



**MINUTES**  
**REGULAR MEETING OF THE**  
**DIXON CITY COUNCIL**

**MAY 10, 2011**

**Closed Session at 6:00 p.m.**

The Special Meeting of the Dixon City Council was called to order at the hour of 6:00 p.m. to meet in Closed Session in the Council Chambers Conference Room on May 10, 2011, by Mayor Jack Batchelor, Jr. to discuss the following:

**0. CONFERENCE WITH LABOR NEGOTIATORS**

(Pursuant to Government Code Section 54957.6)

City Negotiators: Nancy Huston, Steve Johnson, and **Michael Dean**

Employee Organization: Dixon Professional Firefighters Association  
Dixon Police Officers Association  
Dixon Senior Management Association  
Public Employees Union, Local One  
Non-Represented Management Unit  
Non-Represented Non-Management Unit

**PUBLIC EMPLOYMENT**

(Pursuant to Government Code section 54957)

Title: Interim City Manager

Title: City Manager

Present: Councilmembers Dane Besneatte\*, Thom Bogue,  
Vice Mayor Michael Ceremello, Jr., Mayor Jack Batchelor, Jr.

Absent: Councilmember Rick Fuller

\*Councilmember Besneatte arrived at 6:02 p.m.

Vice Mayor Ceremello asked the City Attorney what would be discussed in Closed Session regarding the City Manager and Interim City Manager positions.

Michael Dean, City Attorney, noted the discussion but may include potential appointment of a City employee as Interim City Manager, but the exact content is unknown.

There were no public comments.

The City Council convened into Closed Session at 6:01 p.m.

Closed Session recessed at 6:45 p.m.

1. **CALL TO ORDER**

Mayor Batchelor convened the Regular Meeting at 7:00 p.m. and announced the City Council had met in Closed Session for a conference with labor negotiators and discussions regarding an Interim City Manager and there was no reportable action on either item

2. **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mayor Jack Batchelor, Jr.

3. **ROLL CALL**

4.

Present: Councilmembers Dane Besneatte, Thom Bogue,  
Vice Mayor Michael Ceremello, Jr., Mayor Jack Batchelor, Jr.

Absent: Councilmember Rick Fuller

5. **PRESENTATIONS/ PROCLAMATIONS/ RECOGNITION**

**4.1 Proclamation declaring the month of May as Older Americans Month in Dixon.**

Bessie Miller accepted the proclamation from the Mayor on behalf of older Americans and encouraged everyone to be aware of physical, mental and financial abuses of older citizens and report suspected instances to the proper authorities.

**4.2 Presentation to the City of Dixon of the California Association for Local Economic Development (CALED) 2010 Excellence Award for Economic Development Partnerships for the Firehouse Rehabilitation Project.**

Gurbax Sahota, Chief Operating Officer for the California Association for Local Economic Development & Executive Director of the California Academy For Economic Development, presented the CALED 2010 Excellence Award for Economic Development Partnerships to the Mayor, noted the many reasons the Firehouse Rehabilitation Project warranted the honor, and praised the City's Economic Development Director, Mark Heckey, for an outstanding job in preparation of the application.

Mayor Batchelor thanked Ms. Sahota for the honor and positive recognition.

5. **AUDIENCE/PUBLIC COMMENT (NON-AGENDA ITEMS)**

5.1 Bruce Wall noted he received a notice of violations on his property from the Police Department Code Compliance Officer, did not want to shirk his responsibilities, but felt he was unfairly singled out by biased, complaint-driven, random enforcement since he counted many other violations on his street. Mr.

Wall felt clear instructions were lacking to citizens, all offenders should be cited, and he recommended the City cease enforcement until an equal plan is in place.

- 5.2 Byron Chapman agreed that code compliance enforcement is selective, relayed an instance with his own fence and felt the Code Compliance Officer should disclose the source of complaints so that people can defend themselves to their accusers.

6. **ITEMS FROM THE CITY COUNCIL**

- 6.1 Vice Mayor Ceremello reported a complaint he received from the Vice Commander of the American Legion regarding the lack of parking and the fact that First Northern Bank opted not to proceed with additional lot paving because of the City's lighting and landscaping requirements.

Vice Mayor Ceremello noted he attended the first meeting of the Water Advisory Committee and expressed concern that the meeting was not noticed in the newspapers, the posted meeting notice reflected the Mayor's name rather than the appropriate chairman according to the Brown Act, but felt the meeting otherwise went well.

- 6.2 Councilmember Bogue noted a request that other facilities, such as the Senior Center, be available for Veteran memorial services, when available.

- 6.3 Councilmember Besneatte commended the community in supporting the May Fair Parade and thanked Carol Pruett, the Chamber of Commerce Manager, for her hard work in organizing the parade.

- 6.5 Mayor Batchelor noted the May Fair Parade was an outstanding event and thanked Carol Pruett for her hard work.

Regarding comments about noticing of the Water Advisory Committee, Mayor Batchelor responded that he was not aware of his name being used, it was an unintentional use of a template, and David Mansfield of Solano Irrigation District has been advised of proper noticing requirements for future meetings.

7. **ITEMS FROM THE CITY TREASURER**

James Slaughter, City Treasurer, thanked Carol Pruett for organizing the May Fair Parade.

8. **APPROVAL OF AGENDA**

There was no discussion on this item.

A motion was made by Councilmember Besneatte, seconded by Councilmember Bogue, to approve the Agenda, as submitted. Roll call was taken as follows:

AYES: Besneatte, Bogue, Ceremello, Batchelor  
NOES: None

ABSTAIN: None  
ABSENT: Fuller

9. **CONSENT CALENDAR**

Vice Mayor Ceremello requested that Items 9.3, 9.4 and 9.5 be heard separately.

A motion was made by Councilmember Besneatte, seconded by Councilmember Bogue, to approve the Consent Calendar, except Items 9.3, 9.4 and 9.5. Roll call was taken as follows:

AYES: Besneatte, Bogue, Ceremello, Batchelor  
NOES: None  
ABSTAIN: None  
ABSENT: Fuller

**9.1 Approved the City Council Minutes for the April 26, 2011, Regular meeting.**

**9.2 Adopted Resolution No. 11-050 approving the Enumeration of Claims.**

**9.3 Adopt Resolution Approving an Agreement between the City of Dixon and Solano Community College for use of the City's Senior Center by Solano Community College Nursing Students to Gain Clinical Experience.**

*See Minutes on Page 5.*

**9.4 Adopt Resolution Approving a Facilities Use Agreement between the City of Dixon and the Dixon Public Library District.**

*See Minutes on Page 6.*

**9.5 Adopt Resolution authorizing the City Manager to execute a contract for a Cost Allocation Study with NBS in an amount not to exceed \$11,700.**

*See Minutes on Page 6.*

**9.6 Approved Minute Action giving Councilmember Fuller permission for his absences from Council Meetings until after May 31, 2011.**

**9.3 TAKEN OUT OF ORDER**

**Adopt Resolution Approving an Agreement between the City of Dixon and Solano Community College for use of the City's Senior Center by Solano Community College Nursing Students to Gain Clinical Experience.**

Vice Mayor Ceremello asked the City Attorney why such an elaborate agreement was necessary and questioned the references to discrimination and substance abuse.

Michael Dean, City Attorney, responded that the draft was presented by Solano Community College and additions were made for protection of the City, particularly regarding supervision of students.

Councilmember Besneatte suggested the simple indemnity language contained in the agreement be adopted by the City.

Mr. Dean noted a preference for the suggested indemnity language, but a provision that provides less protection was adopted by the Council last month.

Mayor Batchelor asked for public comments. There were no public comments.

A motion was made by Councilmember Besneatte, seconded by Councilmember Bogue, to adopt Resolution No. 11-051 approving an Agreement between the City of Dixon and Solano Community College for use of the City's Senior Center by Solano Community College Nursing Students. Roll call was taken as follows:

AYES: Besneatte, Bogue, Ceremello, Batchelor  
NOES: None  
ABSTAIN: None  
ABSENT: Fuller

#### **9.4 TAKEN OUT OF ORDER**

##### **Adopt Resolution Approving a Facilities Use Agreement between the City of Dixon and the Dixon Public Library District.**

Vice Mayor Ceremello asked if the Library has an agreement with Granicus for web broadcasting.

Nancy Huston, City Manager, noted the library meetings are currently only broadcast over Channel 20 and licensing is required for Granicus.

Vice Mayor Ceremello noted the Senior Center should be included in the agreement only as a back-up location.

Gregg Atkins, District Librarian, noted the Library has been requesting use of the Chambers for over a year, their intent is to use the Council Chambers, and the Senior Center or Tremont Elementary School would only be used if the Chambers is unavailable.

Mayor Batchelor asked for public comments.

Larry Simmons suggested the Library use the School Board Chambers.

Byron Chapman noted C.A.R.D.(Citizens Acting for the Rights of the Disabled) is working with the School District on Chamber compliance.

A motion was made by Vice Mayor Ceremello, seconded by Councilmember Bogue, to adopt Resolution No. 11-052 approving a Facilities Use Agreement between the City of Dixon and the Dixon Public Library District. Roll call was taken as follows:

AYES: Besneatte, Bogue, Ceremello, Batchelor  
NOES: None  
ABSTAIN: None  
ABSENT: Fuller

## 9.5 TAKEN OUT OF ORDER

### **Adopt Resolution authorizing the City Manager to execute a contract for a Cost Allocation Study with NBS in an amount not to exceed \$11,700.**

Vice Mayor Ceremello disclosed an ex parte conversation with one of the partners of Capital Partners regarding their exclusion of an Excel spreadsheet, noted the partner was unaware of the meeting, and asked if notice of the meeting was provided to firms who responded to the Request for Proposal. He felt it was a mistake to award the contract to NBS based on the fact that another firm cannot provide a spreadsheet and not give them an opportunity to respond.

Jeremy Craig, Finance and Technology Director, explained the Request for Proposal (RFP) process, Capital Partners cited proprietary use for not providing the spreadsheet and was excluded on that basis, and noted ethical boundaries may have been crossed by direct contact with a Councilmember during the RFP process. He responded to Council questions regarding future value of having a spreadsheet to enable in-house changes.

Mayor Batchelor noted Capital Partners was excluded based on their original response, their willingness to now comply is suspect, and the City is under no obligation to reconsider their proposal.

Mr. Craig noted the responders who met the RFP criteria were qualified to do the work and the lowest bid was selected of this group.

Vice Mayor Ceremello noted he had asked a simple question about a spreadsheet, money may be saved by reconsidering, and those not selected should have been notified of the calendaring of a decision. He recommended postponing action, notifying all parties, and bringing the item back with the interested responders present.

Mayor Batchelor asked for public comments.

Michael Dean, City Attorney, read a section of the response by Capital Partners on Page 11 which discussed proprietary software and made it clear that they would not provide a spreadsheet as requested.

Dave Scholl noted a \$58,000 bad debt write-off on Page 25 of a previous report by NBS that was not made clear that he felt was either misleading or incompetent. He commended Ms. Huston and Mr. Craig for providing a suitable explanation but felt NBS should have provided a better report.

A motion was made by Mayor Batchelor to execute a contract for a Cost Allocation Study with NBS in an amount not to exceed \$11,700. The motion died for lack of a second.

A motion was made by Vice Mayor Ceremello, seconded by Councilmember Bogue, to continue this item to May 24, 2011 to enable those who presented proposals to be present to explain their position. Roll call was taken as follows:

AYES: Besneatte, Bogue, Ceremello  
NOES: Batchelor  
ABSTAIN: None  
ABSENT: Fuller

Mr. Dean pointed out that the only reason this item may be continued is because it was not a formal bid process, and otherwise bids would need to be rejected and re-bid. He noted there is no requirement to award bids for professional services to the lowest bidder.

## 10. PUBLIC HEARINGS

### 10.1 **Conduct a public hearing and adopt Resolution approving an application and contract execution for the funding from the Fiscal Year 2010-2011 Planning and Technical Assistance Allocation of the State Community Development Block Grant (CDBG) Program and any Amendments thereto with the State of California, by the City Manager for the purposes of this grant.**

Mark Heckey, Economic Development Director, noted this application is similar to the one submitted for the Core Area Drainage Project, covers planning and design work for the West Cherry Street Project, and he discussed the application process and eligible activities. He noted the public hearing process requires that speakers sign a log at the podium.

Mayor Batchelor opened the public hearing.

Dan Figueroa commended staff for taking advantage of fundamental opportunities for this type of project, and asked whether grant money must be kept in-house or paid to private contractors who may be better equipped to complete the work. Mr. Heckey responded that either was appropriate use of funds.

Seeing no one else present to speak, Mayor Batchelor closed the public hearing.

A motion was made by Vice Mayor Ceremello, seconded by Councilmember Bogue, to approve Resolution No. 11-053 approving an application and contract execution (AG 11-016) for the funding from the FY 2010-2011 Planning and Technical Assistance Allocation of the State Community Development Block Grant (CDBG) Program and any amendments thereto with the State of California. Roll call was taken as follows:

AYES: Besneatte, Bogue, Ceremello, Batchelor  
NOES: None  
ABSTAIN: None  
ABSENT: Fuller

## 10.2 Matters relating to Weed Abatement:

1. **Conduct a public hearing to consider any objections to the declaration of public nuisances and issuance of administrative citations for the failure to remove refuse, weeds and rubbish from developed and vacant parcels by property owners.**
2. **Adopt Resolution, overruling any objections to the declaration of public nuisance and issuance of administrative citations on parcels or exclude any such parcels from citations, and ordering the Police Chief to abate nuisances consisting of weeds, rubbish and refuse on parcels not excluded by issuance of administrative citations.**

Sergeant Ron Willingmyre provided the background of noticing required for the public hearing that is the next step in the process, reported that 201 notices were mailed regarding violations, and responded to questions from City Council.

Vice Mayor Ceremello noted an error in the staff report that includes “developed” properties and asked for clarification that only vacant properties are involved. He asked that the word “vacant” be included in the resolution for all references to property.

Councilmember Besneatte appreciated the detail provided in Exhibit A and asked about two entries for the same address with different parcel numbers. Sergeant Willingmyre noted there are two separate lots at the same address.

Mayor Batchelor opened the public hearing.

Dave Scholl noted a misspelling of the old “Polaris” building on the list and the fact that some lots have been plowed.

Seeing no one else present to speak, Mayor Batchelor closed the public hearing.

Vice Mayor Ceremello supported the resolution, but noted problems with the weed abatement process in the past, and the fact that he would follow up with Mr. Wall about nuisance abatement issues on Priddy drive.

A motion was made by Vice Mayor Ceremello, seconded by Councilmember Besneatte, to adopt Resolution No. 11-054, as amended, overruling any objections to the declaration of public nuisance and issuance of administrative citations on parcels or exclude any such parcels from citations, and ordering the Police Chief to abate nuisances consisting of weeds, rubbish and refuse on parcels not excluded by issuance of administrative citations. Roll call was taken as follows:

AYES: Besneatte, Bogue, Ceremello, Batchelor  
NOES: None  
ABSTAIN: None  
ABSENT: Fuller

11. **UNFINISHED BUSINESS**

12. **NEW BUSINESS**

**12.1 Selection of Budget Workshop dates for the Fiscal Year (FY) 2011-12 Budget.**

Jeremy Craig, Finance and Technology Director, provided May 31<sup>st</sup>, June 6<sup>th</sup>, and June 7<sup>th</sup>, 2011, as potential dates for Council Budget Workshops and requested the Council's preference. He noted only two meetings were anticipated, but a third should be held as an option.

A motion was made by Mayor Batchelor, seconded by Vice Mayor Ceremello, to schedule May 31, 2011 and June 6, 2011, at 7:00 p.m., as the dates for City Council Budget Workshops, and tentatively schedule June 7, 2011 at 7:00 p.m. as an additional day, if necessary. Roll call was taken as follows:

AYES: Besneatte, Bogue, Ceremello, Batchelor  
NOES: None  
ABSTAIN: None  
ABSENT: Fuller

**12.2 Resolution to authorize the City Manager to execute a contract for Open Transparency Suite with Granicus, Inc. and the equipment necessary to implement paperless agenda packets for City Council Meetings.**

Jeremy Craig, Finance and Technology Director, reported research with other cities indicated that I-Pad technology for paperless meeting packets appeared to be a favorite, but software technology was an issue. Recently, Granicus released a new software product that provides better ability and improves use of the I-Pad technology which makes this technology more compatible with the City's desire to transition to paperless packets. He noted implementation would not significantly change the internal processes currently utilized for website accessibility but would greatly reduce the cost of copiers, paper, and clerical staff time that could be devoted elsewhere. Paper packets would still be available for public review when needed. Mr. Craig responded to questions from Council.

Mayor Batchelor asked for public comments. There were no public comments.

A motion was made by Councilmember Besneatte, seconded by Councilmember Bogue, to adopt Resolution No. 11-055 authorizing the City Manager to execute a contract for Open Transparency Suite with Granicus, Inc. (AG 09-040A) and the equipment necessary to implement paperless agenda packets for City Council Meetings. Roll call was taken as follows:

AYES: Besneatte, Bogue, Ceremello, Batchelor  
NOES: None  
ABSTAIN: None  
ABSENT: Fuller

**12.3 Resolution authorizing the City Manager to execute a renewal lease agreement with the Dixon Chamber of Commerce for the Transportation Center located at 220 North Jefferson Street, for a period of five (5) years.**

Mark Heckey, Economic Development Director, provided history on the lease agreement with the Dixon Chamber of Commerce for the Transportation Center, benefits the City derives from Chamber staffing of the Transportation Center that is a condition of the grant that funded it, and the terms of temporary sublease agreements for areas in the building. Mr. Heckey responded to questions from Council.

Vice Mayor Ceremello speculated whether the Chamber is providing services the City needs, whether the space should be opened up to others, and preferred that Council had input on subleases.

Mayor Batchelor asked for public comments.

Carol Pruet, Chamber of Commerce Manager, reported that money derived from subleases goes to the City, but the Chamber receives the tenant portion of utilities. She noted the majority of visitors are not coming for Chamber business, she provides visitor services but is not paid extra for services unrelated to the Chamber, and felt it was a win-win situation for all.

Jill Orr noted that the Chamber paid taxes related to the building in the past.

Shirley Humphrey objected to the lease agreement on matters of fairness and good business practices. She noted the \$1.2 million cost for a prime real estate location that rents for \$1.00 per month was a disservice to taxpayers and thought it could rent for \$10,000 per month. She noted large repairs would eventually be needed to the building which were not being planned for, the building is not utilized to maximum potential for non-profits, and suggested the City Engineering Department move there and sell the current Engineering building. She recommended the City stop anticipation of a future train station and utilize the building to it's maximum by immediately calling for alternate proposals.

Byron Chapman expressed concern about the ability to pay for building repairs, acknowledged the Chamber provides valuable services, but felt \$1.00 per month rent in this economy is unreasonable.

Jill Orr noted the history of the agreement, the Chamber took over the services when the Downtown Dixon Business Association could not, and is helping business in Dixon.

Vice Mayor Ceremello noted conflicting issues of fairness to others, the City's responsibility to pay for maintenance, the Chamber's financial position, and the valuable services provided by the Chamber.

Councilmember Besneatte noted there is not a lot of interest in renting the space, there is a lot of vacancy in town, it is clean, neat and well-maintained, the Chamber provides good service to the community, obligations of staffing would cost far more than \$20,000 per year, the City reaps tremendous benefit and he considered it a good deal for the City.

Mayor Batchelor agreed with the comments made by Councilmember Besneatte and supported approval of the agreement.

Vice Mayor Ceremello, after listening to all comments, supported approval of the agreement.

A motion was made by Councilmember Bogue, seconded by Councilmember Besneatte, to adopt Resolution No. 11-056 authorizing the City Manager to execute a renewal lease agreement with the Dixon Chamber of Commerce for the Transportation Center located at 220 North Jefferson Street for a period of five (5) years (AG 11-018). Roll call was taken as follows:

AYES:	Besneatte, Bogue, Ceremello, Batchelor
NOES:	None
ABSTAIN:	None
ABSENT:	Fuller

The City Council recessed for break at 9:17 p.m.

The City Council reconvened at 9:27 p.m.

**12.4 Matters relating to appeal of the Planning Commission's decision regarding a new single-family home at 220 South First Street:**

- 1. Resolution denying an appeal of the Planning Commission's decision affirming the decision of the Community Development Director approving Design Review Permit No. 11-04 for a new single family home at 220 South First Street, Assessor's Parcel Number 114-055-020.**

Councilmember Bogue recused himself from discussion of this item due to potential financial conflicts of interest since the site is within 500 feet of his business and left for the remainder of the meeting.

Dave Dowswell, Community Development Director, provided background of his original decision, the Planning Commission appeal which upheld his decision by a 7-0 vote, discussed statements and concerns of the appellant, and displayed a site plan and proposed design of the new single-family home at 220 South First Street. He noted an e-mail received from Mary Ann Montague opposing the project and asked for questions from Council.

Hortencia Guerrero, applicant for the home, expressed frustration in having to defend the project, since they consulted with the City from the beginning on legalities, setbacks, and provided everything that was asked and fell in love with the home that was approved. She noted they have every legal right to build the home, it will be used by family, Ms. Emerson never approached them to discuss her concerns, and she felt the appeal fee should not be waived because of the traumatic circumstances her family has endured and suggested the fee be donated to a needy family rather than returned to Ms. Emerson.

Ginger Emerson, representing appellant Karl Spangler, expressed her condolences to the Guerrero family for the recent loss of their nephew and noted she offered to delay the appeal but the Guerrero family preferred to proceed. She read a prepared statement into the record which outlined her concerns and submitted copies to Council for the record. (Statement included as an attachment to these Minutes.)

Vice Mayor Ceremello asked Ms. Emerson whether her preference was to stop the project completely or include conditions that would make it acceptable.

Ms. Emerson responded that she wanted clarity that it will be a single-family home, assurances that setbacks in the RM-2 Zone will apply, and it will be for public use, and the house will be moved forward on the lot.

Mayor Batchelor asked for public comments.

Jill Orr noted that many single-family homes have two kitchens.

Dave Scholl supported the Guerrero's plan, noted in-fill is needed in the Downtown area, it will improve the appearance and property values, the setback is unusual but not a detriment, the design is a matter of property rights, and the emotional strain on the family should end.

Byron Chapman asked about public use, the option of moving the house forward with the garden in the back and whether future owners could turn it into a multi-family unit.

Brian Poon, architect for the Guerrero family, noted his words have never before been used against him as a weapon and asked when the appellant will exhaust her

legal options. He discussed inconsistencies and discrepancies alleged by the appellant and provided clarifications, expressed his opinion that Ms. Emerson was making a mountain out of a mole hill, and considered it a slap in the face to his good-natured clients.

Martha Pearson lives in an older home in the area, considered the home attractive, but thought parking would be a major issue.

Shirley Humphrey noted that single-family homes do not have apartments, a similar situation occurred in her neighborhood and it was too expensive to challenge a multi-family transition after-the fact.

Ginger Emerson noted the applicant previously discussed higher levels of parking than described by Mr. Poon and even mentioned use of the municipal parking lot.

Councilmember Besneatte confirmed with Mr. Dowswell that designated parking meets the minimum requirements for a single-family home.

Vice Mayor Ceremello noted that the Word of Life Church was not approved because of parking issues in the same area, however this is an issue of private property rights, setbacks, the garden and two kitchens pose no concern, parking is adequate, his main concern is the evolving and changing use of the property expressed by the applicant, and unless detriment to the community can be identified the appeal should not be approved.

Councilmember Besneatte noted the ability to view other properties and windows is inherent to downtown living, Mr. Dowswell went to great lengths to present both sides of the issue, Mr. Dowswell's decision was not made precipitously, the project is clearly within the guidelines of the City codes, the Guerrero's made the mistake of not being forthcoming and chose their words wrong, but the appeal does not state sufficient grounds for approval.

Mayor Batchelor noted the applicants have the right to change their position as circumstances change, the project may have started out in one form but the family made modifications to blend with the community, and he considered it a house rather than a duplex with a different format. He appreciated people who are willing to do unique things and found no compelling evidence to grant the appeal.

A motion was made by Mayor Batchelor, seconded by Councilmember Besneatte, to adopt Resolution No. 11-057 denying the appeal of the Planning Commission's decision affirming the decision of the Community Development Director approving Design Review Permit No. 11-04 for a new single family home at 220 South First Street, Assessor's Parcel Number 114-055-020. Roll call was taken as follows:

AYES: Besneatte, Ceremello, Batchelor  
NOES: None  
ABSTAIN: Bogue  
ABSENT: Fuller

**2. Minute Action regarding request from Karl Spangler to refund the appeal fees for appealing the decision of the Community Development Director in the amount of \$75.00 and for appealing the decision of the Planning Commission in the amount of \$250.00.**

Dave Dowswell, Community Development Director, noted the applicant has requested a refund of the total appeal fees charged, and he made the recommendation that the \$75.00 Administrative Fee be maintained, but suggested the fee for the Council appeal be reduced from \$250.00 to \$75.00 for a total charge to the appellant of \$150.00.

Ginger Emerson, representing the appellant, read a letter into the record (copy attached to these Minutes) stating reasons for requesting a complete refund of appeal fees totaling \$325.00.

Vice Mayor Ceremello noted Ms. Emerson provided a service to the community by bringing the appeal forward, it was not frivolous, and recommended a total refund of fees.

Councilmember Besneatte did not agree that the decision was outside of Mr. Dowswell's authority, the Planning Commission upheld his decision with a 7-0 vote, and felt the \$75.00 charge was appropriate to cover staff and Council time, but was open to a total refund.

Mayor Batchelor noted that months of hearings on various matters prompted the Council to give the Community Development Director more authority to make decisions, there should be some cost to challenge, and he felt a reduction to \$150.00 was reasonable.

Vice Mayor Ceremello suggested that, in lieu of collecting nothing, the initial \$75.00 fee be charged and \$250.00 refunded to the appellant.

A motion was made by Vice Mayor Ceremello, seconded by Councilmember Besneatte to approve a minute action to issue a refund in the amount of \$250.00 to the appellant for appealing the decision of the Planning Commission. Roll call was taken as follows:

AYES: Besneatte, Ceremello,  
NOES: Batchelor  
ABSTAIN: Bogue  
ABSENT: Fuller

**13. OTHER AGENCY BUSINESS**

**14. ITEMS FROM THE CITY ATTORNEY**

Michael Dean, City Attorney, noted that he was happy to be back from vacation.

15. **ITEMS FROM THE CITY MANAGER**

Nancy Huston, City Manager, noted four proposals were received for the Sewer Rate and Fee Study which will be presented at the next Council meeting.

Ms. Huston reported that the FY 2011-12 Proposed Budget has been compiled and should be distributed to the Council late Friday or Monday to allow time for review prior to the first Budget Workshop.

16. **CLOSED SESSION**

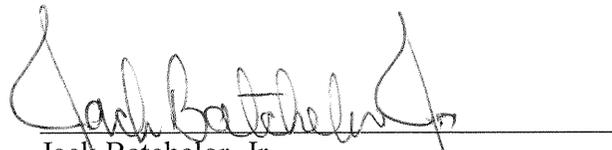
**RECONVENE TO OPEN SESSION**

17. **ADJOURNMENT**

Mayor Batchelor distributed to Council copies of a report from his recent trip to Washington with the Solano Transportation Authority.

The Regular Meeting of the Dixon City Council was adjourned at the hour of 11:08 p.m.

  
Suellen Johnston  
Acting Deputy City Clerk

  
Jack Batchelor, Jr.  
Mayor

*Attachment to  
5/10/11 City Council  
Minutes  
Item 12.4.1*

190 East Broadway  
Dixon, CA 95620

May 10, 2011

Mayor Batchelor and Members of the Council  
Dixon City Council  
600 East A Street  
Dixon, CA 95620-3697

Dear Mayor Batchelor and Council Members:

On April 6, 2011, an appeal by Karl Spangler of the administrative approval of a project at 220 South First Street was filed with the City Clerk. On April 19, 2011 that appeal was heard by the Planning Commission. On April 29, 2011, Mr. Spangler filed an appeal with the City Clerk challenging the Planning Commission's decision to uphold the Community Development Director's approval of the project.

The appellant is now faced with language in the Resolution before you tonight declaring that "a project design review is not the functional equivalent to a conditional use permit requirement nor is it an opportunity to determine whether a particular land use is or is not appropriate in a given location." Considering that the attachment to the original appeal clearly indicated that not only design review, but land use was being appealed, the appellant contends that under Section 12.28.03 C it was the responsibility of the City Manager to determine the appropriate body to hear the original appeal. That Section of the Zoning Ordinance clearly states that the "Appeal of a decision of an administrative official shall be reviewed by the City Manager and then scheduled by the manager for the most appropriate advisory body or the City Council." Furthermore, Section 12.28.02 does not limit any person aggrieved by the action of an administrative official to appeal only on design review, but rather to the administration and enforcement of the Zoning Ordinance which is supposed to be predicated on General Plan land use. It should also be pointed out that the appeal was based, in part, on a March 28, 2011 Staff Report that analyzed aspects of the project under a general heading entitled land use. And, attachment #2 to that Staff Report, a letter from Bill Poon, the applicants' architect and representative, definitely called land use back into question. The original appeal was directed to the Planning Commission and that body did accept evidence, both oral and documentary, relevant to land use in their consideration of the project. Under those circumstances, the appellant requests that the appeal before you not be limited to only design review.

Should that pose an issue with the open meeting laws, then another hearing should be scheduled, properly noticed and before the appropriate body.

As you can determine from the information in your packet, the first appeal was very detailed and lengthy. It is the appellant's intent that all of that information be incorporated into tonight's appeal and be given your full consideration before the rendering of your decision. Speaking on behalf of the appellant and many of his neighbors, I encourage you to consider the entire record. I will be pointing out the inconsistencies and contradictions apparent in that record. I assert that any decision that fails to take into account those inconsistencies and contradictions wrongs not only Mr. Spangler and his neighbors, but the entire community as well. And it further erodes confidence in our City government to scrutinize projects, particularly in the interest of those who will bear their impact.

As far as I have been able to determine that record began on July 27, 2010 when the applicants appeared before the City Council to request a reduction or waiver of AB 1600 impact fees. Two pages of the Staff Report were included in the appellant's packet, as presented to the Planning Commission, and are before you this evening. According to the City Engineer, both he and the Community Development Director had discussed and agreed that the "unique" project would best be considered multi-family. That conclusion was based on Staff's understanding of the applicants' plans and in an effort to accommodate their request for a reduction in impact fees. Much to his credit, the City Engineer did comment that, in his opinion, the "unique" project was actually neither single nor multi-family.

It should be pointed out that, as the project was described that evening, it did not have a complete kitchen. As it does now, it included an upstairs apartment, distinct and separate from the downstairs gathering room. At that point, the applicants did not dispute that description of their project or its multi family designation.

After hearing from the applicants and after considerable discussion, the meeting of July 27, 2010 concluded with certain members of the Council indicating that the project had been clarified and to their way of thinking was a single family use. Apparently, the applicants who earlier in the meeting did not dispute a multi-family classification of their "unique" project, accepted the single family designation.

Between that point in time and the submission of the plans to the City in March of this year a more complete secondary kitchen was added to the

project. Facing an appeal, City Staff gave the applicants the option of keeping the downstairs kitchen, thereby, technically creating a duplex; or, removing certain features of the kitchen. By not including a complete downstairs kitchen, the project was identical to the one presented last July that was at first considered multi-family and later single family by the City. In an effort to unravel very convoluted and contradictory testimony, I have reviewed the public record on this project not once, but twice. The first time was before the original appeal and the second time was after the Planning Commission's decision. I found nothing in the record that shed any light on a project that seems to, for the sake of approval; morph from multi-family to single family and vice versa. In a further attempt to understand what was really going on I inquired as to whether there was any significance to the applicants' claim that they now intend to occupy the upstairs apartment upon its completion. I was informed that owner occupancy made the project "seem" more single family.

Furthermore, as pointed out to the Planning Commission, while duplexes are a permitted use in the PMU 1 area commonly referred to as the downtown "backyards L" by Staff; the option, now or in the future, to construct a duplex on the lot at 220 South First Street was in violation of the Zoning Ordinance. Section 12.12.07.1 specifies that the site area per dwelling unit in PMU 1 is 5,000 square feet. The lot at 220 South First Street is approximately 8,550 square feet, falling far short of the 10,000 square foot requirement.

To complicate and confuse the record even more, the representative for the applicants inquired during the Planning Commission meeting about secondary living units. This was inconsistent with his offer of March 27, 2011, apparently on behalf of the applicants, to record a "deed restriction proscribing any second dwelling."

Returning to the record established at the meeting of July 27, 2010, members of the Council further questioned the use of the property. The applicants assured the Council that the use of the property would be private, a place intended for her extended family to gather and grieve. Yet, in a letter dated March 27, 2011, the representative of applicants, Mr. Poon presented quite a different perspective on the project. As described by Mr. Poon, the memorial will be a formal public garden that would be "a tribute to the whole community, Samuel's friends, and anyone who was touched by him in any way." He went on to describe the garden as the "primary programmatic function" of this development being assigned the majority of the site area fronting South First Street. He discussed the "program parameter for food preparation" during gatherings and events. And he summed up his and the applicants' hope

that the expansive formal garden and “traditionally themed building” would become regarded by the community as an important cultural asset.

As pointed out in the appeal to the Planning Commission, such a public or quasi public use of the property would be conditional, not permitted, under the PMU Zoning regulations. When questioned by the Commissioners, the applicant denied the public use of the project, claiming that the description by Mr. Poon misrepresented her family’s intentions for the project. After working with the applicants for nearly a year, it is very hard to accept that Mr. Poon would entirely misunderstand and misconstrue their intentions. And why, in a three week period between the letter of March 27<sup>th</sup> and the appeal of April 19<sup>th</sup> was no clarification offered by the applicant or sought by the City? I might add that as recently as yesterday, a member of the DDBA shared with me that the project was intended as a place where other families who have lost children could gather to mourn.

At the last Planning Commission meeting, the representative for the project described the masonry fence proposed for between 220 South First Street and the neighboring house on the south, as a sound wall. Typically, sound walls are a requirement to separate two distinct land uses, not two single family homes. It is my understanding that the applicant has indicated to residents in the area that Mr. Poon misspoke about the sound wall, as well. And, for what appear to be very obvious reasons, the project has a masonry wall at the property line separating it from the RM-2 neighbor and a wooden fence at the other.

Once again, referring to the recorded meeting of July 27, 2011, members of the Council addressed the issue of parking. At that time the applicants stated that parking for their large gatherings could be accommodated on the street, in the back and in the large lot by the Frosty. And in his recent letter of March 27, 2011, Mr. Poon indicated that off-street parking can be accommodated in the Guerrero’s parking lot at the office building they own at 155 West Mayes Street. He stated that up to ten parking spaces will be available in the twenty car lot for such use. The appellant questions why City Staff did not point out, and obviously intended to allow, a violation of the Zoning Ordinance that limits the joint use of parking lots to non residential use. Was it perhaps obvious to Staff, as it is to the neighborhood, that the so called single family use of the property at 220 South First will seriously strain on-street parking and on a regular basis impact other area residents. Just how can on-street parking now be considered sufficient to accommodate all the cars that by the applicants’ admission on July 27, 2011 would require not only street parking but parking in both commercial and municipal lots? Under those circumstances,

the City's parking requirements for single family projects seem woefully inadequate. And, it should also be pointed out to the applicants, their representative and the City that a street lined with cars will pose a greater hazard for those neighboring residents backing out of their existing driveways along heavily travelled First Street.

At this point, I would like to direct your attention to the Summary Report before you tonight. It unintentionally exposes even more inconsistencies and contradictions. While not disputed before the Planning Commission, Staff is now arguing the issue of privacy. According to Staff, only future residents in new dwelling units have any expectation of privacy. To hear Staff tell it, the 220 South First Street project is set back so that, as future residents, the applicants are protected from direct window to window eye contact with the neighbors. The report makes it very clear that the existing neighbors are not entitled to the same consideration. They are exposed to windows directly overlooking their backyards and large terraces with intrusive, direct eye contact into their windows. And, because of the arrangement of the floor plan, the homeowners of the RM zoned property to the south are afforded far less privacy than tenants residing in the PMU property to the north. Whether you agree, in principle, or not; as written, the Zoning Ordinance is supposed to ensure residents adequate privacy. Just because the applicants obviously have no concern for privacy considering that their private meditative garden and outdoor gathering spaces are within the continual view (not to mention fumes) of all of the traffic up and down First Street, should not preclude any provisions for the privacy of the neighbors.

From several petitions and numerous meetings with residents in the "Old Town" area of Dixon, the Community Development Director is well aware of concerns about privacy. I might add that he has never seemed callous to those concerns. He has appeared to understand the frustrations of the current residents when they have questioned the incentive to maintain their property when they are shown little if any consideration. In fact, he has reassured them that many of their concerns can be mitigated. Unfortunately neither the appellant nor many of his neighbors find any evidence of mitigation imposed on the project at 220 South First Street, other than the aforementioned sound wall.

In reference to setbacks, also discussed in the Summary Report, the record has other examples of contradictions. In each report pertaining to the appeals, Staff has taken the position that the project at 220 South First Street is compatible with other older homes in the area and elsewhere in the City.

However, in an e-mail to the applicants dated March 25, 2011, Staff acknowledged fairly significant issues with the project, specifically “the large front setback being incompatible with the setbacks of the homes in the immediate area.”

Furthermore, the Guerrero project draws attention to inconsistencies relevant to all setbacks in the “backwards L” PMU area downtown. In the Omnibus V Zoning Amendments presented to the Planning Commission in a study session on the very night of the appeal, proposals were brought forth revising setback requirements for PMU to be similar to those of the RM Zoning Districts. Quoting from that Staff Report: “In meetings with the old town neighborhood they expressed concern that someone could build a home on a property zoned PMU that has totally different setbacks than a residence immediately adjacent on property zoned residential.” Acknowledging an omission in the zoning regulations, Staff proposed increasing the rear yard setbacks in PMU to 20 feet. Yet, in regard to the 220 South First Street project, Staff supports the 10 foot minimum setback. That position is taken despite the fact that the neighborhood has been told repeatedly that minimum setbacks need not be applied. Such a position is particularly disturbing to the appellant and many of his neighbors in “Old Town” who know full well that there is an acknowledged need for more parking, a need that a standard driveway apron at 220 South First Street would help accommodate. And, please keep in mind that the discussions with the neighborhood have been ongoing since 2009, far longer than the plans for the applicants’ project.

Regarding setbacks, I would also argue that since current zoning standards have been in place, custom single family homes in the City of Dixon have not been constructed with approximately 75 foot front setbacks. Either a drive around town or a search of Google Earth should confirm my claim. The examples cited by Staff are of homes built many years ago, predating the homes around them. While they do not establish a precedent, the project at 220 South First Street may.

Discounting any or all of the aforementioned contradictions and inconsistencies in order to move this project forward sends that same old message to the residents of “Old Town.” In order to promote infill, the City will continue its longstanding disregard for the interests and concerns of the people who already reside in the area. To resolve that the benefits of occupancy of the other property in the vicinity will not be impaired by unnecessary invasions of privacy is unrealistic. To resolve that the safety, comfort and general welfare of the inhabitants of the area will not be impacted

by parking overflowing onto the most heavily travelled street in town and further endangering egress from their driveways defies logic. To resolve that the desirability of those properties will not be adversely affected is to ignore the history of the area where, up until recently, there has been far more flight than fight, when quality of life is not protected.

As nice as they may be, the aesthetics of any project cannot be expected to mitigate its impact.

Thank you for your attention and your patience.

Respectfully,



Karl T. Spangler, Appellant



Ginger K. Emerson,  
Representative

May 10, 2011

**List of Attachments to Appeal: 220 South First Street**

Staff Report referring to Land Use in Staff Analysis March 28, 2011

E-mails between Dave Dowswell and Ginger Emerson March 18, 2011

E-mail from Dave Dowswell to the applicants March 25, 2011

Omnibus V Zoning Amendment Proposal regarding rear yard setbacks for PMU from Planning Commission Study Session April 19, 2011

Omnibus V Staff Report April 19, 2011

*Attachment to  
5/10/11 City Council  
Minutes Item  
#12.4.2*

190 East Broadway  
Dixon, California 95620

May 10, 2011

Mayor Jack Batchelor and Members of the Council  
Dixon City Council  
600 East A Street  
Dixon, CA 95620-3697

Dear Mayor Batchelor and Council Members:

As a member of the general public residing in the "Old Town" area of Dixon, I am alarmed by certain aspects of the administrative approval of the project at 220 South First Street. As mentioned in my letter dated May 4, 2011, I contend that the application for that project should have been referred to the Planning Commission in the first place. Projects, such as the so-called single family home at 220 South First Street, which may set a precedent, should be reviewed by an advisory body. As stated in the appeal, examples of homes with large front yard setbacks that predate both the current zoning standards and other homes around them, do not set a precedent; but the approval of the approximately 75 foot setback at 220 South First Street may.

Furthermore, as detailed in the appeal, it was an abuse of Staff's discretion to give the applicants an option to, upon the payment of impact fees, construct a duplex on a lot that does not meet the standard for the minimum site area per dwelling unit. It was also an abuse of Staff's discretion to effectively grant a variance to the Ordinance restricting the joint use of parking lots to non residential use. And, please keep in mind, the letter of March 27, 2011, which once again called the public versus private land use of the project into question. For all of the aforementioned reasons, and quite possibly others, the project should not have been administratively approved. A fee of \$75.00 to call those matters to the attention of the Planning Commission is unwarranted and should be refunded.

As mentioned in my letter of May 4, 2011, the \$250.00 fee to appeal the matter to the City Council should be refunded because, as acknowledged by Staff, no noticing was required.

Thank you for your consideration of the refund of those fees.

Sincerely,

*Karl J. Spangler*

Karl Spangler, Appellant

*Ginger Emerson*

Ginger Emerson,  
Representative