

**CITY COUNCIL
CITY OF SONORA
JANUARY 20, 2015**

A Regular Meeting of the City Council of the City of Sonora was held this date in the Council Chambers at City Hall, 94 North Washington Street, at 5:00 p.m. The following members were present: Mayor Pro-Tem Connie Williams, Councilmembers: Bill Canning, George Segarini and Jim Garaventa; City Administrator Tim Miller, City Clerk Marijane Cassinetta, Engineer Gerard Fuccillo, Attorney Byron Smith, Community Development Director Rachelle Kellogg, Interim Finance Director Bijan Sadeghian, Police Chief Mark Stinson (present at 5:05 p.m.) and Acting Fire Chief Grant Miller. Absent: Mayor Ronald Stearn.

PRESENTATIONS/PROCLAMATIONS/COMMENDATIONS

1. In appreciation for his 12 years of commitment to education, Mayor Pro-Tem Williams presented to Joe Silva a Certificate honoring him on his retirement as Tuolumne County Superintendent of Schools. Silva thanked the Council.
2. In May of 2014, the City was awarded the American Planning Association California 2014 Central Section Outstanding Urban Design Planning Award for "Vision Sonora", which was formally presented this evening to the Council by Administrator Miller.
3. Historian Pat Perry presented a Doris Olsen painting of the Sonora Dome to the City which was given to the City by Liz Bass. Mayor Pro-Tem Williams thanked Bass for her gracious gift.

CONSENT CALENDAR

Motion by Councilmember Segarini, second by Councilmember Garaventa, and unanimously carried that the Consent Calendar be approved as follows:

1. Approval of Minutes for the Closed and Regular Council Meetings of December 15, 2014, with the amendment to Page 5 of the Regular Meeting Minutes to reflect the correct spelling of Peggy Kingman;
2. Approval of invoices for previously budgeted expenses to be paid on January 21, 2015, in the amount of \$459,550.92; and
3. Approval of disbursements in the amount of \$142,670.33 on December 26, 2014, and \$134,735.50 on January 9, 2015, for payroll, inclusive of employee salaries, employer and employee taxes and retirement contributions, and miscellaneous voluntary employee deductions.

CITY CLERK'S REPORT ON POSTING OF AGENDA

City Clerk Cassinetta advised Council that at 12:16 p.m. on the 15th day of January, 2015, the Agenda for the City of Sonora Council Meeting scheduled for this date was posted outside City Hall for public view.

PUBLIC APPEARANCES

None.

PUBLIC APPEARANCES (Non-Agenda)

None.

PUBLIC HEARINGS

Use Allowed By Right - Code Amendment. This was the time and place set for a Public Hearing to consider a Use Allowed by Right, Ordinance Code Amendment to amend Section 17.20.020 of the Sonora Municipal Code to allow a Roominghouse or Boardinghouse as a use allowed by right; and amending Sections 17.22.020 and 17.24.020 to allow Bed and Breakfast as a use allowed by right; and amending Section 17.04.180 defining "Roominghouse or Boardinghouse". The Council considered introducing and waiving the first reading of Ordinance No. 822 - Use Allowed by Right - B&B, Boardinghouse or Roominghouse.

Community Development Director Kellogg reviewed provisions noting that Ordinance No. 822 will establish bed and breakfast facilities as a permitted use in the Tourist and Administrative Zone (CO) and the Commercial Zone (C). In addition, a roominghouse or boardinghouse will be considered a use allowed by right under the Multifamily Residential Zoning District (R-3) with the density of the zoning district driving the number of units allowed. Said action was recommended for approval by the Planning Commission at its Meeting of December 8, 2014. The project is Categorical Exempt from CEQA pursuant to Section 15061(b)(3) of the State and City Guidelines for implementation of CEQA.

Mayor Pro-Tem Williams opened the Public Hearing at 5:28 p.m. Steve Case, an owner of property which will be affected by said Ordinance Code amendment, appeared in favor of adoption. There were no other appearances, and the Public Hearing was closed at 5:30 p.m.

MOTION by Councilmember Segarini, seconded by Councilmember Garaventa, and unanimously carried that as presented Ordinance No. 822 be introduced with the first reading waived.

Rezoning of Assessor's Parcel #001-052-46. This was the time and place set for a Public Hearing to consider the application by Steve Case to rezone AP#001-052-46, the property located at 90 Columbia Way, from R-1, Single-Family Residential and R-2, Limited Multifamily Residential, to R-3, Multifamily Residential. Said property is designated as Historic Mixed Use (HMU) in the City of Sonora General Plan. Noting recommendation for approval by the Planning Commission, Community Development Director Kellogg presented the proposed rezoning reporting that it will allow a 9-unit boardinghouse, and the density and parking requirements for the project will be met. The Council considered introducing and waiving the first reading of Ordinance No. 823 effecting said rezoning.

Mayor Pro-Tem Williams opened the Public Hearing at 5:34 p.m. Thanking the City for its support, applicant Steve Case appeared in favor of approval. There were no other appearances, and the Public Hearing was closed at 5:35 p.m. Mayor Pro-Tem Williams commented on the beautiful remodeling job on the historic Curtain mansion which sits on the property.

MOTION by Councilmember Garaventa, seconded by Councilmember Canning, and unanimously carried that Ordinance No. 823 rezoning said property as presented be introduced with the first reading waived.

Transient Residential Use - Code Amendment. This was the time and place set for a Public Hearing to consider a Transient Residential Use Ordinance Code Amendment to add Chapter 17.64 to the Sonora Municipal Code establishing regulation of transient residential use related to vacation rental of residential facilities; and amending Chapter 17.04, Definitions, to define terms related to transient residential use; and amending Sections 17.12.020, 17.14.020, 17.16.020, 17.18.020, 17.20.020, 17.22.020 and 17.24.020, to establish transient residential use as a use allowed by right; and amending Section 17.60.040 to allow for Use Permits for transient residential use in specific zones.

Noting recommendation for approval by the Planning Commission, Community Development Director Kellogg reviewed the Ordinance provisions, the home occupation permit process, business license requirements, fees, requirement to pay Transient Occupancy Tax, execution of a waiver certifying installation of smoke detectors, carbon dioxide detectors and fire extinguishers, and requirement to sign a standard indemnification agreement.

Councilmember Canning had concerns about liability. Kellogg responded that every applicant, no matter how much income would be generated, will have to sign the indemnification agreement, and that the permits are required up front.

Mayor Pro-Tem Williams opened the Public Hearing at 5:58 p.m. Astrid Wasserman requested that "air B&Bs" be subject to the same permits, taxes and inspections that regular Bed and Breakfasts are subject to. Eli Shahr requested that the air B&Bs also be subject to the same parking and health requirements as regular B&Bs.

There being no further appearances, the Public Hearing was closed at 6:05 p.m. Council and Staff discussed parking requirements. Councilmember Garaventa asked if permits are submitted to environmental health. Planner Paula Daneluk said that it could be incorporated into the process. Mayor Pro-Tem Williams asked that the fees and parking requirements be re-looked at. Community Development Director Kellogg noted that R-3 Zoning allows for only two on-street parking spaces, and the Use Permit can be revoked if not in compliance.

MOTION by Councilmember Segarini, seconded by Councilmember Canning, and unanimously carried that Ordinance No. 824, as

presented, be introduced with the first reading waived.

UNFINISHED BUSINESS

Waive Second Reading, Adopt Ordinance No. 820. The Council considered waiving the second reading and adopting Ordinance #820 which establishes camping restrictions in the City of Sonora. Administrator Miller noted the action of the Council at its Meeting on December 15, 2014, to introduce and waive the first reading, and pursuant to Council's direction at said Meeting, a sunset provision of November 1, 2015, has been included. Miller noted that if the Council has substantial changes, the Ordinance would have to be brought back for further consideration.

Mayor Pro-Tem Williams asked for public comment. Rodney Benedetto suggested that the homeless be utilized in cleanup of camp areas, and those areas be made into parks. He said that he is in favor of the Ordinance but that solutions to the homeless problem still need to be sought. Tabitha, one of the homeless, talked about the difficulties of being homeless; she was in favor of the Ordinance. Randy Cofer was opposed stating that the solution lies in expanding mental health services, developing drug and alcohol detox services and making shelters available. Jeanette Lambert said that she was not really opposed to the Ordinance, but would like a solution attached to it.

Councilmember Segarini was excused from the Meeting at 6:37 p.m.

Beetle Barbour, ATCAA Housing Resources Director, reported that a survey of the homeless in Tuolumne County has determined 80 sheltered and 184 unsheltered homeless. She introduced new Homeless Coordinator Dwain Lilly.

Mayor Pro-Tem Williams closed public comments. Councilmember Canning stated that he does not know what can be done, and encouraged the homeless advocates, homeless and the community come up with a plan that the City can help facilitate. Councilmember Garaventa stating that something needs to be in place for public safety and is looking toward the advocates for something that can go forward. Mayor Pro-Tem Williams stated that the City does not provide any social services; social services all fall on the County. Williams noted that Ordinance No. 820 is an illegal camping ordinance, and is not an illegal homeless camping ordinance. She asked if there are any other ordinances or State laws in place that cover illegal camping or trespassing which give the Police Department authorization to govern on any illegal camping taking place today. Administrator Miller responded that trespass regulations can be dealt with by the Police Department with occupied property owners, but not absentee property owners. Police Chief Stinson responded that the City has 12 pages of regulations dealing with trespassing including the provision that publically and City owned property needs to be posted otherwise people can be there. If setting up camp residency, an eviction process goes

into effect. Environmental code laws are enforced by Fish and Game, and County Health Officer. Littering is an infraction and has to be witnessed by an officer to be enforced.

Williams asked if any other code provisions should be included in Ordinance No. 820. Stinson respond that the Ordinance can stand alone; he agreed that as Williams suggested, first violations be treated as infractions and not misdemeanors. She asked for the status on the prior evictions. Stinson responded that there is nothing new to report, because the camps are re-populated, but that the theft rate is starting to go back up. Williams reiterated that there is an Ad-hoc Homeless Steering Committee and Advisory Committee to the Ad-hoc Committee that are meeting to work on solutions, and restated that Ordinance No. 820 is an illegal camping ordinance and not an illegal homeless ordinance. She asked the City Attorney to address the chance of any legal challenges. Williams requested that Staff set up a study session with Council, judicial, legal and law enforcement to review the ordinance and suggest possible revisions to give law enforcement authority to handle those who are creating issues within the City to protect the citizens and also the homeless citizens.

Attorney Smith reviewed California Supreme Court current case law, Toby vs. the City of Santa Ana, involving the distinction between an illegal camping ordinance and an illegal homeless camping ordinance. The challenge being was it the intent of the ordinance to criminally prosecute individuals because they were homeless. The ordinance focused on activities that were prohibited, not on being homeless in and of itself. The court distinguished that the ordinance prohibited unlawful camping for all residents of the City of Santa Ana. The language of the ordinance did not prohibit it only for the homeless. One of the arguments in that decision was whether a homeless person who violated the ordinance should be allowed to argue as a defense that they had no other place to live. In that case, the California Supreme court did not consider that as a valid argument to prevent enforcement of the Ordinance. There have been several appellate decisions and at least one ninth circuit decision which have been chipping away at the decision. The courts have been considering the fact that a criminal prosecution of a homeless person who violates an otherwise valid city ordinance, if that person can establish they have no other place to live, the courts have recognized that as a possible valid defense to criminal prosecution. Smith stated the desire to have an ordinance that would withstand any challenge, and recommended that the City Council allow him and Administrator Miller to review the ordinance further and bring it back to the Council for further consideration.

Councilmember Canning reiterated the importance of the community to come together for resolve, and he believes it can be done.

Attorney Smith stated that at the last Council Meeting the Motion introducing and waiving the first reading included provision for review; that review could take place following

the adoption tonight, and if there is a need for further changes, it could be brought back to the Council prior to the sunset date. Smith stated that the Council can proceed tonight subject to the fact that the Ordinance may need to be further modified, or the Council could wait and allow he and Administrator Miller to meet to review any needed changes to the current proposed Ordinance.

Administrator Miller stated that it will include modifying the penalty provisions suggested by the Police Chief, further legal review by Attorney Smith, and Williams comments.

MOTION by Councilmember Canning, second by Councilmember Garaventa, that the second reading of Ordinance No. 820 be waived, and said Ordinance No. 820 which establishes camping restrictions in the City of Sonora be adopted: Ayes: Canning, Garaventa; No: Williams; Absent: Stearn, Segarini. The Motion failed to pass by the lack of a majority of the Council. Mayor Pro-Tem Williams said that she could not vote for the Ordinance until she sees the revisions.

Mayor Pro-Tem Williams asked that the review be done as soon as possible.

NEW BUSINESS

Adoption of Annual Financial Report. The Council considered adoption of the City of Sonora's Annual Financial Report (Audit) for the Fiscal Year ended June 30, 2014, which was prepared by the firm of Clendenin Bird & Company. Recommending approval, Interim Finance Director Sadeghian reported that the City passed the Audit, and is in compliance with the requirements set forth in GASB Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*. Sadeghian reported that the results did not identify any deficiencies in internal control that are considered to be material weaknesses and disclosed no instances of noncompliance or other matters that are required to be reported under Government Auditing Standards.

The City experienced a decrease in General Fund revenues in FY 2014. Revenues were \$4,699,517, \$99,274 less than the prior year amount of \$4,798,791, which decrease is largely a result of a decrease in sales tax revenue. General Fund expenditures were \$4,328,958, \$215,524 more than the prior year amount of \$4,113,434. Revenues exceeded total expenditures and operating transfers for the year by \$370,559. Sadeghian thanked past and current finance staff for their contributions which have resulted in a good financial audit and report. Mayor Pro-Tem Williams complimented Sadeghian and Staff for a good job and keeping everything on Budget.

MOTION by Councilmember Canning, second by Councilmember Garaventa, and unanimously carried that said Audited Annual Financial Report for Fiscal Year ending June 30, 2014, be approved and adopted as presented.

