

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF  
YREKA HELD IN SAID CITY ON NOVEMBER 17, 2016

On the 17<sup>th</sup> day of November 2016, 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, Joan Smith Freeman, John Mercier and David Simmen Absent - None.

Mayor Mercier reported that he has received a request to hear item number 3 as the first item on the agenda.

Approval of location of Stagecoach.

Mayor Mercier announced his recusal stating that he has a conflict of interest by reason of a business relationship with Mr. Neilson, and therefore recused himself and left the Council Chamber.

Mayor Pro-tempore Freeman opened discussion.

Director of Public Works Matt Bray reported that at the October 20 City Council meeting Council directed staff to review and report back to Council with options for the placement of the Stagecoach, including Mr. Nelson's request to place the Stagecoach immediately east of the crosswalk in front of his building.

Director of Public Works Bray presented the Council with several options as reviewed by the City Engineer and the Traffic Committee, which consists of the Chief of Police the Director of Public Works.

Public Works Director Bray reported that after review of all the options presented, the Traffic Committee is recommending that the Council authorize a long-term encroachment permit for the location of the Stagecoach west of the crosswalk in front of Mr. Nelson's Building. The estimated cost for the option is \$2,000.

Gary Neilson addressed the Council stating that he really likes the option shown as Figure #5 in the options presented by the Director of Public Works.

Following Council discussion, Councilmember Simmen moved to authorize the City Manager and Director of Public Works to execute the necessary documents to leave the stagecoach at its current location indefinitely. Further moved to direct staff to review the Downtown Plan prepared in 2004 and explore more options with the business community and residents for a long-term comprehensive plan for the ambiance of Miner Street similar to examples provided by the Director of Public Works.

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

Mayor Pro-tempore Freeman thereupon declared the motion carried.

Mayor Mercier returned to his seat at the Council table.

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 November 4 through November 17, 2016.
- b. Approval of Minutes of the meeting held November 3, 2016.
- c. Waive Full Text Reading of All Ordinances on the Agenda. Ordinances shall be introduced and adopted by title only.

Councilmember Simmen requested item 1a be pulled for discussion.

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

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

Mayor Mercier thereupon declared the motion carried.

Approval/ratification of payments issued from November 4 through November 17, 2016.

Following Council discussion, Councilmember Simmen moved to approve the payments as submitted.

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

Mayor Mercier thereupon declared the motion carried.

Approve the Transportation Claim for the 2016-2017 Local Transportation Fund and authorize the Mayor to sign the Claim on behalf of the City.

Director of Public Works Bray reported that the Local Transportation Funds are distributed to cities and counties in California in accordance with the Transportation Development Act that was passed in the late 1970's to subsidize public transit. The County receives 0.25 cents of each 8.25 cents of State tax collected from the County. The major use of the funds is for public transit. However, counties with a population of less than 200,000 are allocated a portion of the funds for streets and roads after the County transit needs are met and a public hearing on Unmet Needs is held. Siskiyou County distributes any remaining funds to the County and cities in Siskiyou County based on population.

The Local Transportation staff has estimated that the allocation of streets revenue for the City of Yreka is \$254,382 for the 2016-17 fiscal year. Of this amount, the County has estimated that it will use approximately \$181,213 of the City's allocation for public transit this year, leaving the City of Yreka an estimated amount of \$71,169.00. The actual amount to the City will vary based on the actual receipts from the State of California.

Following Council discussion, Councilmember Freeman moved to approve the Transportation Claim as submitted and authorize the Mayor to sign.

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

Mayor Mercier thereupon declared the motion carried.

Approve City Policy Titled "Design Immunity" and introduce Ordinance relating to approval of designs.

City Manager Steve Baker reported that the purpose of this agenda item is to approve a City Policy and adopt an Ordinance to help ensure that the City maintains design immunity protection as discussed below.

State law provides public agencies with a design immunity defense for any public works projects designed and constructed by the public agency, provided that the design was approved in advance of the construction by the agency's legislative body or by an employee authorized by the legislative body to give such design approval. The purpose of the design immunity is to protect local governments by preventing a jury from second-guessing the legislative body's decision to adopt a design.

When projects are authorized to be advertised or bids are awarded by the City Council, language is typically included in the Council action to approve plans and specifications. There are situations where the City Council does not approve plans and specifications, such as small projects or change orders during construction. To better protect the City from potential design defect claims and preserve its design immunity protection afforded by State law, staff recommends that the City Council formally delegate to the Public Works Director, or his or her designee, the authority to approve plans and designs for all public works/improvement and subdivision improvement projects. The attached proposed design immunity policy and Ordinance are based on suggested best practices by the California Joint Powers Insurance Authority (JPIA) and have been reviewed by the City Attorney.

It is important to note that the proposed policy and Ordinance do not in any way impact, affect or change the City Council's discretion and authority to approve projects and appropriate project funding pursuant to other applicable City policies and procedures. The policy and Ordinance also do not circumvent other established project design review and approval processes (e.g. design review and approval for conformance with discretionary permit requirements, etc.). The proposed policy and Ordinance are narrowly limited to approval of project designs for the purpose of establishing and maintaining design immunity protection pursuant to State law.

Following Council discussion, Councilmember Freeman moved to approve and adopt the City Policy titled “Design Immunity” and to introduce the Ordinance titled “An Ordinance of the City Council of the City of Yreka California adding to Title II of the Municipal Code and establishing Section 2.24.065 relating to the approval of Plans and Designs”.

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

Mayor Mercier thereupon declared the motion carried.

Selection Process for New City Councilmember: Appointment of new City Councilmember Using That Process.

City Manager Baker reported that at the July 7, 2016 City Council meeting, Mayor Mercier indicated his desire to resign after the election of councilmembers in November. The election has occurred, however, the anticipated timeline for certification of the results would mean that the new councilmembers would be seated on December 15<sup>th</sup>.

The purpose of this agenda item to outline the process for appointment of a councilmember on or after December 15<sup>th</sup>. (Government Code Section 36512 requires that upon vacancy of a City Council seat, the City Council either appoint a replacement within 60 days or call for an election).

State statutes do not identify the details of the appointment process, so the Council has wide latitude in how to make the appointment, The Council could, for example, simply nominate and agree on an individual to fill in the unexpired term of Mayor Mercier. Alternatively, the Council could accept applications for appointment to post and hold interviews (this was the process followed at the last vacancy in 2010, which included a special meeting for the interviews).

Because of the timing of the seating of the new Council and Mayor Mercier’s intent to resign so that the newly formed council can make the appointment, staff is suggesting that an application period begin now, with applications due within two weeks (e.g. December 5<sup>th</sup>) so that the newly formed council will have the information on who is interested.

The League of California Cities holds a new Councilmembers workshop in mid-January. This orientation session is strongly encouraged for all new councilmembers.

Following Council discussion, Councilmember Freeman moved to authorize accepting applications for Mayor Mercier’s soon to be vacant seat.

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

Mayor Mercier thereupon declared the motion carried.

Authorization to Negotiate Agreement with the Siskiyou Golden Fairgrounds/10<sup>th</sup> District Agricultural Association to Transfer Ownership of the portable Stage.

City Manager reported that Cliff Munson of the Siskiyou Golden Fair has contacted staff regarding the City's portable stage. The Community stage is used for City and Community events mostly the Scott Valley Bank concert series in Yreka and Lake Shastina, and various events of the Chamber of Commerce such as the Gold Rush Days, Sizzlin September Car Show, and the annual Parade and Night of Lights.

The City purchased the stage in the summer of 2005 for \$81,100.92 utilizing Community donations raised in the amount of \$20,014.65, a Ford Family Foundation Grant in the amount of \$27,000, and City funds in the amount of \$34,086.27. The first official use of the Stage was at a free Scott Valley Bank concert in the park held in Fort Jones on September 17, 2005.

The City currently provides free use of the stage (which includes insurance coverage, transportation and set up/tear down) for City sponsored events such as the Scott Valley Bank Concerts and the Chamber of Commerce events. The City charges \$250 per day for the use of the stage for events not sponsored by the City. The Stage is available to rent for events held within the City during the months of June, July and August of each year.

Mr. Munson indicated that the Fair is interested in obtaining the stage earlier this year, but yearly events were already scheduled, and it was not a high priority for our staff to work on at that time. The scheduling season for events and stages is coming up and letting the Fair know if an agreement could be reached would be helpful for his staff to plan for the upcoming season.

Following Council discussion, Councilmember Simmen moved to keep the portable stage, preserving it for City sponsored community events.

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

Mayor Mercier thereupon declared the motion carried.

City Treasurer's Report: Approval of:

- a) Cash Balances Report – September 2016
- b) Quarterly Treasurer's Investment Report – 1<sup>st</sup> Quarter Fiscal Year 2016/2017
- c) Budget of Revenue and Expenditures with Year to Date Actuals through September 2016
- d) Quarterly Fiscal Performance Report – 1<sup>st</sup> Quarter Fiscal Year 2016/2017

Following Council discussion, Councilmember Freeman moved to approve the Treasurer's reports as submitted.

Councilmember Baird seconded the motion, and upon roll call, the following voted YEA: Baird, 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: Yreka Police Officer's Association.

**RETURN TO OPEN SESSION:** Upon return to open session, City Manager Baker reported out that item #1 was pulled, and as to item #2, Council conferred with its labor negotiator, and no reportable action was taken in closed session.

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

Attest:

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John Mercier, Mayor  
Minutes approved by Council  
Motion December 1, 2016

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Elizabeth E. Casson, City Clerk