



Winters City Council Meeting
City Council Chambers
318 First Street
Tuesday, January 5, 2010
6:30 p.m.
AGENDA

Members of the City Council

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

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

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 Fiscal Sustainability Workshop of the Winters City Council Held on Thursday, December 10, 2009 (pp 1-7)
- B. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, December 15, 2009 (pp 8-13)
- C. Resolution 2010-01, A Resolution of the City Council of the City of Winters, Approving the Submittal of an Application for Statewide Park Program Grant Funds (pp 14-17)

PRESENTATIONS

DISCUSSION ITEMS

1. Second Hearing and Possible Adoption of Ordinance 2009-18, an Ordinance of the City of Winters Repealing Section 17.60.030 (B) and Adding Chapter 17.200 to the Zoning Code Pertaining to Affordable Housing Requirements (pp 18-32)
2. Gateway Roadway and Planning Process Overview (pp 33)

COMMUNITY DEVELOPMENT AGENCY

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CITY MANAGER REPORT

INFORMATION ONLY

EXECUTIVE SESSION

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the December 15, 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 December 22, 2009, and made available to the public during normal business hours.

Jucy Jensen for Nanci G. Mills
Nanci G. Mills, City Clerk

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Wednesday at 10:00 a.m.

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Minutes of the Winters City Council Fiscal Sustainability
Workshop Held on December 10, 2009

Mayor Michael Martin called the meeting to order at 6:30 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, Community Development Director Nellie Dyer, Director of Financial Management Shelly Gunby, Housing Programs Manager Dan Maguire, Public Works Superintendent Eric Lucero, Grant Writer Dawn Van Dyke, Executive Secretary to the City Manager MaryJo Rodolfa, After School Program Coordinator Nancy Gonnella, Chief Building Official Gene Ashdown, Chief of Police Bruce Muramoto, Fire Chief Scott Dozier, Environmental Services Manager Carol Scianna, Associate Elliot Landes, and City Clerk Nanci Mills.

The Pledge of Allegiance was led by Nancy Gonnella.

Approval of Agenda: City Attorney Wallace requested that the public comment portion of the agenda be removed and that those attending may address agenda items only. No non-agenda items will be heard at this meeting. Motion by Council Member Stone, second by Council Member Aguiar-Curry to approve the amended agenda as requested. Motion carried unanimously.

Mayor Martin said a letter, addressed to the Council, had been received by Albert Vallecillo.

COUNCIL/STAFF COMMENTS: None

PUBLIC COMMENTS: None

DISCUSSION ITEMS

1. Budget and Fiscal Sustainability Workshop
 - A. Fiscal Sustainability Presentation
 - B. Prioritization of Service and Program Reductions
 - C. Consideration of Tax Increases
 - D. Consideration of Current Project continuance
 - E. Economic Development Programs

City Manager Donlevy gave an overview of the Fiscal Sustainability presentation, reviewed the reserves policy and voiced his concern regarding the declining reserves, stating reserves are critical and cash flow is needed. Property taxes are our largest revenue, and due to property tax reductions, 2012-2013 is our biggest concern. Director of Financial Management Gunby gave an overview of the Fiscal Forecasting Model, reviewing the municipal taxes and possible tax increases. City Manager Donlevy said the potential threats to the 2010-2011 revenues include the Highway Users Tax, Triple Flip amounts, COPS funding, ERAF, Proposition 42 transportation funding and Redevelopment Tax Increment. He stressed that the City cannot run out of money and that reserves are critical. Reserves provide cash flow. Options to consider are reduction of services and programs, tax increases, economic development and project suspension. This would not include the police department, which is currently operating with a skeletal crew. One officer is on duty during most shifts.

Director of Financial Management Gunby gave an overview of the Service and Programs Table 1, reviewing the municipal taxes and the possible taxation of units on the upcoming election in 2010. City Manager Donlevy reviewed the possible projects to postpone and the economic development goal and why it is so important. Economic development will bring jobs, create a business to business atmosphere, support the local community and bring a balance beyond housing. The City's weaknesses include the current business base, which contains the same footprint as 100 years ago, but has fewer businesses and less traffic. Shelly said there are fiscal things to consider: 1% of the business activity is earned in sales tax, and a hotel would earn 10% sales tax.

Director of Financial Management Gunby reviewed the Top Sales Tax Categories in Winters in 2008, which included Gas/Transportation (40%) and Restaurants/Entertainment (29%). She compared the tax per capita and state rank in 2008 to other cities in California, and compared the Winters sales per capita to County and State levels.

City Manager Donlevy said an aggressive recruitment of industry is needed, including a freeway-serving development and reviewed the fiscal benefits of a co-brand project, which would include food and a service station. He also suggested an Impact Fee Review, which would include the re-evaluation of the Development Fee Impact, elimination of projects, a reduction in fees and the zoning of impact fees. Another fiscal benefit would be an amendment to the Flood Overlay Area, which would allow development to proceed and assessments to be recorded with the development in each quadrant of the City. Council Member Fridae asked for clarification on dividing the City into four areas. City Manager Donlevy said the fee program would be specific to each area and would require a nexus study.

Following a 10-minute recess, Mayor Martin opened the meeting to public comment.

Rebecca Fridae, 112 Liwai Village Ct., spoke regarding Economic Sustainability and said "the amenity IS Winters."

Kevin Chester, swim coach for 6 years, said closing the pool would take away programs from the kids. It would also be a tremendous hardship to eliminate the after-school activities associated with the swimming pool.

Gail Wingard, 910 Apricot, asked if there was a lawsuit pending against the City of Winters? City Attorney Wallace confirmed there is active litigation regarding an ADA lawsuit, but has not been included in the financial forecast. Mr. Wingard suggested receiving more input before making any decisions, establish committees to discuss group interests, and in an effort to conserve funds, suggested the review of contracts, look at employees, and review the frequency of garbage pick-up.

Marie Heilman, 116 Abbey, doesn't want to see the Community Center closed. This is where local seniors are served lunch daily through the Elderly Nutrition Program. The local theater company uses the Community Center free of charge, while charging for admission and refreshments. All groups should pay to use the Center, and the fees should be increased from \$35 to \$50 per hour and non-profit organizations should have to pay the same rate. She also added that shopping and entertainment is needed in Winters.

Wade Cowan, 106 Third St., said due to the lack of new development, there is no new money and no new tax base. He opposed the elimination of the Community Development Director and Building Inspector positions. If these services are needed, it would cost more to hire outside consultants.

David Cliché, 723 Lupine, said he understood the struggles with all of the issues of which items to cut and asked the Council to pull together and assess which services can be streamlined. He was present to support the Building Official, who deals with life and safety. To hire contract labor would result in higher costs.

Lisa Gaynes, 25928 Venada Dr., suggested we create productive ways to produce revenue. Avoid cuts and think generate. There doesn't appear to be any pro-active participation from the community. Please ask the community for help. Committees can be formed to discuss ways to create revenue.

Lisa Nalbhone, 514 Abbey, asked the Council to consider raising taxes, as she doesn't want to lose services or see programs cut. You get what you pay for and it's worth it to keep these services and programs in place.

Bill Biasi, 400 Edwards Street, is not in favor of new taxes in the current economy. We are in tough economic times with furloughs and pay cuts. This is not the time to increase taxes. Regarding the Phase II Development in the Downtown, he is opposed to the discontinuation of this project. The curb cuts are currently not compliant with ADA requirements at Railroad and Main. Regarding the Putah

Creek Trail, he supports proceeding with this project. He also suggested raising money and not increasing taxes. He supports the development of property at the freeway and fast-tracking may be needed to bring in hotels, restaurants or fast food. He urged Council to pursue Grant Avenue development to enhance the City, including the Downtown.

Ana Kormos, 310 Main St., echoed the comments made by Lisa Gaynes. As a representative of Winters Healthcare, she would like to promote the health of the community.

Kurt Balasek, 8797 Quail Canyon Rd., attended the meeting as a representative of the Winters Putah Creek Committee representative, which was re-formed three years ago. As they move on to the second project, he recommended they continue to move forward as the project is paid for. To discontinue this project may jeopardize the Car Bridge project. If the money is repaid, fiscal problems may be created and could impact our ability for future funding. A nominal amount of money will be required to maintain the trails. He also thanked the Council for their hard work and dedication.

Jeanne Vaughan Ramon, 422 Main St., spoke of Winters residents Falcia Diaz, who wanted a park and Bobbie Greenwood, who wanted a swimming pool in order to provide summer programs for children and a place for them to go. Grants are never free. They always have strings attached. The Community Center is the core of the community. Upkeep will be required for anything that is created. Outsiders who are hired to do work may not have the same interests. As we experience a downturn in the economy, we must come together. Please ask the community for help.

Lynette McClure, 26002 Venada Dr., moved from Marin County to Winters because the City is unique, quintessential California. She agreed that rushing into a decision may have long term effects. She asked to be involved in a public conversation.

Kate Laddish, 400 Morgan #6, said the City has one chance to make a first impression. If we lose our unique qualities, we lose the tourism. It's time to brainstorm. Winters is passionate about Winters.

Jeff Tenpas, 24 E. Main, in regards to the four options listed under Economic Development, he asked Council to look at alternatives. Put everything on the table, including police and fire and look at unique ideas. Where can we raise taxes? Car sales? Hotel? Before we fast-track to fast food, take a look at what we want.

Shaunie Briggs, 822 Railroad, suggested creating a desirable connection to downtown. Seek desirable fast foods, incorporate a hotel, encourage bed and breakfast. More education and communication is needed to participate.

Encourage people to do business in Winters. Eat local and participate in local events.

Sally Brown, 24 E. Main, a year-round swimmer and involved in the library project, resides along Putah Creek. She would rather see the City eliminate some services, close the swimming pool, stop the creek project and stop the library before planning to fast-track the gateway to our City.

Regarding the creek projects and two grants, Council Member Anderson said the LPCCC (Lower Putah Creek Council Committee) may be able to lend resources and expertise in maintaining the trail. There will be no maintenance required for the lower stream grant due to the use of native plants. Chris Rose of the WPCC said there are definite options to manage and work with volunteers.

Council Member Aguiar-Curry said the creek is an incredible asset to the City and said it would be ridiculous to cut this project or the Downtown Improvement Phase II project. Council Member Stone concurred. City Manager Donlevy and City Attorney Wallace asked that Council not take any action tonight, but provide direction to staff.

Council Member Stone said he is not in favor of stopping the grant-funded projects, but the creek and downtown projects may include more maintenance. Council Member Anderson suggested the City work with the Putah Creek Council for maintenance. Council Member Stone moved to not stop either of the grant issues on the creek or the Downtown Improvement Phase II project and ask staff to look at and explore the possibilities of increased maintenance. Seconded by Council Member Aguiar-Curry. Motion carried with Council Member Anderson voting yes, Council Member Fridae agreed but chose not to vote, and Mayor Martin chose not to vote as well, which is summarized below:

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

Council Member Fridae said specific issues will be presented at the January Planning Commission meeting, including fast food restaurants. Everything will be on the table. He would like to see more comprehensive approval of the four economic development options, a strategic economic development. Look at cuts, services, increased revenues for specific benefits of the citizens. He said all expenses, contracts and fees must be reviewed. We also need to take a look at the Gateway Master Plan and set up the vision and values of the community to see what is appropriate and what is not. He wants to maintain quality without sacrificing what we care about.

Council Member Aguiar-Curry said time is tight and there is not enough information to act on regarding three taxes shown in the City Manager's report.

What would it cost the City to put these items on the ballot in June? Public education would be required. City Clerk Mills said any measures would have to be done by 2/1/2010 and an election would cost the City approximately \$6,000. City Manager Donlevy said it would cost between ten and fifteen thousand dollars for a company to come in and take a poll. Council Member Anderson said polls were done locally for previous projects and they were not popular. City Manager Donlevy agreed it would be a tight schedule. Council Member Anderson asked about sending out a list of questions in the water bill? Council Member Fridae said a poll for this type of thing had been done but was not clearly linked with services.

Council Member Stone said the City of Winters employees are already the lowest paid in the County and the police department is already down. There are good and bad restaurants, and fast and slow food. If you want to control what goes in on a property, buy it. There has been some confusion surrounding "fast-tracking" and the property at the freeway. Does the City have control over the structure and appearance, but not the content? He asked about creative zoning.

Mayor Martin said he has taken all comments to heart regarding the swimming pool, Community Center and Library. We need to balance cuts, create income and keep reserves. Volunteerism needs to come out of the community. Amenities make this community. Should the Community Center fees be increased? It is a tough decision to close the facility. The State is not done taking money.

Council Member Aguiar-Curry suggested viewing interchanges to see what we like and don't like and look for development that works for that community. Do it right the first time. Either we set the standard or someone else will. Council Member Fridae concurred completely, understanding the City has limited control but there are ways to modify or clarify exactly what we want in order to make it inviting and to preserve the character of the City. He also said the bare minimum of staff at the Police and Fire departments is on the verge of irresponsible. These employees go above and beyond.

Council Member Anderson was concerned about creating false expectations and said there are built-in constraints for the Design Review Process and asked everyone to have faith. He asked if a valid zoning application was pending for review? He encouraged all to stay tuned for this critical element.

Lisa Gaynes urged the Council to be pro-active instead of reactive. She asked if a committee made up of citizens could be put together to work with the City Manager to look at those interchanges. It would be much more effective if all were involved in the process, a sort of community buy-in.

City Manager Donlevy said he met with Cal Trans regarding the roadway width on Grant Avenue. There are two design concepts, the Grant Avenue Access

Study and the Pedestrian Safety Study. A public workshop will be held on 2/4/10 regarding the design process. This information will go out with the water bills.

Regarding the Downtown Master Plan, the City will be working with Terry Bottomley to update the design guidelines and begin the process of architectural development, resulting in roadway and landscape design. Council Member Anderson would advocate an entryway with a round-about. Cal Trans has not been too receptive, but City Manager Donlevy said it will absolutely be considered.

Council Member Aguiar-Curry noted the Service and Program Table 1, which shows that revenues are not covering expenses. City Manager Donlevy wants to get the explanation out to citizens regarding fund accounting, where different "pots of money" must be used for specific projects. He wanted to reiterate that the City is not broke and we still have reserves, but in three years we will have a significant problem. Now is the time to address it. He suggested to Council to prioritize the services and programs and give direction. Decisions don't need to be made tonight. Staff can bring these items back to you. City Manager Donlevy suggested a revision to the Impact Fee program, and staff needs to receive direction on flood overlay.

Council Member Fridae suggested continuing the meeting as a regular meeting and not as a workshop so specific recommendations can be made. Council Member Anderson suggested seeing the entire budget and prioritize before making line item budget cuts. Council Member Stone said the City has gotten away from that type of budget. Council Member Stone requested that folks be involved in the discussion and asked about zoning fees. City Manager Donlevy said AB1600 addresses Development Impact Fees for streets, water and sewer. It allocates costs to a particular quadrant of the city and not the others. The benefit is creating a higher level of nexus. Council Member Stone said that projects are being prohibited, which shoulders the burden for the entire city.

City Manager Donlevy said in the meantime, any suggestions can be sent to the City, where recommendations will be taken into consideration. Staff will put together a community workshop/information session and committees will be formed. Kate Laddish ended the meeting by saying people really want to be involved. She understands the fiscal aspects and is willing to help facilitate a meeting with the community, staff and Council to exchange ideas.

ADJOURNMENT: Mayor Martin adjourned the meeting at 10:00 p.m.

Michael Martin, MAYOR

ATTEST:

Nanci G. Mills, City Clerk



Minutes of the Winters City Council Meeting
Held on Tuesday, December 15, 2009

Mayor Michael Martin called the meeting to order at 6:30 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, Community Development Director Nellie Dyer, Housing Programs Manager Dan Maguire, Grant Writer Dawn Van Dyke, Associate Elliot Landes, and City Clerk Nanci Mills.

Dan Maguire led the Pledge of Allegiance.

Approval of Agenda: This item was not addressed by Council.

COUNCIL/STAFF COMMENTS: Council Member Anderson wanted to make a comment he made at the Fiscal Sustainability Workshop held on 12/10/09 during the design review process discussion, when he commented how nice it would be to be able to get a hamburger after 6:00 p.m., and was reminded that Cody's is open until 8:30 p.m. Council Member Fridae said the History Committee met with the Hispanic Advisory Committee and plans to embark on a project inviting the Hispanic community to dig out old photos and stories on how they came to Winters. The History Committee is reaching out to each sub-set of different groups in the community to obtain historical information. Council Member Stone attended a LAFCO meeting yesterday and one of the agenda items was the Springlake Ranch Annexation to the City of Winters, which proved to be a typographic error. It should have read Springfield Ranch Annexation, whose representatives have contacted staff about annexing 1,200 acres that horseshoe around the sewer treatment ponds. Staff then contacted LAFCO, who indicated they had received nothing recently. Council Member Stone was very impressed with LAFCO, which is made up of 2 supervisors, 2 Council representatives from each of the four cities within Yolo County and 1 public representative, who were very knowledgeable when questioned about the Sphere of Influence. Council Member Anderson said he noticed the same error and questioned staff about it. City Manager Donlevy said staff thought it was an error as well, contacted

LAFCO and found nothing had been submitted in writing. Inquires are received by staff quite often, but submitting an application makes is official. He explained when an application is submitted, there is a procedure to follow for applications regarding property outside the Sphere of Influence and must be approved by resolution by the City Council. Council Member Stone said LAFCO law changes frequently. Council Member Fridae asked about the status of expanding our sphere of influence to include Yolo Housing and whether it had recently been discussed. City Manager Donlevy said the LAFCO Municipal Service Review acknowledges Yolo Housing within our sphere of influence. In the County General Plan, the City has requested the southeast corner of I-505, including Yolo Housing, be included in the special study area, which will advance in time.

Council Member Aguiar-Curry said the League of California Cities' quarterly meeting will be held in Live Oak on January 15th and will include a speaker about the water bond and water policy and urged everyone to attend. She also met with the Yolo Leadership Group, where they are working on structuring comprehensive and collaborative county-wide initiatives that will focus on youth violence prevention and safety, and asked for support from the County, the City Manager and the School Board.

Mayor Martin referred to the Fiscal Sustainability Workshop held on December 10, where he gained knowledge from the community and wanted to extend his compliments to the residents who attended for their good behavior.

PUBLIC COMMENTS: None

CONSENT CALENDAR

- A. Minutes of the Regular Meeting and Executive Session of the Winters City Council Held on December 1, 2009
- B. Minutes of the Regular Meeting and Executive Session of the Winters City Council Held on November 17, 2009
- C. Resolution No. 2009-60 of the City Council of the City of Winters Receiving from the Community Development Agency the Annual Redevelopment Report to Legislative Body, State Controller's Office and State Housing and Community Development Department for Fiscal Year Ending June 30, 2009 and Authorizing its Transmittal to the State Department of Housing and Community Development and the State Controller's Office
- D. Resolution 2009-57, A Resolution of the City Council of the City of Winters authorizing submittal of an application to the California Energy Commission's EECBG Program for funds to execute an energy efficiency project

City Manager Donlevy made a request to convene the Community Development Agency concurrently with the Consent Calendar to hear the lone CDA item along with Consent Item C. Agency Chairman Fridae called to order the meeting of the Community Development Agency. City Manager Donlevy then gave an overview of the Consent Calendar. Regarding Item D, the application submitted contains several projects. The City anticipates receiving approximately \$39K, and any planning process will eat up these funds. The more favorable projects that don't require a planning process include HVAC replacement @ City Hall and LED lamps in the downtown. Council Member Aguiar-Curry inquired about the HVAC system at the Community Center and requested to receive a breakdown of the cost for these projects. City Manager Donlevy agreed that both systems would qualify for replacement.

Motion by Council Member Aguiar-Curry, second by Council Member Stone, to approve the Consent Calendar, as well as approve Resolution 2009-60, a resolution of the Community Development Agency, submitting the Redevelopment Annual Report for Fiscal Year Ending June 30, 2009. Motion carried with the following vote:

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

Agency Chairman Fridae adjourned the meeting of the Winters Community Development Agency.

PRESENTATIONS: None

DISCUSSION ITEMS

- 1. Public Hearing and Consideration by the Winters City Council of the City of Winters for Adoption of Ordinance 2009-18, Repealing Section 17.60.030 (B) and Adding Chapter 17.200 to the Winters Municipal Code Pertaining to Affordable Housing Requirements**

Housing Programs Manager Dan Maguire gave an overview. Council Member Anderson didn't see the benefit of having the document expire in 2013. Housing Programs Manager Maguire said the date coincided with existing reporting to avoid additional administrative responsibilities. Mayor Martin opened the public hearing at 7:15 p.m. Council Member Anderson said there is no benefit Wade Cowan, 106 Third St., likes what Dan has done and indicated this action was

sorely needed to help clear up the muddy waters. He's all for it and said the City is grossly overdone with affordable housing, which doesn't do anything for our bank account. Alisa Maier of Legal Services of California thanked City Manager Donlevy, Housing Programs Manager Maguire, and other staff members for including her in the process. She has attended all of the meetings held during the last year and has provided input. She wanted to comment specifically on the Sunset Clause, which is extremely valuable and will coincide with the Housing Element Update and other reporting requirements in 2013. If things are going well at that time, Council can choose to extend the clause. Mayor Martin closed the public hearing at 7:18 p.m.

Motion by Council Member Anderson, seconded by Council Member Aguiar-Curry to waive the first reading, read by title only, and introduce Ordinance 2009-18, repealing Section 17.60.030 (B) and adding Chapter 17.200 to the Winters Municipal Code pertaining to Affordable Housing Requirements. Motion carried with the following roll call:

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

2. Public Hearing and Consideration by the Winters City Council of the City of Winters for Adoption of Ordinance 2009-16, Amending Chapter 15.64 (Flood Damage Prevention) of the Winters Municipal Code

Community Development Director Nellie Dyer gave a brief overview. Mayor Martin opened the public hearing at 7:22 p.m. and closed the public hearing at 7:22 p.m. with no public comment.

Motion by Council Member Stone and seconded by Council Member Aguiar-Curry to waive the first reading and read by title only, and introduce Ordinance 2009-16 amending Chapter 15.64 of the Winters Municipal Code regarding Flood Damage Prevention. Motion carried with the following vote:

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

3. Continued Public Hearing and Adoption by the City Council of the City of Winters of Ordinance No. 2009-17, an Interim Urgency

Ordinance Enacted Pursuant to Government Code Section 65858 to Extend Interim Urgency Ordinance No. 2009-15 for an Additional 10 Months and 15 Days and Continue for This Period the Temporary Prohibition Against Establishment and Operation of Medical Marijuana Dispensaries

City Attorney Wallace gave a brief overview, asking Council to incorporate into record the issued report and adopt by roll call vote. Mayor Martin opened the public hearing at 7:25 p.m. and closed the public hearing at 7:25 p.m. without public comment. Council Member Stone asked why the ordinance specifies 10 months and 15 days. City Attorney Wallace said State law allows an extension of the moratorium initially for up to 10 months and 15 days after the initial 45 days, or a total of one year, giving staff additional time to determine, with the recommendation of the Planning Commission, potential sites for dispensaries. One additional year can be added, if needed.

Motion by Council Member Stone and seconded by Council Member Aguiar-Curry to adopt Ordinance 2009-17, an Interim Urgency Ordinance enacted pursuant to Government Code Section 65858 to extend interim urgency Ordinance No. 2009-15 for an additional 10 months and 15 days and continue for this period the temporary prohibition against establishment and operation of medical marijuana dispensaries. Motion carried with the following roll call vote (which was preferred but not required if vote was unanimous):

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

COMMUNITY DEVELOPMENT AGENCY

- 1. Resolution 2009-60, a Resolution of the Community Development Agency of the City of Winters, Submitting the Redevelopment Annual Report for Fiscal Year Ending June 30, 2009 to the City Council of the City of Winters**

This item was heard with the Consent Calendar and Resolution 2009-60 was adopted unanimously as noted above.

CITY MANAGER REPORT: City Manager Donlevy said an Executive Session would not be needed tonight. The H1N1 Vaccination Clinic will be held tomorrow at the Community Center from 4-7pm and is open to all the public, free of charge.

The restrictions for high risk groups have been lifted. A big thank you goes out to Mary Jo Rodolfa and Dawn Van Dyke, the POD managers, who did an outstanding job working diligently with the Yolo County Health Department to bring the POD to Winters. He encouraged all to attend. The City will hold their Holiday Brunch on Tuesday, December 22 at 9:00 a.m. at the Fire House and invited Council, Planning Commission and volunteer firemen to attend. Council Member Aguiar-Curry asked if any dates had been set resulting from the Fiscal Sustainability meeting held on December 10th? City Manager Donlevy said he and Shelly were working on it and to expect a meeting to be held sometime during the first two weeks in January. He added there will be an update on the planning process on the January 5th City Council agenda. Also, an evening community workshop with Cal Trans will be held on the evening of February 4th.

INFORMATION ONLY: None

EXECUTIVE SESSION

Pending Litigation (Louie v. City of Winters), Government Code Section 54956.9 **(The Executive Session was not needed, as per City Manager Donlevy.)**

ADJOURNMENT

Mayor Martin adjourned the meeting at 7:32 p.m.

Michael Martin, MAYOR

ATTEST:

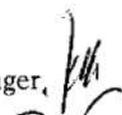
Nanci G. Mills, City Clerk



CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Council members

DATE: January 5, 2010

THROUGH: John W. Donlevy, Jr., City Manager, 

FROM: Dawn Van Dyke, Management Analyst 

SUBJECT: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS
APPROVING THE SUBMITTAL OF AN APPLICATION FOR STATEWIDE PARK
PROGRAM GRANT FUNDS

RECOMMENDATION: That the City Council approve Resolution 2010-01 approving the application for Statewide Park Program Grant Funds for acquisition and development of the Orchard Village 5 acre park.

BACKGROUND: The development project known as Orchard Village Apartments was approved in January 2009. Located east of Railroad Avenue and north of Dutton Street, the 10.6 acre project includes 74 affordable multi-family units on 5 acres, as well as a 1.6 acre park. The remaining 3.4 acres will not be developed due to seasonal wetlands.

Approved by voters in 2006, Proposition 84 is the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act. A Statewide Park Program was included in Proposition 84; providing \$368 million for statewide park development and community revitalization. This grant program is a statewide competitive program with the following project selection criteria: critical lack of park space, significance of poverty, community based planning, youth employment, and sustainable techniques. Eligible projects require acquisition and development of neighborhood and community parks. Municipal Resource Group has been retained by the Orchard Village developer, Pacific West Companies, and will prepare the grant application with assistance from City Staff. If the grant is approved, City Staff will manage it.

Pacific West Companies, is willing to develop the remaining 3.4 acres of the park site and dedicate land and completed park to the City upon completion of the project and acceptance by the City.

FISCAL IMPACT: If the City receives Proposition 84 funding for acquisition and development of the remaining 3.4 acres of parkland, the City is obligated to operate and maintain the park. Alternative: Do not apply for Proposition 84 funding and leave the 3.4 acres of parkland undeveloped until alternative funding is available in the future.

Resolution No: 2010-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS
APPROVING THE APPLICATION FOR
STATEWIDE PARK PROGRAM GRANT FUNDS

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Statewide Park Program, setting up necessary procedures governing the Application; and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of application(s) before submission of said application(s) to the State; and

WHEREAS, the applicant will enter into a contract with the State of California to complete the grant scope project.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Winters hereby:

Approves the filing of an application for the Orchard Village 5 Acre Park, and

1. Certifies that said applicant has or will have available, prior to commencement of any work on the project included in this application, the sufficient funds to complete the project; and

2. Certifies that the applicant has or will have sufficient funds to operate and maintain the project(s), and

3. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Grant Administration Guide; and

4. Delegates the authority to the City Manager to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the grant scope; and

5. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

DULY AND REGULARLY ADOPTED this 5th day of January 2010 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

CITY OF WINTERS

Michael Martin, Mayor

ATTEST:

Nanci Mills, City Clerk



CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Council Members
DATE: January 5, 2010
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Nelia C. Dyer, Community Development Director *WCD*
Dan Maguire, Housing Programs Manager *DM*
SUBJECT: Second Hearing and Adoption of Ordinance 2009-18, an Ordinance of the City of Winters Repealing Section 17.60.030 (B) and Adding Chapter 17.200 to the Zoning Code Pertaining to Affordable Housing Requirements.

RECOMMENDATION:

Staff recommends that the City Council take the following actions:

- 1) Receive Staff Report
- 2) Waive second reading, read by title only, and adopt:
Ordinance 2009-18, Repealing Section 17.60.030 (B) and Adding Chapter 17.200 to the Winters Municipal Code Pertaining to Affordable Housing Requirements

BACKGROUND:

In 1992, the City of Winters completed and adopted a comprehensive update of its General Plan. As part of this effort, the City also adopted the seven elements required for a General Plan. Subsequently, Legal Services of Northern California (LSNC) challenged the adequacy of the City's Housing Element, one of the required seven elements, and brought suit against the City in California Superior Court. The City incurred significant expenses during its defense and eventually, a stipulated judgment was agreed to by all parties in 1994 and entered in Superior Court. The key provisions of the judgment included the City's adoption of an inclusionary housing ordinance in 1994 (Ordinance 94-10), which required that 15 percent of all new housing be affordable to very low-, low-, and moderate income households.

The Affordable Housing Steering Committee (AHSC), along with numerous stakeholders, including the Yolo County Housing Authority, Legal Services of Northern California (LSNC), Mercy Housing,

and other stakeholders started studying potential revisions to the existing Inclusionary Housing Ordinance (IHO) at the AHSC meeting on November 24, 2008. Over the course of the last year, the AHSC and the aforementioned stakeholders have met several times, and agreement on the final version of the IHO was reached at the AHSC meeting on November 3, 2009. The Planning Commission reviewed the proposed ordinance at their meeting on November 26, 2009 and unanimously (with Planning Commissioner DeVries absent) voted to recommend adoption of Ordinance 2009-18 to the City Council.

The public hearing and first reading of the proposed Affordable Housing Ordinance was held at the City Council meeting on December 15, 2009. All public comments received were supportive of the proposed ordinance, including the comments offered by Alysa Meyer, Managing Attorney for Legal Services of Northern California. Ms. Meyer spoke in support of the 2013 sunset clause date in the ordinance as being a reasonable time frame to re-evaluate the effectiveness of the ordinance on the production of affordable housing in that it coincided with the existing reporting period for the City's Housing Element.

DISCUSSION:

The affordable housing requirements contained in this ordinance are the culmination of the City's efforts to develop an affordable housing program that promotes a balance between encouraging the development of market-rate housing and mixed use development in the City, while at the same time, providing for the creation of affordable housing necessary to meet the needs of very low-, low-, and moderate income households within the City.

The proposed amendment includes an exemption for developments of 15 dwelling units or less located in the Community Development Agency Project Area from the requirement to provide affordable housing. It was the consensus of the AHSC and the other participants that small infill projects would continue to be severely constrained if the requirements of the existing IHO were imposed. By allowing the exemption for small projects in the project area, it is anticipated this change will encourage infill development that encourages "smart growth".

PROJECT NOTIFICATION:

Public notice advertising for the public hearing on this project was prepared by the Community Development Director in accordance with notification procedures set forth in the City of Winters Municipal Code and State Planning Law. A legal notice was published in the Winters Express on Thursday, December 3, 2009. Copies of the staff report and all attachments for the proposed project have been on file, available for public review at City Hall since Thursday, December 10, 2009.

ENVIRONMENTAL DETERMINATION:

Pursuant to Section 15061 (b) (3) of the State CEQA Guidelines, a project is exempt from the California Environmental Quality Act when it can be seen with certainty that there is not possibility that the proposed project may have significant effect on the environment. This project entails the repealing of a section of the Zoning Code and the addition of a chapter to the Zoning Code regarding Affordable Housing, and therefore, constitutes administrative changes to the Zoning Code. As such, they will have no adverse effect on the environment; consequently, the project is not subject to environmental review under CEQA pursuant to Section 15061 (b) (3).

STAFF RECOMMENDATION:

Staff recommends that the City Council approve the proposed Ordinance by making the affirmative motions as follows:

I MOVE THAT THE WINTERS CITY COUNCIL WAIVE THE SECOND READING, READ BY TITLE ONLY, AND ADOPT ORDINANCE 2009-18, REPEALING SECTION 17.60.030 (B) AND ADDING CHAPTER 17.200 TO THE WINTERS MUNICIPAL CODE PERTAINING TO AFFORDABLE HOUSING REQUIREMENTS

ATTACHMENTS:

Inclusionary Housing Ordinance (Ordinance 2009-18)

ORDINANCE NO. 2009-18

AN ORDINANCE OF THE CITY OF WINTERS REPEALING SECTION 17.60.030(B) OF THE ZONING CODE AND ADDING CHAPTER 17.200 TO THE ZONING CODE PERTAINING TO AFFORDABLE HOUSING REQUIREMENTS

The City Council of the City of Winters hereby ordains as follows:

SECTION 1. Recitals.

- A. The City of Winters undertook a comprehensive study and analysis of its affordable housing program, which prompted certain revisions to the affordable housing program for the City.
- B. The affordable housing requirements contained in this Ordinance are the culmination of the City's efforts to develop an affordable housing program that promotes a balance between encouraging the development of market-rate housing and mixed use development in the City, while at the same time, providing for the creation of affordable housing necessary to meet the needs of individuals of very low, low and moderate income within the City.
- C. The City of Winters Planning Commission conducted a noticed public hearing regarding this Ordinance, which amends the Zoning Code to repeal Section 17.60.030(B) and add Chapter 17.200 pertaining to affordable housing requirements within the City, and has recommended approval of the Ordinance.
- D. The City Council of the City of Winters has provided public notice of its intention to amend the Zoning Code to adopt Chapter 17.200, and conducted a public hearing thereon on December 15, 2009.
- E. The proposed amendment of the Zoning Code to add Chapter 17.200 is consistent with the goals, policies, and objectives of the City of Winters General Plan, and in particular, the Housing Element, as adopted on September 1, 2009.
- F. The proposed amendment of the Zoning Code to add Chapter 17.200 has been reviewed in accordance with the California Environmental Quality Act ("CEQA") and is exempt pursuant to CEQA Guidelines Section 15061(b)(3).

SECTION 2. Chapter 17.200 "Affordable Housing Requirements" is hereby added to the Winters Municipal Code to read as follows:

Section 17.200.010 Purpose and Intent

The public welfare requires the City to take action to ensure that affordable housing is constructed and maintained within the City. This Chapter is intended to provide that new development projects in the City contain or assist in the production of a defined percentage of housing affordable to low income and very low income households, to provide for a program of incentives, and to implement the affordable housing policies contained in the Housing Element of the City's General Plan.

Section 17.200.020 Definitions

"Affordable Housing Steering Committee" means an advisory committee appointed by the City Council for the purpose of advising the City Council, Planning Commission, Community Development Agency and City staff on affordable housing policies and programs, use of redevelopment housing funds, proposed affordable housing projects, and other housing matters, at the request of the City Council.

"Community Development Director" means the director of the Community Development Department of the City, or his or her designee.

"Developer" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks the City's approval of discretionary land use entitlements for all or part of a development project. "Developer" includes "owner"

"Development project" means any development project that contains residential units, including single family and multifamily units.

"Inclusionary housing agreement" means an agreement between the developer and the City setting forth the manner in which the inclusionary housing requirements will be met in the development project.

"Inclusionary housing plan" means the plan setting forth the manner in which the developer proposes to satisfy the inclusionary housing requirements of this Chapter within the development project.

"Inclusionary housing requirement" means the inclusionary housing requirements as specified in this Chapter.

"Inclusionary housing unit or inclusionary unit" means an ownership or rental unit developed or provided in satisfaction of the inclusionary housing requirements of a development project, as provided for in this Chapter, and which is affordable to very low, low income or moderate income households.

"Low income household" means a household whose income does not exceed eighty percent (80%) of median income applicable to Yolo County, adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development.

“Moderate income household” means a household whose income does not exceed one hundred twenty percent (120%) of median income applicable to Yolo County, adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development.

“Very low income household” means a household whose income does not exceed fifty percent (50%) of the median income, adjusted for household size, applicable to Yolo County, as published and periodically updated by the United States Department of Housing and Urban Development.

Section 17.200.030 Inclusionary Housing Requirements

(A) Number and Affordability of Units. Except as otherwise provided for in this Chapter, all development projects consisting of five (5) or more residential units within the City of Winters shall include inclusionary housing units equal to fifteen percent (15%) of the total number of residential units in the development project, excluding density bonus units. The fifteen percent (15%) inclusionary housing requirement shall consist of six percent (6%) very low income units and nine percent (9%) low income or moderate income units in proportion to the unmet needs for each identified in the current housing element.

(B) Exception. The following development projects are exempt from the provisions of this Chapter:

1. Redevelopment Project Area. The fifteen percent (15%) inclusionary housing requirement provided in Subsection A above shall not apply to development projects within the Winters Community Development Agency Redevelopment Project Area that contain fifteen (15) or fewer residential units. This exception shall expire on December 31, 2013, unless extended by the City Council. Any development project that has not acquired a vested right to develop in accordance with existing laws and regulations by such expiration date shall be required to comply with the provisions of this chapter.
2. Project with prior approval. A development project that has obtained discretionary approval (e.g., a Development Permit, Use Permit, Design Review, Planned Development Permit, or Variance approval) before the effective date of this Chapter; or a building permit before the effective date of this Chapter; or a Certificate of Occupancy before the effective date of this Chapter.
3. Exempt by State law. A development project that is exempt from this Chapter by State law.
4. Project with vested rights. A development project for which the City has entered into a development agreement before the effective date of this Chapter, or which otherwise demonstrates a vested right to proceed without complying with this Chapter.

(C) Implementation. The developer shall propose an inclusionary housing plan to community development director as provided for in this Chapter. A condition requiring compliance with all of the terms of the inclusionary housing plan, as approved by the Planning Commission, shall be imposed on the development project. Further, the developer and the City shall enter into an inclusionary housing agreement that requires compliance with the inclusionary housing plan, and that will be recorded upon the property as provided in this Chapter.

(D) Density Ranges. Development projects which are proposed in areas of the City zoned for medium high and high density residential use, shall only be approved if density of the development project is in the upper one-half of the density ranges specified in the Zoning Code for developments in such zones, unless site constraints effectively prohibit such intensity of development.

(E) Unit Size. The inclusionary housing requirement shall accommodate diverse family sizes by including a mix of studio, one, two and/or three bedroom units where feasible.

(F) Exterior Appearance. The inclusionary units shall be visually compatible with and shall have similar external building materials and finishes as the market rate units in the immediate neighborhood.

(G) Access to Common Amenities. Tenants and residents of inclusionary units shall be provided the same rights and access to common amenities within the development project as tenants and residents occupying market rate units.

(H) Small Parts of Larger Projects. The City shall not approve development projects which reasonably appear to be smaller parts of a greater project and have the effect of circumventing the requirements of this Chapter.

Section 17.200.040 Inclusionary Housing Plan

(A) Submittal Requirements. At the time of and as part of the application for a discretionary land use entitlement for a development project, the inclusionary housing plan shall be submitted to the Community Development Director by the project developer, and shall include:

1. A detailed description of the method by which the developer will comply with the requirements of this Chapter.
2. The location of the inclusionary units within the development project, if applicable, the size of the inclusionary units, and any incentives requested by the developer in accordance with Section 17.200.060 of this Chapter.
3. Where an alternative to constructing inclusionary units on-site is intended, the developer shall provide detailed information regarding the alternative selected for meeting the inclusionary housing requirement, including a written statement that the

proposed parcel(s), site, or existing market rate units, if applicable, are available and capable of being dedicated to the City by the developer and that the affordable units shall be restricted as affordable housing, by way of contractual restrictions, recorded covenants or other legal mechanisms to assure that the units remain affordable housing units, as determined by City.

4. A phasing plan that provides a schedule for the timely development of the inclusionary units as the development project is built out.
5. Any other information deemed necessary by the Community Development Director.

(B) Affordable Housing Steering Committee Meeting. Prior to the submittal of the inclusionary housing plan, the Affordable Housing Steering Committee shall meet with and provide recommendations to the project developer regarding compliance with this Chapter.

(C) Community Development Director Preliminary Review. Upon receipt of the proposed inclusionary housing plan, the Community Development Director shall review the plan, and thereafter shall meet with the project developer to discuss the proposed plan.

(D) Plan Approval. After the preliminary review by the Community Development Director, the inclusionary housing plan shall be subject to the same review and approval as the discretionary land use entitlements.

Section 17.200.050 Alternative Methods to Meeting Inclusionary Housing Requirements

The City strongly prefers and shall encourage on-site construction of inclusionary units, however alternatives to the on-site construction of the inclusionary housing units may be proposed by the developer, consistent with the requirements set forth below in this section. The alternative methods are subject to review and approval of the City, as part of the inclusionary housing plan review process. The developer shall have the burden of demonstrating that the alternative selected is equivalent to the on-site construction of inclusionary housing units. Alternatives may include:

(A) Land Dedication. A developer may propose to dedicate land within the City sufficient to construct at least the same number of units and infrastructure to support the number of units as the developer would have been required to construct on-site subject to the inclusionary housing requirement. Land may be dedicated pursuant to this alternative provided the site will support the same number of units the developer is required to construct, has zoning of a minimum density necessary to accommodate the inclusionary housing requirement, that the site is physically and legally acceptable to the City, and that the site is restricted to affordable housing. The developer shall dedicate the land to the City at no cost the City.

(B) On-Site or Off-Site Construction. A developer may propose to develop housing to satisfy the inclusionary housing requirement at an on-site or off-site location within the City.

(C) Acquisition, Rehabilitation, and Conversion of Market Rate Units. A developer may propose to acquire and rehabilitate existing market rate units in the City which are at or above existing affordable rents, which require repair, rehabilitation, modernization or other work and convert those units to affordable housing units.

(D) Conversion of Market Rate Units. A developer may propose to convert existing market rate units in the City which do not require rehabilitation and are at or above existing affordable rents to affordable housing units by way of contractual restrictions, recorded covenants or other legal mechanisms to assure that the units remain affordable housing units, as determined by City.

(E) Accessory Units. A developer may propose to construct accessory dwelling units (e.g. granny flats) on site of the development project to meet the inclusionary housing requirement. The lots upon which the accessory dwelling units are constructed shall be restricted to provide that the units remain affordable housing units by way of contract, recorded covenants or other legal mechanisms.

(F) Inclusionary Housing Credits. A developer may propose to use inclusionary housing credits, as defined in this Chapter, to meet the inclusionary housing requirement.

(G) Payment of In-Lieu Fees. A developer may propose to pay an in-lieu fee to the City instead of constructing affordable units to meet the inclusionary housing requirement.

(H) Cooperative Ventures. A developer may propose a cooperative venture with a non-profit housing corporation, mutual housing association, limited equity housing cooperative, or other entity.

(I) Sweat Equity Project. A developer may propose a self-help or "sweat equity" project with a non-profit corporation or other entity.

(J) Combination. A developer may propose to utilize a combination of the above alternatives to meet the inclusionary housing requirement.

(K) Other Alternatives. A developer may propose, and the City may accept, other alternatives that meet the requirements and intent of this Chapter.

Section 17.200.060 Incentives and Assistance

(A) Request for Incentives and Assistance. The developer of a development project subject to the inclusionary housing requirements of this Chapter, may request, and the

City, in its discretion, may grant or deny the request for incentives as set forth in this section.

(B) Fee Waivers or Deferrals. The City may grant to a developer a program of waivers, reduction or deferrals of development fees or administrative fees for the inclusionary units.

(C) Inclusionary Housing Credits. A developer may submit as part of the inclusionary housing plan a proposal to provide affordable housing units or a donation of land in connection with a development project beyond the requirements of this Chapter. The developer may credit the additional affordable units or land against future development projects proposed by the developer within the City, subject to the provisions of this chapter. Inclusionary housing credits may also be transferred or sold to any other person or entity subject to the following conditions:

(1) Inclusionary housing credits must be applied to another development project within five (5) years of issuance of a certificate of occupancy for the inclusionary units(s) or implementation of an alternative method of meeting the inclusionary method of meeting the inclusionary housing requirement which gives rise to the credits, such as land dedication. A developer who has not used, transferred or sold credits within the time specified in this section may apply to the City for a one (1) year extension on the life of the credits. A request for extension of the inclusionary housing credit shall be reviewed by City Council who shall grant or deny the request for extension. The City Council shall consider progress and efforts the developer has made to utilize the credits during the previous five (5) years, the impact on affordable housing in the City if the extension is granted, any proposals for use of the credits should the extension be granted and other relevant factors.

(2) Inclusionary units receiving monetary subsidies through the City shall not receive credits unless the City has been reimbursed for its financial assistance.

(D) Local Public Funding. A developer may apply to the community development agency for local public funding to assist in the financing and development of affordable housing to meet the inclusionary housing requirement.

(E) Modification of Development Standards. To the extent feasible in light of the uses, design and infrastructure needs of the development project, modifications to existing City planning standards may be made for the development project. Such modifications shall be requested through a development permit, or other such permit that allows the modification of planning standards, and shall be considered in conjunction with the other discretionary land use entitlements for the development project.

(F) Mixed Use Projects. Mixed use projects containing affordable units may be proposed and approved in areas of the City where the Zoning Code and the General Plan allow

such development to help off-set the cost of developing affordable units pursuant to the requirements of this chapter.

Section 17.200.070 Density Bonus

Inclusionary units required by this Chapter or otherwise proposed to be constructed as part of a development project shall not be counted towards the number of units necessary to qualify for a density bonus under applicable state or local laws.

Section 17.200.080 Restrictions on Inclusionary Units

Each inclusionary unit created as a result of this Chapter shall have limitations governing its rental, sale, and/or resale and its occupancy, unless such limitations would be in conflict with federal or state law. The purpose of these limitations is to preserve the long-term affordability and to ensure its continued availability for income eligible households.

(A) Duration of Affordability for Rental and Resale of Inclusionary Units. All rental and for-sale inclusionary housing units developed within the City shall remain affordable for a period of not less than that required by Section 33334.3(f)(1) of the California Health and Safety Code (fifty-five years for rental units, forty-five years for owner-occupied units and fifteen years for mutual self-help housing units), and shall be regulated by regulatory agreement, recorded covenants or other legal mechanisms to assure that the units remain affordable housing units, as determined by City.

(B) Occupancy Requirements.

(1) Rental Units. Any person(s) who occupies a rental inclusionary unit shall occupy that unit as his or her principal residence and shall annually certify that he or she qualifies for the applicable affordable rent level. The Community Development Director shall annually initiate this certification process. If and when any person(s) who rents an inclusionary unit no longer qualifies at the applicable affordable rent and income levels, the person(s) shall be required to vacate the unit or pay the market rate for the unit provided another rental unit is made available at the income level of the inclusionary unit.

(2) For-Sale Units. (i) Except as provided in this section, an initial owner who purchases a for-sale inclusionary unit shall occupy that unit as his or her principal residence. The inclusionary housing agreement shall provide that a for-sale inclusionary unit may only be rented or leased with the written permission of the City, and then, only to an income eligible person and the inclusionary unit shall be rented at no greater a rental rate than the affordable rent level as defined in Health and Safety Code Section 50053. The inclusionary unit shall be rented or leased at the same income level of the original for-sale affordable housing price. For example, if the initial owner bought the unit at the very low income housing price the unit shall be rented at the very low income rent level currently in effect. Any person intending to offer a for-sale inclusionary unit for rent or lease shall first

notify the City housing coordinator in writing, prior to the renting of the unit. (ii) An initial owner shall be required to execute a promissory note, secured by a deed of trust, payable to the City, for the difference between the fair market value of the unit and the actual purchase price ("Silent Second Note"). The Silent Second Note shall accrue interest at the Local Agency Investment Fund ("LAIF") rate, and shall be due and payable upon the sale, transfer or refinancing of the unit, unless the sale is to another low income eligible buyer, as determined by the City. The proceeds of any Silent Second Notes shall be deposited in an account designated for uses related to the provision of affordable housing in the City.

(C) Resale of For-Sale Units. The initial owner or any subsequent owner may sell a for-sale unit pursuant to the following requirements. Inclusionary for-sale units shall remain affordable to subsequent income eligible buyers pursuant to the resale restricted term provided for in subsection (A) above, and in accordance with the affordable housing costs set forth in Health and Safety Code Section 50052.5. The inclusionary for-sale unit shall be sold at the same affordable housing price income level as it was originally sold, and the new income eligible buyer shall be required to execute a new inclusionary housing agreement and Silent Second Note, secured by a deed of trust.

(1) Option to Sell to City. If the owner is unable to sell the inclusionary unit within one hundred and eighty (180) days of offering and advertising the unit for sale, the owner may offer to sell the unit to the City at the affordable housing price at the time offer. The Community Development Director may reduce the one hundred and eighty (180) day requirement specified above if the owner demonstrates, to the satisfaction of the Director, that such limit would create a hardship for the owner. If the City or its assignee does not complete the purchase of the unit within ninety (90) days of the owner's offer of sale to the City, the resale obligation of this section shall terminate; however, the provisions of this section relating to recapture upon sale shall continue to apply and remain in full force and effect.

(2) Recapture Upon Sale. If the inclusionary unit does not sell within one hundred and eighty (180) days of offering and advertising the unit for sale, or such lesser time as established by the Community Development Director upon a finding that a hardship exists, and if the City does not acquire the inclusionary unit as specified in this section, the inclusionary unit may be sold at the current market price. Upon the sale of a unit at market price, the seller shall pay to the City housing trust fund the full amount of the Silent Second Note, described above in this section. The owner shall be entitled to any appreciation in the fair market value of the unit from the time of initial sale to the present sale.

Section 17.200.090 Administration of Inclusionary Housing Requirements

(A) Inclusionary Housing Agreement. Upon approval of the inclusionary housing plan pursuant to Section 17.200.030, the Community Development Director shall prepare an inclusionary housing agreement for the development project that is consistent with

inclusionary housing plan, and shall indicate ownership information, type of inclusionary unit (for-sale or rental), the number and size of the inclusionary units, the developer of the inclusionary units, the phasing and construction scheduling of the inclusionary units, commitments for inclusionary incentives and any other information required by the City relative to the inclusionary housing requirement. In the case of alternatives to the inclusionary housing requirement, the agreement shall also contain the information required in this chapter pertaining to the alternative. Upon completion, the inclusionary housing agreement shall be recommended for approval by the City Council at the next regular City Council meeting. The inclusionary housing agreement shall provide a direct financial contribution by the City in the amount of not less than one hundred dollars (\$100) per inclusionary unit.

No final map shall be approved and no grading permit or building permit shall be issued by the City prior to the full execution and recordation of the inclusionary housing agreement against the property.

(B) Action on Inclusionary Housing Agreement. The City Council shall approve the inclusionary housing agreement upon a finding that the agreement meets all the requirements of this chapter and shall direct that the agreement be recorded upon the subject property.

(C) Affordable Rental and Affordable Housing Agreements. Prior to obtaining a certificate of occupancy for a development project which includes inclusionary units, the developer shall cause an affordable rental agreement to be executed between the owner of the property and the City which shall be recorded with the county recorder's office against the parcels identified in the inclusionary housing agreement as being inclusionary units, in a form reviewed and approved by the City Attorney. Where the inclusionary unit is a for-sale unit within a development project, prior to obtaining a certificate of occupancy for that unit the developer shall cause an affordable sale agreement to be executed between the initial owner of the inclusionary unit and the City, which shall be recorded with the county recorder's office against the parcel, in a form reviewed and approved by the City Attorney.

(D) Administrative of Affordability for Rental Inclusionary Housing. The owner of rental inclusionary units or for-sale inclusionary units offered for rent shall be responsible for certifying the income of the tenant or owner to the City at the time of initial rental and annually thereafter. The owner of a for-sale inclusionary unit shall certify to the City the income of the initial purchaser.

(E) Accessory Dwellings. Prior to obtaining a certificate of occupancy for an accessory dwelling which is designated as an inclusionary units pursuant to an inclusionary housing agreement, the developer shall cause an affordable sale agreement to be executed between the initial owner of the accessory dwelling unit and the City, which shall be recorded with the county recorder's office against the accessory dwelling unit, in a form reviewed and approved by the City Attorney.

(F) Guidelines. The Community Development Director may develop additional guidelines as necessary for implementation of this chapter.

(G) Appeal. Where the provisions of this Chapter vest the Planning Commission with final decision making authority, any applicant aggrieved by the decision of the Planning Commission may appeal the decision to the City Council, within ten (10) days of the final decision of the Planning Commission. Any appeal of a decision of the Planning Commission must be filed with the City Clerk. The City Clerk shall set the appeal before the City Council within forty (40) days of receipt of the appeal.

Section 17.200.100 Monitoring of Inclusionary Housing

(A) Developers. Developers that have entered into an inclusionary housing agreement requiring the provision of inclusionary housing units will be monitored by the City annually to assure compliance with the inclusionary housing agreement.

(B) Inclusionary Units. Inclusionary housing units developed within the City will be monitored by the City annually to verify that the units remain affordable in accordance with Section 17.200.080(B) of this chapter.

(C) Reporting. An annual reporting mechanism shall be created by the City to identify the number of inclusionary housing units that have been required for development within the City by inclusionary housing agreements during the annual reporting period and shall include the number of inclusionary housing units that have actually been developed during the annual reporting period. The report shall also include the results of the monitoring of developers and inclusionary units already in existence.

Section 17.200.110 Administrative and In-Lieu Fees

The City Council may, by resolution, establish an in-lieu fee and reasonable fees and deposits to defray costs of processing applications, proposals pursuant to this Chapter.

Section 17.200.120 Enforcement and Penalties

It is unlawful to offer for sale or to rent or lease any inclusionary unit without compliance with this Chapter. Any person who violates any provision of this Chapter shall be guilty of a misdemeanor. Any person who violates any provision of this Chapter shall be guilty of a separate offense for each and every day which any person commits, continues, permits, or causes a violation thereof and, shall be punished accordingly.

SECTION 3.

Section 17.60.030(B) of Chapter 17.60 of the Winters Zoning Code pertaining to affordable housing requirements for individualized projects is hereby repealed in its entirety.

SECTION 4. Effective Date.

This Ordinance shall be in full force and effective 30 days after its adoption and shall be published and posted as required by law. The City Clerk of the City of Winters shall cause this Ordinance to be published and posted in accordance with 36933 of the Government Code of the State of California.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Winters, California, held on December 15, 2009, and was passed and adopted at a regular meeting of the City Council held on January 5, 2010 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

City Clerk

1160228.15



CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers
DATE: January 5, 2010
FROM: John W. Donlevy, Jr., City Manager 
SUBJECT: Gateway Roadway and Planning Processes

RECOMMENDATION:

That the City Council receive an overview of the Roadway and Planning Processes which are in development for the "Gateway" area of the City.

BACKGROUND:

The City Council has requested that the City Staff initiate public processes to receive input and guidance to update the design, architecture and planning for the roadway and master plans at the City's entrance at Grant Ave. and I505.

The roadway planning process is grant funded, with Caltrans taking the lead in a process facilitated by MIG Consultants. This process will focus on updates and finalization of the roadway infrastructure design under what Caltrans is calling their "Complete Streets Program". The goal is for the City and Caltrans to reconcile the Grant Avenue Access Study and the Pedestrian Safety Study (Roundabout Report).

The planning and architecture process will include the development of revised design guidelines and updates to the Gateway Master Plan. Staff is proposing an expansion of some aspects of the design scope to include the highway commercial properties along the north side of Grant Ave.

A complete overview of both processes will be provided in an expanded presentation at the meeting and a supplemental report to this memo.

FISCAL IMPACT: None by this action.