

**CITY COUNCIL
CITY OF SONORA
JULY 18, 2011**

A Regular Meeting of the City Council of the City of Sonora was held this date in the Council Chambers at City Hall, 94 North Washington Street, at 5:00 p.m. The following members were present: Mayor Bill Canning, Mayor Pro-Tem David Sheppard, Councilmembers Ron Stearn, Hank Russell, Matt Hawkins; City Administrator Tim Miller, City Clerk Marijane Cassinetta, Engineer Gerard Fuccillo, Attorney Richard Matranga, Community Development Director Rachelle Kellogg, Finance Director Karen Stark, Police Chief Mark Stinson. Absent: Fire Chief Mike Barrows.

PRESENTATIONS/PROCLAMATIONS/COMMENDATIONS

None.

CONSENT CALENDAR

Motion by Councilmember Russell, second by Councilmember Stearn, and unanimously carried that the Consent Calendar be approved as follows:

1. Approval of the following Minutes:
 - a. Closed City Council Meeting of June 20, 2011;
 - b. Regular City Council Meeting of June 20, 2011;
 - c. Sonora Redevelopment Agency Meeting of June 20, 2011;
 - d. Special City Council Meeting of June 17, 2011;
 - e. Sonora Redevelopment Agency Meeting of June 27, 2011;
 - f. Closed City Council Meeting of July 5, 2011; and
 - g. City Council Meeting of July 5, 2011.
2. Approval of invoices for previously budgeted expenses to be paid on, 2011, in the amount of \$61,068.95.

CITY CLERK'S REPORT ON POSTING OF AGENDA

City Clerk Cassinetta advised Council that at 11:08 a.m. on the 14th day of July, 2011, the Agenda for the City of Sonora Council Meeting scheduled for this date was posted outside City Hall for public view.

PUBLIC APPEARANCES

None.

PUBLIC APPEARANCES (Non-Agenda)

Philip Arndt, Government Affairs Director for Comcast, gave an update on its cable system upgrade project which he previously reported on at the Council's meeting of April 4, 2011. The project will provide video expansion, broadband high speed internet and telephone services. Arndt reported that they are on schedule, and the upgrade will be completed by the end of this year. They are finishing the 16 mile link from Sonora to Angels Camp and splicing is one-third complete. Door hangers notifying customers of construction and introducing Comcast's XFINITY services are being placed at houses 24 hours

prior to construction. The anticipated completion date is year end, and all products will be launched simultaneously. The upgrade is being done in its current service area footprint and Xfinity will be available to residences and commercial businesses within the current footprint. All three Xfinity products will go through one drop to the residences. The existing wiring to homes will be used, but the line may need to be upgraded.

PUBLIC HEARINGS

Public Hearing Regarding CDBG Grant #09-STBG-0414. This was the time and place set for a Public Hearing to solicit citizen's views on each of its active grants and program income activities. Grants/Redevelopment Program Manager Kellogg presented her Staff Report stating that the City currently has one open CDBG Grant, #09-STBG-0414, which provides funding for the Homebuyers' Assistance Loan Program. Funding is available for 6 loans, three of which have been completed. The City's State approved Program Income Reuse Plan allocates CDBG funds repaid to the City to the Housing Rehabilitation Loan Program. During fiscal year 2010-11, one loan was funded under this Program.

Mayor Canning opened the Public Hearing at 5:15 p.m. Jana Evans, County resident, asked clarification as to who could qualify. Kellogg responded that it must be a first time buyer not having owned a house for three years, and must qualify for low income status. There being no further comments, the Public Hearing was closed at 5:16 p.m. No action necessary.

Public Hearing Regarding State Community Development Block Grant (CDBG) Program. This was the time and place set for a Public Hearing to solicit citizen's views on setting priorities for activities for a potential submission of applications under the CDBG Program for Fiscal Year 2011-2012. Grants/Redevelopment Program Manager Kellogg presented her Staff Report stating that the General and Economic Development Components of the State CDBG Program publish a Notice of Funding Availability (NOFA) each program fiscal year. Eligible cities and counties may submit applications for funds under these NOFA(s), The dollar amount available under these programs vary each year, and traditionally a grant from the General allocation does not count toward any yearly caps under the Economic Development or Planning and Technical Assistance allocations of the CDBG Program. The City of Sonora anticipates submitting applications under one or more of the State CDBG NOFAs published during 2011-2012. Projects funded with CDBG allocations must carry out at least one of the three National Objectives which are to benefit Targeted Income Group (TIG) persons, elimination of slums and blight or meet urgent community development needs. There is no guarantee that an application submitted will be funded as there are always more proposals submitted than are funds available.

Mayor Canning opened the Public Hearing at 5:21 p.m. Sharon Marovich, representing the Tuolumne Heritage Committee, urged

the Council to consider setting aside CDBG funds to be used for Planning Activities to finish Phase I of the Historical Inventory Resources Report which is 50% completed, and also funds for Phase II, in which the significance ratings are assigned. Although the cost is unknown, Marovich stated that the City match is only 25%, and hopes that the City will try to quantify how much it would take to finish the survey, and seek potential donors to help with the cost.

There being no further appearances, the Public Hearing was closed at 5:30 p.m. Mayor Canning asked that Staff prepare a schedule on what needs to be done to finish Phase I and do Phase II.

Public Hearing to Consider Ordinance Options Regarding Medical Marijuana Dispensaries. This was the time and place set for a Public Hearing to consider the following:

1. Waiving the first reading and introducing Ordinance No. 803, a version which establishes regulations for medical marijuana collective facilities; or
2. Waiving the first reading and introducing Ordinance No. 803, a version which prohibits medical marijuana dispensaries in the City of Sonora.

Administrator Miller reported that due to an increasing number of inquiries regarding the establishment of medical marijuana dispensaries, the Council enacted a moratorium since the City did not have an ordinance that would either regulate or prohibit this type of business. At its October 18, 2010 Meeting, the Council adopted Ordinance No. 795 as an interim urgency ordinance that went into effect immediately and remained in effect for 45 days. After notice and hearing on November 15, 2010, the Council subsequently adopted Ordinance No. 797 extending the interim ordinance for an additional ten months and 15 days. Ordinance No. 797 will expire on September 30, 2011. Under statute, said Ordinance may be extended for an additional year subject to notice and hearing and a four-fifths vote for adoption.

Miller presented the two above-referenced versions of Ordinance No. 803 for consideration. The first which would prohibit medical marijuana dispensaries within the City, and the second which would establish regulations for the same, including, among other things: (1) requirements for an "operating certificate", (2) execution of a "release of liability and hold harmless"; and (3) establishment of "facility" and "operating" standards. Additionally, the approval Ordinance requires establishment of a fee by separate action, and that facility siting requirements will subsequently be established by the Planning Commission.

Mayor Canning opened the Public Hearing at 5:34 p.m.

County resident Jana Evans appeared in favor of adoption of the version which would allow dispensaries/collectives stating that they are worthwhile when done properly and good for the economy

and for citizens health. County resident Sara Herrin appeared in favor of allowance by reading correspondence dated July 15, 2011, from Attorney Alexis Wilson Briggs of Pier 5 Law Offices on the behalf of Today's Health Collective, specifically four of its founding members: Sara Herrin, Jana Evans, Nancy Smith and Dannyjo Herrin. A copy of said correspondence is attached hereto as Exhibit "A", incorporated herein, and made a part hereof by reference. Ms. Herrin distributed informational packets to each Councilmember containing the above-referenced correspondence, a copy of Section 11362.768 (2011) of the California Health & Safety Code, and letters written to the Tuolumne County Superior Court Judge in regard to Case #CRS35500 regarding character references for Jana Evans, Sara Herrin and Nancy Smith, and Today's Health Collective. Copies of said letters regarding character references are on file and available for review in the office of the City Administrator.

City resident, Andrew (no last name recorded) appeared in favor of allowance stating that it is a good way to generate dollars for government, and felt that prohibiting lawful dispensaries encourages violence.

Jason Briscoe responded to the question by Councilmember Stearn of why marijuana is not dispensed through drug stores. He stated that pharmacies operate under Federal law, and that selling is illegal at the Federal level. A medical marijuana card is not a prescription, it is a suggested medication. He encouraged the Council to look further into the matter before making a decision, and felt that the Tuolumne County District Attorney's action has pushed marijuana back into the streets.

Jim Briscoe, owner of Foothill Care Collective, said that his business had 1,000 patients signed up legally, and have been pushed out which has now made them illegal. He said that he had \$10,000 for payment of sales tax, but it has been seized by the District Attorney. He requested that Council ask the Police Chief how many times officers have been sent out to dispensaries between November, 2010, and May 20, 2011. Briscoe urged Council not to prohibit dispensaries.

Mayor Pro-Tem Sheppard asked if the \$120,000 of sales tax had been paid; this was the figure stated in the article in the Union Democrat regarding the arrest of dispensary owners. Jim Briscoe responded that the \$120,000 figure was not the sale tax owed, but that figure included personal funds seized, and that they had the \$10,000 in sales tax monies set aside to pay.

Tuolumne County resident Nancy Smith stated that she had \$13,000 seized by the District Attorney, and had already paid the \$10,000 in sales tax that she owed. She stated that until the moratorium was passed, her business was going to be located in the City limits. She encouraged Councilmembers to read the letters and to push forward.

There being no further appearances, the Public Hearing was closed at 5:51 p.m.

Mayor Canning stated that numerous downtown business owners have clearly spoken to him that they do not want dispensaries to be allowed, and also some individuals have expressed the same concern.

MOTION by Mayor Pro-Tem Sheppard to introduce and waive the first reading of Ordinance No. 803 prohibiting medical marijuana dispensaries in the City of Sonora.

Mayor Pro-Tem Sheppard stated that procedures already exist for physicians to prescribe, and that other distribution is in violation of law. He read Article 6 of the U. S. Constitution supremacy clause, stating that the Councilmembers have taken an oath to uphold the laws of the Constitution of the United States.

The above MOTION was seconded by Councilmember Hawkins. Hawkins said that he had met with Jana Evans, Sara Herrin and Nancy Smith which was very positive, and that he has a great deal of respect for each of them. Although, he said that he disagrees with them, and does believe that dispensaries should be prohibited. He stated that he had been negatively approached with his children present by one of the collectives, and does not have respect for all collectives, and that it is necessary for the Council to uphold the Constitution.

Councilmember Russell said that he had talked to physicians about Marinol which is synthetic marijuana, and that he does not know what the difference is between synthetic and natural marijuana, and does not know why Marinol would not be an alternative. Russell stated that he felt efforts to change the laws should be focused at the National level. He wondered if collectives could meet the numerous requirements necessary to have a legal business, and stated that he was conflicted.

Councilmember Stearn said that he considers marijuana a gateway drug; he has talked to the Police Chief, and agrees with Councilmembers Sheppard and Hawkins.

Councilmember Russell asked if the Council has the Police Chief's recommendation. Attorney Matranga responded that the Police Chief and City Attorney are going to do what the Council's decision is. He stated that the jurisdiction has been put into a no win situation, and that the State and Federal Governments should be ashamed. Councilmember Russell asked which option would give a greater chance for litigation.

Matranga responded that the Federal enforcement arm is more aggressive but the risk adopting either ordinance would be similar.

The above-stated MOTION passed four to one as follows: Ayes: Canning, Sheppard, Stearn, Hawkins; No: Russell.

Jim Brisco stated that he has a business license, and asked if they are they now an existing non-conforming use? Attorney Matranga stated that this involves a potential litigation matter, and he is not prepared to discuss the matter now.

UNFINISHED BUSINESS

None.

NEW BUSINESS

Designate Voting Delegate Member for League of California Cities. The Council considered designating a voting delegate for the League of California Cities Annual Business Meeting to be conducted at its Annual Conference in San Francisco on September 21-23, 2011. **MOTION by Councilmember Stearn, second by Mayor Pro-Tem Sheppard that Councilmember Matt Hawkins be so designated.** The City Administrator was selected as the alternate.

WRITTEN STAFF REPORTS - June, 2011

2. From Community Development Director Kellogg.
3. From Public Works Supervisor Jeff Busalacchi.
4. From Police Chief Stinson for the Police Department.
5. From Fire Chief Barrows for the Fire Department.

COMMUNICATIONS - Information Only

1. None.

COUNCILMEMBERS AND DEPARTMENT HEADS

Engineer Fuccillo reported that the Police Department Residing Project Contract has been signed and he is issuing a Notice to Proceed with August 1, 2011, as the start date. **Councilmember Hawkins** suggested that the City's Emergency Plan be updated. **Councilmember Russell** suggested that Public Works devote some time to the landscaping of the open space area at the intersection of Sanguinetti and Wards Ferry Roads. **Administrator Miller** responded that he needs to review the requirements since this is a habitat mitigation area, and then he will address the matter. **Mayor Canning** stated that the business license commented on by Jim Brisco at the close of the action taken on Ordinance No. 803 was issued for vitamins and herbs and did not cover marijuana.

ADJOURN

There being no further business to come before the Council at this time, the meeting was adjourned at 6:08 p.m. to the Regular Meeting on Monday, August 1, 2011, at 5:00 p.m. at City Hall.

Marijane Cassinetto, City Clerk

Date