



*** REVISED***

Winters City Council Meeting
City Council Chambers
318 First Street
Tuesday, August 2, 2011
6:30 p.m.
AGENDA

REVISED

Members of the City Council

*Woody Fridae, Mayor
Cecilia Aguiar-Curry, Mayor Pro-Tempore
Harold Anderson
Michael Martin
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 Regular Meeting of the Winters City Council Held on Tuesday, July 5, 2011 (pp 1-8)
- B. Resolution 2011-37, A Resolution of the City Council of the City of Winters Approving a Contract with AK & Company in the Amount of \$3,000 to Prepare the SB90 Reimbursement of State Mandated Cost Claims for the City of Winters (pp 9-25)
- C. Resolution 2011-38, A Resolution of the City Council of the City of Winters Confirming Delinquent Utility Bills (**Attachment A To Follow**) (pp 26-27)
- D. Yolo Emergency Services-Memorandum of Understanding (pp 28-39)
- E. Yolo County Hazard Mitigation Plan and Survey Informational Report (pp 40-43)
- F. Accept Recommendations from Staff to Approve Resolution 2011-40, A Resolution of the City Council of the City of Winters, Changing the Putah Creek Council (PCC) Liaison on the Winters Putah Creek Committee (WPCC) to a Voting Member of WPCC (pp 44-47)
- G. Appliances and Miscellaneous Equipment Funding for the New Fire and Police Public Safety Facility (pp 48-82)

DISCUSSION ITEMS

- 1. 2010 Annual Police Staff Report (pp 83-122)
- 2. Economic Development Committee- Economic Strategy Recommendations (pp 123-129)
- 3. Designation of a Voting Delegate and Alternates for the League of California Cities Annual Conference (pp 130-134)
- 4. Introduction and Consideration of an Ordinance of the City Council of the City of Winters, California, to comply with the Voluntary Alternative Redevelopment Program pursuant to Part 1.9 of Division 24 of the California Health and Safety Code, as Provided in AB 1X 27, in Order to Permit the Continued Existence and Operation of the Community Development Agency of the City of Winters Under Threat of Dissolution

COMMUNITY DEVELOPMENT AGENCY

1.

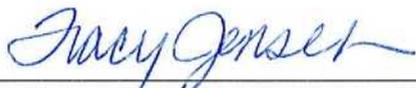
CITY MANAGER REPORT

INFORMATION ONLY

EXECUTIVE SESSION

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the August 2, 2011 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 July 28, 2011, and made available to the public during normal business hours.



Tracy Jensen, Administrative Assistant to
Nanci G. Mills, City Clerk

Questions about this agenda – Please call the City Clerk's Office (530) 795-4910 ext. 101. Agendas and staff reports are available on the city web page www.cityofwinters.org/administrative/admin_council.htm

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.

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**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and City Councilmembers

DATE: August 2, 2011

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

SUBJECT: Introduction and Consideration of an ordinance of the City Council of the City of Winters, California, to comply with the Voluntary Alternative Redevelopment Program pursuant to Part 1.9 of Division 24 of the California Health and Safety Code, as provided in AB 1X 27, in order to permit the continued existence and operation of the Community Development Agency of the City of Winters under threat of dissolution.

SUMMARY

The Governor recently signed into law Assembly Bill 1X 26 and Assembly Bill 1X 27 as part of the State budget package which have the combined effect of abolishing every redevelopment agency unless the community that created the agency agrees to pay a "community remittance" pursuant to AB 1X 27. The California Redevelopment Association ("CRA") and the League of California Cities (the "League") have filed a legal challenge to the bills, and to request a stay of their enforcement. If a stay is not granted, the City Council of the City of Winters must take certain actions over the next few months if it and the Community Development Agency of the City of Winters intend to meet this financial obligation and have the Agency remain in existence. This ordinance would allow the Agency to continue to operate, but also states that while the City currently intends to make these community remittances, any actual community remittances, if available, will be made under protest and without prejudice to the City's right to recover such amounts and interest thereon, in the event that litigation results in a determination that AB 1X 26 and AB 1X 27 are unconstitutional.

BACKGROUND

The Community Development Agency of the City of Winters ("Agency") was created by the City Council for the purposes of implementing redevelopment activities in the City. In 1992, the City

Alternative Redevelopment Program- Ordinance

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Council adopted the Community Development Project Area Plan in accordance with the Community Redevelopment Law (Health and Safety Code § 33000 *et seq.*) ("CRL"). The Community Development Project Area was found to have a significant number of physical and economic blighting conditions that necessitated adoption of the Redevelopment Plan. The Redevelopment Plan authorizes the Agency to receive tax increment revenue to pay for programs and projects that address these conditions consistent with the CRL.

In January, 2011, the Governor announced his intent to eliminate redevelopment agencies as a way to help balance the State budget. The Legislature then enacted and the Governor signed, Assembly Bill 1X 26 and Assembly Bill 1X 27; many believe these bills violate a number of provisions in the California Constitution, including the recently enacted Proposition 22. These bills took effect on June 29, 2011.

Assembly Bill 1X 26 immediately suspended all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011 (the "Dissolution Act"). It does this by terminating virtually all otherwise legal functions of the redevelopment agency and mandating a liquidation of any assets for the benefit of local taxing agencies. Some debts would be allowed to be repaid, but any such remittances would be managed by a successor agency, that would function primarily as a debt repayment administrator. The successor agency could not continue or initiate any new redevelopment projects or programs. The activities of the successor agency would be overseen by an oversight board, comprised of representatives of other taxing agencies, until such time as the remaining debts of the former redevelopment agency were paid off, all agency assets liquidated and all property taxes were redirected to local taxing agencies.

Assembly Bill 1X 27 allows a city or county that has a redevelopment agency to avoid the consequences of the Dissolution Act by adopting an ordinance stating it will comply with the alternative redevelopment program (the "Alternate Redevelopment Program") and pay specified "community remittances." For Fiscal Year 2011-12, the community remittances are calculated pursuant to a complex formula based on the State's stated objective of generating \$1.7 billion from all redevelopment agencies and agency revenues shown in the State Controller's report for 2008-09.

While the ordinance commits the City to make the community remittance, AB 1X 27 allows the City and the Agency to enter into a reimbursement agreement whereby the Agency agrees to transfer a portion of its tax increment to the City, in an amount not to exceed the annual community remittance, so that the City's general fund is not obligated. In addition, for 2011-12 only, an agency is exempted from the 20% housing set-aside requirement if the agency adopts a resolution finding that those funds are necessary to meet its debt obligations, including those under the city-agency agreement.

The State Director of Finance will notify the City of the actual amount of the 2011-12 community

remittance by August 1, 2011. In subsequent years, the community remittances will be smaller amounts, again determined by formulas set forth in the bill. The City can appeal the amount of its 2011-12 remittance by August 15, 2011, however the grounds for an appeal are quite narrow. The City's estimated community remittance for Fiscal Year 2011-12 is \$524,942.

The League and CRA are preparing a legal challenge to AB 1X 26 and AB 1X 27, but unless a stay is granted or the bills are overturned by the courts, they remain the law. It is the League and CRA's position that AB 1X 26 and 27 are inconsistent with various constitutional provisions which protect city and county property tax and redevelopment agency tax increment including, but not limited to, the provisions added by Proposition 22, approved by the voters in November 2010.

The proposed ordinance preserves the City's right to challenge the legality of AB 1X 26 and AB 1X 27 and states that the payment of any community remittance is made under protest. If the court grants a stay of the bills' enforcement, the City would not be obligated to make any community remittances for the duration of the stay. Additionally, the Ordinance provides that if AB 1X 26 and AB 1X 27 are invalidated, the Ordinance shall be invalidated and the City shall have the right to seek a refund.

DISCUSSION

Although the City has until November 1, 2011 to adopt the ordinance, if it has not done so by the end of September, the Council should adopt a resolution of intent before October 1, stating that it intends to adopt the ordinance, and send copies of the resolution to the Department of Finance, State Controller and County Auditor-Controller before October 1. Otherwise, the Agency will be deemed to be dissolved on October 1. It is only the adoption of the ordinance, however, that allows the Agency to continue its activities. It is for this reason that staff is recommending that the Council consider adopting the ordinance now.

AB 1X 27 provides that upon the enactment of the Ordinance agreeing to make the community remittance payments, the Agency shall be authorized to continue its activities.

CEQA

The City is the lead agency concerning the Ordinance pursuant to the California Environmental Quality Act (codified as Public Resources Code Sections 21000 et seq.) ("CEQA") and the State CEQA Guidelines. City staff has determined that the Ordinance is exempt from CEQA, pursuant to CEQA Guidelines Section 15378 (b)(4), because such authorizations are not considered a project subject to CEQA review. The community remittance is a government funding mechanism and fiscal activity, which does not involve any commitment to any specific project which may result in a potentially significant environmental impact.

FISCAL IMPACT

For the Agency, the Fiscal Year 2011-12 community remittance is estimated to be approximately \$524,942, based on preliminary calculations prepared by CRA. The Ordinance provides that no City General Fund money is pledged to make this payment. Subsequent annual community remittances will also be due, as determined based upon a formula set forth in AB 1X 27. The actual amounts that will be due are to be determined by the State Director of Finance. Under the Ordinance, the City reserves the right to appeal the State Director of Finance's determination of the Fiscal Year 2011-12 community remittance, as provided in Health and Safety Code Section 34194, and any subsequent annual community remittance that may become due.

RECOMMENDED ACTION

That the City Council of the City of Winters adopt the attached Ordinance determining that it will comply with the Voluntary Alternative Redevelopment Project pursuant to Part 1.9 of Division 24 of the Health and Safety Code, as provided in AB 1X 27.

ATTACHMENTS

Ordinance No.2011-04

ORDINANCE NO. 2011-04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS, CALIFORNIA, DETERMINING IT WILL COMPLY WITH THE VOLUNTARY ALTERNATIVE REDEVELOPMENT PROGRAM PURSUANT TO PART 1.9 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE IN ORDER TO PERMIT THE CONTINUED EXISTENCE AND OPERATION OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF WINTERS

WHEREAS, the City Council of the City of Winters (“City”) approved and adopted the Redevelopment Plan for the Winters Redevelopment Project (“Redevelopment Plan”) covering certain properties within the City (the “Project Area”); and

WHEREAS, the Community Development Agency of the City of Winters (“Agency”) is engaged in activities to execute and implement the Redevelopment Plan pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, *et seq.*) (“CRL”); and

WHEREAS, since adoption of the Redevelopment Plan, the Agency has undertaken redevelopment projects in the Project Area to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to enter into partnerships with private industries to create jobs and expand the local economy; and

WHEREAS, over the next few years, the Agency hopes to implement a variety of redevelopment projects and programs to continue to eliminate and prevent blight, stimulate and expand the Project Area’s economic growth, create and develop local job opportunities and alleviate deficiencies in public infrastructure, to name a few; and

WHEREAS, as part of the 2011-2012 State budget bill, the California Legislature has recently enacted, and the Governor has signed, companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacts an ordinance committing it to making certain payments; and

WHEREAS, specifically, AB 1X 26 prohibits agencies from taking numerous actions, effective immediately and purportedly retroactively, and additionally provides that agencies are deemed to be dissolved as of October 1, 2011; and

WHEREAS, AB 1X 27 provides that a community may participate in an “Alternative Voluntary Redevelopment Program,” in order to enable a redevelopment agency within that community to remain in existence and carry out the provisions of the CRL, by enacting an ordinance agreeing to comply with Part 1.9 of Division 24 of the Health and Safety Code; and

WHEREAS, the Alternative Voluntary Redevelopment Program requires that the community agree by ordinance to remit specified annual amounts to the county auditor-controller; and

WHEREAS, under the threat of dissolution pursuant to AB 1X 26, and upon the contingencies and reservations set forth herein, the City shall make the Fiscal Year 2011-2012 community remittance, currently estimated to be Five Hundred Twenty-Four Thousand Nine Hundred Forty-Two Dollars (\$524,942), as well as the subsequent annual community remittances as set forth in the CRL; and

WHEREAS, the City reserves the right to appeal the California Director of Finance's determination of the Fiscal Year 2011-2012 community remittance, as provided in Health and Safety Code Section 34194; and

WHEREAS, City understands and believes that an action challenging the constitutionality of AB 1X 26 and AB 1X 27 will be filed on behalf of cities, counties and redevelopment agencies; and

WHEREAS, while the City currently intends to make these community remittances, they shall be made under protest and without prejudice to the City's right to recover such amounts and interest thereon, to the extent there is a final determination that AB 1X 26 and AB 1X 27 are unconstitutional; and

WHEREAS, the City reserves the right, regardless of any community remittance made pursuant to this Ordinance, to challenge the legality of AB 1X 26 and AB 1X 27; and

WHEREAS, to the extent a court of competent jurisdiction enjoins, restrains, or grants a stay on the effectiveness of the Alternative Voluntary Redevelopment Program's payment obligation of AB 1X 26 and AB 1X 27, the City shall not be obligated to make any community remittance for the duration of such injunction, restraint, or stay; and

WHEREAS, all other legal prerequisites to the adoption of this Ordinance have occurred.

THE CITY COUNCIL OF THE CITY OF WINTERS, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

Section 1. **Recitals.** The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. **Participation in the Alternative Voluntary Redevelopment Program.** In accordance with Health and Safety Code Section 34193, and based on the Recitals set forth above, the City Council hereby determines that the City shall comply with the provisions of Part 1.9 of Division 24 of the Health and Safety Code, as enacted by AB 1X 27.

Section 3. **Payment Under Protest.** Except as set forth in Section 4, below, the City Council hereby determines that the City shall make the community remittances set forth in Health and Safety Code section 34194 *et seq.*

Section 4. **Effect of Stay or Determination of Invalidity.** City shall not make any community remittance in the event a court of competent jurisdiction either grants a stay on the enforcement of AB 1X 26 and AB 1X 27 or determines that AB 1X 26 and AB 1X 27 are unconstitutional and therefore invalid, and all appeals therefrom are exhausted or unsuccessful, or time for filing an appeal therefrom has lapsed. Any community remittance shall be made under protest and without prejudice to the City's right to recover such amount and interest thereon in the event that there is a final determination that AB 1X 26 and AB 1X 27 are unconstitutional. If there is a final determination that AB 1X 26 and AB 1X 27 are invalid, this Ordinance shall be deemed to be null and void and of no further force or effect.

Section 5. **Implementation.** The City Council hereby authorizes and directs the City Manager to take any action and execute any documents necessary to implement this Ordinance, including but not limited to notifying the Yolo County Auditor-Controller, the Controller of the State of California, and the California Department of Finance of the adoption of this Ordinance and the City's agreement to comply with the provisions of Part 1.9 of Division 24 of the Health and Safety Code, as set forth in AB 1X 27.

Section 6. **Additional Understandings and Intent.** It is the understanding and intent of the City Council that, once the Agency is again authorized to enter into agreements under the CRL, the City will enter into an agreement with the Agency as authorized pursuant to Section 34194.2, whereby the Agency will transfer annual portions of its tax increment to the City in amounts not to exceed the annual community remittance payments to enable the City, directly or indirectly, to make the annual remittance payments. The City Council does not intend, by enactment of this Ordinance, to pledge any of its general fund revenues or assets to make the remittance payments.

Section 7. **CEQA.** The City Council finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") in that it is not a "project," but instead consists of the creation and continuation of a governmental funding mechanism for potential future projects and programs, and does not commit funds to any specific project or program. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Yolo in accordance with CEQA Guidelines.

Section 8. **Custodian of Records.** The documents and materials that constitute the record of proceedings on which these findings are based are located at the City Clerk's office located at 318 First Street, Winters, CA 95694. The custodian for these records is the City Clerk.

Section 9. **Severability.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

Section 10. Certification; Publication. The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the City of Winters and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with Government Code § 36933.

Section 11. Effective Date. This Ordinance shall become effective thirty (30) days from its adoption.

PASSED AND ADOPTED at a regular meeting of the City Council on the ____ day of _____ 2011, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Woody Fridae, Mayor

ATTEST:

Nanci G. Mills, City Clerk