

# Visalia City Council Agenda



For the special meeting of: Monday, April 24, 2006

Location: Visalia Convention Center  
Sierra Rooms A & B, 2<sup>nd</sup> floor

Mayor: Jesus J. Gamboa  
Vice Mayor: Greg Kirkpatrick  
Council Member: Greg Collins  
Council Member: Donald K. Landers  
Council Member: Bob Link

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All items listed under the Consent Calendar are considered to be routine and will be enacted by one motion. If anyone desires discussion on any item on the Consent Calendar, please contact the City Clerk who will then request that Council make the item part of the regular agenda.

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## **CLOSED SESSION**

**4:00 p.m.**

1. Conference with Legal Counsel – Anticipated Litigation (1)  
(Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 GC)

## **REGULAR SESSION**

**5:00 P.M. (Or, immediately following Closed Session)**

### **PLEDGE OF ALLEGIANCE**

### **INVOCATION**

**CITIZENS REQUESTS** - This is the time for members of the public to comment on any matter within the jurisdiction of the Visalia City Council. This is also the public's opportunity to request that a Consent Calendar item be removed from that section and made a regular agenda item for discussion purposes. The Council Members ask that you keep your comments brief and positive. Creative criticism, presented with appropriate courtesy, is welcome. The Council cannot legally discuss or take official action on citizen request items that are introduced tonight. In fairness to all who wish to speak tonight, each speaker from the public will be allowed three minutes. Please begin your comments by stating and spelling your name and providing your address.

2. **CONSENT CALENAR** – Consent Calendar items are considered routine and will be enacted by a single vote of the Council with no discussion. For a Consent Calendar item to be discussed, or voted upon individually, it must be removed at the request of the Council.
  - a) Authorization to read ordinance by title only.

- b) Authorize the subordination the City's promissory note and impact fee deferment agreement to a permanent financing for the Adventure Park located at 5600 W. Cypress.
- c) City Council Authorization To Send A Letter Of Support To Congressman Devin Nunes And Senator Dianne Feinstein Supporting Increased Federal Funding For The National Parks.

**WORK SESSION AND ACTION ITEMS (as described)  
5:00 p.m. (Or, immediately following Regular Session)**

- 3. Consideration of initiating a General Plan Amendment and Annexation for 77 acres of land located partially outside of the 129,000 and 165,000 population Urban Development Boundaries. This is a request by Sherman Land and Cattle Company, applicant; Mangano Homes, agent. The subject property is located on the south side of Caldwell Avenue, ¼ mile west of Akers Street (APN: 119-100-015.)
- 4. Update on Sequoia National Park internal and gateway shuttle. (*Written material not available on this item, verbal report.*)

**REPORT ON ACTIONS TAKEN IN CLOSED SESSION**

**REPORT OF CLOSED SESSION MATTERS FINALIZED BETWEEN COUNCIL MEETINGS**

**Upcoming Council Meetings**

Monday, May 1, 2006

Tuesday, May 2, 2006 (Joint City of Visalia/VUSD Meeting hosted by VUSD, 6-8 p.m., 5 p.m. dinner for elected officials & senior staff, VUSD District Offices)

Monday, May 15, 2006

Work Session 4:00 p.m.

Regular Session 7:00 p.m.

City Hall Council Chambers  
707 West Acequia Avenue

In compliance with the American Disabilities Act, if you need special assistance to participate in meetings call (559) 713-4512 48-hours in advance of the meeting. For Hearing-Impaired - Call (559) 713-4900 (TDD) 48-hours in advance of the scheduled meeting time to request signing services.

**City of Visalia**  
**Agenda Item Transmittal**

**Meeting Date:** 4/24/2006

**Agenda Item Number (Assigned by City Clerk):** 2b

**Agenda Item Wording:** Authorize the subordination of the City's promissory note and impact fee deferment agreement to a permanent financing for the Adventure Park located at 5600 W. Cypress.

**Deadline for Action:** None

**Submitting Department:** Administrative Services

**Contact Name and Phone Number:** Eric Frost, x4474

For action by:

City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

For placement on which agenda:

Work Session  
 Closed Session  
Regular Session:  
 Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 5

**Department Recommendation and Summary:**

That the City of Visalia subordinate a promissory note and impact fee deferment agreement to a permanent financing package for the Visalia Adventure Park located at 5600 W. Cypress.

**Discussion.** The City of Visalia executed a purchase and sale agreement with Visalia Investment Associates (VIA), LLC on January 20, 2004. The agreement called for the sale of property to VIA to build a fun park. As part of the agreement, the City agreed to a promissory note for \$498,083 and an impact fee deferral agreement for another \$157,371. The terms of each agreement are as follows:

**\$498,083 Promissory Note (Current Balance: \$488,821.41):** This note is to be paid over 30 years in equal monthly installments at a rate of 5.5%, beginning as of April 16, 2004.

**\$157,371 Impact Fee Deferral Agreement (Current Balance: \$100,203.78):** This agreement permits the Adventure Park to pay their impact fees over 5 years at no interest. Twenty percent of the fees are due at building occupancy which occurred in December of 2004. The remaining 80 percent is due in 5 equal installments on each anniversary of the building occupancy.

As part of the purchase and sale agreement, the document states the following in regards to the promissory note:

4. b. Loan. .... Until such time as BUYER obtains construction or permanent financing, CITY shall hold a first deed of trust against the property to secure the Loan. Thereafter, CITY agrees to subordinate its deed of trust to a second position pursuant to a mutually agreed upon subordination agreement....

The document further states the following about the deferral agreement:

5. g. iii. Subordination of Lien: City agrees to subordinate the lien created by these development impact fee deferral provisions and authorizes its City Manger to execute a mutually agreed upon subordination agreement in order to accomplish same.

It appears that the intent of the documents was to allow one subordination to a permanent financing after the project was completed. Further, the Adventure Park has complied with all the other provisions of the Puchase and Sale Agreement.

The City has received a letter date April 3, 2006 from Mr. Mark Shelton of Valley Business Bank (Attachment #1) requesting that the City subordinate its notes to a proposed permanent financing for the park. Normally, in the course of business, such subordination agreements would be executed when the original notes being replaced were essentially for the same amounts as the new note. However in this case, the proposed permanent refinancing is substantially more than the construction loan. The reason for this change is that the Adventure Park was unable to obtain a construction loan as originally planned. As a result, additional private financing was obtained. Thus, as part of the permanent financing, the Adventure Park proposes paying off these several different financing sources, consolidating the debt into a new first as shown in Table I, Borrower Estimated Closing Statement.

Analysis of Closing Statement. The closing statement indicates that a number of loans are being paid off. Additionally, some cash is being returned to the Adventure Park. To understand why this may be appropriate requires an understanding of the development of the park.

In concluding the sale of the property to Visalia Investment Associates (VIA), a condition of the deal was that the Adventure Park open in December of 2004 or face liquidated damages. The property closed escrow in April of 2004. The anticipated construction financing was less than expected. Further, construction prices unexpectedly accelerated, particularly for steel and concrete, major components of the park's construction. As a result, VIA bridged the funding gap by obtaining various lease financing packages and a personal note from Mike Robinson. Mr. Robinson's personal investment in the park is substantial but has not increased his equity share in the park. Rather, the investment share remains the same except he now has a note with the park.

The proposed permanent financing then is designed to package all the debts originally envisioned in the project into one loan package. Further, Valley Business Bank, in making their lending decision, decided it was important that the park have sufficient working capital to assure proper operation. The \$389,000 coming out of the escrow will be used to replenish working capital that was partly used up in construction cost escalation. Finance has reviewed the books of the Adventure Park and confirmed that more than \$389,000 from operations was contributed to the construction of the Adventure Park, essentially all of the working capital of the park.

Valley Business Bank recognizes the importance of having working capital for an operation like the Adventure Park. As a result, the Bank increased its loan to the park to provide for working capital. Thus, cash is coming out of the escrow for working capital.

Table I



# Fidelity National Title Company OF CALIFORNIA

1770 West Walnut Avenue, Visalia, CA 93277  
559 733-3982 • FAX 559 732-9026

**DATE:** April 6, 2006  
**ESCROW NO.:** 06-782059-JM  
**LOCATE NO.:** CAFNT0954-0954-0001-0000782059  
**ESCROW OFFICER:** Jackie McKean

**TIME:** 12

**CLOSING**

## BORROWER ESTIMATED CLOSING STATEMENT

**LENDER:**  
**BORROWER:** Visalia Investment Associates LLC  
**PROPERTY:** 5600 West Cypress Avenue, Visalia, CA 93277

	\$ DEBITS	\$ CREDITS
<b>FINANCIAL:</b>		
New 1st Trust Deed to		6,000,000.00
<b>TITLE CHARGES:</b>		
06-ALTA Loan w/Form 1 - 1992 for \$6,000,000.00	5,900.00	
Recording Trust Deed(s)	100.00	
<b>ESCROW CHARGES:</b>		
Escrow Fee to Fidelity National Title	4,525.00	
Overnight Delivery Fee	10.50	
Notary Fees	40.00	
<b>PAYOFFS - County Bank</b>		
<b>Total Payoff \$3,000,000.00</b>		
Principal Balance to County Bank	3,000,000.00	
<b>MISCELLANEOUS:</b>		
Bank of the Sierra for Lease payoff	725,000.00	
West Coast Amusement Spec. for Lease payoff	257,729.18	
Michael S. Robinson for Payoff	1,560,364.51	
Tulare County Tax Collector for 2nd Installment 087-450-019	34,875.42	
Tulare County Tax Collector for Supps 995-059-499 087-450-019	22,338.60	
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ESTIMATED REFUND DUE BORROWER	\$389,116.79	
ESTIMATED TOTALS	\$6,000,000.00	\$6,000,000.00

Valley Business Bank, as part of their loan application, required that an MAI appraisal of the property be made. The appraisal, which is on file with the City Clerk, justifies the loan, covering the loan and the City's notes by more than \$2 million. The appraisal values the property as follows:

Land	\$3.5
Improvements	<u>\$5.2</u>
Appraisal Value	\$8.7 million

As a result, the City's \$600,000 of outstanding amounts due is covered by \$2.7 million in property value. Further, the Park has promptly paid its financial obligations to the City. As a result, staff recommends authorizing the execution of the subordination agreements despite the increased size of the first mortgage.

Finally, the original offer by the City was to subordinate its debt to the park one-time for permanent financing. If the park is ever refinanced, then the City's loans will be due and payable. If Council authorizes this action, a follow-up letter will be sent to the park reiterating that agreement.

**Prior Council/Board Actions:**

**Committee/Commission Review and Actions:**

**Alternatives:**

**Attachments:** #1, Letter date 4/3/06 from Valley Business Bank

<b><i>Financial Impact</i></b>	
<b>Funding Source:</b>	
Account Number: _____ (Call Finance for assistance)	
<b>Budget Recap:</b>	
Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

**Recommended Motion (and Alternative Motions if expected):** That the City Council authorizes the subordination of the City's promissory note and impact fee deferral agreement to Visalia Investment Associates, LLC Valley Business Bank permanent loan financing.

**City Manager Recommendation:**

Copies of this report have been provided to:

***Environmental Assessment Status***

**CEQA Review:**

Required?    Yes                      No  
Review and Action:    Prior:                      Required:

**NEPA Review:**

Required?    Yes                      No  
Review and Action:    Prior:                      Required:

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

## City of Visalia Agenda Item Transmittal

**Meeting Date:** April 24, 2006

**Agenda Item Number (Assigned by City Clerk):** 2 c

**Agenda Item Wording:** City Council Authorization To Send A Letter Of Support To Congressman DEVIN NUNES And Senator DIANNE FEINSTEIN Supporting Increased Federal Funding For The National Parks.

**Deadline for Action:**

April 24, 2006

**Submitting Department:**

Administration

**Contact Name and Phone Number:** Carol L. Cairns, Assistant City Manager 713-4324

**For action by:**

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

**For placement on which agenda:**

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

**Est. Time (Min.):** \_\_\_\_\_

**Department Recommendation and Summary:**

Staff recommends sending a letter of support for increased federal funding for the National Parks to Congressman Devin Nunes and Senator Dianne Feinstein. (attached)

The City has been working very closely with the National Parks to develop a shuttle service between Visalia and Kings Canyon National Park. The City currently has a Memorandum of Understanding with the National Park Service to work on transportation and marketing efforts. The City has worked with the local, regional and national offices on the implementation of the shuttle that will enable park visitors to circulate within the park, and on a Gateway Shuttle service between the San Joaquin Valley Floor and Sequoia Kings Canyon National Park. This shuttle will reduce vehicular traffic into the park, improve air quality in the park and the valley, allow more disabled and low income individuals (who are less likely to have a viable vehicle) to access the park and enhance visitors' experiences when visiting the Sequoia Region and Sequoia National Park. The shuttle service will also benefit Visalia and other valley locations by establishing Visalia and Tulare County as a tourism hub to Sequoia National Park. Additional park funding will enhance the opportunities for this program.

**Prior Council/Board Actions:**

a letter of support was sent last year for the 2006 budget

**Committee/Commission Review and Actions:**

n/a

**Alternatives:**

do not send a letter of support

**Attachments:**

letters to Congressman Devin Nunes and Senator Dianne Feinstein

**City Manager Recommendation:**



**Recommended Motion (and Alternative Motions if expected):** I move the City Council approve letters of support for National Park Funding to Congressman Devin Nunes and Senator Dianne Feinstein.

***Financial Impact***

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes No

Review and Action: Prior:  
Required:

**NEPA Review:**

Required? Yes No

Review and Action: Prior:  
Required:

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** April 24, 2006

**Agenda Item Number (Assigned by City Clerk):** 3

**Agenda Item Wording:** Consideration of initiating a General Plan Amendment for 77 acres of land located within and outside of the 129,000 and 165,000 population Urban Development Boundaries. This is a request by Sherman Land and Cattle Company, applicant; Mangano Homes, agent. The subject property is located on the south side of Caldwell Avenue, ¼ mile west of Akers Street. (APN: 119-100-015)

**Deadline for Action:** None

**Submitting Department:** Community Development and Public Works Dept. - Planning

For action by:

City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

For placement on which agenda:

Work Session  
 Closed Session  
Regular Session:  
 Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 20

**Contact Name and Phone Number:** Brandon Smith, Associate Planner 713-4636

**Department Recommendation and Summary:**

Staff is recommending that the City Council not initiate a request for a General Plan Amendment and Annexation for property located on the south side of Caldwell Avenue, ¼ mile west of Akers Street. Staff's recommendation is primarily based on the fact that the project constitutes development that has not been anticipated or planned for by the City's General Plan, and that the project presents a premature request for development. In addition, the creation of 5 acre residential lots represents an inefficient use of agricultural land resources, and no need has been demonstrated to add additional residentially-designated land to the City's planning area.

Background

On August 31, 2005, the Planning Division received an application for a General Plan Amendment that would facilitate the development of ten single-family 5+/- acre custom home lots and 19.2 acres of recreational park area designated to function as a quasi-public use to Visalia First Assembly Church, which is located east of the site. A conceptual plan submitted with the application shows the parcelization of land for the recreational uses and the single-family lots, which would be accessed by a southerly extension of Roeben Street and a cul-de-sac street projecting from Roeben. The entire 77-acre site is currently designated in the General Plan as Agriculture.

The General Plan Amendment would encompass two requests based on the proposed conceptual plan: 1) changing the land use designations on 77.0 acres from Agriculture to 19.2 acres of Public Institutional and 57.8 acres of Rural Residential land use designations, and 2) amending the 129,000 and 165,000 Population Urban Development Boundaries (UDBs) to

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By author: Brandon Smith

File location and name: H:\(1) AGENDAS for Council\2006\042406\Item 3 Ranch Acres Initiation.doc

include the entirety of the project area. As shown on the attached boundary map, approximately 30 acres of the project site are outside of the UDBs. The UDBs in this vicinity were drawn to correspond with the future alignment of Visalia Parkway (refer to Land Use Element Policy 5.6.3), and do not follow parcel lines or boundaries of ownership. If the General Plan Amendment were to be approved by the City, an annexation, tentative subdivision map (for the residences), and a conditional use permit (for the expansion of the church-related facilities) must also be approved before the project can develop as shown. The project area is entirely within the Sphere of Influence adopted by Tulare County LAFCO, and is not located inside the Williamson Act.

The five-acre residential lots are consistent with the policies and standards of the site's underlying compatibility zone defined by the Visalia Airport Master Plan. The site is located within the Approach and Departure Zones of the airport (identified as Zones B1 and B2 of the Master Plan), which requires a maximum density of 0.2 dwelling units per acre (or one unit per five acres) for residential uses.

### Discussion

The proposed project cannot move forward based on the site's existing land use designation and the location of the Urban Development Boundary. If Council authorizes staff to proceed with the General Plan Amendment requested for this site, an Environmental Impact Report would have to be prepared and adopted for the project before the GPA can be considered for approval. The Environmental Impact Report would address significant impacts associated with developing land that was not already identified by the 1991 Land Use Element Update EIR to accommodate non-agricultural uses.

With regard to rural residential uses, there are in fact multiple criteria in the General Plan Land Use Element that would allow consideration of the placement of this land use at this location given its proximity to the airport and existing development. Specifically, Policy 4.1.17 of the Element states that Rural Residential land use designations shall be directed to the following areas:

- where multiple urban services (i.e. storm drainage, sanitary sewer, schools) may not be required or available,
- adjacent to agricultural areas where more intensive future urban development is unlikely because of public safety conflicts such as the airport protection area, and
- as boundaries between dissimilar land uses (i.e. industrial to residential in the northwest and agricultural to residential in the southwest), and
- in areas where the viability of large-scale agriculture may ultimately be threatened due to the encroachment of non-agricultural uses, and which do not warrant designation to a higher density.

Staff however believes that the proposed project still presents significant implications to the Land Use Element of the General Plan as it relates to growth management, and that based on the goals and policies within, development of this land for residential uses is premature at this time. The City's Land Use Element includes growth management-oriented objectives which encourage the City to "minimize urban sprawl and leap-frog development by encouraging compact, concentric, and contiguous growth." Approval of the proposed general plan amendment for this site would create an urban land use designation on the fringe of the City's boundaries that would be surrounded on three sides by an agriculture land use designation. If

the property were annexed into the City limits, county land located to the north that contains rural residential uses (1 to 3-acre lots) would become surrounded on three sides by City jurisdiction and be further endangered of becoming a County island.

Furthermore, the conversion of agricultural-designated land for residential uses (specifically ranchettes) at a density of one dwelling unit per five acres represents an inefficient use of prime farmland for residential uses per Land Use Element Policy No. 6.3.4 which encourages increased residential densities to reduce the need for conversion of prime agricultural land. Finally, there is no demonstrated need for additional housing units to be added to the City's planned housing inventory.

**Prior Council/Board Actions:** None.

**Committee/Commission Review and Actions:** None.

**Alternatives:**

Master Plan Alternative

While a development located at the edge of the city may present itself as being premature given that no like-developments have been proposed or currently exist in the area, this location could in fact be a setting in which a master-planning process could be used to guide the placement of more specific land uses in the area. A number of factors could support the use of a master plan for this area. As represented by this project, there is in fact a significant sized area located south of Walnut and west of Akers that is currently inside the City's Urban Development Boundary but contains an Agriculture land use designation. In addition to a future Visalia Parkway, the Circulation Element shows the continuation of both arterial and collector-status streets (including Shirk, Roeben, and Avenues 276 and 272) through this area. Lastly, with the recent adoption of the Visalia Airport Master Plan, development standards that pertain to density and open space have been established for this area which is predominantly in an approach zone.

As described above, the Council may choose to require that the project area and the surrounding vicinity shall undergo a master-planning effort prior to the further consideration of any development within it.

Quasi-Public Alternative

A second alternative for the Council could be allowing only the 19.2-acre recreational park portion of the GPA request to move forward. This expansion would be a logical expansion of the facilities associated with the First Assembly of God Church. If the GPA were processed only for the recreation portion of the project site, an amendment to the City's Urban Development Boundaries would not be needed to facilitate this expansion.

**Attachments:**

- Conceptual Plan provided by applicant
- General Plan Land Use Map
- Location and Circulation Map

**City Manager Recommendation:**

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By author: Brandon Smith

File location and name: H:\(1) AGENDAS for Council\2006\042406\Item 3 Ranch Acres Initiation.doc

**Recommended Motion (and Alternative Motions if expected):**

I move that the City not initiate a request for a General Plan Amendment and Annexation for Sherman Land & Cattle Co. on property south of Caldwell Avenue and west of Akers Street.

Copies of this report have been provided to:

***Financial Impact***

**Funding Source:**

Account Number: None.

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____	No_X__

***Environmental Assessment Status***

**CEQA Review:**

Required? No

Review and Action:

Prior:

Required: If the project were initiated, an Environmental Impact Report would be prepared for the project.

**NEPA Review:**

Required? No

Review and Action:

Prior:

Required:

**Tracking Information:** (*Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date*)

None.

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**