshold thereby allowing development to continue as usual. To keep the threshold at LOS C and allow for some exceptions for projects like the hospital project, which is a community benefit, small subdivision four or less lots, projects that clearly provide a transportation benefit.

Subsequently staff met with Joe Holland and Charles Field from the Amador County Transportation Commission (ACTC) regarding potential amendments to the City's Circulation Element of the General Plan. After some discussion with ACTC staff it was determined that a review of the entire Circulation Element, as opposed to just the policy section, would be more efficient particularly since the City would already be preparing an Environmental Impact Report on amendments to the policy section.

Charles Field, Executive Director, ACTC was present tonight to discuss the recommendations and changes to the Draft 2005 Circulation Element Update intended to bring the City's Circulation Element consistent with the recently adopted 2004 Amador County Regional Transportation Plan (RTP).

He stated all changes contained in the proposed Draft 2005 Circulation Element are considered minor when compared to the previously adopted 1999 City of Jackson General Plan Circulation Element. The numbers do not change dramatically, they do include the Jackson Rancheria Casino traffic and the growth the City was projecting as of 2001. The circulation element does not include recent land use and transportation planning projects being considered as of May and June 2005. Such projects include:

1. Jackson Hills Development
2. Wicklow Way Development
3. Amador Countywide Bicycle and Pedestrian Plan
4. Jackson SR 88 Corridor Plan
5. City Traffic Mitigation Fee Update with Capital Improvement Program and Nexus Plan

He stated all of these elements could be added to the Circulation Element even after it has been adopted and should be required to submit their own circulation elements amendments.

The only policy change in the proposed Draft 2005 Circulation Element Update involved the modification of the City's Level of Service (LOS) Policy. These changes are consistent with the policy developed by the 2004 RTP Project Oversight Committee. They enable the cities and county to avoid an outright moratorium on local development caused by the inability to maintain LOS C and D on the state highway system. He stated the RTP policy states if a lead agency (city or county) determines there are benefits of a project that outweigh the project's contributing the

level worse than LOS C or D, then the project does not have to be denied and may be approved. The RTP is not a lead or land use agency so it winds up as being a recommendation to the cities and the county. This policy sets up a condition that if any development adds one more cars to a LOS C or D, they would have to perform an environmental impact report. The language implies that a Statement of Overriding Consideration was going to be adopted by the Planning Commission or the City Council before they approve that project. He stated a Statement of Overriding Consideration can only be done in an EIR, so it sets up this arrangement where any and all projects have to perform an EIR in order to get approved. He believes the cities and county did not intend the policy be that dramatic.

He stated City staff developed the proposed change to Policy 2.A.1 and Policy 2.A.2 of the Draft 2005 Circulation Element Update and read the proposed changes into the record.

Policy 2.A.1. The City shall maintain an average daily LOS “C” on all roadways, with an upper threshold of LOS “D” to be permitted along State Route 88 east of State Route 49. Recognizing that much of the traffic on Highway 49 and 88 is a result of development outside the boundaries of the City of Jackson, projects may exceed the desired threshold if one of the following findings can be made:

1. The project is providing a public benefit which offsets the project’s traffic impacts.
2. The project will fund and construct traffic improvements which will offset the majority of the project’s traffic impacts.
3. The size and nature of the project is such that the percent increase in traffic on Highway 49 and 88 during peak traffic time periods is deemed minimal.

The following are examples of project that may be permitted:

- a. Minor lot splits or housing development involving five or less units and which are consistent with the City’s General Plan.
- b. Affordable housing projects that help achieve housing element goals and objectives.
- c. Non-commercial public services, buildings, and facilities.

Policy 2.A.2. The City shall require that new development projects that may contribute to an LOS level greater than “C” or “D” as set forth in Policy 2.A.1) shall be analyzed with a traffic guidelines. In addition, the traffic study should use the Countywide Traffic Model to determine and mitigate the impacts that the development will have on the regional roadway system. Land use development projects that were anticipated within the Countywide Traffic Model for purposes of the 2004 RTP Update may not be required to prepare such traffic studies. Traffic studies shall include recommended mitigation measures intended to help maintain the City’s adopted LOS Policy 2.A.1. consistent with state laws concerning “nexus” and “rough proportionality.” Such traffic impact studies should also address the project’s impacts and proposed mitigation measures as they directly relate to all other policies in the 2005 City of Jackson Circulation Element.

Gordon Miller, Jackson, stated his concern was that Jackson was being railroad once again by the ACTC Highway 88 Corridor Planning Project Oversight Committee with regards to the Jackson SR 88 Bypass.

Vice-Mayor Rodriguez stated the Mission Statement of the Highway 88 Corridor Planning Project Oversight Committee (POC) states they were trying to alleviate traffic problems while maintaining the character of our community. He stated POC saw a report that stated staff or someone from one of the committees had decided that one of the routes through Jackson best met the criteria and that was what has the people upset. He noted someone was stating the committee said something that was just the opposite of what the committee had said.

Mr. Field stated on behalf of the ACTC, whenever planning is involved, there will be controversy and asked that the citizens, especially the members of the POC to be patient and understand there is a process. He stated for individuals to state there is a conspiracy, that Jackson was the fall guy or that the POC is being ignored, was incorrect. He stated there would be a meeting this Thursday night specially intended to explain to POC what the steering committee did.

Mayor Pryor Escamilla requested that Mr. Field clarify the relationship between the steering committee and the Project Oversight committee.

After considerable discussion among the City Council regarding the proposed changes to the Draft 2005 Circulation Element. City Planner Peters clarified this agenda item was a workshop and staff was not looking for any formal action. Staff was requesting direction to continue the process and submittal of the revisions to the consultant preparing the Environmental Impact Report.

It was the consensus of the City Council to direct staff to process the proposed changes and to submit these revisions to the consultant preparing the Environmental Impact Report for their analysis.

#### **7. Measure E Advisory Committee Recommendations.**

City Manager Daly stated back in November, 2002, voters in the City of Jackson approved Measure E, raising the City's transient occupancy tax from 8% to 10%. In conjunction with the placement of this initiative on the ballot, the City Council adopted Resolution No. 2002-30, stating, "The Council hereby declares that the first priority expenditure of the additional two percent (2%) of the transient occupancy tax funds collected by the City as a result of the ballot measure shall be tourism and business promotion, economic development, and downtown revitalization."

The additional two percent tax began on January 1, 2003. To assist the City in determining the best use of these funds, a special advisory committee was appointed by the City Council to develop a process for seeking proposals for funding and to recommend projects to be funded. The Measure E Advisory Committee, whose membership includes Stan Lukowicz, Paul Molinelli Jr., Tom Peyton, Tracey Berkner, Donna Stevens, Keith Sweet and Michael Clausen, met in mid-March to establish the proposal process for the 2004 funding and to review funding provided the previous year. A request for proposals format similar to the previous year was approved and a deadline of May 2 was established. A total of four organizations submitted proposals totaling \$134,837 in requests. The revenue collected in 2004 as a result of the additional two percent transient occupancy tax was \$62,893.

A summary of each funding request and a breakdown of the total funding is attached. Below is the total funding request and recommended funding level for each organization:

|                                       | <u>Request</u>   | <u>Recommendation</u> |
|---------------------------------------|------------------|-----------------------|
| Amador Council of Tourism             | \$ 13,350        | \$11,093              |
| Amador County Chamber of<br>Commerce  | \$ 50,000        | \$15,000              |
| Historic Jackson Business Association | \$ 61,487        | \$26,800              |
| Main Street Theatre Works             | \$ 10,000        | \$10,000              |
| <b>TOTAL</b>                          | <b>\$134,837</b> | <b>\$62,893</b>       |

City Manager Daly noted representatives from the Amador County Chamber of Commerce and the Amador Council of Tourism were present to answer questions of the City Council. A copy of the entire proposal from each of the organizations was provided for City Council review. He noted it was at the discretion of the City Council to allocate the final amounts.

Councilmember Lewis stated if the Historic Jackson Business Association was allocated \$26,800, they should be required to submit \$6,800 of those funds to a separate fund for the City of Jackson for the purchasing the Ratto Theater lot to improve the downtown district. She stated some of Measure E funds should be retained and utilized for tourism and business promotion, economic development, and downtown revitalization.

City Manager Daly stated three years ago, the City commissioned an appraisal on that property with the intend of presenting a proposal to the property owner to purchase the land. The City enter into negotiations with the property owner and determined the property owner does not appear to be interested in selling the property within the confines the City has as a public agency. Based on other conversions with this individual and other associates of this individual, it appears he is not interested in selling to the City at any price. He stated that this matter could be further investigated.

Mayor Pryor Escamilla stated the purchase of the Ratto Theater was listed as a key initiatives on the 2001 Action Plan and that these initiatives will be reviewed in the near further. She recommended that the Measure E funding policy and guidelines be reviewed before the next funding cycle.

**Moved by Councilmember Stidger, seconded by Councilmember Nunes, and carried by a 4 to 1 vote (Councilmember Lewis dissenting) to carried to approve the four projects recommended the Advisory Measure E Advisory Committee in the amount of \$62,893 in Measure E funding to four local organizations/projects: Amador Council of Tourism, \$11,093; Amador County Chamber of Commerce, \$15,000; Historic Jackson Business Association, \$26,800; and Main Street Theatre Works, \$10,000.**

#### **8. Award of Contract for Court Street Waterline & Sewer Project.**

Vice-Mayor Rodriguez stepped down and left the Council Chamber because his property is contiguous to the project property boundaries.

City Manager Daly reported the City's Capital Improvement Program includes a project to replace the water main in Court Street from McDowell Street east to Placer Drive, as well as some sewer line upgrades in the area. A portion of this water main was replaced in Court Street from Placer Drive east to New York Ranch Road approximately three years ago. Some sewer line replacements are also included in this project.

He stated this project was put out to bid twice and no bids were received. After the first attempt it was concluded that contractors had some concerns regarding specific utility locations due to rocky outcroppings common in the area and uncertainties due to the age of the system. Additional surveying and engineering was conducted and the specifications for the project were improved with additional detail. The project was advertised for bid in March (including in the *Sacramento Bee*), five prospective bidders attended the mandatory pre-bid conference, however, no bids were submitted for the project.

For the second round of bidding, the response from contractors was again some concern about the difficulty of the project, but also due to the vast amount of construction activity. Per Jackson Municipal Code Section 3.08.250, when no formal bids are received, the purchasing officer is authorized to negotiate for written proposals. The City contacted David Armstrong, who had attended the pre-construction conference and performed work on other projects in the City to request a "not to exceed" time and materials based proposal of \$270,000 to undertake this project. A copy of his proposal, with hourly rates, was provided.

He stated if approved the project is scheduled to commence on June 13 which is the first Monday after the Jackson Elementary School's summer vacation begins and should be completed before school go back in session. Shutting down portions of Court Street (including between Placer Drive and Pitt Street) is proposed to eliminate the need for flaggers to control traffic. This will also allow the contractor enough freedom to perform the job in an expeditious manner and not be interrupted by traffic control. One worker from the city water department will be on the job at all times to help monitor the required work.

**Moved by Councilmember Nunes, seconded by Councilmember Lewis and 4 to 0 vote (Councilmember Rodriguez abstaining) to carried by unanimously carried to approve carried to adopt Resolution No. 2005-32 Awarding Court Street Water & Sewer Project, City Project No. 2003-05 to Armstrong & Son Construction, Inc. and Authorizing City Manager to Execute Necessary Documents.**

Vice-Mayor Rodriguez rejoined the meeting.

#### **9. Planning Commission and Cemetery Committee Vacancies.**

City Manager Daly stated the Planning Commission and Cemetery Committee terms last two years and expires on June 30. Both advisory bodies have alternating years of two and three seats expiring to maintain continuity. This year, the seats of Planning Commission members David Butow, Warren Carleton and Wayne Garibaldi expire on June 30. The Cemetery Committee members Alfred Nunes and Don Vicini expire on June 30. Each of these Commissioners and Committee members received notice that their terms are expiring and they are eligible for another

term positions.

Regardless of the interest of the incumbents, the City must open the application process to all qualified residents. It is recommended that the City accept applications for these seats until June 17, 2005, in order to allow time for City Council appointment at the regular meeting on June 27, 2005.

Mayor Pryor Escamilla inquired if the candidates needed to reside within the City limits. City Manager Daly stated that was a requirement for both committees.

Councilmember Lewis requested the City Council revisit the requirement that candidates for the cemetery have to reside within the City limits. City Manager Daly stated that request could be brought back for discussion at the next City Council meeting.

## **10. COUNCIL REPORTS.**

Councilmember Lewis reported on the following items:

1. The next Amador County Air District meeting is scheduled for June 15 and hopefully will know more about funds for the walkway from Rollingwood.

Councilmember Stidger reported on the following items:

1. Attended the Gold Country Cruise Car Show on May 21.
2. DARE graduation is scheduled for June 1 at the Jackson Elementary at 8:30 a.m.

Vice-Mayor Rodriquez stated he would be attending the Highway 88 Corridor Planning Project Oversight Committee (POC) on Thursday.

Councilmember Nunes reported on the following items:

1. Attended the CSRC&D meeting.
2. Attended the LAFCO meeting.
3. The Cemetery Committee continues to discuss the Friends of the Jackson Cemetery, Adopt-a-Plot program, gravesite repairs, cemetery gates closure on weekdays, weekends, and holidays and that the Cemetery Sexton position has been filled.

Mayor Pryor Escamilla reported on the following items:

1. Will be revising the Code of Conduct to incorporate the changes from the April 11, 2005 City Council meeting.
2. Award of 2005 USTA/NPR Tennis in the Park Initiative and did an outreach to get individuals involved to provide instruction for youth and adults. She and City Manager Daly will be meeting with Benita Asher to put together the next step in the plan.
3. Attended the Gold Country Cruise Car Show on May 21 and the following day performed a spot survey regarding and received positive and supportive input.

## **11. CLOSED SESSION.**

Councilmember Lewis stepped down. She stated at the October 12, 2004 City Council meeting she had requested that the City Attorney providing, in writing, the City staff's conclusion with regards to the environmental impacts and case law on the subject. She stated if a legal opinion had been

provided the City Council would have continued and done the General Plan right. Councilmember Lewis left the Council Chamber due to a conflict of interest.

- a. Conference with Legal Counsel – Existing Litigation: (Subdivision (a) of Section 54956.9)  
Name of case: Ken Berry, Friends of Jackson v. City of Jackson, Jackson City Clerk, Amador Superior Court Case No. 04-CV-3566.

Reconvened to Open Session at 8:50 p.m. Vice-Mayor Rodriguez stated there was no reportable action taken.

**12. ADJOURNMENT**

Adjourn: 8:51 p.m.

ATTEST:

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Gisele L. Cangelosi, City Clerk

Date Approved: November 28, 2005