



**MINUTES OF A REGULAR MEETING
OF THE MADERA CITY COUNCIL
CITY OF MADERA, CALIFORNIA**

Council Meeting: 2/18/15
Item: B-1
Minutes: 1/21/15

**January 21, 2015
6:00 p.m. – Closed Session
6:30 p.m. – Regular Session**

**Council Chambers
City Hall**

6:00 p.m. CALL TO ORDER CLOSED SESSION

The closed session for 1/21/15 was called to order by Mayor Poythress at 6:00 p.m.

ROLL CALL:

Present: Mayor Robert L. Poythress
Mayor Pro Tem William Oliver
Council Member Charles F. Rigby
Council Member Sally J. Bomprezzi
Council Member Andrew J. Medellin
Council Member Donald E. Holley
Council Member Derek O. Robinson Sr.

PUBLIC COMMENT: Closed Session

The first fifteen minutes of this portion of the meeting are reserved for members of the public to address the Council on Closed Session items listed on the Agenda. Speakers seeking to comment on other items are requested to make those comments during the Public Comment portion of the meeting at 6:30 p.m. Speakers shall be limited to three minutes. Speakers will be asked to identify themselves and state the subject of their comment. The Council is prohibited by law from taking any action on matters discussed that are not on the Agenda, and no adverse conclusions should be drawn if the Council does not respond to public comment at this time.

No comments were offered.

A. CLOSED SESSION *Closed Session items not concluded prior to the Regular Session may be continued at the end of the Regular Session.*

A-1 Closed Session Announcement – City Attorney

City Attorney Brent Richardson announced that the Council will adjourn to closed session for pending litigation pursuant to Government Code §54956.9(d)(1) in two cases as described under item A-2.

The Council adjourned to closed session at 6:01 p.m.

A-2 Conference with Legal Counsel – Pending Litigation pursuant to Government Code §54956.9(d)(1): 2 cases:

Matthew Wiles WCAB No. ADJ 9551686
Miguel Ramirez WCAB No. ADJ 7786539

A. RECONVENE CLOSED SESSION

A-3 Closed Session Report – City Attorney

The Council returned from closed session at 6:12 p.m.

City Attorney Brent Richardson announced that the Council met in closed session for pending litigation pursuant to Government Code §54956.9(d)(1) in two cases as described under item A-2 and reported that no reportable action was taken.

RECESS

Mayor Poythress called a recess at 6:12 p.m.

6:30 p.m. CALL TO ORDER REGULAR SESSION

The regular session for 1/21/15 was called to order by Mayor Poythress at 6:30 p.m.

ROLL CALL:

Present: Mayor Robert L. Poythress
Mayor Pro Tem William Oliver
Council Member Charles F. Rigby
Council Member Sally J. Bompreszi
Council Member Andrew J. Medellin
Council Member Donald E. Holley
Council Member Derek O. Robinson Sr.

Others present were City Administrator David Tooley, City Attorney Brent Richardson, City Clerk Sonia Alvarez, Director of Community Development David Merchen, Director of Financial Services Tim Przybyla, City Engineer Keith Helmuth, Public Works Operations Director David Randall, Director of Human Resources Wendy Silva, Grant Administrator Daniel Abdella, Chief Building Official Steve Woodworth, Information Services Manager Ted Uyesaka, Planning Manager Chris Boyle, Commander Dino Lawson, Park Planning Manager John Scarborough, and Battalion Chief Jim Forga.

INVOCATION: Pastor Roger Leach, Valley West Christian Center

PLEDGE OF ALLEGIANCE: Council Member Medellin led in the Pledge of Allegiance.

PUBLIC COMMENT:

The first fifteen minutes of the meeting are reserved for members of the public to address the Council on items which are within the subject matter jurisdiction of the Council. Speakers shall be limited to three minutes. Speakers will be asked to identify themselves and state the subject of their comment. If the subject is an item on the Agenda, the Mayor has the option of asking the speaker to hold the comment until that item is called. Comments on items listed as a Public Hearing on the Agenda should be held until the hearing is opened. The Council is prohibited by law from taking any action on matters discussed that are not on the Agenda, and no adverse conclusions should be drawn if the Council does not respond to public comment at this time.

No comments were offered.

Mayor Poythress called on the City Clerk for a late distribution announcement.

City Clerk Sonia Alvarez announced that pursuant to Government Code Section 54957, members of the public are advised that documents related to the following agenda items were distributed to the Council less than 72 hours before this meeting. Under section B, consent calendar, item B-8, subject matter appointment of representatives to the CDBG Review and Advisory Committee, a revised Attachment A was distributed to the Council this evening. Ms. Alvarez advised that extra copies are available at the podium for members of the public wishing a copy.

Mayor Poythress advised that Bobby Kahn, the Economic Development Commission Director, has requested that they consider item E-1 regarding the EDC out of order at this time. There were no objections from the Council.

Mayor Poythress called item E-1 for discussion.

E-1 Consideration of a Request to Adopt a Resolution Supporting the Renewal of Madera County Recycling Market Development Zone (RMDZ) (Report by Bobby Kahn)

Bobby Kahn, Director of the Economic Development Commission, stated his appreciation to the Council for hearing this item out of order. This will allow him to catch up with another meeting that starts at 7:00 p.m. He advised that this is just a renewal of the recycling zone for Madera County. As part of the application, they have to provide them with a resolution from each of the jurisdictions showing their support. Mr. Kahn offered to answer any questions. He noted that this is a very routine action.

Mayor Poythress asked if members of the Council have any questions for Mr. Kahn. No questions were asked.

ON MOTION BY COUNCIL MEMBER BOMPREZZI, AND SECONDED BY COUNCIL MEMBER HOLLEY, RES. NO. 15-05 WAS ADOPTED UNANIMOUSLY BY A VOTE OF 7-0.

RES. NO. 15-05 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA SUPPORTING THE RENEWAL OF MADERA COUNTY AS A RECYCLING MARKET DEVELOPMENT ZONE (RMDZ)

PRESENTATIONS

1. Proclamation in Recognition of the Homeless Point-In-Time Count

Mayor Poythress commented that this is always a favorite part of the agenda for him. It is a time that they can recognize certain people, certain organizations, and honor some folks. Mayor Poythress announced that the first thing they have is a proclamation for the Homeless Point-In-Time Count. Mayor Poythress invited the representatives present to join him at the podium. Present are Gabriela Salazar, Elizabeth Wisener, and Perla Erigio.

Mayor Poythress asked the spokesperson of the group to tell them what the count is all about.

Gabriela Salazar stated that every year they are asked to do an annual count of their unsheltered and sheltered homeless in the community. This year they are doing both a sheltered count and an unsheltered count. Ms. Salazar advised that they will be doing a tally count on Tuesday night, 1/27/15, from 5:00 p.m. to 10:00 p.m., and on Wednesday, 1/28/15 and Thursday, 1/29/15 they are doing surveys with the homeless. Ms. Salazar stated the goal is to count the homeless in the community. She explained that it is not necessarily about having high numbers or low numbers but it is about having accurate numbers. What they hope to do with the information that they gather is to bring back data that can provide information to them and to the City about what the housing needs are and what kinds of services and resources are needed here in the community.

Mayor Poythress presented the proclamation recognizing the count which talks about how the Fresno Madera Continuum of Care has made a commitment to end chronic and Veteran homelessness by 2016. He knows that they hear from time to time about the Continuum of Care but probably not all know what exactly that involves. As Ms. Salazar mentioned it gives them a snapshot. He added that it is definitely a worthy activity and something that is going to be very, very important in the community. Mayor Poythress thanked them.

Mayor Pro Tem Oliver stated he has had the pleasure and opportunity to participate in these Point-in-Time Counts in years prior. He noted that it is a very rewarding activity. It provides comprehensive and

at times complicated look at homelessness in their community. He encouraged everyone to consider doing the same. Mayor Pro Tem Oliver asked Ms. Salazar to offer some information on volunteering and the training required.

Ms. Salazar agreed and announced that there is a mandatory training for all volunteers who would like to take the time to participate. She advised that the next training will be conducted at the Hope House at 1:00 p.m. this Friday. She added that the training covers the basics of what the event is, the methodology that they use, the tools, the service that they use, how to conduct the surveys with the homeless, do's and don'ts, they talk about the mapping that is going to take place, and just sort of the responsibilities of being on a team.

2. San Joaquin Valley Air Pollution Control District Grant Awards

Mayor Poythress invited Gina Daniels, Financial Services Manager, to join him at the podium. Mayor Poythress referred to the gigantic check behind him for almost \$70,000. Mayor Poythress asked Ms. Daniels to explain what that is all about.

Gina Daniels, Financial Services Manager, stated the check is from the Valley Air District. She advised that the City applied for two grants. The first one is \$15,000 and it is for the Alternative Fuel Component. They call it REMOVE II which is a Reduce Motor Vehicle Emissions Program. She advised that it will pay for CNG training for the Fleet Department. They have never had training before so this is a fabulous thing for them.

Ms. Daniels announced that the second part is the larger portion of the grant for \$54,866 for the bicycle component. She noted that it will enable the City to complete the Fresno River Trail. She commented that there was a missing link on the trail where pedestrians had to cross busy streets to go to the other side. This will complete that missing link portion so they are excited about that.

Mayor Poythress asked if that will be under the railroad tracks.

Ms. Daniels responded that it is at Sharon and Gateway.

Mayor Poythress commented that he runs on that trail from time to time. He joked that there used to be a hole in the fence but it isn't there anymore so he has to go around it.

Mayor Poythress thanked Ms. Daniels for the presentation.

INTRODUCTIONS Introduction of Police Officers Joseph Velasquez and Ryan Vasquez

Mayor Poythress invited Commander Dino Lawson to join him at the podium.

Commander Dino Lawson thanked the Council for giving them the opportunity to introduce their three new hires with the Police Department. He commented that it is with great pride that he introduces the three individuals before them.

Commander Lawson introduced Jesus Bravo, Animal Control Officer. He commented that when they were introducing Mr. Bravo to the department, he told Mr. Bravo's parents, you know all the cops at the PD, we are down positions, and they want officers, officers but they present it and they tell him no don't hire cops, we need animal control, we are tired of doing this, so they got him. He noted that the bright thing is that it looks like they may have another one soon.

Commander Lawson commented that Mr. Bravo has been with the agency for quite a long time. Mr. Bravo graduated from Madera High School. While he was attending Madera High he was a member of their explorers. He noted that those are high school kids similar to the boy scouts. They go through and they learn about the department. Commander Lawson commented that Mr. Bravo aged out and he was looking around at what to do and joined their volunteer program. Mr. Bravo worked there for four years.

They had an opening in animal control and he put it, tested, and successfully became their animal control officer. They are proud to have Mr. Bravo.

Jesus Bravo, Animal Control Officer, greeted the Council and stated that present with him is his mother, father, and little brother. Mr. Bravo commented that it has been a pleasure just volunteering his time to see where he wants to get to in life and in the future it is to be an officer. He added that this is just a step closer to where he wants to get in life. He commented that it is an honor to be a part of the City of Madera and he thanked them for a great opportunity.

Council Member Holley stated that is a good job and people don't understand it. A lot of them think it is easy. Council Member Holley commented that he used to be an animal control officer for the county. He restated that it is a good job but it is a hard job. Council Member Holley welcomed Mr. Bravo and told him if he ever needs some information, he can share what little bit he knows.

Mr. Bravo commented that he sure needed him earlier today.

Commander Lawson invited the two new police officers to join him at the podium. Commander Lawson commented that they have affectionately nicknamed the officers the "V" brothers and as he introduces them they will get why they did that. Their names are Joseph Velasquez and Ryan Vasquez. If they know law enforcement they call everyone by their last names so they are going to have issues there.

Commander Lawson introduced Joseph Velasquez. Mr. Velasquez was born in 1989 to the proud parents of Joseph and Jodi Velasquez who are in the audience. Mr. Velasquez attended Fresno State University and graduated with a BA in Public Health Administration. He met the love of his life Corinna. They bought a ranch in Madera County. He attended the Police Academy because that was the calling that he felt and did an excellent job while in the academy. He has always had a passion for helping others and that is what led him into this profession. He looks forward to a long and successful career with the Madera Police Department. Commander Lawson stated he doesn't know if many of them have attended the graduation ceremony of police officers in Fresno but at the end of it they award scholarships. One of the scholarships that is awarded every year for the past five years is the Jerry Noblett Scholarship and Joseph was selected to receive that scholarship so it was quite an honor to observe it that day. He noted that was an outstanding day and it touched really close to home. He just wanted everyone to know that.

Commander Lawson introduced Ryan Vasquez. Mr. Vasquez is originally from Salinas and moved to Clovis with his mother and two sisters. He was a track and field coach. Commander Lawson advised Officer Vasquez that Council Member Holley has the Jesse Owens Games so he is sure he is going to need some help. Commander Lawson stated that Ryan got the urge for law enforcement when he was a toddler. He was at his grandparent's house on a regular basis and he would watch them get ready for work. His grandmother is a retired police commander for Salinas PD. His grandfather is a retired undersheriff for Monterey County. One day when he was little he looked at his grandparents and told them one day I'm going to wear that uniform. Commander Lawson commented that he made that dream come true and his grandparents are in the audience today. Ryan attended the Police Academy and graduated. One of the honors he received is that he was voted the class guidon. The guidon carries the class flag and he is elected to that position by his fellow cadets. Anywhere the class goes he carries it. He has to run miles when they go out and do their marathon runs and he has to carry the flag. Commander Lawson advised that it is a very prestigious honor to receive that. Ryan did that and they are very proud of him. He also won a scholarship from a police fraternal order.

Commander Lawson announced that they have three very outstanding individuals that they wanted to bring forward. They are very proud to have them as an addition to their family. They are looking forward to seeing all of them. They wanted to make sure that they met everybody tonight.

Officer Ryan Vasquez stated present with him is his uncle and his cousin who are both retired officers. Also present are his grandparents, sister, mother, and girlfriend. Officer Vasquez commented that he is very honored to be working here in Madera and he looks forward to having a very successful career here.

Officer Joseph Velasquez stated present with him is his father, mother, brother-in-law, sister, niece, and his wife. Officer Velasquez stated it is an honor to meet the Council and he looks forward to a long career with the City. He hopes to make them all proud.

Commander Lawson thanked the Council and also welcomed their new additions.

Council welcomed everyone.

B. CONSENT CALENDAR

- B-1 Minutes – There are no minutes for consideration.
- B-2 Information Only – Warrant Disbursement Report
- B-3 Consideration of a Resolution Ratifying and Approving a Subordination Agreement for Arborpoint Apartments (Report by Daniel Abdella)
- B-4 Consideration of a Resolution Approving the Submission of Applications to the Housing Related Parks Program 2014 and Authorizing the City Administrator to Execute All Required Grant Documents (Report by Daniel Abdella)
- B-5 Consideration of a Resolution of the City Council, of the City of Madera, California, Approving Subordinations for Esmeralda R. Ceja for a HOME and CalHOME First Time Home Buyer Loan and Authorizing the City Administrator to Sign on Behalf of the City of Madera (Report by Daniel Abdella)
- B-6 Consideration of a Resolution Appointing Richard Broadhead to the City of Madera Airport Advisory Commission (Report by Dave Randall)
- B-7 Consideration of a Resolution Approving Four Agreements with Pacific Gas & Electric Company for the Rule 20B Undergrounding of Existing Overhead Electric Facilities and Street Lighting Electrical Services for Pine Street & West Pecan Avenue Improvement Project (Report by Keith Helmuth)
- B-8 Consideration of a Resolution Approving the Appointment of Representatives to the Community Development Block Group Review & Advisory Committee (Report by Daniel Abdella)
- B-9 Consideration of a Resolution Accepting a San Joaquin Valley Air Pollution Control District Grant from the Bicycle Infrastructure Component of the Reduce Motor Vehicle Emissions II Program and Ratifying and Approving the Standard Agreement with the District (Report by Daniel Abdella)
- B-10 Consideration of a Resolution Accepting a San Joaquin Valley Air Pollution Control District Grant from the Alt Fuel/Hybrid Vehicle Rebate Component of the Reduce Motor Vehicle Emissions II Program and Ratifying and Approving the Standard Agreement with the District (Report by Daniel Abdella)
- B-11 Consideration of a Resolution Reappointing Rae Gomes to the City of Madera Beautification Committee (Report by Mary Anne Seay)
- B-12 Consideration of a Resolution Approving an Agreement With Love's Travel Stops and Country Stores For Funding of an Environmental Impact Report Relating to the

Development of the Love's Travel Center and Authorizing the Mayor to Execute the Agreement on Behalf of the City (Report by David Merchen)

- B-13 Consideration of a Resolution Approving an Agreement with Quad Knopf for Preparation of an Environmental Impact Report Relating to the Development of the Love's Travel Center and Authorizing the Mayor to Execute the Agreement on Behalf of the City (Report by David Merchen)
- B-14 Consideration of a Resolution Approving a Subscription Agreement with Nichols Consulting for SB90 State Mandated Cost Reimbursement Claim Preparation Services (Report by Tim Przybyla)
- B-15 Consideration of a Resolution Granting an Easement to Madera Irrigation District for an Irrigation Pipeline Located on Parcels Owned by the City of Madera in Industrial Subdivision 2014-S-01, Pecan Avenue and Pine Street (Report by Keith Helmuth)

Mayor Poythress asked if there are any items members of the Council would like to have pulled for further discussion or elaboration. No requests were made and Mayor Poythress stated he would accept a motion for action.

ON MOTION BY COUNCIL MEMBER BOMPREZZI, AND SECONDED BY COUNCIL MEMBER OLIVER, THE CONSENT CALENDAR WAS ADOPTED UNANIMOUSLY BY A VOTE OF 7-0.

RES. NO. 15-06 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA RATIFYING AND APPROVING A SUBORDINATION AGREEMENT FOR ARBORPOINT APARTMENTS

RES. NO. 15-07 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE FY 2014-2015 CALIFORNIA HOUSING RELATED PARKS PROGRAM

RES. NO. 15-08 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPROVING SUBORDINATIONS FOR ESMERALDA R. CEJA FOR A HOME AND CALHOME FIRST TIME HOME BUYER LOAN AND AUTHORIZING THE CITY ADMINISTRATOR TO SIGN ON BEHALF OF THE CITY OF MADERA

RES. NO. 15-09 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPOINTING RICHARD BROADHEAD TO THE CITY OF MADERA AIRPORT ADVISORY COMMISSION

RES. NO. 15-10 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPROVING FOUR AGREEMENTS WITH THE PACIFIC GAS & ELECTRIC COMPANY TO PERFORM TARIFF SCHEDULE RELATED WORK FOR THE SOUTH PINE STREET/WEST PECAN AVENUE IMPROVEMENT PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENTS ON BEHALF OF THE CITY

RES. NO. 15-11 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPROVING THE APPOINTMENT OF REPRESENTATIVES TO THE COMMUNITY DEVELOPMENT BLOCK GROUP REVIEW & ADVISORY COMMITTEE

RES. NO. 15-12 RESOLUTION OF THE COUNCIL OF THE CITY OF MADERA, CALIFORNIA ACCEPTING A SAN JOAQUIN VALLEY AIR POLLUTION CONTROL

DISTRICT GRANT FROM THE BICYCLE INFRASTRUCTURE COMPONENT OF THE REDUCE MOTOR VEHICLE EMISSIONS II PROGRAM AND RATIFYING AND APPROVING THE STANDARD AGREEMENT WITH THE DISTRICT

RES. NO. 15-13 RESOLUTION OF THE COUNCIL OF THE CITY OF MADERA, CALIFORNIA ACCEPTING A SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT GRANT FROM THE ALTERNATIVE FUEL/HYBRID VEHICLE REBATE COMPONENT OF THE REDUCE MOTOR VEHICLE EMISSIONS II PROGRAM AND RATIFYING AND APPROVING THE STANDARD AGREEMENT WITH THE DISTRICT

RES. NO. 15-14 A RESOLUTION OF THE COUNCIL OF THE CITY OF MADERA, CALIFORNIA REAPPOINTING RAE GOMES TO THE CITY OF MADERA BEAUTIFICATION COMMITTEE

RES. NO. 15-15 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA APPROVING AN AGREEMENT WITH LOVE'S TRAVEL STOPS AND COUNTRY STORES FOR FUNDING FOR THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT RELATING TO THE LOVES TRAVEL CENTER PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

RES. NO. 15-16 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA APPROVING AN AGREEMENT WITH QUAD KNOPF FOR ENVIRONMENTAL PLANNING SERVICES RELATING TO THE LOVE'S TRAVEL CENTER PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

RES. NO. 15-17 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPROVING A SPECIAL SERVICES AGREEMENT BETWEEN THE CITY OF MADERA AND NICHOLS CONSULTING AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

RES. NO. 15-18 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA GRANTING AN EASEMENT TO MADERA IRRIGATION DISTRICT FOR AN IRRIGATION PIPELINE LOCATED ON PARCELS OWNED BY THE CITY OF MADERA IN INDUSTRIAL SUBDIVISION 2014-S-01, PECAN AVENUE AND PINE STREET

C. HEARINGS, PETITIONS, BIDS, RESOLUTIONS, ORDINANCES, AND AGREEMENT

C-1 A Public Hearing to Consider an Appeal by Mr. Ajit Gill of Planning Commission Conditions of Approval for CUP 2014-26, VAR 2014-06 and SPR 2014-39

And

Consideration of a Resolution of Determination on Appeal

Council Member Medellin stated he has had extensive conversations with Mr. Gill and at the advice of the City Attorney recused himself from item C-1.

Council Member Holley stated he had the same conversation so he excused himself as well from item C-1.

Council Member Medellin and Council Member Holley exited the council chambers.

City Attorney Brent Richardson stated he didn't realize there were two people conflicting out on this one. He advised that in order to reverse the decision of the Planning Commission there has to be a four-fifths vote which would take six. They would need some sort of rule of necessity to bring one of them back. He doesn't know if either one of them feel they can sit in. Mr. Richardson asked that the Council Members be brought back in.

Mayor Poythress asked Council Members Medellin and Holley to return to the council chambers and both returned to their seats.

Mr. Richardson explained the procedure. If the City Council were to desire to vote to overturn the Planning Commission decision it would take a four-fifths vote. That requires at least six of the Council. He knew one of them had a conflict and did not realize the second one did. He asked to inquire as to the nature. He commented that Council Member Holley said he had extensive conversation. He knows Council Member Medellin appeared with the appellant at the Planning Commission. He doesn't believe Council Member Holley did so.

Council Member Holley responded no. He appeared with him in Chris Boyle's office. They had a conversation over there.

Mr. Richardson asked Council Member Holley if he ever acted as an advocate for him.

Council Member Holley responded yes. He asked if it is as far as him talking about the issue.

Mr. Richardson responded yes.

Council Member Holley stated they discussed it quite a...

Mr. Richardson clarified that he is asking did anybody argue on his behalf.

Council Member Holley responded no there was no argument; it was just a discussion.

Mayor Poythress asked Council Member Holley if he didn't say, hey you need to hear this or I recommend...

Council Member Holley responded no.

Mr. Richardson asked Council Member Holley if he feels he can impartially hear it.

Council Member Holley responded yes.

Mr. Richardson stated that unless the appellant has any strong issues with it.

Mr. Richardson asked Council Member Medellin what his position is on it. He knows he was going to conflict out at first too.

Council Member Medellin stated yes and actually at the last Council meeting when they heard the request, he conflicted out then. He would not consider himself an advocate although, as Mr. Richardson said before, he appeared with Mr. Gill at the Planning Commission meeting as well had extensive conversation.

Mr. Richardson stated that by rule of necessity it sounds like Council Member Holley may be the best to stay so that they at least have six to make the decision unless there is any argument from the appellant as to Council Member Holley remaining on the panel.

Bob Abram stated he is an attorney with Pascuzzi, Pascuzzi & Stoker located at 2377 W. Shaw Avenue, Suite 101 in Fresno and he represents Mr. Gill. Mr. Abram asked for a point of clarification as to the disqualification if there are not at least five people then the appeal can't be heard.

Mr. Richardson responded that if there are not at least six. He explained that the Municipal Code requires if they are going to overturn it, in other words granting the appeal, it would require a four-fifths vote of the City Council and numerically that works out to at least six out of the seven.

Mr. Abram asked to overturn it.

Mr. Richardson responded yes.

Mr. Abram asked if an appeal couldn't be heard because of that, what are their options.

Mr. Richardson responded that he has not researched that. He would have to figure that out and they would have to reschedule something. Mr. Richardson commented that they could let everybody sit up there as long as there is a waiver by the appellant then he wouldn't have any problem.

Mr. Abram asked to confer with his client. After speaking to his client he announced that they would waive the conflict.

Mr. Richardson asked for clarification if that is as to both Council Member Holley and Medellin or just Council Member Holley.

Mr. Abram responded as to both.

Mayor Poythress called on Mr. Boyle to present his report.

Planning Manager Chris Boyle stated, before he starts his presentation, he would also like to note that the Council received supporting information as it relates to the presentation this evening as did the appellants party. He advised that he has additional copies of that supporting information and will set them at the podium if anyone is interested.

Mr. Boyle commented that the first item on the public hearing agenda tonight is an appeal of Planning Commission conditions of approval for the approval of a conditional use permit, variance, and site plan review that occurred at the Commission's December 9, 2014 public hearing. He advised that the property in question is located on the north east corner of State Route 99 and State Route 145 also known as Madera Avenue just south of their downtown core.

Mr. Boyle shared a little history of the site. He commented that the first record of development is from 1973 and the first site plan review that is seen is in 1975. He added that the 1986 site plan review provided for the addition of the mini-mart structure shown on the right hand side of the photograph displayed. He advised that the gas station has been closed since July 31st, a little over 14 months, in advance of Mr. Gill's application to reopen the site. Mr. Boyle stated that City ordinance states that all grandfathering uses or existing non-conforming uses that are discontinued for more than six months must reestablish that use prior to opening. In this case the use established alcohol sales before a use permit was required and with losing that grandfathering clause, the use permit to reestablish alcohol sales is what triggered the site plan review application and a variance was also requested to provide for some relief on signage. Mr. Boyle referred to the display which shows the site plan as it is proposed right now and a notation for the various entitlements.

Mr. Boyle commented that from the December 9, 2014 public hearing, the Planning Commission approved the conditional use permit, variance, and site plan to include 46 conditions of approval. He advised that the appellant has requested that two of those conditions of approval be struck. He noted that the first condition of approval, condition #35, calls out an irrevocable offer of dedication or a 10-foot section or strip of land along the properties frontage with Madera Avenue. He added that would be the

entire frontage of the property. He stated that would provide for a 50-foot half street consistent with their arterial standard for 100-foot wide arterial street section.

Mr. Boyle referred to condition #40. He commented that it kind of comes together with condition #35 because condition #40 allows for any improvements that are located within the 10-feet to remain there until such time the City Engineer or Caltrans would call for exercising that offer of dedication for an improvements project. He advised that with a deferral agreement as noted in the condition, the applicant would essentially be allowed to operate in a way unchanged with no initial taking in terms of the 10-foot right-of-way and no real relocation of any infrastructure that may be located there.

Mr. Boyle commented that when they look at the 10-feet offer of dedication they look first to see where there is documentation that would call out a need for that 10-foot offer of dedication. He noted that they would start with a look at the Caltrans right of way documentation for State Route (SR) 145. He commented that the SR 145 Transportation Concept Report calls out, when it looks at highway facts for SR 145, that indeed the highway serves as a main street for the City of Kerman and Madera and it is an important arterial roadway. He added that the 100-foot section called out as an arterial roadway then is again supported within Summary Chart 2-A within the Transportation Concept Report for the street sections as it traverses through the City. He added that the section that runs from the junction of Route 99 to Yosemite Ave, of which the frontage of this property is a part of, is called out by Caltrans as ideally a 100-foot street section with four lanes. Mr. Boyle stated it is important to note that these summary charts are based upon existing traffic, the anticipated traffic load at the time the chart was prepared, and they look only at the established uses that were there at that time which would include a gas station operating at point and juncture. He noted that they are not assessing any new traffic generated by the site if it were to reopen. He commented that the need for a 100-foot right of way was identified at the time that the summary chart and Transportation Concept Report were prepared for Caltrans.

Mr. Boyle advised that City documents support Caltrans' documentation within the City General Plan Policy CI-1 within their Circulation and Infrastructure Element which calls out SR 145 as an arterial roadway. He added that in support of the General Plan, the Municipal Code calls out that new uses which necessitate onsite improvements or on uses subject to a use permit, must go through the site plan review process. He commented that when they look at the site plan review process one of the components of site plan review is that right-of-way dedications shall be made of all land necessary to widen an existing street in accordance with the adopted general plan, specific plans, precise plans, plan lines and the like. He stated that the 10-foot offer of dedication that is required as a component of the site plan review is in support of state documentation, their general plan, and their ordinance. Mr. Boyle commented that to build on that, when they look at the improvement criteria on both sides of the street, shall be required to provide all improvements for a half right of way width which the 10-foot right of way would provide for a 50-foot half street section across the frontage of the property, 211 Madera Avenue.

Mr. Boyle commented that they also look at the timeline for taking the offer of dedication. Policy CI-5 answers that question and it says that the City shall be require the dedication or irrevocable offer of dedication of right of way at the earliest possible opportunity, and in this case as called out in the policy the requirement for a conditional use permit is at earliest possible opportunity where the City would act to implement the circulation element of the general plan. He noted that staff acknowledges that there is a component of the operations to this site that is within that 10-foot strip of land and has made every accommodation in effort to allow the business to operate for perhaps an extended period of time without really any substantive changes to the site itself. He advised that there is no requirement to actually dedicate until such time as there is a need for a project and there is no requirement to relocate any improvements in that 10-foot until that offer of dedication is called. He commented that it is important to note that the offer of dedication would not be required if the use permit and variance weren't requested. He advised that the triggering mechanism is the use permit and variance. If no use permit or variance, or what they call a discretionary permit were requested, then the applicant could reopen the store. The site plan review would not be triggered because there was no discretionary request and the applicant could operate the gas station without the sale of alcoholic beverages, and in compliance with the sign ordinance, and the site plan review would not be triggered, and hence an offer of dedication would not have been a component of the conditions of approval. He noted that the applicant does want the ability to

sell alcohol and to use some non-conforming signage which staff supports. Mr. Boyle advised that the appellant made this decision to apply for a CUP and site plan review and hence, the site plan review was required. He commented that there is a connection here in part because he was asked if there is some consistency with dedications along this section of roadway. He noted that earlier in the year on the car lot, as displayed on the southwest corner of Gateway and Madera, went through an expansion process and they were required an 11-foot offer of dedication to meet that requirement for a 100-foot path to travel through this road section. He added that on the other side of the street of that intersection, the Gas and Save Market did approach staff and asked what implications a use permit application might trigger and they were advised that there would be 10-foot offer of dedication, not just on the Madera side, but on the Gateway side as well and Dr. Samrao, the new owner of that gas station, opted not to make that application for a use permit because in essence that protected him from any offers of dedication as a result. Mr. Boyle commented that the same decision was made by the property approximately 700 feet north to not make application for a conditional use permit for the sale of alcoholic beverages because of the fact that it would trigger site plan review and that staff would then apply a 10-foot offer of dedication to that property. He noted that it is perhaps ironic that Mr. Gill actually purchased the ABC license from Mr. Samrao per the California ABC and is presently looking to transfer that ABC license on to this property, 211 S. Madera side.

Mr. Boyle stated to conclude, the street frontage is on an arterial street section and the appellant was advised of the implications of a site plan review as related to conditions of approval on the site. He noted that the appellant did move forward and applied for a CUP and a variance and the variance and CUP did trigger the requirements for site plan review and that site plan review did require the dedication of right of way. He advised that the general plan supports the actions required by the Municipal Code and the Planning Commission approved the appellant's application with the appropriate findings and conditions of approval. Mr. Boyle stated that staff would recommend that the City Council adopt a resolution affirming the decision of the Planning Commission which imposed the conditions of approval. Mr. Boyle offered to answer any questions the Council may have.

Mayor Poythress asked if members of the Council have any questions for Mr. Boyle. No questions were asked.

Mayor Poythress asked what would happen if the site plan review wasn't triggered, and there was no conditional use permit that had to be pulled and so forth, if they didn't want to go with the alcohol sales and sign ordinance, who would pay for the tank removal say 15 years from now if Caltrans decided to come in and widen that particular road.

Mr. Boyle responded that the applicant or the property owner of record at that time would be reimbursed for the 10-foot dedication of right of way.

Mayor Poythress stated that they would probably come in, and in this case, probably take out the tanks and so forth or do whatever was necessary to reimburse the property owner.

Mr. Boyle responded that the property owner would be compensated.

Mayor Poythress asked what would happen if the Planning Commission's decision was overturned and Caltrans eventually came in and widened the road, who would pay for that at that point. Would it be something that the City would be liable for as a City because they overturned it at this time or would there be some possibility of that happening?

Mr. Boyle responded that if the conditions of approval were overturned and the 10-foot offer of dedication was struck then they really are looking at the same scenario where once a project is established then the property owner would be compensated for that 10-foot right of way and any improvements therein; any impacts to the business in general. Mr. Boyle noted that it depends who is lead on that project. He added that they might note that the improvements that were done just to the south along this corridor were funded by the City; the widening of the overpass and widening projects to the south along SR 145.

In essence the burden of compensation could fall upon the City itself or the state or a partnership thereof but it ultimately falls upon the taxpayer.

Mayor Poythress asked what was the response of the applicant when told about the consequences of moving forward with the site plan review. Was there any concern on his part?

Mr. Boyle responded that Mr. Gill has many properties, multiple gas stations, he thinks something like 15 gas stations, and Mr. Gill would state to him that he has done this before. Mr. Boyle added that although staff is always alarmed because they understand the implications of the dedication and they want to make sure that the applicant is aware that these types of conditions of approval, which can be costly, they want to make sure that their applicants are fully advised. He commented that along this street section it is easy to provide examples whether it is the car lot or Dr. Samrao's property on the corner that this is something they could look towards. Mr. Boyle noted that he thinks Mr. Gill still chose to move forward and he thinks in part because minimarts and cold beer kind of go together.

Mayor Poythress stated that he knows they have considered minimart applications for liquor licenses in the past for that very reason.

Mayor Poythress referred to the first scenario he described and let's say he decided not to sell alcohol and they didn't have to do any kind of sign ordinance and say 15 years down the road there had to be the 10-foot taking and the owner would be fully reimbursed at that point, could the City also be liable or would they possibly be on the hook for picking up the cost of that if let's say, they were the lead in the project.

Mr. Boyle responded yes.

Mayor Poythress stated so in either case there is potential for the City picking up the bill.

Mr. Boyle responded that is correct.

Mayor Pro Tem Oliver stated that Mr. Boyle mentioned that the Caltrans numbers are based on figures from 2008 or 2009.

Mr. Boyle stated he would defer to the City Engineer on the traffic study.

City Engineer Keith Helmuth asked Mayor Pro Tem Oliver if he is referring to the traffic model data.

Mayor Pro Tem Oliver responded yes with the transportation concept.

Mr. Helmuth responded those are from 2007, he believes, and they represent predictions for what the traffic will be in the year 2030.

Mayor Pro Tem Oliver noted that the estimated timeline was that a project may not occur up until about 20 year's time. He asked if they provide any forecasting of what that need might be at that point and time.

Mr. Helmuth responded that the model, as was depicted, showed two lanes in each direction for 2030. It has made an assumption that there will be two lanes in each direction and that is referred to in the Caltrans Concept Report for the 145. He restated that it makes an assumption that it will be there in 2030 but that, in reality, will depend upon the traffic whether it actually starts to approach that and the funding available to do the project.

Mayor Pro Tem Oliver stated he would imagine that there might be a chance that the 10-foot right of way at that time might not even suffice; it could possibly be more.

Mr. Helmuth responded that there is a chance though at that location it probably would just be the two lanes in each direction. He added that locations where you would have additional dedications would be at the major intersections for instance 145 and Gateway.

Council Member Medellin commented, for clarification because he knows they had talked about this before, but if they uphold the Planning Commission's decision and the proponent agrees to the 10-feet, he will be compensated if and when they widen for only the 10-feet but not for the removal or moving of the tank.

Mr. Boyle responded that there would be no compensation for the 10-feet and any improvements therein that the City Engineer would require to be relocated.

Council Member Medellin restated nothing whatsoever.

Mr. Boyle responded that there is a possibility that the City Engineer could allow for certain improvements to remain because that 10-feet will likely be planting strip or sidewalk; it won't be part of the pass of travel for vehicles but the irrevocable offer of dedication would be for the 10-feet and a deferral agreement would allow any improvements therein to remain until such time as directed to be removed by the City Engineer likely as part of a project.

Council Member Bompreszi commented that she and Council Member Holley were on the Madera County Planning Commission for many years. She noted that the Council appoints people to the Planning Commission to do due diligence in these projects and she has a hard time overturning a decision that they made when they are only following Municipal Code rules. They do all the due diligence. She noted that the Council relies on their expertise and all the commissioners have been on the commission for quite some time. She restated that she just has a real issue overruling the decision.

Mayor Poythress asked if any other member of the Council has questions or comments.

Council Member Rigby asked Mr. Boyle, for clarification, yes or no to the best of his opinion, did Mr. Gill know that his decision to apply for the CUP would actually trigger site plan review.

Mr. Boyle responded that he had an extended dialogue with Mr. Gill and discussing the very implications of what site plan review could mean to that property so he guesses his answer is yes.

Council Member Holley stated he has a small problem with this and what bothers him about this, and having been on the Planning Commission for City and County, and the only thing he has a problem with, and looking at this, if this had happened 6 months prior to him doing this, if he had gotten this 6 months prior to his timeline, would he still have to give up that offer of dedication.

Mr. Boyle responded that 8 ½ months would be accurate but the grandfathering clause expires after 6 months of non-use, per the Municipal Code, and it had been about 14 ½.

Mayor Poythress commented that if there are no other questions or comments, this is a public hearing and opened it up to the public for comment.

Bob Abram with Pascuzzi, Pascuzzi & Stoker stated he introduced himself earlier and he represents Mr. Gill who is the owner of the property at 211 Madera Avenue. Mr. Abram commented that Mr. Gill has been and they know what he is appealing. He noted that Mr. Gill is a successful owner/operator of 15 gas station / mini-mart combinations around the Central Valley. He has been in that business since 1987. Mr. Abram advised that what Mr. Gill's plans are for that property is to open a Valero station. He doesn't know if they know but Valero has very high standards for development of a Valero gas station. If they have been by that property, the photographs that Mr. Boyle showed are great but they are old. If they have been by the property recently, it is a dump. He added that it has been fenced. It had graffiti all over it off and on. It was foreclosed upon on the prior owner. He commented that the reason Mr. Gill didn't have an opportunity to apply is because he just bought the property from the lender in foreclosure

otherwise that property would be sitting there still vacant and deteriorating. He advised that the plans that he has for that property are to make it more like the photograph that they saw with the Texaco station.

Mr. Abram noted that the problem with the taking of the 10-foot number one is that it represents over 27% of the total property. Number two, there are gas tanks in that 10-foot setback that would be required to be removed which would make the property as a gas station and mini-mart unfeasible economically. He added that further, the canopy that covers the gas tanks would have to be removed or severely altered in order to take it out of the 10-foot dedication. He noted that as stated, the property has historically been a gas station / mini-mart and has sold beer and wine, and to operate that mini-mart without the beer and wine today doesn't require any kind of dedication so Mr. Gill could operate that without the beer and wine and there would be no dedication and down the road if Caltrans or the City of Madera decided that they wanted to widen that street, they would be paying not only in a condemnation proceeding, not only for the 10-foot strip, but to relocate the tanks and to pay for the impact that that loss made on the business operations itself which could be substantial. He commented that under the current scenario, Mr. Gill who is trying to raise property taxes and increase the value and the aesthetics of a property in an area that needs it severely, if they have been down that street, is being penalized by having to give away a major piece of the property as well as the expense of doing so, moving the tanks, not having as many gas tanks as he needs to make it economically feasible.

Mr. Abram commented that he sent a letter out, he emailed it last week, and he understands that the Council just received it yesterday and he passed out another copy of it this evening that has a third page on it. He advised that he would touch on a couple of the issues in that property. He commented that there are some court cases that talk about this issue. He noted that just because the general plan calls for dedication and the Municipal Code calls for to do it as soon as possible doesn't mean that it can be a taking without compensation. He added that he wants to digress for just a moment. He advised that they have no specifics on this apparent traffic study that was done but he is looking at the Municipal Code section that was provided with that handout and it talks about street dedications and improvements in §10-3.4.0108 and that is saying that this applies to site plan review, in his reading, the site plan review and issuance of building permits for single family and duplex structures or issuance of building permits and single family structures. In his reading of that it doesn't apply to commercial properties. It is talking about residential properties and addition thereto. Mr. Abram referred back to the court cases. He noted that there are two major Supreme Court cases regarding dedications and takings in conjunction with building permits or an entitlement that is issued and those are the Nolan case and Dolan case. He commented that briefly, the Nolan case requires that there be a connection or a nexus between the taking and the change in use of the property or the building permit requires that there be some correlation between a legitimate state interest and that taking. Mr. Abram noted that in this case they could probably make that connection although not very well because if in fact the need for the property currently exists then it should be taken regardless of the use but in fact, the point has been made that it probably won't happen for 20 or 30 years. He added that in 20 or 30 years from now they might build a freeway 41 and he knows that there are some takings that are being exacted there preferably without any compensation but that is not the situation here. He noted that the Nolan case they may satisfy and the other case is the Dolan case and it originated outside of California but it had to do, and he gave them some of the facts in the letter, it has to do with a sporting goods store expanding their building size. He noted that the city in that case decided that well the creek behind them overflows so they need to have an area for flood control and the size of the building is going to cause increased traffic flow so we need a bike path and the court decided that there is no proportionality in the request. He added that in other words there were no traffic studies that were done that show that there is an increase in use from the existing use to the new use. He commented that in this case there is no change in the use, there has been no study done regarding a change in the use of traffic from a mini-mart and gas station to a mini-mart and gas station that happens to sell beer and wine and in fact, it probably won't increase the use of traffic flow because of that at all but it may increase the sales that transpire at that location. Mr. Abram stated that according to the Dolan case this would be an exaction or a taking without compensation.

Mr. Abram commented that there is another case in the new handout, the third page, and that hits closer to home because it transpired in the City of Madera *[note for the record that handout shows Rohn v City of Visalia; not Madera]* and it was decided that by the Appellant Court in the Fifth District which is located

in Fresno, which Madera County is part of, there the property owners, Rohn, wanted to get a building permit to change the use of their property from a residential use to a commercial use, to an office building. He commented that the city approved it but they approved with the condition that Rohn dedicate 14% of his property to widen streets just as the case is here, just a minimum 14%. He commented that Rohn filed a lawsuit against the city and the court decided, and the Fifth District upheld, that because of the lack of evidence supporting the alleged increased traffic flow, because of the change of use, that there was no reasonable relationship between the taking and the change in use and therefore the city was required to reverse their decision on that condition so that having been said again, there are good points. They understand that the City wants the property but just because they want it doesn't mean that they can have it for free and it really is not the City that wants it; it is on Caltrans' plan and on their agenda if they are going to do it and granted if the City decides they are going to do it, then they would do that. He stated that further, the fact that other properties have given the dedication or not applied for a CUP because they didn't want to have to give the dedication really has no bearing on what they are here for tonight. He commented that is just an example of somebody is caving and saying ok and another person is caving and saying well I want to apply for it. In this case, he noted that Mr. Gill would like it. He needs it to operate his business successfully. It is an improvement. It is a benefit for him to do that in the City of Madera in that location. It improves the neighborhood and they would respectfully request that the Council decide to eliminate those two conditions. Mr. Abrams thanked the Council and stated he is available for any questions they might have.

Mayor Pro Tem Oliver asked, for clarification, prior to purchase or even during the feasibility period of escrow was there any communication with the Planning Department or through a preliminary plan review.

Mr. Abrams responded he doesn't believe so. He commented that it was a fairly short escrow. The property had been on the market for quite some time and Mr. Gill bought that with the idea that he could open up and do exactly what had been done there.

Mayor Poythress asked if there is anybody else who would like to make a comment during the public hearing.

Bobby Gran Jr. stated he is the Chairman of the Planning Commission. He commented that this was not an easy decision that they took lightly. He noted that it was thoroughly thought out. He commented that he is not a lawyer so he will not bore them with any takings or court cases here but as any project that gets developed in the City of Madera there are going to be certain dedications required by them in order to move forward with a CUP or the development. He suggested they take his development, the movie theatre for example. He had to dedicate. He had to put in the street. He had to put in the large arterial. He had to put in all the offsite. He stated that is very similar to what this is. Mr. Gran commented that in reality, anyone can see that four lanes stop at the overpass so eventually four lanes are going to come all the way in to the City of Madera at some point. He questioned could they use more, could they probably use six lanes in 30 years, could be, but at that point that will be reviewed and hammered forward. He stated it is a natural progression here to see that and it is not just on his side of the street, there will requirements on the other side of the street just like there was with the car lot. He gave 11-feet. They are asking for 10 on this side. It balances the street in order to make the development work. He added that now, if he never asked to sell the beer, this wouldn't have been triggered and he would have been in the same boat as the Ford dealer across the street. If at some point in the future four lanes have to be developed then the City or Caltrans or whatever government agency is involved will use a vehicle like eminent domain to come in and help purchase the property and move forward, whatever agency is responsible at that time. But if he wants a CUP he has to have the dedication; he will not get reimbursed. Mr. Gran stated it is sort of like he wants his cake and eat it too because granted, if he purchased this property and hit within the 6 month time limit, he would have been able to do exactly what he does, what the property did before but 14 months later it has lapsed so he is in a different boat. He noted that it is the same boat that any other development coming into the City would be faced with. Mr. Gran commented that Mr. Gill is a proven good operator. They can look at his other properties. That is not the question here. He added that the Valero standards; that is not in question here. What is in question here is that the CUP triggered the dedications. If they start relieving the dedications than they need to look down at the car lot who just gave up their 11 feet. They have to be uniform in their dedications all the way

through. He restated that it was not an easy decision for them but they had to stick with what was given to them. He commented that his pay grade isn't quite as high as the Council's. They are allowed to supersede them to a certain extent, but they are following the rules here and that is what was taken into the Commission's consideration when it came before them. Mr. Gran stated that he believes they spent almost 45 minutes on this. It was not an easy boom, boom, boom. Mr. Gran added that Council Member Medellin was there. They did try to work with him. He added that staff and Mr. Boyle did try to work with Mr. Gill and they did offer to defer all of this so that he could go open his stores, sell his beer and wine, then at the time that the dedication came through, the 20 or 30 years out, then he would have to comply. Mr. Gran stated that basically, looking at it from a Planning Commission standpoint, it came down to is the cost of selling beer worth the millions of dollars of the dedication and the tank removal and etc., or is it better just to open and operate the store without the alcohol sales. Mr. Gran stated that is just a little bit of background so that the Council can see that this wasn't just a quick decision on the Commission's part and that they really did take it and they tried to make it work. He noted that it is a piece of property. It is right there off of one of the off ramps and it is blighted. It is an eyesore right now and any development there would be good development. Mr. Gran thanked the Council and offered to answer any questions. No questions were asked.

Mr. Abrams stated he has a couple of comments. He noted that the 20 or 30 year deferral, while it is appreciated, there is no guarantee. He stated that it is a deferral that could be next year, could be the year after, it could be 20, 30 years, it could be never. He commented that the problem is the unknown and then if Mr. Gill were to want to ever sell that property, who would buy it with that irrevocable offer of dedication and say well I am going to be out of business here and who knows what time so that is an issue with that. He thinks that this Council has the opportunity to approve a good development here, a good station, a good business, and not take this man's property. Mr. Abram stated that Mr. Gill would be willing to offer an irrevocable offer to sell which would allow the City to buy it without going through a condemnation process in the future but the man just bought the property and the City wants to take it from him and that is an issue. They want to make sure that if he decides well I'm not gonna sell beer and wine that he could go ahead and just operate his gas and mini-mart without having to do the dedication so they would like an answer to that.

City Attorney Brent Richardson asked Mr. Boyle if he wants him to answer that.

Mr. Boyle responded that if Mr. Gill chose not to sell beer and wine and to not take advantage of the variance for signage and didn't sign on the acknowledgment and acceptance of conditions of approval as currently drafted with 46 conditions of approval including the conditions in question, then staff would probably houseclean, revoke the conditional use permit and variance on his behalf and the conditions of approval would then be struck from the record and the gas station could operate without the burden of the 46 conditions of approval.

Mr. Richardson added for clarification basically that is essentially because the gas station itself without the alcohol permit or any variances is actually allowed by right under that zoning and asked Mr. Boyle if that is correct.

Mr. Boyle responded that is correct because it is a permitted use in the zone district.

Mayor Poythress asked if there is anybody else who would like to make a comment. If not then he will close the public hearing and bring it back to Council for action, for any other questions, or clarifications that might be needed.

Council Member Medellin commented that as stated before, he was going to remove himself because he had extensive conversations with Mr. Gill and also with City staff, especially Mr. Boyle, who in his opinion with the City Engineer, Keith Helmuth, did everything possible they could to accommodate Mr. Gill. When he says everything, they had even talked about that double side street just south of the property possibly abandoning that street. There were lots of options that were given and he knows Mr. Gill was told prior to the consequences that may happen but the issue becomes the tanks. He thinks the other property that gave up 11 feet or 10 feet, they didn't have the same situation with possibly in the future having to

remove tanks or move tanks and things of that nature. He knows here, with Mr. Merchen, City staff, as well as himself, they take their general plan very serious and it is that kind of planning that makes them who they are whether it is a year down the road or 15 years down the road or 20 years down the road. It is sticking to that general plan and that is what they need to do. He knows it was a foreclosure and there is nobody up there that would like to see that corner fixed up more than himself. It is blighted. It is ugly but he does believe their staff did everything possible that they could to work with Mr. Gill to fix up that property. Council Member Medellin referred to Mr. Abram comment that the City wants to take it; we don't want to take it. They are not dangling something in front of them and then saying then we are going to take it back. They want to work together and he thinks from the very beginning when Mr. Gill walked in to Mr. Boyle's office they have been trying everything to be partners in this and again in speaking with Mr. Gill he has not only other convenience stores but he has lots of property all over the valley and he is a very successful businessman and he thinks in this particular case maybe due diligence wasn't quite done in that foreclosure and learning about this irrevocable offer of dedication but it was explained more than once by Mr. Boyle. Council Member Medellin added that he also agrees with Councilperson Bompreszi. He himself served 12 years on the Planning Commission. He was at that Planning Commission meeting and they did take it very serious. He thinks every commissioner had questions and he thinks every commissioner wanted to do what they could that evening to help Mr. Gill. He commented that it is unfortunate that they have to come down to this and like he said, he would like to see that property built but it doesn't seem like they are going to come to an agreement at this point. He thinks they have done, meaning the City and staff, everything they can do to try to accommodate and it just doesn't seem that they could get there.

Council Member Holley agreed with Council Member Medellin. He tried talking to Mr. Gill and showing him. When he brought it to his attention, he got with him, they met with Mr. Boyle. Council Member Holley noted that this is in his district and it is not districts that they worry about; it is about the City of Madera. When he sees something like this he will always look at the applicant that is trying to do the right thing but sometimes what bothers him, is did they get the full information before they bought this property. That is what is bothering him about this issue right now. The reason why he really got involved in it is because he didn't know the format beforehand, but after seeing what was at stake and what was trying to be done. He knows how the Planning Commission works because he served for the City and the County. Like they say, they don't take this lightly. They work hard at what they try to do to make the right things. He commented that staff has done a great job. They have explained it to him. He noted that he and Mr. Boyle talked to Mr. Gill for over an hour trying to get some understanding and the only thing he got back to is because he didn't have the beer and wine and he was looking at the 6 months and now he finds out it is 14 months so he is kind of lost in the timeframe right now. He knows the right thing to do is whatever decision is going to be made.

Mayor Poythress announced that if there are no other comments, he will accept a motion for action and the action would be to uphold the Planning Commission decision approving the Conditional Use Permit or to reverse.

Mr. Richardson advised, for clarification, that the resolution is a resolution doing one of three things. It will either affirm the decision, overturn it, or modify it. He asked that in their motion that they make sure they are clear as to which one of those options on that resolution they are electing.

COUNCIL MEMBER BOMPRESZI MADE A MOTION TO UPHOLD THE PLANNING COMMISSION'S DECISION. THE MOTION WAS SECONDED BY COUNCIL MEMBER ROBINSON.

Mr. Richardson directed his comment to Council Member Bompreszi and for clarification asked if she is looking to adopt the resolution upholding the Planning Commission's decision.

Council Member Bompreszi responded yes.

MAYOR POYTHRESS ANNOUNCED THAT THEY HAVE A MOTION AND A SECOND TO UPHOLD THE PLANNING COMMISSION'S DECISION. MAYOR POYTHRESS CALLED FOR THE QUESTION

AND THE MOTION TO ADOPT RES. NO. 15-19, ITEM C-1, UPHOLDING THE PLANNING COMMISSION'S DECISION WAS ADOPTED UNANIMOUSLY BY A VOTE OF 7-0.

RES. NO. 15-19 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA MAKING A DETERMINATION AFTER HEARING ON APPEAL OF THE PLANNING COMMISSION DECISION APPROVING CONDITIONAL USE PERMIT 2014-26, VARIANCE 2014-06 AND SITE PLAN REVIEW 2014-39

C-2 Public Hearing and Consideration of a Resolution Adopting the Madera County Integrated Regional Water Management Plan

Community Development Director David Merchen stated this evening's public hearing in consideration of a resolution is with regard to the Integrated Water Management Plan or IRWMP as it is often referred to. He commented that the IRWMP has actually been prepared by a group called the Regional Water Management Group. He advised that it is a voluntary association of stakeholders that is formed together to further the collaboration and coordination relative to water planning and the management of water resources within Madera County as opposed to the Madera Water Authority or the JPA that was entered into at the Council's last meeting. The Regional Water Management Group includes almost all of those same agencies as well as some additional groups including non-profit agencies. Additionally, there are tribal governments, resource conservation districts and so forth. He advised that the Regional Water Management Group is responsible for preparing and maintaining this IRWMP as well as for identifying and ranking projects that are identified in the document for funding through the Department of Water Resources. He noted that really is, he thinks, the impetus behind becoming a member of the Regional Water Management Group and preparing this plan is to identify and then become eligible for funding through the Department of Water Resources. He advised that there are significant amounts of funding that have been made available and there is a new round of funding that they anticipate will come out this summer. He advised that the scope of this plan is a little bit broader than the plan that was considered in December which was the Groundwater Management Plan. He stated that while the prior plan focused specifically on groundwater this focuses more on water resources generally surface water, groundwater, flood effects, and so forth. He added that nevertheless the objectives are particularly for the valley and the plan sort of separates valley from foothill and mountain related issues. He advised that the primary goal for the valley is to reach groundwater sustainability by the year 2024. He noted that it is quite optimistic but specific, the goal regarding groundwater sustainability. He commented that the plan identifies strategies, tools, and projects that can help to achieve that goal. He noted that like the other groundwater initiatives that they have considered over the last couple of months, this focuses more on providing information and identifying those tools, strategies and projects and less about specifying specific requirements and mandates that would be applied to local agencies. Again here they are developing information and tools but not necessarily creating new requirements or mandates for the City.

Mr. Merchen commented that they have identified that this plan is consistent with Vision Madera 2025 both in terms of the general principles of a well planned city as well as the specific action items relating to ensuring continued water supplies to meet the City's demands in the future. Mr. Merchen recommended that the Council conduct the public hearing and offered to answer any questions.

Mayor Poythress asked if members of the Council have any questions for Mr. Merchen. No questions were asked.

Mayor Poythress opened the public hearing and there being no speakers, closed the public hearing.

ON MOTION BY COUNCIL MEMBER BOMPRESZI, AND SECONDED BY COUNCIL MEMBER MEDELLIN, ITEM C-2, RES. NO. 15-20, WAS ADOPTED UNANIMOUSLY BY A VOTE OF 7-0.

RES. NO. 15-20 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA ADOPTING THE MADERA INTEGRATED REGIONAL WATER MANAGEMENT PLAN

C-3 Consideration of a Resolution Approving Amendments to the City's Sidewalk Repair Cost Sharing Reimbursement Program to Allow Repairs to be Made Directly by and/or Through The City, and to Allow Eligibility in the Program to Include Non Residential Properties

Public Works Operations Director Dave Randall stated that tonight they are going to talk about something that is not a surprise to anybody. They have a few sidewalks that have some problems. He referred to the display which shows a picture that is sort of a typical little problem where the sidewalk is raised, the gutter is raised that has caused some ponding. He noted that it is not unique just to Madera. It happens all over the valley, all over the United States. He commented that what surprises people sometimes however is that this problem is not just the City's problem, it is also a problem that their property owners have and sometimes when their constituents find that out they are a little surprised because they come out their front door, they see a problem on their sidewalk they say, well isn't the City gonna be here to fix that. Then the State of California steps up and says yes, it is not the City's responsibility, it is the adjacent property owner's problem. He noted that is just sort of the law of the land. It is what they live with.

Mr. Randall advised that the City has this responsibility to its constituents to make sure that they have infrastructure that works and everything but they don't bear that financial cost of making those repairs at least per the state ordinance. They do bear some liability costs and other issues. They choose not to though to use a draconian stick. They don't look out for any opportunity to ask somebody to make a repair. He advised that enforcement of this provision is only done on a needed basis where the City has got in a position where they have constructive knowledge. He explained that means that someone told them about something, made a complaint, or there is development review like they were just talking about where that problem has been addressed. He advised that at that point the City takes on additional liability for not addressing it so at that point they have to move forward. He commented that Public Works does not go up and down the street and look for it. It would be like them looking for speeders. They are everywhere, right. They don't do that. It is only on a complaint basis and it really doesn't happen that often thank goodness.

Mr. Randall stated that some people might think that that liability is a big monster. When they talk liabilities in the City they all know that the City tends to be the party that is always involved because they have the deep pockets and they are going to go after them. But what is a bit surprising, maybe not as big as some people think and he guesses it depends on what they think big is, but it is a report from their Risk Management Group and between 2010 and 2014 the City had 14 claims. He noted that not all of those were paid but the total expense for the defense of the claims as well as judgments paid out was only \$82,000. They wish it was zero but it is not hundreds of thousands of dollars annually. He commented that this gives them sort of an idea of what liability exposure the City currently has existing, not to say that there aren't more out there. He added that thank goodness it has not been too bad today.

Mr. Randall advised that back in 2009 the City Council decided that it might be a good time to try to help some of their residents. He noted that obviously was not a good time for the economy. People were trying to survive and the Council chose to maybe assist property owners when they had repairs to make through a participation program. He referred to the Sidewalk Repair Cost Participation Reimbursement Program. He noted that if they have heard about it, they normally refer to it as the 50/50 Sidewalk Program. He advised that the program was limited to just residential properties, single family homes, duplexes, owner occupied condos but not apartment complexes nor commercial or industrial properties. He added that it only applies to where the damage was caused by a street tree so it somewhat narrows the list. He commented that the program provided 50% of the eligible cost to be paid by the City. He explained that eligible costs are those improvements within the right of way. He advised that things on private property wouldn't be eligible. For example if your driveway leading to your garage was damaged as well, the City cannot participate for obvious reasons. He advised that the maximum amount that the City could participate in that program was \$5,000. That is due to the way their program is set up with three bids and per the purchasing policy, that is as high as they go for three bid type of process.

Mr. Randall advised that they started with \$80,000 being budgeted in 2009 and they didn't really spend all that. As a matter of fact, they didn't spend that for the next six years. Over the six years they only spent a little over \$20,000. He noted that participation was somewhat limited. He stated that the reasons though for it are somewhat apparent to staff at least and that is there are some things that detract from the ability to use this. He commented that first of all, the work needs to be done by a contractor. It can't be your uncle who is really good at it. It can't be just some guy who is good and maybe he has even done some work. It has to be a licensed contractor. Mr. Randall noted that the licensed contractor has to get an encroachment permit, which is given free of charge, by the way, under the program but he has to have insurance and has to be bonded. He added that the other biggest problem is when the work is done, it is done at prevailing wage; not at the market rate but prevailing wage. They know those rates are several times more than what maybe the normal labor rate might be. He advised that because the program is just residential, the jobs tend to be small. He commented that it might be as small as 20 feet of sidewalk or it may be 100 feet of sidewalk and a driveway and a curb. He advised that those small jobs are just hard for a contractor to come in, do all the bonding, insurance, and get in and out without having a fairly high cost. He commented that the program really has struggled to try to find contractors that would even participate. It was very difficult to get quotes and bids and when they did come in they seemed quite high. He advised that Jason Rogers, Administrative Analyst, who administers the program said that it is probably a 20 to 1 ratio of people that want to get into the program and then actually weren't able to do it because it just doesn't pencil out when you're done.

Mr. Randall commented that they thought maybe we can change this, maybe we can make it a little more affordable. He advised that there are three things they thought about that they could do to maybe help make this a little more accessible to people. One is to take away the restraints on just making it for residential and just for tree damage. They could obviously have more, a pool of people, that could use it if they go to commercial and then the types of properties. They could look at all the damage whether it is a tree root or a sunken utility trench that caused the damage. They could expand the program that way; have a bigger pool of potential applicants.

Mr. Randall stated that the other thing, to get around the prevailing wage cost, is to have the City do the work itself. He noted there are two mechanisms he will describe shortly on how they can do that. He commented that in doing that process it would get them around the \$5,000 limitation and they could do larger projects if it was warranted. He advised that way the City could perform the work for the property owner, if they elected, noting that they are not eliminating the first choice. They are just giving additional mechanisms to do it. One is to establish a contract where the City would go out, they would issue an RFP and get a contract that had set rates that they could get a contractor up and have the work done. He stated this is really a mirror of what they are already doing with their AC patching program. As they know, there are potholes every place and there are utility trenches that happen and when those happen they go and put cold mix in that holds for a while but you have to come back and cut it out correctly, compact it correctly, and put a hot mix on it. He noted that it is not cost effective to do just one patch at a time. It is very, very expensive to do it that way. What the City has always done is they award a contract for a period of time to an asphalt company that comes and does it for them. He stated that what the difference is, what they do, is they aggregate those jobs so it is not just one little job. They do it and give them a time frame when they can make those repairs so over three months, they are going to get around to doing that work. What happens is that they get really good bids because the contractor's use it as fill work. When they are not on a job they can come here and pick up some of that side work and get it done. What they are seeing is rather than getting high rates, they get really competitive low rates so the same correlation is what they are trying to do with concrete bids. He commented that the down side is that means they don't get the service right now. They have to wait. They bundle the jobs until they have some time to get it done but again it is just another choice they can put before somebody. Do you want it right now, you hire a contractor. They go to work and away you go or if you want to get in the program you can go the other way.

Mr. Randall stated the other potential is that they could have the City crews do it themselves. They have some very skilled people that do concrete work. In the past they have seen a lot of handicap ramps and other improvements done by the City crews. He advised that the problem is that they don't have quite as many people as they used to so the ability for them to have the flexibility to pick up jobs like that is more

limited. He noted that the way to get around that is to pick up some people on seasonal part-time help. He advised that last month the Council approved a methodology for them to pick up some seasonal part-time help through the Workforce Development Corporation. He commented that it is a good deal because not only do they get to hopefully look for some new candidates for full-time employment that they can try out but also they pay 50% of their salaries so it makes the value even better. They can offer hopefully a more competitive rate. If for some reason the job were to become popular, they also have the opportunity to maybe relieve themselves by bringing in an extra help person, a concrete contractor to run those jobs for them because at some point it could become a little bit too much for them. He had the opportunity to talk to one contractor who went through their Citizen's Academy who was interested and thought it was a very viable thing that could be done. Mr. Randall commented that whether or not that would be needed is sort of dependent on the success of the program.

Mr. Randall referred to the expanded eligibility they talked about. He stated that it would really make commercial projects maybe even feasible, not only for the City to do, but even for the private contractor. If they look at something like the Madera Quality Inn, formerly Madera Valley Inn, they have some problems, he thinks most people have seen. They have some raised sidewalks. They have curbs that are holding water, etc. Staff took a look at it and estimated the repairs to be somewhere in the neighborhood of \$2,000. If they were eligible, that would be \$16,000 City participation but at that size of a job it is possible that they can go out and get contractors to do it. If they chose to have the City do it they most certainly could still do using the fixed contract or potentially if they had enough people they could do that with City crews.

Mr. Randall commented that the financials for this program are budgeted within the Local Transportation Funds (LTF). He noted that the downside is that LTF funds are shrinking. In about three years they may anticipate that their fund balance might be down to zero and their annual contributions might be totally sort of needed for ongoing normal operations. He commented that the future of the funding going forward is not necessarily certain but it is currently available.

Mr. Randall stated that in terms of the Vision 2025 Plan, there isn't a specific action item that it is consistent with but it most certainly is aligned with item #401 to develop and promote Madera as a walkable community with emphasis on improving the quality of natural resources.

Mr. Randall advised that staff has prepared a recommendation for Council's consideration that would implement those changes. He offered to answer any questions.

Council Member Medellin referred to the picture of the Quality Inn across the street and asked if the City is a little more proactive in going to some of the areas where the City feels could use some help and knocking on doors, sending emails, things like that to some of these areas.

Mr. Randall responded no. He commented that it is a bit of a double edge sword. He noted that he is not the attorney but when they start to get constructive knowledge then they start getting a little more liability and that is why they don't go out and survey. If they do that, if there is an accident, they should have known, have record of knowledge of, all those phrases start flying around. They try to keep their position as defensible as possible.

Council Member Bompreszi asked how many contractors they have in town because she has a heck of a time finding contractors. She knows of one in town and asked if these contractors are going to come in from out of the City that maybe they do have a City of Madera license.

Mr. Randall responded that is an open bidding process. They can't exclude people. They can't, unfortunately, give them a preference, as they know, so whether they come from the City or not just depends on who submits. They are always looking to try to obviously get participation and they would think there would be some advantage to people being local but they don't have any way to force that issue if you will.

Council Member Bompreszi asked if they know how many contractors they have in the City of Madera that are concrete contractors.

Mr. Randall responded that he doesn't know the exact number. He knows there are a handful of them. When they try to get quotes, most of them have been reluctant to participate because the economics of the program just don't work that well.

City Administrator David Tooley noted that the genesis of this idea came from one of the participants, as Mr. Randall indicated, in the Citizen's Academy who is looking for precisely this kind of work so there is at least one and hopefully there are going to be others.

Council Member Medellin commented that is Marty the concrete guy. He commented that he did do the Business Academy and that is exactly what he is looking for so here the City is looking for people and here he came to them to say this is what I can do.

Council Member Bompreszi stated she is just saying that her search for concrete contractors has been very limited in the Madera area.

Mr. Tooley responded they can find her a card for a guy.

Council Member Medellin added that Jim Taubert at Redevelopment has a pretty extensive list of general contractors as well as a little more specialized contractors he uses for redevelopment.

Council Member Bompreszi asked if Marty is a general contractor or a specialized contractor.

Council Member Medellin responded he is a concrete guy.

Council Member Rigby asked how much will be taken from local street repair with this addition.

Mr. Randall responded that LTF funds are for street repair. He noted that there are limitations and generally LTF's are used on arterials and collectors for the most part so they are in competition for those same dollars and it is a balancing act on where they want to put their dollars.

Council Member Rigby stated he would love a suggestion from staff and asked if they are right now looking to repair streets or do they need better sidewalks. He commented that driving around his neighborhood he doesn't necessarily need a whole lot of street repair but he could argue for sidewalks.

Mr. Randall responded that is a really hard question.

Mayor Poythress commented that he would say they are both in need of repair but he thinks their sidewalk issue, what is actually going to be used, is going to be a fraction of the cost as far as what is usually used and programmed for street repair. He added that certainly they can look at sidewalks all over the City but as they can see, over the last four or five years, there hasn't been much participation and this is going to, he thinks, open up more participation. He thinks it is a great direction and a good idea but it is still going to be a very small percentage of what money is spent on streets.

City Administrator David Tooley responded that they like it because they leverage their money and it provides an easy way for citizens to leverage their dollars as well.

Mayor Poythress commented that it is public/private partnerships.

Council Member Bompreszi stated she has a question that Council Member Rigby kind of triggered and asked if the LTF funds are the ones used to do the alleys because she noticed they had some alley work done.

Mr. Randall responded that most alley work is done by two sources. He advised that gas tax does most of it and that is the main mechanism for most of the localized street issues, that and Measure T. Also, the pavings they see in the alleys, that is funded through the solid waste program. He noted that there is a quarter of a million dollars annually that goes to that because the trash trucks impact those alleys significantly.

Council Member Bompreszi commented that they have very few sidewalks in her neighborhood but they have a ton of alleys.

Mayor Poythress stated if there are no other questions, thoughts, points, then he will accept a motion for action.

ON MOTION BY COUNCIL MEMBER BOMPRESZI, AND SECONDED BY COUNCIL MEMBER MEDELLIN, ITEM C-3, RES. NO. 15-21, WAS ADOPTED UNANIMOUSLY BY A VOTE OF 7-0.

RES. NO. 15-21 A RESOLUTION OF THE COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPROVING AMENDMENTS TO THE CITY'S SIDEWALK REPAIR COST SHARING REIMBURSEMENT PROGRAM TO ALLOW REPAIRS TO BE MADE DIRECTLY BY AND/OR THROUGH THE CITY, AND TO ALLOW ELIGIBILITY IN THE PROGRAM TO INCLUDE NON RESIDENTIAL PROPERTIES

D. WRITTEN COMMUNICATIONS

There are no items for this section.

E. ADMINISTRATIVE REPORTS

E-1 Consideration of a Request to Adopt a Resolution Supporting the Renewal of Madera County Recycling Market Development Zone (RMDZ) (Report by Bobby Kahn)

This item was heard earlier in the meeting immediately following public comment.

E-2 Informational Report on a Change in Crime Analytics Software for the Madera Police Department

Commander Dino Lawson stated that tonight what he would like to do is give them an informational report on a change in their analytical software for the Madera Police Department. He commented that in 2011 they had a change in philosophy at the Police Department. They were driven on response times, calls for service and when they arrived, the bad guy was there, they made the arrest. They concentrated on how quickly they could get to the call. They felt that system didn't work and they wanted to move away from that and find a different tool that they could involve the community. What they did is they wanted to go to a crime predictive law enforcement. They had to go out and find a system that would allow them to do that. Basically it was to be able to predict when a crime was going to occur, the date, and the time. He commented that there was a system out there called Crime Reports that allowed them to do that and they purchased it in 2011. He explained that what happens is that the officer will go out to a call. For example, they will take a burglary at a certain address. They will come back and enter it into their Records Management System (RMS). He noted that their officers, through various shifts which they run for, they will go to an area several times. Well the day shift doesn't know that night shift went there and vice versa. He explained that what Crime Reports did is that it gathered that RMS information and it made it predictive and it turned it into a trend, what they called a hot-spot. For example, say if at city hall they had a rash of five burglaries on Sunday between the hours of 1:00 and 3:00. That would create a hot-spot. What that told them they needed to do was to have an officer at city hall on Sunday between 1:00 and 3:00 because a burglary was going to occur. He noted that sure enough they had several occasions where that worked fine and they were able to do that. He added that the positive thing was

that within three years they outgrew the system because what Crime Reports did was it just reported that, you are going to have a burglary between this time on this date. He advised that they needed more so they went out and looked. They looked at different systems and like everything else the better the system the more money it costs. They priced some systems at the bottom end starting at about \$14,000 all the way up to \$100,000 and they were like well, we can't spend that. They are already spending \$14,000 for Crime Reports but they wanted a better system. When they moved to Cyrun, it was mentioned to them to look at Bair Analytical because they had a system that was what they were looking for and it was even better than Crime Reports. They said ya ok you are just trying to sell us some more software so they sat down with Information System (IS) staff and looked at the demo and they were really impressed. He advised that one of the things that really impressed them was that they did basically the same thing in trending crime but it wasn't just a burglary. Now what they could do is layer things and include MO's (modus of operandi by a criminal). For example, say they were having a rash of burglaries at city hall on Sunday between 1:00 and 3:00 and the individual used a pry bar and he only used it on the north facing doors so all that information would go in the RMS system and with Bair Analytical they could go in and look specifically for burglaries that matched that description so it wouldn't necessarily be a hotspot. They would be able to actually zero down on pry marks on northern facing doors. He commented that it is kind of a layer effect so it is a great system. It allows them to incorporate registered sex offenders into the system so if they have a rash of sexual related crimes they will be able to pull the registrants out and see who lives in that area. Same thing with gang registrants, where they can't do that now with their current system, and also it has a greater impact on the public because they can actually utilize the trending function more than they can now. He noted that it is not as accurate and goes in depth as the law enforcement side but they can actually trend and look for specific things. He commented that they looked at all that and they were fairly impressed. What really impressed him about this system was the cost and that is him, he likes to save money. He advised that Bair Analytical said they would give it to them at \$14,000, what they are currently paying for Crime Reports and he said ok. He added that their product is significantly more expensive than that but they made them a deal that they would bring them in at \$14,000 because they wanted to get into the central valley and they saw the City as a good opportunity to do that. He stated that the positive thing is that the maintenance fees from that point on, restating that the \$14,000 is a one-time cost, the maintenance fees going forward are \$5,000. So they actually have a savings of \$9,000 versus sticking with Crime Reports who that \$14,000 is their maintenance fee. They are getting into Bair Analytical for basically the maintenance fee, one-time cost, and then saving the money over the long haul.

Commander Lawson advised that they vetted the process. They had Ted Uyesaka from IS come over, sat through the demo, got his input, and input from several of the officers that were there too. He commented that everybody seemed to be on the same page that it was a better product. He advised that the Police Department (PD) is in the process of acquiring the Bair product. Like he said, they had the demonstration that kind of sold them on it. They feel like the Bair product more closely aligns with what their analytical needs are at this time. He commented regarding the financial impact and stated that there will be no additional physical impact beyond the approved PD budget and in fact, going forward they will actually recoup some of the costs that they are putting out now. He added that this is consistent with the Vision 2025 Plan, Strategy 115, economical resource provision: ensure sufficient economic resources to provide adequate City services and prepare for future growth. Commander Lawson offered to answer any questions.

Council Member Medellin referred to Commander Lawson's comment that they vetted out the company and asked if they know of any other local departments, whether it is in California or not, that are using this that could tell them the pros and cons or how much they love it or that someone else is actually using it already.

Commander Lawson responded that right now, in the central valley, in this area, the City would be the only agency using it. He added that they do go hand in hand with Cyrun so the other entities that are utilizing Cyrun also use this product; they like it. But like he said, in the central valley, they are the deal. He added that when they went to Crime Reports, Fresno PD followed suit with them and now they are looking at Bair Analytical too. He is just kind of putting it out there that the City is kind of the cutting edge as far as their neighbors to the south and pretty much where the City goes, they are going now.

Council Member Medellin commented that he likes that being one step ahead of their neighbors to the south. He commented that in talking about Crime Reports, all of them up on the dais have been to plenty of neighborhood watch meetings. They really buy into what they have now. There is a lot of response from the neighbors and what is going on in their neighborhood, what is going on in the City, what is going on at their in-laws place across town, so this will be another tool to engage the community, become partners with the neighborhood watch and the neighborhood watch teams to really have their finger on what is going on in the City.

Commander Lawson agreed. He noted that they outgrew Crime Reports, the City, their citizens outgrew it so now they are going forward with more information and actually they can trend and break things down and they can specifically search for crimes in their neighborhoods. Going forward, he thinks they will love this much, much more.

Council Member Medellin commented that it is a real big social media time and everybody is doing everything from their computer so to trend and see what is going on as it happens so to speak. He knows it is not that quick but that is good for everybody to know.

Mayor Poythress asked if there are any other questions. No other questions were asked and Mayor Poythress thanked Commander Lawson for a great report.

E-3 Acceptance of Audited Financial Statement and Single Audit Report (Federal Grants) for the Fiscal Year Ended June 30, 2014

Director of Financial Services Tim Przybyla stated that it is with great pleasure that they present to the Council this evening the audited financial statements for the City of Madera for FY 2014. He apologized for being towards the bottom of the agenda at this meeting but they promise to keep it really short. He noted that they do have a plethora of information this evening being presented to them but they will give them a very brief report. He noted that basically this is the second year of Price Paige & Company performing the audit for them. He thinks the audit company likes the City a lot better this year than they did last year because they had to do a lot of clean up last year because of the prior auditors. He noted there were a number of findings last year and this year there is one finding. He thinks it is not a material finding even. They are presenting the audited financial statements three months sooner than they did last year so it is all improvements as far as he is concerned. They will see in the audited financial statements that it is pretty much all positive information except for the sewer fund, they will see that it lost over \$2 million during the year. They have made some adjustments in the current year, the 2014/2015 budget, to slow down the bleeding in the sewer fund and they will also be presenting some proposals. He advised that staff will bring some recommendations for incremental rate increases related to the utility funds during the first quarter of this calendar year. With that being said, he would like to call up the partner from Price Paige & Company, Mr. Fausto Hinojosa. Mr. Przybyla thanked his staff and the auditors for an excellent job providing information and preparing the audit this year. He noted that he and Mr. Hinojosa are already forming a good relationship. Mr. Hinojosa has conned him in to giving a talk at Fresno State already. They will be doing a presentation on fraud prevention at the CSMFO conference in February. He restated that it is working out to be a very good relationship and he really appreciates the work they have done for the City this year.

Fausto Hinojosa with Price Paige & Company stated it is a pleasure to be here this evening to share the results of the audit. He thanked Mr. Przybyla for the introduction. He also congratulated City staff, Mr. Przybyla, Ms. Daniels, and their entire team for all of the hard work that went into getting this audit completed as well as Dave Dybas who is their audit manager, and Elaine Ko. He commented that that team together really did an outstanding job to get all of the work complete and to be able to issue the financial statements, the earliest, he thinks, that they have been issued in a number of years. Everybody should be proud of that.

Mr. Hinojosa stated his plan is simply to go over the audit opinions, briefly point them to a couple of key financial statements and then answer any questions that they might have.

Mr. Hinojosa referred to page 1, their independent auditors report in the City of Madera Financial Statement. He noted there are two separate packages and he will cover the single audit report next. He referred to the section for management's responsibility and read that management is responsible for the preparation and fair presentation of the financial statements. Management is also responsible for the design implementation and monitoring of internal control. He thinks that is key and added that as auditors they are not a part of their internal control system. He advised that the City is required by Government Auditing Standards to have a sound, functioning internal control system. He stated that their job as auditors is to obtain an understanding of that control system and if they identify any deficiencies in that internal control system, to report those to the Council. Mr. Hinojosa noted that the auditor's responsibility is to express an opinion on the financial statements. He stated that their opinion is based on procedures that they perform to determine whether the numbers in the financial statements and the disclosures in their financial statements are presented in accordance with Generally Accepted Accounting Principles as promulgated by the Governmental Accounting Standards Board. He commented that their audit is not to tell the City whether they are in sound financial condition or not but whether the numbers that are presented are accurate or not basically in accordance with the accounting rules. Mr. Hinojosa advised that they do that by performing what they call a risk assessment. Their job as auditors is to identify two things: material errors and material fraud, and that is included in their report that that is their responsibility.

Mr. Hinojosa referred to page 2 of report, opinions, and reported that the City has received what is called an unmodified opinion, a clean opinion on all of their reporting units, all of their major funds, and then what they call their government wide statements in the aggregate. He advised that is the best type of opinion that the City can receive on its financial statements and again that is a credit to City staff in preparing for the financial statement audit.

Mr. Hinojosa advised that he would point them to a couple of key financial statements. He referred to page 22 which is the balance sheet of their governmental funds. He noted that he does not plan to go through any of the numbers here. The page lists their assets, liabilities and the fund balances, and it will report those by major fund. They will see their general fund, various special revenue funds, and then an aggregate column that says total non-major funds. He advised that he would go through this quickly but offered to answer any questions if anybody sees anything that captures their attention.

Mr. Hinojosa referred to page 24 and advised it is a statement of revenues, expenditures, and changes in fund balances. He stated in the private sector they call this an income statement. It is just a long title here in government. He noted that this is reporting all of their revenues and expenditures. For example in the general fund, the first column, they can see they had total revenues of \$25 million, total expenditures of \$26.7 million so they had initially a deficit of \$1.5 million however, there were some transfers in of over \$5 million, some transfers out, and net bottom line was a \$2.6 million increase of fund balance.

Mr. Hinojosa referred to pages 26 and 27 and stated they are a balance sheet for their enterprise fund, for their business type activities. They will see the water fund, the sewer fund, solid waste, drainage, etc. He commented that Mr. Przybyla mentioned already that the sewer fund is the one that had a current year operating deficit. He stated that doesn't show up on the balance sheet. On the balance sheet what they will see is their cash position; again that is their liabilities, etc. but if they go over to pages 28 and 29 that is where they can see for each of those funds how they did. For the water fund they can see they had revenues of \$5.7 million, operating expenses of \$4.2 million for an operating income of \$1.5 million. They can follow that row across the columns and see how each of those funds did. He restated that the sewer fund is the one that ended up with income before capital contributions of \$1.1 million so that is the fund that has already been brought up and that is the only fund that had a deficit in their enterprise funds.

Mr. Hinojosa referred to pages 30 and 31, which is a cash flow statement. Where the income statement that they just looked at is on what they call the full accrual basis, the cash flow statement is cash in and out so the numbers don't tie exactly and they shouldn't. He explained this reports, again, cash received, cash paid out, and reconciles the cash at the beginning of the year with cash at the end of the year.

Mr. Hinojosa referred to page 36 which shows a whole number of footnotes. He stated these are footnotes that were there in the prior year so there is nothing new. He advised that these are disclosures that are required by the Governmental Accounting Standards Board. He commented that he doesn't plan to outline any of those. Last year he reported to the City that in the year ended June 30, 2015 the City will be required to now report a pension liability for the unfunded portion of their pension liability. He commented that has been sitting over at PERS but they have not had to report that. He restated that June 30, 2015 they will have to report that so there is going to be a bit of a challenge in the June 30, 2015 audit to try to figure out number one, what that number is and number two, how they are going to be able to audit it because PERS does all of that calculation and whether and how they will be able to provide the information in time for them to do the audit is still something they are unsure of. He advised there is actually a meeting next week of the State Government Accounting and Auditing Committee that he will be attending where CPA's are working with PERS to again try to figure out when and how they will be able to get that information so that the audits are not delayed in this next year. He noted that is really the most significant change that has happened in governmental accounting probably since GASB 34 which happened 10, 12 years ago.

Mr. Hinojosa advised those are the basic financial statements and added there is a separate report which is a single audit report. He explained that the single audit report includes two opinions. He advised this is basically related to the federal grants that the City receives. He noted that on page 1 is an independent auditors report on internal control and on compliance in accordance with government auditing standards. He stated that the Government Accountability Office has something that is called government auditing standards that they issue. They are required to perform the audit in accordance with those standards. They have done that and what is required is that they obtain an understanding of the City's internal control, that they plan the audit based on that understanding, and that if they determine that the City has a design flaw or a control that is not operating effectively, if they find that during the audit process, then they would be required to report that to the City. He commented that they do have one finding which he will report in a minute with respect to internal control but they had no compliance findings.

Mr. Hinojosa referred to page 3 which is an independent auditor's report for each major federal program in accordance with OMB Circular A-133. He stated that the audit requires that they perform compliance procedures with respect to their major federal programs. If they look at pages 5 and 6, at the bottom of page 6 those are a schedule of federal awards and they will see total expenditures of federal awards of \$6.7 million *[for the record, the correct figure is \$13.7 million identified later in the discussion]*. He advised that is from various federal granting agencies. They are required to identify the major programs within that population and to perform tests of compliance. They performed those tests of compliance and are pleased to report that there were no compliance findings with any of their federal grants.

Mr. Hinojosa advised that they did have one finding with respect to internal control and that is over on page 9. He commented that again this finding does not impact their federal award but it was a finding related to internal control over financial reporting. He noted that the condition says the City did not post certain expenses to the appropriate fiscal year. He explained that if the invoices come in July, some of those should be accrued back to June. There were just a couple of mistakes and they got posted to July as an example. They caught it as part of the audit so they are required to report that to the City and they are doing that. He commented that as Mr. Przybyla pointed out, last year there were a number of significant errors that led to findings. He noted that this is not a material weakness but again just something that they made management aware of and something that government accounting standards required that they report so they are doing that.

Mr. Hinojosa commented that is all he wanted to share with the Council and offered to answer any questions.

Council Member Holley commented that he heard Mr. Hinojosa say something about 6.something million dollar difference. He sees \$13.7 million.

Mr. Hinojosa apologized noting that he has a bad copy of that schedule and advised that is a good catch.

Council Member Holley noted that when it comes to money he needs to make sure he is doing the right thing. He asked if the 13 is the correct figure.

Mr. Hinojosa advised that the number the Council has is correct.

Mr. Przybyla advised that the recommendation is acceptance of the audited financial statements and the single audit report for fiscal year ended June 30, 2014.

ON MOTION BY COUNCIL MEMBER HOLLEY, AND SECONDED BY COUNCIL MEMBER BOMPRESZI, THE MOTION TO ACCEPT THE AUDITED FINANCIAL STATEMENT AND SINGLE AUDIT REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2014 WAS ADOPTED UNANIMOUSLY BY A VOTE OF 7-0.

Council Member Bompreszi commended staff for a great job.

Council concurred on the great job done.

F. COUNCIL REPORTS

Council Member Robinson stated that today he attended the San Joaquin River Conservancy Board meeting. They mainly talked about the tax credit program and they just recently received some land, 23 acres, for \$100,000 acquisition. He commented that this growth is needed to extend the trails along the river path. He advised that the donor received 55% of tax credit which is 55% of market value. They also talked about the Governor's budget of which the park will receive \$19 million in capital outlays.

Council Member Holley thanked his Council partners who attended the Martin Luther King celebration. He advised that it was really a good program that the kids spoke on and the main speaker.

Council Member Holley reported that he attended the Town Hall meeting at the VFW Hall that Supervisor Rick Farinelli put on.

Council Member Holley reported that he attended the Housing Project for the City of Madera held at the Bergon Center.

Council Member Medellin reported that he attended the Jefferson Neighborhood meeting. He advised that unfortunately the Mayor and the Mayor Pro Tem were unable to attend but he tried his best to fill in. He commented that it was their third meeting so they are official. He noted that the Chief of Police was there as well as another officer and probation. The neighborhood received their official certificate. There were about 15 members. It was really cold so they quickly moved into the garage and it was well received. He promised them that the Mayor would be there next time.

Mayor Pro Tem Oliver reported that he had the opportunity to attend the League of California Cities New Mayors and Council Members training last week. He commented that it was very eye opening. It provided, really, a crash course on operational and legal framework in which city officials and government should operate. He noted that sometimes that is not the case as he learned. He added that it was really, really great and an informative time.

Mayor Pro Tem Oliver reported that he also stepped in for the Mayor this morning for the Mexican Consulates Mayor's meeting. They provided a little bit of an outline of some of the services. He noted that obviously they are available to their constituents in our community as well as future partnerships with the City of Madera and it was great.

Mayor Poythress reported that yesterday he had the opportunity of spending the day in Sacramento attending the Strategic Growth Council meeting where they approved the affordable housing and sustainable community's guidelines. He spoke on behalf of the Regional Policy Council and the original

guidelines were going to be very detrimental to their valley because they called for certain density growth standards that they are just impossible for them to meet. They were all based on what happens in the Bay Area or Southern California. He was there to thank them for backing off and giving them some relief. He stated it is all about air quality these days. It doesn't matter what their roads look like these days. It is like how are you going to reduce greenhouse gasses and that is what the big question is. He commented that it seemed, in that particular meeting, like he was in a different world. He stated it is good to be back here.

ADJOURNMENT

The meeting was adjourned by Mayor Poythress at 8:44 p.m.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Approval of the minutes is not addressed in the vision or action plans; the requested action is also not in conflict with any of the actions or goals contained in that plan.



SONIA ALVAREZ, City Clerk



ROBERT L. POYTHRESS, Mayor

