

**Minutes of the Study Session of the
LEMOORE CITY COUNCIL
May 15, 2007**

ATTENDANCE:

Mayor Murray; Mayor Pro Tem Grego; Council Members Hornsby, Rodarmel; City Manager Briltz; City Attorney Cantú Montoy; Public Works Director Wlaschin; Finance Director Cota; Police Chief Morrell; Redevelopment Project Manager Holwell; Planning Director Smyth; Administrative Analyst Tyler; City Clerk Lima.

Council Member Martin was absent.

PUBLIC COMMENT:

There was no comment.

Mayor Murray changed the order of the County-wide Recycling discussion and the San Joaquin Valley Power Authority discussion.

DISCUSSION – COUNTY-WIDE RECYCLING:

Public Works Director Wlaschin reviewed a handout he presented to Council regarding the City's recycling program. Currently the City's recycling program is at about 22% of refuse and would like to improve that to 30-35%. Staff will be working with residents to get greater participation over the next few months. After further education of our citizenry, the next step is the development of a commercial recycling program for Lemoore.

Mr. Wlaschin introduced Mike Adams Executive Director of the Kings Waste & Recycling Authority (KWRA). Mr. Adams reported that in 2006 the members of KWRA met the diversion rate of 50%. Mr. Adams stated he understood there was concern over the County's recycling programs. Referring to a handout titled Joint Powers Authority – Last 12 Months Waste Stream Comparison, he pointed out that the County's recycling numbers were better than Hanford's; and the concern would probably be better directed at Hanford for their lack of a recycling program.

Mr. Adams reported that AB 1020 is currently before the State legislature and, if passed, would take affect in 2012 requiring that the diversion rate be 75%. If this bill is passed the City of Lemoore will have to have recycling programs for commercial, multi-family, and trailer parks to meet the rate.

PRESENTATION – SAN JOAQUIN VALLEY POWER AUTHORITY:

Administrative Analyst Tyler reported that this was a workshop to bring everyone up to speed regarding the Community Choice Aggregation (CCA). The Council would hear from representatives from Kings River Conservation Dis-

trict, CitiGroup Energy, Navigant Consulting and citizens. The California Public Utilities Commission approved the San Joaquin Valley Power Authority's (SJVPA) Implementation Plan to form the first CCA in the State. On May 3rd the Board of Directors of the SJVPA approved Resolutions 07-05 adopting Program Agreement 1. The City Attorney has been involved in the meeting discussing the creation of Program Agreement 1 and is currently in the process of reviewing the document. She will be able to advise the Council concerning Program Agreement 1 at the time the Council is asked to ratify the agreement.

Mr. Tyler introduced Tom Haglund, Deputy City Manager of Hanford and Chairman of the Board of SJVPA. Mr. Haglund stated they were here to discuss CCA and where the Council find themselves in the next few weeks as the Council considers the Program Agreement 1. Mr. Haglund introduced David Houston of CitiGroup, Patrick Mealy of Navigant Consulting and David Orth, General Manager of Kings River Conservation District (KRCD).

Mr. Haglund continued the City of Lemoore is a member of the JPA with eleven other cities and Kings County and soon Tulare County. Why CCA? It has been a three year project that the JPA believes will unite the strengths of the cities and counties that are participating members with KRCD. A regional collaborative effort, regional being very local, that will focus on our common energy interest. It will bring choice and competition to the valley, provide economic value through local investment and accountability.

The program as it stands now - 12 local cities with Kings and Tulare Counties offer through this program aggregated energy services on a voluntary basis; each of the customers that participate ultimately will be making the choice to do so. The new JPA serves as the governing board for our energy related decisions and provide program and policy oversight to the CCA. KRCD will manage the day-to-day operational needs and provide energy under contract with the JPA. The mission of the JPA will be to provide price stability, local control, and be responsive to those customers who choose to participate in the program. PG&E will continue to provide distribution, customer service and billing services for all of the JPA's customers.

The JPA's vision is three-fold:

1. Local investment in generation providing a robust renewable portfolio, 20% by 2010.
2. Generation rate stability and predictability.
3. Long-term energy planning.

David Orth, General Manager of Kings River Conservation District. Mr. Orth highlighted the team that has been developed to implement the program:

- ◆ Governing Body – SJVPA
- ◆ General Consul – Downey, Brand, Seymour & Rohwer LLP
- ◆ Operating Agent – KRCD
 - Financial Services – CitiGroup

- Data Manager – Sempra Energy Solutions
- Consultant - Navigant Consulting

The benefits of CCA:

- ◆ Program offers stable and predictable rates for first eight years.
- ◆ Customer choice.
- ◆ Regionally develop local generation assets.
- ◆ Renewable generation projects.
- ◆ Local decision making.
- ◆ Significant economic development tool.

Patrick Mealoy of Navigant Consulting. Mr. Mealoy gave an overview for the process. The implementation plan was filed with the California Public Utilities Commission (PUC) January 29, 2007; after the filing, several comments/questions were received from PG&E and Edison regarding concerns they had with the implementation plan as filed. The SJVPA, KRCD and Navigant met with and addressed the concerns presented to them and re-submitted the implementation plan April 12, 2007. On May 3, 2007 the PUC certified the SJVPA CCA implementation plan. This certification allows the SJVPA to move forward with the implementation plan.

The major component of the plan is setting rates. The SJVPA Board will set the generation rate component of the electric bill for the customer that elect to participate. The rates will be set annually by the Board of Directors at a noticed public meetings. Since the SJVPA is a local government agency, it is subject to the Brown Act.

The program does not move forward unless the Board of Directors of the SJVPA can guarantee at least a 5% savings off the existing PG&E generation rate including all administrative costs. There is the opportunity to develop Economic Development/Retention Rates with the program.

There are no additional costs for any of the SJVPA members. KRCD has approved a paper program to fund these costs; so if the program doesn't move forward any of the cost expended is at KRCD risk.

Program risks are looked two-fold:

- ◆ Until 2015 – 1st 8 years
 - Extensive Opt-out – Customers will be given four opportunities whether or not they wish to participate in the program. If a majority say they're not interested, it would be incumbent on the Board to realize it does not make sense to move forward if it is something the communities are not interested in pursuing.
 - PG&E rates decrease significantly from where they are today; to below the SJVPA's rates and customers transfer their accounts back to the public utility. If that should happen there is a risk that there would be an exit fee if the power that the

SJVPA procured on behalf of its customers was above market rate. For a typical residential customers the estimates worst case scenario would be \$1.80/month for the life of the contract with CitiGroup, 2015.

◆ Long-term pass 2015:

- The SJVPA needs to learn how to deal with price volatility. The agreement being negotiated with CitiGroup reduces that risk between 2008-2015.**

Mr. Orth spoke about the process and the investor owned utilities position relative to CCA in general. While working on CCA over the last several years, the group has been as transparent as possible, there have been meetings where PG&E representatives have expressed their support for CCA and expressed some concerns as well. We have listened very carefully to the utilities and have modified our plan in response to those concerns. We have invited the utilities to have a dialogue with the SJVPA so that we can better understand their concerns.

There is ongoing concern and criticism about the financial risk to the customer and the cost of the proposed power plant are under estimated. Really neither is relevant. The base load plant that KCRD is pursuing is not a component of the pricing structure; ultimately it may not be built if it cannot be permitted or if the permitting requirements are so expensive that it is not worth proceeding.

We talked a little about exit fees. In an ideal situation there are no exit fees. We are presently working with CitiGroup to define specifically a exit fee structure so that we can establish as predictable number and give that number to the SJVPA Board.

Cost savings – there has been an attempt to say 2.5% cost savings isn't enough to support the risks. If there is a zero risk scenario or minimal risk and apply 2.5% to your own bill or to the regions economic value we're talking 10s of millions of dollars.

Accusations of lack of experience – I think we have proved this evening the quality of the team we have put together.

Finally the concerns about air quality are very real and we do not attempt to under estimate those. We are fully committed to comply not only with Federal and State Air Pollution Control District standards for emissions, but our district has taken that a step further in that the power plant that we propose to build has to show net regional air quality benefits. That means we are developing new emission reduction credits and not buying credits from Redding, Kern County or Tracy which a lot of the other developers in the valley are doing when developing and permitting power plants for the region.

There is a risk of no action:

- ◆ We continue to live in an environment where the investor owned utility rates are unpredictable.
- ◆ We lose the opportunity to establish some local involvement in energy planning and leave that in the hands of the investor owned utilities.
- ◆ We continue to hear the impact of continued under-investment in the region.
- ◆ We will continue to rely upon for-profit merchants to meet our energy supply needs.

David Houston of CitiGroup. This is a legacy project for someone who resides in the San Joaquin Valley; a fundamental choice of what kind of control you wish to have. From our perspective were you to take the competitive advantage you have as a public agency; monetize them, and return the monetary value of those benefits to the rate payers. CitiGroup is supportive as a firm; we're the largest underwriter of power bonds in the country. We manage a dispatch within California and Arizona with over 5,000 megawatts of power. The firm has pledged to invest \$50 billion over the next 10 years in renewables around the country to reduce the carbon footprint. CitiGroup is excited about this project that is committed to providing a lower cost reliable power supply with limits on increases of no more than 2% per year through the contract term of 2015.

Mr. Haglund closed the presentation saying that Program Agreement 1 serves as a contractual agreement that will implement CCA on behalf of the City through the SJVPA.

For the Program Agreement 1 to become effective there are three essential triggers that even after adoption of the Program Agreement 1 by the Council three things need to happen for CCA to move forward.

- ◆ Nine of the fourteen members have to adopt Program Agreement 1.
- ◆ Finalize a power services agreement with KRCD.
- ◆ The program will not move forward if the financial goals are not met; 5% savings on generation on day 1 of the program.

If those three are achieved and Lemoore is a partner, you will have joined together to bring a program that brings price stability, local accountability, and local control in energy related decisions to our region. It is important and we hope for your valued consideration of that agreement.

Craig Schmidt, Public Affairs Director of PG&E, 681 W. Robinwood. Mr. Schmidt agreed with most everything said, PG&E is in support of CCA. Did he understand correctly that the Opt-out was if 5% was not achieved at any point during the entire contract that any city could leave the program at anytime without punitive damages?

Mr. Orth responded the program does not go live until the SJVPA Board makes the determination that the financial objectives have been met. That means we have executed an agreement with CitiGroup Energy, that they will provide a 5%

discount at program start-up, day one, with a cap on rates over the next eight year period and a 2% cap on inflation – the off ramp is if that is never achieved the program never starts.

Mr. Schmidt asked Council what they thought that meant.

Mayor Murray expressed his understanding as the SJVPA will buy electricity but that's not what they'll sell it for; because they have to add in all their other costs and there may not be any savings.

Mr. Houston explained the contract with CitiGroup will have a price specific that we know day one that our prices are 5% less than each and every tariff of PG&E that included all the SJVPA costs, and guarantee those rates will not go up more than 2% per year. I understand the confusion about locking the cap and capping rates. We're telling you, your rates will go up no more than 2% each and every year as we've laid out. Those costs will be passed through to the customers, but you will know the first day we start that those financial objectives have been met and won't change through 2015.

Shelly Abajian, 9691 S. Bethal, Selma, CA. As a member of the SJVPA the City is going to be asked to join in some project. The first project is a proposed 500 megawatt power plant between Parlier and Selma. It is a rural resident community within a quarter mile of a school. Ms. Abajian submitted a letter to Council from her community and the school that would be affected. Ms. Abajian spoke against the proposed gas fired power plant that would also use wastewater. Emissions are a concern in the east valley, especially in Parlier which is one of the two worst pockets in the Central Valley for air quality. She asked that the Council look at the community where the first project is going to be built.

Council asked why the program was being promoted as a 5% cost savings, when the savings to the end-users total bill would be 2.5%. Why would KCRD want to build a generating plant run on natural gas instead of a hydro plant? If a residential customer elected to opt-out how long would they have to pay the \$1.80 exit fee?

The 5% cost savings is on the generation side and the SJVPA has been marketing the gross dollar benefit to the region, marketing can be changed to the end-user. The politics in congress prohibit hydro power development on the rivers of California. The opt-out fee at the maximum would have to be paid monthly until the end of the contract with CitiGroup 2015.

Mayor Murray reiterated his position that it is essential that we have cheap reliable clean energy; he has resisted the program from the beginning because of the uncertainties. The Council directed him to sign the U.S. Mayor Agreement on Climate Control which said that cities are obligated to exceed the Kyoto Accords. Following this plan we would be dumping thousands of pollutants right back into the atmosphere. We have 90 days to make a decision or the program goes away, we're being asked to vote on the plan the 5th of June. I would rather wait and

gather more information and see what other cities are doing, we have received no recommendation from staff.

City Manager Britz stated there would no recommendation from staff until the City Attorney had fully reviewed the Program Agreement 1, and that they anticipate being able to provide that recommendation on June 5th.

Council directed that a discussion agenda item be placed on the June 5th agenda addressing the KCRD power plant contingencies and how it affects the program, the latest on the opt-out provisions which are still in a state of flux, and a PG&E presentation. The vote would be addressed after this meeting.

ADJOURNMENT: At 7:00 p.m., Council adjourned to the Regular Meeting at 7:30 p.m.

**Minutes of the Regular Meeting of the
LEMOORE CITY COUNCIL
May 15, 2007**

ATTENDANCE:

Mayor Murray; Mayor Pro Tem Grego; Council Members Hornsby, Martin, Rodarmel; City Manager Britz; City Attorney Cantú Montoy; Public Works Director Wlaschin; Parks and Recreation Director Hernandez; Finance Director Cota; Police Chief Morrell; Redevelopment Project Manager Holwell; Planning Director Smyth; City Clerk Lima.

Council Member Martin was absent.

PUBLIC COMMENT:

Carol Bates, 950 Banyon. Last night she opened her front door, after her dog growled in a funny manner, and there was a pit bull trying to get into her house. A week ago Saturday there was three pit bulls in her yard around 7:00 p.m. She had spoken with a friend whose cat had been torn to pieces by two dogs. People know that there is no dog catcher in the morning or in the evenings.

City Manager Britz asked if she had called the police and she had. He encouraged her to call when she felt threatened or saw a situation that shouldn't exist. The Council would be considering the second reading of an ordinance tonight that would further enhance the City's ability to deal with aggressive animals. Ms. Bates supports that ordinance.

Richard Muskrat, 275 Lombardy Lane. On May 10th his 10 year-old was attacked by a ½ pit bull - ½ boxer. Mr. Muskrat held up a picture of his child after the attack. This was the second bite for this dog and the owner does not want to put the animal down. The owner's property backs up to Lemoore Elementary school and there is concern the dog could attack others if returned to the owner.

REPORT AND RECOMMENDATION – FIRST READING – ORDINANCE 2007-05 – TAXI CAB REGULATIONS:

City Attorney Cantú Montoy reported that the ordinance being considered addressed all issues required by State law and the safety requirements the Council had requested during the March 20 Study Session.

Gabriella Garcia of Mendez Brothers Taxi Service, 405 D Street, Suite F. Ms. Garcia inquired as to when the ordinance would be in effect. City Manager Britz replied if approved at the second reading it would become effective July 5th.

Ms. Garcia asked if there are set rates for all companies? City Manager Britz stated the fees to comply with the ordinance are not part of this discussion, once we know what the ordinance will contain, a short study will be conducted to determine how much staff time it takes to process and issue both the taxi cab permit and the permit to operate the cab. Those fees would be set by resolution by the City Council at a meeting just like this and those fees would take place 60 days after that hearing.

Ms. Garcia asked if the drug testing is required at the time we apply for the taxi to be authorized. City Attorney Cantú Montoy responded that the ordinance includes detailed information regarding the drivers. Yes, they would have to undergo a drug testing process and there is a listing that is provided by Federal law of certified testing labs and the City would provide you with a list of certified labs so you could have the test done.

Ms. Garcia asked if the labs were in this area. City Attorney Cantú Montoy did not know if there are any certified labs in Lemoore. The list would have labs closest to Lemoore.

Ms. Garcia inquired as to the safety requirements. City Manager Britz referred to Section 3-6A-7, Item 6 of the proposed ordinance quoting; “Such inspection shall include without limitation the mileage, engine, gears, transmission, brake system, lighting system, seat belts, doors, windshield wipers, radio dispatch system, exhaust and air pollution control system, tires, wheels, and whether each vehicle meets ultra low emission standards of the Air Resources Board.”

Ms. Garcia thanked the Council for letting Mendez Brothers do business in Lemoore.

It was moved by Council Member Rodarmel, seconded by Council Member Grego, and carried that the Council waive the first reading of Ordinance 2007-05 Chapter 6, Article A to Title 3 of the Lemoore Municipal Code relating to Taxi-cab Permit Ordinance and pass to a second reading.

Ayes: Rodarmel, Grego, Hornsby, Murray

Absent: Martin

REPORT AND RECOMMENDATION – FIRST READING – ORDINANCE 2007-06 - REDEVELOPMENT AGENCY PROGRAM TO ACQUIRE REAL PROPERTY BY EMINENT DOMAIN PROGRAM IN THE LEMOORE REDEVELOPMENT PROJECT AREA:

Redevelopment Project Manager Holwell reported that the ordinance before Council was a house keeping matter. SB 53 requires legislative bodies to adopt an ordinance on or before July 1, 2007 that contains a description of the agency's program to acquire real property by eminent domain. Exhibit A of the proposed ordinance is the Redevelopment Agency's program to acquire real property by eminent domain, as described in our Redevelopment Plan adopted on December 2, 1986, Amendment No. One adopted June 19, 1990, and Amendment No. Two adopted June 3, 1997.

Ms. Holwell stressed there is no current project being considered that would require property acquisition by eminent domain.

It was moved by Council Member Rodarmel, seconded by Council Member Grego, and carried that the Council waive the first reading of Ordinance No. 2007-06 an Ordinance of the City of Lemoore, California Containing a Description of the Lemoore Redevelopment Agency's Program to Acquire Real Property by Eminent Domain in the Lemoore Redevelopment Project and pass to a second reading.

Ayes: Rodarmel, Grego, Hornsby, Murray

Absent: Martin

REPORT AND RECOMMENDATION – AWARD OF AUDITING AGREEMENT TO SAMPSON & SAMPSON:

Finance Director Cota reported that RFPs had been sent to 22 CPA firms and three proposals were received by the deadline of April 27, 2007. The three proposals were rated on experience, availability, and cost. Staff recommends that the three year auditing agreement be awarded to Sampson & Sampson.

It was moved by Council Member Hornsby, seconded by Council Member Grego, and carried that the Council award the auditing agreement to perform the annual audit and financial statements of the City of Lemoore, the Lemoore Redevelopment Agency, and the Lemoore Golf Course to Sampson and Sampson, 3148 Willow, Ste 102, Clovis, California; and direct the City Manager to execute the necessary contract.

Ayes: Hornsby, Grego, Rodarmel, Murray

Absent: Martin

DISCUSSION – SALES TAX UPDATE:

Redevelopment Project Manager Holwell reminded Council that approximately one year ago staff brought before Council a sales tax update in which they expressed concern that the sales tax revenue being generated was less than anticipated and revenues budgeted could be effected.

The current update reflects that sales tax revenue has increased 2.1% over the previous quarter. While sales tax growth in Kings County and the San Joaquin Valley was significantly higher than Lemoore, the City is within .56% of the increase by the State. Staff is still concerned and believes sales tax revenue should be increasing at higher percentages than we are currently.

DEPARTMENT/CITY MANAGER REPORTS:

City Manager Britz reported that he and Council Member Rodarmel would be in Sacramento May 16-17 for the League of California Cities Legislative Action Days.

COUNCIL REPORTS AND REQUESTS FOR INFORMATION:

There were no reports or request for information.

RDA MEETING: At 8:23 p.m., Council adjourned to sit as the Redevelopment Agency of the City of Lemoore.

Full digital audio recording is available.

Approved the 5th day of June, 2007.

John F. Murray, Mayor

Attest:

Nanci C. O. Lima, City Clerk