



MINUTES
REGULAR MEETING OF THE
DIXON CITY COUNCIL

APRIL 12, 2011

CITY OF DIXON
600 EAST A STREET
COUNCIL CHAMBERS
7:00 P.M.

IN ADDITION TO:

THE DUPONT HOTEL
1500 NEW HAMPSHIRE AVENUE NW
WASHINGTON, DC 20036

10:00 P.M.

1. **CALL TO ORDER**

The Regular Meeting of the Dixon City Council was called to order at 7:05 p.m. in the Council Chambers on April 12, 2011, by Vice Mayor Michael Ceremello, Jr.

Mayor Jack Batchelor, Jr. participated in the meeting by phone from the Dupont Hotel in Washington, D.C. However, due to technical difficulties with the phone connection, at 7:50 p.m. the City Attorney declared that the quality of communication did not meet requirements of the Brown Act and the Mayor could not be counted as present to vote.

2. **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Vice Mayor Michael Ceremello, Jr.

3. **ROLL CALL**

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

Absent: Councilmember Rick Fuller, Mayor Jack Batchelor, Jr.

4. **PRESENTATIONS/ PROCLAMATIONS/ RECOGNITION**

4.1 Proclamation for Child Abuse Prevention Month.

Vice Mayor Michael Ceremello read the Proclamation for Child Abuse Prevention Month and presented it to Del Royer, representing Dixon Family Services.

Del Royer discussed the goals for making children's needs first and foremost, a block party being held on April 23, 2011 stressing the campaign against bullying, and introduced Kitsea Torres, the winner of the annual logo contest for the campaign against bullying.

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

- 5.1 Gregg Coppes, Commander of the American Legion, requested that discussions regarding a public access channel be renewed.
- 5.2 Drew Graska reminded Council to consider a project for better drainage in his neighborhood during upcoming budget discussions.
- 5.3 Byron Chapman asked why people on the Water Softener Removal Program list were not notified that the program restarted on April 7th.

Mr. Chapman noted that audience members are at a disadvantage during Council discussion because those speaking first should have an opportunity to speak again after other comments, current procedures do not provide that opportunity, and he requested speakers be able to speak a second time.

6. **ITEMS FROM THE CITY COUNCIL**

- 6.1 Mayor Batchelor announced that he was in Washington D.C. with the Solano Transportation Authority addressing Congress on transportation issues.
- 6.2 Vice Mayor Ceremello noted an e-mail he received regarding the Water Softener Removal Program, people appear to be confused about the purpose of the program, are worried that their units will be seized, and agreed that notification should be made to those on the list. Royce Cunningham, City Engineer, relayed the established process whereby the authorized plumbers are calling people in the order on the list for removal notification, and noted ten softeners have been removed since April 7th.

Vice Mayor Ceremello noted his past concerns regarding audience comments, and hopes to address the issue as he continues to work on the City Council Guidelines.

7. **ITEMS FROM THE CITY TREASURER**

None.

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
NOES: None
ABSTAIN: None
ABSENT: Fuller, Batchelor

9. **CONSENT CALENDAR**

Councilmember Besneatte requested that Items 9.2, 9.4 and 9.5 be heard separately. Vice Mayor Ceremello requested that Item 9.6 be heard separately.

A motion was made by Councilmember Besneatte, seconded by Councilmember Bogue, to approve the Consent Calendar, except Items 9.2, 9.4, 9.5 and 9.6. Roll call was taken as follows:

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

9.1 Matters relating to City Council Minutes:

9.1.1 Approved the City Council Minutes for the Special Meeting of March 12, 2011.

9.1.2 Approved the City Council Minutes for the March 22, 2011, Regular meeting.

9.2 Resolution approving the Enumeration of Claims.

See Minutes on Page 4.

9.3 Adopted Resolution No. 11-037 accepting the Municipal Services Center Expansion Project #2008-01 as complete and authorizing the City Clerk to file a Notice of Completion.

9.4 Minute Action authorizing staff to issue a Request for Proposals for a Sewer Rate and Fee Study.

See Minutes on Page 4.

9.5 Resolution authorizing execution of an agreement between the City of Dixon and Solano County for County Surveyor Services related to the checking of Final Maps and Parcel Maps.

See Minutes on Page 5.

9.6 Waive first reading, read by title only, and introduce an ordinance amending Chapter 16.17 of Title 16 of the Dixon Municipal Code relating to the Green Building Code.

See Minutes on Page 6.

- 9.7 Adopted Resolution No. 11-039 authorizing the City Manager to execute an Agreement with the State Department of Water Resources to allow controlled access to the City's Wastewater Treatment Facility to perform an alignment study for the North Bay Aqueduct water pipeline (AG 11-010).**

9.2 TAKEN OUT OF ORDER

Resolution approving the Enumeration of Claims.

Councilmember Besneatte questioned the phone and aircard bills and asked why some were much higher than others. Jeremy Craig, Finance and Information Technology Director, explained that the monthly charges cover all phones in a department and the Fire Department bill is higher because of the phones and aircards required.

Councilmember Besneatte asked if the \$40,000 payment to Solano Irrigation District was the City's portion of the JPA expenses and felt it was too high. Mr. Craig responded that detailed bills are received and thoroughly checked. Nancy Huston, City Manager, noted a copy of the bill can be provided to the entire Council.

A motion was made by Councilmember Besneatte, seconded by Councilmember Bogue, to adopt Resolution No. 11-036 approving the Enumeration of Claims. Roll call was taken as follows:

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

9.4 TAKEN OUT OF ORDER

Minute Action authorizing staff to issue a Request for Proposals for a Sewer Rate and Fee Study.

Councilmember Besneatte referred to Page 3 of the Request for Proposals, Section D, Line 3, where it is stated to "provide clear communication of complicated financial information to City Councilmembers who may not be accountants.....". He assured City staff that the Councilmembers do have experience and can understand complicated financial documents.

Councilmember Besneatte expressed concern about the stated objective to determine how much the rates have to go up and how to make it palatable to the ratepayers. He felt the objective assumes rate increases and he proposed the

Council have the ability to interview the final list of candidates, to ensure that is not the case.

Councilmember Bogue supported Councilmember Besneatte's comments and the recommendation that the Council be involved in the interview process.

Royce Cunningham, City Engineer, suggested the Council could also utilize the Wastewater Committee.

Vice Mayor Ceremello supported the Council's participation in the interview process and felt consultants must be told to look at various scenarios.

Vice Mayor Ceremello asked for public comments.

Drew Graska noted he will make sure that taxpayers are aware of proposed rate increases and that increases will not be tolerated.

A motion was made by Councilmember Besneatte, seconded by Councilmember Bogue, to approve a Minute Action to issue a Request for Proposals for a Sewer Rate and Fee Study. Roll call was taken as follows:

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

At this point in the meeting, the City Attorney declared Mayor Batchelor officially absent due to the technical difficulties in communicating.

9.5 TAKEN OUT OF ORDER

Resolution authorizing execution of an agreement between the City of Dixon and Solano County for County Surveyor Services related to the checking of Final Maps and Parcel Maps.

Councilmember Besneatte referred to the Subdivision Map Act which states that "A city engineer registered as a civil engineer after January 1, 1982, shall not be authorized to prepare, examine, or approve the surveying maps and documents..." He asked about including surveying criteria in the recruitment process for the new City Engineer.

Royce Cunningham, City Engineer, noted an engineer would need to take the Licensed Surveyor Exam to comply.

Vice Mayor Ceremello asked for public comments. There were no public comments.

A motion was made by Councilmember Besneatte, seconded by Councilmember Bogue, to adopt Resolution No. 11-038 authorizing execution of an agreement between the City of Dixon and Solano County (AG 11-009). Roll call was taken as follows:

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

9.6 TAKEN OUT OF ORDER

Waive first reading, read by title only, and introduce an ordinance amending Chapter 16.17 of Title 16 of the Dixon Municipal Code relating to the Green Building Code.

Vice Mayor Ceremello noted that after further review following the unanimous aye vote on January 11, 2011, he felt he should have voted no on a matter of principle since he does not believe in the global warming reasoning, feels it is financially motivated by the contracting industries, and being forced by the State.

Vice Mayor Ceremello asked for public comments.

Dave Scholl believed in saving energy, but objected to penalties stated in Section 16.17.030 declaring it a jailable misdemeanor to not follow the green code.

Councilmember Bogue felt he needed more information prior to going forward.

Dave Dowswell, Community Development Director, noted the Building Codes have been in effect since January 2011 and the vote only involves correcting the numbering.

Michael Dean, City Attorney, confirmed that penalties and codes are already part of the State code, and only the numbering, not wording, is being changed.

A motion was made by Councilmember Besneatte, seconded by Councilmember Bogue, to adopt an ordinance amending Chapter 16.17 of Title 16 of the Dixon Municipal Code. Roll call was taken as follows:

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

10. **PUBLIC HEARINGS**

10.1 Waive first reading, read by title only, and introduce an ordinance adopting a two-year pilot program regulating the possession, sale and use of fireworks within the City of Dixon (The Dixon Fireworks Pilot Program Ordinance).

Aaron McAlister, Fire Chief, introduced the Dixon Fireworks Pilot Program Ordinance and responded to questions from Councilmembers.

Councilmember Besneatte noted that Section 1.020 m)ii does not read properly.

Councilmember Besneatte asked if the lottery will include restrictions on who can participate from year-to-year, whether winners will be excluded the next year to allow others an opportunity, recommended the number of residents per booth be reduced to 4,000 to allow more booths, and asked the basis for the \$250.00 permit fee.

Councilmember Bogue asked why City Parks were excluded, preferred not to limit the number of booths since he supported free enterprise, and felt it was unfair to maximize profits for a few select organizations.

Vice Mayor Ceremello asked about insurance limits, whether the \$250.00 permit fee could be reduced if there are more groups participating, felt the booths should not be limited to non-profits and free enterprise should prevail, but spoke with people at the public meetings who felt a number should apply, and thought copies of Board of Equalization reports were sufficient and fines for illegal activities should be higher.

Chief McAlister noted the \$250.00 permit fee is calculated on inspection time for him and the Fire Marshall, costs of enforcement are borne by the General Fund, there are other costs associated, and it is a policy decision that can be changed. He noted City Parks are excluded due to damage and liability.

Michael Dean, City Attorney, noted a typographical error in Section 3.010. In the fourth line, the word "and" should read "any". He explained the fine structure and the highest penalty possible for violators.

Nancy Huston, City Manager, read comments submitted by Councilmember Rick Fuller that he does not support the ordinance and no more than three booths should be included in the trial period.

Vice Mayor Ceremello opened the public hearing.

Larry Simmons wanted to know how much profit can be made by a typical booth.

Nick Gilbert, Phantom Fireworks, recommended four stands or no more than six based on his experience, noted it is difficult for non-profits to make substantial

profit for their long hours of work with unlimited competition, and police and fire can better monitor fewer stands.

Dennis Revell, TNT Fireworks, noted that Sacramento has regretted not placing a limit on the number of stands, it is difficult to cut back once they are established, and both companies will consider joint ventures. He recommended six stands and noted too many ordinance amendments will prompt an additional first reading which will cause problematic delays for the upcoming season, and supported the highest fines possible.

Byron Chapman noted opening the test period to all who want to participate would determine how many can actually meet the requirements, fireworks distributors recommend less booths because it makes their job easier, fines should be much harsher to be effective, and fireworks should be allowed in City parks.

Jill Orr expressed concern about having too many booths, Police and Fire are already on duty so the fee should be less, and she would rather see fewer booths than many groups making a big effort and getting little in return.

Dave Scholl noted the Knights of Columbus will be applying for the lottery and felt financial reporting should not be necessary, some parks would be a good place for families, time is of the essence and fines should be strict but saved for another ordinance amendment, the free market system may be preferable and non-profits are discussing teaming up so more could participate. Mr. Scholl recommended that Page 10, 3.100 a), be changed to add "except as authorized by the Fire Chief" at the end.

Seeing no one else present to comment the discussion was brought back to Council.

Councilmember Besneatte recommended changing the permit fee to \$125.00, eliminate the City report but by November 1, submit a copy of the Board of Equalization Report, eliminate 3.080 a, b and c, and suggested five or six booths.

Councilmember Bogue recommended a compromise of 12 booths so that the 24 groups could each share a booth, a \$125.00 permit fee and no financial reporting.

Vice Mayor Ceremello recommended eight booths, preferred the free-market system but acknowledged the intent was to assist non-profits, and favored no financial reporting to the City.

Vice Mayor Ceremello noted he deliberately did not close the public hearing to enable the public to comment again after the Council.

Dave Scholl noted fireworks should be allowed on public property and groups can be designated by the Fire Chief for clean-up.

Jill Orr hoped wooden sparklers would be included in the ordinance.

Dennis Revell reported sparklers are not safe and sane and recommended the fees be brought back later.

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

Michael Dean, City Attorney, recited the Council changes that would be made to the ordinance:

1. Page 2, 1.020 m): delete “Ordinance, there may be” to correct definition.
2. Page 4, 3.101: change “and” to “any”
3. Page 5, 3.040 a): the number of booths shall not exceed eight and “5,000” should be changed to “2,500”.
4. Page 6, 3.040 d) iii: change the permit fee to \$150.00.
5. Page 9, 3.080: strike a, b, and c and change d to a.

A motion was made by Councilmember Besneatte, seconded by Councilmember Bogue, to adopt an ordinance adopting a two-year pilot program regulating the possession, sale and use of fireworks within the City of Dixon, as amended. Roll call was taken as follows:

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

The City Council recessed for break at 9:39 p.m.

The City Council reconvened at 9:52 p.m.

11. UNFINISHED BUSINESS

11.1 **Resolution rescinding Resolution 9853 and approving a new policy regarding indemnifying, defending and holding harmless the City of Dixon in litigation involving land use entitlements.**

Dave Dowswell, Community Development Director, outlined past planning procedures for planning approval, four changes that were directed by Council based on the City of Vacaville model, objections to the indemnity agreement expressed by Dan Figueroa that prompted staff review, and Mr. Dowswell’s suggestion to include a disclosure on the front of the application.

Councilmember Bogue suggested that simple wording be placed on the front of the application telling the person they may be subject to the indemnity agreement.

Councilmember Besneatte objected to the wording “sole active negligence”.

Michael Dean, City Attorney, explained the reason for the words “sole, active” and difference between passive and active negligence.

Vice Mayor Ceremello asked for public comments.

Dan Figueroa felt the “sole, active” wording was oppressive, and thought it should be deleted. He also recommended the word “willful” in “willful misconduct” be deleted since any misconduct causes harm. He also noted that past version included Design Review applications and building permits are ministerial and should be exempt.

Mr. Dean noted Subsection C was struck at Council request but could be left in.

Mr. Dowswell explained the concept of Design Review and he would clarify building permit criteria with staff.

Mr. Figueroa supported removal of the word “sole” and the notification to applicants on the front of the application.

Larry Simmons asked if the word “obvious failure” could be substituted for “sole, active”. Mr. Dean responded that legal wording is an art that is universally used and should not be substituted.

Councilmember Bogue was unclear on personal responsibility versus City responsibility and preferred the item be held over for further information, but agreed to the removal of “sole”.

Vice Ceremello supported the document with the removal of the word “sole”.

Wording will be added to the front of the application telling the applicant that the project may be subject to an indemnity agreement.

A motion was made by Councilmember Bogue, seconded by Councilmember Besneatte, to adopt Resolution No. 11-040, as amended, approving a new policy regarding indemnifying, defending and holding harmless the City of Dixon in litigation involving land use entitlements, as amended. Roll call was taken as follows:

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

11.2 Resolution approving a request for a grant agreement with the Downtown Dixon Business Association (DDBA) to fund a grant in the amount of \$2,500 for 2011 Dixon Farmer’s Market.

Mark Heckey, Economic Development Director, reported that the Downtown Dixon Business Association (DDBA) has received a subsidy from Redevelopment Funds for the last three years, have cut costs significantly, but still has a \$2,500 funding deficiency that is being requested from the General Fund Reserves.

Jill Orr noted insurance increased because the organization who previously ran the event was covered under a group insurance policy. Since that group is no longer running the market, the DDBA is subject to higher individual insurance rates. She noted the event is changing to Saturdays and asked the Council to look favorably on their request.

Drew Graska noted it is still a gift of public funds even though it is a good community event.

Councilmembers Besneatte and Bogue and Vice Mayor Ceremello expressed their support and found the fund request reasonable.

A motion was made by Councilmember Besneatte, seconded by Councilmember Bogue, to adopt Resolution No. 11-041 approving a request for a grant agreement with the Downtown Dixon Business Association (AG 11-011). Roll call was taken as follows:

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

12. **NEW BUSINESS**

12.1 Adopt Resolution declaring all weeds, refuse, and rubbish on specified parcels of properties as a public nuisance and setting a public hearing date for May 10, 2011 to hear any objections to the proposed removal of weeds, rubbish and refuse.

Police Sergeant Ron Willingmyre outlined the procedures for identifying properties in need of abatement, noticing requirements, and abatement procedures.

Vice Mayor Ceremello noted the parcels do not include developed lots within the City Limits as was done last year, no addresses were provided, a map would have been helpful, and pointed out that his property was not included.

Vice Mayor Ceremello asked for public comments. There were no public comments.

A motion was made by Councilmember Besneatte, seconded by Councilmember Bogue, to adopt Resolution No. 11-042 declaring all weeds, refuse, and rubbish

on specified parcels of properties as a public nuisance and setting a public hearing date for May 10, 2011. Roll call was taken as follows:

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

12.2 Presentation by the Fire Chief of the 2010 Dixon Fire Department Annual Report and possible discussion.

Aaron McAlister, Fire Chief, noted it had been a busy year of change and transition of positions within the Fire Department. He reviewed division responsibilities, specialized programs, calls for service that are up slightly, response times within the City Limits and the Fire District that are well below standards, and reported that 1,800 emergencies were handled, two-thirds of which were within the City Limits, and simultaneous calls for service were reduced.

Vice Mayor Ceremello noted the number of imultaneous calls for service are important ito determine appropriate staffing.

Councilmember Besneatte commended the Fire Chief for a very good report that contained a lot of information.

Vice Mayor Ceremello asked for public comments. There were no public comments.

This item was filed.

13. **OTHER AGENCY BUSINESS**

14. **ITEMS FROM THE CITY ATTORNEY**

Michael Dean, City Attorney, reported that he would be out of the country for three weeks and unreachable, but would be covered by Stephen Muzio and staff.

15. **ITEMS FROM THE CITY MANAGER**

Nancy Huston, City Manager, noted that a special meeting of the Dixon Solano Water Authority will be held on April 19, 2011, at 5:30 p.m. before the Planning Commission Meeting to discuss two items.

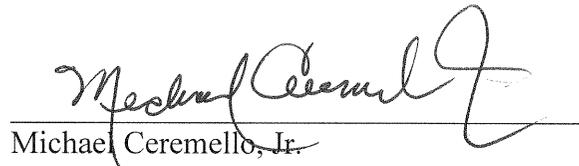
16. **CLOSED SESSION**

RECONVENE TO OPEN SESSION

17. ADJOURNMENT

The Regular Meeting of the Dixon City Council was adjourned at the hour of 11:20 p.m.


Suellen Johnston
Acting Deputy City Clerk


Michael Ceremello, Jr.
Vice Mayor