



Winters City Council Meeting
City Council Chambers
318 First Street
Tuesday, November 21, 2017
**** 5:30 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 meeting will begin at 5:30 p.m. 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, November 7, 2017 (pp.4-10)
- B. Street Closure Request and Parade Permit Application by Chamber of Commerce for the Annual Tree Lighting Ceremony and Tractor Parade to be Held on Saturday, December 2, 2017 (pp.11-19)
- C. Application for Amplified Sound Permit for The Life Center of Winters to hold Christmas Festival, Fundraising and Caroling at Rotary Park December 16th from 6-9 p.m. (pp.20-22)

PRESENTATIONS

DISCUSSION ITEMS

- 1. Ordinance 2017-07, Second Reading and Adoption of Zoning Code Amendments to Prohibit Commercial Marijuana Uses (pp.23-30)

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

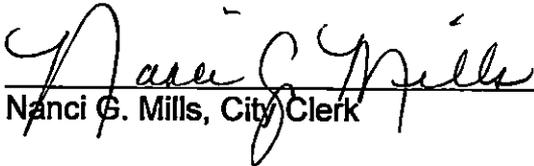
- 1.

CITY MANAGER REPORT

INFORMATION ONLY

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the November 21, 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 16, 2017, and made available to the public during normal business hours.


Nanci G. Mills, City Clerk

Questions about this agenda – Please call the City Clerk's Office (530) 794-6701. Agendas and staff reports are available on the city web page www.cityofwinters.org/administrative/admin_council.htm

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

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

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

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Email Subscription: You may contact the City Clerk's Office to be placed on the list. An agenda summary is printed in the Winters Express newspaper.

City Council agenda packets are available for review or copying at the following locations:

Winters Library – 708 Railroad Avenue

City Hall – Finance Office - 318 First Street

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

City Council meetings are televised live on City of Winters Government Channel 20 (available to those who subscribe to cable television) and replayed following the meeting.

Wednesday at 10:00 a.m.

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



Minutes of the Regular Meeting of the Winters City Council
Held on November 7, 2017

Mayor Wade 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, City Attorney Ethan Walsh, Environmental Services Manager Carol Scianna, and Management Analyst Tracy Jensen

Tina Lowden led the Pledge of Allegiance.

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. 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: David Springer, 200 Madrone Ct., said he was a member of the Valley Clean Energy Alliance, a locally controlled (not for profit) energy provider with SMUD providing the energy procurement. Services are scheduled to be launched in July, 2018. The City of Winters is the only municipality in Yolo County that is not participating and asked Council to form a sub-committee to determine if it is worth pursuing. This program is a win-win, the rates would be competitive with PG&E, and the City would be able to opt out at any time.

CONSENT CALENDAR

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, October 17, 2017
- B. Amendment to West Yost Agreement No. 027-17, Waste Water Treatment Facility Influent Screen Design
- C. Final Acceptance of Public Improvements for Hudson/Ogando Subdivision (Winters Ranch)
- D. Adoption of Yolo Local Government Accountability and Transparency Program Statement

City Manager Donlevy gave an overview. Council Member Anderson requested clarification on Item D, which was provided by City Manager Donlevy, who said LAFCO is taking the lead by conducting municipal service reviews and creating web transparency scorecards for local government agencies. Christine Crawford from LAFCO will be the point person and will provide a follow-up at a future City Council meeting.

Motion by Council Member Loren, second by Council Member Neu to approve the Consent Calendar. Motion carried with the following vote:

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

PRESENTATIONS: None

DISCUSSION ITEMS

1. Public Hearing and Consideration of Zoning Code Amendments to Prohibit Outdoor Cultivation of Marijuana and Commercial Marijuana Uses

City Manager Donlevy gave a power point presentation and reviewed the four regulatory options being presented tonight: limit the number of plants cultivated outdoors, limit the cultivation area, establish setbacks, and enforce zoning restrictions. The most controversial is the outdoor cultivation due to odor issues in residential area, preventing residents from enjoying their back yards.

City Attorney Walsh said there are two aspects: the Winters Municipal Code (WMC) currently bans commercial cultivation and sales of cannabis. Council could vote to bring the language in the WMC up to be consistent with current law. The second aspect is outdoor cultivation in response to complaints of larger

outdoor grows that affect neighbors. Any substitutive changes have to go back to the Planning Commission before coming back to the City Council, preventing any immediate changes. Council Member Loren referenced Section 3, Amendments to Section 17.04.140 and said bringing language consistent with the law is very important. City Attorney Walsh said if Council is not going to immediately decide upon outdoor cultivation, they could amend the language tonight under Section 17.205.020, Cannabis Cultivation, by deleting Items A and C. Council Member Loren said the voters passed Prop 64 by a wide margin and Council is in a place to advance the interest of the voters. The problem identified by the City is a couple of residences who are growing an excessive number of plants and operating in residential areas as a collective. These residences generate numerous odor complaints. Council has the ability to create regulations to mitigate the problems those grows have created.

Mayor Cowan opened the public hearing at 7:12 p.m.

Kathy Woodman, 1029 Adams Lane, agreed with Council Member Loren's comments. Kathy uses CDB oils and grows 6 plants in the middle of her 10' X 10' back yard to make salve. The odor is not bad and there have been no complaints by her neighbors. Collectives need to be in the country.

Brian Bellamy, 902 Southdown Ct., asked Council to address medical users and banning outdoor growing and said it would be more expensive to grow if plants have to be grown inside. He asked Council to take more time with this and to consider the cannabis population.

Marianne Boyer, 1102 Malaga Lane, said she is retired, is an active member of the Winters Senior Foundation and a representative of the Yolo County Grand Jury. She said she is an average citizen who has been a medical marijuana user for several years for many ailments. Cannabis is her drug of choice and she has been growing it for several years with no complaints. The actions of a few shouldn't penalize numerous residents. She asked Council to consider the voices of the innocent ones.

Kristin Wright, 214 Rosa, read aloud excerpts from a letter submitted by Debra DeAngelo.

Carol Ellis lives outside the City and has worked at a dispensary in Sacramento for many years and invited anyone to come and visit.

David Springer, co-author of the Winters Climate Action Plan asked Council to consider avoiding indoor grows, which is one of the largest energy users.

John Cresbo, no address given, said the residents voted for this. Many people can't afford to grow indoors and this will make law abiding citizens unlawful citizens.

Chad Vickrey, no address given, said allowing collectives to grow within the City limits is ridiculous.

Mayor Cowan closed the public hearing at 7:24 p.m.

Council Member Neu said after hearing the residents voices tonight, Council should just vote to update the language.

Council Member Biasi asked City Attorney Walsh for examples of how other communities are handling these types of issues and City Attorney Walsh gave the following examples: limitation of number of plants on site regardless of number of people in the house, grow for individual use only and not for other people, restrict size of plants, limit number of plants, limit size of space or enclosure, require fence height, and includes other restrictive measures. The City of Davis is in the first round of permitting their dispensaries while the issue in the City of Winters is extensive dialog, which can be time intensive.

Council Member Biasi said if Council allows plants to be grown outside, several specific things need to be reviewed: setbacks, proximity to schools, and the biggest concern is cannabis is still listed as a Class 1 drug by the Federal government and the City would be in violation of the Federal Controlled Substance Act. Council Member Loren said the voters passed Prop. 64 and it is not up to the local police force to enforce federal law. Council is being asked to serve the community. Mayor Cowan said despite obvious objections, he doesn't want to violate federal law. If Council re-works the ordinance by removing from Section 17.205.020 Item 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) and Item C (all outdoor cannabis cultivation is prohibited in the City, including the outdoor cultivation of cannabis for non-commercial, personal use) and look at the personal side of it, would everything else stay in place? City Attorney Walsh said yes, no commercial cultivation or operations for commercial purposes would be allowed. It would allow for personal use only. The ordinance would still allow the collectives, so that would have to be addressed separately. Mayor Cowan confirmed if the ordinance is passed tonight minus Items A & C, Council can review other parts of the ordinance at a future meeting.

Council Member Anderson referred to Ms. Woodman's comments and said he sees the medical side of the issue and doesn't see a problem with that. Council needs to take a better look at outdoor grows and regulating the cooperative grows, who don't have the right to impact neighbors. Council Member Loren said taxation would likely limit illicit grows. City Attorney Walsh said there are Federal and State law issues. State law prevents prosecution for possession of medical marijuana. The City is a subdivision of the State and the State says is legal, so

the City needs to put ourselves in the position of regulating it. This issue is how we want to handle it in this community.

Mayor Cowan said Federal law keeps cannabis from becoming a legitimate business. He said he is in favor of keeping the ban on commercial business, is OK with updating the ordinance by leaving out Items A & C and deciding on the guidelines later. He said Council needs to come up with restrictions because he doesn't want people to have 24 plants in their backyard. Council needs to spend more time and energy on this issue to make it more agreeable for everyone. Council Member Loren said a total ban on outdoor grows makes the City ineligible for receiving state grants used for enforcement. Mayor Cowan said Council will take points under future review.

Motion by Council Member Neu, second by Council Member Loren to introduce Ordinance 2017-07, remove Items A & C from Section 17.205.020, and bring the Ordinance back to Council to discuss outdoor cultivation at a future City Council meeting. Motion carried with the following vote:

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

2. Capital Improvement Program Overview- Programs and Funding

City Manager Donlevy gave a general overview of the City's Capital Improvement and Maintenance Program, including the basic elements and revenue sources for capital projects. Council Member Anderson asked about the \$396,000.00 deficit in General Plan Capital and inquired about the amount of the original debt. City Manager Donlevy said the original amount of debt was \$1.4 million dollars and the City continues to pay itself back from the 1992 General Plan. Council Member Biasi said he appreciated the update and seeing the balances within the agenda report. Council Member Neu asked if other City Managers are working to try and find revenue sources other than (decreasing) gas tax. City Manager Donlevy said infrastructure, transportation and housing are the items they always discuss. Council Member Loren said she was amazed that the City has managed to have an S & P "A" rating. City Manager Donlevy said this item will come back to Council in the form of a workshop.

3. Designation of City Council Members to Zoning Code Update Subcommittee

City Manager Donlevy gave an overview and said staff would be requesting that two City Council members and two Planning Commission members be appointed

to serve on this subcommittee, which will kick off in January, 2018. Staff is not looking to change the zoning code, but to modernize it. Following a brief discussion, Mayor Cowan and Council Member Biasi were appointed to serve on the Zoning Code Update Subcommittee.

4. Consideration of Amendment to City Manager Employment Agreement

City Attorney Ethan Walsh gave an overview and said this is a simple amendment to extend the City Manager Employment Agreement for an additional three years, to 12/31/2021. No other terms of the agreement are being changed. As the longest tenured City Manager in Yolo County, City Manager Donlevy wants to continue doing work in Winters. Council Member Biasi agreed it was a good idea and the City is lucky to have someone here for continuity purposes, which is invaluable. Mayor Cowan cited the average time for City Managers in California is 4 years, and the average time across the country is 8 years, while City Manager Donlevy has been with the City of Winters for 16 years. Council Member Loren cited City Manager Donlevy's hard work, commitment, and institutional knowledge.

Motion by Council Member Neu, second by Council Member Biasi to approve the 3-year amendment to the City Manager Employment Agreement. Motion carried with the following vote:

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

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

1. None

CITY MANAGER REPORT: The Parking Committee met last week and is looking at the week of 11/27 or 12/4 to hold a joint workshop with City Council and Planning Commission members to review a final report and recommendations from the consultant. Will work with all parties to receive communication about possible dates and times. The Blue Mountain Terrace/Domus project will get an update out tomorrow. Will be speaking to members of the Public Administrative Program at Chico State on Thursday about being a City Manager in a small town.

INFORMATION ONLY: None

ADJOURNMENT: Mayor Wade Cowan adjourned the meeting at 8:14 p.m.

Wade Cowan, MAYOR

ATTEST:

Nanci G. Mills, City Clerk



STAFF REPORT

TO: Honorable Mayor and Council Members
DATE: November 15, 2016
THROUGH: John W. Donlevy, Jr., City Manager *[Signature]*
FROM: Nanci Mills, Director of Administrative Services *Nanci*
SUBJECT: Street Closure Request and Parade Permit Application by Winters Chamber of Commerce for the Annual Tree Lighting Ceremony and Tractor Parade to be Held on Saturday, December 2, 2017

RECOMMENDATION:

Approve the closure of East Main Street between Railroad Avenue and Elliot Street to allow for the Winters Chamber of Commerce to hold the Annual Tree Lighting Ceremony in Rotary Park and to approve the Parade Permit Application for the Lighted Tractor Parade.

BACKGROUND:

The Winters Chamber of Commerce will once again hold the Annual Tree Lighting Ceremony in Rotary Park. The Chamber will also hold the 3rd Annual Lighted Tractor Parade, which will celebrate the agricultural heritage in Winters. Vintage and modern tractors bedecked with dazzling lights will parade down Winters' charming Main Street to celebrate the Christmas season.

The Winters Chamber of Commerce has requested the closure of East Main Street between Railroad Avenue and Elliot Street from 4:00 p.m. to 8:00 p.m. (the end of the parade route.) They have also requested that barricades be placed at these intersections.

If approved, closure notification will be posted on all affected streets a minimum of 48 hours prior to the scheduled closures.

Per the City's Street Closure Ordinance, it requires Council approval on identified streets on the attached request form.

FISCAL IMPACT: To be Determined (Police staff overtime, signage, barricade placement).

RECEIVED

NOV 15 2017

CITY OF WINTERS



CITY OF WINTERS
california
Est. 1875

PARADE PERMIT APPLICATION

Today's Date: 11-10-17 Date & Time of Parade: 12-2-17 6:30pm

Name of Organization: Chamber of Commerce Contact Person: Kathy Cowan
Carrie Green

Phone Number & Email: 795-2329 Director @ Winters Chamber

Purpose of Parade: Holiday Celebration & Xmas tree lighting

Type of Conveyance: _____

Number of People or Entries Enrolled: 50 entries

Type of Safety Measures Provided (barricades, etc): Barricades, parade Marshalls,
Security Co., Winters P.D

City Services Requested: Winters P.D., use of Barricades, fire truck to
Bring Santa

** Attach map with proposed route of parade

Applicant Signature Kathryn Cowan

CITY USE ONLY

Fire Signature: _____

Police Signature: _____

APPROVED or DENIED by City Council on (date) _____

NOTES: _____

REV 042913



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CITY OF WINTERS

City of Winters Request for Street Closure

This application is for citizens or groups that have occasion to request that streets be temporarily closed for such things as bicycle races, running contests, block parties and other such events requiring the re-routing of traffic. For a parade or amplified sound an additional permit is required.

A request to close streets shall be filed with the Police and Public Works Departments at least ten (10) business days prior to the date the street would be closed.

There shall be no closure of the following streets without Council approval:

1. Main Street
2. Railroad Street
3. Grant Avenue
4. Valley Oak Drive
5. Abbey Street

Request to close these streets shall be processed in much the same manner except that the request shall be submitted to the City Council by the Police Department. Requests to close the streets herein listed shall be submitted at least thirty (30) business days prior to the street closure.

Requests for street closures that are not submitted by the minimum time lines may be granted only by the Winters City Council.

Name: Kathy Cowan Organization: Winters Chamber

Address: 201 First St. Mailing Address: 201 First St.

Telephone: (530) 795-2329 Today's Date: 11-10-17

Streets Requested: Main + East Main + Elliott St. Railroad at Abbey St + Russell St.

Date of Street Closure: Dec. 2nd 2017 Time of Street Closure: 4:00 pm

Description of Activity: Tractor Parade + Tree Lighting

*Margaret
First St
30th + 4th
St.*

Services Requested of City: _____

APPROVED: _____ **Police Department** _____ **Public Works Department**

City of Winters Request for Street Closure

Please provide a listing of the names and signatures of people living on the street (s) to be closed and acknowledging that they know why the closure is requested and that they agree to the closure. Attach additional sheets if necessary.

Kimberly McClatchy	
9 E Main # E	
<i>[Signature]</i>	
KRAIG P. Koomar	
11 E. Main St.	
<i>[Signature]</i>	
Cheryl Rhenby	
<i>[Signature]</i>	
<i>[Signature]</i>	
<i>[Signature]</i>	CLOTH CAROUSEL
<i>[Signature]</i>	Winters Health
<i>[Signature]</i>	ACE Hardware
Maria J. J.	Adry's Boutique
<i>[Signature]</i>	Eagle Drug
Veronica Lynn	Dr. Davis Office
Frank Arway	111 main street Catering
<i>[Signature]</i>	111 Main St. Suite B Sutter Medical
<i>[Signature]</i>	119 Main St Vintage Paving
<i>[Signature]</i>	
Melvin Tharin	Pizza Factory
<i>[Signature]</i>	Petal Creek Council
Roberto Rodriguez	

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NOV 15 2017

CITY OF WINTERS



Special Event Application

DESCRIPTION

Event Title: Tractor Parade & Tree Lighting

Description :

Will you charge admission? If so, what amount? : NO

Anticipated Attendance: 1 K plus

DATE/TIME

Setup Date: 12-2-17 Time: 4 pm Day of Week: Sat.
 Event Starts: Date: 12-2-17 Time: 6:30 pm Day of Week: Sat.
 Event Ends: Date: Time: 8 pm Day of Week: Sat.
 Dismantle: Date: 12-2-17 Time: by 10 pm Day of Week: Sat.

LOCATION

Location Description:
Parade down Main from 4th to Elliot st.
Rotary Park for tree lighting

CONTACTS

Host Organization: Chamber of Commerce
 Host Organization Primary Contact & Phone: Kathy Cowan 707-249-4914
Carrie Green 916-541-3738

SITE PLAN

Please submit a detailed site plan identifying Street Names, parking spaces to be closed, location of barriers/barricades, location of all vendor booths/shade canopies, beer gardens or wine tasting areas, and locations of generators and food preparation equipment.

ENTERTAINMENT AND RELATED ACTIVITIES

Performer/Band Name & Type of Music:

Will amplified sound be used? yes

Provide rated output of amplifier in watts: _____

Number of speakers: _____

ALCOHOL

Does your event involve the use of alcohol? NO

Circle One:	Free/Host Alcohol	Alcohol Sales	Host & Sale Alcohol	Beer
	Beer & Wine	Beer, Wine & Spirits		

Please describe your plan to ensure the safe sale or distribution of alcohol at your event.

FOOD & GOODS VENDORS

Does your event include food concession and/or preparation areas?

How do you intend to cook food in the event area?

Will items or services be sold at your event? _____

If yes please attach a complete list of vendors and include a description of the types of goods/food/services that the vendor provides.

COMMUNITY OUTREACH

Please attach a copy of your community outreach notice and signature sheet that you provided to the businesses/residents in your event vicinity.

INSURANCE

Please attach Commercial General Liability Insurance and a separate additional Insured Endorsement for the Host Organization and all vendors. If your event features alcohol, Liquor Liability Insurance is also required.

CERTIFICATION

I certify that the information contained in the foregoing application is true and correct to the best of my knowledge and belief that I have read, understand and agree to abide by the rules and regulations governing the proposed Special Event. Applicant agrees to comply with all other requirements of the City, County, State, Federal Government, and any other applicable entity which may pertain to the use of the Event venue and the conduct of the Event. I agree to abide by these rules, and further certify that I, on behalf of the Host Organization, am also authorized to commit that organization, and therefore agree to be financially responsible for any costs and fees that may be incurred by or on behalf of the Event to the City of Winters.

Name of Host Organization: _____

Title: _____

Signature: _____

Date: _____

INDEMNIFICATION

The undersigned agrees by their signature that they are an authorized agent/representative for the requesting agency, and further agrees the rules and regulations will be complied with in full. I further agree that I am responsible to the City of Winters for the use and care of City property. I further agree that the nature of the activity will conform to that stated in this application. I agree to indemnify and hold harmless the City of Winters, its officers, agents, and employees against any and all loss, damage and/or liability that may be suffered or incurred by the City of Winters, its officers, agents, and employees.

Signature: _____ Date: _____

FEES

Encroachment of Public Right-of-Way	\$54.00 per Event
Business License Fees (per vendor)	\$86.00 annual or \$10.00 one-day



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: November 21, 2017
THROUGH: John W. Donlevy, Jr., City Manager *JWD*
FROM: Nanci G. Mills, Director of Administrative Services/City Clerk *Nanci*
SUBJECT: Approval of Amplified Sound Permit Application for The Life Center Winters

RECOMMENDATION:

Approve the amplified sound permit application for The Life Center Winters at Rotary Park Gazebo.

BACKGROUND:

The Life Center Winters is requesting this amplified sound permit for a festival, fundraiser and caroling to be held in City Park from 6pm - 9pm on Saturday, December 16th.

Per the Noise Ordinance, the amplified sound permit requires Council approval on the attached form.

FISCAL IMPACT:

None

Due by the 21st

CITY OF WINTERS

AMPLIFIED SOUND PERMIT APPLICATION

Date of Application: 11/7/17

To City Council: _____

Name of Person(s)/

Organization: The Life Center Winters

Contact: Jennifer Engelage

Business Address: 201 Main St, Winters, CA
95694

Telephone: 916-204-8633

Telephone: 530-302-5719

Type of Event: Concert

Purpose of Event: (ie; fundraiser, parade, festival, etc.): Christmas festival/fundraiser ^{Caroling}

Date/Time of Event: Dec 16th, 2017 / 6:00pm From: 6:00pm To: 9:00pm

Location/Address of Event: Rotary Park / Gazebo

Rated Output of Amplifier in Watts: 100

Number of Speakers: 2

I have provided a list of and contacted all property owners adjacent to and within 300 feet of the event. Their approval of this event is indicated by their signature on the attached petition. Complaints about the sound will result in a warning and a request to reduce the volume. Additional complaints will result in the cessation of amplified sound. All amplified sound must be extinguished no later 10:00 p.m. pursuant to Winters Municipal Code Title VI; Chapter 7-Noise Control. Signing below certifies that all information contained within this application is correct. In the event that any of this information is found to be fraudulent, it may result in an automatic denial of this application.

Signature: Jennifer S. Engelage

For City Use Only

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NOV 13 2017

CITY OF WINTERS

Proof of Insurance: N/A (Not City Property) Yes No

Rental Fee Paid: N/A (Not City Property) Yes No

Police Department: Approved Denied

Date: _____

Authorized Signature: _____

City Council: Approved Denied

Date: _____

Authorized Signature: _____



CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Council Members
DATE: November 21, 2017
FROM: Ethan Walsh, City Attorney
SUBJECT: Second Reading and Adoption of Zoning Code Amendments to Prohibit Commercial Marijuana Uses

RECOMMENDATION: Staff recommends that the City Council waive second reading and adopt Ordinance No. 2017-07. Pursuant to the Council's action at the last meeting, the restrictions previously placed on personal cultivation of marijuana outdoors has been removed from the ordinance.

BACKGROUND:

At the November 7, 2017 Council meeting, the City Council held a public hearing to consider changes to the provisions of the City Zoning Code governing marijuana in the City of Winters. The ordinance recommended by City staff included updates to conform more closely with State law, to prohibit commercial marijuana operations in the City (which is consistent with current practice), and to prohibit outdoor marijuana cultivation for personal use of recreational or medical marijuana.

After the public hearing, the Council voted to introduce Ordinance No. 2017-07 with the restrictions on outdoor cultivation of marijuana for personal use removed from the Ordinance. This is the second reading and adoption of the ordinance as amended by the Council's vote.

ANALYSIS:

Per Council direction, Section 17.205.020 has been revised to eliminate Subsections A and C, which prohibited outdoor cultivation for personal use. Consistent with that direction, I also deleted two recitals that referenced personal cultivation. Finally, there was a clerical error in the fourth recital, where a

reference to Ordinance No. 2017-07 should have been to Ordinance 2010-08. Other than those changes, which are either consistent with Council direction or technical clean-up, the ordinance is identical to the ordinance in your previous packet. The purpose of the ordinance was discussed in detail in the prior staff report, so that discussion is not repeated here.

Staff will return to the Council at a later date with recommendations to address the large scale outdoor cultivation that we are seeing at some residences.

ALTERNATIVES:

The City Council may decline to adopt the 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. 2010-08 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 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 ~~marijuana~~cannabis" 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.

Commercial cannabis cultivation is prohibited in the City.

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