

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

Date of Meeting: Tuesday, November 17, 2009
Time of Meeting: 6:15 p.m. Closed Executive Session
7 p.m Regular Meeting
Place of Meeting: Red Bluff Community/Senior Center – Westside Room
1500 South Jackson Street
Red Bluff, Ca 96080

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

Staff Members 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
J.D. Ellison, Building Director
Donna Gordy, City Treasurer

Mayor Brown called the meeting to order at 7:05 p.m.

Mayor Brown led the Pledge of Allegiance and the Assembly joined in.

CLOSED EXECUTIVE SESSION:

**CONFERENCE WITH LEGAL SOUNSEL – ANTICIPATED LITIGATION:
Government Code Section 54956.9**

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

CITIZEN'S COMMENTS:

John Prinz resident of Tehama County wanted to know why Joe Froome was not arrested for all the marijuana plants he had and he was not a medical marijuana user. Stated this is a Public Safety issue.

CONSENT CALENDAR:

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

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

NOES: NONE

ABSENT OR NOT VOTING: NONE

REPORT REGARDING CONTRACT AWARDS – OCTOBER 2009

Recommendation: That the City Council receivers the Contract Awards for October 2009.

Approved 5/0/0

**MEMORANDUM OF UNDERSTANDING; NORTHERN CALIFORNIA COMPUTER
CRIMES TASK FORCE**

Recommendation: That the City Council authorize the Chief of Police to sign the Memorandum of Understanding with the Northern California Computer Crimes Task Force (NCCCTF).

Approved 5/0/0

PROPOSED RESOLUTION NO. 43-2009; A RESOLUTION AUTHORIZING CITY STAFF TO MOVE FORWARD IN THE APPLICATION PROCESS TO OBTAIN FUNDS FROM THE CA ENERGY COMMISSION 1% LOAN PROGRAM

Recommendation: That the City Council adopt Resolution No. 43-2009 authorizing City Staff to move forward with the application process for the CA Energy Commission (CEC) 1% Loan Program for new heating, ventilation, air conditioning (HVAC) system for City Hall and authorizing the City Manager to sign all necessary documents.

Approved 5/0/0

PROPOSED RESOLUTION No. 44-2009; A PROPOSED RESOLUTION TO AUTHORIZE CITY STAFF TO MOVE FORWARD IN THE APPLICATION PROCESS TO OBTAIN FUNDS FROM THE “ENERGY EFFICIENCY CONSERVATION BLOCK GRANT PROGRAM” (EECBG); A FEDERAL AND STATE GRANT

Recommendation: That the City Council adopt Resolution No. 44-2009 authorizing City Staff to move forward with the application process for the “EECBG” grant funds and authorizing the City Manager to sign all necessary grant documents.

Approved 5/0/0

TREASURER’S REPORT

Recommendation: That the City Council accepts the report for the twelfth month of Fiscal Year 2008.

Approved 5/0/0

CURRENT BUSINESS:

City Manager Martin Nichols asked Mayor Brown to pull item # 6 (Alcohol Beverage License; New: Type 20 (Off Sale Beer and Wine); 315 So. Jackson St.; Liquor and Miscellaneous Retail Items; Circle K Stores Inc. (First applicant) at the request of the applicant.

PUBLIC HEARING TO CONSIDER; PREZONE/REZONE NO.215 (ORD. 1002) TO R-2 TWO-FAMILY RESIDENTIAL (CC RESOLUTION NO. 45-2009) FOR THE GREENVILLE RANCHERIA ANNEXATION AT LAFCO (CC RESOLUTION NO. 41-2009); APN: 24-040-29; BAKER ROAD; GREENVILLE RANCHERIA (APPLICANT)

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

1. Conduct the public hearing.
2. Consider all public testimony and other information submitted relating to Ordinance No. 1002; Rezone No. 215.
3. Adopt City Council Resolution No. 45-2009 (attachment B), waive the first reading and introduce Ordinance No. 1002 (Rezone No. 215) Prezone/Rezoning of the Zoning Map (REZ-215) with the findings contained in said resolution along with City Council Resolution No. 41-2009 accepting LAFCO as the conducting authority to approve the 3.93 acre Greenville Rancheria Annexation of said properties into the City Limits based on LAFCO adoption.

Mayor Brown opened the Public Hearing at 7:13 p.m.

Jason Vine from Robertson and Dominic stated if there are any technical questions he would be happy to answer them.

Mayor Brown closed the Public Hearing at 7:14 p.m. and brought the discussion back to the City Council.

M/S/C: Councilmembers Moyer and Byrne to adopt City Council Resolution No. 45-2009 (attachment B), waive the first reading and introduce Ordinance No. 1002 (Rezone No. 215) Prezone/Rezoning of the Zoning Map (REZ-215) with the findings contained in said resolution along with City Council Resolution No. 41-2009 accepting LAFCO as the conducting authority to approve the 3.93 acre Greenville Rancheria Annexation of said properties into the City Limits based on LAFCO adoption.

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

NOES: NONE

ABSENT OR NOT VOTING: NONE

PUBLIC HEARING; SECOND READING AND ADOPTION OF 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, reported that he had spoken with several lawyers on both sides of the issue and would like to conduct additional legal research to put the City in the best possible legal position in light of the fact we have had all these threats of litigation. Mr. Crabtree recommended that the City Council table the proposed ordinance and allow staff to do a redraft of the ordinance as follows:

1. To allow limited indoor growth of Medical Marijuana consistent with State Law. The ordinance is currently drafted prohibits all cultivation. What Mr. Crabtree is proposing is that the City Council modifies the ordinance so it's clear that outdoor cultivation is banned, but limited indoor growth consistent with State Law would be permitted.
2. Recommending that staff modify the definition of Medical Marijuana dispensaries so that it's clear that a qualified exchange of Medical Marijuana between a qualified patient as defined by the law and a single qualified caregiver as defined by the law is not a circumstance that creates a Medical Marijuana dispensary. In other words an exchange of Medical Marijuana between a qualified patient and a qualified caregiver should not be included within the definition of Medical Marijuana dispensaries.

Mr. Crabtree stated that the urgency ordinance that was adopted remains in full affect and the redraft of the ordinance would be done within a few weeks or a little longer due to the holidays.

Mayor Brown questioned if when this came back if there would be another Public Hearing?

Richard Crabtree, City Attorney yes that is correct.

Mayor Brown opened the floor to hear comments from those in attendance.

Ken Prather, Richard Clapp, Pat Johnston, John Prinz, Kirk Wallen, Edward Wheeler, Kim Moore and Alyssa Eastman spoke in opposition of the ordinance and would like to see an Ad Hoc committee formed.

Diana Thompson, Ali Abbassi, Kathy Bonner spoke in favor of the ordinance and would like to see it adopted.

George Perry, resident of Red Bluff, spoke on the issue of dispensaries and how they should be regulated.

Mayor Brown called a break at 8:39 p.m.

Mayor Brown reconvened the meeting at 8:55 p.m.

M/S/C Councilmember Moyer and Flynn to postpone adoption of the ordinance so that the City Attorney can make modifications to the ordinance.

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

NOES: NONE

ABSENT OR NOT VOTING: NONE

PROFESSIONAL SERVICES CONTRACT AMENDMENT IN RESPONSE TO COURT ORDER & CASE NO. 58342 ALONG WITH OCTOBER 20, 2009 PETITION FOR WRIT OF MANDATE FOR PREPARATION OF AN AMENDED/MODIFIED SCOPE OF WORK WITH PACIFIC MUNICIPAL CONSULTANTS TO PREPARE A TECHNICAL ADDENDUM FOR THE WALMART SUPERCENTER PROJECT; LUTHER ROAD/MILL STREET

Scot Timboe, Planning Director reviewed staff report and gave staff's recommendation that the City Council authorize the City of Red Bluff Planning Department to enter an amended/modified scope of work for PMC to prepare a technical addendum for the Super Wal-Mart Project.

Mayor Brown questioned what the turn around time on this project would be.

Mr. Timboe stated it would be fairly quick one to two weeks.

M/S/C Councilmember Flynn and Carrel to authorize the City of Red Bluff Planning Department to enter an amended/modified scope of work for PMC to prepare a technical addendum for the Super Wal-Mart Project.

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

NOES: NONE

ABSENT OR NOT VOTING: NONE

ALCOHOL BEVERAGE LICENSE; NEW; TYPE 20 (OFF-SALE BEER AND WINE); 360 SO. MAIN ST; LIQUOR AND MISCELLANEOUS TOBACCO PRODUCTS; MR. ROY PERRY (FIRST APPLICANT)

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

1. Acknowledge the application for a New Type 20 License to authorize the sale of beer and wine for consumption on the premises for the proposed Friendly Mart at 368 So. Main Street.
2. Affirm the conclusion of the Planning Director and the Chief of Police that processing the license and requesting conditions is not necessary provided the business is operated as described in writing by the applicant.
 - a. Find that a “Public Convenience or Necessity” would be served by the issuance of these licenses and direct the Planning Director and the Chief of Police to submit a letter of “Public Convenience or Necessity” to ABC.

M/S/C Councilmember Flynn and Carrel to:

1. Acknowledge the application for a New Type 20 License to authorize the sale of beer and wine for consumption on the premises for the proposed Friendly Mart at 368 So. Main Street.
2. Affirm the conclusion of the Planning Director and the Chief of Police that processing the license and requesting conditions is not necessary provided the business is operated as described in writing by the applicant.
 - a. Find that a “Public Convenience or Necessity” would be served by the issuance of these licenses and direct the Planning Director and the Chief of Police to submit a letter of “Public Convenience or Necessity” to ABC.

John Prinz, concerned citizen, would like to have alcohol banded from Red Bluff.

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

NOES: NONE

ABSENT OR NOT VOTING: NONE

ALCOHOL BEVERAGE LICENSE; PERSON TO PERSON TRANSFER; TYPE 48 (ON-SALE GENERAL FOR PUBLIC PREMISES); TAVERN; 343 WALNUT ST.; THE END UP (NAME OF BUSINESS); MRS. MISTI LEE MAYER (FIRST OWNERS)

Scot Timboe, Planning Director, reviewed 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 the End Up Tavern located at 343 Walnut 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 (Misti Lee Mayer; 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 of a Type 48(On-Sale General for Public Premises)

M/S/C Councilmembers Flynn and Carrel 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 the End Up Tavern located at 343 Walnut 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 (Misti Lee Mayer; 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 of a Type 48(On-Sale General for Public Premises)

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

NOES: NONE

ABSENT OR NOT VOTING: NONE

POLICE DEPARTMENT QUARTERLY REPORT

Paul Nanfito, Chief of Police reviewed staff report and gave staff recommendation that the City Council accept the Police Department Quarterly Report

M/S/C Councilmembers Byrne and Flynn to accept the Police Department Quarterly Report.

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

NOES: NONE

ABSENT OR NOT VOTING: NONE

APPROVAL OF WARRANT LIST

Recommendation: That the City Council approve Check Warrant No. 64582 through 64904 dated October 1, 2009 through October 29, 2009.

M/S/C Councilmembers Carrel and Flynn approve the Warrant List for the month of October 2009.

AYES: Councilmembers Carrel, Flynn, Moyer and Byrne

NOES: NONE

ABSENT OR NOT VOTING: Councilmember Brown (abstained)

ADJOURNMENT

There being no further business Mayor Brown adjourned the meeting at 9:16 p.m. until the meeting of December 1, 2009 at 7:00 p.m.

s/b Jeffery M. Moyer, Mayor

ATTEST:

s/b Jo Anna Lopez, City Clerk