



Winters City Council Meeting  
City Council Chambers  
318 First Street  
Tuesday, November 17, 2009  
6:30 p.m.  
**AGENDA**

*Members of the City Council*

*Michael Martin, Mayor  
Woody Fridae, Mayor Pro Tempore  
Harold Anderson  
Cecilia Aguiar-Curry  
Tom Stone*

*John W. Donlevy, Jr., City Manager  
John Wallace, City Attorney  
Nanci Mills, City Clerk*

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PLEASE NOTE – The numerical order of items on this agenda is for convenience of reference. Items may be taken out of order upon request of the Mayor or Councilmembers. Public comments time may be limited and speakers will be asked to state their name.

Roll Call

Pledge of Allegiance

Approval of Agenda

**COUNCIL/STAFF COMMENTS**

**PUBLIC COMMENTS**

At this time, any member of the public may address the City Council on matters, which are not listed on this agenda. Citizens should reserve their comments for matter listed on this agenda at the time the item is considered by the Council. An exception is made for members of the public for whom it would create a hardship to stay until their item is heard. Those individuals may address the item after the public has spoken on issues that are not listed on the agenda. Presentations may be limited to accommodate all speakers within the time available. Public comments may also be continued to later in the meeting should the time allotted for public comment expire.

### CONSENT CALENDAR

All matters listed under the consent calendar are considered routine and non-controversial, require no discussion and are expected to have unanimous Council support and may be enacted by the City Council in one motion in the form listed below. There will be no separate discussion of these items. However, before the City Council votes on the motion to adopt, members of the City Council, staff, or the public may request that specific items be removed from the Consent Calendar for separate discussion and action. Items(s) removed will be discussed later in the meeting as time permits.

- A. Minutes of the Regular Meeting of the Winters City Council Held on November 3, 2009 (pp. 1-8)
- B. Resolution 2009-58, a Resolution of the City Council of the City of Winters, Adopting a Memorandum of Understanding (MOU) for the Winters Police Officers Association (pp. 9-35)

### PRESENTATIONS

Victoria Rosada, Consumer & Community Empowerment Division of the Department of Consumer Affairs  
Presentation of Proclamation of the City Council of the City of Winters Honoring Eagle Scout Morgan Dana Fjord

### DISCUSSION ITEMS

- 1. Second Reading and Adoption of Ordinance 2009-13, an Ordinance of the City Council of the City of Winters, Adding Chapter 17.120, Vacant and Abandoned Property Registration, to the Winters Municipal Code to Require Owners and Other Persons Responsible for Vacant and Abandoned Property to Register with the City and to Maintain Such Property (pp. 36-45)
- 2. Second Reading and Adoption of Ordinance 2009-14, an Ordinance of the City Council of the City of Winters, Allowing Billing for Multiple Police Calls, Driving Under the Influence, and Emergencies (pp. 46-52)
- 3. Fiscal Sustainability Workshop (p. 53)

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### COMMUNITY DEVELOPMENT AGENCY

- 1.
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CITY MANAGER REPORT

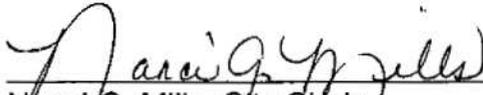
INFORMATION ONLY

EXECUTIVE SESSION

Real Estate Negotiation Per Government Code Section 54956.8 –  
APN 003-204-05-1, APN 003-204-06-1

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the November 17, 2009, regular meeting of the Winters City Council was personally delivered to each Councilmember's mail boxes in City Hall and posted on the outside public bulletin board at City Hall, 318 First Street on November 12, 2009, and made available to the public during normal business hours.

  
\_\_\_\_\_  
Nanci G. Mills, City Clerk

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*General Notes: Meeting facilities are accessible to persons with disabilities. To arrange aid or services to modify or accommodate persons with disability to participate in a public meeting, contact the City Clerk.*

*Staff recommendations are guidelines to the City Council. On any item, the Council may take action, which varies from that recommended by staff.*

*The city does not transcribe its proceedings. Anyone who desires a verbatim record of this meeting should arrange for attendance by a court reporter or for other acceptable means of recordation. Such arrangements will be at the sole expense of the individual requesting the recordation.*

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City Clerk's Office – City Hall – 318 First Street

During Council meetings – Right side as you enter the Council Chambers

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Wednesday at 10:00 a.m.

Videotapes of City Council meetings are available for review at the Winters Branch of the Yolo County Library.



Minutes of the Executive Session and Regular Meeting  
of the Winters City Council Held on November 3, 2009

7:00 p.m. – City Council  
Executive Session

Pursuant to Government Code Section 54957  
Public Safety Employee – CalPERS Disability Retirement

There was no reportable action.

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7:30 p.m. – Regular Meeting of the City Council

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Mayor Michael Martin called the regular meeting of the City Council to order at 7:30 p.m.

Present: Council Members Cecilia Aguiar-Curry, Harold Anderson, Woody Fridae, Tom Stone, and Mayor Michael Martin.  
Absent: None  
Staff: City Manager John Donlevy, City Attorney John Wallace, Director of Financial Management Shelly Gunby, Community Development Director Nellie Dyer, Management Analyst Carol Scianna, Grant Writer Dawn Van Dyke, Housing Programs Manager Dan Maguire, and City Clerk Nanci Mills.

Stan Lester led the Pledge of Allegiance.

**Approval of Agenda:** City Manager Donlevy said there were no changes to the agenda. Motion by Council Member Curry, Second by Council Member Stone, to approve the agenda as presented.

**COUNCIL/STAFF COMMENTS**

Council Member Anderson attended an Ag Tour sponsored by SACOG entitled Fresh Producers, and encouraged Council members to check it out. He also

attended a Land Use Committee Meeting @ SACOG, where it was discovered that Yolo County had sent out letters to farmers in the County regarding the possible cancellation of the Williamson Act, which would have a huge impact. Council Member Stone said the next Chamber Mixer will be at ARC Guitar. Council Member Aguiar-Curry congratulated City Manager Donlevy and Council Member Fridae for their victory at the Sacramento Valley Division of the League of California Cities Mayor's Cup Golf Tournament. She also said it is very important for the community to work hard to get everyone counted for the census. The draft EIR is out for the Yolo County County-wide General Plan and there will be a meeting at the Board of Supervisor's on November 10<sup>th</sup>. She asked Council members to review it and offer any comments to our Supervisor.

**PUBLIC COMMENTS:** None

### **CONSENT CALENDAR**

- A. Minutes of the Regular Meeting of the Winters City Council Held on October 20, 2009
- B. Project Completion and Acceptance: Hemenway-Rosa Area Paving, Project No. 015-09
- C. Resolution 2009-53 Affirming the City of Winters Support and Partnership with the 2010 Census
- D. Resolution 2009-55, A Resolution of the City Council of the City of Winters Approving a Budget Adjustment of \$75,000 for Additional Staffing for The Water Fund
- E. Resolution 2009-56, Determining a Safety Employee to be Disabled
- F. I-505 Utility Project – Change Order #1

City Manager Donlevy gave a brief overview. Motion by Council Member Curry, second by Council Member Stone to approve the Consent Calendar. Motion carried unanimously.

### **PRESENTATIONS**

Mayor Martin presented Proclamations to the sponsors of the 2009 Festival de la Comunidad/Community Festival and Carnitas Cook-off held on September 27<sup>th</sup>, 2009, thanking them for their support and helping to make the festival a success. The event sponsors included Michael Barbour and Valerie Whitworth, Janlee Wong and Mariko Yamada, Howard and Germaine Hupe, St. Anthony Parish, Chuy's Taqueria, and Cache Creek Casino & Resort. The Carnitas Cook Off sponsors included Lester Farms/Stam Lester, John & Karla Knabke, Cecilia Aguiar-Curry, E.J. De La Rosa & Co., Inc., First Northern Bank, Button & Turkovich, Mariani Foundation, Martinez Orchards, Yolo Federal Credit Union,

Rotary Club of Winters, Winters Chamber of Commerce, and El Puebla Meat Market & Deli. He also thanked Mary Jo Rodolfa and Dawn Van Dyke, as well as the Hispanic Advisory Committee, who put in numerous hours to make this event a success.

## **DISCUSSION ITEMS**

### **1. Public Hearing and Introduction of Ordinance 2009-13, an Ordinance of the City Council of the City of Winters, Adding Chapter 17.120, Vacant and Abandoned Property Registration, to the Winters Municipal Code to Require Owners and Other Persons Responsible for Vacant and Abandoned Property to Register with the City and to Maintain Such Property**

City Attorney Wallace gave an overview of the proposed Ordinance. Mayor Martin asked if the owners (or those who have taken ownership) of the property would be identified, and if maintenance were required on the property, would they be forced to provide the maintenance? City Attorney Wallace said under this Ordinance, the property owner would be required to register the property and maintain it. State law and this Ordinance put financial mechanisms to insure compliance. Mayor Martin asked what recourse the City would have if someone failed to register their vacant property. City Attorney Wallace said the City could provide the maintenance and then put a lien on the property, in addition to \$1,000 per day in penalties.

Council Member Stone asked if a property owner could possibly incur penalties without their knowledge. City Attorney Wallace replied that when the City acquires knowledge of a vacant property, the City has a mechanism to verify who holds the title of the property and notify the property owner of their obligation.

Mayor Martin opened the public hearing at 7:45 p.m. and closed the public hearing at 7:45 p.m. with no public comment.

Council Member Fridae introduced and read by title only Ordinance 2009-13, adding Chapter 17.120, Vacant and Abandoned Property Registration, to the Winters Municipal Code to require owners and other persons responsible for vacant and abandoned property to register with the City and to maintain such property. Seconded by Council Member Aguiar-Curry. Motion carried with the following roll call vote:

**AYES:** Council Members Aguiar-Curry, Anderson, Fridae, Stone, and Mayor Martin  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

**2. Public Hearing and Introduction of Ordinance 2009-14, an Ordinance of the City Council of the City of Winters, Allowing Billing for Multiple Police Calls, Driving Under the Influence, and Emergencies**

City Attorney Wallace gave an overview, stating these reimbursement rights are currently not included in the Municipal Code. Council Member Stone asked about police and fire responding to a call out of jurisdiction and whether proof of guilt was required to generate reimbursement. City Attorney Wallace responded that proof of intoxication is required, and criminal conviction is not required. Mayor Martin asked about a reimbursement fee schedule. City Attorney Wallace said there was a formula the City could use to determine the applicable fees.

Mayor Martin opened the public hearing at 7:52 p.m. and closed the public hearing at 7:52 p.m. with no public comment.

Council Member Anderson introduced and read by title only Ordinance 2009-14, allowing billing for multiple police calls, driving under the influence, and emergencies. Seconded by Council Member Stone. Motion carried with the following vote:

**AYES:** Council Members Aguiar-Curry, Anderson, Fridae, Stone, and Mayor Martin  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

**3. Moratorium Ordinance 2009-15, an Ordinance of the City Council of the City of Winters, regarding Medical Marijuana Dispensaries**

City Attorney Wallace gave an overview, stating an urgency interim ordinance can be adopted in one reading, without public notice. There is currently a lack of zoning regulations pertaining to medical marijuana dispensaries. City Attorney Wallace recommended adoption of this moratorium Ordinance, which would provide the Planning Commission with a 45-day review and recommendation period. Council Member Stone asked about extending the initial 45-day review period, if needed. City Attorney Wallace said an extension of the ordinance may be placed back on the City Council agenda within 45 days after adoption, after public notice, which would extend the time allowed for planning for up to 10 months and 15 days.

Mayor Martin asked if the Planning Commission would be considering zoning and locations for the dispensaries. City Attorney Wallace replied yes. Council Member Fridae asked if the City could outlaw medical marijuana dispensaries. City Attorney Wallace said it has not yet been decided in California. Cities have

the right to put a moratorium in place while investigating. Council Member Fridae asked if medical marijuana could be taxed. City Manager Donlevy confirmed that many medical marijuana dispensaries provide good tax revenue.

Council Member Fridae recently viewed a State hearing on a public access channel, where Mr. Dan Macallair, the California State Executive Director on the Center on Juvenile Criminal Justice was giving his findings. Between 1990 and 2009, there were 29,000 arrests in California for 1 oz. of marijuana or less up to 62,000 arrests in 2009. At the same time, crime is down in nearly every other category. It doesn't follow that use of marijuana, legal or illegal, has the effect of an increase in crime, in general. Because there are so many prosecutions for possession of marijuana, it is a waste of police resources and ties up law enforcement personnel with processing and prosecuting of these offenders. This also tends to introduce juveniles to more serious offenders as they get caught up in the criminal system. Mr. Macallair went on to say that in a 10-year study, he found no connection between rates of crime and use of marijuana. A retired judge from Orange County said the reason crack is so popular is because it is treated the same as marijuana in regards to prosecution. He compared marijuana use in Holland, where marijuana is legal, 3% of the population uses it and in California, where it is currently illegal, is 6% of the population uses it. Council Member Fridae doesn't want to see a medical marijuana dispensary outside City limits, allowing another agency to receive the tax benefit and we're left to deal with whatever impact legal or societal, that may occur. He asked that an appropriate location be found and to take these facts into consideration.

City Attorney Wallace said cities are using moratoriums to find an appropriate place for zoning. They cannot be located within 1,000 feet of a school or youth center. Giving the Planning Commission the opportunity to view areas for dispensaries is the focus of legislation. Council Member Fridae added that according to Counselor and Reverend Mary Richardson, in 87% of the cases of spousal abuse in Los Angeles County, alcohol was involved. In less than 1% of the cases, marijuana was involved.

Motion by Council Member Cecilia-Aguilar Curry and seconded by Council Member Stone to adopt moratorium Ordinance 2009-15 regarding medical marijuana dispensaries. Motion carried by the following vote:

**AYES:** Council Members Aguiar-Curry, Anderson, Fridae, Stone, and Mayor Martin  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

**4. Staff Presentation on the Winters Grant Avenue/State Route (SR) 128 Complete Streets Community Planning Process (Informational Item Only)**

Community Development Director Nellie Dyer gave a brief overview. Council Member Anderson asked why six months was needed to complete this process. Nellie responded that in talking with Cal Trans and the public involvement consultants, collecting information, interviewing various stakeholder groups, and having the public meetings, felt this timeline was aggressive. This time is needed to get as much information as possible. Meetings will tentatively be held in February with public involvement planned for March. Nellie attended a Complete Streets Workshop in Sacramento in July, which is part of this, and plans to work with all users, including cyclists, pedestrians, drivers, disabled, and residents of El Rio Villa. Council Member Stone asked about the Cal Trans grant, which was not planning on extending the project east of I-505. Nellie said she has talked to Cal Trans, and all we have to do is ask. Mayor Martin asked about the options (2 lanes with roundabouts or 4 lanes with signals) along with pedestrian and bike improvements. He wants to consider all users, ie: farmers, truckers, RV's on their way to the lake. Nellie said both options would be reviewed. In general, there are two alternatives to consider.

**5. Joint Public Hearing with Community Development Agency for Cottages at Carter Ranch Phase 2 Final Map, A Request for Infrastructure Funding, and Resolution 2009-54, a Resolution of the Winters Community Development Agency Regarding Rancho Arroyo Detention Basin Inlet Structure Improvement and Compliance with Health and Safety Code Section 3345**

Agency Chairman Fridae opened the concurrent meeting of the City Council and Community Development Agency at 8:20 p.m. City Manager Donlevy gave a brief overview.

Motion by Council Member Anderson, second by Council Member Aguiar-Curry, to authorize expenditures in the amount of \$90,000 for the construction of the new storm drainage inlet structure for the Rancho Arroyo Detention Basin, and authorize the adoption of Resolution 2009-54 regarding the Rancho Arroyo Detention Basin Inlet Structure Improvement and Compliance with Health and Safety Code Section 3345. Motion carried with the following vote:

**AYES:** Council/Agency Members Aguiar-Curry, Anderson, Martin, Stone, and Agency Chairman Fridae  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

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**COMMUNITY DEVELOPMENT AGENCY**

1. **Joint Public Hearing with City Council for Cottages at Carter Ranch Phase 2 Final Map, A Request for Infrastructure Funding, and Resolution 2009-54, a Resolution of the Winters Community Development Agency Regarding Rancho Arroyo Detention Basin Inlet Structure Improvement and Compliance with Health and Safety Code Section 3345**

See Discussion Item #5.

**2. 23 Main Street – Conceptual Art Park Plan**

City Manager Donlevy gave an overview. Bill Hailey, Board Member of the Winters Center of the Arts, who has an interest in the Art Park, said this has been in the works since 2006. He said three schemes have been developed. He would like to plan a community-involved meeting with the City Manager to receive input from citizens and area artists and to give guidance.

Motion by Agency Member Aguiar-Curry, second by Agency Member Martin to authorize community outreach and input into the conceptual design of an Art Park to be located at 23 Main Street, approve preliminary improvements to the location to include irrigation, drainage improvements and fencing, and develop a preliminary plan for review by the Winters Planning Commission and the Community Development Agency. Motion carried unanimously.

Agency Chairman Fridae closed the Community Development Agency at 8:40 p.m.

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**CITY MANAGER REPORT:** The Grand Opening of the new Winters Community Library will be held on November 13<sup>th</sup> (ceremonial) and 14<sup>th</sup> (launch programs). Staff continues to work on Fiscal Sustainability and have finished two steps of three. The City Manager will schedule a workshop with Council during the week of December 7<sup>th</sup> to receive Council direction. There is no safety net from the State and we will go into the next fiscal year with structural deficits. The sales tax numbers for the second quarter were received, which were worse than the first quarter. The third quarter is expected to be even worse.

Council Member Anderson asked about ethics training for City committees. City Attorney Wallace said AB1234 training available online. City Manager Donlevy said we will figure out who is in compliance and start off the new year with ethics

training and renew every two years. Council Member Aguiar-Curry confirmed this would include every committee, including the Hispanic Advisory Committee, Planning Commission and City Council. Mayor Martin reminded everyone that beginning on November 17<sup>th</sup>, the City Council meetings will begin at 6:30 p.m.

**INFORMATION ONLY:** None

**ADJOURNMENT:** Mayor Martin adjourned the meeting at 8:50 p.m.

\_\_\_\_\_  
Michael Martin, MAYOR

**ATTEST:**

\_\_\_\_\_  
Nanci G. Mills, City Clerk



**CITY COUNCIL  
STAFF REPORT**

**TO:** Honorable Mayor and Councilmembers  
**DATE:** November 17, 2009  
**THROUGH:** John W. Donlevy, Jr., City Manager *JD*  
**FROM:** Nanci G. Mills, Director of Administrative Services/City Clerk *Nanci*  
**SUBJECT:** Resolution 2009-58, A Resolution of the City Council of the City of Winters, Adopting a Memorandum of Understanding (MOU) for the Winters Police Officers Association

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**RECOMMENDATION:**

The City Council adopts Resolution 2009-58 ratifying the Memorandum of Understanding for the Winters Police Officers Association.

**BACKGROUND:**

Staff has met and agreed to all issues with the representatives of the bargaining unit.

The Winters Police Officers Association has agreed to a two year contract ending June 30, 2010.

The following are the changes to this MOU:

- Uniform increase of \$100 annually
- Shift Differential of \$1.00 per shift
- Caesar Chavez pay, if worked
- Youth Day Holiday pay, if worked
- Education Cost – Partial Reimbursement

**FISCAL IMPACT:**

\$8,335 for the term of this MOU

**RESOLUTION NO. 2009-58**

**MEMORANDUM OF UNDERSTANDING  
CITY OF WINTERS  
POLICE OFFICERS ASSOCIATION**

**July 1, 2008 through June 30, 2010**

## MEMORANDUM OF UNDERSTANDING

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**\*\*PREAMBLE\*\***

This Memorandum of Understanding (MOU) is entered into this 1st day of July, 2008, between the City of Winters (hereinafter referred to as City) and the Winters Police Officers Association (hereinafter referred to as Association). This MOU expires June 30, 2009.

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**ARTICLE 1 - RECOGNITION**

The City recognizes the Association as the representative for the employees in the Police Officer job classification (hereinafter referred to as employee).

**ARTICLE 2 - MEMORANDUM OF UNDERSTANDING RATIFICATION**

Upon approval of the Association, this MOU will be submitted to the City Council and is of no force or effect until ratified and approved by a Resolution adopted by the City Council.

**ARTICLE 3 - MANAGEMENT RIGHTS**

All management rights and functions except those which are clearly and expressly limited in this MOU shall remain vested exclusively in the City, however, if any modification occurs that effects wages, hours or working conditions, the City shall notify the Association and meet and confer regarding the impact of such modifications. It is expressly recognized merely by way of illustration and not by way of limitation that such rights and functions include, but are not limited to:

- A. Manage the City and determine services to be provided.
- B. Schedule work hours and or work periods, determine the number and duration of work periods, and establish, modify, or change work schedules, and determine the necessity of overtime and the amount of overtime required.
- C. Direct the work force and hire, promote, demote, transfer, suspend, or discharge any employee and determine the administration of discipline.
- D. Determine the location of any new facilities, buildings, departments, divisions, or subdivisions thereof, and the relocation, sale, leasing, or closing of facilities, departments, divisions, or subdivisions thereof.
- E. Determine the layout of buildings and equipment and determine control and use of City property, materials, and equipment.

- F. Determine processes, techniques, methods, and means of performing work and institute changes in procedures.
- G. Determine the size, character and use of inventories.
- H. Determine the financial policy, including accounting procedures.
- I. Determine the administrative organization of the City, the size and character of the work force, and allocate or assign work to employees and determine duties to be included in any job classification.
- J. Determine how new employees are selected.
- K. Establish and judge quality and quantity standards.
- L. Establish, modify, eliminate or enforce rules and regulations and determine the methods and means by which operations are to be conducted including placing or contracting work with outside firms and hiring part time employees.
- M. Require employees, where necessary, to take in-service training courses during working hours.
- N. Take any necessary action to carry out City responsibilities in cases of an emergency.

The exercise of the foregoing powers, rights, authority, duties and responsibilities by the City, the adoption of rules, regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith, shall be limited only by the specific and express terms of this MOU and then only to the extent such specific and express terms are in conformance with law.

#### **ARTICLE 4 - ASSOCIATION RIGHTS**

- A. The Association retains the right to engage in the meet and confer process and employer/employee relations including, but not limited to wages, hours, and other terms and conditions of employment.
- B. The Association may schedule use of meeting space within City facilities outside working hours, provided there are no legal prohibitions, and such space is available. The Association may use City equipment normally used in the conduct of business meetings, such as desks, chairs, blackboards, etc. Use of City equipment and space shall not disrupt department operations.
- C. The Association will have reasonable advance notice of any City ordinance, rule, resolution, or regulation directly relating to matters within the scope of

representation proposed to be adopted by the City Council. Reasonable advance notice is defined as public noticing as published by the City Clerk pursuant to state law, with a copy of the notice sent to the Association President. In addition, employees will be provided copies of special orders, general orders, training bulletins, department rules and regulations, and a copy of this MOU.

- D. The City will provide an Association office in any new facility obtained for the Police Department.
- E. The City will allow the three principal Association officers (President, Vice-President and Secretary/Treasurer) time to conduct Association business during the officer's duty shift if the officer is not otherwise engaged in an investigation and is available to answer dispatched calls.
- F. With prior approval of the Police Chief and/or City Manager, authorized agents of the Association shall have access to City premises during work hours (8:00 A.M. to 5:00 P.M.), Monday through Friday, for purposes of adjusting disputes, investigating working conditions, and such other matters, as may be requested by the Association and approved by the City. Access may be restricted so as not to interfere with the conduct of City services and safety or security standards.
- G. City bulletin boards may be used for transmitting notices of Association meetings, elections, results of elections, and other matters pertaining to Association business. Notices must be signed by the Association President and a copy provided to the City Manager.

## **ARTICLE 5 - ASSOCIATION SECURITY AND DUES**

The City shall deduct dues and other premiums from the first and second paychecks of each employee and remit to the Association for the duration of this MOU an amount that an employee authorizes in writing the City to deduct. The Association agrees to hold harmless and indemnify the City against any claims, causes of action, or lawsuits arising from such deductions or transmittal of such deductions to the Association.

- A. Every employee covered by this MOU shall, within sixty (60) calendar days of employment: (1) become a member of the Association and maintain membership in good standing in accordance with its Constitution and By-Laws; or (2) shall pay an agency fee in an amount equal to the amount of the monthly dues pursuant to Section F.
- B. Any employee appointed to any classification out of the bargaining unit covered by this MOU may withdraw from Association membership and the employee's obligation to pay dues or fees shall be terminated.

- C. The City shall deduct from employee wages the regular membership dues of Association employees, or agency fees of other employees as provided in Section A, which an employee voluntarily authorizes the City to deduct in writing in accordance with the provision of Section 1157.3 of the California Government Code.
- D. Membership dues or agency fee deductions shall be made in equal amounts each payroll period, and a check for the total deductions shall be submitted to the Winters Police Officers Association, at the end of each month.
- E. The City shall notify the Association of changes in bargaining unit membership in a form of check-off authorization as approved by both the City and the Association.
- F. An employee with lawfully established valid objections of membership or financial support of an Association shall make in lieu payments to the Association or to other charitable organizations in accordance with the provisions of Section 3502.5 of the California Government Code.

**ARTICLE 6 - NO STRIKE/NO LOCKOUT**

The City and Association agree that it is mutually beneficial to resolve differences through negotiation. During the term of the MOU the City agrees that it will not cause a lockout of employees and the Association agrees that it will not sanction or cause a strike, slowdown, sickout, stoppage of work or other job action. Compliance with the request of other labor organizations is included within this prohibition.

**ARTICLE 7 - LAYOFF PROCEDURES**

In the event of work force reduction, an employee with the least seniority shall be laid off first. "Least seniority" is determined by date-of-hire with the exception of employees on initial probation..

- A. The Association shall be given at least sixty (60) days notice prior to the effective date of the layoff. The City and Association agree to meet and confer to discuss alternatives to layoff and layoff procedures.
- B. Employees shall be given at least forty-five (45) days notice prior to layoff. Employees on probation can be laid off without regard to seniority order or noticing.
- C. No new employee shall be hired in the Police Officer classification until employees on layoff have been given the opportunity to return to work. Such employees shall be rehired or reinstated to the previous position in reverse order of layoff. Probationary employees may be rehired without regard to seniority order, only after regular employees have been rehired. Reinstatement must be exercised within twenty (20) work days after the City deposits written notice of recall from layoff in the United States mail addressed to the employee's last known address by Certified

Mail - Return Receipt Requested.

- D. Employees who leave the Association to accept another position in the City service shall, upon completion of the probationary period in the new position, lose all seniority rights to their former positions.

**ARTICLE 8 - WAGES, MERIT STEPS, BENEFITS, AND WAGE PLAN ADMINISTRATION**

- A. Base Wages and Merit Steps: The following schedule provides a wage range with five (5) merit steps also know as base wage steps.

Police Officer Wages effective July 1, 2008:

A	B	C	D	E
4,179	4,388	4,607	4,837	5,079

Within the range, all step advancements will be considered on an employee's anniversary date and if an increase is granted, it shall be effective as of the anniversary date. Step increases shall be based on work performance and completion of required length of service in the previous step. New employees will normally be hired at the "A" step. Employees shall spend at least one (1) year in a particular step before being considered for further Step increases; however, the Police Chief may advance a probationary employee to "B" step at six (6) months, with a corresponding change in anniversary date. The time required for step advancement shall be extended by any time spent on leave of absence pursuant to Article 19.

- B. The City will review this wage scale by the end of April, surveying base wages of the Police Officer classification in the jurisdictions of: Auburn, Davis, Dixon, Galt, Marysville, Oroville, Placerville, Rocklin, Vacaville, West Sacramento, and the Yolo County Sheriff's Department. The purpose of this survey will be a reference check on the base wages paid in Winters.
- C. Benefits - The City provides the following benefits pursuant to the terms and conditions noted. Fair Labor Standards Act provisions shall be used to determine which benefits are required to be used in calculating overtime pay.

- 1. Shift Differential - Employees required to work shifts shall receive the following for shifts actually worked.

		PER SHIFT
Day Cover or Swing Shift	=	\$6.50
Utility or Night Cover Shift	=	\$7.00
Graveyard Shift	=	\$8.00

2. Uniform Allowance- Employees are required to wear uniforms as established by the City. For purchase and maintenance of uniforms the City will pay \$250.00 (two hundred and fifty dollars) per quarter, paid quarterly in a separate check to the employee/reserve.
3. Bilingual Pay - An employee who is certified to use both English and Spanish, written and/or spoken, on the job, and the use of such skill is required by the City shall receive \$150.00 (one hundred fifty dollars) per month. Employees must be tested and certified pursuant to department standards. Yolo County provides the certification at no cost.
4. Insurance - Effective January 1, 2009, employees shall receive \$800.00 (eight hundred dollars) per month, or \$1200.00 per month for a family plan to purchase various health, vision, dental, life, etc., insurance which the City may subscribe. The City will cover any increase so there will be no out of pocket expense to the employee if premium increases during this fiscal year. Money left over after an employee has purchased the insurance coverage desired will be paid to the employee. New employees are required to purchase health, vision and dental insurance which the City may subscribe. Employee's are not required to have health and dental coverage through the City but must show proof of coverage satisfactory to the City. Employees may be required to purchase other insurance pursuant to terms and conditions established by insurance carriers and as agreed to by the Associations.
5. Public Employees Retirement System (PERS) - Employees shall join the PERS system as a condition of employment. The City subscribes to the 3% at 55 retirement plan. The City shall pay the employer rate and the employee rate of 9%.
6. Social Security (FICA) - Employees are required to join the Federal Social Security System as a condition of employment. The employee shall pay the employee's contribution to Social Security on the employee's applicable wages. The City shall pay the City's contribution on applicable employee wages.
7. Education Incentive - An employee who provides evidence of having received a degree from a recognized college/university or a post certificate which the City deems appropriate to the needs of the job being performed shall receive incentive pay as indicated.

CERTIFICATE/EDUCATION

WAGE INCREASE

AA/AS Degree/Intermediate Post  
 BA/BS Degree/Advanced Post

4% above base wage  
 10% above base wage

Employer shall pay up to \$1,000 per semester, per employee, toward continue college/adult learning education and professional development program

8. Longevity Recognition - An employee who has completed five (5) consecutive years employment is eligible to receive an amount equal to one (1) month's base wage during the sixth (6th) year and every even year of service thereafter until the employee leaves City service. Payment shall be made on December 1 of appropriate years.
9. Jury Duty - Employees may be excused from the regular responsibilities of their position when called for jury duty. Employees called for jury duty shall notify the Chief of Police of the call. If, in the opinion of the City, the absence of the employee would result in undue disruption of work, the City may direct the employee to request an exemption from jury duty. An employee shall not suffer loss of pay or benefits while actually serving on jury duty. All court approved jury pay received by the employee shall be remitted to the City.
10. Field Training Officers - Employees assigned as Field Training Officers shall receive \$200.00 (two hundred dollars) per month while actively engaged in the training of officers.
11. Corporal - Will receive an additional \$200 a month in salary over the police officer salary range.
12. Court Time - A minimum of three (3) hours overtime shall be paid for each court appearance outside an officer's scheduled working hours. However, if a scheduled court appearance is canceled and notification is not received by the officer on the prior business day to the scheduled court appearance, two hours of overtime shall be paid to the officer.
13. Deferred Compensation - An employee who has increased their personal deferred compensation contribution in to a deferred compensation plan offered by the city after this MOU goes in to effect, the City will contribute up to \$500.00 annually.
14. Association Time - Individual Association members may donate, from their accrued vacation leave, holiday leave, or compensatory time off, to the Association for Association business. The President of the Association may designate members of the Association to utilize this time. Only one member at a time may be absent unless mutually agreed between the Chief of Police and the Association that additional members may be absent. Two (2) weeks advance notice of use of time shall be given. The time may be used only in hourly increments. The accrual of time given by an employee to the Association, shall be noted on each employee's time card, and shall be the responsibility of the Administrative Services Department. The Association's balance of accrued time

will appear on the Association's dues check.

15. Counseling Services - The City will provide psychological counseling services for employees and their families as developed and administered by the Yolo County Risk Management Authority.

#### D. SALARY PLAN ADMINISTRATION

1. Employees shall be paid according to a bi-weekly payroll plan which has twenty-six (26) pay periods in a calendar year.
2. Employees shall normally be paid by twelve noon (12:00 noon) on or before every other Friday.
3. When the normal pay day falls during an employee's annual vacation leave, the employee may receive a vacation advance on the last working day prior to beginning vacation leave provided a written request is submitted to the Administrative Services Department at least five (5) working days in advance and the amount requested is less than the employee's regular paycheck, based on straight time hours.
4. Work performance evaluations shall be completed by the employee's supervisor at least ten (10) working days prior to the employee's anniversary date. At this time consideration may be given for a merit step advance. If the evaluation is not completed in the time required, the performance of the employee shall be deemed to be acceptable. The evaluation shall include the following elements:
  - a. A written record to be reviewed and acknowledged in writing by the employee. No change will be made after this review and without the acknowledgment of both the supervisor and employee.
  - b. A discussion between the supervisor and employee on the content of the performance evaluation.
  - c. A provision whereby an employee may submit a written response to any statement made on the evaluation which must be filed with the evaluation and forwarded to the supervisor. Such responses, and any written acknowledgement by a reviewing official, shall become attached to the evaluation. If the evaluation is satisfactory or better the employee can be granted a merit increase provided that an increase does not exceed the established range. If the evaluation is "Unsatisfactory" or "Improvement Needed", a step increase will not be granted, provided however that inadequate work performance has been previously documented, and the employee has been made aware of and given the opportunity to remedy deficiencies. A withheld step increase may be granted following any

subsequent review period of satisfactory work performance by the employee. The review period shall be no less than ninety (90) days. A step increase granted after this review shall not be retroactive back to the anniversary date.

## **ARTICLE 9 - PROBATION, NEW CLASSIFICATION, RECLASSIFICATION, ACTING APPOINTMENT, AND PROMOTION**

- A. Probation - The probationary period is a time to obtain the best fit for an employee in a new job or classification and for terminating the employer/employee relationship if work performance or adjustment to the City does not meet the expectations of the employee or the City.
  - 1. All original appointments shall be tentative and subject to a probationary period of twelve (12) months for an employee who has successfully completed a POST academy. New hires, without a POST academy, shall have an eighteen (18) month probationary period.
  - 2. The probationary period may be extended up to six (6) months in two (2) three (3) month increments as a result of an employee's unfavorable job performance as determined by the Police Chief. The probationary period may be extended for any leave of absence granted pursuant to Article 19.
  - 3. During the probationary period, an employee will be evaluated every four (4) months. If an employee is under an extended probation the evaluations shall be given each month during the extension.
- B. New Classifications - The City may establish new job classifications. Employees desiring to compete for such positions will be evaluated in the same manner as any candidate aspiring to receive appointment.
- C. Reclassification - Reclassification is a change to an existing job class as a result of changes in the function, duties, and/or responsibilities as determined by the City. The City and Association agree to meet and confer if classifications in this MOU are being reclassified.
- D. Acting Appointments - The City may temporarily appoint an employee to an acting capacity in a higher job classification. The employee shall receive \$200.00 (two hundred dollars) per month for each full month of service. This amount will be prorated for less than a full month's service.
  - 1. Acting appointments will not continue beyond six (6) months except by mutual agreement of the City, employee, and the Association.
  - 2. An employee having served in an acting capacity and subsequently promoted to the position shall establish a new anniversary date as of the first date of formal

promotion.

- E. Promotion - The City may advance an employee to a job classification having a higher base wage range.
  - 1. A promoted employee shall receive an increase to the next higher wage step above that currently held provided that the increase does not exceed the wage range established for the promoted classification.
  - 2. A promoted employee shall be subject to a one (1) year probationary period. An employee rejected during this time shall be reinstated to the job classification previously held at the same wage step the employee had prior to the promotion. A rejection pursuant to this section shall not be considered a demotion as defined in Article 20.
  - 3. Nothing in this section shall be construed as limiting the City's right to advertise a promotional position to any candidate desiring to apply. Any qualified employee may apply and will be evaluated in the same manner as any candidate aspiring to receive appointment to the position.

#### **ARTICLE 10 - PERSONNEL RECORDS**

Personnel records, except payroll records, are confidential. Access to personnel records shall be limited to the City Manager, Assistant City Manager, Administrative Services Director, Sergeant, and the Police Chief. An employee and/or their representative, designated by the employee in writing, will be allowed to review the employee's personnel records during regular business hours (8:00 A.M. - 5:00 P.M., Monday through Friday). An employee shall receive, upon written request, a copy of any document placed in the employee's personnel file. Records of sworn police officers which are kept by the Administrative Services Department shall have access restricted as provided by law.

#### **ARTICLE 11 - HOURS OF WORK**

The normal work week is five (5) consecutive work days of eight (8) work hours each equaling forty (40) work hours over a standard seven (7) day cycle ("standard" means seven (7) consecutive days based on each employee's work week assignment).

- A. The hours of a work shift are:

Day Shift	0600 to 1400
Cover 2 (Day Cover)	1000 to 1800/1200 to 2000
Swing Shift	1400 to 2200
Utility	1600 to 2400/1800 to 0200
Cover 1 (Night Cover)	2000 to 0400
Graveyard	2200 to 0600

An employee will not have less than a ten (10) hour rest period between the end of a shift and the beginning of the employee's next shift. If this rest period is not given, the employee's next shift will be considered call-back.

- B. Employees shall receive one (1) rest period of not more than thirty (30) minutes, or two (2) rest periods of fifteen (15) minutes each during a work shift plus a thirty (30) minute lunch break. Employees shall work straight eight (8) hours and will be considered to be on duty during rest periods and lunch break. An employee working a shift over 8 hours will have an extra 15 minute break for every two hours worked.
- C. Breaks and rest periods are not cumulative and shall not be used to arrive late or leave work early.
- D. Employees will report to work fully prepared at the start of their work shift.
- E. Shifts will be rotated every four (4) months; in January, May, and September. An employee can choose a work shift by seniority as determined by date-of-hire. An employee may not choose the same shift more than two (2) rotations in a row. Selection of shifts will take place one (1) month prior to the beginning of the next shift rotation.

The Chief of Police may remove from the shift rotation selection process any employee for disciplinary or administrative purposes (administrative purpose, by way of example and not limitation, might be when a low seniority employee was forced by lack of choice to work the same shift for more than three (3) rotations in a row), and place the employee in any particular shift which the Chief determines. If an employee and a shift are removed from the selection process, the Chief of Police will inform the Association five (5) weeks before the beginning of the next rotation cycle. The shift rotation process will not be used to reward or favor an employee.

## **ARTICLE 12 – OVERTIME**

- A. Although all classifications listed in Article 1 are part of the Association bargaining unit, for purposes of the Fair Labor Standards Act (FLSA) the City may designate certain positions exempt per Department of Labor standards. The City will inform said employees in writing and place a copy of said notice in the employee's personnel file.
- B. The work cycle for all employees within the bargaining group shall be seven (7) days in length. All employees, except those deemed exempt, required to work hours in excess of forty (40) hours in a seven (7) day cycle, and/or in excess of eight (8) hours in one (1) day, shall receive overtime pay at the rate of time and one-half. "Hours worked" shall not include any leave of absence pursuant to Article 19.

- C. All overtime must have authorization of a supervisor prior to starting overtime work, except when an emergency situation arises which necessitates overtime work beyond a regular shift. An employee's failure to obtain prior approval may result in denial of the overtime request. Employees shall not spend excessive amounts of time at their work station before or after their normal work period. Such incidental time will not be compensated in any manner whatsoever unless prior authorization of a supervisor is obtained.
- D. The City will provide an employee with one (1) week prior notification of scheduled mandatory overtime. If this notification is not given, an employee may refuse to work the overtime.
- E. Non-mandatory attendance at training schools/facilities which improves the performance of regular job duties and/or prepares for job advancement are not compensable as hours in excess of an employee's normal work shift. Any time spent in excess of the normal work shift will not be counted as working time and is not compensable in any manner whatsoever. Time spent in studying and other personal pursuits are not compensable hours of work under any conditions. This includes travel time to and from a training facility, for non-mandatory training, outside of an employee's work shift.
- F. Employees will be provided with a locker for their own personal convenience and may or may not utilize the locker for storage and clothes changing purposes at their own discretion. Time spent in changing clothes before or after a shift is not considered hours worked and are not compensated in any manner whatsoever.
- G. An employee who is called back to work before or after working a regular shift or work week will be compensated for a minimum of two (2) hours or for actual hours worked, whichever is greater, at the overtime rate. Call back begins the moment the employee receives notification of the call back.  
Employees who are required to attend any meetings or training outside their scheduled working hours, will be compensated at a rate of one and one half (1½) times their hourly rate for a minimum of three (3) hours.
- H. Compensatory Time Off (CTO) may be requested by an employee in lieu of overtime pay, and if approved by the City, shall be provided at time and one-half for all hours worked over eight (8) hours in one (1) day and/or forty (40) hours per week. CTO may be provided when requested on a straight time basis for a holiday "not worked". Employees may accrue up to one hundred forty (140) hours of compensatory time, may only cash out one hundred twenty (120). Unused compensatory time on the books shall be paid at termination of employment.
- I. Employees shall receive time and a half pay for working on Youth Day and Caesar Chavez Day. There will be no straight time for employees who are off.

## ARTICLE 13 - SICK LEAVE

- A. Employees shall receive sick leave at the rate of eight (8) hours per month for each calendar month of service. Sick leave time shall accrue on a monthly basis. Sick leave shall not accrue during the first six (6) months of initial probation. At the end of that time, the hours which would have accrued will be credited to the employee's sick leave balance.
- B. Sick leave may be accumulated to a maximum of nine hundred and sixty (960) hours.
- C. Sick leave granted by the City and used by an employee shall be deducted from the employee's accrued sick leave balance.
- D. Employees granted a leave of absence pursuant to Article 19, or absent from duty when not authorized by the City shall not accrue sick leave. Sick leave shall not be accrued by an employee absent from duty after separation from City service.
- E. After three (3) consecutive sick days, a physician's certificate or otherwise may be required to determine the adequacy of reasons for the sick leave absence.
- F. Bereavement Leave - Up to five (5) consecutive sick leave days may be granted per incident for death or illness involving members of an employee's family defined as: spouse, mother, father, sister, brother, children, grandparents, grandchildren, mother or father-in-law, and aunt or uncle. Evidence of family relationship may be required before such sick leave is granted. Use of Bereavement Leave shall not be counted as part of the forty-eight (48) hours Incentive Sick Leave Bonus, but will be subtracted from accrued sick leave.
- G. If an employee dies in the line of duty, that is carrying out their duties and responsibilities during a work shift, then the employee's designated beneficiary shall receive fifty (50) percent of the employee's accumulated sick leave in straight time pay. The formula for such a payment is:  
  
$$\frac{\text{Accumulated Leave}}{2} \times \text{Base Hourly Wage} = \text{Sum Total of Payout}$$
- H. Employees having ten (10) years or more of service with the City, upon retirement shall receive straight time pay for one third (1/3) of their accumulated sick leave hours.
- I. Upon request of an employee and upon approval of the Chief of Police, sick leave credits may be transferred from one or more employees to another employee, under the following conditions:

1. When the receiving employee faces financial hardship due to injury or the prolonged illness of the employee, employee's spouse or child,
  2. The receiving employee has exhausted all leave credits,
  3. The donations must be a minimum of eight (8) hours and in additional eight (8) hour increments.
- J. Sick Leave Incentive - An employee who has used forty-eight (48) hours or less of sick leave in a one (1) year period from December 1 until November 30 shall receive one percent (1%) of their base yearly salary in a separate check payable to the employee during the first week of December of that year.

**ARTICLE 14 - HOLIDAYS**

- A. Employees shall receive the following holidays on a straight time basis:
- |                                       |                               |
|---------------------------------------|-------------------------------|
| 1. New Year's Day                     | 8. Independence Day           |
| 2. Martin Luther King's Day           | 9. Labor Day                  |
| 3. President's Day                    | 10. Veteran's Day             |
| 4. Caesar Chavez Day (Only if Worked) | 11. Thanksgiving Day          |
| 5. Half Day Good Friday               | 12. Day After Thanksgiving    |
| 6. Youth Day (Only if Worked)         | 13. December 24th             |
| 7. Memorial Day                       | 14. December 25 <sup>th</sup> |
- B. Every employee shall receive two (2) floating holidays per year. Employees shall receive credit for one floating holiday on July 1, and the other floating holiday on January 1 of each year. If an employee fails to take their floating holidays off, between July 1 and June 30 of the following year, the employee will forfeit their floating holiday credit.
- C. If a holiday falls on an employee's scheduled work day, and the employee is required to work, in addition to the holiday pay at straight time, the employee shall be compensated with overtime at the rate of one and one-half the base hourly wage.

An employee who works a shift that begins on New Years Eve and extends to New Years Day will be compensated at the overtime rate of one and one-half the base hourly wage for the entire shift.

**ARTICLE 15 – VACATIONS**

- A. Employees shall earn paid vacation leave on a monthly basis at each pay period during the month.

<u>YEARS OF SERVICE</u>	<u>HOURS PER PAY PERIOD</u>	<u>ANNUAL HRS</u>	<u>DAYS</u>
0 - 3	3.38	88	11
4 - 6	4.31	112	14
7 - 9	5.23	136	17
10 - 12	6.15	160	20
13 - 16	6.77	176	22
17 - 22	7.69	200	25
23 +	8.31	216	27

- B. Vacations shall be scheduled by the employees with the approval of the Chief of Police, and with regards to the needs of the City. Preference in scheduling shall be based on seniority.
- C. Vacation leave shall not be granted during the first six (6) months of an employee's original probationary period. At the end of that time, the hours which would have accrued will be credited to the employee's vacation balance.
- D. Vacation leave granted by the City and used by an employee shall be deducted from the employee's accrued vacation balance. Vacation leave shall not be granted to an employee after separation from City service.
- E. Employees granted a leave of absence pursuant to Article 19 or absent from duty when not authorized by the City shall not earn vacation leave.
- F. In the event that a holiday recognized in this MOU occurs during an employee's scheduled vacation leave, that holiday shall not be considered as vacation leave.
- G. Employees may cash in their accrued vacation hours on approval of the City.
- H. An employee separated from City service shall be compensated for vacation hours on the books.
- I. All employees shall take at least one (1) week (five (5) consecutive working days) away from the job each year, which can be a combination of vacation, CTO, holiday, and floating holiday.

## **ARTICLE 16 - TRAINING SCHOOLS/FEEES**

- A. If, as a condition for continued employment, the City requires attendance at a school or training establishment and fees are charged, such fees shall be paid by the City.
- B. Travel time to and from a mandatory training school will be compensated by the City.
- C. It shall be the intent of the City to send each full time Peace Officer to a minimum of 40 hours of Continuous Professional Training each year.

(Continuous Professional Training will be as defined as training courses given POST credits/certificates and or college credits and includes the 24 hour mandated POST requirements).

A Representative of the WPOA will meet with the Training Supervisor during the month of October. This meeting will address the needs and/or requests of each full time Peace Officer with the needs of the department for the upcoming year of training.

- D. As scheduled by the Police Chief, firearms range training time will be considered overtime for employees not working their regular shift during such training.

## **ARTICLE 17 - TIME OFF TO EMPLOYEE REPRESENTATIVES**

The City shall allow two (2) Association employees time off from normal duties without loss of compensation or benefits when formally meeting and conferring with representatives of the City on matters within the scope of representation. In no case shall any overtime be paid for such meeting and conferring.

## **ARTICLE 18 - WORKERS' COMPENSATION INSURANCE**

The State Workers' Compensation Laws, and this MOU shall govern all aspects of work related injuries, illnesses, and accidents. Employees shall continue to receive full salary benefits in lieu of temporary disability during any absence from work which qualifies for Workers' Compensation benefits. Sick leave and vacation shall continue to accrue in accordance with the provision of State Labor Code 4850.

- A. Industrial Injuries and Accidents
  - 1. Employees shall report any work related injury, illness, or exposure which requires medical treatment to the appropriate department supervisor as soon as physically possible.

2. Employees shall report any work related injury, illness, or exposure of which the employee is aware which does not require medical treatment to the appropriate department supervisor as soon as possible, but in any event by the end of the employee's shift on which the injury, exposure or illness occurred.
  3. If an injured employee remains eligible for Workers' Compensation temporary disability benefits beyond one (1) year, full salary will continue by integrating sick leave and/or vacation accruals with Workers' Compensation benefits (use of vacation accruals must be approved by the department and the employee). If salary integration is no longer available because accruals are exhausted, Workers' Compensation benefits will be paid directly to the employee as prescribed by Workers' Compensation laws.
  4. An injured employee who is eligible for Workers' Compensation rehabilitation temporary disability benefits and who has exhausted "4850 pay" eligibility will continue to receive full salary by integrating sick leave and/or vacation accruals with Workers' Compensation rehabilitation temporary disability benefits. When these accruals are exhausted, the rehabilitation temporary disability benefits will be paid directly to the employee as prescribed by Workers' Compensation laws.
  5. The City contribution to the employee's group insurance plan(s) continues during the "4850 pay" period and during integration of sick leave or vacation with Workers' Compensation benefits.
  6. In accordance with State Labor Code Section 132(a), employees shall not be discriminated against.
- B. Accident Reporting - Employees shall report any accident involving an employee which results in any injury or property damage to other parties to the appropriate department supervisor as soon as practical.
- C. Medical Treatment - Any employee suffering from any work related injury, illness, or exposure which requires medical treatment shall immediately seek such treatment from the following City designated physician or medical facilities; Winters Medical Group during office hours, and/or Sutter Davis Hospital.
- D. Leave of Absence for Industrial Disability Qualification - An employee suffering a work related injury, illness, or exposure which disables that employee from the performance of regular job duties will request a leave of absence for industrial disability. Such a request will be submitted in the form of a Workers' Compensation claim. Any dispute regarding such claim shall be resolved through Claims Management and/or YCPARMIA.

## **ARTICLE 19 - LEAVE OF ABSENCE**

A leave of absence is time away from work at the request of the employee. As used in this Article, leave of absence does not include vacation, compensatory time off, sick leave, industrial disability, holiday, or administrative leave.

- A. An employee who has successfully completed the original probationary period may request, and the City may grant, a leave of absence. Requests for leave in excess of thirty (30) days must be approved by the City Council ( The City and Association agree that inability to return to work after an employee's sick leave has been exhausted shall be considered an urgent and substantial reason for the granting of a leave of absence.).
- B. Employee use of leave of absence for purpose other than that requested shall be considered as an employee's automatic resignation from City service.
- C. The City shall have sole discretion in approving or disapproving any employee request for a leave of absence or in granting any pay or benefits.
- D. Employees on authorized leaves of absence shall not lose any rights accrued at the time the leave is granted and such authorized leave of absence shall not be deemed a break in City service.
- E. As approved by the Police Chief an employee may return to work prior to the expiration of a leave of absence.
- F. Persons employed by the City to fill positions made vacant by an employee on leave of absence shall hold such positions subject to being laid off upon the return of the employee on leave. Employees promoted to fill positions made vacant by employees on leave shall hold such positions subject to being returned to their former position upon return of the employee.
- G. Military leave shall be granted in accordance with the provision of appropriate law. The City shall be allowed the opportunity, within the limits of law and military regulations, to determine when such leave shall be taken.

## **ARTICLE 20 - DISCIPLINE**

Full authority for administering discipline for just cause, up to and including discharge, is retained by the City. California Government Code Section 3303 et seq will be adhered to during any disciplinary investigation, procedure, or action. Prior to any interrogation in an internal investigation, an employee shall be entitled to any complaints, notes, records, or reports, except those deemed to be confidential.

A. Improper Employee Conduct - Improper employee conduct may be cause for disciplinary action. Improper conduct includes, but is not limited to, the following:

1. Fraud in securing appointment
2. Inefficiency
3. Insubordination
4. Dishonesty or theft
5. Drunkenness on duty
6. Addiction to the use of controlled substances
7. Discourteous treatment of the public or other employees
8. Willful disobedience
9. Negligent or willful misuse of City property.
10. Neglect of duty (not performing assigned tasks).
11. Conviction of any criminal act involving moral turpitude or felony.
12. Excessive or unexcused absence or tardiness.
13. Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, physical handicap, marital status, sex, or age, against the public or other employees while acting in the capacity of a City employee.
14. Unlawful retaliation against any other City officer or employee or member of the public who in good faith reports, discloses, divulges, or otherwise brings to the attention of the City or any other appropriate authority any act or information relative to actual or suspected violation of any laws of this State or of the United States occurring on the job or directly related thereto.

B. The purpose of disciplinary action is to correct deficiencies in employee performance and to assure improvement to meet job standards.

1. Oral or Written Reprimand - When the Department Head or immediate supervisor determines more severe action is not immediately necessary, an oral or written reprimand can be prepared detailing the deficiency or problem. If the reprimand is put in writing, a copy is to be filed in the employee's personnel file after being signed by and a copy given to the employee. Refusal to sign shall be noted before filing. Failure to correct deficiencies and improve to meet standards may result in further discipline including suspension, reduction in pay, demotion, and discharge. A written reprimand will remain in an employee's file for a period not to exceed six (6) months.
2. Suspension - The Department Head may suspend an employee for cause and without pay for up to thirty (30) calendar days after the appropriate disciplinary proceedings. The Department Head may authorize immediate suspensions in an emergency situation or when the seriousness of a matter warrants. The disciplinary proceedings shall determine whether any suspension shall be with or without pay or benefits.

3. Reduction-in-pay - The Department Head, may reduce an employee's pay for cause to a lower step as a disciplinary action.
  4. Demotion - The Department Head, may demote an employee for cause as a disciplinary action.
  5. Discharge - An employee may be discharged by the City for cause upon approval of the City Manager. Permanent employees shall be discharged only after appropriate disciplinary proceedings.
- C. Notice of Proposed Disciplinary Action - Except in cases of emergency or when immediate action is required, notice shall be given by the Department Head to the affected employee in accordance with procedures developed in accordance with State law. In cases of emergency or when immediate action is required, the affected employee shall be verbally informed of the reasons for the immediate action and shall be served with a notice of proposed disciplinary action as soon as possible thereafter.
  - D. Disciplinary Hearing - The disciplinary hearing is a formal meeting at which the employee has an opportunity to rebut the charges or to state any mitigating circumstances. The City Manager or designee shall hear and consider the employee's response.
  - E. Notice of Decision - Following receipt and consideration of the written response or facts stated at the disciplinary hearing, or following no response by the required date, the Department Head shall prepare a notice of the action to be taken and effective date. The notice shall be delivered to the employee and a copy filed with the City Manager.
  - F. Appeal of Decision - In the event that an affected employee is not satisfied with the decision after the hearing, the decision may be appealed in writing to the City Council within thirty (30) calendar days from the date of filing. The City Council shall hear the matter, and after due consideration, shall give a written decision to the employee within twenty (20) calendar days.
  - G. Employee Representation - Employees may have a representative present at all stages of the disciplinary process provided that the representative is not a party to the action involved.
  - H. Retribution for Appeal - No employee shall be penalized in any way for participating in the appeal process.
  - I. Multiple Penalties - No employee shall receive more than one (1) disciplinary action for any individual occurrence of a violation leading to the discipline.

## ARTICLE 21 - GRIEVANCE PROCEDURES

A grievance is an alleged violation of a specific clause of this MOU. The Association may grieve an action or inaction pursuant to the procedures herein specified.

- A. Informal Grievance Procedure - The first attempt to settle a grievance will be through discussion with the immediate supervisor. If the matter is not settled, the employee shall then have the right to file a formal appeal in writing to the Police Chief within fifteen (15) calendar days after receiving a decision from the immediate supervisor.

If grievance involves supervisors, employee can discuss the matter with the Chief.

- B. Formal Grievance Procedure - An employee filing a formal appeal shall do so in accordance with the following:

- 1. First Level of Review - The appeal shall be presented in writing to the Police Chief who shall render a decision in writing within fifteen (15) work days after receiving the appeal. If the employee determines that further appeal is necessary, or if no answer has been received within the time period, the employee may present a written appeal to the City Manager. Should the employee fail to take action within fifteen (15) work days after receiving a decision, or non-decision from the Police Chief, the appeal shall be deemed to have been abandoned and terminated.

- 2. City Manger Review - The City Manager or a designated representative shall discuss the grievance with the employee and other persons as may be needed. The City Manager may designate a fact finding committee for advice concerning the appeal. The City Manager shall render a decision in writing to the employee within fifteen (15) work days. If the employee does not agree with the decision, the employee shall have the right to file a formal appeal in writing to the City Council within fifteen (15) work days after receiving a decision or non-decision from the City Manager.

- C. Appeal to the City Council - On receipt of an appeal, the City Council may make such investigations as it deems necessary. The City Council will decide whether or not to hear the appeal or appoint a hearing officer or hearing body. The employee may request that the appeal be considered at a public or closed meeting. The City shall notify the employee requesting the hearing of the date, time, and place of the hearing. Unless incapacitated, the employee making an appeal shall appear personally at the hearing before the City Council or appointed hearing officer or body.

Upon concluding any investigation or hearing, the City Council shall cause its findings to be prepared in writing and shall certify same. Such findings shall be

countersigned and filed as a permanent record by the City Manager. Any member of the City Council may submit a minority or supplemental report which shall be part of the permanent record.

If, due to the absence from the City, or illness or disability of a majority of the City Council, an employee would be deprived of a right of a hearing, and in the event the employee were demoted, reduced in pay, or dismissed from City employment, the City Manager shall defer action until the Council is able to function, unless the case is deemed an emergency, in which event, the City Manager may suspend the employee with pay until the Council is able to function.

D. Conduct of Grievance Procedure.

1. The time limits specified in this Article may be extended to a definite date by mutual agreement of the employee and the appellate person or body.
2. The employee may be represented by a person or persons of their choosing in preparing and presenting the appeal at any level of review.
3. The employee shall be assured freedom from reprisal for using the grievance procedures.

## **ARTICLE 22 - SAFETY AND HEALTH**

Pursuant to advice and/or requirements of the City's Insurance Carrier the City will make provisions for the safety and health of City employees during work hours. Procedures, protective devices, safety wearing apparel, equipment and facilities will be provided by the City and shall comply with the requirements under applicable regulations or laws. Employees shall utilize such safety and health procedures, devices, apparel, equipment and facilities when needed or required and failure to do so may be cause for disciplinary action.

The City shall provide each employee with the following:

1. Sam Brown Belt
2. Duty Weapon
3. Holster, Duty Weapon
4. Handcuffs (2 pair, "Peerless")
5. Handcuff Cases (2)
6. Magazines (3)
7. Magazine Case
8. Baton
9. Baton holder
10. Aerosol Tear Gas
11. Gas Canister Holder
12. Flashlight (SL-20 Aluminum)

13. Flashlight Holder
14. Keepers (4)
15. Badge, Departmental
16. Hat Piece, Departmental
17. Ballistic Vest (Soft Body Armor of not less than Threat Level 111A or Better – To be replaced no later than every five years or sooner if deemed to be unsafe, worn or defective.)
18. Raincoat
19. Rain Pants
20. Hat Cover, Rain
21. Kevlar Helmet
22. CPR Mask w/bag
23. Duty Ammunition
24. Protective Nitrile Gloves
25. Stinger flashlight
26. Stinger holder
27. Electronic control device
28. Electronic control device holder
29. Baseball Cap

All the foregoing equipment is City owned and will be used and maintained as the City deems necessary. Items which become unserviceable as a result of normal use or through no substantial fault of the employee shall be replaced by the City.

- A. With the Police Chief's approval, an employee may substitute privately owned equipment for City issued equipment, and utilize any additional private safety equipment.
- B. Upon leaving City service an employee shall return all the equipment in good working order excepting normal wear. The cost of damaged or missing equipment shall be deducted from an employee's termination check.
- C. The City will reimburse an employee for the repair or replacement cost of approved personal property that is damaged, destroyed or lost in the line of duty not to exceed \$150.00 (one hundred fifty dollars) per employee per year. Replacement shall not include cash or coins, credit cards, or decorative jewelry.

## **ARTICLE 23 - NON-DISCRIMINATION**

Neither the City or the Association shall discriminate against any employee or applicant for employment because of race, color, creed, age, sex, national origin, or Association or Non-Association activities.

**ARTICLE 24 - SAVINGS PROVISION**

If any provision(s) of this MOU are held contrary to law, such provision(s) will not be deemed valid and subsisting except to the extent permitted by law, but all other provisions will continue in full force and effect.

**ARTICLE 25 - TERM OF MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding shall remain in full force and effect from July 1, 2009, through and including June 30, 2010

. Negotiations to begin ninety (90) days prior to expiration of MOU.

**ARTICLE 26 - CONCLUSIVENESS OF MEMORANDUM OF UNDERSTANDING**

The parties acknowledge that during the negotiations which resulted in the MOU, each had the right and opportunity to make demands and proposals with respect to subjects within the scope of representation. The understanding set forth in this MOU constitute the complete and total contract between the City and the Association with respect to wages, hours, and terms and conditions of employment. Accordingly, all wages, hours and terms and conditions of employment shall remain in full force and effect for the term of this MOU, provided, however, that the parties may upon mutual agreement, renegotiate any part or provision of this MOU during its term. Any prior or existing MOU between the parties, past practices or conflicting rules and regulations regarding matters within the scope of representation are hereby superseded and terminated in their entirety.

Approved by the City of Winters Police Officers Association on the 15 day of November, 2009.

BY: [Signature]  
Association Representative

BY: [Signature]  
Association Representative

Accepted for submittal to the City Council on the \_\_\_ day of \_\_\_\_\_, 2009.

BY: \_\_\_\_\_  
John W. Donlevy, Jr., City Manager

APPROVED, RATIFIED, AND ORDERED IMPLEMENTED by the Winters City Council on the \_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Michael Martin, Mayor

ATTEST: \_\_\_\_\_  
Nanci G. Mills, City Clerk



CITY COUNCIL  
STAFF REPORT

**TO:** Honorable Mayor and Councilmembers  
**DATE:** November 13, 2009  
**THROUGH:** John W. Donlevy, Jr., City Manager  
**FROM:** John C. Wallace, City Attorney  
**SUBJECT:** Ordinance No. 2009-13

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**RECOMMENDATION:** Conduct the Second Reading of Ordinance No. 2009-13, adopt by title only.

**BACKGROUND:** This ordinance will establish a registration procedure for homes abandoned or made vacant by eviction or foreclosure. Past experience shows that such homes are subject to vandalism, theft, damage, deterioration and fraud. The registration required in the ordinance, and maintenance, will aid the city in requiring the owner or responsible persons to maintain the property and stop neighborhood blight and City expense in monitoring and stopping such blight. The ordinance, if adopted, shall take place 30 days after adoption.

**FISCAL IMPACT:** Cost of publication, staff time. This will be offset by registration fees.

**ORDINANCE NO. 2009-13**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS, ADDING CHAPTER 17.120, VACANT AND ABANDONED PROPERTY REGISTRATION, TO THE WINTERS MUNICIPAL CODE TO REQUIRE OWNERS AND OTHER PERSONS RESPONSIBLE FOR VACANT AND ABANDONED PROPERTY TO REGISTER WITH THE CITY AND TO MAINTAIN SUCH PROPERTY**

**WHEREAS**, vacant buildings are a major cause and source of blight in both residential and non-residential neighborhoods, especially when they are not maintained or secured; and

**WHEREAS**, vacant buildings attract vagrants, gang members and other criminals and are prime locations to conduct illegal criminal activities; and

**WHEREAS**, vacant buildings are vulnerable to misuse by transients and others using the property without authorization; and

**WHEREAS**, vacant buildings that are not maintained or secured pose serious threats to the public's health and safety and therefore are declared to be public nuisances; and

**WHEREAS**, it is the responsibility of owners and also of all other persons holding equitable title or any other interest in property to prevent such property from becoming a burden to the neighborhood and community and a threat to the public health, safety and welfare.

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Winters hereby does find, determine and declare based on evidence presented the following:

*Section 1.* The above recitals are all true and correct.

*Section 2.* Chapter 17.120 (Vacant and Abandoned Property Registration), of Title 17 (Zoning), of the Winters Municipal Code is hereby added to state the following:

**"CHAPTER 17.120 VACANT AND ABANDONED PROPERTY REGISTRATION**

- 17.120.010 Purpose; scope.**
- 17.120.020 Definitions.**
- 17.120.030 Registration.**
- 17.120.040 Inspection and registration of previously abandoned properties.**
- 17.120.050 Maintenance requirements.**
- 17.120.060 Security requirements.**
- 17.120.070 Additional authority.**
- 17.120.080 Enforcement.**
- 17.120.090 Violation; penalty.**

**17.120.010 Purpose; scope.**

It is the purpose and intent of the Winters City Council, through the adoption of this chapter, to establish an abandoned or vacant property registration program as a mechanism to protect neighborhoods and commercial areas from becoming blighted through the lack of adequate maintenance and security of abandoned and vacated properties.

**17.120.020 Definitions.**

For the purposes of this chapter, certain words and phrases used in this chapter are defined as follows:

"Abandoned" means a property that is vacant and is: 1) under a current notice of default; 2) under a current notice of trustee's sale; 3) pending a tax assessor's lien sale; 4) any property that has been the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure; and 5) any property transferred under a deed in lieu of foreclosure/sale.

"Accessible property" means a property that is accessible through a compromised/breached window, gate, fence, wall, etc.

"Accessible structure" means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

"Beneficiary" means a lender or holder of a note secured by a deed of trust.

"Beneficiary/Trustee" means both the beneficiary and the Trustee. When any act is required of the beneficiary/trustee by this Chapter, both are responsible for performing such act and may be charged with a violation of this Code for failure to act. However, it is sufficient if it is accomplished by either one. If information is required to be provided, then both must provide such information.

"Deed of trust" means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan and often used in California instead of a mortgage. This definition applies to any and all subsequent deeds of trust, i.e., second trust deed, third trust deed, etc.

"Deed in lieu of foreclosure/sale" means a recorded document that transfers ownership of a property from the trustor to the holder of a deed of trust upon consent of the beneficiary of the deed of trust.

"Distressed" means a property that is under a current notice of default and/or notice of trustee's sale and/or pending tax assessor's lien sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary/trustee via a deed in lieu of foreclosure/sale.

"Evidence of vacancy" means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant and not occupied by authorized persons. Such conditions include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, and statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.

"Local" means within 1 road/driving mile distant of the subject property.

"Notice of default" means a recorded notice that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee's sale.

"Out of area" means in excess of 2 road/driving miles distance of the subject property.

"Owner of record" means the person having title to the property at any given point in time the record is provided by the Yolo County Recorder's Office.

"Property" means any unimproved or improved real property, or portion thereof, situated in the City and includes the buildings or structures located on the property regardless of condition.

"Responsible person" means any person, partnership, association, corporation, or fiduciary having legal or equitable title to or any interest in any real property and includes trustees and beneficiaries of a deed of trust on the property and any other lien holder on the property.

"Securing" means such measures as may be directed by the Director of Community Development, or his or her designee, that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining or padlocking of gates, the repair or boarding of door, window and/or other openings. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required.

"Trustee" means the person, firm or corporation holding a deed of trust on a property.

"Trustor" means a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.

"Vacant" means a building/structure that is not occupied by authorized persons.

**17.120. 030. Registration.**

Any beneficiary/trustee, who holds a deed of trust on a property located within the City of Winters shall perform an inspection of the property that is the security for the deed of trust upon default by the trustor prior to recording a notice of default with the Yolo County Recorder's Office. If the property is found to be vacant or shows evidence of vacancy, it is, by this chapter, deemed abandoned and the beneficiary/trustee shall, within 10 days of the inspection, register the property with the Community Development Director, or his or her designee, on forms provided by the City.

(A) If the property is occupied but remains in default it shall be inspected by the beneficiary/trustee, or an agent/designee of the beneficiary/trustee, monthly until (1) the trustor or another party remedies the default; or (2) the foreclosure is completed and ownership is transferred to a new owner who is not the former beneficiary or trustee; or (3) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the beneficiary/trustee shall, within 10 days of that inspection, register the property with the Community Development Director, or his or her designee, on forms provided by the City.

(B) The beneficiary/trustee shall also register any property which becomes vacant after a foreclosure sale where the title was transferred to the beneficiary of a deed of trust involved in the foreclosure and any property which becomes vacant after being transferred under a deed in lieu of foreclosure/sale.

(C) Such registration shall contain the following information for both the beneficiary and the trustee: name (corporation or individual); the street/office address (not a P.O. box) and, if different, the mailing address; a direct contact name and phone number for the person handling the deed of trust and/or foreclosure; and, in the case of a corporation or out-of-area beneficiary or trustee, the local property manager responsible for the security and maintenance of the property.

(D) The annual registration fee in an amount established by City Council resolution, shall accompany the registration form. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1st of each year and must be received no later than January 31st of the year due.

(E) Persons required to register a property pursuant to this chapter shall keep such property registered and all required information updated and shall comply with all of the security and maintenance requirements of this chapter for the entire time said property remains vacant. When such property becomes occupied or title is transferred, the beneficiary/trustee or prior responsible person shall notify the Community Development Director, or his or her designee, in writing.

(F) Any person, firm or corporation required to register a property pursuant to this chapter must report any change of information contained in the registration within 10 days of the change.

#### **17.120.040 Inspection and Registration of Previously Abandoned Properties.**

Any beneficiary/trustee, who holds a deed of trust on a property located within the City of Winters, which property is, on the effective date of this chapter: A) under a current notice of default; B) under a current notice of trustee's sale; C) pending a tax assessor's lien sale; D) that has been subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure; or E) which was transferred under a deed in lieu of foreclosure/sale, shall, on or before December 1, 2008, perform an inspection of the property that is the security for the deed of trust. If the property is found to be vacant or shows evidence of vacancy, it is, by this chapter, deemed abandoned and the beneficiary/trustee shall, within 10 days of the inspection, register the property with the Community Development Director, or his or her designee, on forms provided by the City.

#### **17.120.050 Maintenance Requirements.**

Responsible persons, including beneficiaries/trustees shall maintain properties subject to inspection and/or registration pursuant to this chapter as required by this chapter and any other applicable provisions of federal, state or local law, and shall keep such properties free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including but not limited to furniture, clothing, large and small appliances, or printed material and shall take any other action necessary to prevent giving the appearance that the property is abandoned including, but not limited to, the following:

A) The property shall be kept free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

B) Visible front and side yards shall be landscaped and maintained in accordance with city requirements and neighborhood standards.

C) Permitted landscaping includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation.

D) Permitted landscaping does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, indoor-outdoor carpet or any similar material.

E) Required maintenance includes, but is not limited to, regular watering, irrigation, cutting, pruning and mowing of required landscape and removal of all trimmings.

F) Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry. In either case

properties with pools and/or spas must comply with the minimum security fencing requirements of the State of California.

#### **17.120.060 Security Requirements.**

Responsible persons including beneficiaries/trustees shall secure properties subject to inspection and/or registration pursuant to this chapter in a manner to prevent access by unauthorized persons including, but not limited to, the following; the closure and locking of windows, doors (walk-through, sliding and garage), gates and any other opening of such size that may allow a child to access the interior of the property and or structure(s). In the case of broken windows, securing means the re-glazing or boarding of the window. Responsible Persons shall do the following:

(A) If the responsible person is a corporation and/or out-of-area beneficiary/trustee or owner, a local property manager shall be hired to perform weekly inspections to verify that the requirements of this chapter and any other applicable laws are being met.

(B) The property shall be posted with a sign no less than 18 inches by 24 inches and shall be of a font that is legible from a distance of 45 feet and shall state "THIS PROPERTY MANAGED BY" followed by a name, and "TO REPORT PROBLEMS OR CONCERNS CALL" followed by a 24-hour contact phone number. The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible from the street or, if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the property but not readily accessible to vandals. Exterior posting must be constructed of and printed with weather resistant materials.

(C) The responsible person or local property manager shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this chapter.

#### **17.120.070 Additional Authority.**

In addition to the enforcement remedies established in the Winters Municipal Code, the Community Housing Director, or his or her designee, shall have the authority to require the responsible person for any property affected by this section to implement additional maintenance and/or security measures including, but not limited to, securing any and all door, window or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard,

disconnecting utilities and removing the meter boxes, or other measures as may be reasonably required to arrest the decline of the property and prevent unauthorized entry.

**17.120.080 Enforcement.**

Violations of this chapter may be enforced in any combination as allowed in chapters 17.40 and 1.16 of this code, together with the specific authority to levy administrative fines pursuant to California Civil Code Section 2929.3.

**17.120.090 Violation; Penalty.**

A violation of this chapter shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this section shall be subject to prosecution and/or administrative enforcement as provided in Section 17.120.080 and subject to the penalties set forth therein. It shall constitute a new and separate offense for each and every day during any portion of which a violation of, or failure to comply with, any provision or requirement of this chapter is committed, continued, or permitted by any person, and such person shall be punished accordingly."

**Section 3.** California Environmental Quality Act. In approving this ordinance, the City Council finds that this action is statutorily exempt under the California Environmental Quality Act (California Public Resources Code Section 21000, et seq.) ("CEQA") as to the setting and structuring of administrative fees pursuant to CEQA Guidelines Section 15273 and is categorically exempt pursuant to CEQA guidelines Section 15321 in that the provisions of this ordinance are intended to better enforce existing building, zoning, housing and other municipal code standards in the City of Winters.

**Section 4.** Inconsistent Provisions. Any provision of the Winters Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

**Section 5.** Severability. If any provision, section, paragraph, sentence or word of this ordinance, or the application thereof to any person or circumstance, is rendered or declared invalid by any court of competent jurisdiction, the remaining provisions, sections, paragraphs, sentences or words of this ordinance, and their application to other persons or

circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this ordinance are severable. **Section 6. Effective Date.** The Mayor shall sign and the City Clerk attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This ordinance shall become effective 30 days from its adoption.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Winters, California, held on \_\_\_\_\_, 2009, and was passed and adopted at a regular meeting of the City Council held on \_\_\_\_\_, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Michael Martin, MAYOR

ATTEST:

\_\_\_\_\_  
Nanci G. Mills, City Clerk



CITY COUNCIL  
STAFF REPORT

**TO:** Honorable Mayor and Councilmembers  
**DATE:** November 13, 2009  
**THROUGH:** John W. Donlevy, Jr., City Manager  
**FROM:** John C. Wallace, City Attorney  
**SUBJECT:** Ordinance No. 2009-14

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**RECOMMENDATION:** Conduct the Second Reading, and adopt Ordinance No. 2009-14, by title only.

**BACKGROUND:** This ordinance will establish a reimbursement right for police service response to incidents involving drivers under the influence (provided for by Government Code Section 53156). The ordinance will establish a reimbursement right for multiple police service response to the same address for loud or large parties. Both occurrences involve the drain on police services that are necessary elsewhere. The ordinance, if adopted, shall take place 30 days after adoption.

**FISCAL IMPACT:** Cost of publication, staff time. This will be offset by billings for police response currently not being made.

**ORDINANCE NO. 2009-14**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS, ADDING CHAPTER 9.20 TO THE WINTERS MUNICIPAL CODE, REIMBURSEMENT FOR POLICE SERVICE - RESPONSE TO EMERGENCY INCIDENTS INVOLVING ALCOHOL, MULTIPLE RESPONSES TO LOUD OR LARGE PARTIES**

**WHEREAS**, California Government Code Section provides for the recovery of police service response to negligent operation by a person of a motor vehicle, boat, vessel, or civil aircraft, while under the influence of any alcoholic beverage or drug, or combination thereof, causing any incident requiring an appropriate emergency response; and

**WHEREAS**, loud or large parties on private property can constitute a threat to the peace, health, safety, or general welfare of the public. Police officers have been required to make many return calls to loud or large parties in order to disperse uncooperative or unruly participants in order to restore the public peace and safety. Such return calls drain the manpower and resources of the police department, and can leave other areas of the City without minimal levels of police protection so as to create a significant hazard to the safety of citizens and police officers; and

**WHEREAS**, the City Council of the City of Winters finds it unfair and inequitable to force other taxpayers to pay for these services; and

**WHEREAS**, the City Council of the City of Winters intends by this ordinance to maintain full levels of police response services in Winters, to protect fully the peace, health, safety, or general welfare of the public;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WINTERS DOES ORDAIN AS FOLLOWS:**

***Section 1.*** The above recitals are all true and correct.

***Section 2:*** Chapter 9.20 is hereby added to the Winters Municipal Code to read as follows:

## Chapter 9.20

### REIMBURSEMENT FOR POLICE SERVICE

#### Sections:

**9.20.010 Findings.**

**9.20.020 Purpose.**

**9.20.030 Definitions.**

**9.20.040 Police response to loud or large parties.**

**9.20.050 Police emergency response to incidents involving alcohol or drugs (Government Code Sections 53150-53159)**

**9.20.060 Billing.**

**9.20.070 Debt of City.**

**9.20.080 Appeal.**

#### **Section 9.20.010 Findings.**

(1) The City Council finds and determines that loud or large parties on private property can constitute a threat to the peace, health, safety, or general welfare of the public. Police officers have been required to make many return calls to loud or large parties in order to disperse uncooperative or unruly participants in order to restore the public peace and safety. Such return calls drain the manpower and resources of the police department, and can leave other areas of the City without minimal levels of police protection so as to create a significant hazard to the safety of citizens and police officers.

(2) The City Council finds and determines that California Government Code Section provides for the recovery of police service response to negligent operation by a person of a motor vehicle, boat, vessel, or civil aircraft, while under the influence of any alcoholic beverage or drug, or combination thereof, causing any incident requiring an appropriate emergency response.

(3) The City Council finds and determines that to fully provide police services in Winters, reimbursement as provided by Government Code Sections 53150 through 53159 is warranted and is to be collected by the City of Winters as provided herein.

#### **Section 9.20.020 Purpose.**

The purpose of this chapter is to allow the City to obtain reimbursement for expenses related to second and additional responses to loud or large parties which have been determined to be a threat to the public peace, health, safety

or general welfare, and to obtain reimbursement for all conduct specified in Government Code Sections 53150 through 53159. In addition, City shall have the right to obtain reimbursement for any other similar conduct or where recovery is allowed by state or federal law.

### **Section 9.07.030 Definitions.**

For the purpose of this chapter, the following words and phrases shall have the meanings given herein:

"Emergency Response" shall mean an appropriate response of police, rescue personnel or others to an emergency incident. The use or non-use of sirens or emergency flashers shall not affect the City's right to recovery and reimbursement.

"Large party" or "loud party" means a gathering or assembly of persons on a premises within the City of Winters at the invitation, request, or consent of the person in charge or control of the premises.

"Police service fee for a large party or loud party" means all costs of personnel and equipment for the amount of time actually spent in responding to or in remaining at a loud or large party at a rate established by resolution of the City Council.

"Police expense of an emergency response" means all costs of personnel and equipment for the amount of time actually spent in responding to or in remaining at a location for which a reimbursement right is allowed under Government Code Sections 53150 through 53159.

"Responsible party" means, in the case of large parties or loud parties, that person or persons in charge of the premises or location, or the person or persons responsible for the event or incident, and shall include any of the following:

1. The person or persons who own the property where the loud or large party takes place.
2. The person or persons in charge of the premises where the loud or large party takes place.
3. The person or persons authorizing the use of the premises for the loud or large party.
4. The person or persons who organized the large party.

If any of those persons are minors, the parent or guardians of such minor(s) shall be the responsible party.

"Responsible Party" means the persons liable for reimbursement costs as specified in California Government Code Sections 53150 through 53159.

"Subsequent police response" means any police response to the location of a loud or large party made within fifteen days after a police

officer has given a written warning to the responsible party notifying said person that a police services fee will be imposed for a subsequent response to abate the nuisance.

**Section 9.07.040 Police response to loud or large parties.**

A. If a loud or large party occurs or is held and the police officer initially investigating the matter determines that the same is a threat to the public peace, health, safety or general welfare or constitutes a nuisance, said officer shall, in addition to any other duty or responsibility imposed by law, give a written warning (disturbance violation notice) to the responsible party that if a further response is necessary because of the continuation of any objectionable activity that the responsible party will be held liable to the City for the amount of the police service fee.

B. A police service fee shall be imposed if a subsequent police response to the loud or large party is necessary to control or abate the nuisance or to protect the public peace, health, safety or general welfare.

C. The provisions of this chapter are in addition to the authority of the police to regulate loud or large parties and shall supplement, and not supplant, the exercise of any other available law including, but not limited to, arrest or citation pursuant to the California Penal Code or other law or ordinance.

**9.20.050 Police emergency response to incidents involving alcohol or drugs (Government Code Sections 53150-53159)**

A. The City shall be entitled to reimbursement for all police responses to emergency incidents specified under California Government Code Sections 53150 through 53159.

B. No conviction of a criminal offense shall be required or affect the right of the City to reimbursement.

**9.20.060 Billing**

The Chief of Police or the designee of the Chief of Police shall notify the Finance Department in writing of the name and address of the person responsible for the party, the date and time of the incident, of the services performed and the police services required, and such other information as may be necessary. The Finance Department shall thereafter cause appropriate billing of the police service fee to be made to the responsible party.

**Section 9.07.060 Debt of City.**

The amount of any police service fee charged pursuant to this chapter shall be deemed a civil debt owing to the City by the responsible party.

**Section 9.07.070 Appeal.**

A. Any person receiving a bill for police services provided pursuant to this chapter, may, within fifteen days after said bill was sent, file a written request appealing the police services fee imposed with the City Manager. The City Manager or the appointed designee of the City Manager shall set the matter for a hearing, which hearing shall be within thirty days after receipt of the notice of appeal or such longer period as may be agreed to by the appellant. The City Manager or the designee of the City Manager shall render a written decision on the appeal within ten days following the close of the hearing. The decision of the City Manager or the designee of the City Manager shall be final.

B. After a request for appeal is filed, the City shall withhold collection of the bill until conclusion of the appeal.

C. If, after a hearing, the appeal is denied in part or in full, all amounts due to the City shall be paid within thirty days.

**Section 3:** California Environmental Quality Act. In approving this ordinance, the City Council finds that this action is statutorily exempt under the California Environmental Quality Act (California Public Resources Code Section 21000, et seq.) ("CEQA") as to the setting and structuring of administrative fees pursuant to CEQA Guidelines Section 15273.

**Section 4.** Inconsistent Provisions. Any provision of the Winters Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

**Section 5.** Severability. If any provision, section, paragraph, sentence or word of this ordinance, or the application thereof to any person or circumstance, is rendered or declared invalid by any court of competent jurisdiction, the remaining provisions, sections, paragraphs, sentences or words of this ordinance, and their application to other persons or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this ordinance are severable.

**Section 6.** Effective Date. The Mayor shall sign and the City Clerk attest to

the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This ordinance shall become effective 30 days from its adoption.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Winters, California, held on November 3, 2009, and was passed and adopted at a regular meeting of the City Council held on \_\_\_\_\_, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Michael Martin, Mayor

**Attest:**

\_\_\_\_\_  
Nanci G. Mills, City Clerk



CITY COUNCIL  
STAFF REPORT

TO: Honorable Mayor and Councilmembers  
DATE: November 17, 2009  
FROM: John W. Donlevy, Jr., City Manager *JWD*  
SUBJECT: Fiscal Sustainability Workshop

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**RECOMMENDATION:**

That the City Council set a date for an evening workshop session to review and develop an overall Fiscal Sustainability and budget balancing strategy for the City of Winters.

**BACKGROUND:**

Since August, 2009, the City Council and Staff have reviewed issues surrounding the fiscal sustainability of the City of Winters. There have been two (2) reports presented to the City Council with background information. The third and final session is to begin a process of developing overall strategies to address the fiscal issues facing the City.

Staff is recommending that for the third session, the City Council schedule a workshop independent of a regularly scheduled meeting.

Dates recommended by Staff include:

- December 9, 2009
- December 10, 2009
- December 14, 2009

Any meeting would begin at 6:30 a.m.

**FISCAL IMPACT:** None by this action.