

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF
YREKA HELD IN SAID CITY ON FEBRUARY 19, 2015

On the 19th day of February 2015, the City Council of the City of Yreka met in the City Council Chambers of said City in regular session, and upon roll call, the following were present: Deborah Baird, Bryan Foster, Joan Smith Freeman, John Mercier, and David Simmen. Absent – None.

Consent Calendar: Mayor Mercier announced that all matters listed under the consent calendar are considered routine and will be enacted by one motion unless any member of the Council wishes to remove an item for discussion or a member of the audience wishes to comment on an item:

- a. Approval/ratification of payments issued from February 6, through February 19, 2015.
- b. Approval of Minutes of the meeting held February 5, 2015.
- c. Adopt Resolution No. 2015-5 Opting to affirm an exemption from the requirements of mandatory Commercial Organics Recycling.

Councilmember Simmen requested that item 1c be pulled for discussion.

Following Council discussion, Councilmember Foster moved to approve items 1 a & 1 b on the consent calendar as submitted.

Councilmember Freeman seconded the motion, and upon roll call, the following voted YEA: Baird, Foster, Freeman, Mercier and Simmen.

Mayor Mercier thereupon declared the motion carried.

Adopt Resolution No. 2015-5 Opting to affirm an exemption from the requirements of mandatory Commercial Organics Recycling.

Following Council discussion, Councilmember Simmen moved to adopt Resolution No. 2015-5 as submitted.

Councilmember Foster seconded the motion, and upon roll call, the following voted YEA: Baird, Foster, Freeman, Mercier and Simmen.

Mayor Mercier thereupon declared the motion carried.

Information/Discussion: An Ordinance of the City Council of the City of Yreka, California Establishing the Private Lateral Inspection and Repair Ordinance.

City Manager Baker reported that the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq. (also known as the Clean Water Act "CWA") is a federal statute regulating and prohibiting pollution of the nation's lakes, rivers and oceans.

The City sewer system sometimes overflows when heavy rainfall exceeds the storage capacity of sewer pipes and/or wastewater treatment plants, and discharge could result in untreated sewage and storm water into local creeks and rivers. These overflows are called sanitary sewer overflows ("SSOs"). The CWA regulates the discharge of SSOs. The Federal government has delegated the regulation of SSO to the California's Regional Water Quality Control Board. Heavy rainfall, insufficient capacity, roots, debris, grease, and infrastructure weaknesses are the primary causes of SSOs. Additionally, the presence of roots and defective connections between houses and the City's sewer mains can allow the exfiltration of sewage into the ground and allow the infiltration of groundwater into our treatment plant that can lead to SSOs and treatment inefficiencies.

SSOs can sometimes result in the exposure of the public to raw sewage, which contains disease-causing pathogens. Parts of the City's sewer system are located near waterways and sewage from defective pipes could contribute to the pollution of those watercourses.

The City has expended significant resources over the past five years to ensure its sewer operations and facilities are in compliance with State law and the CWA, and to reduce SSOs. The City is required by law to notify the Regional Water Quality Control Board whenever an SSO occurs.

The Regional Water Quality Control Board is required by Federal law to fine the City for each SSO. When it fails to do so, the Clean Water Act permits third parties to file litigation in District Court to enforce those penalties on the Board's behalf. These third parties are allowed, under the Clean Water Act, to be reimbursed for the costs of their litigation, together with attorneys' fees, if they are able to prove that a single SSO that occurred for which we have not been fined. Obviously, the attorney's fees alone can be a burden on this city's limited revenue stream from our wastewater enterprise fund. It is not difficult for these third parties to prove that an SSO occurred since the City itself reports that they occurred.

The City was subjected to just such a lawsuit in 2012. We entered a settlement agreement in which the City agreed, among other things, to present to the City Council an ordinance that the City Council consider, prior to March 2015, amendments to the City's Municipal Code to require inspection, repair and/or replacement of sewer laterals by property owners under specified conditions.

When drafting the ordinance it appeared prudent to also provide an effective enforcement process and for the recovery of the City's costs when pursuing enforcement or remediation. This fee component requires a specific statutory process to be followed and we will now be implementing that procedure.

In conclusion, City Manager Steve Baker stated that the preliminary draft of the proposed Ordinance is presented to you tonight as a discussion item only.

Appoint second Councilmember to the Fall Creek Ad Hoc Committee – Councilmember Simmen.

Following Council discussion, Councilmember Simmen moved to appoint Councilmember Freeman to the Fall Creek Ad Hoc Committee.

Councilmember Baird seconded the motion, and upon roll call, the following voted YEA: Baird, Foster, Freeman, Mercier and Simmen.

Mayor Mercier thereupon declared the motion carried.

CLOSED SESSION:

1. Conference with Legal Counsel - Anticipated Litigation
Initiation of litigation pursuant to Subdivision (c) of Section 54956.9 of the Government Code: (Number of cases to be discussed – 1 - The names of the parties are not disclosed, as it is believed that that to do so would jeopardize the City's ability to serve process or to conclude existing settlement negotiations to the City's advantage).
2. Conference with Labor Negotiator Government Code Section 54957.6 (a)
Agency negotiator: Steven Baker.
Employee Organizations: The Yreka City Employees Association.
3. Conference with Real Property Negotiator (Government Code Section 54956.8)
Property: APN: 061-341-140
Third Party Negotiator: Tonya Dowse
City Negotiators: Steve Baker, City Manager
Under Negotiation: Possible transfer, including price, terms of payment.
4. Personnel pursuant to Government Code §54957, consider public employee performance evaluation for the position of City Manager.

RETURN TO OPEN SESSION: Upon return to open session, City Manager Baker reported that direction was given to staff and that no reportable action was taken in closed session.

ADJOURNMENT There being no further business before the Council the meeting was adjourned.

Attest:

John Mercier, Mayor
Minutes approved by Council
Motion March 5, 2015

Elizabeth E. Casson, City Clerk