



Minutes of the Regular Meeting of the Winters City Council Held via  
Teleconference (ZOOM) on May 19, 2020

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Mayor Wade Cowan called the meeting to order at 6:30 p.m.

Present: Council Members Harold Anderson, Jesse Loren, Pierre Neu, Mayor Pro  
Tem Biasi, Mayor Wade Cowan

Absent: None

Staff: City Manager John W. Donlevy, Jr., City Attorney Ethan Walsh, Police  
Chief John Miller, Fire Chief Brad Lopez, Environmental Services  
Manager Carol Scianna, Director of Financial Management Shelly Gunby,  
Public Works Superintendent Eric Lucero, Building Official Gene  
Ashdown, City Clerk Tracy Jensen.

Council Member Loren led the Pledge of Allegiance.

Approval of Agenda: Mayor Cowan said this meeting was being conducted on Zoom,  
which is allowed under the Governor's order. All votes will be roll call votes. Time will  
be provided for any members of the public to make comments for each agenda item. If  
you wish to make a comment, please use the "raise your hand" feature and you will be  
given the opportunity to speak.

City Manager Donlevy said there were no changes to the agenda. Motion by Council  
Member Loren, second by Council Member Neu to approve the agenda with no  
changes. Motion carried with the following roll call vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Biasi, Mayor  
Cowan

NOES: None

ABSENT: None

ABSTAIN: None

COUNCIL/STAFF COMMENTS: Verbal updates were provided by Council.

**PUBLIC COMMENTS:** Winters Resident Jason Trojanowski inquired what the City of Winters is doing regarding the State of Emergency that he claimed was valid for 60 days and expired on May 6. City Manager Donlevy said the City of Winters falls under the jurisdiction of Yolo County and the current order expires on May 31.

**CONSENT CALENDAR**

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, May 5, 2020
- B. Resolution 2020-18, a Resolution of the City Council of the City of Winters, Initiating Proceedings for the Annual Levy and Collection of Assessments for the City-Wide Maintenance Assessment District, Fiscal Year 2020/2021
- C. Resolution 2020-19, a Resolution of the City Council of the City of Winters Preliminarily Approving the Engineer's Annual Levy Report, and Declaring its Intention to Levy and Collect Annual Assessments and Providing Notice of Hearings Thereof for the City of Winters City-Wide Maintenance Assessment District, Fiscal Year 2020/2021
- D. Approval of Joint Use Agreement between the City of Winters and the Winters Parent Nursery School (WPNS)
- E. Resolution 2020-23, a Resolution of the City Council of the City of Winters to Accept a Grant Deed for a Public Utility Easement Related to the Winters Highlands (Stone's Throw) Phase 2 Project; and Resolution 2020-24, a Resolution of the City Council of the City of Winters to Approve the Final Map #4507 for Winters Highlands (Stone's Throw) Phase 2 Subdivision
- F. Irrevocable Offer of Dedication of Right of Way and Public Utility Easement for the Winters Highlands (Stone's Throw) Phase 1 Subdivision

City Manager Donlevy gave an overview and verified Council Member Neu may participate in the vote regarding Item D as his property exceeds the 500-foot boundary. Motion by Council Member Loren, second by Council Member Neu to approve the Consent Calendar. Motion carried with the following roll call vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Biasi, Mayor Cowan  
NOES: None  
ABSENT: None  
ABSTAIN: None

**DISCUSSION ITEMS**

- 1. Public Hearing to Receive Input from Specific Property Owners Regarding Implementation of Weed Abatement for 2020

City Manager Donlevy gave an overview. Mayor Cowan opened the public hearing at 6:59 p.m. and referenced a letter that had been sent to the City Council signed by residents on Dry Creek Lane following a recent fire. City Manager Donlevy met with residents from Dry Creek who requested the City consider moving weed abatement inspection from twice a year to three times a year. City Manager Donlevy said staff will take their request into consideration and respond in the next couple of weeks, adding the fire remains under investigation.

Marla Weston, 412 Dry Creek Ln., said it was a frightening situation and was thankful to the Winters Fire and Police Departments for their good work in protecting their street and the entire city. When grasses get too high and present a danger, it's the responsibility of the owner of property to abate when it becomes dangerous. When residents call the City about dangerous property, the City should take action to abate it or cause it to be abated in a timely manner.

Linda Hirst, 414 Dry Creek Lane, said she is impressed by all the City is handling and said thank you. When there is a safety threat, she would like to get a more rapid response than what she's seen. It's late to be mowing for fire risk.

Several residents of Dry Creek Lane submitted a letter proposing the City assess adjacent property for fire risk and modify the weed abatement mowing schedule to ensure that the fire risk is removed as soon as possible. Weed abatement needs to happen on a fixed schedule and whenever current conditions present a fire hazard to the community. The letter also proposed the establishment of a reporting system so residents can contact the City to warn them of dangerous conditions, upon which the City is required to abate or arrange for the abatement of said conditions. The increased risk management would serve many parties, including unnecessary deployment of the Fire Department, protect residents from liability for the negligent damage caused by others, and help keep our residents lives and property safer from completely preventable fires.

Council Member Loren referenced climate change and climate change adaption and said the fire season is no longer predictable and doesn't follow a pattern. She suggested leading the way by adding a third time period for weed abatement and provide more clarity to the public about what they can do to abate property adjacent to their own property. City Manager Donlevy said weed abatement is not a perfect science, adding staff will get the wheels in motion for an evaluation of the weed abatement calendar and will bring back to Council for review at a later date.

Mayor Cowan closed the public hearing at 7:09.

Fire Chief Lopez acknowledged and understood the residents' concerns regarding the May 16<sup>th</sup> fire, which was fast moving and posed an immediate threat to the homes in the area. The Fire Department took quick action to subdue the fire and are continuing to follow up on an investigation.

2. Resolution 2020-22, a Resolution of the City Council of the City of Winters Authorizing the Establishment of an OPEB Trust to be Administered by Public Agency Retirement Services (PARS) and U.S. Bank

Director of Financial Management Shelly Gunby gave an overview. Council Member Neu asked if staff was putting more money away or putting money in a different place. Ms. Gunby said while the City continues to make their required payments through the OPEB trust, funds will also be placed in the PARS 115 Trust in order to diversify the City's investments. If approved, funding into the PARS 115 Trust will begin in 2021. Mayor Pro Tem Biasi asked if PARS selects the investment funds and Ms. Gunby said a menu of investments is provided and staff will select how the funds are to be invested.

Motion by Council Member Neu, second by Mayor Pro Tem Biasi to approve Resolution 2020-22, authorizing the establishment of an OPEB Trust to be Administered by Public Agency Retirement Services (PARS) and U.S. Bank. Motion approved with the following roll call vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Biasi, Mayor Cowan  
NOES: None  
ABSENT: None  
ABSTAIN: None

3. Authorization to Purchase New Radar Trailer with Digital Signage, Radar Detection, Traffic Counting, ALPR Technology and Speed Sensors

Police Chief Miller gave an overview, confirming the new radar trailer will be a multipurpose piece of equipment that will include an enhanced message board that can be updated remotely, hardware/software, and ALPR technology. Chief Miller confirmed an ALPR policy, required as per SB34, is not required to be adopted prior to purchasing the trailer, but will be developed and brought forward to a regularly scheduled public meeting to provide the public with an opportunity for public comment. 230 out of 391 agencies in California use ALPR technology, with 36 departments planning to implement soon (not including Winters.) Chief Miller reviewed how the ALPR system works, which doesn't identify the driver license or immigration status but monitors traffic for violations. He added this technology would be an efficient use of manpower and the information obtained can only be shared with other public agencies, and not with private agencies or immigration. The City will own the closed data and recordings, with Vigilant storing the data, and can only be shared with other agencies if an MOU agreeing to do so is in place. Information will be destroyed in one year from the date taken unless it is being used on a case. Chief Miller reviewed the two quotes received, identified where the funds would be coming from, confirmed the annual maintenance fee of \$2550, which has been built into the 2021/2022 operating budget. The digital signage can also be used for community messages, special event/alternate parking, emergency road closures, and public safety types of events. The information received is uploaded to

Vigilant and stored on servers on behalf of the Winters Police Department and can't be shared with other agencies unless we agree via MOU. Vigilant also cannot sale or provide information to private entities. If the City of Winters data is shared with another agency as per the MOU on file, that agency cannot share the data with any other agency as per SB54. Mayor Cowan then opened the floor for public comments.

Jason Trojanowski voiced his concerns about using anti-theft vehicle funds being used for a trailer, license plates being run without reasonable cause, and suggested installing cameras on street lights to better position the cameras. Chief Miller said as per Cal Trans, cameras can't be installed on light poles on a State highway.

Kate Laddish, 400 Morgan, thanked staff for changing this purchase to a discussion item to facilitate input in accordance with SB34. Ms. Laddish expressed her concern about the City of Winters adopting a form of warrantless mass surveillance that can be abused. The technology we adopt is only as good and as trustworthy as the people using and storing the data gathered. Vigilant Solution, the company with which Winters hopes to partner, has a history of selling data to customers that are far outside the scope of what the local jurisdictions planned. While the safeguards enacted in SB54 should help with this, Ms. Laddish remains concerned that Winters will be collecting information, including whole-car photos of every car and sending it to a third-party vendor for storage and use. SB54 will require Winters PD to enter into a written agreement with any individual outside agencies with which I share the information and Ms. Laddish requested Council to direct staff to include guidelines for when, how, and how widely that information will be shared, and to include guidelines for terminating sharing agreements when specific investigations end. A State auditor's report from February 2020 showed that problems remain with ALPRs, even with SB34 and SB54 in place. Ms. Laddish requested Council to direct staff to draft a usage and privacy policy and make that policy publicly available before Council votes, helping to ensure that we uphold our community values and reduce the risk of future abuse of the data, and asked Council to wait to vote on this item until the June 2 City Council meeting.

Sandra Aamodt, 30100 Positas Road, expressed her concerns about the planned purchase of an automated license plate reader for Winters. The information collected can be dangerous if its use is not appropriately limited. The more widely the information is disseminated and the longer it is stored, the more likely it is to be abused. State law provides a reasonable set of safeguards against such abuses, but a recent audit found that violations of these laws are common in practice. In order to prevent these types of problems developing in Winters, Ms. Aamodt requested that Council direct staff to make the proposed privacy policy available for public discussion before the ALPR is purchased. This policy should specify how long the information will be retained before being destroyed and how the department will decide when to share its database with other agencies.

Shep Harper, 431 Russell, said he understands the need to replace an aging radar trailer and appreciates having them on his street to remind others to slow down, as well as himself. He understands that the replacement will include an Automatic License

Plate Reader (ALPR) and he does not support them. He considers them warrantless mass surveillance devices and there are already provisions in California law guidelines for how these devices can be used. He requested if Council decides to augment a Radar Trailer with an ALPR, provisions will include strong controls that meet SB34 and SB 54 requirements.

Bonnie Dixon, 422 Russell St., expressed her concern about the consideration of acquiring an ALPR. This type of mass surveillance technology should not be adopted without first ensuring that the privacy of the public is protected in the way that the information collected by the device will be store and used. It is critical that the City Council not approve the acquisition of an ALPR until after a usage and privacy policy has been put in place that satisfies the Council and residents of Winters and is in full compliance with all relevant state laws. The policy should ensure that there will be no unnecessary sharing or long-term storage of ALPR data.

Jill Shirley, 200 Wolfskill, said ALPRs are a form of warrantless mass surveillance that raises serious concerns about privacy and security. California law provides several safeguards against the misuse of information from ALPRs that include sharing the resulting data to any person or agency outside of law enforcement, anyone who accesses the data must be trained and monitored to prevent unauthorized use, and a usage and privacy policy must be publicly available. In addition, SB54 prohibits the sharing of this information with immigration enforcement. Ms. Shirley strongly opposes the use of warrantless mass surveillance, including ALPRs, and said she was very concerned about adding a new surveillance technology to Winters. She wants to ensure that there are adequate usage and privacy policies in place before any surveillance technology is adopted and recommended that a City of Winters ALPR Usage and Privacy Policy be made available for public discussion before any ALPR purchase is approved to ensure that the policy prohibits unnecessary sharing and long-term storage of the information collected, in compliance with State law.

Denise Cotrell, and All Vallecillo, 210 Main Street, thanked Chief Miller for his report regarding the ALPR technology. On behalf of the Hispanic Advisory Committee, there is a lot of concern within the Hispanic community about the information gathered. If the information is shared so easily on the cloud and stored by a third party, it can get out of our control. The radar trailer is important and an upgrade with newer technology will be an asset to the community. But before implementing this tool, Ms. Cotrell requested that Council direct staff to develop a policy, have a discussion about how the policy will work, and to include the Latino community in the future by posting bilingual notices. Ms. Cotrell also thanked Council and staff for repairing the sidewalk on Main Street.

Rodney Orosco, Winters Express, said there are boilerplate policies available and said the ALPR technology policy can be updated specific to Winters Police Department once the system is accepted.

Council Member Loren has been a liaison for the Hispanic Advisory Committee (HAC) for 12 years and said its members were not aware that this item was available for public

comment. The HAC wants to improve interaction with the City and the Winters Express and requested the contents of future agenda packets be translated into Spanish. Council Member Loren said she would like to consider some of the language, including the guidelines for sharing agreements and said she is comfortable approving the trailer, but is not comfortable with the ALPR without more input on the policy portion.

Mayor Pro Tem Biasi said the existing trailer needs to be replaced and legal counsel can provide direction. Using a new system could assist the police department with homicide investigations, issue Amber Alerts, and assist in arson investigations as long as the data is used properly. Chief Miller confirmed only the license plate on the front or back of the car, and not the entire car is captured. This system is used in neighboring communities and it makes sense for Winters to use the technology for the right reasons.

Council Member Neu agreed that surrounding cities use this technology but he is concerned about the policy. It will take awhile to build the trailer and install the equipment, and before it can be used, a policy can be written and approved by Council before being used. He doesn't want the ALPR to be used prior to having a policy in place.

Council Member Anderson said the system should be used for law enforcement purposes and not looking forward in the technology era puts us at a disadvantage. Cooperation with neighboring agencies is going to benefit the entire region.

Mayor Cowan said he is in favor of the trailer with the ALPR. It will be a good tool for the Police Department. He said he understands SB34 and SB54; there are a lot of laws and regulations that help control data usage and agreed that a good, sound policy is put into place. Mayor Cowan fully supports the purchase of the new trailer and ALPR system with the caveat that we establish a policy for public input and policy approval prior to usage. This is an important tool for the Police Department and can be extremely helpful. The only question that remained was how the MOUs will be worked out between Police Departments and asked if they would be used just for specific cases. Chief Miller said the initial MOU is not based on a time period and both parties must agree to continue. The MOU can be terminated, can be updated with changes specific to the agency.

City Manager Donlevy said Chief Miller will put together the overall policy in compliance with SB34 and SB54, who has been very explicit that no information will be shared with ICE. Chief Miller said he will be utilizing a model policy by Lexipol that specifically addresses SB34 and SB54.

Motion by Mayor Pro Tem Biasi, second by Council Member Loren to approve the purchase of the RADAR trailer with ALPR with the caveat that the policy be brought back to Council for review prior to the trailer being put into use. Council Member Loren added "prior to implementing trailer." City Manager Donlevy confirmed the policy would be written by Chief Miller and brought back to Council for approval at the June 2<sup>nd</sup> City Council meeting. Motion carried with the following roll call vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Biasi, Mayor Cowan  
NOES: None  
ABSENT: None  
ABSTAIN: None

4. SB1 2019-2020 Street Rehab Project Change Order for Striping

Public Works Superintendent Eric Lucero gave an overview and confirmed the striping was left off of the bid to avoid having to go back out to bid. The lowest bid left us approximately \$47K under budget, and the lowest bid for the striping came in at \$38K. The project, which should be completed next week, will include widened bike paths along Main Street.

Motion by Council Member Neu, second by Council Member Loren to allow the City Manager to execute a change order for striping to the existing contract with Vintage Paving for the SB1 2019-2020 Street Rehab Project. Motion carried with the following roll call vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Biasi, Mayor Cowan  
NOES: None  
ABSENT: None  
ABSTAIN: None

5. Budget Overview

City Manager Donlevy said staff was bringing forth information regarding the impact of salary reductions and Director of Financial Management Shelly Gunby would give Council and the community an idea of the reductions that are being proposed and how the City plans to pay for some things. Ms. Gunby said all employee groups have been met with at least once, some twice, and although no agreements are in place, staff anticipates a 5% pay cut moving forward. Ms. Gunby then shared Slide 1 reflecting the total contributed by Department Heads back into the General Fund over a ten-year period, exceeding \$500K. Slide 2 reflects the impact of the proposed pay cut for each employee.

Regarding the \$250,000 in funds toward a \$1 million litigation reserve to address potential challenges to land use initiatives, City Attorney Walsh said he was hopeful that litigation doesn't come to pass, but the City needs to be prepared to defend any challenges that might come our way. Mayor Pro Tem Biasi said an issue was brought up that the City was not being transparent about what the money was to be used for and he thanked City Attorney Walsh for explaining why staff couldn't comment on those funds. City Attorney Walsh said in general, Council and staff members have been wary

of how they speak about the initiative as they don't want to be put in a position to advocate one way or another. Also, staff was concerned about potentially compromising our position by providing information about strategy and our legal position. This is the reason staff didn't want to elaborate without legal counsel at the May 5<sup>th</sup> City Council meeting and appreciates staff and Council for being careful on these issues and not putting the City in a more defensive position.

Council Member Neu asked if it was common for referendums or ballot measures to have issues or involve lawsuits. City Attorney Walsh said they do happen occasionally, though he doesn't have any statistics. There are a number of factors to consider and we can't predict litigation, but there is always a possibility and we have an obligation to defend it if it does come.

Mayor Pro Tem Biasi referenced the table showing the amounts that Department Heads donated back to the City's general fund was impressive. Over ½ million dollars could have easily been taken but they chose to give it back to the general fund. He wanted to acknowledge them and thanked Shelly for putting this information together. Council Member Loren reiterated Mayor Pro Tem Biasi's comments – ½ million dollars is astounding. These numbers prove the sacrifice that was made by City administrators and it's a reminder of what we're made of.

Council Member Neu referenced the chart showing cuts would be at 7.5% and asked how much that would save the City. Ms. Gunby said it would save the general fund almost \$275K. City Manager Donlevy confirmed there will be more specific budget information brought back to Council on June 2 and will come back to Council on June 16 for adoption, with input provided by Council in the meantime.

Council Member Loren asked if there was any word from the State or Feds on money coming for cities. City Manager Donlevy said the Governor released the budget last week and has carried forward a \$55 billion-dollar deficit from where they were in January, and the State will receive \$14 billion worth of aid from the Feds. We may get a little bit of money, but it will be eaten up pretty quickly. City Manager Donlevy confirmed a Special Executive Session City Council meeting would be scheduled to discuss labor negotiations.

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**CITY MANAGER REPORT:** Regarding PSPS (Public Safety Power Shutoffs), PG&E has installed switches so the City is not going to see the type of shutdowns we had last year, including the downtown. Regarding COVID-19, the Board of Supervisors kicked into next week the possible opening of restaurants and will provide guidance documents to staff. Sacramento and Solano Counties are opening restaurants and retail on Thursday and Yolo County remains behind the curve. From a City Hall standpoint, we have many residents who pay their utility bill with cash and reopening of City Hall is very important. Staff is working on a strategy to open the doors on June 1<sup>st</sup>, including putting safeguards and policies in place. Staff will be sending a survey to

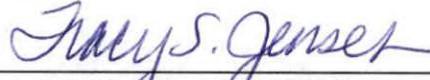
Council regarding an Executive Session to discuss labor negotiations via Zoom. Mayor Cowan added there is a meeting scheduled with downtown business owners on Thursday morning at 11 to discuss and develop a way to reopen by providing more flexibility for outside dining with no additional licensing. City Manager Donlevy said the downtown business owners have a good team and will work with staff to look at an overall strategy to open up responsibly and safely. If you like 4<sup>th</sup> Fridays, get ready!

INFORMATION ONLY: None

ADJOURNMENT: Mayor Cowan adjourned the meeting at 9:12 p.m.

  
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Wade Cowan, MAYOR

ATTEST:

  
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Tracy S. Jensen, City Clerk