

Jackson City Council  
Minutes  
Regular Meeting of November 23, 2015

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

Michael Daly, City Manager  
Scott Morrison, Police Chief  
Gisele Wurzbarger, City Clerk

**COUNCIL MEMBERS ABSENT:**

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

**1. APPROVAL OF AGENDA.**

**Moved by Councilmember Lewis, seconded by Councilmember Gonsalves, and carried by a 5 to 0 vote to approve the City Council Agenda dated November 23, 2015 as presented.  
Motion passed with the following vote:**

**AYES: Crew, Garibaldi, Gonsalves, Lewis, Sweet  
NOES: None  
ABSENT: None  
ABSTAIN: None**

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

None.

**3. CONSENT CALENDAR.**

- a. Approval of Minutes of November 9, 2015 meeting.
- b. Approval of Expenditure Report for the period of November the amount of \$116,731.91.
- c. Approve Claim for Damage – Roberts.
- d. Approve Special Event – Christmas Delights November 27 & 28, 2015.

**Moved by Councilmember Gonsalves, seconded by Councilmember Lewis, and carried by a 5 to 0 vote to approve the Consent Calendar dated November 23, 2015 except for:  
Motion passed with the following vote:**

**AYE S: Crew, Garibaldi, Gonsalves, Lewis, Sweet  
NOES: None  
ABSENT: None  
ABSTAIN: None**

**Vice-Mayor Sweet abstained from the Approval Check 4119 in the amount of \$606.57.**

**4. ADMINISTRATIVE REPORTS**

Police Chief Morrison reported staff has been working on the Emergency Action Plan for the Argonaut Dam Tailing Mine. All government agencies have been provided a copy and final approval is pending on response from these agencies.

City Manager Daly reported on the following:

1. The Environmental Protection Agency is working with interim measures to protect the Argonaut Dam for the winter. Argonaut was closed November 16 thru 23 during the installation of a larger culvert to reduce water behind the Argonaut Dam.
2. Christmas Delights will be held on November 27 & 28, 2015.
3. Staff is working with Robert Manassero and Toma Anderson on a drainage issue on New York Ranch Road.
4. The Annexation, Pre-Zone, General Plan Amendment Jackson Rancheria making application to LAFCO has been pushed back to January.

**5. COUNCIL REPORTS.**

Councilmember Gonsalves attended the American Legion Post 108, Veterans Day Parade.

Vice-Mayor Sweet attended the American Legion Post 108, Veterans Day Parade.

Mayor Crew reported on the following:

1. Attended the American Legion Post 108, Veterans Day Parade.
2. Attended the November LAFCO meeting.

**DISCUSSION CALENDAR**

For the record: Action minutes provide the necessary documentation of City Council actions and audio recordings are retained for those desiring more detail on particular agenda item discussion. These audio recordings provide an accurate and comprehensive backup of City council deliberations and citizen discussion.

**6. Update to the Amador County Parks and Recreation Master Plan, Including the Nexus Information for Fees.**

Carolyn Fregulia, ACRA Executive Director, reported at the May 11, 2015, City Council meeting, ACRA related that it was in the process of updating the Amador County Park and Recreation Master Plan. In September the Request for Proposal where sent to consultants and two proposals were received. The Evaluation Committee interviewed the consultants and their recommendation was submitted to the ACRA Board on November 18. The ACRA Board recommends Foothill Associates, Rocklin, be hired as the consultant to update the Amador County Parks and Recreation Master Plan. The Foothill Associates initial Cost Proposal is for time and material, to not exceed \$101,561.00. Their fees qualify and can be paid with AB 1600 Park Impact Mitigation Fees collected by the City. The breakdown of compensation for each jurisdiction is as follows:

County of Amador	63%	\$63,983.43
City of Amador City	1%	\$ 1,015.61
City of Jackson	13%	\$13,202.93
City of lone	13%	\$13,202.93
City of Plymouth	3%	\$ 3,046.83
City of Sutter Creek	7%	\$ 7,109.27

During the RFP process, ACRA spent \$1,823.76 for advertising in the Sacramento Bee, \$471.66 for advertising in the Amador Dispatch, and \$51.03 for postage, for a total of \$2,346.45. These expenses also qualify to be refunded with AB 1600 Park Impact Mitigation Fees. ACRA will enter into negotiations with Foothill Associates on in December 1 to finalize the contract. The compensation required from each jurisdiction may be reduced during negotiations.

Mayor Crew opened the public discussion. The following individuals spoke regarding Amador County Parks and Recreation Master Plan: William Easley. Hearing no further comments from the public, Mayor Crew closed the public discussion.

After considerable discussion among the City Council and staff, the following motion was made:

**Moved by Councilmember Garibaldi, seconded by Councilmember Sweet, and carried by a 5 to 0 vote to approve Resolution 2015-35 Amending the Budget for Fiscal Year 2015-2016 for a Recreation Mitigation Fee Study as amended:**

1. **City of Jackson's Funding the Master Plan Update for an amount, not to exceed \$13,202.93 and;**
2. **Reimbursement to ACRA for advertising and mailing the RFP in the amount of \$305.03. Motion passed with the following vote:**

**AYE S: Crew, Garibaldi, Gonsalves, Lewis, Sweet**  
**NOES: None**  
**ABSENT: None**  
**ABSTAIN: None**

#### **7. Wastewater Rate Increase Update.**

City Manager Daly reported staff has been working on the wastewater rate update to support the improvements being required by the City's NPDES wastewater permit for a number of months. There are several issues to be reviewed and completed prior to the Proposition 218 notice mailing, and staff is confident that this notice should be ready to go soon. The Ratepayers Protection Alliance (RPA) has been represented by Bill Condrashoff during the recent discussion about rate issues and helped to update the wastewater rates provided. The provided chart shows the latest proposed rates developed by the RPA group and reviewed by City staff and the Regional Board staff. These proposed rates will generate the funding necessary to fund the likely improvements necessary to keep the City in compliance with its NPDES permit. Whether the cost of the improvements reaches the full \$12 million projection is unknown at this point, however, both staff and the City's wastewater engineering firm, West Yost, are confident that this amount will be sufficient to pay for the improvements.

Key aspects were discussed:

1. Capacity necessary to handle the dry and wet weather flows into the plant.
2. Inflow and infiltration into the City's wastewater collection system.
3. Staff is working with the West Yost engineers and seeking grant funding to address the issues related to the inflow and infiltration problem.
4. Significant issue raised by the RPA was whether to charge a residential sewer rate based on water use. The current chart and assumption is a flat rate for residential use, similar to how it is charged now, however, the first two years of residential service actually have a lower rate that what is currently charged.
5. One of the big problems with the flexible residential rate concept is with mobile home parks.

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6. Charging a flexible wastewater rate for residences based on the water consumption during February and March each year creates additional staff time as well.
7. Staff has had recent discussions with the Regional Board about the City's project and they are hopeful that the Proposition 218 process can begin soon so that the new rates can be adopted and put in place for the loan. They have tentatively agreed that the rate chart provided to this report will be sufficient to meet the loan requirements (of course, this may depend on the final interest rate that cannot be locked in until the loan is completed, likely in March 2016 at this point).

While there is still much to determine on the total capacity necessary to handle wet weather flows and the residential rate structure (based on annual flow rates or not), staff feels comfortable moving forward with the Proposition 218 process with additional direction from the City Council.

Mayor Crew opened the public discussion. The following individuals spoke regarding the Wastewater Rate Update: Bill, Condrashoff, Shirley Danjowski and Casey Emerson. Hearing no further comments from the public, Mayor Crew closed the public discussion.

Greg Chung, West Yost, was present to answer question of the City Council.

After considerable discussion among the City Council and staff, this item was continued to the December 14 meeting. Staff was directed to set up a meeting with Mayor Crew, City Engineer Ghio, City Engineer Chung and Bill Condrashoff, RPA Representative to further discuss Mr. Condrashoff's concerns regarding information provided in the staff report. .

City Manager Daly stated he would set up a meeting early next week with the suggested group.

#### **8. Code Enforcement Ordinance Update.**

City Manager Daly report at the November 9, 2015 meeting, the City Council approved the first reading of the ordinance and this would be the second reading and adoption of the ordinance. If approved, it would go into effect on December 23, 2015, thirty days after approval of this item. As requested by the Council, a copy of the current ordinance was provided. The City has been working on code enforcement issues to enhance the neighborhoods in Jackson, as well as to protect public and private property. After a review of the current provisions in the Municipal Code, staff requested the City Attorney to update this code section to allow for better enforcement of code issues. Key areas of the updates include a better process for nuisance abatement issues and recovery of legal costs associated with these actions. Better definitions were created for nuisances and property ownership responsibilities were also identified. The ordinance provides specific timelines for responding to abatement procedures and the issuance of final orders for clean-up or removal of hazards associated with the code enforcement actions. Liabilities for the costs are also included within the ordinance.

Mayor Crew opened the public discussion. Hearing no comments from the public, Mayor Crew closed the public discussion.

After considerable discussion among the City Council and staff, the following motion was made:

**Moved by Councilmember Lewis, seconded by Councilmember Gonsalves, and carried by a 5 to 0 vote to approve the second reading and adoption of Ordinance No. 688 Code Enforcement Update. Motion passed with the following vote:**

**AYES:** Crew, Garibaldi, Gonsalves, Lewis, Sweet  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

**9. Pre-Zone for Rancheria Annexation.**

City Manager Daly reported at the November 9, 2015 meeting, the City Council held a public hearing to review the prezone and general plan amendment for the Jackson Rancheria Development Corporation for the annexation of their three properties in the City of Jackson Sphere of Influence. The City Council approved the first reading of Ordinance 687 approving the prezone and Resolution 2015-26 approving the General Plan Amendment. A second reading of the ordinance is required for approval of the prezone. The annexation request was scheduled to be heard by the Amador County Local Agency Formation Commission on November 19, 2015 however, that meeting has been continued to the January 21, 2016 meeting.

Mayor Crew opened the public hearing. The following individual spoke in opposition of the Pre-Zone for Rancheria Annexation: Cecily Smith. Hearing no further comments from the public, Mayor Crew closed the public hearing.

For the record: Cecily Smith, Foothill Conservancy, submitted a letter of continued concerns.

Councilmember Sweet stated the Council just received Foothill Conservancy's letter and significant questions were raised regarding zoning and CEQA. He asked City Attorney Nelson if there were enough questions raised to continue this item.

City Attorney Nelson stated this item should be continued so that the CEQA concerns could be addressed. If there are amendments made to Ordinance 687 it would require another first reading and the application would also have to be amended.

After considerable discussion among the City Council and staff it was the consensus of the City Council to table this item to the December 14 meeting. Staff was directed to schedule a meeting with Cecily Smith, Councilmember Sweet, Councilmember Garibaldi and City Planner Peters to discuss the Foothill Conservancy's concerns brought forth in Cecily Smith's letter that was submitted for the record.

**10. Ordinance Amending Sections 5.04.040, 17.06.040, and 17.220.020 of the Municipal Code Regarding Marijuana Cultivation and Dispensaries.**

City Manager Daly reported at the November 16, 2015 Planning Commission meeting the Planning Commission reviewed and made a recommendation to forward to the City Council Ordinance No. 689 amending sections of the Municipal Code for compliance with the Medical Marijuana Regulation and Safety Act. In 2010 the City Council adopted Ordinance No. 664 to amend the Development Code to prohibit the establishment and operation of medical marijuana dispensaries and other business and uses prohibited by state or federal law. Since that amendment, the State has enacted the Medical Marijuana regulation and Safety Act which becomes effective January 1, 2016. It allows for local governments to regulate the licensing of marijuana cultivation uses and sites and the delivery of medical marijuana. The Act also gives the State authority to regulate marijuana cultivation and delivery in those jurisdictions that do not have land use regulations to regulate or prohibit the cultivation or delivery of marijuana. Ordinance No. 664 does not address cultivation or delivery of marijuana.

Mayor Crew opened the public hearing. Hearing no comments from the public, Mayor Crew closed the public hearing.

After considerable discussion among the City Council and staff, the following motion was made:

**Moved by Councilmember Lewis, seconded by Councilmember Gonsalves, and carried by a 5 to 0 vote to approve the first reading and adoption of Ordinance No. 689 Amending Sections 5.04.040, 17.06.040, and 17.220.020 of the Municipal Code Regarding Marijuana Cultivation and Dispensaries. Motion passed with the following vote:**

**AYES: Crew, Garibaldi, Gonsalves, Lewis, Sweet**  
**NOES: None**  
**ABSENT: None**  
**ABSTAIN: None**

**11. Annexation, Pre-Zone and General Plan Amendment for City of Jackson Waste Treatment Plant (APN 044-180-007).**

City Manager Daly reported at their November 16, 2015 meeting, the Planning Commission held a public hearing and recommended the City Council approve the annexation, pre-zone and general plan amendment of APN 044-180-007 for the City of Jackson Wastewater Treatment Plant (WWTP). The recommended actions are as follows:

1. Instruct Staff to file a California Environmental Quality Act Categorical Exemption;
2. Adopt Resolution No. 2015-31 making application to the Amador County Local Agency Formation Commission for the annexation of the WWTP to the City of Jackson.
3. Adopt Resolution No. 2015-33 adopting a General Plan Amendment to designate the WWTP Property Public/Institutional.
4. Approve Ordinance No. 690 Prezoning the City's WWTP Property Public/Institutional.

The City of Jackson's Wastewater Treatment Plant located west of the Busi Parking Lot is currently not within the City's jurisdictional boundaries. This issue has been reviewed by the Executive Officer of the Amador County Local Agency Formation Commission (LAFCO) who is recommending that the City submit a formal application to LAFCO to rectify the maps. The project site is located within the City's Sphere of Influence but has no pre-zoning. The property has been developed with the City's Wastewater Treatment Plant since approximately 1936. Because of the municipal use of the property, Public/Institutional is an appropriate zone and General Plan designation. While annexation, pre-zone and General Plan amendments are typically subject to the California Environmental Quality Act (CEQA), projects which have no possibility of causing an environmental impact can be categorically exempted from CEQA review in accordance with Section 15061(b)(3) of CEQA.

Mayor Crew opened the public discussion. Hearing no comments from the public, Mayor Crew closed the public discussion.

After considerable discussion among the City Council and staff, the following motion was made:

**Moved by Councilmember Sweet, seconded by Councilmember Lewis, and carried by a 5 to 0 vote to file a California Environmental Quality Act Categorical Exemption; and to adopt Resolution No. 2015-31 making application to the Amador County Local Agency Formation Commission for the annexation of the WWTP to the City of Jackson. Motion passed with the following vote:**

**AYES:** Crew, Garibaldi, Gonsalves, Lewis, Sweet  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

**Moved by Councilmember Sweet, seconded by Councilmember Gonsalves, and carried by a 5 to 0 vote to adopt Resolution No. 2015-33 adopting a General Plan Amendment to designate the WWTP Property Public/Institutional. Motion passed with the following vote:**

**AYES:** Crew, Garibaldi, Gonsalves, Lewis, Sweet  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

**Moved by Councilmember Sweet, seconded by Councilmember Gonsalves, and carried by a 5 to 0 vote to approve first reading of Ordinance No. 690 Rezoning the City's WWTP Property Public/Institutional.**

**Motion passed with the following vote:**

**AYES:** Crew, Garibaldi, Gonsalves, Lewis, Sweet  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

Mayor Crew called for a recess at 8:21 p.m. Mayor Crew reconvened the meeting at 8:25 p.m.

## **12. Application for Brownfield Clean-up Grant for Oro De Amador.**

City Manager Daly thanked Patrick Cannon for assisting with putting together this application. He 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 \$54.3 million is available for clean-up grants on a national competitive basis. The City has benefited from previous assessment grants obtained through the California Department of Toxic Substances Control (DTSC) and the Sierra Nevada Conservancy providing soil contamination data, 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, Targeted Site Investigation, and the current Sierra Nevada Conservancy Grant. A significant amount of data was collected in these studies and DTSC staff believes that it is now appropriate to apply for clean-up grants to remediate some of the areas of the property with elevated arsenic contamination levels and has encouraged the City to apply for these grants. After the environmental remediation is complete, the City would like to develop recreational parkland on the current property, including a network of pedestrian/bicycle trails. Staff is preparing the grant applications which are due on Friday, December 18, 2015. The provided resolution authorizes the City Manager to submit the applications for consideration.

Mayor Crew opened the public hearing. Hearing no comments from the public, Mayor Crew closed the public hearing.

After considerable discussion among the City Council and staff, the following motion was made:

**Moved by Councilmember Garibaldi, seconded by Councilmember Lewis, and carried by a 5 to 0 vote to adopt Resolution No. 2015-34, supporting the submittal of applications for Environmental Protection Agency Brownfield Grant Program funding for three clean-up grants on the Oro de Amador property. Motion passed with the following vote:**

**AYES: Crew, Garibaldi, Gonsalves, Lewis, Sweet**  
**NOES: None**  
**ABSENT: None**  
**ABSTAIN: None**

**13. Comments for Caltrans Regarding Proposed Crosswalk Removal on East Side of Intersection of Highway 49 and 88 Near City Hall.**

City Manager Daly reported on Thursday, November 19, staff received an e-mail from Aaron Brusatori, Community Development Director at Amador County, with information from Caltrans about their plans to eliminate a crosswalk at the intersection of Highway 49 and 88 just outside City Hall. The City did not receive the same notice. The crosswalk is the one that runs along the highway from the corner of City Hall to the corner near Davenport Properties and the Best Western Motel. Because of the following reasons Traffic Safety recommends to remove the crosswalk and restrict pedestrian crossing SR-88 at the intersection of SR-49 and SR-88 in the Amador County. The provided diagram was also included in the e-mail, and a requested response date of December 11, 2015, was requested. The following information was provided in the e-mail requesting feedback:

1. The recommended pedestrian count required to install crosswalk is 20 pedestrian per hr. Per pedestrian counts maximum pedestrian crossing in one hour is only 3.
2. There is one existing crosswalk located approximately 260 ft. east from SR 88/49 junction, at the intersection of SR-88 and Broadway Ave. The pedestrian counts for the same day and time period (9 hr.) on 10/27/2015 shows total 28 pedestrians using the crosswalk.
3. Based on the results from the off-tracking analysis done by Traffic Operations, the NB SR- 49 to EB SR-88 turning movement shows CA Legal Truck encroaching onto the sidewalk. The field review shows significant damage/ tire marks to the sidewalk, consistent with the results of the off tracking analysis.
4. There is no continuous sidewalk leading the pedestrian from north to south, also the shoulder adjacent to northbound lane is about 4 ft. wide with >2% slope, which does not meet the current ADA standards.
5. The major reason to remove the crosswalk is the safety concern at the south east corner. Also there is not enough pedestrian using this crosswalk. Therefore Traffic Safety recommends removing crosswalk located east side of SR88/49 intersection.

Mayor Crew opened the public discussion. The following individuals spoke against proposed Crosswalk Removal on East Side of Intersection of Highway 49 and 88 near City Hall: Casey Emerson and Shirley Danjowski. Hearing no comments from the public, Mayor Crew closed the public discussion.

After considerable discussion among the City Council and staff, it was the consensus of the City Council to oppose removal of this crosswalk. The Council did not feel that the two times sampled were representative of the use of this crosswalk and that Caltrans should put ADA ramps at this intersection before any

determination can be mad regarding the volume of pedestrian traffic.

**Moved by Councilmember Gonsalves, seconded by Councilmember Garibaldi, and carried by a 5 to 0 vote to authorize the City Manager with the collaboration of the Police Chief Morrison to draft a letter of opposition to the Crosswalk removal at the Intersection of SR-88 and SR-49. Motion passed with the following vote:**

**AYES: Crew, Garibaldi, Gonsalves, Lewis, Sweet**  
**NOES: None**  
**ABSENT: None**  
**ABSTAIN: None**

#### **14. Selection of Mayor and Vice Mayor.**

City Manager Daly reported the Jackson Municipal Code and California Government Code call for the City Council to select one of its own members to serve as Mayor and Vice-Mayor for one year terms. This has been traditionally voted upon at the last meeting in November of odd-numbered years and the beginning of December of even-numbered years following the general election. To clarify the roles and responsibilities of the Mayor, Vice-Mayor and Councilmembers, the City Council adopted the City of Jackson Code of Conduct for Elected Officials, which was last revised in June, 2005. The section of this document pertaining to the roles and responsibilities was provided for reference.

Mayor Crew opened the public discussion. The following individual spoke regarding selection of Mayor and Vice-Mayor: Casey Emerson and Shirley Danjowski. Hearing no comments from the public, Mayor Crew closed the public discussion.

After considerable discussion among the City Council and staff, the following motion was made:

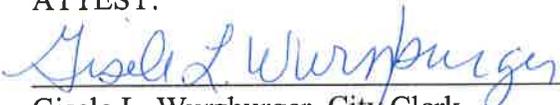
**Moved by Councilmember Garibaldi, seconded by Councilmember Lewis, and carried by a 3 to 2 vote (Councilmember Sweet and Councilmember Gonsalves abstained) to nominate and appoint Councilmember Sweet as Mayor and Councilmember Gonsalves as Vice –Mayor. Motion passed with the following vote:**

**AYES: Crew, Garibaldi, Lewis,**  
**NOES: None**  
**ABSENT: None**  
**ABSTAIN: Gonsalves, Sweet**

#### **15. ADJOURNMENT**

Adjourn 8:36 p.m.

ATTEST:

  
\_\_\_\_\_  
Gisele L. Wurzbarger, City Clerk

Date Approved: Approved