

FEBRUARY 20, 2016
1:00 p.m.
City of Turlock Yosemite Room
156 S. Broadway, Turlock, California

MINUTES
Special Meeting
Turlock City Council

**and via teleconference:
Fairfield Inn & Suites Morgantown
161 Lewis Drive
Morgantown, WV 26501
Telephone No. (304)598-5006

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1. **A. CALL TO ORDER** – Mayor Soiseth called the meeting to order at 1:02 p.m.
PRESENT: Councilmembers Amy Bublak (*by teleconference*), Bill DeHart, Matthew Jacob, Steven Nascimento, and Mayor Soiseth.
ABSENT: None
B. SALUTE TO THE FLAG
 2. **PUBLIC PARTICIPATION:** Mayor Soiseth noted that public participation would be allowed throughout the meeting.
 3. **DECLARATION OF CONFLICTS OF INTEREST AND DISQUALIFICATIONS:**

Mayor Soiseth asked City Attorney Phaedra Norton to define conflicts of interest and disqualifications.

City Attorney Phaedra Norton stated that typical types of conflicts of interest that Council deals with are financial conflicts of interest, noting the Political Reform Act comprehensively deals with financial conflicts of interest. Ms. Norton stated that based upon information she has, no member of this Council has a disqualifying conflict of interest of the Political Reform Act.

Mayor Soiseth noted that Councilmember Bublak is participating via teleconference.
 4. **CONSENT CALENDAR:** None
 5. **PUBLIC HEARING:** None
 6. **SCHEDULED MATTERS:**
 - A. Parks, Recreation and Public Facilities Director Allison Van Guilder presented the staff report on the request for Council to provide comments and direction to staff on the newly updated, draft Special Event Permit Process and Policies.

Director Van Guilder outlined the goals of revamping the existing process, highlighted some of the proposed key changes such as a prioritization schedule and permit application fee, and noted this item would be brought back to Council at a future date for more robust conversation and approval.

Council and staff discussion included identifying the types of events that would fall under the proposed special event permitting process and the application, timeline, and approval processes. Additional discussion included the types of reoccurring events that will not be subject to the proposed special event permitting process, review and findings of other municipalities with similar processes, and seeking feedback from community members such as the Turlock Downtown Property Owners Association.

Mayor Soiseth opened public comment. No one spoke. Mayor Soiseth closed public comment.

Action: None. Discussion only.

- B. Parks, Recreation and Public Facilities Director Allison Van Guilder presented the staff report on the request to determine the Certified Farmers Market Located on City Property is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15323 (Normal Operations of Facilities for Public Gatherings) and Section 15304(e) (Minor Alterations to Land) and; Approving the Request for Proposal for a Certified Farmers Market Located on City Property and the sample rating sheet and the draft revocable license agreement.

Mayor Soiseth opened public comment.

Alice Pollard spoke regarding the importance of considering an applicant's track record or "good standing" and conducting background checks when evaluating proposals.

Jeani Ferrari spoke about the history of the Turlock Farmers Market Committee and its efforts in creating a downtown market with long-term success, the importance of ongoing partnerships between the City and the Turlock Downtown Property Owners Association, a prior grant awarded to the market by the City, and the standard processes required by the City. Ms. Ferrari also spoke about her past experience with City road closure approvals, how she was notified there was an additional market applicant, and concerns about the RFP process.

Steve Elliot, on behalf of Dana McGarry, spoke against the RFP process and in favor of collaborating with the Turlock Certified Farmers Market Board and staff, acknowledging the public's support of the existing market, and honoring the existing partnership.

Brad Bates spoke regarding a personal letter he delivered to the Mayor one week ago noting concerns of potential conflicts of interest and the appearance of impropriety. Mr. Bates also spoke about Fair Political Practice Commission (FPPC) advice and rulings, the Mayor recusing himself from this item, and the importance of transparency and accountability for public officials.

At the request of Mayor Soiseth, Interim City Manager Michael Cooke reminded attendees that the focus of this item was to address the content of the RFP, not reconsider the decision to proceed with the RFP process.

Elizabeth Claes questioned the intent of the RFP and expressed concerns about Council having full power over deciding who operates the market and the treatment of current and future groups who want to build community events and programs.

Holli Walker and Donna Reeves spoke in favor of the existing Turlock Certified Farmers Market for reasons including supporting nonprofit organizations, local farmers and merchants, building community, providing access to fresh, local produce, improving the economy, and reinforcing local jobs and networks.

Kevin Wang spoke about potential conflicts of interest, appearance of biases, and financial contributions received from Mr. Cipponeri and associated family members.

TCFM Board of Directors Member Ann Strahm spoke against the proposed RFP process for reasons including it will require a more labor/legal/financial intensive process and be devastating to volunteerism in the community.

Mary Jackson provided information about the formation of the Turlock Certified Farmers Market and spoke in favor of the existing market for reasons including the opportunities it provides to promote the downtown area and bringing fresh fruits and vegetables to the entire community. Ms. Jackson also spoke regarding past accusations of conflict of interest matters during the time she served on the Council and the need for tin cup regulations.

Bob Crawford spoke regarding his experience as a performer at the market and in favor of including a right of first refusal option in the RFP.

An unidentified member of the audience spoke regarding letters of interest received by Mayor Soiseth being in favor of the existing Turlock Certified Farmers Market.

Brian Kennedy spoke against a for-profit market and concerns over potential fees associated with such a market.

Lauren Byerly spoke in favor of incorporating a prioritization schedule into the RFP. She also spoke regarding concerns over potential fees that would be passed on to vendors or consumers should a for-profit market be selected.

Dave Colnic spoke against the RFP for reasons including the negative attention Turlock is receiving as a result of the recent issues associated with the farmers market, and in favor of the community oriented spirit of the Turlock Certified Farmers Market and urged Council to reject the RFP and award the market based on merit and past success to the Turlock Certified Farmer's Market.

Nick Schuller spoke against the RFP for reasons including that the community's interests and concerns are not adequately represented in the RFP, discarding the RFP, and the potential of forming a partnership with the Turlock Certified Farmers Market.

Mario Alvarez requested clarification on whether the special event permit process identified earlier in the meeting would apply to events on private property.

Soraya Fregosi, Planning Commission member and a member of the task force responsible for reviewing the draft RFP, spoke against the RFP for reasons including the importance of bringing businesses to Turlock in a cost effective manner and honoring people who work hard and invest in the community, but noted her appreciation for being

part of the review process. Ms. Fregosi recommended awarding the RFP to the Turlock Certified Farmers Market for the upcoming year to allow staff and Council time to develop a more thorough RFP.

Kathy Farbor spoke against the RFP and in favor of the Turlock Certified Farmers Market for reasons including the importance of supporting nonprofit organizations and the no-cost services they provide to the community.

A member of the Turlock Garden Club spoke against the RFP and in favor of the Turlock Certified Farmers Market for reasons including the benefits the market provides to the community and environment. She also asked that Council consider tin cup regulations with an open policy.

Len Bell spoke against the RFP process and asked if the Council could change their minds.

CSU Stanislaus Professor and Director of the ABC Project Susan Neufeld, in favor of the Turlock Certified Farmers Market for reasons including the benefit the market provides to children in the community through the nonprofit ABC program and noted concerns that the RFP will limit her participation in a future for-profit market.

Ingrid Balisha requested information regarding how each Councilmember voted on the item directing staff to move forward with developing an RFP for the farmers market.

Ken Packwood spoke against a for-profit market for reasons including that once additional charges are added, vendors may no longer be able to afford to participate and will have to leave.

Director Van Guilder noted concerns, provided information, and made authorized updates to the Draft RFP and the Draft Revocable License Agreement as identified and discussed as follows and as listed in Exhibits A and C, attached to Resolution No. 2016-029:

Discussion related to "Non-Profit Participation" included number of designated spaces and frequency of non-profit participation.

Councilmember Jacob stepped down from the dais at 2:43 p.m.

Discussion related to "References" included background check criteria, references, and market experience.

Councilmember Jacob returned to the dais at 2:47 p.m.

Council and staff discussion included reconsideration of the RFP for reasons including opposition from the community as well as key stakeholders involved in the RFP review process and concerns related to it being a flawed process.

Councilmember DeHart stepped down from the dais at 3:01 p.m.

Councilmember DeHart returned to the dais at 3:03 p.m.

Discussion related to "Evaluation/Selection Criteria" included market mission and vision.

Discussion related to "Expanded Vendors" included operator's vision and vendor mix at the market, market duration, and right of first refusal.

Discussion related to "City Interests" resulted in revising language to reflect the Operator's vision.

Discussion related to "Response Requirements" resulted in removing language regarding longest market possible and adding language about the operator's vision of the market length.

Discussion related to "Social and Environmental Responsibilities" included restroom requirements, soliciting vendors within a certain mile radius, definition of a local market, vendor and grower location/proximity to the market, and the perks of local farmers markets as community builders.

Discussion related to "Compensation for Use of City Property" resulted in removing this language from the RFP.

Discussion related to "Competitive/Joint Proposals" included encouraging willingness to work together and resulted in removing this language from the RFP.

Councilmember Jacob stepped down from the dais at 3:58 p.m.

Discussion related to "Cyber Liability" resulted in removing this language from the RFP.

Discussion related to "Award of the Agreement" included the lack of community input, reporting requirements for council once a market operator has been selected, and right of first refusal for the current supplier based on record of success and if this right/option could be retroactive. Additional discussion included the appropriate document to add right of first refusal language.

Councilmember Jacob returned to the dais at 4:03 p.m.

Discussion related to "Operator to Read" resulted in a formatting change made.

Discussion related to "Nondiscrimination Clause" resulted in a language change to add the term "gender."

Discussion related to "Licenses and Certification" resulted in language being removed from the RFP.

Discussion related to "Grant Revocable License Agreement" included concerns about the City Manager having sole authority to approve or change the annual schedule and the preference being the City Manager and Market Manager have joint authority with any discrepancies being the decision of the Council.

Discussion related to "Maintenance" included concerns about the hourly fee, the need to protect the City and the market, and applying charges based on actual costs.

Discussion related to “Term of Agreement” included adding language that allows Council the option to extend the term of an agreement.

Council, staff and public discussion related to the Draft RFP and the Draft Revocable License Agreement included identifying and supporting the community’s mission, concerns over market duration, right of first refusal, processes and options for a secondary market, the ability to grandfather in the Turlock Certified Farmers Market, and the importance of listening to the desires of the community.

Mayor Soiseth closed public comment.

Final Council discussion included the importance of transparency, volunteer organizations, working together, community input, concerns over moving forward too quickly with the process, the potential for collaboration between market applicants, a desire to see a successful farmers market operating in Turlock, and sensitive timelines associated with the RFP process and award.

Action: **Resolution No. 2016-028** Determining the Certified Farmers Market Located on City Property is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15323 (Normal Operations of Facilities for Public Gatherings) and Section 15304(e) (Minor Alterations to Land) was introduced by Councilmember Jacob, seconded by Councilmember Bublak, and carried 3/2 by the following vote:

Councilmember DeHart	Councilmember Nascimento	Councilmember Bublak	Councilmember Jacob	Mayor Soiseth
No	No	Yes	Yes	Yes

Resolution No. 2016-029 Approving the Request for Proposal for a Certified Farmers Market Located on City Property and the sample rating sheet and the draft revocable license agreement was introduced by Councilmember Jacob, seconded by Councilmember Bublak, and carried 3/2 by the following vote:

Councilmember DeHart	Councilmember Nascimento	Councilmember Bublak	Councilmember Jacob	Mayor Soiseth
No	No	Yes	Yes	Yes

7. **MATTERS TOO LATE FOR AGENDA/NON-AGENDA ITEMS:** None

8. **COUNCIL ITEMS FOR FUTURE CONSIDERATION:** None

9. **COUNCIL COMMENTS:** None

10. CLOSED SESSION:

City Attorney Phaedra Norton introduced the Closed Session Item.

- A. Conference with Legal Counsel – Existing Litigation, Cal. Gov't Code §54956.9(d)(1)
“For purposes of this section, litigation shall be considered pending when any of the following circumstances exist... Litigation, to which the local agency is a party, has been initiated formally.”
Name of Case: MCI Engineering, Inc. v. City of Turlock; and Does 1 to 50, Inclusive

Action: No reportable action.

11. ADJOURNMENT:

Motion by Councilmember Nascimento, seconded by Councilmember DeHart, to adjourn the meeting at 5:05 p.m.

RESPECTFULLY SUBMITTED

Jennifer Land
Deputy City Clerk