

Jackson City Council  
Minutes  
Regular Meeting of October 12, 2010

Connie Gonsalves, Mayor  
Wayne Garibaldi, Vice-Mayor  
Patrick Crew  
Marilyn Lewis  
Keith Sweet

Michael Daly, City Manager  
Andrew Morris, City Attorney  
Mark Morton, Fire Chief  
Scott Morrison, Police Chief  
Gisele Cangelosi, City Clerk

**COUNCIL MEMBERS ABSENT:**

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Mayor Gonsalves called the meeting to order at 7:00 p.m.

Mayor Gonsalves called for a Moment of Silence in Honor of Firefighter James Saunders who died in the Line of Duty on October 3, 2010.

**1. APPROVAL OF AGENDA.**

**Moved by Councilmember Lewis, seconded by Councilmember Crew, and unanimously carried to approve the City Council Agenda dated October 12, 2010 as presented.**

**2. PUBLIC MATTERS NOT ON THE AGENDA.**

Jack Georgette, Jackson, stated he disappointment that certain Councilmembers were endorsing Paul Molinelli instead of Bill Condrashoff for AWA District 1 Director seat.

**3. CONSENT CALENDAR.**

- a. Approval of Minutes of September 27, 2010 meeting.
- b. Approval of Expenditure Report for October in the amount of \$244,874.39.
- c. Approval of Salary related items for August the amount of \$233,901.51.
- d. Receive Jackson Fire Department Monthly Report for September 2010.
- e. Receive Building Department Monthly Reports for September 2010.
- f. Adopt Resolution Approving Biennial Review of Conflict of Interest Code and Designated Employees.
- g. Award of Bid –Summit Street/Court Street Water Line Replacement, Project No. 2010-01.

**Moved by Councilmember Lewis, seconded by Vice-Mayor Garibaldi, and unanimously carried to approve as amended except for:**

- 1. Councilmember Sweet abstained on the approval of Check 233449 in the amount of \$533.97.**
- 2. Councilmember Crew abstained on the approval of Check 233412 in the amount of \$263.63.**
- 3. Councilmember Crew abstained on the approval of Minutes of September 27, 2010 meeting.**

#### **4. ADMINISTRATIVE REPORTS.**

City Manager Daly reported on the following items:

1. Jackson City Slickers participated on in the Annual Rotary Bowl-A-Thon on Saturday, October 9.
2. Supervisor Forrester has requested the City Council support and approval of a Resolution to Save Preston School Support.
3. Continued discussions with legal counsel regarding Rollingwood owner potential subdividing the Mobilehome Park.
4. Special Event Permit for Quick Draw Rendezvous Event in Detert Park will be held Saturday, October 18.
5. The sound system in the City Council Chambers was in need of upgrading to digital recording. Staff had contacted a local audio professional for assistance in developing a plan to remedy the problem. Pete Bell, "The Sound Guy. Hopefully by the next meeting Mr. Bell will integrate the new recorder into the current sound system. Staff will be record tonight's meeting on both systems.

Fire Chief Morton reported the Jackson Fire Department responded to 68 calls last month, 47 medical calls, 6 public assists, 6 fire related, 1 hazardous materials, 8 traffic accidents and 12 percent of the calls were outside of the city limits for automatic aid to the AFPD. The Jackson Volunteer Fire Department attended Firefighter James Saunders's memorial service held today at Hornet Stadium. After the ceremony the Department transported Fire Fighter Saunders remains to his home in Fiddletown.

#### **5. COUNCIL REPORTS.**

Councilmember Crew reported on the following items:

1. Attended the Amador Water Agency Outreach Committee meeting.
2. Reminder the Jackson Business and Community Association Kick-off is being held Thursday, October 14, 2010 at Thomi at 6:00 p.m.

Councilmember Sweet reported on the following items:

1. Attended the Amador Water Agency Outreach Committee meeting
2. Attended the East Bay Municipal Utility District picnic.
3. Attended the Wild West Shindig, fundraiser for the Drug Abuse Resistance Education (D.A.R.E) and Jackson Police Activities League (JPAL).
4. Volunteered four 4 hours at the Amador County Historic Society office.
5. Attended the Jackson Senior Center Open House to celebrate 25 years held Saturday, October 9.

Councilmember Lewis reported she would not be able to attend the Sewer Rate Committee meeting.

Vice-Mayor Garibaldi reported on the following items:

1. Attended the Mayors and Board Chair Forum meeting.
2. Will be attending the Amador County Recreation Agency meeting tomorrow.

Mayor Gonsalves reported on the following items:

1. Attended the Wild West Shindig, fundraiser for the Drug Abuse Resistance Education (D.A.R.E) and Jackson Police Activities League (JPAL).
2. Attended the Jackson Woman's Club Centennial Celebration, Open House being held Saturday, October 9.

3. Attended the Mayors and Board Chair Forum meeting.
4. Will be attending the Permit for Quick Draw Rendezvous Event in Detert Park on Saturday, October 18.

### **DISCUSSION CALENDAR.**

#### **6. Lease with Motherlode Broadcasting, Inc. for Radio Antenna on City Property located behind Amador Senior Center.**

City Manager Daly reported at the July 12, 2010 meeting, the City Council conceptually approved leasing undeveloped City owned property behind the Amador Senior Center to Motherlode Broadcasting, Inc. for placement of a radio antenna. The City property is identified as Assessor Parcel Number 020-070-039, an "L" shaped parcel located between City Cemetery lands and the Oro De Amador property. Just to the north of the parking lot behind the Amador Senior Center, it is also located just to the east of where a possible Placer Drive extension would be located.

Following the conceptual approval by the City Council, a conditional use permit for installation of this type of facility was approved by the Jackson Planning Commission to meet Development Code requirements. The lease provides for a monthly payment of \$500, with annual increases of 2.0%. The lease allows for possible recreation uses on the site that may be compatible with a radio antenna (walking trail, etc) and also provides that if the City finds that it has a more beneficial use for the property in the future, it can relocate the antenna at the City's cost.

Jim Guidi, Motherlode Broadcasting, stated he anticipates the launch of the new broadcast signal on November 1.

**Moved by Councilmember Lewis, seconded by Councilmember Crew, and unanimously carried to pass a motion approving the lease of City property to Mother Lode Broadcasting for a radio antenna on property owned by the City of Jackson, Assessor's Parcel Number 020-070-039.**

#### **7. Consider Urgency Ordinance Amendment Pertaining to Size of Non-Commercial Temporary Signs.**

City Manager Daly reported at the last City Council meeting, it was brought to the Council's attention that signs that exceed the City's size limit are often left in an area outside Merzlake Signs for drying and/or awaiting pick-up by the customers who ordered them for placement outside city limits. This has been the common practice for many years and was not discussed when the sign ordinance was amended in 2008. At the September 27, 2010, City Council meeting, staff was requested to research the issue and place an item on this agenda for further consideration.

The sign ordinance pertaining to non-commercial temporary signs was last amended in 2008. The amendment removed language calling signs promoting a candidate for public office "political signs" and increased the allowable time and size limitations for signs that fall into this category. The current size limit for these signs when placed within the City of Jackson is sixteen square feet.

The size limit for signs in other locations throughout the County is thirty two square feet and many of those signs are made at sign shops in Jackson. In order to clarify the applicability of the current ordinance language to signs on display at Merzlake Signs, the City Attorney was requested to review the ordinance language as it might apply in this situation. A copy of his memorandum concluding that signs displayed outside Merzlake signs should comply with the sixteen square foot size limit is attached.

At this point, the City Council has two basic options. 1) direct staff to enforce the current sign regulations for signs exceeding sixteen square feet on display at Merzlak Signs, or 2) amend the sign ordinance to allow thirty two square foot signs to be displayed within city limits similar to other jurisdictions within the County. Due to the short amount of time for the upcoming election, an urgency ordinance would be necessary to have any modifications approved take effect prior to the election on November 2. An urgency ordinance requires a 4/5ths vote of the City Council for approval.

A copy of the memorandum prepared by the City Attorney identifying the key applicable provisions of the sign ordinance to this situation is attached, as well as a draft urgency ordinance that would amend the size limitation to a maximum of thirty two square feet.

Mayor Gonsalves opened the public discussion. The following individuals provided public comment: Kathryn Devlin, Robert Manassero, Eleanor Caputo, Thornton Consolo, Paul Molinelli, Kam Merzlak and Bill Condrashoff. Hearing no further comments from the public, Mayor Gonsalves closed the public discussion.

City Attorney Morris stated passage of the urgency ordinance requires a 4/5 vote of the City Council to adopt Ordinance No. 666.

After considerable discussion among the City Council and staff the following motions were made:

**Moved by Councilmember Lewis, seconded by Councilmember Crew, to adopt Ordinance No. 666, an urgency ordinance amending Section 17.54.155 of the Jackson Municipal Code related to the regulation of non-commercial temporary signs, allowing for these signs up to thirty two square feet in size. Councilmember Sweet and Vice-Mayor Garibaldi voted no, the motion died to a lack of a 4/5 vote of the City Council.**

**Moved by Councilmember Sweet, seconded by Vice-Mayor Garibaldi and carried by a 3 to 2 vote (Mayor Gonsalves and Councilmember Lewis voted no) to refer this item to the Planning Commission to review this regulation at the October 18 meeting**

#### **8. City Application for Brownfield Funding for Oro De Amador.**

City Manager Daly reported each year the EPA provides grant and revolving loan funding to assist communities in assessing and cleaning up "brownfield" sites. "Mine-scarred" land falls within the definition of a brownfield site, thus, many properties within the Jackson and Amador County area qualify for funding from this program. This year, a total of \$92.5 million is available on a national competitive basis. The City has benefited from previous assessment grants obtained through the California Department of Toxic Substances Control (DTSC) over the past three years to provide soil contamination data, primarily arsenic, to assist in the development of a clean-up plan necessary to protect the public health when access to this property is opened to the public. These studies included a Targeted Brownfield Assessment study and a Targeted Site Investigation. A significant amount of data was collected in these studies and DTSC staff believes that one more assessment study to tie all of the information together, while at the same time applying for a clean-up grant to remediate some of the "hot spots" on the property is now warranted.

Staff is working with the Amador County Recreation Agency on preparing the grant applications, which are due on Friday, October 15. The provided resolution authorizes the City Manager to submit the

applications for consideration. In addition, staff is working with ACRA and the Oro De Amador Study Group on preparation of a Proposition 84 grant application for recreational development of the property. Several public workshops will be conducted over the next few months prior to the application deadline of March, 2011.

**Moved by Councilmember Sweet, seconded by Councilmember Lewis and unanimously carried to adopt Resolution No. 2010-36, supporting the submittal of applications for Environmental Protection Agency (EPA) Brownfield grant program funding for a site specific (Oro De Amador Property) site assessment and clean-up grants.**

#### **9. Use of Proposition 40 Recreation Development Funds.**

City Manager Daly reported the voters of California approved the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act in 2002. A portion of these funds were made available to municipalities based on population (per capita) and the City of Jackson total allocation was \$220,000. In 2004, the City used \$38,504 to re-plaster the City pool. No other funds have been programmed from this funding source. It was hoped that the Oro De Amador property would be further along in the soils evaluation and clearance process, however, with a funding use deadline of March 31, 2011, the environmental review process would preclude the use of these funds on that property.

As stated in the guidelines, this program is intended to maintain a high quality of life in California's growing population by providing a continuing investment in parks and recreation facilities. Specifically, it is for the acquisition and development of neighborhood, community and regional parks and recreation lands and facilities in urban and rural areas. Eligible uses of the funds are capital projects that will provide lands and facilities for recreational activities and services. Projects are required to provide documentation that requirements of the California Environmental Quality Act have been met and obtain pre-approval from the State Parks and Recreation Department for the project. Therefore, projects should be fairly simple and require minimal discretionary review for construction. Non-construction costs (environmental review, plans and specifications, etc.) cannot exceed 25% of the total project funding.

The City Council discussed the identification and selection of a project(s) eligible for funding with the Proposition 40 Per Capita Program for development of recreation facilities.

It was recommended that the City Council form a subcommittee and work with the Amador County Recreation Agency to provide options for utilizing these funds for the City Council to consider at its meeting on November 8, 2010. Mayor Gonsalves and Councilmember Lewis volunteer to serve on this subcommittee.

#### **10. Wastewater Permit Compliance Planning Update.**

City Manager Daly reported on July 12, 2010, the City Council received a Wastewater Options Report from ECO: LOGIC outlining the best apparent options for complying with the water quality and effluent discharge requirements contained within the City's National Pollutant Discharge Elimination System (NPDES) permit that allows the City to discharge treated wastewater effluent into Jackson Creek.

The City Council reviewed the report and formed a rate review committee to evaluate the sewer rate changes that would be necessary to finance the improvements required to comply with permit requirements. The committee has met twice and most of the discussion has focused on the array of options presented in the Wastewater Options Report and on two other options identified by the public. The other options include adding water to Jackson Creek, supplied by the Amador Water Agency from

the Amador Water System to increase the dilution of the City's wastewater discharge, and an aggressive water conservation plan that would result in less wastewater effluent discharge into Jackson Creek, thus improving the dilution rate within Jackson Creek and Lake Amador.

The addition of water to Jackson Creek was discussed as an option during stakeholder meetings conducted in 2003 to examine options for meeting likely dilution requirements. At the time, the AWA General Manager Jim Abercrombie responded that this plan would not be possible due to the Agency's contract with PG&E for allowable use of water from this system (relevant letters attached). At the request of AWA Director Bill Condrashoff, the Agency's attorney Steve Kronick gave this concept another review and he provided a memorandum outlining ten issues that would need to be addressed in a potential sale of water to JVID via Jackson Creek.

A copy of Mr. Kronick's memorandum is provided. Many of these items identify issues but require additional research to determine the feasibility of this option. Current AWA General Manager Gene Mancebo has indicated that if the City is interested in having additional research conducted regarding these issues, the Agency would need to be reimbursed for the cost of this research. Items on the list which are under the areas of expertise of Mr. Kronick would include 4, 6, 7, 8 and 9. Most of these issues pertain to contracts between AWA, PG&E and EBMUD.

The ECO:LOGIC Wastewater Options Report presented in July contains three best apparent options that require permitting, environmental review and agreements with other parties, many of which include long time lines due to the involvement of regulatory agencies and the environmental review process. The City is now three years into the five year NPDES permit, and even with the aggressive timing built into the front end tasks of the attached "Action Items" planning schedule, the current timeline shows that construction of improvements necessary to discontinue discharging effluent to Jackson Creek that does not meet discharge requirements and is not expected to be complete prior to the end of the current NPDES permit in October 2012.

The options presented in the ECO:LOGIC report are intended to bring the City into compliance with Discharge Prohibition III.E: *Five years following the adoption date of this Order, the Discharger is prohibited from discharging wastewater into Jackson Creek in amounts that cause the downstream Lake Amador water to exceed greater than five percent volume of wastewater in Lake Amador (one part wastewater in 20 parts of Lake water, or 20:1 dilution), and equally as important,* the increasingly stringent water quality requirements included in the NPDES permit.

New more stringent effluent limitations for several constituents went into effect on May 18, 2010. The City has submitted requests for extensions and a Time Schedule Order for relief from some of those requirements in order to avoid Mandatory Minimum Penalties and allow for time to come into compliance with the tighter requirements. The Regional Board is in the process of drafting a Cease and Desist Order to address noncompliance issues. One of the key benefits of reducing the City's effluent discharge into Jackson Creek is obtaining dilution credits to enable the City's wastewater treatment plant to meet these water quality requirements with the minimum amount of wastewater treatment plant upgrades.

The series of letters to the Regional Board requesting time extensions and other updates regarding the City's permit requirements, as well as the response from the Regional Board in June 2010 indicating they were in the process of drafting a Cease and Desist Order are attached.

The "Action Items" planning document was reviewed with the City Attorney and key members of his firm who have expertise in the areas of wastewater permitting and water rights petitions with the Division of Water Rights and the initial approach was modified to focus on a project specific CEQA document rather than a program level document. This approach will be further clarified at the City Council meeting.

City Attorney Morris reiterated the initial approach was modified to focus on a project specific CEQA document rather than a program level document.

Mayor Gonsalves opened the public discussion. The following individuals spoke their concerns, Bill Orescan, Paul Molinelli, Judy Jebian, Bill Condrashoff and Jack Georgette. Hearing no further comments the Mayor Gonsalves closed the public discussion.

Councilmember Sweet thanked Bill Orescan for his comments. He stated for the record he did not appreciate the email in which Mr. Orescan states extraneous data and statements that the City Manager and Eco: Logic were deceitful and deliberately withheld information and manipulated the data.

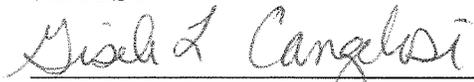
**Moved by Councilmember Sweet, seconded by Vice-Mayor Garibaldi, and carried by 3 to 2 vote (Councilmember Sweet and Councilmember Lewis voted no) to authorize the City Manager to request assistance from Amador Water Agency counsel to research issues related to the possible release of Amador Water System water into Jackson Creek for the dilution of the City's wastewater, and to proceed with the initial steps outlined in the "Action Items" memorandum prepared by ECO:LOGIC-Stantec to keep the City moving forward towards compliance requirements contained within its NPDES wastewater effluent discharge permit with the Regional Water Quality Control Board.**

City Manager Daly reiterated staff would obtain a cost estimate from the Amador Water Agency counsel before request they provide assistance to research issues related to the possible release of Amador Water System water into Jackson Creek for the dilution of the City's wastewater. We are all aware of the cost and studies necessary to get this permit – working diligently as possible.

#### **11. ADJOURNMENT.**

Adjourn: 9: 11 p.m.

ATTEST:

  
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Gisele L. Cangelosi, City Clerk

Date Approved: October 25, 2010