

Fortuna City Council
Fortuna Redevelopment Agency
February 5, 2007 6:00 PM
City Hall

PRESENT

Mayor John Campbell
Councilman Mel Berti
Councilman Dean Glaser
Councilman Doug Strehl

STAFF

City Manager
City Attorney
Deputy City Clerk
Deputy Community Development Dir.
Executive Assistant to City Manager
City Engineer

PRESENTATIONS AND PROCLAMATIONS

Mayor Campbell presented a proclamation to Vicki Anderson for "National Mentoring Month" who in turn gave a brief presentation to Council regarding Humboldt County's mentoring program.
Mayor Campbell also presented a proclamation to Brian Hodgson for "Engineer's Week."

APPROVAL OF MINUTES

The minutes of January 15 and January 23, 2007 were considered. Councilman Glaser corrected the minutes of January 15th to read; *Councilman Glaser said that Rancho Buena Vista escaped the use of concrete sidewalks and indicated....*

Councilman Glaser also corrected the last page of the minutes of January 23rd from; ...the largest perception of public to; the largest percentage of public.....

There being no further corrections, Councilman Glaser moved, seconded by Councilman Berti to approve the minutes as corrected. Motion carried.

ORAL COMMENTS FROM THE PUBLIC

No comments were received.

PAYMENT OF BILLS

Councilman/Board Member Glaser moved to authorize payment of the City's bills in the amount of \$844,371.78 and the Redevelopment Agency's bills in the amount of \$116,647.32. Councilman/Board Member Berti seconded the motion. Motion carried.

CONSENT CALENDAR

Councilman Glaser pulled item #2 the Informational Report on the REMIF Annual Meeting and moved to approve the Finance Department Monthly Report. Councilman Berti seconded the motion. Motion carried.

Councilman Glaser complimented the staff and work crew for having the lowest amount of workers comp claims and also a low amount of liability claims. Councilman Glaser moved, seconded by Councilman Berti to approve item #2. Motion carried.

BUSINESS

CONSIDER UPDATE OF RESOLUTION ESTABLISHING POLICIES GOVERNING EMPLOYER-EMPLOYEE RELATIONS; RESOLUTION 2007-04

Cheryl Nicholson, Executive Assistant to the CM said the purpose of this resolution is to clarify and update the current resolution adopted in 1979 pertaining to employer-employee relations. Cheryl also noted an additional small change was made to Article V of the resolution.

Councilman Glaser moved, seconded by Councilman Strehl to adopt Resolution 2007-04 with the inclusion of the change to Article V. Motion carried by roll call vote.

CONSIDER AMENDING THE SOLID WASTE FRANCHISE AGREEMENT WITH EEL RIVER DISPOSAL TO ADD PROVISIONS FOR CURBSIDE GREEN WASTE COLLECTION SERVICE

City Manager Duane Rigge told Council he will amend his staff report, that a report was faxed today for a one year MOU between Eel River Disposal and the City of Fortuna. He explained the amendment would require a 68-gallon cart exclusively for greenwaste at a cost of \$2.00 per month for the months of April through October and requested this be tabled to the next meeting.

Harry Hardin was present and told Council that if the greenwaste program goes as well as the single-stream recycle collection, it will be a good program.

City Manager said we have concerns about the longevity of taking the greenwaste to Scotia, we need backup and we may be able to use the greenwaste in our wastewater treatment program. No action was taken.

A PUBLIC HEARING TO CONSIDER 1) ADOPTION OF A NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT AND 2) APPROVAL OF A SUBDIVISION OF A 9.5 ACRE PARCEL INTO 17 SINGLE FAMILY LOTS, AND A 5.8 ACRE PARCEL FOR CONSTRUCTION OF A CHURCH; APPLICANT: CALVARY CHRISTIAN CHURCH; APN: 203-051-012; PROJECT SITE: VACANT PARCEL ON THE NORTH END OF BOONE STREET; RESOLUTION 2007-05

Liz Shorey, Deputy Director of Community Development said the Planning Commission approved this project unanimously. Liz said there are no issues with infrastructure, the drainage will flow northerly and at issue now is the north side of lot 9. Liz explained that staff is requiring that half-width street paving be extended along the entire north side of lot 9. Ms. Shorey said the Planning Commission voted to not require half-street paving for the full length, but instead to limit the paving to an emergency vehicle turnaround 25' wide, and length to be determined by the Fire Department.

Liz Shorey said the half-street paving would provide a second access for Cheryl Lane and this is reserving the future one-half right-of-way for future development.

The meeting was opened to public comment at 7:48 PM.

Ed George told Council the only issue is the Cheryl Lane extension. He said they submitted this application 2 years ago and said the church has bent over backwards.

Dave Wilson, the Vice President of the Calvary Christian Center Board of Directors, told Council there is 100' between Cheryl Lane and their property boundary. He said they have already dedicated property for future development and all the Fire Department wants is a 25' turn-around. He said this was a unanimous recommendation from the Planning Commission and Nyberg has no plans to develop now.

Mayor Campbell said the Fockaert subdivision was approved with the understanding there would be a through street, that Barnett was approved with a cul-de-sac and McDonald was approved as a gated community. He said the general sentiment on the Council was not to approve the McDonald subdivision.

Dave Wilson said that Nyberg is willing to dedicate an easement but the church does not want to do the whole subdivision for him.

Mayor Campbell said that it is going to appear that Nyberg is going to have the full cost of hooking up the street and said his question is, who pays along the way?

Liz Shorey said the curb, gutter and sidewalk could be deferred, just do the half-street asphalt paving.

City Manager Rigge said the only downside of deferring curb, gutter and sidewalk, is that it would go to the owner of lot 9.

Dave Wilson said if no one decides to develop the Nyberg side, it just sits there. He said it could be written for future development, and said he thinks its excessive now. He said the church's suggestion is to do what the Planning Commission requested, that they are trying to work with everybody.

Dennis Wendt said the right-of-way is there and the improvements the City is asking for is out of line. He said the church does not need a second access and Nyberg already has access to Cheryl Lane. Dennis said it should not be up to the church to pay for Nyberg's improvements. He said the offer of dedication to the City of Fortuna is here. Dennis said he does not know who would develop a street with houses only on one side.

Debi August said she has no interest in this subdivision but when the Fockaert subdivision came in, it allowed Nyberg to connect one day in the future. She said this subdivision should be treated no differently, and this subdivision is already improving the length of Boone Street. Debi said Nyberg has never dedicated anything to the City of Fortuna and these folks should not be required to pay for a way to get there.

Mayor Campbell said that what we're doing today is not following the current General Plan.

Marty Pronovost, the President of the Calvary Christian Center Board of Directors said they wanted to help Nyberg, and they changed their plans to work with everybody.

There being no further public comments, Councilman Glaser moved, seconded by Councilman Berti to close the public hearing at 7:20 PM.

Councilman Strehl said he likes the project and does not think we should require them to pave that small section. Councilman Berti agreed.

Councilman Glaser said that in the Fire Department it is mandatory to have a lot of asphalt. He said if plans are for Cheryl Lane through in the future, it should be mandatory for lot 9 to have sidewalks. Councilman Glaser said we made a mistake and we should learn from our mistakes and said he thinks in a very short time Nyberg will present plans to develop.

Mayor Campbell asked staff to explain why they are making the request, and Deputy Community Development Director Liz Shorey said that individually it may look inconsequential, but it improves the emergency access, a second access to Cheryl Lane and Nyberg's property and a pedestrian access.

Councilman Berti indicated staff is suggesting the church pay for all of this and why should the church do the paving for everybody else.

City Engineer Doug Jackson said that in our Improvement Standards it's contingent to do a full half width paving and he gave two examples.

City Manager Duane Rigge He said this is an additional cost for the developer to put in a half street, it seems like an undue burden to the developer, but this development will benefit from that connection.

Councilman Berti questioned why the church should foot the bill when others are benefiting and City Manager Rigge explained that we all benefit from others preceding this. He said when the Fockaert subdivision went in, it was with the understanding Cheryl Lane would go to Ross Hill, that ultimately there will be a benefit.

Marvin Schwartz a member of the Planning Commission said they did approve the project with corrections, and said that now he is seeing a band aid on a band aid and said he thinks Nyberg should step up, if the church develops they only have one exit. He said there was concern at the meeting, and they had an amendment with a temporary turn-around.

Councilman Glaser said that \$500 more is not that much more for the price of a lot.

Deputy Community Development Director Liz Shorey said it was the Planning Commission's idea that Nyberg would complete the paving.

Planning Commissioner Schwartz said the Planning Commission voted to not require half-street paving for the full length, but instead to limit the paving to an emergency vehicle turnaround 25' wide, per the Fire Department's request, and length to be determined by the Fire Department, extending off Boone Street. He said their justification was that the future developer of the property to the north, would install all of the paving needed to complete the Cheryl Lane connection.

Councilman Strehl questioned if the church paves the half-street, who repairs it in 15 years. City Manager Rigge said that we could ask for a bond, but it would have to be renewed.

Mayor Campbell said the church has lived up to everything they said they would do, and that maybe the best way to conclude this is to hope Nyberg lives up to his word.

City Manager Rigge said Council may want to consider tabling this to the next meeting, and we could contact Nyberg, however Council preferred to take action on this item tonight.

Councilman Strehl moved, seconded by Councilman Berti to adopt Resolution 2007-05 which concurs with the Planning Commission recommendations. Mayor Campbell read the title, motion carried 3-1 with Councilman Glaser voting "no."

PUBLIC HEARING TO CONSIDER ADOPTION OF AN ORDINANCE TO PROHIBIT CONSIDERATION OF GENERAL PLAN AMENDMENTS UNTIL DECEMBER 20, 2007; ORDINANCE 2007-664T

City Manager Duane Rigge said that in July 2005, the City Council adopted Ordinance 2005-656T a temporary ordinance with a sunset date of April 30, 2007. He explained the General Plan is set for adoption in July 2007, and this new ordinance proposes a new sunset date of December 31, 2007.

Councilman Strehl questioned if there are any projects in-house that now require a zone change and said this ordinance gave one developer an edge, but there may be projects sitting out there. Councilman Strehl said he thinks maybe we should let this ordinance die, and if somebody is waiting for a rezone, they would wait for a challenge.

City Manager Rigge said that adopting the General Plan update does not change the zoning ordinance, and that may take a bit of time, that we will be rezoning as necessary.

Councilman Strehl said Lewis Logging put off their rezoning, and we are running under the old zoning laws now. He said that John Egan's property out of the City Limits also wants to rezone.

Mayor Campbell cautioned that you can't discriminate one group against another.

The meeting was opened to public comment and Debi August said this moratorium went into place because Council didn't want to burden staff and people have had a red light for a year.

Dennis Wendt told Council we were supposed to have the General Plan before this date and said we have been working on it for a year or a year and a half. He said once the General Plan is done we still have to change the zoning and questioned if we are going to stop projects to wait for the General Plan update to get to its maturity. He said April 30th should be the end of it.

Sue Long said this was first brought as an emergency ordinance and if they are really worried about the Palco property, the could put a moratorium on that piece of property, and said she has been led to believe their project would go through.

There being no further comments, the public hearing closed at 8:10 PM.

Councilman Glaser said he wants to remind everyone of the comment Assistant Planner Stephen Avis made that if it takes longer, and requires another extension, a finished project is what we have.

Councilman Berti said they made it clear that when this time was up people could start their projects, and said he thinks people should have the opportunity to start.

Councilman Glaser moved to hold the first reading of Ordinance 2007-664T. Motion died for lack of a second.

Councilman Strehl questioned if we are going to let projects go through with a zoning change and City Manager Rigge said you can't do a rezone, and December 31st is a tremendous safety margin. He said he doesn't see these projects as being delayed.

Councilman Strehl said the three elements used different mixes on the 75 acre Palco property.

Mayor Campbell questioned if the intention of this ordinance was to block a project and City Manager Rigge responded there was no intention to block any project other than those we know about. He said we do not need to do this ordinance tonight.

City Attorney Dave Tranberg expressed confusion and said if you accept an application today and somebody turns in an application for a General Plan Amendment, and if it is determined to be complete, you are obligated to process that under the laws in effect at the time you deem it to be complete. He said that person is entitled to have his General Plan amendment application considered under the current General Plan, and if it comes to Council in July, they are obligated to review the application based on today's General Plan. He said that if a week after that, a new General Plan is adopted, you have the worst of everything and this is what staff was trying to avoid.

Councilman Strehl said we should have paid attention to everything in town, and on an even playing field, we would not have considered any of them. He said he does not understand one project being so focused.

Debi August questioned if there is a provision in the Government Code to tell applicants that things could change and City Attorney Tranberg said that until an application is deemed complete, you can change.

Mayor Campbell said he would like to get resolution to this and would like to see if there's no further extension of a General Plan update.

City Manager Rigge said he does not see the General Plan update happening before July, that July is still a viable date.

Councilman Strehl said this is something we promised the people, and Councilman Berti agreed and said it is not his style to not keep his word.

City Manager Rigge questioned what they are going to do as a City Council if the application is complete, you would process the application on the current General Plan.

Councilman Berti said an applicant would not want to have a project through until the new General Plan is in place and this gives them time to get it ready to go.

City Attorney Tranberg gave a scenario of an applicant getting an early start and with a General Plan amendment, the applicant would be further behind, and you would end up doing them a disservice. He said it takes time to do planning, and indicated he doesn't know what standard you would use to review the project before the new General Plan is in place.

Councilman Berti said they set a deadline and told the contractors. He said at least they would have an opportunity to show us instead of waiting 6-8 months.

City Manager Rigge said that you are obligated under the Government Code to process applications, and there may be a way to look at this differently.

Councilman Strehl expressed a concern to Sue Long's people that the project is going but would take a zone change.

Mayor Campbell said if we do this and Egan comes in with an application, then Katz shows up and the General Plan has not decided where the connectivity comes in, it sounds like a recipe for disaster.

City Attorney Tranberg said for a project somebody is thinking about, if it requires a General Plan amendment and rezoning, they are not going to start building this spring.

Council directed staff to loosen the ordinance and put together a compromise. No action was taken.

CITY MANAGER'S REPORT

City Manager Duane Rigge reviewed future meeting dates for Council. No action was taken.

COUNCIL REPORTS AND COMMENTS

Mayor and Council members reported on their various commissions and activities. No action was taken.

Council adjourned at 9:00 PM to closed session for conference with legal counsel in accordance with Section 54956.9 of the Government Code, Anticipated Litigation.

Closed session will also be held concern labor negotiations with Fortuna Employees Association, Fortuna Police Employees Association and Fortuna Office Employees Association in accordance with Section 54957.6 of the Government Code.

Council adjourned from closed session at 10:05 PM. No action was taken on either closed session item.