



Winters City Council Meeting
City Council Chambers
318 First Street
Tuesday, November 7, 2017
6:30 p.m.
AGENDA

Members of the City Council

*Wade Cowan, Mayor
Bill Biasi, Mayor Pro-Tempore
Harold Anderson
Jesse Loren
Pierre Neu*

*John W. Donlevy, Jr., City Manager
Ethan Walsh, 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, October 17, 2017 (pp. 4-8)
- B. Amendment to West Yost Agreement No. 027-17, Waste Water Treatment Facility Influent Screen Design (pp. 9-13)
- C. Final Acceptance of Public Improvements for Hudson/Ogando Subdivision (Winters Ranch) (pp. 14-16)
- D. Adoption of Yolo Local Government Accountability and Transparency Program Statement (pp. 17-47)

PRESENTATIONS

DISCUSSION ITEMS

1. Public Hearing and Consideration of Zoning Code Amendments to Prohibit Outdoor Cultivation of Marijuana and Commercial Marijuana Uses (pp. 48-58)
2. Capital Improvement Program Overview- Programs and Funding (pp. 59-63)
3. Designation of City Council Members to Zoning Code Update Subcommittee (pp. 64)
4. Consideration of Amendment to City Manager Employment Agreement (pp. 65-68)

CITY OF WINTERS AS SUCCESSOR AGENCY TO THE WINTERS COMMUNITY DEVELOPMENT AGENCY

1. None
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CITY MANAGER REPORT

INFORMATION ONLY

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the November 7, 2017 regular meeting of the Winters City Council was posted on the City of Winters website at www.cityofwinters.org and Councilmembers were notified via e-mail of its' availability. A copy of the foregoing agenda was also posted on the outside public bulletin board at City Hall, 318 First Street on November 2, 2017, and made available to the public during normal business hours.


Nanci G. Mills, City Clerk

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

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City Hall – Finance Office - 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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Minutes of the Regular Meeting of the Winters City Council
Held on October 17, 2017

Mayor Cowan called the meeting to order at 6:30 p.m.

Present: Council Members Harold Anderson, Bill Biasi, Jesse Loren, Pierre Neu and Mayor Wade Cowan

Absent: None

Staff: City Manager John W. Donlevy Jr., City Clerk Nanci Mills, Police Chief John Miller, Environmental Services Manager Carol Scianna, Community Services Officer Gail Jimenez, Sergeant Jose Ramirez, Corporal Gordon Brown, and Management Analyst Tracy Jensen.

The Pledge of Allegiance was led by Gail Jimenez.

Approval of Agenda: City Manager Donlevy said there were no changes to the agenda. Motion by Council Member Neu, second by Council Member Loren to approve the agenda as presented. Motion carried with the following vote:

AYES: Council Members Anderson, Biasi, Loren, Neu, Mayor Cowan

NOES: None

ABSENT: None

ABSTAIN: None

COUNCIL/STAFF COMMENTS

PUBLIC COMMENTS: None

CONSENT CALENDAR

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, October 3, 2017

B. Contract for Construction Engineering Support Services for Roundabout Project

City Manager Donlevy gave a brief overview. Council Member Anderson requested the minutes from the October 3rd City Council meeting be amended to reflect his conflict of interest with Discussion Items 1 and 2 and his request to recuse himself.

Motion by Council member Neu, second by Council Member Biasi to approve the Consent Calendar with the requested amendment to the October 3rd minutes. Motion carried with the following vote:

AYES: Council Members Anderson, Biasi, Loren, Neu, Mayor Cowan
NOES: None
ABSENT: None
ABSTAIN: None

PRESENTATIONS

Community Services Officer Gail Jimenez gave a presentation entitled "Crime Scene Investigation - Fact or Fiction?" The topics included were logistics, DNA, Gun Shot Residue, Fingerprints, Eye Witness and Crimes. Mayor Cowan thanked Gail for her interactive presentation that was both lively and humorous.

DISCUSSION ITEMS

City Manager Donlevy said the same three Council Members who heard Discussion Items 1 & 2 at the October 3rd meeting would consider these items during this meeting. Mayor Cowan again recused himself for Discussion Items 1 & 2 due to a financial conflict, Council Member Biasi again recused himself for Discussion Items 1 & 2 by having drawn the "out" walnut at the October 3rd meeting. Council Member Anderson had originally requested to be recused during these two items, but again remained at the dais in order to form a quorum.

1. Second Reading and Adoption of Ordinance 2017-05, an Ordinance of the City Council of the City of Winters to Consider the Request for a Rezoning to Add Planned Development (PD) Overlay Zone to the Property Located at 301 Main Street, APN 003-191-006

City Manager Donlevy gave an overview. Council Member Loren requested confirmation that public hearing notices had been published for these re-zoning requests. Public hearing notices were published in the September 21st issue of the Winters Express. Council Member Anderson asked if there were any public comments addressing this item and there were none.

Motion by Council Member Neu, second by Council Member Loren to find the proposed project categorically exempt from CEQA, Section 15305 (Minor Alterations in Land Use Limitations), waive the second reading and adopt Ordinance 2017-05 adding a Planned Development (PD) Overlay Zone to the property located at 301 Main Street. Motion carried with the following vote:

AYES: Council Members Anderson, Loren, Neu
NOES: None
ABSENT: Council Member Biasi and Mayor Cowan
ABSTAIN: None

2. Second Reading and Adoption of Ordinance 2017-06, an Ordinance of the City Council of the City of Winters to Consider the Request for a Rezoning to Add Planned Development (PD) Overlay Zone to the Property Located at 302 Abbey Street, APN 003-191-005

City Manager Donlevy gave an overview and said the property at 302 Abbey Street is contiguous with the property located at 301 Main Street described in Discussion #1. Council Member Anderson asked if there were any public comments addressing this item and there were none.

Motion by Council Member Loren, second by Council Member Neu to find the proposed project categorically exempt from CEQA, Section 15305 (Minor Alterations in Land Use Limitations), waive the second reading and adopt Ordinance 2017-06 adding a Planned Development (PD) Overlay Zone to the property located at 302 Abbey Street. Motion carried with the following vote:

AYES: Council Members Anderson, Loren, Neu
NOES: None
ABSENT: Council Member Biasi and Mayor Cowan
ABSTAIN: None

3. Fire Services Future- City of Winters/City of Dixon Agreement

City Manager Donlevy gave an overview and described the improvements within the department, including management, increased ambulance service and numerous programs and procedure that have been put into place since moving into the Public Safety Facility in 2011. The current contract for administrative services expires at the end of October, 2017 and three options were presented to Council for their input: maintain the current agreement with the City of Dixon, non-renew the agreement and hire a new Fire Chief through an open recruitment, or hire internally from personnel within our existing full time and reserve/volunteer force.

From an administrative standpoint, Winters Fire is very strong and includes volunteers as well as our own professional staff, who are all very educated. The reserve program is made up of many professional people, including some who are currently attending the Fire Academy. Council Members Loren and Neu both agreed this is a great opportunity to support the City's staff members. Council Member Neu asked about the possibility of nobody applying for the position from within. City Manager Donlevy said if this is the case and the position is filled from the outside, it will be necessary to bring this item back to Council to request a budget adjustment. If the position is filled from within, it would likely be a wash financially.

Council Member Biasi asked if the department would need to hire an administrative staff member. City Manager Donlevy said staff would look at the budget and from a continuity standpoint, it would be helpful to have an administrative staff member on a part time basis. Council Member Anderson asked if this would be an interim or probationary position and City Manager Donlevy said this might be something that is done on an interim basis.

Mayor Cowan asked if anyone from the public would like to address this topic and with no further comment said he has been in favor of shared services, but at this point it has run its course and it's time to take care of our own. He said he is leaning towards option 3, which would be cheaper if it were done on an interim basis. If this doesn't work out, we can then revert to option 2, although it would be more expensive. Mayor Cowan also asked if the term "look within" applied to current and past employees. City Manager Donlevy said the focus would be internal and it would apply initially to current, active employees.

Council Member Loren about the possibility of one or more than one interim chiefs in order to experience the demands of the position and City Manager Donlevy said no offers have been made to date. The coordination with the Dixon Fire Department has strengthened the core responsibilities within the department, including personnel, financing and administration. Each department is responsible for their own budget and the department head must be held accountable and the fire chief position will be a 40-hour per week position.

Council Member Biasi and Mayor Cowan voiced their preference for the internal option. Council Member Biasi suggested we figure out what we can do on an interim basis and Mayor Cowan and Council Member Anderson requested more financial details. Council Member Anderson also requested that a thank you letter be sent to Dixon for all they have done for our fire department. Council Member Loren also mentioned succession planning and asked staff to keep it in mind.

CITY OF WINTERS AS SUCCESSOR AGENCY TO THE WINTERS
COMMUNITY DEVELOPMENT AGENCY

1. None
-

CITY MANAGER REPORT: There were huge disasters all around us last week. While the City of Winters built an incredible playground, fires devastated Napa and Sonoma counties. St. Helena and Calistoga were evacuated and the City was notified by Dana Carey at Yolo County OES that there may be a potential mass evacuation headed our way. Staff worked diligently and contingency plans were put in place. Staff called Red Cross to set up a shelter and the request was cancelled. Instead, staff set up a shelter at the Community Center as to not burden resources when you don't need them. Staff worked with Mariani's and the Dioceses of Sacramento, obtaining permission for a possible mass influx of evacuees. Last week was a crazy week!

Regarding General Plan issues and updates, there are several components of the plan that are in the process to be updated: circulation update, land use, sewer and water master plan, public service, natural resources and housing elements. These items are on hold and will be discussed further in the next two-year budget cycle. The land use element triggers a lot of environmental review, consultants, CEQA, etc. and the City needs money to do those things.

Project Playground is a gift to the community. It is not only beautiful, but the project got folks working together side by side.

October is Breast Cancer Awareness Month, the month to remember those who have dealt with cancer of all types. Winters P.D. has stepped up with the pink patches, which can be purchased at the Police Department for \$10, with 100% of the proceeds going towards breast cancer research.

ADJOURNMENT: Mayor Cowan said the Winters High School football game against St. Helena that had been previously cancelled due to the fires and evacuations in that area will be played this Friday, October 20th in Winters, where donations will be accepted at the gate to help the fire victims. Mayor Cowan then adjourned the meeting at 7:38 p.m.

Wade Cowan, MAYOR

ATTEST:

Nanci G. Mills, City Clerk



STAFF REPORT

TO: Honorable Mayor and Council Members
DATE: November 7, 2017
THROUGH: John W. Donlevy, Jr., City Manager *JWD*
FROM: Carol Scianna, Environmental Services Manager *CS*
SUBJECT: West Yost Amendment to Agreement 027-17

RECOMMENDATION: Staff recommends that City Council authorize City Manager to execute amendment to consultant services agreement 027-17 with West Yost Associates for additional tasks associated with the design of a new headworks screening system at the Wastewater Treatment Facility (WWTF), in the amount not to exceed \$13,890, as per proposal dated October 2, 2017. Additional services will include influent flow meter and alarms to City's SCADA system.

BACKGROUND: The West Main sewer pump station is required as part of the Highlands Development (aka Stones Throw). A contractor has been selected by the developer for this project, construction is expected to begin Fall 2017 and completion of pump station April 2018. This new pump station will be directing influent directly to the WWTF rather than the East Street Pump Station (ESPS), which is how all wastewater is currently processed. This redirection will significantly increase capacity at ESPS. With effluent sent directly to the WWTF the influent screening that currently takes place at ESPS will also be bypassed. The installation of an influent screen at the WWTF will ensure that the removal of rags and other debris are kept from the entering the ponds. These additions will help staff maintain an efficient and reliable WWTF system.

Council previously authorized consultant agreement with West Yost on July 18, 2017 to complete the design of the influent screen. In discussion with City and West Yost staff it was determined that the influent screen will need to include a flow meter to allow operators to track influent received directly into the WWTF process, since these flows will not be tracked at the East Street Pump Station. It was also decided that the new influent screen will need to be tied to our SCADA alarm system.

Neither of these tasks was included in the initial proposal from West Yost. The additional costs of \$13,890 will be paid from Sewer Capital projects funds.

Initial estimates for the construction of the influent screen are \$455,000, funds have been set aside from Sewer capital projects and impact fees will be available to pay for remaining

expenses.

FISCAL IMPACT: NOT TO EXCEED \$13,890

Attachments:

West Yost Proposal

Revised Project Budget Sheet



October 2, 2017

SENT VIA: EMAIL

Ms. Carol Scianna
Environmental Services Manager
City of Winters
301 1s Street
Winters CA 95694

SUBJECT: Amendment to Consultant Agreement 027-17 – Design Headworks Screening System at the City of Winters Wastewater Treatment Facility

Dear Carol:

West Yost Associates (West Yost) is pleased provide this proposal to amend our scope of work for design and design services during construction services associated with a new headworks screening system at the City of Winters Wastewater Treatment Facility (WWTF). Our understanding of the additional scope, and proposed amendments to the project work scope and budget, are described below.

UNDERSTANDING OF ADDITIONAL SCOPE

The City of Winters wishes to amend the scope of the new WWTF headworks screening system project to include improvements necessary to:

- Measure the total influent flow to the new headworks screening system
- Transmit both total influent flow measurements and headworks screening system alarms to the City's remote SCADA system

REVISED SCOPE OF WORK

This Scope of Work will be revised to include design and design services during construction services associated with:

- A new magnetic flow meter in a concrete vault, prior to the new headworks screenings system
- A new PLC control panel and antenna system to transmit flow and alarm conditions to the City's existing remote SCADA system

Revised Task 2. Prepare Design Drawings

We anticipate that the following additional design drawings will be required.

<u>DWG NO.</u>	<u>SHEET NAME</u>
M004	HEADWORKS MECHANICAL DETAILS 3
E007	CONTROL PANEL LAYOUT
E008	CONTROL PANEL ELEMENTARY DIAGRAMS

Revisions to Tasks 3 - 5

The scopes of work for Task 3-Prepare Technical Specifications, Task 4-Prepare Construction Cost Estimate, and Task 5-Engineering Services During Bidding and Construction will be expanded to include: (1) a new magnetic flow meter in a concrete vault, prior to the new headworks screenings system; and (2) a new PLC control panel and antenna system to transmit flow and alarm conditions to the City's existing remote SCADA system. Regarding Task 5, in addition to the bulleted construction phase services listed in the current scope of work, a design engineer will witness the factory test of the new PLC control panel.

ADDITIONAL BUDGET

The estimated cost to complete the revised scope of work described above is summarized in the table below. We will perform all work on an hourly basis at standard company charge rates, and will not exceed the estimated cost summarized herein without written authorization.

Table 1. Proposed Additional Budget	
Task or Activity	Additional Budget, dollars
Task 1 – Topographic Survey and Mapping	0
Task 2 – Prepare Design Drawings	5,680
Task 3 – Prepare Technical Specifications	3,250
Task 4 – Prepare Construction Cost Estimate	535
Task 5 – Engineering Services During Bidding & Construction	4,425
Task 6 – Meetings, PM and QA/QC	0
Total	\$13,890

Sincerely,

WEST YOST ASSOCIATES



Dave Anderson, PE
Engineering Manager
RCE #27659

DA:lh

**WWTF Influent Screening Improvements
Project Budget Sheet (Design)**

CIP#: 16-03
Last Updated:
Project Owner: Public Works
Project Manager: Alan Mitchell

MTIP #
Original Approval: Jan. 2016
Project Resource: Consultant

Description:

Design for WWTF Influent Screening System

Authority:

The City needs to ensure that rags and other debris is screened prior to entering the WWTF ponds

Budget:						
Item	%	Amount	Item	%	Amount	
Project Management		\$5,000	Design		\$94,890	
Testing and Inspection			Permits			
Pre Design		\$9,000	Construction			
Right of Way/Utility Relocation			Contingency			
CEQA/NEPA			Project Total:		\$108,890	

Financing Schedule:		Project Start:	2016	Project Completion:	2018		
Phases: Design, Construction							
Fund Code:	621						
Name:	Sewer Cap Projects	Blank	Blank	Blank	Blank	Blank	FY Totals
Previous	\$ 9,000						\$ 9,000
FY 16/17:							\$ -
FY 17/18:	\$ 108,890						\$ 108,890
Fund Totals:	\$ 117,890	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 117,890

Recommended for Submittal

 Carol Scianna, Public Works (date)

Recommended for Approval

 Alan Mitchell, City Engineer (date)

Finance Department Approval

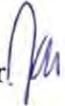
 Shelly Gunby, Director of Finance (date)

City Manager Approval

 John Donlevy, City Manager (date)



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: November 7, 2017
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Alan Mitchell, City Engineer
SUBJECT: Final Acceptance of Public Improvements for Hudson/Ogando Subdivision
(Winters Ranch)

RECOMMENDATION: Staff recommends that the City Council accept the public improvements as complete and direct the City Clerk to file a Notice of Completion.

BACKGROUND: The Hudson Ogando Subdivision project (Winters Ranch) consists of 70 single family lots on 15.97 acres, located just north of the Public Safety Facility off Main Street. The Tentative Map was approved on November 15, 2005, and the Final Map was approved on October 7, 2014.

The Applicant entered into a Public Improvement and Maintenance Agreement, for required improvements within the public right of way. The public improvements included frontage improvements along Main Street, extension of Taylor Street and Kennedy Drive, construction of Potter Street and Ireland Street and Alleys, public landscaping and ped/bike path along Kennedy and Main, a new min-park near Kennedy and Taylor, and water, sewer and storm drain systems to serve the subdivision. Construction started in early 2015.

DISCUSSION: The improvements have been constructed in accordance with the approved improvement plans. Staff recommends the City Council accept the improvements and direct the City Clerk to file a Notice of Completion.

FISCAL IMPACT: No funding impacts are associated with this request.

Recording Requested by

CITY OF WINTERS

When Recorded Mail To:

Nanci G. Mills, City Clerk
City of Winters
318 First Street
Winters, CA 95694

NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN THAT:

The undersigned is the owner of the interest or estate in the hereinafter described real property, the nature of which estate or interest is fee simple.

The full name and address of the owner and of any and all co-owners is the City of Winters, 318 First Street, Winters, CA 95694.

The nature of the title of the undersigned is City Manager.

The full names and complete addresses of all persons, if any, who hold title with the undersigned as joint Co-owner's Name(s) and Complete Address: None

The names of the predecessors in interest of the undersigned, if the property was transferred subsequent to the commencement of the work of improvement herein referred to, include, but are not limited to the following individuals: None

A work of improvement on the property described below was completed on:
October 31, 2017.

The name of the original contractor for the work of improvement was: Clyde Miles Construction Company, 1110 Burnett Ave., Suite C, Concord, CA 94520.

The kind of work done or finished was the completion of public improvements within the public right of way including frontage improvements along Main Street, the extension of Taylor Street and Kennedy Drive, the construction of Potter Street and Ireland Street and alleyways, public landscaping and a pedestrian/bike path along Kennedy and Main, a new mini-park near Kennedy and Taylor, and water, sewer and storm drain systems to serve the subdivision.

The property on which the work of improvement was completed is within the City of Winters, County of Yolo, State of California, and is located along Main Street and includes the extensions of Taylor Street and Kennedy Drive, the construction of Potter Street, Ireland Street, and their alleyways.

Dated this _____ day of _____, 2017.

(Owner's Signature)

(Owner's Typed or Printed Name)

VERIFICATION

I, the undersigned, say:

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct:

_____,
(Date)

_____,
(Place)

(Signature) Nanci G. Mills, City Clerk

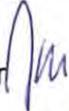
This form is the notice of completion that a property owner may record to limit the time in which mechanics' liens may be recorded against a construction project (refer to Civil Code Section 3093.) For this purpose, an owner is the person who causes a building, improvement, or structure to be completed, modified, or fixed, whether the interest or estate is in fee, as a vendee under contract or purchase, as lessee, or other interest or estate less than fee. If the interest is held by two or more persons as joint tenants or tenants in common, any one or more of the co-tenants may be deemed to be the owner. (Civil Code Section 3092(g), 3093.) **This form is for use with a private work of improvement only, and is not intended for public sector application.**

If the owner records the notice within the applicable time period, the original contractor has sixty (60) days from the day the notice is recorded to record a claim of lien against the project (Civil Code Section 3115(b)); and all other persons who furnished labor, services, equipment, or materials must record their liens within thirty (30) days after the notice of completion is recorded (Civil Code Section 31.) Otherwise, all persons who furnished labor, services, equipment, or materials have ninety (90) days after completion of the work of improvement in which to record their liens (Civil Code Sections 3115, 3116.)

The owner must record the notice in the office of the County Recorder of the county where the site is located within ten (10) days after the work of improvement is completed (Civil Code Section 3093.) This applies equally to the project which is completed in phases. A notice of completion must be filed within ten (10) days after the completion of each phase of the project to shield the owner properly (Civil Code Section 3117.)



STAFF REPORT

TO: Honorable Mayor and Councilmembers
DATE: November 7, 2017
THROUGH: John W. Donlevy, Jr., City Manager 
SUBJECT: Adoption of Yolo Local Government Accountability and Transparency Program Statement Requesting Yolo LAFCo Conduct Municipal Service Reviews for Selected Types of Joint Powers Authorities/Agencies and Implement a Web Transparency Scorecard Process for Local Government Agencies

RECOMMENDATION:

Adopt the Yolo Local Government Accountability and Transparency Program.

BACKGROUND:

For several years, city and County leaders have explored consolidation of the numerous JPAs countywide under some “umbrella” oversight structure. This idea goes back to at least 1995, when city/county managers issued a white paper analyzing the benefits and costs of JPA consolidation. More recently, Yolo LAFCo was tasked with creating such a structure but efforts have resulted in limited success for various reasons. Therefore, at LAFCo’s Shared Services Workshop on February 23, 2017, which included most of the city/county managers and at least one elected official from each city and Yolo County, the conversation shifted from consolidated governance to coordinated oversight.

The list of attendees included:

Dirk Brazil, City of Davis
Babs Sandeen, City of West Sacramento
Howard Anderson, City of Winters
Angel Barajas, City of Woodland
Paul Navazio, City of Woodland

Will Arnold, City of Davis
Bill Biasi, City of Winters
Wade Cowan, City of Winters
Tom Stallard, City of Woodland
Don Saylor, Yolo County

Duane Chamberlain, Yolo County
Matt Rexroad, Yolo County
Olin Woods, LAFCo
Eric May, LAFCo
Sarah Kirchgessner, LAFCo

Jim Provenza, Yolo County
Pat Blacklock, Yolo County
Robert Ramming, LAFCo
Christine Crawford, LAFCo
Terri Tuck, LAFCo

In order to achieve the shared goals of oversight, accountability, transparency, and shared services, the outcomes of the Shared Services Workshop included two new special projects for LAFCo:

- Conducting Municipal Service Reviews (MSRs) of selected types of JPAs (which occur once every five years on a schedule adopted by the Commission); and
- Completing a Web Transparency Scorecard for the County, cities, JPAs and special districts (modeled after one completed by the Marin County Grand Jury in 2015/16).

MSRs of Selected Types of JPAs

Under the proposed action, LAFCo will apply the existing MSR framework already used for cities/special districts to selected types of JPAs. MSRs include standard determinations in seven areas: growth and population effects on agency services; services that could assist disadvantaged unincorporated communities; capacity and adequacy of services; financial ability to provide services; the status and opportunities for shared services; and agency accountability and structural/operational efficiencies. The JPAs being considered are ones that either: (1) provide municipal services, (2) have their own staff, and/or (3) have JPA boards comprised of staff. These JPAs would be subject to a LAFCo MSR every five years. The JPAs that fall into these categories currently include:

1. Valley Clean Energy Alliance
2. West Sacramento Area Flood Control Agency
3. Woodland-Davis Clean Water Agency
4. Yolo County Public Agency Risk Management Insurance Authority
5. Yolo Emergency Communications Agency
6. Yolo Habitat Conservancy
7. Yolo Subbasin Groundwater Agency

Because LAFCo does not have direct oversight responsibility over JPAs, it was suggested that the cities and County first endorse these initiatives to make it clear that LAFCo would undertake this effort at the "member" agencies' request. Each JPA was also provided an opportunity to provide input/comments. On May 22, 2017 LAFCo staff sent a letter to each of the seven JPA executive directors requesting feedback on the proposal that LAFCo begin conducting MSRs of his/her JPA. Feedback was provided to LAFCo staff either by conversation with the executive

director, meeting with the board, or via letter. LAFCo staff received feedback from the subject JPAs across the spectrum as summarized below:

1. **Valley Clean Energy Alliance** – LAFCo staff received feedback from the board chair that since this JPA was recently formed, LAFCo review should occur later in the five-year cycle.
2. **West Sacramento Area Flood Control Agency** – LAFCo staff met with the General Manager and Counsel to explain the MSR process. While they questioned the value, agreed to participate in the process.
3. **Woodland-Davis Clean Water Agency** – LAFCo staff received a letter from the JPA's (now former) General Manager indicating that he would be happy to provide information for the City of Davis and City of Woodland MSRs, but does not support a stand-alone MSR for WDCWA because it would be expensive, time consuming, and would not produce much helpful information beyond that found in the city MSRs (see attached).
4. **Yolo County Public Agency Risk Management Insurance Authority** – LAFCo staff received a letter from the CEO welcoming an MSR and providing ideas for the review (see attached).
5. **Yolo Emergency Communications Agency** – LAFCo staff presented to the YECA board. While there were concerns regarding expending YECA staff time, the board indicated that YECA would participate in an MSR process.
6. **Yolo Habitat Conservancy** – LAFCo staff received an email from the Executive Director indicating that she did not think a LAFCo MSR review is necessary because the County Department of Financial Services auditors recently conducted an assessment, and that such an assessment could instead be continued annually.
7. **Yolo Subbasin Groundwater Agency** – LAFCo staff spoke with Tim O'Halloran and he welcomed the MSR process for transparency purposes.

Because LAFCo does not have legal authority over JPAs, an endorsement from each city/county is requested before LAFCo undertakes such an effort.

Web Transparency Scorecard

Another tool to promote transparency and accountability is a web transparency scorecard, which would be modeled after one completed by the Marin County Grand Jury in 2015/16. The proposal is that this scorecard would review the websites of the County, cities, JPAs and special districts in the county using a pre-determined checklist of information. This scorecard could also provide quickly understandable information regarding the basic elements of good governance of an agency/organization. It also should be noted that based on LAFCo staff's initial review of independent special district websites, 75% of them currently do not have websites. And many of the 24 JPAs also do not have a website or webpage on the member agency's site. Therefore, an initial hurdle of this process will be helping local agencies establish a website presence.

Yolo Accountability and Transparency Program

Attached is a vision, goals, and implementation approach that includes both the MSRs for Selected Types of JPAs and the Web Transparency Scorecard for agency endorsement and LAFCo implementation. A JPA “best practices” framework is also included which lists criteria for creating any new JPAs, budget integration with funding agencies, and determining city/county manager liaison assignments to each JPA. It is recommended that each agency adopt this shared vision as a model for transparency and accountability in local governmental agencies.

Next Steps

Upon adoption and endorsement from each city council and Yolo County Board of Supervisors, LAFCo will incorporate these new reports into its annual work plan. The Program also suggests the city/county managers begin providing a budget preparation memo to the JPAs annually to improve budget integration with the City/County funding agencies.

FISCAL IMPACT:

None. Program next steps to be implemented by city/county managers, city/county website staff and LAFCo are anticipated to be handled with existing staff resources.

Attachments:

1. Yolo Local Government Accountability and Transparency Program
2. MSR Issue Summary
3. Types of JPAs Countywide
4. JPA Correspondence
5. Marin Web Transparency Scorecard (Excerpted)

Yolo Local Government

Transparency and Accountability Program

VISION

Our vision is to promote open government and transparency for government agencies countywide (cities, County, special districts, and joint powers authorities), thereby fostering public trust and accountability. We will achieve this by:

- Requesting that LAFCo add selected types of joint powers authorities/agencies to its municipal service review process already conducted with the cities and special districts.
- Supporting LAFCo to develop a scorecard measuring local agency website transparency, performed on a regular basis.
- Agreement to a common checklist of information used to measure the level of transparency in local agency websites.
- Ensuring that city/county websites are a model for other local government agencies to follow.
- Encouraging local special districts and JPAs to create a web presence if they do not already have one.

GOALS

The agencies seek to improve:

- Transparency and accountability.
- Oversight.
- Service delivery and efficiency.
- Coordination among agencies.
- Public understanding of local government.
- Good governance by creating a standard of basic elements for a well-run governmental organization (annual budget, CIP, audits, etc.).

VALUES

TRUST AND INTEGRITY which the agencies will demonstrate by following through on their commitments, duties, and responsibilities.

OPEN, HONEST, AND CLEAR COMMUNICATION within each organization, between agencies and with the public.

FISCAL ACCOUNTABILITY as demonstrated by making budgets, financial practices, compensation, and audits available to the public.

PROMOTING AWARENESS of local government by promoting a website presence that describes the agency's reason for existing, a description of services it provides, and the area it provides services to.

ENCOURAGING UNDERSTANDING of where tax dollars go and how to easily contact board members and agency management.

CIVIC RESPONSIBILITY through access to board meeting schedules, agendas and minutes so the public can more easily attend board meetings and become involved.

TRANSPARENCY to respond to the growing movement to make governmental information available and searchable online.

REPRESENTATION to inform the public regarding board members (names, contact information and terms of office) and their election/appointment process.

JPA/SHARED PROGRAMS FINANCIAL BEST PRACTICES

City/County managers will determine assignments to each JPA/Shared Programs for liaison/oversight purposes. Shared programs include programs that are funded via city/county cost sharing, e.g. Yolo County Animal Services, Office of Emergency Services, West Valley Fire Training Consortium, etc.

Budget integration between JPAs/Shared programs and "member" agencies that fund them will be improved by implementation of the following process performed annually:

- City/County managers will prepare a consolidated summary-level budget preparation memo for the JPAs and other shared programs that require city/County funding. The memo should convey the budget stance for the upcoming fiscal year, plus a longer range outlook. The intent is to create JPA alignment with the cities/County budget stance and mirror agency cycles of budget reductions or growth.
- City/County managers may schedule budget workshops with the JPAs and shared programs each year around the March timeframe or as appropriate.
- JPAs and other shared programs are requested to provide draft budgets for funding agencies' executive manager review by May and final adopted budgets no later than June 15th of each year for integration into each funding agency's budget.

Formation of any new JPAs or shared programs should only be considered when the following criteria are met.¹ The proposed JPA/shared program:

- Will demonstrate cost reduction.
- Is more efficient.
- Will reduce or eliminate overlapping services.
- Will result in the sharing of resources.

JPA agreements should include common policies supporting JPA funds to be held in the County Treasury (as appropriate), open government, and transparency.

¹ Governments Working Together, A Citizen's Guide to Joint Powers Agreements, California State Legislature, Senate Local Government Committee, August 2007

PROGRAM IMPLEMENTATION – MUNICIPAL SERVICE REVIEWS OF SELECTED TYPES OF JPAs

The Cities/County request that LAFCo conduct Municipal Service Reviews every five years of selected types of JPAs whose service area is mostly within the county and includes: (1) JPAs that provide municipal services; (2) JPAs that employ staff; and/or (3) JPAs with boards comprised of agency staff. New JPAs may be created in the future and added to this list, but currently those JPAs include:

1. Valley Clean Energy Alliance
2. West Sacramento Area Flood Control Agency
3. Woodland-Davis Clean Water Agency
4. Yolo County Public Agency Risk Management Insurance Authority
5. Yolo Emergency Communications Agency
6. Yolo Habitat Conservancy
7. Yolo Subbasin Groundwater Agency

LAFCo steps to complete Municipal Service Reviews on a five-year cycle of these JPAs include:

- Compiling publicly and readily available information.
- Requesting any additional information from the JPA, minimizing JPA staff time.
- Developing JPA recommendations regarding each of the seven standard MSR determinations.
- Completing an administrative draft report for preview by JPA management.
- Responding to any comments and preparing a draft report available for public review.
- Publishing a hearing notice for public review and comment of the draft MSR.
- Adopting the MSR at a public hearing, finalizing the report, and posting it online.
- Sharing MSR findings with city/county managers, including any cumulative recommendations on ways to streamline and improve efficiencies with the governance structures countywide.

PROGRAM IMPLEMENTATION - WEBSITE TRANSPARENCY SCORECARD

A website transparency scorecard will be prepared by LAFCo on a regular basis involving the following steps:

- Creating list of cities, County, JPAs and special districts
- Encouraging local JPAs and special districts to establish websites and assist them, if desired
- LAFCo conducts preliminary review of agency websites
- LAFCo shares preliminary results with each agency to provide an opportunity for improvement

- LAFCo conducts follow up review
- The agency scorecard is finalized, adopted by the LAFCo Commission, shared with local agencies, and posted online

AGENCY WEB TRANSPARENCY CHECKLIST²

The scorecard will be based on the following criteria:

1. Overview
 - a. Mission Statement: What is the agency's reason for existing?
 - b. Description of services/functions: What actions does the agency undertake and what services does the agency provide?
 - c. Boundary of service area: What specific area does the agency serve?
2. Budget
 - a. Budget for current fiscal year and three years prior to the current year.
 - b. Financial reserves policy: What is the agency's policy for designated reserves and reserve funds? (The policy should be in the agency policy manual but also may be restated and found in the budget or audit reports).
3. Meetings
 - a. Board meeting schedule: When and where specifically does the agency meet?
 - b. Archive of Board meeting agendas & minutes for at least the last 6 months: Both approved minutes and past agendas
4. Elected & Appointed Officials
 - a. Board members (names, contact info, terms of office, compensation, and biography): Who specifically represents the public on the Board? How can the public contact them? When were they elected (or appointed)? How much do they earn in this role (as required by Assembly Bill 2040 effective January 1, 2015)? What background about the members illustrates their expertise for serving on the Board?
 - b. Election procedure and deadlines: If the public wishes to apply to be on the Board, how and when can they do so?
 - c. Reimbursement and compensation policy: Which (if any) expenses incurred by the Board are reimbursed? Do the Board members receive compensation?

² 2015-16 Web Transparency Report Card, Marin County Civil Grand Jury, March 17, 2016

5. Administrative Officials

- a. General manager and key staff (names, contact info, compensation, and benefits): Who specifically runs the agency on a day-to-day basis? How can the public contact them? How much do they earn in this role (as required by Assembly Bill 2040 effective January 1, 2015)? What specific benefits are they eligible for (healthcare, retirement plan, educational benefits, etc.)?

6. Audits

- a. Current financial audit
- b. Financial audits for the three years prior to the current year
- c. Most recent annual financial report provided to the State Controller's Office, or a link to this information
- d. Most recent LAFCo Municipal Service Review, if applicable

7. Contracts

- a. Current request for proposal and bidding opportunities (over \$25,000 in value)
- b. Instructions on how to submit a bid or proposal
- c. Approved in force vendor contracts (over \$25,000 value)

8. Public Records

- a. Online/downloadable Public Records Act (or FOIA) request form: What is the best way for the public to request public records?

9. Revenue Sources

- a. Summary of fees received: fees for services, if any
- b. Summary of revenue sources: bonds, taxes, loans and/or grants

10. Agency Specific Criteria

- a. Municipalities: Total number of lobbyists employed and total spent on lobbying, downloadable permit applications, and zoning ordinances
- b. Special Districts: Authorizing statute/enabling act (Principal Act or Special Act), board member ethics training certificates, link to the LAFCo website and any state agency providing oversight
- c. Joint Powers Authorities: A copy of the joint powers agreement as filed and adopted (with any updates)

Yolo Local Agency Formation Commission: Municipal Service Review (MSR) Determinations and Issue Summary

The Yolo Local Agency Formation Commission (LAFCo) is mandated by California law in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH) to conduct a Municipal Service Review for each of Yolo County's local municipalities, service areas, and special districts once every five years.

The purpose of a Municipal Services Review (MSR) is to provide a comprehensive inventory and analysis of the services provided by local agencies and their capacity/financial ability to continue doing so. An MSR evaluates the structure and operation of the local agencies and discusses possible areas for improvement and coordination. The MSR is intended to provide information and analysis to support a sphere of influence update, if needed. The CKH Act mandates that each MSR make determinations on seven topics, as described below.

1. GROWTH AND POPULATION:

Growth and population projections for the affected area

- a) Is the agency's territory or surrounding area expected to experience any significant population change or development growth over the next 5-10 years?
- b) Will development have an impact on the subject agency's service needs and demands?
- c) Will projected growth require a change in the agency's service boundary?

2. DISADVANTAGED UNINCORPORATED COMMUNITIES:

The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.

- a) Does the subject agency provide public services related to sewers, municipal and industrial water, or structural fire protection?
- b) If yes, are there any "inhabited unincorporated communities" (per adopted Commission policy) within or adjacent to the subject agency's sphere of influence that are considered "disadvantaged" (80% or less of the statewide median household income) (if "no" to a), this question may be skipped)?
- c) If "yes" to both a) and b), it is feasible for the agency to be reorganized such that it can extend service to the disadvantaged unincorporated community (if "no" to either a) or b), this question may be skipped)?

3. CAPACITY AND ADEQUACY OF PUBLIC FACILITIES AND SERVICES:

Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.

- a) Are there any deficiencies in agency capacity to meet service needs of existing development within its existing territory (also note number of staff and/or contracts that provide services)?
- b) Are there any issues regarding the agency's capacity to meet the service demand of reasonably foreseeable future growth (i.e. is there a plan for additional staff or expertise if necessary)?
- c) Are there any concerns regarding public services provided by the agency being considered adequate (i.e. verified complaints or data indicators)?
- d) Are there any significant infrastructure needs or deficiencies to be addressed for which the agency has not yet appropriately planned (including deficiencies created by new state regulations)?
- e) If the agency provides water, wastewater, flood protection or fire protection services, is the agency considering climate adaptation in its assessment of infrastructure/service needs?
- f) Are there any service needs or deficiencies for disadvantaged unincorporated communities related to sewers, municipal and industrial water, and structural fire protection within or contiguous to the agency's SOI?



4. FINANCIAL ABILITY:

Financial ability of agencies to provide services.

- a) Does the organization engage in budgeting practices that may indicate poor financial management, such as overspending its revenues, using up its fund balance or reserve over time, or adopting its budget late?
- b) Is there an issue with the organization's revenue sources being reliable? For example, is a large percentage of revenue coming from grants or one-time/short-term sources?
- c) Is the organization's rate/fee schedule insufficient to fund an adequate level of service, and/or is the fee inconsistent with the schedules of similar service organizations?
- d) Is the organization in need of written financial policies that ensure its continued financial accountability and stability?
- e) Is the organization unable to fund necessary infrastructure maintenance, replacement and/or any needed expansion?
- f) Is the organization needing additional reserve to protect against unexpected events or upcoming significant costs?
- g) Is the organization's debt at an unmanageable level?
- h) Does the agency have pension and/or other post-employment benefit (OPEB) liability? If so, what is the liability and are there any concerns that it is unmanageable?

5. SHARED SERVICES AND FACILITIES:

Status of, and opportunities for, shared facilities.

- a) Is the agency currently sharing services or facilities with other organizations? If so, describe the status of such efforts.
- b) Are there any opportunities for the organization to share services or facilities with neighboring or overlapping organizations that are not currently being utilized?
- c) Are there any recommendations to improve staffing efficiencies or other operational efficiencies?

6. ACCOUNTABILITY, STRUCTURE, AND EFFICIENCIES:

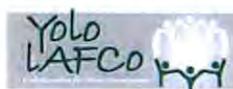
Accountability for community service needs, including governmental structure and operational efficiencies.

- a) Are there any issues with meetings being accessible and well-publicized? Any failures to comply with disclosure laws and the Brown Act?
- b) Are there any issues with filling board vacancies and maintaining board members? Is there a lack of board member training regarding the organization's program requirements and financial management?
- c) Are there any issues with staff turnover or operational efficiencies? Is there a lack of staff member training regarding the organization's program requirements and financial management?
- d) Are there any issues with independent audits being performed on a regular schedule? Are completed audits being provided to the State Controller's Office and County Director of Financial Services within 12 months of the end of the fiscal year(s) under examination? Are there any corrective action plans to follow up on?
- e) Does the organization need to improve its public transparency via a website? [A website should contain at a minimum the following information: organization mission/description/boundary, board members, staff, meeting schedule/agendas/minutes, budget, revenue sources including fees for services (if applicable), and audit reports.]
- f) Are there any recommended changes to the organization's governance structure that will increase accountability and efficiency?
- g) Are there any opportunities to eliminate overlapping boundaries that confuse the public, cause service inefficiencies, unnecessarily increase the cost of infrastructure, exacerbate rate issues and/or undermine good planning practices?

7. OTHER ISSUES:

Any other matter related to effective or efficient service delivery, as required by commission policy.

- a) Are there any other service delivery issues that can be resolved in this MSR/SOI process?



Types of JPAs Countywide

JPAs - Extend Beyond Yolo

- Area 4 on Aging Support Services Authority
- Regional Council of Rural Counties
- Schools Insurance Authority
- Napa-Solano-Yolo-Marin Public Health Labs
- Yolo-Solano AQMD
- SACOG

JPAs - Provide Municipal Services

- West Sac Area Flood Control Agency
- Woodland-Davis Clean Water Agency
- Yolo Emergency Communications Agency
- Yolo Habitat Conservancy
- Valley Clean Energy Alliance
- Groundwater Sustainability Agency

JPAs - W/ Own Staff (in Yolo)

- Woodland-Davis Clean Water Agency
- Yolo Emergency Communications Agency
- Yolo Habitat Conservancy
- YC Public Agency Risk Management Authority
- Valley Clean Energy Alliance
- Groundwater Sustainability Agency/

JPAs - As Finance Mechanism

- Davis Public Facilities Financing Authority
- Golden State Finance Authority
- River City Regional Stadium Financing Authority
- West Sacramento Financing Authority
- Winters Public Finance Authority
- Woodland Finance Authority
- Yolo County Public Agencies Financing Authority
- Winters Branch Library Financing Authority

JPAs - Boards Comprised of Staff

- YC Public Agency Risk Management Insurance Authority
- Yolo Emergency Communications Agency
- Cooperative Ag Support Services Authority
- Napa-Solano-Yolo-Marin Public Health Labs

JPAs - Other

- Yolo County Law Library
- Yolo In-Home Support Services Public Authority
- Conaway Ranch



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JUN 30 2017

YOLO LAFCO

City of Davis

City of Winters

City of Woodland

County of Yolo

Esports Unified School District

City of West Sacramento

Yolo Emergency Communications Agency

Yolo-Solano Air Quality Management District

Capay Valley Fire Protection District

Springlake Fire Protection District

California Superior Court - County of Yolo

East Davis Fire Protection District

No Man's Land Fire Protection District

Yolo County Law Library

Yolo County In-Home Supportive Services Public Authority

Yolo County Local Agency Formation Commission

Davis Cemetery District

Madison Fire Protection District

Winters Cemetery District

Yolo County Habitat Conservation JPA

Dunsmuir Fire Protection District

Cottonwood Cemetery District

Clarksburg Fire Protection District

Sacramento-Yolo Port District

Winters Fire Protection District

Madison Community Service District

Woodland-Davis Clean Water Agency

June 8, 2017

Ms. Christine Crawford
Yolo Local Agency Formation Commission
625 Court St, Ste 203
Woodland, CA 95695

Dear Ms. Crawford:

I acknowledge your letter of May 22, 2017, and would welcome a formal municipal service review on a five-year cycle. It is noted that all of the proposed agencies, with the exception of the Flood Control District and the unformed Groundwater Agency are YCPARMIA members.

The Authority already participates in a number of industry audits, and receives benefit from their insight and recommendations; it is important to have independent review to guard against complacency, and to provide a fresh perspective. On a scheduled basis YCPARMIA is audited by:

- California Association of Joint Power Authority (CAJPA) – an industry accreditation process held every three years; we are currently accredited with excellence.
- Association of Government Risk Insurance Pools (AGRIP) – a national organization similar to the State’s CAJPA; where we hold a similar accreditation for a three-year cycle.
- CSAC-Excess Insurance Authority – where we have an annual workers’ comp claims audit.
- California Joint Powers Risk Management Authority (CJPRMA) – where we receive an annual liability claims audit.
- An annual financial audit by Crowe Horwath.
 - Our annual financial audit is part of our CAFR, comprehensive annual financial report, that annually receives the Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association.
- An annual actuary study by Aon.
- The Association of Public Treasurers, which has awarded our investment policy with its Certificate of Excellence.

All of these external audits and studies are supported by the YCPARMIA Board, and the results are reported to and adopted as part of their regular agenda.

YCPARMIA occupies a relatively unique niche in government. I would estimate that there are only a couple of hundred similar agencies throughout the country. It is probably more appropriate to measure our performance and practices against the insurance industry as



opposed to mainstream government. At the same time, it is acknowledged that, while we perform insurance or risk functions, we do it in a public entity arena. It is therefore necessary that we comply with the standards and practices of both.

YCPARMIA tries to partner with their thirty-two members, and when possible to function as closely as possible as a quasi-department of our member. At the same time, we have an obligation to our membership as a whole, to function as a separate entity, responsible to the whole, for their collective risk sharing. Being outside the management structure of our members, we can bring an independent perspective, similar to what we see coming from your MSR. The downside of being outside the member's management structure is that we are limited in our ability to manage our member's risk – we are dependent upon the member's interest and cooperation, especially in the area of loss prevention.

There is one area of reoccurring concern: how to measure YCPARMIA's performance and success – it has few parallels in government. As stated above, we do not provide any direct risk management within our member's organizations. Instead we are on the outside providing support and expertise, and when something happens, we provide the financial mechanism to protect our member's assets from unanticipated loss. The risk tolerance of public entities is unfortunately much higher than that found in private industry, and the commitment to loss prevention is uneven at best. So YCPARMIA provides an essential service, that, given the nature of risk, will inevitably be called upon.

In that environment, I think we can measure our success by:

- Keeping our service and administrative costs within budget;
- Maintaining loss reserve funding at an industry approved level;
- Providing consistency and expertise in claims, litigation, and risk management;
- Provide coordination among members while protecting their interests in the shared risk pool, and
- Providing responsive customer service to our members.

In an effort to expand upon these thoughts, and to form a base to assist the process going forward, I have given short answers to your MSR questions.

1a: Our best guess is that growth will reflect the trend of the last ten years. Growth for us would be additional members (which we do not anticipate given the limited number of qualified entities), growth in the number of employees that our members have, and increased claim activity. Growth therefore should be incremental rather than sudden or unanticipated with members generally of smaller size.

1b: Development should not have an impact unless it resulted in significant increases in our member's services, infrastructure, or workforce. Risk is inherent in all operations, but that can be mitigated by policies, training, and loss prevention, so there is little direct correlation between development and the consequences of risk.

1c: No; it is YCPARMIA's Board policy to restrict membership to Yolo public entities; there has been little desire to share risk with agencies outside the County. Remaining non-member public entities in Yolo County are relatively small in number and size, and would have little impact in our overall exposure.

2a: No, but our members do provide these services.

2b: NA

2c: NA

3a: No; historically YCPARMIA has been able to immediately respond to member needs and requests, and there is nothing anticipated that will impact that ability going forward. There is a balance between YCPARMIA staffing and member staffing; if the YCPARMIA Board wants to take on more duties that are currently in-house at our member agencies, more staffing would be needed, but it would be targeted to member needs. There are situations where it might be more efficient to centralize some activities into YCPARMIA freeing up member staff for other functions.

3b: YCPARMIA has a staff of seven that interacts with the almost 4,000 employees and volunteers of our member agencies. It is this partnership in meeting member needs that makes us successful. Growth of our member agencies could require additional staffing at YCPARMIA, as could a shift by member management to place greater value or demand on managing risk, but based on historical trends this is unlikely. The most likely area for expanded service would be with our smaller members who have no risk experience or staff.

3c: NA

3d: No

3e: No

3f: NA

4a: YCPARMIA's By-laws require an annual budget; it is passed on time, and annually we have come in "under budget." Again, as required by our By-laws, we have an annual independent financial audit (and we produce an annual CAFR); the audit has never had any reservations or concerns. Our Board treasurer is Howard Newens, and like the YCPARMIA Board, he receives our financial reports.

As a risk sharing pool, the adequacy of our funding is a bit different from other public entities. An annual actuary study determines funds needed for existing and unreported claims at various confidence levels. By Board policy we retain funds to an 80% confidence level, and on top of that retains a Catastrophic Fund at an industry approved level. Every three years we are audited by the California Association of Joint Power Authorities to ensure that our practices and funding meet industry expectations. YCPARMIA will end the current fiscal year fully funded to Board approved levels after giving premium rebates in a three of our four our programs, with flat total member premiums when compared to last year's premiums.

Two times over the last thirty years the YCPARMIA Board has strayed from its own funding policies and our By-laws, and used program reserves to offset premiums to a level that adversely

6e: YCPARMIA's website meets the criteria outlined. It is recognized in our industry for the wealth of information and services offered. It is developed, maintained, and updated in-house.

6f: No. We are responsive to our member's needs, and take pride in our accountability and service. Customer satisfaction is monitored and concerns or suggestions are responded to; we are small and independent enough to be nimble.

6g: No. YCPARMIA's goal is to be a seamless partner with our members and their departments. While we are an independent agency, we want to be considered an extension of our member's organizations.

7a: I will take this as an opportunity to climb onto a soapbox. Risk is inherent in the operations of our members. Unlike private industry, where risk impacts the bottom line, public entities seem to have a risk tolerance that can only be sustained with increasing difficulty in a time of tightening budgets. A cultural change needs to be driven from the top, and manager/supervisor accountability for injuries and damages needs to be made visible. YCPARMIA is ready to partner with our members to reduce costs, but it is recognized that to be successful, a significant shift must take place and be sustained.

Very truly yours,



Jeffrey Tonks
CEO/Risk Manager



RECEIVED

JUN 28 2017

June 26, 2017

YOLO LAFCO

VIA E-MAIL AND U.S. MAIL

Ms. Christine M. Crawford, Executive Officer
Yolo Local Agency Formation Commission
625 Court Street, Suite 203
Woodland, CA 95695

Re: Response to LAFCO Proposal to Conduct
Municipal Service Reviews of Selected Joint Powers Agencies

Dear Ms. Crawford:

I write in response to your letter dated May 22, 2017 concerning the Yolo Local Agency Formation Commission's (Commission) proposal to conduct municipal services reviews (MSRs) for several joint powers agencies within its jurisdiction, including the Woodland-Davis Clean Water Agency (WDCWA), and your request for feedback about such a process.

WDCWA was established by the Cities of Davis and Woodland in 2009 to implement and oversee a regional surface water supply project to provide Davis, Woodland, and the University of California, Davis with an affordable and reliable water supply. The project, which consists of a new water treatment facility south of Woodland and a new intake on the Sacramento River (jointly constructed and operated with Reclamation District 2035), was completed in 2016. WDCWA is a wholesale water supply agency. It began water deliveries to Davis and Woodland in June 2016 and soon will begin delivering water to UC Davis. WDCWA does not employ any staff. It relies on consultant services and assistance by Davis and Woodland staff.

While WDCWA supports the Commission's efforts to better understand the service capacities of local agencies in Yolo County, conducting an MSR for WDCWA would neither be appropriate nor promote the Commission's goals. As you know, MSRs are conducted before, or in conjunction with, actions to establish or amend a local agency's sphere of influence (SOI) (Gov. Code, § 56430). SOIs are determined for cities and special districts, but not for joint powers authorities such as WDCWA. (Gov. Code, § 56425.) Rather, as a JPA of the Cities of Davis and Woodland, WDCWA's boundaries are defined by the cities' boundaries. WDCWA and the Commission lack the authority to expand the WDCWA territory, except through city annexation.



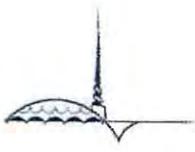
More importantly, because WDCWA was formed specifically to provide surface water to its wholesale customers, Davis and Woodland, much of the information that the Commission would obtain from conducting an MSR for WDCWA would also be available from the MSRs for these cities and would largely duplicate information found in the city MSRs. In addition, in reviewing the Commission's MSR determinations and issues summary worksheet you provided, questions addressing population growth, disadvantaged unincorporated communities, and infrastructure needs relating to services other than water would be best addressed to Davis and Woodland. WDCWA would be happy to provide the Commission with additional information to support the Commission's MSR processes for Davis and Woodland; however, we do not support the preparation of a full MSR for WDCWA. We believe it would be an expensive and time-consuming process and would not produce much helpful information beyond that found in the city MSRs. Furthermore, WDCWA would not be able to support a comprehensive service review specific to WDCWA given its small size, lack of full-time staff, and limited funding.

Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Dennis M. Diemer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dennis Diemer
General Manager



2015-16 Web Transparency Report Card

Bringing Marin County's Local Governments to Light

SUMMARY

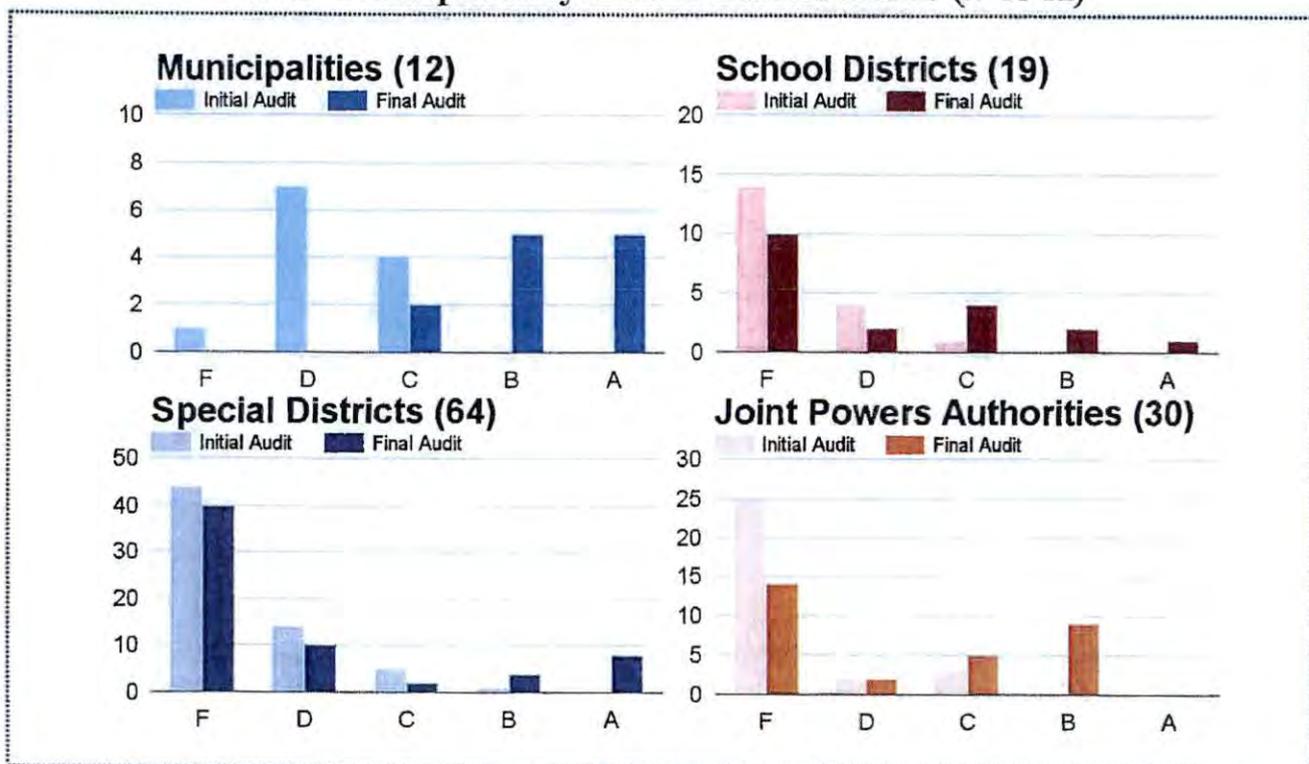
How important are government websites? In April 2015, the Pew Research Center reported¹ that “65% of Americans in the prior 12 months have used the internet to find data or information pertaining to government”. Between October 2015 and January 2016, the Marin County Civil Grand Jury audited local government agencies’ websites to evaluate the quality of online information such as budgets, audits and board member information. We found serious deficiencies. The Grand Jury provided each agency with our preliminary audits and described our approach. All agencies were offered the opportunity to improve their websites for a final audit. Many websites significantly improved, while others remained deficient. This audit report provides transparency improvement recommendations for Marin local agency websites.

126 local agencies were audited: 12 municipalities, 19 school districts, 64 special districts, 30 joint powers authorities (JPAs), and 1 rail district.

59 local agencies improved their websites, and 34 received a grade of B- or better.

27 local agencies have no website: 19 special districts and 8 joint powers authorities (JPAs).

Web Transparency Grade Distributions (F to A)



¹ http://p.winternet.org/files/2014/10/PI_OpenData_072815.pdf

BACKGROUND

"A lack of transparency results in distrust and a deep sense of insecurity."

— Dalai Lama

Marin residents are likely unaware of all the various agencies that serve them. Their property tax bills list² the charges assessed by these local agencies³: county, city, school, joint powers authorities, rail districts, special districts, and assessment districts. Appendix A illustrates a sample Marin property tax bill.

Increasing transparency for a local agency makes it easier to understand where tax dollars go. Residents should be able to easily find the description of services provided, the names and contact information of board members and management, the budget, agendas and minutes of meetings, and other information. Today, the most common source of information is the Internet. Compared with other information sources (i.e., phone calls or emails), online searching is often faster, more detailed, always accessible and anonymous.

An effective website presence can also benefit an agency. In the study, *Smarter eGovernment: The Economics of Online Services in Utah* (sponsored by the National Information Consortium⁴), the Center for Public Policy and Administration at the University of Utah found that Utah was able to save a total of \$46 million in the period of 2007-2011 by making traditionally “offline” (in-office) services available online.

State law requires transparency: The Ralph M. Brown Act (public meetings), The California Public Records Act (record keeping), California Fair Political Practices Reporting Requirements (economic interests), and financial reporting. While there is currently no requirement for an agency to have a website, there has been a growing movement to make governmental information available online (the “Open Data” movement). In 2013, President Obama signed an executive order “...that made open and machine-readable data the new default for government information”⁵, which launched Project Open Data. In 2014, Governor Brown signed Assembly Bill (AB) 2040⁶ requiring all local agencies that maintain websites to conspicuously post the annual compensation of its elected officials, officers, and employees. And in 2015, Governor Brown signed Assembly Bill (AB) 169⁷ and Senate Bill (SB) 272⁸

² The paper tax bill lists a *subset* of, while an online viewable bill on the County of Marin’s Assessor’s webpage (<http://www.marincounty.org/depts/ar/divisions/assessor/search-assessor-records>) details *all* the legal charges.

³ See glossary for definitions of agency types.

⁴ [egov.com](http://www.egov.com)

⁵ <https://www.whitehouse.gov/open>

⁶ http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201320140AB2040

⁷ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB169

⁸ http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160SB272

requiring all local agencies that maintain websites (except for school districts⁹) to make more of their information publicly available and searchable online.

Around the United States, several well-respected organizations have developed web transparency checklists for public agencies¹⁰. When the Grand Jury examined these checklists, we found items that either did not apply to California agencies or only applied to a specific type of agency. We decided to combine the best of each of these lists to create a single list of nine criteria that could apply to all Marin agencies, and added a tenth agency-specific criterion:

Web Transparency Checklist Criteria

1. Overview

- Mission Statement: *What is the agency's reason for existing?*
- Description of services/functions: *What actions does the agency undertake and what services does the agency provide?*
- Boundary of service area: *What specific area does the agency serve?*

2. Budget

- Budget for current fiscal year
- Budget for the three years prior to the current year
- Financial reserves policy: *What is the agency's policy for designated reserves and reserve funds? (The policy should be in the agency policy manual but also may be restated and found in the budget or audit reports)*

3. Meetings

- Board meeting schedule: *When specifically does the agency meet?*
- Archive of Board meeting agendas & minutes for at least the last 6 months: *Both approved minutes and past agendas*

4. Elected & Appointed Officials

- Board members (names, contact info, terms of office, compensation, and biography): *Who specifically represents the public on the Board? How can the public contact them? When were they elected (or appointed)? How much do they earn in this role (as required by Assembly Bill 2040 – in effect since January 1, 2015)? What background about the members illustrates their expertise for serving on the Board?*
- Election procedure and deadlines: *If the public wishes to apply to be on the Board, how and when can they do so?*
- Reimbursement and compensation policy: *Which (if any) expenses incurred by the Board are reimbursed?*

⁹ While these bills excluded school districts, the Grand Jury recognizes schools spend a large amount of tax dollars fulfilling their mission, and parents research their enrollment options using public information.

¹⁰ Sunshine Review (now Ballotpedia) (http://ballotpedia.org/Transparency_checklist), Illinois Policy (<https://www.illinoispolicy.org/10-point-transparency-checklist/>), Institute for Local Government (<http://www.ca-ilg.org/post/local-agency-website-transparency-opportunities>), and the Special District Leadership Foundation (<http://www.sdlf.org/#!/transparency/cl0u>)

5. Administrative Officials

- General manager and key staff (names, contact info, compensation, and benefits): *Who specifically runs the agency on a day-to-day basis? How can the public contact them? How much do they earn in this role (as required by Assembly Bill 2040 in effect since January 1, 2015)? What specific benefits are they eligible for (healthcare, retirement plan, educational benefits, etc.)?*

6. Audits

- Current financial audit
- Financial audits for the three years prior to the current year

7. Contracts

- Current requests for proposals and bidding opportunities (over \$25,000 in value)
- Instructions on how to submit a bid or proposal
- Approved in force vendor contracts (over \$25,000 in value)

8. Public Records

- Online/downloadable Public Records Act (or FOIA) request form: *What is the best way for the public to request public records?*

9. Revenue Sources

- Summary of fees received: *fees-for-services (if any)?*
- Summary of revenue sources: *bonds, taxes, and/or grants?*

10. Other (Agency Specific Criterion)

- **Municipalities:** Total number of lobbyists employed and total spent on lobbying, downloadable permit applications, and zoning ordinances
- **School Districts:**
 - i. **For K-12:** School Accountability Report Card (SARC), California Assessment of Student Performance and Progress (CAASPP), and the California Healthy Kids Survey (CHKS)
 - ii. **For College:** California Community Colleges Student Success Scorecard
- **Special Districts:** Authorizing statute/enabling act (Principal Act or Special Act) and board member ethics training certificates
- **Rail Districts:** A copy of the Governing Documentation: *As enacted by Congress*
- **JPA:** A copy of the Joint Powers Agreement: *As filed and adopted*

METHODOLOGY

Each agency's website was visited and each checklist item was validated for ease of access.

However, the first problem the Grand Jury encountered was that there was no single comprehensive list of agencies in Marin County. The Grand Jury found the following lists:

- *Special Districts In Marin 2015* (Marin County Department of Finance)¹¹
- *Index of Boards and Commissions* (Marin County Board of Supervisors)¹²
- *Marin School District Websites* (Marin County of Education)¹³
- *Directory of Local Marin County Governments* (Marin LAFCO)¹⁴
- *What Are Special Districts and Why Do They Matter?* (Marin County Civil Grand Jury)¹⁵
- *Roster of Public Agencies* (Marin County Clerk)¹⁶

These lists were inconsistent, incomplete and/or out-of-date. The Grand Jury worked with the Marin County Department of Finance to create an up-to-date comprehensive list of agencies¹⁷ and their contact information (see Appendix B). Specifically not included in the list of Marin-based agencies are a number of *regional* agencies that are funded *in part* by Marin taxpayers, including:

- Association of Bay Area Governments
- Bay Area Air Quality Management District
- Golden Gate Bridge, Highway & Transportation District
- Local Agency Formation Commission
- Metropolitan Transportation Commission
- National Association of Counties
- North Bay Watershed Association
- North Coast Railroad Authority

For transparency and ease of use, detailed information about each agency should be found with a few "clicks." Information that is buried in an agency's board minutes or on *other* websites not available in-a-click from the agency's website is not in the spirit of transparency. Long and complex PDF (Portable Document Format) documents, such as a budget or an audit report, must be text-searchable, and not simply a picture of a page of text, to easily find specific details.

¹¹ <http://marincounty.org/depts/df/special-districts>

¹² <http://apps.marincounty.org/bosboardsandcomm/default.aspx>

¹³ <http://marinschools.org/MCOE/District-Sites/Pages/default.aspx>

¹⁴ <http://lafco.marin.org/index.php/directory-list>

¹⁵ http://marincounty.org/~media/files/departments/gj/reports-responses/2013/spd_master_list_report.pdf

¹⁶ California Government Code §53051 requires public agencies to file a Statement of Facts within 70 days after the commencement of its legal existence. See Appendix C for the current State of California Statement of Facts.

¹⁷ It is quite likely that our search for Marin public agencies will still not uncover all of the agencies, due to inconsistent self-reporting to the California State Controller.

Using the agency-specific checklist, the Grand Jury assigned a minimum of two auditors to independently review each website to ensure audit correctness:

- Appendix D: Web Transparency Checklist for Marin Cities, Towns, and County
- Appendix E: Web Transparency Checklist for Marin School Districts
- Appendix F: Web Transparency Checklist for Marin Special Districts
- Appendix G: Web Transparency Checklist for Rail Districts
- Appendix H: Web Transparency Checklist for Marin Joint Powers Authorities (JPAs)

After completing the preliminary audit, the Grand Jury then shared with each agency a description of the audit process and the agency’s audit results. Agencies that chose to improve their website could complete an online self-audit form¹⁸, which the Grand Jury utilized in our final follow-up audit. Based on these findings, we then assigned a grade to each agency according to the Sunshine Review’s rubric¹⁹ to produce a report card (see example¹⁹ at right).

The scoring rubric grade was determined based on the number of points on the checklist for which the criteria was completely met. If an agency partially met the criteria, no points were awarded (but partially meeting the checklist was denoted with an “incomplete”). A point scale determined the letter grade awarded:

Points	0-2	3	4	5	6	7	8	9	10
Grade	F	D-	D	C-	C	B-	B	A-	A+

Example Agency	
GRADE: B	
Overview	✓
Budget	✓
Meetings	✓
Elected Officials	✓
Administrative Officials	✓
Audits	✓
Contracts	✗
Public Records	✓
Revenue Sources	✓
Agency Specific	●

- ✓ PRESENT
- ✗ MISSING
- INCOMPLETE

In 2013, Sunshine Review²⁰ calculated average web transparency grades for California counties (B), California cities (B+) and California schools (B). The Grand Jury believes that Marin should be as good as the California averages, and therefore selected B- as the minimum acceptable web transparency grade.

The final scorecards²¹ are listed in appendices:

- Appendix I: Marin Cities, Towns, and County Web Transparency Scorecards
- Appendix J: Marin School District Web Transparency Scorecards
- Appendix K: Marin Special District Web Transparency Scorecards
- Appendix L: Marin Rail District Web Transparency Scorecard
- Appendix M: Marin Joint Powers Authority Web Transparency Scorecards

¹⁸ We provided a minimum of one month’s time as well as technical support for the self-audit process.

¹⁹ http://ballotpedia.org/Transparency_report_card_%282013%29

²⁰ Ibid.

²¹ Scorecards were tabulated after the October 2015 - January 2016 audits were concluded.

DISCUSSION

Website Creation

Although most Marin agencies have web sites, there is still a perception that not every agency has the resources to easily create and maintain a website. But, modern website creation software has made it possible for a non-tech-savvy person to manage website content easily (see Appendix N). For small agencies, it is not necessary to make a large investment to create a website. A simple website highlighting what the agency does, key agency contacts, board agendas, and audited budgets can encourage citizen participation and improve staff efficiency (answering frequently asked questions online). For larger agencies, it is an opportunity to showcase achievements and build trust with local citizenry.

Self-Auditing Feedback

After sharing the results of the preliminary web transparency audit with Marin County agencies, the Grand Jury received feedback, much of it agreeing with our preliminary audit's goals and results:

- *"The best practices transparency checklist you provided was very helpful and I believe we have indeed improved the quality of our website, making key information more easily accessible. Based on this experience we plan to make additional changes to our website in a continuous effort to be as transparent as possible"*
- *"We have made substantive changes to our web site. Additional items will be added in the same spirit and intent as they become available. Thank you for your evaluation and the opportunity for response."*
- *"We believe that your recommendations regarding providing online/downloadable Public Records Act (or FOIA) request forms is an important topic for our Board to review and consider as a potential exhibit item..."*
- *"...We are always trying to improve our website and online resources. I find this report card very helpful and have already started to make some improvements... We are starting the process to procure a new website and I think this will help us greatly as we put together the design and specifications ..."*
- *"We are in the midst of a website redevelopment project, and have noted the need to make these important items easier to find. We are taking this opportunity to create a "Transparency" webpage where any user can find all items on your list in one easy to find location."*
- *"Thank you for the opportunity to demonstrate our agency's commitment to transparency on its website. The web transparency checklist was very helpful in two ways. First, to make sure our website contains all of the information on the checklist, but also going through the review process showed that we can (and will) reorganize some of the information to make it even easier to find. We also plan to supplement the information in a few areas."*
- *"We have spent the last month working with our web developer and the best practices transparency list you sent. We developed a page that follows the identical format listed in this best practice guide, with links to the information required. We are very excited about this addition to our site and look forward to augmenting beyond what the Grand Jury has listed."*

Some of the feedback the Grand Jury received expressed a difference of opinion with the web transparency audit criteria:

- *“One of the items of transparency listed is a biography of each elected board member. We have intentionally not posted this.”*
- *“Our agency’s staff relies on the public to tell us specifically what items are missing from our website that the public would like posted. We make every effort to then post the material in a timely manner.”*
- *“The agency does not have a website. Public information is made available in accordance with the Public Records Act.”*
- *“[Budget] available upon request ... and was advised not to post by legal counsel.”*

The Grand Jury granted an extension to any agency that needed more time to update their website and to complete their self-audit. Some agencies stated they had insufficient resources to complete work within the given timeframe.

The County of Marin

The County of Marin is responsible for at least 28 special districts²² and 4 JPAs²³. The Grand Jury questions why 20 of these agencies do not have websites. After sharing the results of our preliminary audits of these 32 agencies with the County, we received correspondence²⁴ from the County indicating that while some of the transparency criteria will be implemented in the future (contracts and municipal-specific), the notion of *“...providing and maintaining duplicative information regarding each distinct special district, community (sic) service area, flood control zone, permanent road division, joint powers agreement/agency (JPA’s), etc. does not appear to be the best way to provide straightforward information to our residents. Most of these are better described as financing mechanisms rather than municipal agencies. We believe that a single source of information is easier for residents to review and understand.”* and *“...we should also note that the Marin Local Agency Formation Commission (LAFCO) includes descriptive information regarding special districts and JPAs on its website, as well as information regarding other entities independent of the County of Marin.”*

While the Grand Jury supports the desire of the County to provide straightforward information, we disagree with the County’s approach. Marin LAFCO’s digital directory is provided as a service to the community, but there is no requirement that the directory be accurate or up-to-date. Since not all of the County Service Areas (CSAs) have websites, a citizen cannot easily understand a CSAs’ purpose, decision-making, and budgetary actions. It is unreasonable to ask citizens to become experts in sleuthing to find information. As a service to the citizens, the County could create a single web page (for each of

²² Dependent Special Districts: Bolinas Highlands Permanent Road Division, CSA #1 through CSA #33, Inverness Subdivision No. 2 Permanent Road Division, Marin County Fire Department, Marin County Flood Control and Water Conservation District, Marin County Lighting District, Marin County Open Space District, Monte Cristo Permanent Road Division, Mt View Ave-Lagunitas Permanent Road Division, Murray Park Sewer Maintenance District, Paradise Estate Permanent Road Division, Rush Creek Lighting and Landscape, and San Quentin Village Sewer Maintenance District.

²³ JPAs: Gateway Improvement Authority, Gateway Refinancing Authority, Marin County Capital Improvements Financing Authority, and Marin County Open Space Financing Authority.

²⁴ Dated December 8, 2015

the dependent special districts and JPAs), that describes the role of the local agency with links to all the transparency criteria that can be found elsewhere on the County's website, and create its own digital directory of these local agencies.

Common Web Transparency Deficiencies

In reviewing all the Marin County agency websites and self-audits, we found a number of transparency criteria that were commonly missed:

1. **Overview:** Agencies often mistakenly considered a departmental list the same as a description of the public benefits of their services/functions. A boundary of service area can be easily understood with a map.
2. **Budget:** Finding key information in these long and complex documents often requires a text search, which is impossible if the budgets are in a non-text-searchable document format.
3. **Meetings:** Keep the meeting schedule and archive up-to-date.
4. **Elected & Appointed Officials:** While most agencies listed the names of the Board members, complete information about the Board members (contact info, terms of office, compensation, and biography) was often missing. Agencies were sometimes confused about where election procedures and deadlines can be found, often suggesting this information can be found at Marin County's Elections/Registrar of Voters. While this website has a wealth of *general* information, *specific* information about the procedures and deadlines should be clearly described on the agency's website.
5. **Administrative Officials:** Instead of showing actual salaries and benefits (as required by *Assembly Bill (AB) 2040*), we often found salary schedules instead. This was most commonly seen with school districts. We recommend putting a link to the agency's *Government Compensation in California* page (<http://publicpay.ca.gov/>)
6. **Audits:** Finding key financial information in these long and complex documents often requires a text search, which is impossible if the audits are in a non-text-searchable document format.
7. **Contracts:** Agencies often did not show their approved vendor contracts.
8. **Public Records:** If an agency does not have an online/downloadable Public Records Act (or FOIA) request form, specify how the public can contact the agency for more information (an email address or phone number, for example).
9. **Revenue Sources:** Agencies generally understood this criterion.
10. **Other (Agency Specific):** Agencies also generally understood this criterion.

It is the hope of the Grand Jury that all local government agencies' websites will continue to improve the accessibility, accuracy, completeness and usefulness of available online information for the public's benefit. Having seen web transparency grades improve from F to A+ during the audit process, we know it is possible.

"A democracy requires accountability and accountability requires transparency."

— President Barack Obama

FINDINGS

- F1. As of January 4, 2016, 27 Marin local agencies lacked public websites (and of the 99 agencies that have web sites, 65 did not satisfy the Grand Jury's web transparency criteria as of that date).
- F2. Inspecting the Marin County Clerk's *Roster of Public Agencies*, the Grand Jury discovered a majority of local agencies out of compliance per California Government Code §53051 (no filings or outdated filings).
- F3. Effective January 1, 2015, Assembly Bill (AB) 2040 requires that if a public agency "maintains an Internet Web site, it shall post, in a conspicuous location on its Internet Web site, information on the annual compensation of its elected officials, officers, and employees that is submitted to the Controller under §53891." The Grand Jury discovered a majority of the agencies were out of compliance (and potentially at-risk for fines and/or audit), per California Government Code sections 53895, 53895.7, and 53896).
- F4. The County of Marin does not currently publish a definitive list of all its dependent special districts and JPAs.
- F5. Marin County's *Roster of Public Agencies* is available for viewing only as hard copy at the office of the Marin County Clerk.

RECOMMENDATIONS

- R1. The agency should improve its web transparency score to "B-" (or better), by updating its website and submitting the appropriate self-audit form. The form may be obtained by emailing: grandjury-audit@marincounty.org
- R2. The agency should file and keep updated its Statement of Facts with the California Secretary of State and the Marin County Clerk as required by California Code §53051.
- R3. The agency should update its website to include information of the annual compensation of its elected officials, officers and employees; and this information should also be submitted to the Controller, as required by Sections 12463 and 53909 of the California Government Code.
- R4. The Marin County Board of Supervisors should create a comprehensive online "digital directory" with links to all County of Marin's dependent special districts and JPAs.
- R5. To further improve web transparency, the County Clerk of Marin County should allow public remote Internet access to its *Roster of Public Agencies*.

APPENDIX F: Web Transparency Checklist for Marin Special Districts



Criteria	Features
Overview	<ul style="list-style-type: none"> • Mission Statement (“What we do”) • Description of services/functions • Boundary of service area
Budget	<ul style="list-style-type: none"> • Budget for current fiscal year, • Budget for the past three years • Financial reserves policy
Meetings	<ul style="list-style-type: none"> • Board meeting schedule • Archive of Board meeting agendas & minutes for at least the last 6 months
Elected Officials	<ul style="list-style-type: none"> • Board members (names, contact info, terms of office, compensation, and biography) • Election procedure and deadlines, • Reimbursement and compensation policy
Administrative Officials	<ul style="list-style-type: none"> • General manager and key staff (names, contact info, compensation, and benefits)
Audits	<ul style="list-style-type: none"> • Current financial audit • Financial audits for the past three years
Contracts	<ul style="list-style-type: none"> • Current requests for proposals and bidding opportunities (more than \$25,000 in value) • Instructions on how to submit a bid or proposal • Approved vendor contracts (more than \$25,000 in value)
Public Records	<ul style="list-style-type: none"> • Online/downloadable Public Records Act (or FOIA) request form
Revenue Sources	<ul style="list-style-type: none"> • Summary of fees received and summary of revenue sources
District Specific	<ul style="list-style-type: none"> • Authorizing statute/enabling act (Principal Act or Special Act) • Board member ethics training certificates

APPENDIX K: Marin Special District Web Transparency Scorecards (cont'd)

<p>CSA #28 (West Marin Paramedic)</p> <p>GRADE: F</p> <p>Overview </p> <p>Budget </p> <p>Meetings </p> <p>Elected Officials </p> <p>Administrative Officials </p> <p>Audits </p> <p>Contracts </p> <p>Public Records </p> <p>Revenue Sources </p> <p>District Specific </p>	<p>CSA #29 (Paradise Cay)</p> <p>GRADE: F</p> <p>Overview </p> <p>Budget </p> <p>Meetings </p> <p>Elected Officials </p> <p>Administrative Officials </p> <p>Audits </p> <p>Contracts </p> <p>Public Records </p> <p>Revenue Sources </p> <p>District Specific </p>	<p>CSA #31 (County Fire)</p> <p>GRADE: F</p> <p>Overview </p> <p>Budget </p> <p>Meetings </p> <p>Elected Officials </p> <p>Administrative Officials </p> <p>Audits </p> <p>Contracts </p> <p>Public Records </p> <p>Revenue Sources </p> <p>District Specific </p>	<p>CSA #33 (Stinson Beach)</p> <p>GRADE: F</p> <p>Overview </p> <p>Budget </p> <p>Meetings </p> <p>Elected Officials </p> <p>Administrative Officials </p> <p>Audits </p> <p>Contracts </p> <p>Public Records </p> <p>Revenue Sources </p> <p>District Specific </p>	<p>Homestead Valley Sanitary District</p> <p>GRADE: D-</p> <p>Overview </p> <p>Budget </p> <p>Meetings </p> <p>Elected Officials </p> <p>Administrative Officials </p> <p>Audits </p> <p>Contracts </p> <p>Public Records </p> <p>Revenue Sources </p> <p>District Specific </p>
<p>Inverness Public Utility District</p> <p>GRADE: F</p> <p>Overview </p> <p>Budget </p> <p>Meetings </p> <p>Elected Officials </p> <p>Administrative Officials </p> <p>Audits </p> <p>Contracts </p> <p>Public Records </p> <p>Revenue Sources </p> <p>District Specific </p>	<p>Inverness Subdivision No. 2 Permanent Road Division</p> <p>GRADE: F</p> <p>Overview </p> <p>Budget </p> <p>Meetings </p> <p>Elected Officials </p> <p>Administrative Officials </p> <p>Audits </p> <p>Contracts </p> <p>Public Records </p> <p>Revenue Sources </p> <p>District Specific </p>	<p>Kentfield Fire Protection District</p> <p>GRADE: C-</p> <p>Overview </p> <p>Budget </p> <p>Meetings </p> <p>Elected Officials </p> <p>Administrative Officials </p> <p>Audits </p> <p>Contracts </p> <p>Public Records </p> <p>Revenue Sources </p> <p>District Specific </p>	<p>Las Gallinas Valley Sanitary District</p> <p>GRADE: A-</p> <p>Overview </p> <p>Budget </p> <p>Meetings </p> <p>Elected Officials </p> <p>Administrative Officials </p> <p>Audits </p> <p>Contracts </p> <p>Public Records </p> <p>Revenue Sources </p> <p>District Specific </p>	<p>Marin City CSD</p> <p>GRADE: F</p> <p>Overview </p> <p>Budget </p> <p>Meetings </p> <p>Elected Officials </p> <p>Administrative Officials </p> <p>Audits </p> <p>Contracts </p> <p>Public Records </p> <p>Revenue Sources </p> <p>District Specific </p>

APPENDIX N: Website Creation Software Tools

While the Grand Jury did not conduct a comprehensive evaluation of website creation software tools (and do not endorse any particular tool) we wanted to highlight the range of tools currently available to local agencies.

At the low-end of the cost spectrum there are a number of free tools to create a website (e.g., Weebly.com or Wordpress.com). These tools can create a basic functional website with little effort. However, using these tools to create “professional looking” results requires additional graphical and technical skills.

Digital Deployment’s Streamline (GetStreamline.com) website creation software is designed specifically for California’s special districts. Special District Leadership Foundation’s web transparency checklist is integrated into the software, making it easy for the user to ensure their agency follows best practices. A district can create a (or migrate an existing) website in a matter of hours. The resulting website’s appearance is Americans with Disabilities Act (ADA) compliant²⁸ and it is a responsive design adapting to the website visitor’s device (e.g., a smartphone, a tablet, a laptop, etc.). Current annual pricing for Streamline ranges from \$600-\$6,000 including unlimited technical support, based on the agency’s annual budget and California Special District Association (CSDA) membership status. While the transparency dashboard is designed for special districts, Streamline could be used by other types of local agencies.

CivicPlus (CivicPlus.com) offers website creation software for municipalities. Currently used by over 2000 agencies throughout the United States, the software promotes ease of use by making an agency’s information accessible within two clicks. CivicPlus has over 25 modules that efficiently support an agency’s functions, including, Community Connection, Bid Postings, and Citizen Request Tracker™. CivicPlus’ strength is working with agency departments to create a consistent, attractive, and efficient visitor experience. Like Streamline’s software, the resulting website is both ADA-compliant and has a responsive design. Pricing for CivicPlus varies based on the number of modules needed, agency size, and scope of work needed, with a one-time upfront payment, and recurring annual pricing ranging from \$1,000-\$100,000.

At the upper-end of the cost spectrum are customized solutions. Creating a modern website that meets government regulations is a specialized skill that requires either hiring a consultant or using an in-house IT department. Since IT departments are often busy with a myriad of technical challenges, and consultant fees can be high, it is not unusual for an agency’s website content to be out-of-date.

²⁸ While federal government organizations must follow web accessibility guidelines under Section 508 of the Workforce Rehabilitation Act of 1973, there is not yet an ADA-compliant requirement for local agency websites.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: November 7, 2017
FROM: Ethan Walsh, City Attorney
SUBJECT: Public Hearing and Consideration of Zoning Code Amendments to Prohibit Outdoor Cultivation of Marijuana and Commercial Marijuana Uses

RECOMMENDATION: Staff recommends that the City Council receive the staff report, conduct the public hearing, and introduce Ordinance No. 2017-07 amending the Municipal Code (Chapter 17, Zoning Ordinance) prohibiting outdoor cultivation of marijuana and commercial marijuana uses in accordance with State law.

BACKGROUND:

The Federal Controlled Substances Act (21 USC §§ 801 et seq.) classifies marijuana as a Schedule I drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute, dispense, transport, or possess marijuana for medical purposes.

In 1996, California voters approved Proposition 215 (codified as Health and Safety Code §§ 11362.5 et seq. and entitled "The Compassionate Use Act of 1996"). Proposition 215 was intended to allow persons in need of marijuana for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances. The State Legislature enacted subsequent legislation (SB 420) to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420.

In 2015, the Governor signed a series of bills, collectively referred to as the Medical Cannabis Regulation and Safety Act (MCRSA). [*Note, there has been a recent state trend toward using the word “cannabis” instead of marijuana in state legislation, but the meanings are the same.] The MCRSA provided a comprehensive licensing scheme for state licensing of commercial, medical cannabis businesses. The MCRSA governed exclusively medical cannabis, with state licensing to begin on January 1, 2018.

California voters in November 2016 adopted Proposition 64 concerning use and cultivation of cannabis for non-medical “adult-use.” Proposition 64 permits individuals to grow up to six cannabis plants inside of residential structures and does not allow the City to completely prohibit such indoor cultivation for personal use. The City may, however, impose reasonable regulations concerning the indoor cultivation in order to provide for the health, safety, and welfare of City residents. Proposition 64 also enacted a separate licensing scheme for state licensing of non-medical, adult-use cannabis businesses, also due to begin on January 1, 2018.

On June 27, 2017, the Governor signed SB 94, a budget trailer bill that repealed MCRSA and amended Proposition 64 to incorporate many of MCRSA’s provisions. As a bill tied to the state budget, the bill became effective immediately. The purpose of SB 94 was to, among other things, consolidate the state licensing of commercial cannabis businesses into one comprehensive state licensing scheme. The distinction between medical and adult-use cannabis remains in the state law (designated by an “M” or an “A” prefix on the license type), but the overall licensing requirements and process is now consolidated to be the same for both medical and adult-use cannabis businesses. Accordingly, there are 20 different state license types for commercial cannabis businesses, most of them involving different types and sizes of commercial cultivation but also including licenses for manufacturing, testing laboratories, retailers, distributors, and microbusinesses. SB 94 did not alter or amend the personal cultivation provisions of Proposition 64.

The City’s existing zoning code defines narrow categories of medical marijuana uses, including commercial marijuana cultivation, medical marijuana, and medical marijuana cooperatives formed pursuant to the Compassionate Use Act and the California Attorney General’s Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August 2008. By definition, commercial marijuana cultivation is prohibited in the City. Additionally, the City’s nuisance abatement code specifically defines and prohibits medical marijuana dispensaries and declares maintenance of a medical marijuana dispensary on any premises or property in the city a public nuisance. Medical marijuana cooperatives, which may not engage in the sale of cannabis or other exchange for payment of money, are exempted from the prohibition of medical marijuana dispensaries.

The City's code does not currently define, regulate or prohibit non-medical marijuana uses or commercial cannabis uses other than commercial cultivation, such as manufacturing, distribution, and wholesale and retail sales of cannabis.

On October 10, 2017 the Planning Commission considered the above-mentioned Zoning Code amendments. At the hearing two of the commissioners felt the prohibition of outdoor growing would create an undue financial burden for some and were opposed to this restriction. At the conclusion of the hearing the Commission voted 4 to 2 to recommend that the Council approve the amendments as drafted by staff.

ANALYSIS:

In light of rapidly changing state law regarding both medical and non-medical marijuana for personal and commercial purposes, staff recommends updating the Winters Municipal Code to clarify and further the scope of existing prohibitions and restrictions. The proposed changes include the following:

- Adding definitions to the Zoning Code for “cannabis” and “commercial cannabis activity.” These terms mirror the definitions used in state law, and cover both medical and non-medical “adult-use” cannabis. Commercial cannabis activity broadly includes those uses authorized by state law and subject to state licensing, including cultivation, possession, manufacturing, distribution, processing, storing, testing, delivery or sale of cannabis.
- Amending existing definitions of “commercial marijuana cultivation” and “medical marijuana” to conform to state law changes, including use of the word “cannabis” instead of “marijuana.”
- Deleting the definition of “medical marijuana cooperative.” This is recommended to simplify and clarify existing regulations. The existing code does not zone or regulate cooperatives, instead only defining them to distinguish cooperatives from prohibited dispensaries that engage in sales of cannabis. Due to changes in state law, dispensaries and retailers are now a type of commercial use requiring a state license, and therefore prohibiting commercial cannabis activity adequately addresses dispensaries and retailers. Additionally, the collective and cooperative model set forth in the Health and Safety Code is due to phase out one year after the State has commenced issuing licenses.
- Amending Section 19.04.030 of the nuisance abatement code to expand the existing prohibition on medical marijuana dispensaries to include all commercial cannabis activity. Because there may be lawful medical marijuana cooperatives in the City, the proposed amendment retains the existing exemption for medical marijuana cooperatives operating consistent with the Compassionate Use Act, so long as they do not sell or

distribute marijuana in a manner inconsistent with the prohibition on commercial cannabis activity.

- Adding a new Chapter 17.205 to the Zoning Code to specifically address cannabis uses. Staff proposes expressly prohibiting commercial cannabis activity (including commercial cultivation) in the City, as well as all outdoor cultivation (including outdoor personal cultivation conducted for personal use). These prohibitions are discussed in more detail below.

Prohibiting and regulating cannabis uses within a single consolidated chapter of the Zoning Code is recommended to simplify and clarify existing prohibitions while providing flexibility for future amendments. If the City desires to permit or regulate certain types of commercial cannabis uses at a future date, those uses can easily be added into the new cannabis chapter.

At this time, staff recommends prohibiting all outdoor cultivation of cannabis in the City, including cultivation conducted for personal use. The current, unregulated personal cultivation of medical cannabis in the City has resulted in reports to the police department regarding offensive odors which cannot be easily mitigated or eliminated. Additionally, other California cities have reported offensive odors, trespassing, and theft related to outdoor marijuana cultivation. Proposition 64 now allows personal cultivation of up to six cannabis plants at private residences, regardless of medical need, and therefore the prevalence of cannabis cultivation may substantially increase. An increase in the amount of outdoor cultivation of cannabis in people's backyards is likely to lead to an even greater increase in complaints of offensive odors and possible criminal activity, and without adequate regulation there is no easy or efficient remedy or enforcement. However, Proposition 64 still permits individuals to cultivate cannabis indoors, and the City may not and does not propose to limit or restrict indoor personal cultivation. Accordingly, staff recommends prohibiting outdoor cultivation of cannabis in the City as an appropriate regulation that furthers the public health and welfare of the City's residents while balancing the interest of medical cannabis patients to cultivate.

PROJECT NOTIFICATION:

Notice of the public hearing to consider the proposed zoning ordinance was given at least 10 days prior to the public hearing pursuant to Government Code section 65090.

ENVIRONMENTAL ASSESSMENT:

The proposed zoning ordinance is not a project within the meaning of Title 14 of the California Code of Regulations, Section 15061(b)(3), of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly, as it clarifies and furthers existing prohibitions and restrictions regarding cannabis uses in the

City of Winters, and does not permit or authorize new or increased intensity of uses.

ALTERNATIVES:

Council may direct staff to make modifications to the proposed ordinance, or may decline to adopt the proposed ordinance.

ATTACHMENTS:

Ordinance No. 2017- 07

ORDINANCE NO. 2017-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS ADDING CHAPTER 17.205 AND AMENDING SECTIONS 17.04.140 AND 19.04.030 OF THE CITY OF WINTERS MUNICIPAL CODE REGARDING PROHIBITED CANNABIS USES AND RELATED DEFINITIONS CONSISTENT WITH STATE LAW

WHEREAS, in 1996 the voters of the State of California approved Proposition 215, which was codified as Health and Safety Code Section 11362.5 et seq. and entitled the Compassionate Use Act of 1996, decriminalizing the use of marijuana for medical purposes; and

WHEREAS, in 2003 the California Legislature adopted SB 420, the Medical Marijuana Program, codified as Health and Safety Code Section 11362.7 et seq., which permits qualified patients and their primary caregivers to associate collectively or cooperatively to cultivate marijuana for medical purposes without being subjected to criminal prosecution; and

WHEREAS, in 2015 the California Legislature adopted a series of bills to enact the "Medical Marijuana Regulation and Safety Act," subsequently amended and retitled the "Medical Cannabis Regulation and Safety Act" ("MCRSA"), which established a statewide licensing scheme for commercial medical marijuana uses, including commercial-scale cultivation, manufacturing, distribution, delivery, and sale of medical marijuana; and

WHEREAS, the City Council adopted Ordinance No. 2017-07 in order to clarify the intent and scope of the City's marijuana regulations in light of MCRSA, including to expressly define and prohibit the commercial cultivation of medical marijuana within the City, excepting certain personal cultivation by qualified patients and primary caregivers pursuant to state law; and

WHEREAS, at the November 8, 2016 election, California voters adopted Proposition 64, also known as the "Adult Use of Marijuana Act" ("AUMA"), which took effect the day after the election and, among other things, established a statewide licensing scheme for commercial non-medical marijuana uses; and

WHEREAS, AUMA also authorized adults 21 years of age or older to cultivate up to six living marijuana plants for non-medical purposes, and to possess, process, transport, purchase, smoke and ingest recreational (non-medical) marijuana; and

WHEREAS, Senate Bill 94 ("SB 94"), a bill tied to the State budget and signed by the Governor on June 27, 2017 to take effect immediately, repealed MCRSA and amended AUMA, retitled the "Medicinal and Adult-Use Cannabis Regulation and Safety Act," to consolidate and streamline the state licensing scheme applicable to both medical and non-medical commercial marijuana activity, and to use the word "cannabis" instead of "marijuana"; and

WHEREAS, state regulations are currently being developed to address and mitigate a variety of identified environmental impacts and secondary effects related to commercial cannabis activity, including water diversion, electricity usage, agricultural discharges, use of solvents or other materials in production, and adequate security measures to protect against diversion, theft, loss or other criminal activity related to commercial storage and distribution of cannabis; and

WHEREAS, the Winters Municipal Code only expressly addresses and prohibits commercial cultivation of medical marijuana and medical marijuana dispensaries, and does not expressly define, prohibit or regulate other cannabis uses, including non-medical cannabis uses; and

WHEREAS, the City Council therefore desires to amend the Winters Municipal Code to consistently use the word “cannabis” instead of marijuana, and to clarify the intent of existing zoning restrictions to include both medical and non-medical commercial cannabis uses, including manufacturing, processing, testing and distribution, in light of the known and potential unknown health and safety risks associated with commercial marijuana uses currently subject to the ongoing development of state regulations, standards, and mitigation measures; and

WHEREAS, the current, unregulated allowance of personal cultivation of cannabis in the City has resulted in reports of offensive odors associated with some outdoor cultivation occurring in the City, which may increase in light of AUMA’s allowance of up to six cannabis plants at private residences for personal cultivation purposes, and other California cities have further reported offensive odors, trespassing, and theft related to outdoor marijuana cultivation; and

WHEREAS, the City Council therefore further desires to amend the Winters Municipal Code to expressly define and prohibit all outdoor cultivation of cannabis, including cultivation of cannabis for personal use; and

WHEREAS, the City Council finds that the restrictions and prohibitions contained in this Ordinance clarify the scope and intent of the City’s existing cannabis regulations and ensures that the City’s regulations remain consistent with state law, and further prevents an unintended and unregulated increase of cannabis uses in the City unless and until such time as appropriate regulations have been developed, considered and adopted by the City.

NOW, THEREFORE, the City Council of the City of Winters does hereby ordain as follows:

Section 1. Recitals. The above recitals are hereby found to be true and accurate and are incorporated into this Ordinance as findings of the City Council by this reference.

Section 2. Findings. The City Council hereby makes the following findings:

A. Pursuant to Winters Municipal Code section 17.28.010, the City Council hereby finds that the text amendments to the zoning code contained in this Ordinance are required for the public necessity, convenience and general welfare by preserving and clarifying the intent and scope of the City’s existing restrictions and regulations regarding cannabis uses, including commercial cannabis uses, consistent with state law.

B. Pursuant to Winters Municipal Code sections 17.28.040 and 17.28.050, the City Council further finds, based upon Planning Commission recommendation, that this Ordinance conforms to the City’s general plan.

Section 3. Amendments to Section 17.04.140. Section 17.04.140 of Chapter 17.04 of Title 17 of the City of Winters Municipal Code is hereby amended as follows:

A. The following paragraph is hereby inserted in Subsection B of Section 17.04.140 in between the paragraph entitled “Building, nonconforming” and the paragraph entitled “Carport”:

“Cannabis” means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. “Cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code. Unless specified otherwise, “cannabis” shall mean and include both cannabis for medical purposes and non-medical adult-use cannabis.

B. The following paragraph is hereby inserted in Subsection B of Section 17.04.140 in between the paragraph entitled “Carport” and the paragraph entitled “Commercial marijuana cultivation”:

“Commercial cannabis activity” means and includes any and all commercial cannabis uses authorized by the state of California and subject to state licensing, including but not limited to cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in state law, including wholesale and retail sales of cannabis for medical or non-medical adult use, and including any business, person or entity that conducts or engages in these commercial cannabis activities, regardless of whether a state license has issued.

C. The paragraph entitled “Commercial marijuana cultivation” set forth in Subsection B of Section 17.04.140 is hereby amended to read as follows:

“Commercial ~~marijuana~~-cannabis cultivation” means any cultivation of ~~medical marijuana-cannabis~~ licensed by the state of California in accordance with state law, including but not limited to the Medicinal and Adult-Use Marijuana-Cannabis Regulation and Safety Act, California Business and Professions Code Section 19300-26000 et seq., as may be amended. ~~and contemplated by the definition of “commercial cannabis activity” set forth in California Business and Professions Code Section 19300.5(k), as amended.~~ Commercial marijuana cultivation is prohibited in the city. Pursuant to ~~Section 11362.777 of the California Health and Safety Code, effective January 1, 2016, this definition is intended to regulate the cultivation of medical marijuana by prohibiting commercial marijuana cultivation within the city, and thereby expressly reserving any future local licensing authority granted to the city by that section.~~ This definition shall not be interpreted to restrict personal cultivation of marijuana exempt from state licensing requirements, including cultivation of medical marijuana by a “primary caregiver” or “qualified patient,” as those terms are defined by Health and Safety Code Section 11362.7, as may be

~~amended, so long as such cultivation is otherwise conducted in accordance with applicable State law and this Code. or by a “medical marijuana cooperative,” as defined herein subject to the restrictions set forth in this section.~~

D. The paragraph entitled “Medical marijuana” set forth in Subsection B of Section 17.04.140 is hereby amended to read as follows:

~~“Medical marijuanacannabis” means a product containing cannabis, including, but not limited to, concentrates and extractions, cannabis, as defined herein, that is intended for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. Cannabis as used in this definition shall have the meaning as set forth in subsection (f) of Section 19300.5 of the Business and Professions Code.~~

E. The paragraph entitled “Medical marijuana cooperative” set forth in Subsection B of Section 17.04.140 is hereby repealed.

~~“Medical marijuana cooperative” involves two or more persons collectively or cooperatively cultivating, using, transporting, possessing, administering, delivering, or giving away medical marijuana. It does not involve sale or gifts involving payment of money. Notwithstanding the prohibition in this code as to medical dispensaries, medical cannabis collectives and cooperatives formed in a manner consistent with California law and the California Attorney General’s Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August 2008 shall be permitted to operate, provided they do not sell, exchange, trade, distribute or cultivate medical cannabis in a manner prohibited herein.~~

Section 4. Amendments to Section 19.04.030. Section 19.04.030, subsection AA, of the Winters Municipal Code is hereby amended as follows:

AA. It is unlawful, and it shall be a public nuisance, for any person owning, leasing, occupying or having charge or possession of any premises or property in the city to permit, maintain or engage in commercial cannabis activity, expressly including commercial cannabis cultivation or any sale of cannabis and cannabis products which would otherwise require a business license, home occupation permit, or any other use permit or license to lawfully conduct similar type activities. a medical cannabis dispensary upon such premises or property. Notwithstanding the prohibition on commercial cannabis activity, medical cannabis collectives and cooperatives operating in a manner consistent with the Compassionate Use Act and the California Attorney General’s Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August 2008 shall be permitted to operate provided they do not sell, exchange, trade, distribute or cultivate medical marijuana in a manner inconsistent with this code and the prohibition on commercial cannabis activity.

~~1. A medical cannabis dispensary is defined as any place, location, building or establishment where medical cannabis is traded, exchanged, sold, distributed or cultivated which would otherwise require a business license, home occupation permit, or any other use permit to conduct similar type activities.~~

~~2. Notwithstanding the prohibition in subsection (AA)(1) of this section, medical cannabis collectives and cooperatives formed in a manner consistent with California law and the California Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August 2008 shall be permitted to operate provided they do not sell, exchange, trade, distribute or cultivate medical marijuana in a manner prohibited by subsection (AA)(1) of this section, and that they do not exchange payment or gift in the form of money for such medical marijuana.~~

Section 5. Addition of Chapter 17.205. Chapter 17.205 is hereby added to Title 17 of the Winters Municipal Code, to read in full as follows:

Chapter 17.205

CANNABIS USES

Sections:

- 17.205.010 Purpose and Intent
- 17.205.020 Cannabis Cultivation
- 17.205.030 Commercial Cannabis Activity

17.205.010 Purpose and Intent.

The purpose and intent of this chapter is to regulate cannabis uses in a manner that protects the health, safety and welfare of the community. This chapter is not intended to interfere with a patient's right to medical cannabis in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, nor does it criminalize cannabis possession or cultivation by specifically defined classifications of persons, pursuant to state law. This article is not intended to give any person independent legal authority to grow or use cannabis; it is intended simply to impose zoning restrictions on certain cannabis uses when those uses are authorized by California state law.

17.205.020 Cannabis Cultivation.

A. Personal cultivation of cannabis for personal use within a single private residence, or inside an accessory structure to a private residence, shall be permitted only to the extent such use is authorized by state law and exempt from state licensing requirements.

B. Commercial cannabis cultivation is prohibited in the City.

C. All outdoor cannabis cultivation is prohibited in the City, including the outdoor cultivation of cannabis for non-commercial, personal use.

17.205.030 Commercial Cannabis Activity.

Commercial cannabis activity is prohibited in the City. The City expressly reserves the right to amend this restriction and to regulate such commercial cannabis activity in the future, including through zoning restrictions and business license requirements.

Section 4. CEQA. This Ordinance is not a project within the meaning of Title 14 of the California Code of Regulations, Section 15061(b)(3), of the State of California Environmental Quality Act (“CEQA”) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly, as it clarifies and furthers existing prohibitions and restrictions regarding cannabis uses in the City of Winters, and does not permit or authorize new or increased intensity of uses. 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 5. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk’s office located at 318 First Street, Winters, CA 95694. The custodian of these records is the City Clerk.

Section 6. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality 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 of the City of Winters hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 7. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

Section 8. Publication. The City Clerk shall certify to the adoption of this Ordinance. Not later than fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Winters.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Winters, California, at a regular meeting of the City Council held on the ____ day of _____, 2017.

City of Winters

By: Wade Cowan, Mayor

ATTEST:

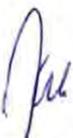
Nanci Mills, City Clerk

APPROVED AS TO FORM:

Ethan Walsh, City Attorney



**CITY COUNCIL
STAFF REPORT**

DATE: November 7, 2017
TO: Mayor and City Council
FROM: John W. Donlevy, Jr., City Manager 
SUBJECT: Capital Improvement and Maintenance Program- Overview and Funding

RECOMMENDATION:

That the City Council receives a presentation on the City's Capital Improvement and Maintenance Programs.

BACKGROUND:

In Fiscal Year 2016-17, the City will spend a combined total of almost \$5.2 million dollars in the maintenance and operation of our capital maintenance and infrastructure projects. The projects and the maintenance of our infrastructure are a critical part of what we do at the City and the core of our overall budget.

This report is meant to provide a very general overview of our Capital Program to inform the City Council of the basic elements and revenue sources.

Discussion:

The City's Capital Program includes the following categories of uses:

- **Streets and Roads**
 - Sidewalks
 - Curbs/Gutters
 - Accessibility
 - Signage
 - Trees
 - Impact Fee Projects
- **Traffic Signals and Flashing Devices**
- **Water** which includes:
 - Distribution
 - Treatment
 - Facilities

- **Wastewater**
 - Collection System
 - Treatment
 - WWTF
 - Pump Stations
- **Storm Drainage**
 - System Infrastructure
 - Non-Pollutant Discharge
 - Detention Facilities
- **Facilities- Buildings**
- **Parks**
- **Fleet-**
 - Major Equipment
 - Vehicle Fleet
- **Business District**
- **Putah Creek Park**
- **Bridges**
- **Open Space**
- **Special Capital Projects- Flood Overlay Area, RAJA Storm Drain**

Funding Sources for Capital Projects:

The funding of capital projects is separated into *special revenue* funds (can only be used for specific/defined purposes); *Impact Fee* funding which can only be used for AB1600 projects; *subventions* (distributed from the State based on formula's mostly for specific purposes); and direct allocations for either the general fund or enterprises (water/sewer) funds for capital and maintenance items. Capital funding in Winters has the following sources and defined uses.

- **Gas Tax (Also Known as Highway Users Tax Allocation- HUTA)**
 - Used for Streets, sidewalks, curbs, gutters, street signs and street lights (Not on AB1600 document)
 - Current budget revenues estimate \$162,972 plus loan repayment of \$8,254 total estimate \$171,226
 - Current cash balance is \$100,858, however, all funds are committed to various projects for the year.
- **Transportation Development Act (also known as TDA)**
 - Used for Street Construction and street planning after paying for the local bus service (not on AB1600 document.)
 - Total Revenues budgeted \$340,966 less bus service \$155,265 leaving \$185,701.00 for street work
 - Current cash balance is \$555,336.42, however, all funds are committed to the Round about project
- **Street Impact Fee**
 - Used for Street construction projects included in the AB1600 document
 - Fully dependent on building permits issued, current year budgeted revenues are \$188,914

- Current cash balance is \$764,225.14 however all funds are committed to the Grant and Main Signal
- **Storm Impact Fee**
 - Used for Storm drain construction projects included in the AB1600 document
 - Fully dependent on building permits issued, current year budgeted revenues \$3,180
 - Current Cash Balance is \$182,676.79
- **Parks Impact Fee**
 - Used for Park construction projects included in the AB1600 document
 - Fully dependent on building permits issued, current year budgeted revenues \$106,550
 - Current cash balance is (\$98,257.31) due to the cost of the Putah Creek Nature Trail project
- **Police Impact Fee**
 - Used for Police Equipment included in the AB1600 document
 - Fully dependent on building permits issued, current year budgeted revenues \$24,771
 - Current cash balance is \$283,495.45
- **Fire Impact Fee**
 - Used for Fire Equipment included in the AB1600 document
 - Fully dependent on building permits issued, current year budgeted revenues \$76,930
 - Current cash balance is \$435,692.70
- **General Facility Impact Fee**
 - Used for General facilities included in the AB1600 document
 - Fully dependent on building permits issued, current year budgeted revenues \$111,943
 - Current Cash Balance is \$567,507.44
- **Water Impact Fee**
 - Used for Water infrastructure projects and equipment included in the AB1600 document
 - Fully dependent on building permits issued, current year budgeted revenues \$194,329
 - Current cash balance is \$543,541.19
- **Sewer Impact Fee**
 - Used for Sewer infrastructure projects and equipment included in the AB1600 document
 - Fully dependent on building permits issued, current year budgeted revenues \$137,811
 - Current cash balance is \$278,229.33
- **Flood Fees**
 - Used for Flood control projects included in the Flood master plan
 - Fully dependent on building permits issued, current year budgeted revenues \$360
 - Current Cash balance is \$232,288.70
- **General Fund Capital**
 - Funds set aside for use for projects not included in the AB1600 document
 - Only Revenues are from investment earnings
 - Current cash balance is \$475,304.15
- **Landfill Capital**
 - Used for close out costs and monitoring of the old dump site. Could be used to help pay some costs of the Sports park.
 - No revenues except for investment earnings.
 - Current Cash balance is \$167,374

- **Street Capital**
 - Used for Street projects, not necessarily listed on AB1600 documents.
 - No revenues budgeted, revenues typically from development agreements and pro rate share of the infrastructure costs paid by City that should have been installed by the developer
 - Current cash balance is \$107,836.16, but is reserved for the alley paving project when the hotel is completed.
- **Park Capital**
 - Use for Park projects not necessarily listed on AB1600 documents
 - No revenues budgeted, revenues typically from developers in lieu of building parks.
 - Current cash balance is \$643,621.15, however, \$200,000 is reserved for the funding from PG&E for the extension of the Putah Creek Nature Trail.
- **General Plan Capital**
 - Accounts for cost of the General Plan update deficit
 - Revenues are transferred into this account from the Monitoring fee fund, current year budget is \$61,403
 - Current Cash balance is a deficit (\$396,414.27)
- **Flood Control Capital**
 - This is the amount that was used for the Corps of Engineer Study
 - No revenues except for investment earnings.
 - Current cash balance is \$1,317.46 however the fund owes other funds \$125,000
- **RAJA Storm Drain Capital**
 - Used for costs related to maintaining and expanding the RAJA storm drain area
 - Revenues are generated by contributions from developers developing in the RAJA area, no revenues were budgeted for the current year.
 - Current Cash balance is \$77,440.04
- **Capital Asset Recover Fund**
 - Used to collect funds for the building and planning permit software and equipment.
 - Revenues are based on building permits issued, current year budget for revenues is \$5,264
 - Current cash balance is \$130,849.23, staff is currently exploring the options for new planning and building software.
- **Monitoring Fee**
 - Used to collect funds to pay off the General Plan Deficit
 - Fully dependent on building permits issued, current year budgeted revenues \$61,403
 - No cash balance, all funds are transferred to the General Plan deficit until it is paid in full
- **Non Flood Storm Drain Capital**
 - Used to collect funds for Storm Drain projects not related to flooding.
 - No current year revenues
 - Current cash balance is \$237.59
- **SB1 Funds**
 - Used to fund street and road repairs not related to the AB1600 document.
 - Estimated amount for 17-18 \$40,760 (18-19 estimated to be \$122,000)
 - No cash balance, taxes begin 11-1-17.

Capital funding also includes numerous opportunities for these funds to be leveraged through capital financing, grants, developer contributions and one time revenues.

FISCAL IMPACT: None by this action.



**CITY COUNCIL
STAFF REPORT**

DATE: November 7, 2017
TO: Mayor and City Council
FROM: John W. Donlevy, Jr., City Manager 
SUBJECT: Designation of City Council Members to Zoning Code Update Subcommittee

RECOMMENDATION:

That the City Council select two (2) members to work with Staff on a Zoning Code Update Subcommittee.

BACKGROUND:

In FY 2017-18, a key project within the City's Planning Division is the update of the City's Zoning Code. The last major update of the classifications and uses in the Zoning Code Matrix and Definitions was a part of the 1992 General Plan Process.

Discussion:

Staff is forming a working subcommittee which will include members of both the City Council and the Planning Commission to assist in a modernization of the language and definitions within the Zoning Code. The process will require an in-depth discussion of the various classifications and use definitions which will best be accomplished through a working subcommittee.

Staff is asking for the City Council to appoint two members to serve on the subcommittee. The same will be asked of the Planning Commission.

FISCAL IMPACT: None by this action.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: November 7, 2017
THROUGH: John W. Donlevy, Jr., City Manager *JWD*
FROM: Ethan Walsh, City Attorney
SUBJECT: Second Amendment to City Manager Employment Agreement

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 2017-46, approving the Second Amendment to Employment Agreement with City Manager John Donlevy.

BACKGROUND: The City entered into its most recent employment agreement with John Donlevy as City Manager on December 19, 2013, and that agreement was amended once to make clarifying changes that were consistent with amendments made to the MOUs for the City's other employees related to CalPERS contributions. The current employment agreement expires on December 31, 2018. The City Council and Mr. Donlevy have both expressed an interest in extending the term of his agreement to allow both parties on-going security and mutual commitment that will allow for continued long term planning for the future of the City of Winters.

DISCUSSION: The only amendment to the Agreement is to extend the current expiration date by three years, from December 31, 2018 to December 31, 2021. None of the financial terms of the Agreement are changed.

ALTERNATIVES: None recommended by staff.

FISCAL IMPACT: No immediate fiscal impact. There will be the impact of continuing to pay the City Manager for an additional three years, but this would presumably be an expense the City would incur under any circumstances.

Attachment: Resolution No. 2017-46
Second Amendment to Employment Agreement

RESOLUTION NO. 2017- 46

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS
APPROVING THE SECOND AMENDMENT TO EMPLOYMENT AGREEMENT
BETWEEN THE CITY OF WINTERS AND JOHN W. DONLEVY, JR.**

WHEREAS, the City of Winters entered into an Employment Agreement with John W. Donlevy, Jr. (“Donlevy”) on December 19, 2013 to employ Donlevy as the City Manager of the City of Winters (the “Employment Agreement”); and

WHEREAS, the Employment Agreement currently expires on December 31, 2018; and,

WHEREAS, the City Council and Donlevy desire to amend the Employment Agreement to extend the term for an additional three years, to December 31, 2021, to demonstrate mutual commitment to one another, and to allow for long term planning for the City of Winters;

NOW, THEREFORE, the City Council of the City of Winters hereby finds and resolves as follows:

The City Council approves the Second Amendment to Employment Agreement, in the form attached hereto, and authorizes the Mayor to sign such First Amendment on behalf of the City.

I HEREBY CERTIFY that the foregoing Resolution was adopted by the City Council of the City of Winters at a regular meeting held on the 7th day of November, 2017, by the following vote:

AYES:

NOES:

ABSENT:

Wade Cowan, Mayor
City of Winters

ATTEST:

Nanci G. Mills, City Clerk

SECOND AMENDMENT TO EMPLOYMENT AGREEMENT
City of Winters—City Manager

THIS SECOND AMENDMENT TO EMPLOYMENT AGREEMENT (“Second Amendment”) is entered into on this ____ day of November, 2017 (the “Effective Date”) between the City of Winters, a municipal corporation (“City”) and John W. Donlevy, Jr. (“Donlevy”).

Recitals

A. The City and Donlevy entered into an Employment Agreement effective on December 19, 2013 to employ Donlevy as the City Manager of the City of Winters, which was amended by that First Amendment to Employment Agreement dated July 19, 2016 (collectively, the “Employment Agreement”).

B. The City and Donlevy desire to extend the term of the Employment Agreement from the current expiration date of December 31, 2018 to December 31, 2021.

Now Therefore City and Donlevy agree to amend the Employment Agreement as follows:

Section 1. The Term of the Employment Agreement, as set forth in Section 3 thereof, is hereby extended to expire on December 31, 2021, unless terminated earlier by either party in accordance with the provisions set forth in Paragraph 8 of the Employment Agreement or by the event of the death or permanent disability of Employee. The parties expressly agree that allowing the Agreement to expire at the end of this Term shall not be deemed a termination triggering any severance payment whatsoever.

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City of Winters
Second Amendment to City Manager Employment Agreement

Section 2. Except as specifically modified by this Second Amendment, all terms and provisions of the Employment Agreement shall remain unchanged and continue in full force and effect.

IN WITNESS WHEREOF, the City and Donlevy have executed this Amendment as of the date first above written.

CITY OF WINTERS

By: _____
Wade Cowan
Mayor

Approved as to form:

By: _____
Ethan Walsh
City Attorney

Attest:

By: _____
Nanci G. Mills
City Clerk

DONLEVY

By: _____
John W. Donlevy, Jr.