

**MINUTES
REGULAR MEETING OF
CITY COUNCIL & REDEVELOPMENT AGENCY
CITY OF YUBA CITY
Council Chambers
October 20, 2009
Closed Session 5:30 P.M.
Regular Meeting 7:00 P.M.**

Closed Session 5:30 p.m.—Butte Room

Conferred with legal counsel regarding anticipated litigation pursuant to Government Code Section 54956.9—one potential case.

Conferred with real property negotiators Steven Jepsen and Steve Kroeger pursuant to Government Code Section 54956.8 regarding possible purchase of the following properties or portions thereof: APN 17-115-001, 59-530-002, 52-502-008, 52-401-008, and 53-220-017.

Conferred with real property negotiators Steven Jepsen and Steve Kroeger pursuant to Government Code Section 54956.8 regarding possible sale of the following property or portions thereof: APN 52-380-017.

Conferred with labor negotiators Steven Jepsen and Steve Kroeger regarding negotiations with the following associations: Yuba City Police Officers, Police Sergeants, Yuba City Firefighters Local 3793, Yuba City Fire Management, Confidential Employees, Executive Services Employees, First Level Managers, Mid Managers, and Yuba City Employees, pursuant to Section 54957.6 of the Government Code.

Regular Meeting 7:00 p.m.—Council Chambers

Call to Order

The City Council of the City of Yuba City was called to order by Mayor McBride at 7:00 p.m.

Roll Call

Present: Councilmembers Dukes, Gill, Maan, Miller and Mayor McBride
Absent: None

Invocation

Councilmember Dukes gave the invocation.

Pledge of Allegiance to the Flag

Councilmember Maan led the Pledge of Allegiance to the Flag.

Presentations and Proclamations

1. **Sikh Parade Proclamation** – Presented by Mayor McBride

Public Hearings

2. **Water System Ordinance Update**

Utilities Director Bill Lewis stated the Water System Ordinance regulates all aspects of the Yuba City water system including fees. There has not been a complete review and update of the Ordinance in the last fifteen years. The proposed Ordinance changes do not change water rates.

In July 2008 the City Council accepted and adopted the Hillcrest Water System Ad Hoc Committee report and all the policies and recommendations stated in that report. The policy decisions and recommendations that are being implemented as part of this Ordinance change are that surface water customers outside the City limits currently pay a monthly surcharge of \$10 plus \$0.755 per 748 gallons (100 cubic feet) used over the minimum base amount. All references to the out of City surcharge have been removed from the Ordinance. There are currently approximately 82 accounts outside the City limits. Elimination of the surcharge will result in a reduction of revenue of approximately \$21,000 annually. This will also result in a savings to approximately 1000 Hillcrest Water System groundwater parcels in the County when they convert to surface water. There are also many residents on private wells that have water pipelines in front of their home or nearby that have expressed an interest in connecting to the surface water system. Ordinance changes include the opportunity for those customers that choose to connect to surface water at the same rate structure as current groundwater customers. The window of opportunity will be from January 1, 2010 to June 30, 2010. Pipeline extension fees would also not apply for customers if pipes are currently in front of the parcel. The City

benefits from this opportunity by reducing the number of residents on private wells. Many of the private wells do not meet current health standards for nitrates, arsenic or bacteria. Not charging extension fees is reasonable in this instance since the pipelines were installed many years or decades ago.

The Development Impact Fee Ad Hoc Committee met in 2007 to discuss all impact charges, including water connection charges. The long term Capital Improvement Plan was reviewed and revised based on decisions of the Committee. Every project was reviewed for proper distribution between existing and new customers. The connection charge includes costs associated with new customers. Connection charges were last adopted by the City Council in June 2004. The Capital Plan has also been updated to reflect construction projects costs that have been constructed since 2004. There have been indexed fee increases in 2005 and 2006. Since July 2006 the connection charge has been \$7,209. It is now recommended that the connection charge be reduced to \$6,500 to reflect the recommendations of the Development Impact Fee Ad Hoc Committee. The reduction of fees does not reflect a transfer of cost from new construction to existing customers.

The current Ordinance does not define when the connection charge is to be paid – at the time of pulling of building permit or prior to the certificate of occupancy. It is recommended that the Ordinance define payment of connection charges to be at the same time other impact fees are paid. If a building permit is not required, it will be prior to service connection.

The Ordinance includes fees for monthly water use, connection charges, installation of meters, installation of service lines, etc. All of these fees were inserted into the Ordinance in 2004 and since then have had annual adjustments as described in the Ordinance. Water rate charge indexes were not implemented in 2008. Water rates have not increased since October 2007. This update presents the fees as they currently exist. The Ordinance does not include fee changes for monthly rates. It is anticipated that staff will soon be presenting a rate study to the City Council.

A new section is added related to cross connections between the municipal water system and private water systems. This will bring the system into compliance with generally accepted engineering and construction methods. These rules are put into place to minimize the chance of contamination of the public water system by individual customers or businesses.

The current Ordinance does not define how many water services are allowed per parcel. The recommended changes define that there will be only one domestic service allowed per residential parcel. This is being done to ensure payment is received from multi-dwelling parcels. Collection of water bills will be conducted by the property owner and only one party is responsible for payment to the City.

A single domestic service for commercial and industrial parcels will reduce the possibility of cross connection between businesses and the City water system and reduce conflicts when commercial parcels are split after initial construction. Commercial properties frequently have more than one business on a single parcel or in a single building and piping between the businesses are often interconnected. Upon approval of the Public Works/Utilities Director multiple services on commercial or industrial properties will be allowed. Upon request, additional landscape and fire services are allowed on any parcel.

The Ordinance has been modified to reflect the current City organizational structure of City Manager versus City Administrator and the addition of a Utilities Director. References in the Ordinance have been changed to reflect these job titles. References to the Public Works Director remain unchanged.

Currently, first violations of the Ordinance result in a written warning of the violation. It is recommended that this remain for the first violation. A second violation penalty was \$25 and third and subsequent \$50. It is recommended that these be increased to \$50 and \$100, respectively. There has been no penalty for violation of the cross connection section of the Ordinance. Cross connection has the possibility of contamination of the City water supply. It is recommended that the penalties for the first violation be a written warning, second be \$500 and third, and subsequent, be \$5,000. In addition, if the violation is a result of water being taken illegally from fire hydrants, there is also a fee of ten times the value of the water.

There have been changes made to correct references: requirement of a \$60 deposit for rental services, correction of typos, assigns responsibility of all piping upstream of the meter to the property owner, changes a few locations of paragraphs without changing wording and other similar non-substantive changes.

Council asked if the residents with wells will still be able to use those wells and how many residents could potentially hookup to City water.

Mr. Lewis stated that if the homeowners are within a backflow service, they could continue to use their wells for agricultural purposes; but it is still hard to regulate what contaminates they could be putting back into the water supply.

Mr. Lewis also stated that, potentially there could be hundreds of residents available to connect to City water, but he did not have an exact figure.

Mayor McBride opened the public hearing, the following person spoke:

Elaine Miles, 487 Anita Way, Yuba City

Hearing no further comment, Mayor McBride closed the public hearing.

Councilmember Dukes moved to conduct a public hearing and introduce an Ordinance repealing Chapter 6 Title 6 and adding Chapter 6 Title 6 of the Yuba City Municipal Code regarding the Water System, waive the first reading, and direct staff to issue credit for all existing customers out of the City rate charges collected since August 2008. Councilmember Maan seconded the motion that passed with a unanimous vote.

Public Communication

3. **Written Requests** - None
4. **Appearance of Interested Citizens** - None

Bid Openings

5. **Five (5) Crown Victoria Police Interceptors (FB10-03)**

General Services/IT Director Devin Barber stated that General Services' staff worked with the Police Department to ensure that vehicle specifications meet the City's requirements. A formal bid was developed and advertised according to the City's ordinances. Ten vendors received bid notifications and eight vendors responded. Funding for this purchase has been appropriated in the FY 2010 budget and is available in the Vehicle Replacement Fund.

Councilmember Gill moved to award the purchase of five (5) Ford Crown Victoria Police Interceptors to the low bidder, Hoblit Motors of Woodland, CA for \$123,703.15. Councilmember Dukes seconded the motion that passed with a unanimous vote.

Ordinances

6. **Prohibiting the use of Tobacco at all City Parks and within 50 feet of any public entrance into a City owned or leased facility**

Parks and Recreation Director Brad McIntire stated that on March 4, 2008 the City Council approved an Ordinance for Gauche Aquatic Park to be tobacco free. In the first year of implementation, staff has had no negative issues or situations with the public as it relates to enforcing the Ordinance.

Last year the Yuba City Parks and Recreation Commission was approached by the Substance Abuse Steering Coalition (a group of local citizens and professionals in the Tri-County area who promote a healthy substance abuse free environment for all) requesting the Parks and Recreation Commission to consider prohibiting the use of tobacco at all City Parks and within 50 feet of any public entrance into a City owned or leased facility.

Throughout the two public hearings that were held, there were many citizens that spoke in favor of the proposal and only one citizen spoke in opposition. At the August 19, 2009 Public Hearing, the Parks and Recreation Commission unanimously voted to accept the proposal to prohibit the use of tobacco at all City Parks and within 50 feet of any public entrance into any City owned or leased facility; and recommend to City Council to adopt a revised ordinance.

The following persons spoke on this item:

Bianca Silva, 832 H Street, Marysville
Anne Westlake, 188 Clinton Street, Yuba City
Mike Forthwegler, 1155 Pease Road #420, Yuba City
Nina Arnold, 1172 Rickey Drive, Yuba City
Elaine Miles, 487 Anita Way, Yuba City
Tina Lavy, 1447 Valley Court, Yuba City
Noel Miles, 487 Anita Way, Yuba City
Ray Bull, 1511 Coats Drive, Yuba City
Dr. Larry Ozeran, Yuba City
Kim Howitt, 350 N. George Washington Blvd., Yuba City

Lara Plaia, 1876 Turin Drive, Yuba City
Dian Kiser, California Clean Air Project, Sacramento
Narinder Dhaliwal, 2827 Firenze Court, Yuba City

Councilmember Dukes expressed his concern with regards to the enforcement of this ordinance. The remainder of Council expressed the necessity of the ordinance.

Councilmember Miller moved to introduce an ordinance amending Title 9 Chapter 2 – Prohibiting Tobacco Use in Gauche Park to include all City Parks and within 50 feet of any public entrance into a City owned or leased facility; and waive the first reading. Councilmember Maan seconded the motion that passed with the following vote:

AYES: Councilmembers Gill, Maan, Miller and Mayor McBride
NOES: Councilmember Dukes

7. Rezone RZ 09-02 at 1100 Garden Highway to change the zoning from Industrial (M-2) to Heavy Commercial/Light Industrial (C-M) District; Owner/Applicant: John Ochipinti/Milan Investments, LLC.

Community Development Director Aaron Busch stated that City Council introduced the ordinance for approval of Rezone RZ 09-02 and waived the first reading at its meeting on October 6, 2009. Staff recommends that the City Council waive the second reading and adopt the ordinance.

Councilmember Miller moved to adopt Ordinance No. 010-09 for the approval of Rezone RZ 09-02 at 1100 Garden Highway to change the zoning from Industrial (M-2) to Heavy Commercial/Light Industrial (C-M) District, as shown on Exhibit A, and waive the second reading. Councilmember Dukes seconded the motion that passed with a unanimous vote.

Consent Calendar

Mayor McBride abstained from Item 8 and Item 9 was pulled for a separate vote. Councilmember Maan moved to adopt the remainder of the consent calendar as amended. Councilmember Miller seconded the motion that passed with a unanimous vote.

10. Accept the Energy Efficiency and Conservation Block (EECBG) grant funds in the amount of \$574,700.00 and allocate the funds for the purchase and installation of solar photo voltaic panels at the Senior Center and Corporation Yard and for the purchase and installation of replacement HVAC units at various city facilities

Authorized City Manager to accept and execute authorization of the expenditure of the Energy Efficiency and Conservation Block funds in the amount of \$574,700.00 for the purchase and installation of solar photo voltaic panels at the Senior Center and Corporation Yard and for the purchase and installation of replacement HVAC units at various city facilities.

11. Queens Avenue and Gray Avenue Signal Project (Notice of Completion)

Adopted Resolution No. 09-102 accepting the subject project and authorizing the Public Works Director to file a Notice of Completion.

Councilmember Gill moved to approved Items 8 and 9 on the Consent Calendar. Councilmember Miller seconded the motion that passed with the following vote:

Ayes: Councilmembers Dukes, Gill, Maan, and Miller
Noes: None
Abstain: Mayor McBride

8. City Council Approval of Minutes of October 6, 2009

Approved the Council meeting minutes of October 6, 2009

9. Weed Abatement (RFQ 10-01)

Amended the agreement with All Seasons Weed Control, Inc, of Yuba City, CA for additional weed abatement locations.

General Items

12. Approval of a Resolution authorizing the Utilities Director to sign documents associated with the State Drinking Water State Revolving Fund loans for Groundwater Region 1 and Groundwater Region 2/3.

Utilities Director Bill Lewis stated that on December 19, 2006 City Council authorized the submission of low interest loan application for costs associated with the conversion of groundwater region 1 to surface water. On November 13, 2007 Yuba City was notified of

eligibility for a construction loan of \$19,759,921 for a twenty year term at 2.2836 percent. September 16, 2008 City Council authorized the submission of low interest loan application for costs associated with the conversion of groundwater region 1 to surface water. The application was submitted to the California Department of Public Health on October 31, 2008. September 16, 2009 Yuba City was notified of eligibility for a construction loan of \$8,002,410 for a twenty year term at 2.5017 percent. Total approved loans are \$27,762,331. Semi-annual payments will be approximately \$873,621, plus an additional ten percent during the first ten years to fund a reserve account. The final loan amount will be based on actual construction costs including design, inspection and construction management.

Customers in Regions 1, 2 and 3 did not protest the implementation of a water surcharge to pay for their share of construction costs associated with the conversion project. The project has been designed and contracts bid.

Prior to the California Department of Public Health issuing a funding agreement, the City Council must adopt a resolution designating personnel to sign documents associated with the loan, and certain reports that must be submitted as part of the project. The resolutions also describe the loan terms and authorization to execute the loan agreement.

The following persons spoke on this item:

Donald Kessel, 1964 Pebble Beach Drive, Yuba City
Elaine Miles, 487 Anita Way, Yuba City
Phil Treanor, 1570 Richland Road, Yuba City

Councilmember Gill moved to adopt Resolution No. 09-103 authorizing William P. Lewis, Utilities Director, to sign and submit all required documents associated with Groundwater Region 1 and Region 2/3 State Revolving Fund Loan and acceptance of loan terms. Councilmember Maan seconded the motion that passed with a unanimous vote.

13. Voluntary Early Retirement Incentive Program

City Manager Steve Jepsen stated that during these turbulent economic times, the Council's budgeting strategy has placed a focus on maintaining service levels while controlling expenditures by reducing or eliminating expenditures where appropriate and using reserve funds when deemed necessary. The City's FY 09-10 General Fund Budget has a structural deficit of \$2.5 million. Staff anticipates this will likely grow by another \$500,000 to \$1 million based upon the double digit declines experienced in sales tax receipts the past two quarters. It is probable that current economic conditions will continue to persist into FY 2011-12. Staff has, therefore, analyzed different options to ensure that the City uses reserves in a conservative manner and reduces expenditures as much as is reasonably possible. Many of these options are already in place (hiring freeze, eliminating vacant positions, eliminating funding for the vehicle replacement plan, extending the useful life of the City's computers from three to five years, utilizing the economic stabilization reserve, pooled travel and training budget, and reducing some services).

A Voluntary Early Retirement Program provides a financial incentive for an employee to retire earlier than originally planned. For example, an employee who would have otherwise retired on June 20, 2010, might be willing to retire on December 31, 2009, if there was an adequate financial incentive to do so. Staff has sent out surveys to those employees who may be eligible to retire in order to ascertain whether there was interest among those employees in participating in an early retirement program. The response we received indicated that there was interest in participating in such a plan.

The estimated total cost of the Program is \$100,500. If implemented, annual salary and benefit savings of up to \$1.2 million is expected. Depending on who retires, certain essential service positions may need to be filled upon the retirement of the incumbent. The savings estimate is based on the return results from a survey sent to eligible employees expressing an interest in retiring in the 2009/2010 and 2010/2011 Fiscal Years. It is recognized that expressing an interest is not an official request to retire. It is also recognized that other employees may elect to participate in the program who did not previously express an interest.

This type of program has been implemented successfully by other public entities and is a proven method of cutting overall costs.

Councilmember Gill moved to adopt Resolution No. 09-104 approving a Voluntary Early Retirement Incentive Program effective November 1, 2009. Councilmember Dukes seconded the motion that passed with a unanimous vote.

14. Professional Services Agreement with Mercy Housing California for administration of the City's First Time Home Buyer and Housing Rehabilitation loan programs

Community Development Director Aaron Busch stated that for over twenty years, Yuba City has operated loan programs available to low- and moderate-income individuals and families for first-time home buyer and housing rehabilitation activities. Administration of the programs requires specialized expertise, and it has typically been handled by consultants with a high degree of knowledge of the programs. To ensure the City is receiving the highest quality of service at the best price, it is a good practice (and required by certain funding sources) to periodically solicit proposals from consulting firms and award new contracts for program administration. In July, 2009, the City issued a request for proposals (RFP) to over twenty consulting firms with experience in administering housing programs. Below is an analysis of staff's evaluation of the proposals.

Three firms submitted proposals. One firm addressed only certain aspects of the City's RFP, and was, therefore, not considered in the analysis of the responses. Staff evaluated and ranked the proposals according to criteria provided in the RFP. Mercy Housing California's proposal was superior in terms of experience with both first time home buyer and housing rehabilitation loan programs, having licensed professionals on staff, and cost-effectiveness. As a result, staff interviewed the Mercy Housing California project team to finalize the selection process. Based on the evaluation of the proposals and the interview, staff recommends that the City enter into a Professional Services Agreement with Mercy Housing California for administration of the City's First Time Home Buyer and Housing Rehabilitation loan programs. The recommended contract with Mercy Housing California will be for an initial term of one year, with an option to renew or modify the contract two additional times, for a maximum possible contract term of three years, (in conformance with HCD guidelines). Mercy is expected to begin work immediately, as the City recently received authorization to spend \$600,000 in CalHOME funds that had previously been frozen by the State of California due to budget constraints.

There will be no impact to the General Fund, as all loans are made out of funding sources dedicated to first time home buyer and housing rehabilitation activities. Mercy Housing California will be paid a set fee at the time it closes on a loan. The fee is based on the type of loan and on the funding source for the loan. Currently, the City has a \$600,000 loan pool for first time home buyer activities through the CalHOME program, and the City has applied for an \$800,000 first time home buyer grant through the HOME program. The cost differences between the activity types and funding sources are due to the differences in complexity of reporting and underwriting requirements for the various activity types and funding sources. All costs are less than the maximum amounts that the respective funding sources allow the City to charge to the grants.

Councilmember Maan moved to authorize the City Manager to sign a Professional Services Agreement with Mercy Housing California, with the finding that it is in the best interest of the City. Councilmember Miller seconded the motion that passed with a unanimous vote.

15. Potential Development Standards for Vending Operations within the City Limits

Community Development Director Aaron Busch stated that earlier this year, the City's guidelines for vending operations was the subject of much discussion in front of the City Council. As a result of those discussions, the Council directed staff to revisit the provisions of the City's vague and outdated ordinances related to vending with a group of interested stakeholders in an attempt to develop more comprehensive standards. Since that direction, staff continued to contact other jurisdictions to collect more information on this subject, as well as having conducted three stakeholder's meetings with multiple interested parties.

The three meetings were generally attended by the same individuals who had previously expressed an interest in this subject when it was originally before the Council. This consisted of six different business owners, comprised of an equal number of vending businesses and "brick and mortar" businesses. It should be noted however, that for purposes of involving as many interested stakeholders as possible, staff notified approximately 20 individuals (both business and property owners and property managers and realtors) about the planned stakeholder meetings. Additionally, staff encouraged those who had attended any of the stakeholder's meetings to invite any other interested parties who may wish to participate.

During the course of the stakeholder meetings, it was tasked that the group prepare more comprehensive standards than the City's current regulations for vending and ensure that the new standards provide added value to the community. Much like the City's Sign Ordinance and Design Guidelines are intended to enhance the quality of the community as well as promote fairness among all businesses, and so should the standards for vending operations. If no such standards are developed, then all the City is

doing is allowing a commercial selling opportunity that does not provide any community investment.

As the stakeholder's group went through the exercise of finding potential common ground on this subject, the group was able to simplify some of the more challenging issues for purposes of creating new standards. These included the different types of vending operations that should be defined, and the allowable locations for vending operations. Through this process, the group was also able to reach some consensus about the time limits that should be enforced, as well as the types of improvements that should be required. It should be noted that the group focused their discussions on food sales vending since the group was primarily comprised of food sales businesses and they did not want to deliberate on other types of products since those businesses were not fully represented.

With these three vending types identified, the group was able to elaborate more on where these operations should be allowed and under what types of conditions. Currently the City's standards require that vendors move every 10 minutes, but the current standards do not specify how far the vendor must move to be in compliance.

For the first two mobile vending operations, the group agreed that these types of vendors should only be allowed for a short time frame at a single location before they are required to move a prescribed distance. The group agreed that 10 minutes was too short as it takes that long to set up and take down before a vendor is required to move again. Consensus was reached at 30 minutes. The group also agreed that these types of vendors should be required to move a specified distance (e.g. 400-1,000 feet) and should only be allowed to return to the same site no more than two times per day (to provide their product at businesses with more than one work shift). These vending operations could be located on both public and private property, as long as they complied with the time limits and movement requirements. Such standards would ensure that a mobile lunch wagon does not set up permanently at a prominent street corner on private property which does not add value to the community.

Discussions regarding the third type of vending operation were more complicated as this type of vending operation can result in potential conflicts between a vending business and brick and mortar businesses. The subject of competitive advantage is at the heart of this issue with this type of vending operation. While there was much debate on this specific issue relating to matters such as: hours of operation; payment of additional fees or rent; and, approval of other like businesses, the group did agree that mobile vendors at fixed locations should be where there is an unmet need. Unlike destination locations such as "Santana Row" in San Jose, CA and the San Antonio Riverwalk where this type of vending operation is used to create a unique pedestrian atmosphere, Yuba City will only benefit from this vending type where there is an unmet need. This goes back to the theme of vending operations adding value to the community.

An area with an unmet need is where there is a large demand, with limited supply. A good example of this for this type of vending operation is a large industrial area or an office complex with many workers that are not located in an area with food service providers. In these examples, food vendors can provide a service where others cannot, thereby benefitting the community. To avoid the issue of competitive advantage and its associated issues (e.g. hours of operation, fees, etc.), the group seemed relatively satisfied with using portions of the Temporary Agreement between the City and Fat Daddy's Frankfurters as a model for defining where this type of vending operation should be allowed.

Despite the fact that the group was comprised of business representatives from opposite sides, there was a general consensus reached on a majority of the pressing issues associated with this subject. Staff believes that the criteria identified above will help regulate the different types of vendors currently operating within the community, as well as help ensure that these use types do not conflict with other businesses. Any vending operation within the city will be required to comply with all State and County Vehicle and Health Codes, and every vending operator will need to secure a City business license in order to operate.

The following persons spoke on this item:

Kim Howitt, 350 N. George Washington Blvd., Yuba City
George Natale, 456 Crestmont Avenue, Yuba City
Paul Kaiser, 2114 Casa Dulce Way, Plumas Lake
Natalie Kaiser, 2114 Casa Dulce Way, Plumas Lake
Andrea Natale, 1701 Cherry Street, Yuba City
Elaine Miles, 487 Anita Way, Yuba City
Abel Chavez, 3014 Corinne Court, Live Oak
David DuPlantier, 1955 Wild River Drive, Yuba City
Don Covey, 669 A Plumas Street, Yuba City
Regina Danna, 730 Sherwood Drive, Yuba City

Margaret Danna, 730 Sherwood Drive, Yuba City

Council asked staff to clarify the term "unmet need" as well as incorporating language that addresses special events and the addition of a permitting process. Staff will then bring the standards for vending operations with the changes back to Council for further review.

16. Planned Increase to the City's Development Impact Fees

Community Development Director Aaron Busch stated that at the October 16, 2007 City Council meeting, the Council conducted a public hearing for a proposed AB 1600 update to the City's Development Impact Fees and ultimately approved the new fee updates with a phased-in implementation schedule. The proposed phase-in of the ultimate fees was due to the condition of the economy for the past two years.

For 2008 residential projects, a one year "freeze" of 2007 impact fees; plus annual inflationary adjustment; plus full levee fee. Beginning January 2009, initiate incremental increase (33% of ultimate fee), with achievement of ultimate fee in January 2011.

For 2008 non-residential projects, a one year "freeze" of 2007 impact fees; plus annual inflationary adjustment; plus full levee fee. At the end of 2008, Council to revisit the issue of impact fees for non-residential uses and determine: 1) if the freeze should be extended for one more year; or, 2) should the City initiate an incremental increase (33% of ultimate fee) beginning year two (January 2009), with achievement of ultimate fee in January 2011.

On November 18, 2008, the City Council decided to proceed with the planned incremental increase (33% of ultimate fee) beginning year two (January 2009), with achievement of ultimate fee in January 2011. At the same meeting, the Council reconfirmed their desire to proceed with the planned incremental increase (33% of the ultimate fee) for residential projects as well.

On March 17, 2009 the City Council reviewed a request from Interwest Homes to reduce the development impact fees to the 2004 rates for the completion of the Canterbury Estates residential subdivision which had been abandoned by the prior developer. After lengthy discussion regarding the validity and the appropriateness of the fee reduction request, Council directed staff to prepare an Agreement for their future consideration. This action was based on the premise that the proposal would result in the abatement of a blighted project and would produce new economic development opportunities within the community and provide new permit revenue for the City that may otherwise not occur.

On June 2, 2009, the City Council approved an Agreement with Interwest Homes that allowed Interwest to utilize the 2004 development impact fee rates for up to 24 units or for one year from the date of the agreement, whichever occurs first. At the same meeting, the Council also approved a Resolution which provided a similar fee reduction (2004 fees) to the first 24 citywide units or for one year from the Council's action. The purpose for this action was to provide other homebuilders with a similar opportunity for reduced fees in effort to promote new residential development within the community.

Prior to the fee reduction, a total of nine building permits were issued between January, 2009 and June, 2009. Since the Council's action to provide reduced fees for Interwest and on a citywide basis, there have been nine building permits issued for Interwest and four issued citywide.

The City's Development Impact Fees are planned for a scheduled incremental increase of 33% of the ultimate fee beginning on January 1, 2010. Provided below is a summary of the planned impact fee increases for both residential and non-residential projects. Please be advised that the fee numbers shown below do not include water, sewer, drainage, Sutter County fees, or annual inflationary adjustments. The fee amounts below (including the 2004 fees) do include the levee fee component.

While the Development Impact Fees are scheduled for an automatic increase on January 1, 2010, the Council's action of June 2nd this year extends the local stimulus plan of utilizing 2004 fee rates (plus current levee fee component) until June 2, 2010, or whenever the balance of the 24 unit pool is completed (whichever occurs first). At this time, there are 15 remaining permits available at the 2004 rate for Interwest, and 20 remaining permits available citywide.

The subject of Development Impact Fees and their effect on building activity is a challenge, especially in this difficult economy. In recognition of these challenges, the Council has made multiple decisions regarding the implementation of the new fee schedule that was intended to promote new development activity including: freezing the existing impact fees for one year; phasing in the new impact fees over a three year period; and, allowing fee reductions to the 2004 fee rate for a specified period of time. Building activity during this time period was as follows: 53 new single family building

permits during 2008 calendar year; and, 22 single family building permits so far this calendar year.

The following persons spoke on this item:

Dr. Larry Ozeran, Yuba City

Council stated that they would like to proceed with the incremental increase of the City's Development Impact Fees as proposed. Delaying the increases any further would only hinder the City when development begins to pick up again.

17. Memorandum of Understanding between the City of Yuba City and Sutter County regarding local cost sharing for the Joint Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP)

Community Development Director Aaron Busch stated that In January 2004, Sutter County and Yuba County formed a Joint Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) in cooperation with the California Department of Fish and Game (DFG), the U.S. Fish and Wildlife Service and Caltrans, with Sutter County acting as the lead agency. Originally, the project was initiated as a requirement of the U.S. Fish and Wildlife Service through a Biological Opinion issued for a local highway improvement project that required Incidental Take Permits (ITP). Since that time, the process has evolved to develop responsible local land use decisions that balance land development with sustainable resource conservation.

Funding for the HCP/NCCP has been provided through several grants and local funding sources. In January 2009, Sutter County accepted another grant from the DFG to continue work on this project. Future grants have been applied for to continue the work to finalize this plan. Each grant has a local match which Sutter County and Yuba County share. In February 2004, Sutter County and Yuba County signed a Memorandum of Understanding which required Sutter County to pay 35% and Yuba County 65%. The considerations in arriving at this ratio included: the gross number of acres designated within each county's general plan for covered activities within the project area; the timing of development and related projects in the project area; the number of covered species with habitat in each county's portion of the project area; and, the gross total number of acres in each county's portion of the project area. Since then the boundaries have changed so that the gross total number of acres in Sutter County has increased and the gross number of total acres in Yuba County has decreased. As a result of the boundary adjustments to the project area, the two Counties entered into a Memorandum of Understanding earlier this year which provided that each County will pay 50% of the local matching requirement of the grant.

Last year, the two counties invited the local jurisdictions within each County to participate in the formation of the HCP/NCCP so that they could benefit from its formation. Thus far, the cities of Yuba City and Live Oak are the only jurisdictions who have expressed interest to join in this project. By participating in this program, the cities will be able to utilize the provisions of the HCP/NCCP as a form of environmental mitigation for most foreseeable public and private land development projects. This includes: public road and utility infrastructure projects; public and private drainage projects; and, large scale private land use development such as the Lincoln East Specific Plan.

Since both cities of Yuba City and Live Oak are interested in actively participating in the formation of the HCP/NCCP, these two jurisdictions will share in the costs currently allocated to Sutter County. Of the 50% Sutter County local cost share ratio, Yuba City's cost share is 10 percent, while Live Oak's cost share is 5%, with the balance to be paid by Sutter County. If the cities of Marysville and Wheatland decide to join, they will reduce the contribution for Yuba County.

There is no specific methodology used to determine the 10 percent cost ratio. Rather it is a negotiated amount based on the relative benefit to each agency for Incidental Take Permits for future projects, sizes of the spheres of influences in terms of acreage and the number of endangered species within each agencies project areas. At this time the estimated cost to complete the project is \$1,600,000 with grant funds estimated at \$1,200,000 and the local agencies match estimated at \$400,000. Yuba City's estimated cost at this time is \$40,000 or 10 percent of the \$400,000 estimated local match requirement. Another way to look at the Yuba City cost share is the estimated \$40,000 cost is only 2.5 percent of the total estimated project costs of \$1,600,000 over a period of several fiscal years.

The potential cost for Yuba City is expected to be approximately \$40,000, spread over 3-4 fiscal years, however, that amount could change (higher or lower) depending on grant funding. The City's share is to be funded from the General Plan Update fund. It should be noted that in order to receive a similar environmental conservation and mitigation benefit that will be provided through the HCP/NCCP process, the costs to the City would be much higher than the amount requested for this effort.

Councilmember Miller moved to authorize the City Manager to sign a Memorandum of Understanding between the City of Yuba City and Sutter County regarding local cost sharing for the Joint Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). Councilmember Maan seconded the motion that passed with a unanimous vote.

Business from the City Council/Redevelopment Agency Board

18. City Council Reports

- Councilmember Dukes attended the Beale Air Force Group Dinner with the Mayor.
- Councilmember Maan attended the Sutter County General Plan update meeting with Mr. Busch. He invited all citizens to attend and participate in the Sikh Parade.
- Councilmember Miller attended the Sutter Butte Flood Control Agency (SBFCA) meeting. The Agency will be moving ahead with the projects planned, but there will be further discussions of the cost. The agency is expected to conduct a 218 vote in April.
- Mayor Pro Tem Gill stated that the SBFCA has made great progress with the leadership of Bill Edgar.
- Mayor McBride attended the SACOG Board of Director meeting and was elected next year's Chairperson.

Adjournment

Mayor McBride adjourned the regular City Council meeting of the City of Yuba City in at 10:37 p.m.

Leslie McBride
Mayor

ATTEST:

Terrel Locke
City Clerk