

**RED BLUFF  
CITY COUNCIL  
REGULAR CITY COUNCIL MEETING**

**Date of Meeting:** Tuesday, November 3, 2009  
**Time of Meeting:** Closed Executive Meeting 6:15 p.m.  
Regular Council Meeting 7 p.m.  
**Place of Meeting:** City Hall Council Chambers  
555 Washington Street  
Red Bluff, Ca 96080

**Councilmembers Present:**

Wayne Brown, Mayor  
Jeff Moyer, Mayor Pro Tem  
Forrest Flynn  
James Byrne  
Bob Carrel

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**Staff Present:**

Martin Nichols, City Manager  
Richard Crabtree, City Attorney  
Margaret Van Warmerdam, Finance Director  
Jo Anna Lopez, City Clerk  
Paul Nanfito, Police Chief  
Scot Timboe, Planning Director  
Mark Barthel, Public Works Director  
Mike Bachmeyer, Fire Chief  
Tessa Pritchard, Human Resources Director  
Debbie Carlisi, Parks and Recreation Director  
Donna Gordy, City Treasurer  
J.D. Ellison, Building Director

Mayor Brown called the meeting to order at 7 p.m.

John Yingling, Executive Vice President of the Chamber of Commerce to lead the Pledge of Allegiance and the Assembly Joined in.

## **CLOSED EXECUTIVE SESSION:**

- 1. CONFERENCE WITH LABOR NEGOTIATORS:  
Executive Session in accordance with Government Code Section 54957.6 for the purpose of instructing the City's designated representatives Martin Nichols, City Manager, and Tessa Pritchard, Human Resource Director, regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits with the Fire Unit Employee's**

## **2. PENDING LITIGATION**

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- a. **PENDING LITIGATION: CASE NO. 58342  
Citizen's for a Healthy Community v. City  
of Red Bluff – Wal-Mart**
- b. **PENDING LITIGATION: CASE NO. 61476  
Red Bluff Citizen's for Sensible Planning v.  
City of Red Bluff – Wal-Mart**

Mayor Brown reported that during the Closed Session the City Council had given direction to staff.

**CITIZEN'S COMMENTS:**

No Comment

## **CONSENT AGENDA:**

M/S/C Councilmembers Flynn and Moyer to approve the Consent Calendar.

AYES: Councilmembers Flynn, Moyer, Byrne, Carrel and Brown

NOES: NONE

ABSENT OR NOT VOTING: NONE

## **APPROVAL OF MINUTES**

**October 20, 2009**

***5/0/0 Approved***

## **STREET CLOSURE; CHRISTMAS PARADE; RESOLUTION NO. 42-2009**

### Recommendation:

That the City Council adopt Resolution No. 42-2009 providing for the street closures from the 300 through the 600 blocks of Walnut Street, 600 through 700 blocks of Main Street, and the 300 through the 600 blocks of Oak Street for the annual “Christmas Parade” and the 300 block of Pine Street (between Main and Washington Streets) for related parade and Christmas activities.

***5/0/0 Approved***

## **REPORT REGARDING CONTRACT AWARDS – JULY TO SEPTEMBER 2009**

### Recommendation:

That the City Council receives the Contract Awards for July through September 2009.

***5/0/0 Approved***

## **TREASURER’S REPORT:**

### Recommendation:

That the City Council accepts the report for the 10<sup>th</sup> month of the Fiscal Year 2008.

***5/0/0 Approved***

## **TREASURER'S REPORT**

### Recommendation:

That the City Council accepts the report for the 11<sup>th</sup> month of the Fiscal Year 2008.

*5/0/0 Approved*

## **CURRENT BUSINESS:**

### **2010 OPEN RIVERS INITIATIVE**

Martin Nichols, City Manager, reviewed the staff report and gave staff's recommendation that the City Council authorize the City Manager to sign an application for the National Oceanic and Atmospheric Administration (NOAA) 2010 Open Rivers Initiative funding for up to \$750, 00.

M/S/C Councilmembers Carrel and Moyer to authorize the City Manager to sign an application for the National Oceanic and Atmospheric Administration (NOAA) 2010 Open Rivers Initiative funding for up to \$750, 00.

AYES: Councilmembers Carrel, Moyer, Brown, Byrne, and Flynn

NOES: NONE

ABSENT OR NOT VOTING: NONE

## **PROPOSED LETTER TO THE CHAMBER OF COMMERCE**

Martin Nichols, City Manager, reviewed the staff report and gave staff recommendation that the City Council consider the recommendation from Councilmember Flynn to send a letter to the Chamber of Commerce regarding Chamber services and funding.

M/S/C Councilmember Flynn and Moyer approve to send a letter to the Chamber of Commerce regarding Chamber services and funding.

AYES: Councilmember Flynn, Moyer, Carrel, Brown and Byrne

NOES: NONE

ABSENT OR NOT VOTING: NONE

## **PUBLIC HEARING TO CONSIDER ORDINANCES RELATED TO MEDICAL MARIJUANA**

- A) ORDINANCE NO. 1000; REZONE NO. 213; AMENDING SECTION 25.213 OF THE RED BLUFF CITY CODE PROHIBITING USES – PROHIBITING MEDICAL MARIJUANA DISPENSARIES, COLLECTIVES, COOPERATIVE AND THE CULTIVATION OF MARIJUANA IN ANY ZONING DISTRICT ALONG WITH AMENDING RED BLUFF CITY CODE SECTION 25.239 DEFINITIONS BY ADDING A DEFINITION FOR MEDICAL MARIJUANA DISPENSARIES, COLLECTIVES, COOPERATIVE AND THE CULTIVATION OF MARIJUANA**

Richard Crabtree, City Attorney, gave a brief power point presentation.

Scot Timboe, Planning Director, reviewed the staff report and gave staff's recommendation that the City Council:

1. Conduct the public hearing and consider all public testimony and other information submitted relating to Ordinance No. 1000; Rezone No. 213.
2. Find that Ordinance No. 1000; Rezone No. 213 is exempt from CEQA pursuant to Section 15061 (b) (3) of the CEQA Guidelines.
3. Waive the First Reading and Introduce Ordinance No. 1000; Rezone No. 213, amending Section 25.213 of the Red Bluff City Code Prohibiting Uses by adding Medical Marijuana Dispensaries, Collectives, Cooperatives and the Cultivation of Marijuana in any Zoning District along with Amending

Red Bluff City Code Section 25.239 Definition by adding a Definitions for Medical Marijuana Dispensaries, Collectives, Cooperatives and the Cultivation of Marijuana.

Mayor Brown opened the public hearing at 7:07 p.m.

Roy Yarbrough, resident of Dairyville, stated that he was not in favor of the ordinance, but thinks it should be regulated through licensed pharmacies, like all other prescription drugs.

Ali Abassi, resident Red Bluff, stated that he thinks it should be regulated by the State and pharmaceutical companies, since studies show that the harm far out ways the good of the drug.

Kathy Prather, resident of Corning, has Huntington's disease and is not in favor of this ordinance.

Heather Standfield, resident of Proberta, is not in favor of the ordinance, as she has a sick mother and marijuana is the only thing that helps her.

John Prinz, resident of Red Bluff, not in favor of the ordinance.

Ashley Aguiar, Owner of the Blue Toad, stated that she was not in favor of this ordinance.

Donna Will, Tehama County resident, stated that she is a member of the collective and feels it would be wrong to close it. She stated that she is not in favor of the ordinance and recommends that this come back for consideration after City Council discussion.

Fred Webb, from Red Bluff, spoke in favor of the ordinance.

Nathan Scott, resident of Red Bluff, stated that he was not in favor of the ordinance.

Les Wolf, resident of Red Bluff, spoke in favor of the ordinance.

Pat Johnston, resident of Red Bluff, stated that she was not in favor of the ordinance.

Kim Moore, resident of Lake California, stated that she was not in favor of the ordinance.

Kathy Bonner, resident of Red Bluff, spoke in favor of the ordinance.

Justin Miller, resident of Red Bluff, stated that he was not in favor of the ordinance, as he uses and grows marijuana for his own personal use.

Curtis Parker, resident of Red Bluff, stated that he was not in favor of the ordinance.

Lana Garret, Co-Operator of the Blue Toad, stated that she was not in favor of the ordinance.

Cory Perkiss, resident of Red Bluff, was not in favor of the ordinance.

Patricia Standfield, resident of Proberta, not in favor of the ordinance.

Glen Valueroseo, resident of Red Bluff, not in favor of the ordinance.

Dawn Jenkins, resident of Red Bluff, gave slide show presentation on medical marijuana.

Ken Prather, resident of Tehama County, stated that he was not in favor of the ordinance and that he was upset by the City Planner not issuing an occupancy license and business license. The Building Director issued a citation with building deficiencies for no occupancy which has not been cleared to date. He would request an answer to his issues with the City personnel as soon as possible.

Tom Scott, resident of Tehama County, spoke in favor of the ordinance, feels it would put a strain on the Police Department.

Courtney Abbassi, Red Bluff High School student and resident of Red Bluff, spoke in favor of the ordinance. She stated that it's easier for kids to get a hold of marijuana with people having prescriptions and dispensaries in our city. She stated that she has noticed this first hand.

Ali Abbassi, resident of Red Bluff, spoke in favor of the ordinance. He is aware of many instances where people with doctor's recommendations are allowing friends and family members to use their prescribed marijuana. How will this situation be policed? It is hard enough to raise children with this fear. This is a smoke screen for illegal activities.

James Wooden, resident of Red Bluff, would like this issue investigated a little more, and come back to vote at a later date.

Steve Rawson, resident of Red Bluff, in favor of staff recommendation.

Travis Strock, resident of Red Bluff, not in favor of ordinance

Alyssa Eastman, resident of Red Bluff, not in favor of ordinance, also does not feel that this should be voted on today.

Mayor Brown called for a 5 minute break.

Mayor Brown closed the public at 9:07 p.m. and brought the discussion back to Council.

Councilmember Flynn stated that he understood the public's comments regarding medical marijuana and cops, but the Council has to also think of the other 15,000 Red Bluff citizens.

Mayor Pro Tem Moyer, questioned Police Chief Nanfito why one person gets arrested and the other doesn't when it comes to medical marijuana

Police Chief Nanfito stated that the first gentlemen was found in compliance with the Medical Marijuana Act, so the Officers just took a report. The possession, cultivation, sale and use of marijuana is still illegal, the Compassionate Use Act decriminalizes penalty for that with a recommendation from your physician. A Physician cannot issue a prescription for marijuana. They can issue a recommendation for those they feel can benefit from the use. In the second gentlemen's case probably what happened was that the Officers determined he was not in compliance with the Compassionate Use Act, therefore he was arrested.

Mayor Pro Tem Moyer asked if you have a recommendation for 1 ounce and you don't use it what happens to it.

Kim Moore stated that it's her moral scruples and that there are no guidelines for this issue. There really is no way to track the medical marijuana.

Councilmember Carrel questioned how is the Police Department was going to monitor the co-ops and cultivation of marijuana and felt that until there are better State guidelines he didn't see how this was going to work.

Councilmember Flynn stated that Council will not be imitated by lawsuits and it will not influence how he votes tonight.

Councilmember Byrne asked if individual Councilmember's are going to be responsible for defending themselves in court and what was covered by admission clauses that the City has?

Richard Crabtree, City Attorney, stated that under State law there is very broad immunity that applies to actions that you take in the legislative capacity, second of all the City and its self insurance pool would be required to defend any City employee or official who was sued for actions in their official capacity.

M/S/C Councilmembers Carrel and Flynn to:

1. Find that Ordinance No. 1000; Rezone No. 213 is exempt from CEQA pursuant to Section 15061 (b) (3) of the CEQA Guidelines.
2. Waive the First Reading and Introduce Ordinance No. 1000 as presented (E-3-B); Rezone No. 213, amending Section 25.213 of the Red Bluff City Code Prohibiting Uses by adding Medical Marijuana Dispensaries, Collectives, Cooperatives and the Cultivation of Marijuana in any Zoning District along with Amending Red Bluff City Code Section 25.239 Definition by adding a Definitions for Medical Marijuana Dispensaries, Collectives, Cooperatives and the Cultivation of Marijuana.

AYES: Councilmembers Carrel, Flynn, Moyer and Brown

NOES: Councilmember Byrne

ABSENT OR NOT VOTING: NONE

**ADOPTION OF AN URGENCY ORDINANCE  
PROHIBITING MEDICAL MARIJUANA  
DISPENSARIES, COLLECTIVES AND  
COOPERATIVES AS A PERMITTED USE WITHIN  
THE CITY OF RED BLUFF**

Scot Timboe, Planning Director, reviewed staff report and gave staff's recommendation that the City Council receive the report of the City Attorney and consider the adoption of the urgency ordinance.

M/S/C Councilmembers Flynn and Carrel for approval of proposed Ordinance 1003, an Urgency Ordinance prohibiting medical marijuana dispensaries, collectives and cooperative as a permitted use within the City of Red Bluff.

AYES: Councilmembers Flynn, Carrel, Brown, Moyer and Byrne

NOES: NONE

ABSENT OR NOT VOTING: NONE

Mayor Brown called break at 10:10 p.m. and reconvened at 10:20 p.m.

## **AIRPORT FUEL TANK FLOATING SUCTION ASSEMBLY – BID AWARD-SUPPLIMENTAL BUDGET APPROPRIATION**

Mark Barthel, Public Works Director, reviewed staff report and gave staff's recommendation that the City Council:

1. Award the float suction assembly replacement project to R.S.S.E (Redding) in the amount of \$10,710.00.
2. Authorize a contingency fund in the amount of \$1,000. for any unanticipated project costs, and
3. Authorize a supplemental budget appropriation in the amount of \$11,710.00 to fund 55-55-280.

M/S/C Councilmembers Moyer and Flynn to:

1. Award the float suction assembly replacement project to R.S.S.E (Redding) in the amount of \$10,710.00.
2. Authorize a contingency fund in the amount of \$1,000. for any unanticipated project costs, and
3. Authorize a supplemental budget appropriation in the amount of \$11,710.00 to fund 55-55-280.

AYES: Councilmembers Moyer, Flynn, Brown, Byrne and Carrel

NOES: NONE

ABSENT OR NOT VOTING: NONE

**ALCOHOL BEVERAGE LICENSE; PERSON TO PERSON TRANSFER; TYPE 48 (ON-SALE GENERAL FOR PUBLIC PREMISES); TAVERN; 610 WASHINGTON STREET; KELLY ANN DENBERGER (FIRST OWNER)**

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Mayor Pro Tem Moyer recused himself for this agenda item and left the chambers.

Scott Timboe, Planning Director, reviewed the staff report and gave staff's recommendation that the City Council:

1. Acknowledge the application for a Person-to-Person transfer of a Type 48 (On-Sale General for Public Premises) Alcoholic Beverage License for Kelly's Tavern located at 610 Washington Street
2. Affirm the conclusion of the Planning Director and the Chief of Police that protesting the license is not necessary provided the applicant complies with the following condition(s);
  - a. The applicants (Kelly Ann Densberger; First Owners) shall complete a City of Red Bluff Planning application and pay the \$200. Processing fee for the City reviewing the proposed ABC License; Person-to-Person of a Type 48 (On-Sale General for Public Premises).

M/S/C Councilmembers Flynn and Byrne to:

1. Acknowledge the application for a Person-to-Person transfer of a Type 48 (On-Sale General for Public Premises) Alcoholic Beverage License for Kelly's Tavern located at 610 Washington Street.
2. Affirm the conclusion of the Planning Director and the Chief of Police that protesting the license is not necessary provided the applicant complies with the following condition(s);
  - b. The applicants (Kelly Ann Densberger; First Owners) shall complete a City of Red Bluff Planning application and pay the \$200. Processing fee for the City reviewing the proposed ABC License; Person-to-Person of a Type 48 (On-Sale General for Public Premises).

AYES: Councilmembers Flynn, Brown, Carrel, and Byrne

NOES: NONE

ABSENT OR NOT VOTING: Councilmember Moyer (recused)

Mayor Pro Tem Moyer rejoined the meeting and took his seat at the dais.

## **APPROVAL OF MINUTES**

September 15, 2009

M/S/C Councilmembers Moyer and Carrel to accept the September 15, 2009 minutes as written.

AYES: Councilmembers Moyer, Byrne, Brown and Carrel

NOES: NONE

ABSENT OR NOT VOTING: Councilmember Flynn (abstained)

## **APPROVAL OF WARRANT LIST**

### Recommendation:

That the City Council approve Check Warrant Nos. 64307 through 64581 dated September 3, 2009 through September 24, 2009.

M/S/C Councilmembers Moyer and Flynn to approve the warrant list for the period of September 3, 2009 through September 24, 2009, check warrant numbers 64307 through 64581.

AYES: Councilmembers Moyer, Carrel, Byrne and Flynn

NOES: NONE

ABSENT OR NOT VOTING: Mayor Brown (abstained)

### **STAFF ITEMS; REPORTS/COMMITTEE REPORTS/ COUNCIL COMMENTS/ STAFF UPDATES OF UP COMING EVENTS:**

None at this time.

**ADJOURNMENT:**

There being no further business Mayor Brown adjourned the meeting at 10:27 p.m. until the meeting of November 17, 2009 at 7:00 p.m.

s/Jeffery Moyer, Mayor

ATTEST:

s/Jo Anna Lopez, City Clerk