

Visalia City Council Agenda

For the regular meeting of: MONDAY, January 5, 2009

Location: City Hall Council Chambers, 707 W. Acequia, Visalia CA 93291

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

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.

3:45 p.m.

SWEARING IN CEREMONY

Assistant Police Chief Colleen Mestas will swear in Officer Dianna Barrientos

WORK SESSION AND ACTION ITEMS (as described)

4:00 p.m.

Public Comment on Work Session and Closed Session Items -

4:00 p.m.

1. Update from Rick McVaigh, Deputy Air Pollution Control Officer, regarding the development of proposed green waste regulations.

4:20 pm.

2. Update on the Tulare County Auto Theft Task Force - Tulare Reduce Auto Theft Team (TRATT).

4:40 p.m.

3. Update by Dr. Don Goodyear, Director of the Sequoia Region Institute for Higher Education, regarding the Fresno State Center at the College of the Sequoias.

5:00 p.m.

4. Valley Oaks Golf Course Annual Report.

5:30 p.m.

5. Update on Comprehensive Code Enforcement Efforts in the Lincoln Oval Park and Washington Elementary School Neighborhood areas.

The time listed for each work session item is an estimate of the time the Council will address that portion of the agenda. Members of the public should be aware that the estimated times may vary. Any items not completed prior to Closed Session may be continued to the evening session at the discretion of the Council.

ITEMS OF INTEREST

CLOSED SESSION

6:00 p.m. (Or, immediately following Work Session)

6. Conference with Real Property Negotiators (GC 54956.8)
Property: 1001 W. Main Street
Negotiators: Steve Salomon, Vince Elizondo, Stan Carrizosa
Under Negotiation: Terms and conditions of lease agreement

7. *Item removed at the request of staff*

REGULAR SESSION

7:00 p.m.

PLEDGE OF ALLEGIANCE

INVOCATION - Pastor Paul Gendron, Workforce Chaplaincy

SPECIAL PRESENTATIONS/RECOGNITION

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. Comments related to Regular or Public Hearing Items listed on this agenda will be heard at the time the item is discussed or at the time the Public Hearing is opened for comment. 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 (speaker timing lights mounted on the lectern will notify you with a flashing red light when your time has expired). Please begin your comments by stating and spelling your name and providing your street name and city.

CHANGES TO THE AGENDA/ITEMS TO BE PULLED FOR DISCUSSION

8. **CONSENT CALENDAR** - 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 ordinances by title only.

 - b) Authorize an additional Fire Captain position to serve as the Visalia Airport stand-by personnel and department's training officer.

 - c) Receive, review, and file the 2007-08 Impact Fee Report as required by State Law

 - d) Authorization to bid Riverway Sports Park- Phase 2 (No. 3011-720000-0-0-8029) without the requirement to pay established State and Federal Prevailing Wages pursuant to Resolution No. 83-02.

- e) Authorization for the City Manager to accept and appropriate a grant award for \$27,250 from the Office of Homeland Security, Homeland Security Grant Program for communication equipment in the Police Department.
- f) Appointment of City Council representatives to the Special City Selection Committee of the San Joaquin Valley Unified Air Pollution Control District.
- g) Authorization to submit a grant application in the amount of \$119,264 to the Governor's Office of Homeland Security for lighting equipment at the Visalia City Coach bus stops.
Resolution No. 2009-01 required.
- h) Request authorization to file a Notice of Completion for project No. 45 11-00000-720000-0-9399, the second floor tenant improvements located at the Transit Center 425 E. Oak.
- i) Repeal of Ordinance 2002-27 and first reading of replacement Ordinance authorizing the correctory grant deed to the County of Tulare for the land at the Tulare County Library.
Ordinance 2009-01 required.
- j) Authorize the City Manager to execute a Joint Use Agreement (REL07184313-J.O. 2994) between Southern California Edison Company and the City of Visalia for the relocation of SCE facilities on the north side of Riggin Avenue between Dinuba Blvd. and Giddings Street.
- k) Second reading and adoption of Ordinance 2008-15 amending Sections 8.40.060, 15.44.050, 15.44.070 and 15.44.160 of the Visalia Municipal Code revising Code Enforcement Inspections and Violation Notices. **Ordinance 2008-15 required.**
- l) Adopt Resolution approving the application for approximately \$311,400 of 2008-09 Environmental Enhancement and Mitigation (EEM) Program funds and authorize the City Manager to execute all documents related to the grant application. **Resolution 2009-03 required.**
- m) Authorize the City Manager to enter into a professional services agreement with Swinerton Management and Consulting to provide construction management services for the construction of Phase 2 of the Riverway Sports Park.
- n) Award Landscape Maintenance Contract for City of Visalia Landscape and Lighting District A and B to Westscapes Incorporated per specifications of RFB 08-09-20.
- o) Approval of a two year contract with the Urban Tree Foundation in an amount not-to-exceed \$101,100 per year to provide services for grant writing, grant administration, construction management services, and consulting related to the City's Urban Forestry Program.

Convene jointly as the Redevelopment Agency and the Visalia City Council

RDA CONSENT CALENDAR

- 9. Authorize use of \$500,000 Redevelopment low/mod funds to acquire, renovate and sell foreclosed homes. **RDA Resolution 2009-01 required.**

Adjourn as the Redevelopment Agency and the Visalia City Council and remain seated as the Visalia City Council.

10. Authorization to retain consultant, Dr. Kenneth Baar, to complete an economic study of mobile home parks, park residents, and park space rentals within the City of Visalia.
11. Receive, discuss and give direction to staff regarding the recommendations from the Downtown Parking Committee.
12. **PUBLIC HEARING** regarding issuance of tax-exempt housing bonds by Tulare County Housing Authority in a principal amount of approximately \$7,600,000, for the purpose of financing the construction and certain other matters relating thereto, of Sierra Meadows Senior apartments, and adoption of Resolution approving the issuance by the Housing Authority of the bonds and affirming consent to operation by the Housing Authority within the City.
Resolution 2009-02 required.

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

REPORT OF CLOSED SESSION MATTERS FINALIZED BETWEEN COUNCIL MEETINGS

Upcoming Council Meetings

- Monday, January 12, 2009, 6-8 p.m., Joint Meeting of Visalia City Council and Visalia Unified School District Board of Trustees, Convention Center, 303 E. Acequia, Visalia
- Tuesday, January 20, 2009, Work Session 4:00 p.m. Regular Session 7:00 p.m. Council Chambers, 707 W. Acequia, Visalia
- Friday, January 23, 2009, 12:30 - 9 p.m. Council Retreat, Convention Center, 303 E. Acequia, Visalia
- Saturday, January 24, 2009, 8:30 a.m. - 3:00 p.m. Council Retreat, Convention Center, 303 E. Acequia, Visalia

Note: Meeting dates/times are subject to change, check posted agenda for correct details.

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.

Any written materials relating to an item on this agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the Office of the City Clerk, 425 E. Oak Street, Visalia, CA 93291, during normal business hours.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 1

Agenda Item Wording: Update from Rick McVaigh, Deputy Air Pollution Control Officer, regarding the development of proposed green waste regulations.

Deadline for Action: N/A

Submitting Department:

Contact Name and Phone Number:

Department Recommendation

It is recommended that the Council hear the update from Rick McVaigh, Deputy Air Pollution Control Officer, regarding the proposed green waste regulation development, direct staff to continue to monitor and be involved with the regulation development process, and advocate for regulations that will not inhibit the processing of green waste.

Department Discussion

It is recommended that the Council hear the update regarding the proposed green waste activities and direct staff to continue to monitor and be involved with the regulation development process, and advocate for regulations that will not inhibit the processing of green waste. While previously the Air District had planned to have the new regulations adopted in early 2009, that timeline has been extended to at least the end of 2010 to allow for on-site research projects to test Best Management Practices before setting new regulations.

Department Discussion:

The San Joaquin Valley is a non-attainment area for smog and specifically the health-based 8-hour ozone standard. The San Joaquin Valley Air Pollution Control District (SJVAPCD) is under a federal mandate to develop an ozone plan that will reduce smog levels in the Valley and meet the 8-hour standard.

Green waste composting is one of the 33 "source categories" that the District is addressing as part of the plan. According to the District, green waste produces Volatile Organic Compounds (VOCs). VOCs are one of the compounds that form smog.

The City of Visalia has been very successful in using a green waste diversion program to meet the state recycling/diversion mandates. The Solid Waste Division estimates that 22% of the

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.): _____

Review:

Dept. Head LBC 122908

Finance

City Atty

City Mgr

City's waste stream is attributed to green waste diversion. Key to the success of this program is having financially feasible processing alternatives.

In addition, a significant portion of Tulare County's waste diversion is a result of agriculture green waste processing. The City and the County are both part of the Consolidated Waste Management Joint Powers Authority and must jointly meet the 50 percent waste reduction mandate. Therefore, it is very important that there continue to be viable green waste processing options.

When the initial composting regulations were released by the SJVAPCD in January, 2008, both of the companies that process the City's green waste, Tulare County Compost and Biomass and Wood Industries Company, expressed concern that the regulations would result in unrealistic restrictions regarding placing tarps or other covers on green waste that isn't processed with a few hours of receipt, and the costs associated with the mitigation measures that could make green waste processing financially unfeasible. The City sent a letter expressing concern about the proposed regulations. (Copy attached).

Since that time, the District has formed a technical workgroup to help determine the effectiveness of the proposed work practices, is conducting further analysis to evaluate potential environmental impacts of the rule, the cost effectiveness and socioeconomic impact of the proposed rule, including whether the costs associated with the proposed rule would impact the diversion of green waste from the landfill. The District has a plan to conduct on-site research on Best Management Practices during 2009, and to conduct the appropriate analysis, redraft the rule and conduct the required public hearings in 2010.

It is recommended that the Council direct staff to continue to monitor the development of the regulation and come back to Council with an update prior to the proposed rule being presented to the Governing Board.

Prior Council/Board Actions:

Report on proposed regulation – August, 2008

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Recommended Motion (and Alternative Motions if expected):

None Required.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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)*

City of Visalia Agenda Item Transmittal

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 2

Agenda Item Wording: Update on the Tulare County Auto Theft Task Force – Tulare Reduce Auto Theft Team (“TRATT”)

Deadline for Action: N/A

Submitting Department: Police Department

Contact Name and Phone Number: Lt. Steve Puder, ext. 4036

Department Recommendation: None

Summary/background: The Tulare Reduce Auto Theft Team, TRATT, was formed in April 2008 with the cooperation of several law enforcement agencies in Tulare County in an effort to reduce auto theft. Detective Dale Rush of the Visalia Police Department has been assigned to the team on a full-time basis. Sergeant Chuck Mosley of the California Highway Patrol supervises the team and will provide City Council with an update on the team’s efforts to reduce auto theft.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives:

Attachments: PowerPoint Presentation (Sgt. Chuck Mosley, TRATT Supervisor)

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.): 10

Review:

Dept. Head _____
(Initials & date required)

Finance N/A
City Atty N/A
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Recommended Motion (and Alternative Motions if expected): None

Environmental Assessment Status

CEQA Review: N/A

NEPA Review: N/A

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)*

Copies of this report have been provided to:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 3

Agenda Item Wording: Update by Dr. Don Goodyear, Director of the Sequoia Region Institute for Higher Education, regarding the Fresno State Center at the College of the Sequoias

Deadline for Action: N/A

Submitting Department:

Contact Name and Phone Number: Leslie Caviglia, 713-4317

Department Recommendation

It is recommended that the Council receive an update regarding the Fresno State Center at the College of the Sequoias from Dr. Don Goodyear, Director of the Sequoia Region Institute for Higher Learning

Department Discussion

During this presentation, Dr. Goodyear will provide an update on the following:

- I. Current status of programs offer at the Fresno State Center
- II. Update on the BS Business degree core started in Fall 08
- III. Possible Executive MBA Program for the South Valley
- IV. Hosting the Masters Public Administration at the Fresno State Center
- V. Status of discussion to offer Master in Nursing starting Summer 09
- VI. Early Childhood BA starting Fall 09
- VII. Summer Program for Kids offer through the Global and Continuing Education at the Center
- VIII. Discuss recent visits by Dr. JohnWelty, President of Fresno State; Dr Harper, Dean of the School of Business; Dr Mike Russler, Chairmen of the School of Nursing
- IX. Facilities Update
- X. Budget restraints and future planning

The City of Visalia has partnered with Fresno State, the College of the Sequoias and the Institute for Higher Learning, a Division of the Tulare County Economic Development

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.): _____

Review:

Dept. Head LBC 122908

Finance

City Atty

City Mgr

Corporation, to further develop the degree offerings provided through the Fresno State Center at the College of the Sequoias.

Currently, degree programs are offered in Bachelor of Arts in Liberal Studies, Bachelor of Studies in Criminology, Master of Arts in Education with an option in Administration and Supervision, and Credential programs in Multiple Subject education and Administration and Supervision. In addition, the upper division Business Administration Core classes are offered at the Fresno State Center which allows local students planning to transfer to Fresno State to take more of their upper divisions classes locally, although some classes needed to complete their degree will still need to be taken through the main Fresno State campus

Now entering its third year, the role of each partner includes:

Institute for Higher Education:

Market programs to increase enrollment
Fund program administrator (City of Visalia)
Fund facility enhancement @ COS Center
Conduct needs survey of Tulare County business and industry

College of the Sequoias:

Advertising of CSIF offerings in COS publications
Provide Library access and audio=visual support for classrooms
Parking privileges
Custodial services
Lease Nursing facility for \$1 per year
Share classroom space; use of other facilities

Fresno State:

Fund Higher Education Program at the Fresno State Center
Remodel Nursing Facility (Administrative Offices and 2 Classrooms)
Hire a half-time Director
Fund a part-time Librarian

The City of Visalia provides \$50,000 to fund the program administrator. While the City has borne this expense during the start up phase of this partnership, staff is working with the Tulare County Economic Development Corporation to develop additional funding sources to maintain this program in the future.

Prior Council/Board Actions:

Update from Dr. Goodyear – October, 2007
Approved funding for Institute for 2008-2009 and 2009-2010 – June, 2008

Committee/Commission Review and Actions: N/A

Alternatives: N/A

Attachments: N/A

Recommended Motion (and Alternative Motions if expected):

None required.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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)*

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 4

Agenda Item Wording: Valley Oaks Golf Course Annual Report

Deadline for Action: N/A

Submitting Department: Parks & Recreation

Contact Name and Phone Number: Jeannie Greenwood,
Recreation Manager, 713-4042, Vince Elizondo, Parks &
Recreation Director

Department Recommendation:

City staff recommends that the City Council accept the Valley Oaks Golf Course Annual Report and acknowledge CourseCo's success in increasing the number of rounds and overall net revenues for the past year.

Background Information:

In January, 2000, the City Council changed the Valley Oaks Golf Course management from a City employee operated course to a private contract management course. The City entered into a ten (10) year agreement (with two additional 5 year options) with CourseCo, Incorporated to manage the complete operation of the course and all facilities. CourseCo signed an agreement to operate the course on January 17, 2000.

The City had a number of objectives when it contracted out the operation of the facility, with the primary objective of providing quality golf experiences at a reasonable price while maintaining the course as a self-sustaining enterprise fund. Fortunately, Council has been able to draw on the experience of CourseCo and their knowledge of the golfing industry to put the course in a better financial picture as well as improve course maintenance. Council has previously given CourseCo the authority to adjust rates as necessary to meet industry trends and insure that the course remains financially sound.

Management of the golf course contract has recently been assigned to the Parks and Recreation Department. City staff has been meeting with representatives from CourseCo to transition this contract from Administrative Services to Recreation.

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.): 30

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required
or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Fiscal Analysis:

This reporting period includes information from July 1, 2007 through June 30, 2008. From a fiscal standpoint, the course continues to improve. Rounds played (the primary driver for revenue) have grown for the second year in a row. The increase in rounds leads to increased revenue which contributes to an improved ability to pay operating costs and reduce debt.

Chart I, Rounds Played – provides an eight year history of rounds played under CourseCo’s operation. In 2008, the number of rounds played increased by 3,967 rounds and the average revenue captured per round went from \$33.22 to \$35.55.

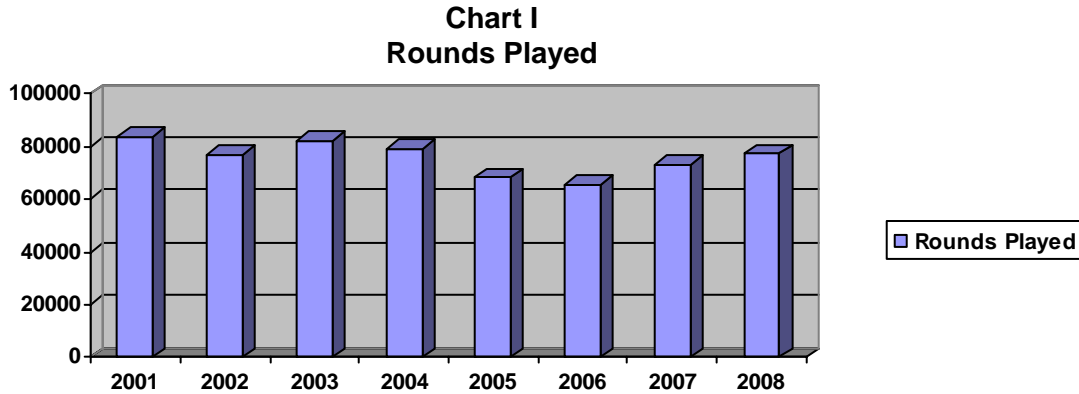


Table 1 – CourseCo Operating Results Summary provides a brief accounting of revenues and expenses during CourseCo’s eight years of operations. For a detailed accounting of CourseCo’s operating results for the past eight (8) years, see attachment A.

**Table 1
CourseCo Operating Results Summary**

	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08
Total Income	1,852,547	1,951,027	2,119,288	2,207,457	2,109,273	2,123,921	2,430,454	2,741,951
Operating Expenses	1,260,409	1,382,108	1,450,639	1,530,253	1,578,629	1,561,377	1,625,765	1,824,714
Net From Operations (used for debt service)	413,097	388,925	475,507	438,116	307,491	353,850	534,289	601,735
Rounds	83,475	76,585	82,299	79,250	68,264	65,295	73,153	77,120
Avg Income Per Round	\$22.19	\$25.48	\$25.75	\$27.85	\$30.90	\$32.70	\$33.22	\$35.55

As you can see in Table 1, 2007-08 was a good year for the golf course increasing the number of rounds from the previous year and recording the highest net from operations in eight years. However, in these tough fiscal times, we must acknowledge the impact of the economy on the number of rounds anticipated for the current fiscal year. Although 2007 saw an increase in rounds played, the pace for the current year is estimating statistics similar to the 2004-05 year with less than 70,000 rounds played and a significantly lower net from operations.

Golf Course Debt

The golf course has two types of debt:

General Fund Loan – debt accumulated prior to CourseCo assuming operation of the course. This debt was incurred as a result of Council approved capital improvements, primarily the addition of 9 holes at Valley Oaks Golf Course.

Capital Improvement Program (CIP) – After CourseCo assumed operations of the golf course, the Council authorized a CIP surcharge for the purpose of upgrading or replacing capital assets at the golf course. As directed by Council, this surcharge is used solely for capital expenditures at the golf course.

Both loans are advances from the General Fund and accrue interest at the City’s portfolio earning’s rate plus 1%.

Table II , Status of Debt Payments shows that the course continues to make strides in the General Fund Debt. The peak General Fund Loan debt principal was \$3.5 million in June of 2000. The debt now has declined to \$2.6 million.

**Table II
Status of Debt Payments
Fiscal Year 07/08**

<i>Loan Balances</i>	CIP Credit Line	General Fund Loan
Balance 07/01/07	<u>585,802</u>	<u>2,943,012</u>
Principal Paid	<u>(250,815)</u>	<u>(303,440)</u>
Balance 6/30/08	<u><u>254,257</u></u>	<u><u>2,639,573</u></u>
<i>Debt Payments Made</i>		
Principal Paid	250,815	303,440
Interest Paid	<u>19,105</u>	<u>132,494</u>
Total Paid	<u><u>269,920</u></u>	<u><u>435,934</u></u>
CIP Surcharge Collected	269,920	

The CIP Credit Line is dedicated to Valley Oaks Golf Course improvements. All revenue derived from the CIP surcharge is to be used for improvements and equipment. Please note that the CIP Surcharge revenues equal CIP Debt Payments made.

The golf course has made significant improvements in paying down the General Fund Loan. Prior to CourseCo managing the course, the City operated the golf course. In the mid 1990s, the course was expanded to include an additional 9 holes. During the construction, the golf course fund suffered several years of operating losses. These operating losses and golf course expansion costs represent the General Fund debt as shown in Attachment B.

The accumulated general fund debt for the nine hole expansion at the end of 2000 was approximately \$3.5 million. The debt balance at the end of 2008 is \$2.6 million. Repayment is

progressing at a rate better than it has in the past. Paying off the General Fund Loan is a major goal for the course, especially considering that there are several large maintenance projects that will require close to \$2 million to complete.

The City Council originally authorized the CIP Loan to be a line of credit up to \$800,000. In September 2004, staff recommended that the Council allow the golf course to use the City's available cash to finance capital equipment purchases. These had historically been leased by CourseCo. This action allowed the line of credit to be increased up to \$1.3 million. In 2007, City Council again authorized an increase bringing the current credit line up to \$2.6 million. An eight year history of the CIP Credit Line Account can be seen in Attachment C.

Capital Improvements

City staff works with CourseCo staff to evaluate the state of the golf course. In 2006, CourseCo completely rebuilt 4 greens on the Valley and Oaks courses. The success of that project, while tempered somewhat by the loss of one of the rebuilt greens, has shown that several other greens on the 2 older courses should be rebuilt as well. We currently have allocated CIP funds to rebuild greens #4 and #8 on the Oaks course but have not completed these projects as we were focusing on the green that failed and evaluating the problem. In addition to these, two additional greens (#5 and #8 on the Valley course) were approved at last year's annual review. By phasing this project, the course will be able to continue operations with temporary greens during construction and maintain a full 27 holes for play.

Projects completed in 2007 include the installation of safety netting on hole #1 on the Valley Course and electrical improvements (upgrade electrical panel) to the Golf Cart Storage Barn.

Future CIP projects to be submitted for Council authorization include the addition of an on-course restroom on the Lakes Course, bunker renovation for the Lakes Course and the rebuild of additional greens. These items represent priority projects for the course and will be submitted as CIP funds are available.

Golf Advisory Group

In 2007, CourseCo was asked to expand upon the existing Evaluation Committee to form a Golf Course Advisory Committee. This committee has recently formed and is comprised of representation from all facets of users including men, women, youth, City Staff, tournament groups and parks supporters. Current members of the Golf Course Advisory Committee are John Allison, Joe Gonzalez, Frank Murphy, Sally Martinez, Jim Allen and Mike Stowell. The Golf Course Advisory Committee held their first meeting on Tuesday, December 9, 2008 and will continue to meet on the second Tuesday of each month.

Prior Council/Board Actions:

September 7, 2004 – Council authorized the first year of a six (6) year CIP plan for Valley Oaks Golf Course.

July 18, 2005 – Council authorized an increase in the CIP loan to allow the cancellation of leases on capital equipment and conversion to City funded purchases through the CIP surcharge revenue.

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Recommended Motion (and Alternative Motions if expected):
Motion to accept the Annual Report of the Valley Oaks Golf Course.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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*)

Attachment A

**Table 1
CourseCo Operating Results Summary
Comparison Summary, 2000-08**

Revenue	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08
Green Fees	654,081	703,181	739,007	758,730	730,259	739,007	822,534	881,348
Monthly Tickets	287,781	275,475	310,562	286,001	232,097	222,385	236,596	230,066
CIP Surcharge	80,844	95,981	123,420	158,496	170,665	195,885	219,459	269,920
Cart Fees	351,501	387,628	413,199	414,075	374,682	384,940	454,228	494,709
Range	106,423	109,421	122,379	119,196	120,411	113,892	151,180	204,498
Merchandise	100,216	95,081	123,972	151,981	156,714	137,014	153,867	202,044
Food/Beverage	257,935	276,525	280,780	301,386	303,445	315,806	365,470	427,660
Other	13,766	7,735	5,969	17,592	21,000	14,992	27,120	31,706
Total Income	1,852,547	1,951,027	2,119,288	2,207,457	2,109,273	2,123,921	2,430,454	2,741,951
Cost of Goods Sold	179,041	179,994	193,142	239,088	223,153	208,694	270,400	315,502
Operating Expenses	1,260,409	1,382,108	1,450,639	1,530,253	1,578,629	1,561,377	1,625,765	1,824,714
Net From Operations	413,097	388,925	475,507	438,116	307,491	353,850	534,289	601,735
CIP Distribution	80,844	95,081	123,420	158,496	170,665	195,885	219,459	269,920
Balance Distribution	332,253	293,844	352,087	279,620	136,826	157,965	314,830	331,815
Total Distribution	413,097	388,925	475,507	438,116	307,491	353,850	534,289	601,735
Rounds	83,475	76,585	82,299	79,250	68,264	65,295	73,153	77,120
Avg. Income Per Round	\$22.19	\$25.48	\$25.75	\$27.85	\$30.90	\$32.70	\$33.22	\$35.55

Attachment B

Golf Course General Fund Loan

	2000	2001	2002	2003	2004	2005	2006	2007	2008
DEBT PAYOFF:									
BEGINNING BALANCE	3,325,000	3,497,426	3,323,291	3,155,003	3,100,506	3,184,159	3,154,837	2,980,613	2,943,012
PRINCIPAL PAID		(174,135)	(168,288)	(54,497)	(58,331)	(29,322)	(174,224)	(37,600)	(303,440)
INTEREST ACCRUED	172,426	218,865	224,712	165,008	166,353	212,376	123,036	154,490	132,494
INTEREST PAID		(218,865)	(224,712)	(165,008)	(166,353)	(212,375)	(123,036)	(154,490)	(132,494)
SURCHARGE ADJ.					141,984*				
ENDING BALANCE	3,497,426	3,323,291	3,155,003	3,100,506	3,184,159	3,154,837	2,980,613	2,943,012	2,639,573

*Corrections were made in 2004 to correct distribution of funding and assure all CIP surcharge revenue was dedicated to the CIP Credit Line.

Attachment C

Table IV									
GOLF CIP CREDIT LINE									
	2000	2001	2002	2003	2004	2005	2006	2007	2008
BEGINNING BALANCE		447,012	662,357	777,100	754,726	480,807	751,751	585,802	505,072
Additional Loan*	440,605	289,698	126,567			424,529		120,920	
Principal Paid		(74,353)	(11,824)	(22,374)	(131,935)	(153,585)	(165,949)	(201,650)	(250,815)
Interest Accrued	6,407	38,253	49,016	40,668	25,570	26,531	26,738	21,005	19,105
Interest Paid		(38,253)	(49,016)	(40,668)	(25,570)	(26,531)	(26,738)	(21,005)	(19,105)
ADJ CIP SURCHARGE					(141,984)*				
ENDING BALANCE	447,012	662,357	777,100	754,726	480,807	751,751	585,802	505,072	254,257

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 5

Agenda Item Wording: Comprehensive Code Enforcement Efforts in the Lincoln Oval Park and Washington Elementary School neighborhood areas.

Deadline for Action: None

Submitting Department: Housing and Economic Development Department

Contact Name and Phone Number:

Ricardo Noguera, Housing & Economic Development Director, 713-4190

Tim Burns, Neighborhood Preservation Manager, 713-4172

Bob Carden, Police Chief, 713-4215

Jason Salazar, Police Lieutenant, 713-4102

Mark Nelson, Fire Chief, 713-4218

Charles Norman, Fire Battalion Chief, 713-4265

Department Recommendation: Receive the 2008 status report for the collaborative code enforcement efforts in the Lincoln Oval Park and Washington Elementary School neighborhoods.

Summary/background:

The City of Visalia S.M.A.R.T. Team-

The City of Visalia has been actively engaged in code enforcement efforts for the past several years. These enforcement activities are undertaken by several city departments including: Police, Fire, Public Works, Parks & Recreation, Building and most recently the Housing & Economic Development Department.

In an organized effort to more effectively address future code enforcement concerns and to monitor the results of those efforts, a project team identified as the S.M.A.R.T. Project Team has been organized to focus on future collaborative code enforcement efforts. S.M.A.R.T. is an acronym that stands for:

S=Specific M=Measurable A=Achievable R=Relevant T=Time-bound.

The S.M.A.R.T. Team will be comprised of representatives from the following city departments: Police, Fire, Public Works, Parks & Recreation, Community Development and Housing & Economic Development. Beginning in January 2009, the S.M.A.R.T. Team will meet on a monthly basis to

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.): _____

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

discuss future strategies for the abatement of nuisance properties located throughout the City in an effort to improve the quality of life for the residents who reside in those areas where attention is focused. The purpose of this team is to provide a comprehensive and collaborative response to quality of life issues in Visalia neighborhoods using all the available resources at the disposal of the City.

Introduction-

In 2007 & 2008, the Lincoln Oval Park and Washington Elementary School neighborhood areas have been the focus of significant effort involving all city departments. In 2009, these efforts will continue to be expanded as the city increases efforts to improve these neighborhoods.

These neighborhoods are two of the oldest neighborhoods within the City of Visalia. They are each faced with considerable challenges in 2009 to improve property conditions and resident quality of life. While significant accomplishments and measurable progress has been made in 2007 & 2008, a considerable amount of work remains to be done.

The purpose of this report is to recognize the progress made in 2007 and 2008 through the collaborative and focused efforts of the various city departments and to identify focused, measurable and collaborative goals for 2009 and the future to further improve the vitality of these two neighborhoods.

To better understand the character, challenges and needs of each of these neighborhoods, this report has been constructed in two sections to address each neighborhood individually based on their own unique characteristics and challenges.

The Lincoln Oval Park Neighborhood:

The collaborative code enforcement efforts for the Lincoln Oval Park have focused on an area approximately ½ square mile in size and defined by Houston Avenue to the north, Santa Fe Street to the east, Murray Street to the south, and Highland Street to the west.

Information obtained from the 2000 U.S. Census Bureau indicated that there are approximately 7,617 residents in the Lincoln Oval Park area. The ethnic breakdown of the neighborhood is as follows:

- 60% Hispanic as compared to 36% city wide;
- 19% Asian as compared to 5% city wide;
- 17% White as compared to 54% citywide;
- 4% Other as compared to 5% city wide.

The 2000 U.S. Census also indicated that 42% of the residents in the Lincoln Oval Park neighborhood earned less than \$20,000 in 1999 and were below the poverty level established by the U.S. Census Bureau. This is in contrast to a city-wide figure of 22% of residents below the poverty level. In addition, 47% of the Lincoln Oval Park neighborhood residents receive government assistance.

This study indicated that 8% of Visalia households did not own an automobile, compared to 21% of households in the Lincoln Oval Park neighborhood that did not own an automobile. The lack of mobility to access services for the residents of the area creates a hardship and interferes with their ability to improve their quality of life.

Within the Lincoln Oval Park neighborhood there are:

- 1,064 single family units (2000 Census);
- 498 multi-family units (City of Visalia permits system data base);
- 81% rental (2000 Census);

- 19% ownership (2000 Census);
- 5% vacancy rate (USPS-HUD);
- 15%, or 159 of the 1064 single family unit property owners have filed the \$7000 Homeownership Exemption with the Tulare County Assessors Office in 2008.

In 2007, the Visalia Police Department responded to 3,372 police calls for service specific to the Lincoln Oval Park neighborhood. This accounts for 3% of the police calls for service city-wide in 2007 (112, 984). Of the 3,372 police calls for service, 64 of those calls were for Part 1 Violent Crimes (Homicide, Rape, Robbery, Aggravated & Simple Assault) and 177 of those calls were for Part 1 Property Crimes (Burglary, Larceny, Motor Vehicle Theft).

In 2007, the Visalia Police Department responded to 40 complaints regarding abandoned vehicles on public roadways within the Lincoln Oval Park neighborhood. In addition, the Visalia Fire Department responded to 29 private property abandoned vehicle complaints within the Lincoln Oval Park Neighborhood.

The Visalia Police Department Gang Suppression Unit has identified 54 validated gang members who reside within the Lincoln Oval Park neighborhood. This number reflects 6.5% of the total number of validated gang members who reside within the City of Visalia (972).

In 2007, the Visalia Fire Department responded to 1,037 calls for service in the Lincoln Oval Park neighborhood or 9.5% of the Department's total calls for service in 2007 (10,950). The below listed topics are somewhat self explanatory with the exception of total value. Total value is the estimated value of the structure or vehicle involved prior to the incident. The following table identifies the types of incidents addressed by the Fire Department in the Lincoln Oval Park Area in 2007:

Incident Type	Incident Count	Total Loss	Total Value
Fire	53	\$186,750.00	\$4,308,250.00
Rupture/ Explosion	1		
EMS/ Rescue	733		
Hazardous Condition	22		
Service Call	65		
Good Intent	117		
False Call	45		
Other	1		
Totals	1,037	\$186,750.00	\$4,308,250.00

In 2008, the Visalia Fire Department initiated an annual inspection program of multi-family residential as well as commercial dwellings in the area. These inspections will assist in both hazard reduction and associated fire code compliance issues, both of which will impact issues of blight and public safety within the Lincoln Oval Park neighborhood. The Fire Department has also worked cooperatively with SMART Team members to alleviate nuisance properties, substandard housing issues, conduct weed abatement programs, private property vehicle abatement enforcement, and fire code enforcement actions. The following table identifies fire code enforcement efforts in the Lincoln Oval Park neighborhood for 2007:

Case Type	Completed Cases	Pending
Abandoned vehicles	29	0
Weed Abatement	25	2
Property Maintenance	18	4
Totals:	72	6
Totals:	72	6

Between January 1, 2008 and November 30, 2008, there were 74 code enforcement complaints investigated in the Lincoln Oval Park neighborhood involving animal complaints, land use complaints, construction without required permits, and behavior related nuisance properties. There were 43 complaints investigated involving substandard housing conditions.

An assessment conducted by SMART Team members on December 20, 2008 revealed the following conditions:

- There are 116 street lights in the neighborhood, 11 of those lights are inoperable.
- There are 17 vehicles that appear to be inoperable that have been identified on public streets and 290 on private property.
- There are two vacant lots that have been identified with junk, trash and debris.
- There are 164 properties that have junk, trash, and debris in need of abatement.
- There were 12 properties identified with vehicles parked on lawns or other areas not intended for parking.

The interests of the Lincoln Oval Park neighborhood are represented by the North Visalia Advisory Committee. This committee has been active with residents and business owners in the area and has orchestrated several positive changes in the neighborhood throughout the years. Committee members have frequently expressed concerns regarding public safety, infrastructure land use, park maintenance and traffic safety.

2007/ 2008 Collaborative Code Enforcement Accomplishments for Lincoln Oval Park Neighborhood-

Lincoln Oval Park Community Meeting- On April 26, 2008, the City of Visalia hosted a community meeting at the Lincoln Oval Park that was attended by representatives of various city departments, business owners in the Lincoln Oval Park neighborhood, as well as neighborhood residents. This meeting sought to engage neighborhood residents and business owners, who have a vested interest in the neighborhood, in city efforts to “win back the Oval.” This meeting was the first of a series of events to enhance the city/ community partnership to address issues specific to the Lincoln Oval Park neighborhood.

CalTrans Planning Grant- In 2008, a \$150,000.00 CalTrans Grant was secured and awarded to TPG Consulting who will sub-contract with RRM Design Group and C-SET to assist in the project addressing traffic improvements around the Lincoln Oval Park. The project will require a complete traffic survey and a report of the needs of the community based on community input by neighborhood residents and business owners. This will occur in a series of four community-based meetings designed to engage the community in the process. The first meeting occurred on November 13, 2008 at the Restoration Church on N.W. Third Avenue. The next meeting is slated for January 15, 2009 with two additional meetings to follow. Project completion is scheduled for August 2009 and will be presented to Council for review and comment as it nears completion.

Visalia Police Oval Park Action Plan- During the spring and summer months of 2008, Police District One Patrol Officers implemented a comprehensive action plan to address public safety related concerns of the community in the Lincoln Oval Park neighborhood. This plan largely consisted of directed enforcement actions by patrol sector officers to impact crime and blight issues within the neighborhood. The plan involved assignment of specific areas of responsibilities to sector officers who would specialize in that area as it contributed to the overall action plan. This technique was implemented as a means of increasing accountability for specific assignments and to maximize effectiveness of the plan. Officers were assigned specific areas of responsibility to include: business owner contacts, narcotics enforcement, gang enforcement, Alcohol Beverage Control issues, parole

and probation contacts, traffic enforcement, code enforcement issues, transient issues, and contacts with the Rescue Mission and Visalia Emergency Aid. Special details were conducted around those areas of responsibility resulting in an emphasis on specific neighborhood concerns, increased police presence and improved lines of communication with neighborhood residents and businesses.

Over the course of a three and a half month period (May 23, 2008 through September 1, 2008), this action plan resulted in 436 citizen contacts that consisted of traffic stops, parole/ probation searches, community center contacts, warrant services, business contacts, and resident contacts. The detail resulted in 52 arrests, 21 of those arrests for outstanding warrants and 31 arrests for "fresh" charges including narcotics violations, alcohol violations, and municipal code violations. The success of this plan resulted from contacts developed between officers, residents, and merchants within the neighborhood and as a result will increase the effectiveness of the sector officers.

Music in the Park- The Visalia Parks & Recreation Department hosted "Music in the Oval Park" during the month of October 2008 on 4 separate Friday evenings (October 3rd, 10th, 17th and 24th). These events were popular with area residents and merchants and did not experience any problems and accomplished the goal of drawing community members to the park for a positive event and experience.

Attendance for the first and second Friday averaged between 150 to 200 attendees. The third and fourth evenings averaged 450+ attendees. The cost of the 4 evening events was approximately \$5000.

Parks & Recreation also worked cooperatively with the Police Activities League program for the annual Christmas Tree lighting ceremony at the park and the annual Easter Egg Hunt, events that draw both children and families to the park to interact with city employees and to enjoy holiday festivities. These types of events provide a positive image of the neighborhood and are appreciated by residents and merchants alike.

Infrastructure- Public Works officials repaired park lighting and adjacent street lighting in the immediate area of the Lincoln Oval Park to improve visibility and public safety. Road repair and storm drains have also been repaired at the intersection of Court and N.W. Third Street to alleviate continuous water pooling that has been an issue in previous years.

Gangs- Throughout 2007 and 2008, the Visalia Police Department worked in conjunction with the City Attorney's Office and the Tulare County District Attorney's Office to prepare court filings for civil gang injunctions against the Norteno and Oriental Troop criminal street gangs whose activities had a direct impact on the Lincoln Oval Park neighborhood. On May 12, 2008, those civil gang injunctions were granted against these gangs by the Tulare County Superior Court establishing a square mile area in north Visalia as a gang safe zone and subjecting gang members to terms of the gang injunction. The Lincoln Oval Park neighborhood is included within that gang safe zone and to date approximately 140 gang members have been served with the injunction and subject to its terms. This effort has resulted in an increased sense of public safety as expressed by area residents by reducing the amount of blatant gang and narcotics activity occurring in the neighborhood.

Short-Term Objectives for Lincoln Oval Park Neighborhood-

The SMART Team has identified a series of short-term goals and objectives to accomplish over the course of the next two to three years specific to the Lincoln Oval Park neighborhood. These short-term objectives seek to provide expedient results and to build upon SMART Team collaborations as a means of maintaining momentum for the revitalization effort in the Lincoln Oval Park neighborhood and to ultimately achieve the long-term objectives identified in the following section.

- 1) Repair inoperable street lights (11) in the Lincoln Oval Park neighborhood by July 2009 to improve lighting conditions and public safety concerns. This will require a coordinated effort between the City of Visalia and Southern California Edison to accomplish.
- 2) Enhanced efforts to target abandoned vehicles on both public and private property in the Lincoln Oval Park neighborhood throughout 2009. This goal is in line with the neighborhood assessment conducted by the SMART Team on December 20, 2008. The Police Department will seek to resolve the 17 identified abandoned vehicles on public right-of-way in 2009 and reducing abandoned vehicle calls for service by 10% to a total of 36, while the Fire Department will similarly work towards reducing the number of private property abandoned vehicles by 50% to a total of 26 in 2009 by dedicating a fire inspector to identify abatement opportunities one day per week.
- 3) Abatement of 164 properties in the Lincoln Oval Park neighborhood by the end of 2009 through a collaborative effort as a result of junk, trash and debris on the properties.
- 4) Courtesy Notices sent to (12) property owners regarding vehicles parked on lawn to remedy this particular issue.
- 5) Continue community educational opportunities within the Lincoln Oval Park neighborhood by the SMART Team through the use of City of Visalia PIO and Police Department's Hispanic PIO to provide information and education regarding this collaborative code enforcement effort. This information to be provided by the end of 2009 through presentations at upcoming Lincoln Oval Park community meetings, North Visalia Advisory Committee meetings, and explore the use of a mailing campaign to provide further information regarding SMART Team efforts and objectives of those efforts.
- 6) Enhance Commercial Policing efforts within the Lincoln Oval Park neighborhood through the use of the Downtown Commercial Policing Officer and Sector Officer Contacts/Assignments with neighborhood businesses. This objective is aimed at improving police/ merchant communications, address municipal code violations in and around the Lincoln Oval Park, and to enhance business interests within the neighborhood.
- 7) Ongoing use of the Oval Park Action Plan to continue addressing specific issues in and around the Lincoln Oval Park with increased participation of SMART Team partners. The Police Department will seek to reduce the number of drug and alcohol related calls for service in the Lincoln Oval Park neighborhood by 10% from 134 in 2007. The objective is to improve perception, business interests, and to increase community-oriented uses of the Oval Park in 2009. An additional objective of this goal is to impact Part 1 crimes within the Lincoln Oval Park neighborhood through a 10% reduction from 241 Part I Crime reports to 217 Part 1 Crime reports as a result of this effort.
- 8) The Fire Department will seek to conduct 12 apartment complex inspections in the Lincoln Oval Park neighborhood by July 2009 and conduct annual business, manufacturing, storage, hazardous, and institutional occupancies annually within the neighborhood.
- 9) The Fire Department will further seek to reduce fire dollar loss by 20% in 2009 through the use of commercial inspections and continued spring weed abatement programs.
- 10) The Fire Department will reduce fire calls for service by 20% in 2009 through Fire and Life Safety Inspections and Public Education campaigns.
- 11) Code Enforcement abatement of (2) vacant lots currently identified in the neighborhood assessment by the end of 2009. In addition, continued evaluation and abatement of additional properties that might be identified in the process.
- 12) Complete Village Park/ Wittman Center renovation project by July 2009 that will provide improvements to the park and playground facilities.

- 13) The Planning Division's contributions to SMART Team short-term objectives in 2009 will include an analysis of current zoning patterns along transportation corridors to include the Lincoln Oval Park neighborhood, specifically the State Route 63 and Houston corridors. The purpose of these corridor studies will be to evaluate land use patterns established in the General Plan to determine whether properties along these streets should be re-designated from current residential designations to other land use categories that will encourage re-investment and revitalization along these high traffic volume corridors. This would eventually entail a General Plan amendment and rezoning effort to effectuate desired land use revisions; the completed work will be incorporated into the future General Plan update.

Additionally, a Parking-In-Lieu District in the Lincoln Oval Park neighborhood will be pursued to recruit and assist in the expansion of retailers and to help minimize costs associated with business development. These studies will be started in January and will be completed in 2009 with recommendations presented to the City Council.

Long-Term Objectives for Lincoln Oval Park Neighborhood-

The SMART Team has identified the following long-term objectives aimed at sustaining the revitalization of the Lincoln Oval Park neighborhood into the future. These long-term objectives are projected to be 5-10 years out and provide a vision for the neighborhood and the anticipated results of the short-term efforts currently in motion.

- 1) A 15% reduction of police calls for service in a 5-year timeframe, by 2013. Past accomplishments and identified short-term objectives are aimed at reducing police calls for service and an overall reduction of Part 1 Crimes in the neighborhood by 10% in the same time period.
- 2) A 20% reduction in abandoned vehicle, nuisance, and weed abatements by SMART Team members by 2016. While short-term objectives will seek to increase abatement efforts, the goal is to reduce the need of such abatement activities over the long-term through community education and successful abatement activities in the short-term.
- 3) A 20% reduction in both Fire Department calls for service (27 in 2007 to 22) and fire dollar loss (\$157,405 in 2007 to \$125,900) by 2013 through public education campaigns and abatement efforts within the neighborhood.
- 4) Increase owner-occupancy in single family residences within the Lincoln Oval Park neighborhood from 19% to 30% by the year 2019 through collaborative efforts to improve the neighborhood.
- 5) Increase business use within the Lincoln Oval Park neighborhood by 2019 through planning and zoning evaluations of residential use along State Route 63 and Houston Avenue, development of the Community Campus, and continued business development along Dinuba Blvd. into north Visalia. residential zoning along State Route 63 and Houston Avenues.

Lincoln Oval Park Revitalization Measurements-

Baseline measurements to be utilized as a means of evaluating the success of the SMART Team collaborative efforts at revitalizing the Lincoln Oval Park neighborhood for the present, short-term, and long-term objectives are as follows:

- Police Calls for Service specific to the Lincoln Oval Park neighborhood in totality.
 - Alcohol & Drug related calls for service
 - Part 1 Crime reports (crime reduction)

- Number of validated gang members residing within the neighborhood.
- Abandoned vehicle abatements
- Fire Calls for service specific to the Lincoln Oval Park neighborhood in totality.
 - Fire dollar loss numbers
 - Abatement activity
- Code Enforcement calls for service specific to Lincoln Oval Park neighborhood.
 - Abatement activity numbers
 - Municipal Code violation comparison
- Home Ownership/ Owner-Occupancy rates within the Lincoln Oval Park neighborhood
- Business establishments within the Lincoln Oval Park neighborhood.

Washington Elementary School Neighborhood:

The collaborative code enforcement efforts for the Washington Elementary School neighborhood have focused on an area approximately ½ square mile in size and defined by Noble Avenue to the north, Santa Fe Street to the east, Tulare Avenue to the south, and Watson Street to the west.

Information obtained from the 2000 U.S. Census Bureau indicated that there are approximately 2,037 residents in the Washington Elementary School neighborhood area. The ethnic breakdown of the neighborhood is as follows:

- 59% Hispanic as compared to 36% city wide;
- 38% White as compared to 54% citywide;
- 3% Other as compared to 10% citywide.

The 2000 U.S. Census also indicated that 53% of the residents in the Washington Elementary School neighborhood earned less than \$20,000 in 1999 and were below the poverty level established by the U.S. Census Bureau. This is in contrast to a city-wide figure of 22% of residents below the poverty level. In addition, 28% of the Washington Elementary School neighborhood residents receive government assistance.

This same study indicated that 8% of Visalia households did not own an automobile, compared to 28% of households in the Washington Elementary School neighborhood that did not own an automobile. The lack of mobility to access services for the residents of the area creates a hardship and interferes with their ability to improve their quality of life.

Within the Washington Elementary School neighborhood there are:

- 810 single family units (2000 Census);
- 450 multi-family units (City of Visalia permits system data base);
- 81% rental (2000 Census);
- 19% ownership (2000 Census);
- 1% vacancy rate (USPS-HUD);
- 9%+, or 79 of the 810 single family unit property owners have filed the \$7000 Homeownership Exemption with the Tulare County Assessors Office in 2008.

In 2007, the Visalia Police Department responded to 2,746 police calls for service specific to the Washington Elementary School neighborhood. This accounts for 2.4% of the police calls for service city-wide in 2007 (112, 984). Of the 2,746 police calls for service, 33 of those calls were for Part 1 Violent Crimes (Homicide, Rape, Robbery, Aggravated & Simple Assault) and 177 of those calls were for Part 1 Property Crimes (Burglary, Larceny, Motor Vehicle Theft).

In 2007, the Visalia Police Department responded to 55 complaints regarding abandoned vehicles on public roadways within the Washington Elementary School neighborhood. In addition, the Visalia Fire Department responded to 67 private property abandoned vehicle complaints within the Washington Elementary School Neighborhood.

The Visalia Police Department Gang Suppression Unit has identified 28 validated gang members who reside within the Washington Elementary School neighborhood. This number reflects 3% of the total number of validated gang members who reside within the City of Visalia (972).

In 2007, the Visalia Fire Department responded to 751 calls for service in the Washington Elementary School neighborhood or 7% of the Department's total calls for service in 2007 (10,950). The below listed topics are somewhat self explanatory with the exception of total value. Total value is the estimated value of the structure or vehicle involved prior to the incident. The following table identifies the types of incidents addressed by the Fire Department in the Washington Elementary School Area in 2007:

Incident Type	Incident Count	Total Loss	Total Value
Fire	27	\$157,405.00	\$2,299,650.00
Rupture/ Explosion	1		
EMS/ Rescue	547		
Hazardous Condition	21		
Service Call	28		
Good Intent	113		
False Call	13		
Other	1		
Totals	751	\$157,405.00	\$2,299,650.00

In 2008, the Visalia Fire Department initiated an annual inspection program of multi-family residential as well as commercial dwellings in the area. These inspections will assist in both hazard reduction and associated fire code compliance issues, both of which will impact issues of blight and public safety within the Washington Elementary School neighborhood. The Fire Department has also worked cooperatively with SMART Team members to alleviate nuisance properties, substandard housing issues, conduct weed abatement programs, private property vehicle abatement enforcement, and fire code enforcement actions. The following table identifies fire code enforcement efforts in the Washington Elementary School neighborhood for 2007:

Case Type	Completed Cases	Pending
Abandoned vehicles	67	0
Weed Abatement	15	3
Property Maintenance	16	6
Totals:	98	9

Between January 1, 2008 and November 30, 2008, there were 24 code enforcement related complaints in the Washington Elementary School neighborhood and nine additional complaints involving substandard housing conditions within the same area, six complaints regarding construction without permits, and four complaints for junk and trash on lots.

An assessment conducted by SMART Team members on December 20, 2008 revealed the following conditions:

- There are 96 street lights in the neighborhood, 9 of those lights are inoperable.
- There are 8 vehicles that appear to be inoperable that have been identified on public streets and 83 on private property.
- There are three vacant lots that have been identified with junk, trash and debris.
- There are 73 properties that have junk, trash, and debris in need of abatement.

- There were 6 properties identified with vehicles parked on lawns or other areas not intended for parking.

The interests of the Washington Elementary School neighborhood are represented by a “grass roots” organization identified as The Washington Residents for a Better Community (WRBC). This committee has been active with residents and representatives from the elementary school in the area and has orchestrated several positive changes in the neighborhood throughout the years. In 2008, the primary concern of the group has been lack of adequate lighting in the neighborhood and gang member residency within the neighborhood.

2007/ 2008 Collaborative Code Enforcement Accomplishments for Washington Elementary School Neighborhood-

Washington Residents for a Better Community- In 2008, City Staff, members of the WRBC, and Washington School representatives met to address common concerns. This meeting resulted in the installation of additional lighting at the school to increase security at that location. This meeting also resulted in the repainting of crosswalks and curbing at the intersection of Garden & Myrtle Streets and the same intersection’s conversion to a 4-way stop. In 2008 the City resurfaced Garden and Church Streets from Noble to Tulare Avenue and Myrtle from Bridge to Court Streets.

The WRBC has also resulted in a positive alliance between neighborhood residents and representatives of the City’s SMART Team resulting in improved communication about neighborhood concerns and increased cooperation in an effort to enhance the quality of life within this area and reducing crime in the neighborhood.

Transiency- Police Sector Officers, business owners, and neighborhood residents have been working together to address issues of transiency in the area of Santa Fe & Tulare Streets. This effort has focused on working with recycling establishments in the area, removal of overgrown brush near business and along the tracks, and clean-up of the tracks themselves to improve public safety and neighborhood conditions. The Police Department has also conducted directed enforcement patrols in the area to address drug and alcohol violations and to increase police presence in the neighborhood.

426 S. Bridge Action Plan- The Neighborhood Preservation Unit identified this location as a nuisance within the Washington Elementary School neighborhood having been the source of 129 police calls for service between June 2006 and May 2007. The Neighborhood Preservation Unit addressed this issue through a variety of resources to include code enforcement, police directed enforcement, public works, and the fire department. The collaboration of these resources resulted in the installation of a chain-link fence in the alley to the rear of the property to reduce pedestrian traffic, regular meetings with the absentee landlord who now lives on site, improved lighting and signage, and the assignment of three sector officers to the area as opposed to one. As a result of these efforts, calls for service have seen a 57% reduction over the course of the last year (June 2007 through May 2008) from 129 calls for service to 55 calls for service.

Short-Term Objectives for Washington Elementary School Neighborhood-

The SMART Team has identified a series of short-term goals and objectives to accomplish over the course of the next two to three years specific to the Washington Elementary School neighborhood. These short-term objectives seek to provide expedient results and to build upon SMART Team collaborations as a means of maintaining momentum for the revitalization effort in the Washington Elementary School neighborhood and to ultimately achieve the long-term objectives identified in the following section.

- 1) Repair inoperable street lights (9) in the Washington Elementary School neighborhood by July 2009 to improve lighting conditions and public safety concerns. This will require a coordinated effort between the City of Visalia and Southern California Edison to accomplish.
- 2) Enhanced efforts to target abandoned vehicles on both public and private property in the Washington Elementary School neighborhood throughout 2009. This goal is in line with the neighborhood assessment conducted by the SMART Team on December 20, 2008. The Police Department will seek to resolve the 8 identified abandoned vehicles in 2009 and reducing abandoned vehicle calls for service by 10%, while the Fire Department will similarly work towards reducing the number of private property abandoned vehicles by 50% in 2009 by dedicating a fire inspector to identify abatement opportunities one day per week.
- 3) Abatement of 73 properties in the Washington Elementary School neighborhood by the end of 2009 through a collaborative effort as a result of junk, trash and debris on the properties.
- 4) Courtesy Notices sent to (6) property owners regarding vehicles parked on lawn to remedy this particular issue.
- 5) Continue community educational opportunities within the Washington Elementary School neighborhood by the SMART Team through the use of City of Visalia PIO to provide information and education regarding this collaborative code enforcement effort. This information to be provided by the end of 2009 through presentations at upcoming Washington Residents for a Better Community meetings and explore the use of a mailing campaign to provide further information regarding SMART Team efforts and objectives of those efforts.
- 6) Ongoing use of the directed enforcement activities by Police Sector Officers to continue addressing specific issues in the Washington Elementary School neighborhood with increased participation of SMART Team partners. The Police Department will seek to reduce the number of drug and alcohol related calls for service in the Washington Elementary School neighborhood by 10% from 83 in 2007. The objective is to improve public safety and to impact Part 1 crimes within the Washington Elementary School neighborhood through a 10% reduction as a result of this effort.
- 7) The Fire Department will seek to conduct 12 apartment complex inspections in the Washington Elementary School neighborhood by July 2009 and conduct annual business, manufacturing, storage, hazardous, and institutional occupancies annually within the neighborhood.
- 8) The Fire Department will further seek to reduce fire dollar loss by 20% in 2009 through the use of commercial inspections and continued spring weed abatement programs.
- 9) The Fire Department will reduce fire calls for service by 20% in 2009 through Fire and Life Safety Inspections and Public Education campaigns.
- 10) Code Enforcement abatement of (3) vacant lots currently identified in the neighborhood assessment by the end of 2009. In addition, continued evaluation and abatement of additional properties that might be identified in the process.
- 11) The Planning Division's contribution to the SMART Team short term objectives in 2009 will include an assessment of key transportation corridors along Santa Fe, Court, Locust and Noble to include the Washington Elementary School neighborhood. This assessment will evaluate General Plan land use designations and existing residential zoning, and will determine whether changes in land use designations will spur reinvestment and revitalization by encouraging land uses that are more compatible with the character of these major streets. Future zoning will be more consistent with the traffic volumes identified along these routes, especially with the future Santa Fe over- crossing project that will convert Santa Fe Street to a north-south thoroughfare. These corridor studies will be started in January and completed in 2009, with recommendations presented to the City Council. Implementation of land use designations would require a future General Plan amendment and zone change efforts. The completed work will be incorporated into the future General Plan update.

Long-Term Objectives for Washington Elementary School Neighborhood-

The SMART Team has identified the following long-term objectives aimed at sustaining the revitalization of the Washington Elementary School neighborhood into the future. These long-term objectives are projected to be 5-10 years out and provide a vision for the neighborhood and the anticipated results of the short-term efforts currently in motion.

- 1) A 15% reduction of police calls for service in a 5-year timeframe, by 2013. Past accomplishments and identified short-term objectives are aimed at reducing police calls for service and an overall reduction of Part 1 Crimes in the neighborhood by 10% in the same time period. Collaborative SMART Team efforts seek to employ the "Broken Window Theory" to instill a greater sense of pride and investment in the neighborhood thereby reducing crime.
- 2) A 20% reduction in abandoned vehicle, nuisance, and weed abatements by SMART Team members by 2016. While short-term objectives will seek to increase abatement efforts, the goal is to reduce the need of such abatement activities over the long-term through community education and successful abatement activities in the short-term.
- 3) A 20% reduction in both Fire Department calls for service and fire dollar loss by 2013 through public education campaigns and abatement efforts within the neighborhood.
- 4) Increase owner-occupancy within the Washington Elementary School neighborhood in single family residences from 19% to 30% by the year 2019 through collaborative efforts to improve the neighborhood.
Improve land use compatibility within the Washington Elementary School neighborhood by 2019 through planning and zoning evaluations of residential use along Santa Fe Street with the opening of the Santa Fe Bridge and along the Court, Locust, and Noble corridors.
- 5) Improve land use compatibility within the Washington Elementary School neighborhood by 2019 through planning and zoning evaluations of residential use along Santa Fe Street with the opening of the Santa Fe Bridge, and along the Court, Locust and Noble corridors.

Washington Elementary School Revitalization Measurements-

Baseline measurements to be utilized as a means of evaluating the success of the SMART Team collaborative efforts at revitalizing the Washington Elementary School neighborhood for the present, short-term, and long-term objectives are as follows:

- Police Calls for Service specific to the Washington Elementary School neighborhood in totality.
 - Alcohol & Drug related calls for service
 - Part 1 Crime reports (crime reduction)
 - Number of validated gang members residing within the neighborhood.
 - Abandoned vehicle abatements
- Fire Calls for service specific to the Washington Elementary School neighborhood in totality.
 - Fire dollar loss numbers
 - Abatement activity
- Code Enforcement calls for service specific to Washington Elementary School neighborhood.
 - Abatement activity numbers
 - Municipal Code violation comparison
- Home Ownership/ Owner-Occupancy rates within the Washington Elementary School neighborhood
- Business establishments within the Washington Elementary School neighborhood.

Prior Council/Board Actions: None.

Committee/Commission Review and Actions: None.

Alternatives: Continue traditional enforcement methods.

Attachments: Map of Lincoln Oval Park and Washington Elementary School neighborhoods.

Recommended Motion (and Alternative Motions if expected):

Accept staff progress report on the individual and collaborative code enforcement efforts in the Lincoln Oval Park and Washington Elementary School neighborhood areas; and provide direction as appropriate.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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)*

Copies of this report have been provided to:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 8b

Agenda Item Wording: Approval of recommendation from the Fire Chief to add a Fire Captain for Airport stand-by.

Submitting Department: Fire

Contact Name and Phone Number: Fire Chief Mark Nelson - 713.4218

Department Recommendation: That the City Council authorizes staff to add an additional Fire Captain position to serve as the Visalia Airport stand-by personnel and department's training officer, once Fire Station 55 is operational. Cost will be paid from existing Airport budget and savings in Fire department budget.

Summary/background:

In the early part of 2009, the personnel assigned to Station 53 will be relocating to staff the new Fire Station at Shirk and Ferguson (Station 55). This will cause a void in the fire department's ability to provide on-site commercial stand-by service. Additionally, there will be a need to perform the required recording keeping, daily and weekly maintenance as well as testing on the two ARFF (Aircraft Rescue & Fire Fighting) apparatus. It is important to have a single point of contact for inquires and inspections by the FAA.

Pursuant to FAA regulations, the airport is required to have at least one ARFF responder available to respond to the airport within 15 minutes of being notified of an emergency. This requirement is only during periods of air carrier activity using aircraft with a seating capacity of 10 or more passengers. As it stands today, this means that ARFF personnel must be available to meet that response requirement during all scheduled airline flights, which currently totals 14 weekly flights.

The Fire Department has historically covered the commercial air service with stand-by 15 minutes before a commercial flight arrives and 15 minutes after the flight departs. This coverage has typically been handled by the engine company personnel staffed at Fire Station 53.

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.): _____

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Staff is recommending the addition of one 40 hour Fire Captain position. The job responsibilities would cover the following:

1. Provide airport stand-by for commercial flights
2. Provide all daily, weekly and monthly maintenance and testing for the two ARFF apparatus
3. Maintain all files related to FAA inspections
4. Ensure that fire department personnel are up to date on mandated ARFF training
5. Plan and coordinate all fire department training activities
6. Provide training as needed (including fire academy)
7. Respond to multi-unit incidents as the department safety officer
8. Regular duties of a Fire Captain

The Captain will be able to cover stand-by for the majority of flights (15 of 28); Monday through Friday from 1100 hrs to 1900 hrs. Please refer to **Table 1** for flight schedules. On the early morning, weekends and holiday flights, the stand-by coverage for commercial flights will be covered by an on-duty fire unit. This coverage may be provided by engine companies at their current stations, provided the 15 minute response time is met. This fire unit will be committed to the flight from pre-arrival to post departure. In the event that additional early morning or late evening flights are added to the schedule, the on-duty fire units will be able to cover the stand-by service. The statistical data for the Visalia Fire Department show that there is a significantly lower call volume in the early morning hours as well as on the weekend (Saturday and Sunday). The commitment of one fire unit used for stand-by coverage at these hours would be a minimal impact to the operational needs of the organization. Please refer to **Table 2 and Table 3** on the following page for incident information.

Table 1

Following is the Visalia Flight Schedule effective September 6, 2008			
Visalia to Ontario:			
Flight 5045	Departs 6:47a	Arrives 7:32a	Operates Daily
Flight 5064	Departs 2:04p	Arrives 2:49p	Operates Daily
Ontario to Visalia:			
Flight 5065	Departs 11:30a	Arrives 12:15p	Operates Daily
Flight 5061	Departs 5:45p	Arrives 6:30p	Operates Daily

Table 2
Incidents by Time of Day
 Date Range: From 1/1/2007 To 12/31/2007

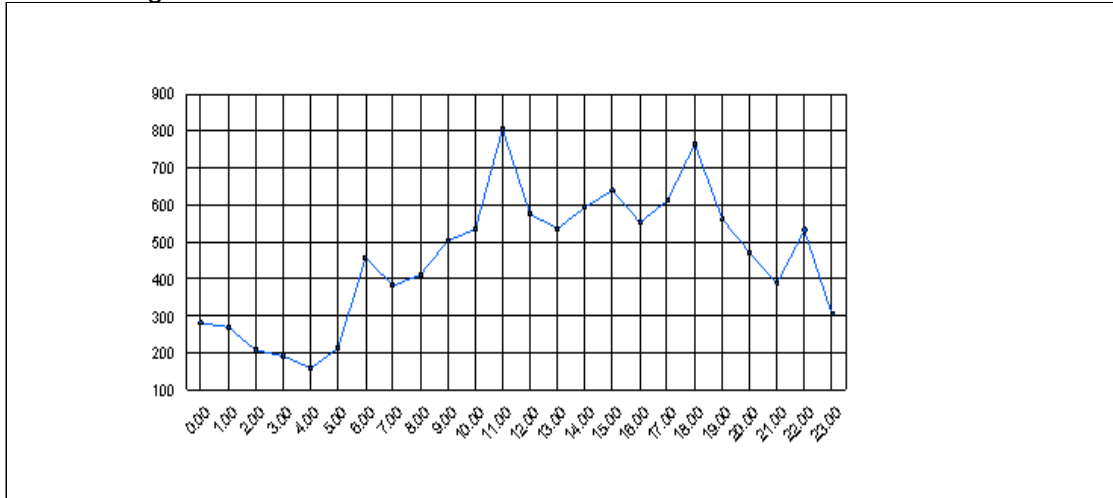
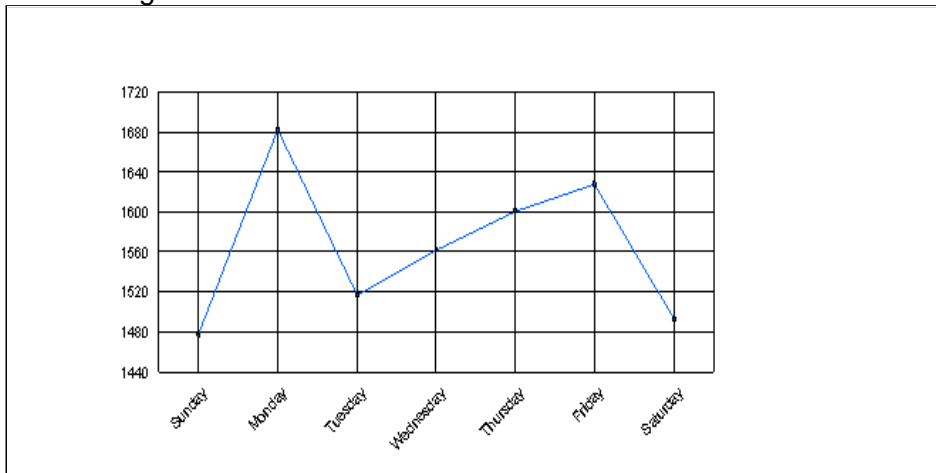


Table 3
Incidents by Day of Week
 Date Range: From 1/1/2007 To 12/31/2007



Funding for Fire Captain

The annual cost for the Fire Captain position with salary and benefits ranges from \$105,000.00 to \$132,000.00. **There will be no additional impact on the General Fund.** Below are the funding sources for the new position.

Airport Enterprise Fund	70,000.00 (Budgeted in FY 08/09)
Overtime Savings	25,000.00 to \$50,000.00
Operational Budget Savings	15,000.00
Total	114,000.00 to 139,000.00

The cost, to the airport, of providing a new position would have been approximately \$70,000. In lieu of creating the new airport operations position, the Airport Enterprise Fund will contribute \$70,000 to the general fund to offset a portion of the cost of funding the new Training Captain position. In return, the Fire Department will continue to provide all required ARFF coverage per FAA Regulations.

Airport Staff understands that Fire Personnel are better trained to handle emergencies, but in the absence of a sensible, cost-efficient solution, airport staff had no alternative but to recommend providing initial ARFF response with airport personnel. Based on further discussions with Fire Management and the decision to create a Training Captain's position and provide ARFF coverage at a more appropriate level, airport staff would support this plan.

The Fire Department holds 1 to 2 Fire Academies per year to train new recruits as part of the process to fill vacancies within the organization. Typically, a Fire Captain is taken off line and placed on a 40 hour work week for 10 weeks. In reviewing the previous years, this is approximately a \$25,000 to \$50,000 impact to the overtime budget annually. Having the fulltime training Fire Captain will alleviate the need to backfill a line Captain's position with an overtime position. This year we have partnered with the City of Tulare in running a Fire Academy. It is too early to review the cost savings as the academy will not be completed until late December 2008. However, staff is predicting a \$5,000 savings.

With the new Training Captain's position, there will be additional operational budget savings in not having to hire back off-duty employees at an overtime rate to conduct specific training topics throughout the year. We have also saved money in budgeted programs such as the Reserve Firefighter program. Through innovation and streamlining of the program we will be able to save approximately \$10,000.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: None

Alternatives:

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1. Provide coverage by rotating engines from other stations to Fire Station 53. This would result in a significant negative impact to the fire department's operations.

2. Have the airport personnel accept the responsibility to maintain and respond to aircraft emergencies during Stand-By coverage. Historically, the airport operations' positions have been cross-trained in ARFF response requirements. Consequently, Airport Staff had previously submitted a proposal that would include the addition of one (1) full-time operations position, cross-trained in maintenance and fueling, which could provide the airport with needed maintenance support and provide the additional hours needed to cover all flights for required ARFF coverage.

Attachments:

Recommended Motion (and Alternative Motions if expected):
To approve the addition a one fulltime Fire Captain position in the Fire Department.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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)*

Copies of this report have been provided to:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 8c

Agenda Item Wording: The City Council receive, review, and file the 2007-08 Impact Fee Report as required by State Law.

Deadline for Action: January 5, 2009

Submitting Department: Finance Department

Contact Name and Phone Number:

Eric Frost, Administrative Services Director (ext. 4474)
Melody Murch, Financial Analyst (ext. 4298)

Department Recommendation: The 2007-08 Impact Fee Report is in compliance with the State Law, Government Code Section 66006(a) and (b), therefore no action is required other than to receive, review, and file the report.

Government Code Section 66006 requires agencies to provide information on each fund or account established for the collection of impact fees. Within 180 days after the last day of each fiscal year this information must be made available to the public for the period covered by that fiscal year. The information must provide the following:

- 1) A brief description of the type of fee in the fund.
- 2) The amount of the fee.
- 3) The beginning and ending balances of the fund.
- 4) The amount of fees collected and the interest earned.
- 5) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the improvement that was funded with fees.
- 6) An identification of an approximate date by which the construction of the public improvement will commence if the City determines that sufficient funds have collected to complete financing on an incomplete public improvement.
- 7) A description of each inter-fund transfer or loan made from the fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of

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.): _____

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

an inter-fund loan, the date on which the loan will be repaid and the rate of interest that will be received on the loan.

- 8) The amount of refunds made per Government Code Section 66001 (e).

Once the information is available to the public, but not less than 15 days from the date it is made available, the City Council must review the information at its next regularly scheduled meeting. A notice of the time and place of this meeting, including the address where the information may be reviewed, must be mailed at least 15 days prior to the meeting to any interested party who files a written request with the City for mailed notice of the meeting.

The 2007-08 Impact Fee Report provides information on the following Impact Fee Funds:

- 1) Public Facility - Civic Center (1041)
- 2) Public Facility - Corporation Yard (1043)
- 3) Public Facility - Library (1045)
- 4) Police Impact Fund (1051)
- 5) Fire Impact Fund (1061)
- 6) Park & Recreational Facilities Fund (1211)
- 7) Storm Sewer Construction Fund (1221)
- 8) Wastewater Trunk Line Construction Fund(1231)
- 9) Sewer Connection Fund (1232)
- 10) Transportation Impact Fund (1241)
- 11) Waterways Fund (1251)
- 12) Northeast Capital Improvement Fund (1711)

The purpose of the report is to assure that all impact fees are being expended in accordance with their planned use. If more funds are collected than needed, fees should be returned or the plan revised.

The Public Facility - Civic Center, Public Facility - Corporation Yard, and the Public Facility – Library Funds are relatively new funds and FY 07/08 is the third entire year of collecting impact fees.

All Impact Funds are in compliance with the State Law, as shown below in Table 1 – Impact Fund Summary. Table 1 is a summary of all the Impact Funds and shows the future revenue required in each fund to pay for both current projects and those included in the Capital Budget plan through 2013/14. With the exception of the Public Facilities - Civic Center and Corporation Yard Funds, all cash in the Impact Funds is committed to capital projects.

Civic Center-Public Facility Fees: Funding for the environmental Impact Report (EIR) for the Civic Center project was provided in the 2008/09 CIP Budget. This will be the first step towards a new Civic Center to be located near the currently proposed public safety building in the East Downtown area.

Corporation Yard-Public Facilities Fees: The purchase of the remaining Edison property (adjacent to the existing Corporation Yard) was included in the 2008/09 CIP budget for the General Fund, Transit, and the Solid Waste funds. At the time this purchase is made, the portion to be paid by the Corp Yard impact fee will be determined.

Both the Civic Center and Corporation Yard projects will receive a significant portion of their funding from sources other than impact fees. Current economic conditions will require the City to evaluate the funding that will be available for these projects before they move forward. As a result, the Civic Center and Corporation Yard projects are currently on hold at least until completion of the City's 2008/09 mid-year budget review.

The Sewer Connection Fund does not show any capital improvement needs; however, the sewer connection impact fees are repaying a loan from the Wastewater Operations Fund for prior year capital improvements. The balance remaining on the loan from the Wastewater Operations Fund as of June 30, 2008 is \$2,709,045. In addition to the loan, the Sewer Connection Fund has an outstanding bond of \$2,911,645. The loan and bond represent the Sewer Connection Funds portion of the 2001 Wastewater Treatment Plant (WWTP) expansion.

Table 1 – Impact Fund Summary (\$ in thousands)

Fund	Beg. Cash Balance 7/1/06	Total Revenue	Total Expenses	Ending Cash Balance 6/30/07	Projects Approp. 6/30/07	Ending Resources Available	Bond/ Internal Loan/ Dev Loan Balances	Future Projects 2008/09 - 2009/10	Future Required Revenue
Public Facility - Civic Center Impact Fund	\$1,632	\$863	(\$1)	\$2,494	\$0	\$2,494	\$0	(\$75)	N/A
Public Facility - Corporation Yard Impact Fund	242	140	(0)	382	0	382	0	0	N/A
Public Facility - Library Impact Fund	138	54	(250)	(58)	(250)	(308)	0	0	308
Police Impact Fund	(1,298)	921	(498)	(875)	(1,750)	(2,625)	0	0	2,625
Fire Impact Fund	1,253	623	(893)	984	(4,960)	(3,976)	0	(198)	4,174
Park & Recreation Facilities Fund	9,325	2,870	(1,334)	10,860	(4,598)	6,262	0	(22,904)	16,642
Storm Sewer Construction Fund	3,098	1,206	(2,100)	2,204	(2,353)	(149)	0	(7,130)	7,279
Wastewater Trunk Line Construction Fund	4,839	1,603	(721)	5,721	(5,645)	76	(1,569)	(9,505)	10,998
Sewer Connection Fund	11	932	(952)	(8)	0	(8)	(5,621)	0	5,629
Transportation Impact Fund	(1,559)	13,887	(5,079)	7,250	(2,799)	4,451	(1,459)	(45,949)	42,957
Waterways Fund	1,075	992	(528)	1,539	(1,611)	(72)	0	(4,040)	4,112
Northeast Capital Improvement Fund	326	118	(213)	231	(203)	28	0	(247)	219
Total	\$19,083	\$24,208	(\$12,568)	\$30,723	(\$24,169)	\$6,554	(\$8,649)	(\$90,048)	\$94,943

The Impact Fee Report shows an amount for future projects. This future project amount is taken from the 6 Year Capital Plan that was adopted with the City's 2 Year Budget in June 2008.

In accordance with Government Code section 66006(b)(2), a copy of the 2007-08 Impact Fee Report was provided to the following interested party:

Mr. Robert Keenan of the Home Builders Association (HBA).

Summary/background:

Prior Council/Board Actions: Approval of the various Impact Fees and the 2008-2010 C.I.P. Budget.

Committee/Commission Review and Actions:

Alternatives:

Attachments: 2007-08 Impact Fee Report

Recommended Motion (and Alternative Motions if expected):

I move the City Council receive and file the 2007-08 Impact fee Report as required by Government Code Section 66006 (a) and (b).

Environmental Assessment Status

CEQA Review:

NEPA Review:

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*)

This document last revised: 01/02/2009

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**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 8d

Agenda Item Wording: Authorization to bid Riverway Sports Park Phase 2 (Project No. 3011-720000-0-0-8029) without the requirement to pay established State and Federal Prevailing Wages pursuant to Resolution No. 83-02.

Deadline for Action: N / A

Submitting Department: Park and Recreation Department

Contact Name and Phone Number: Vincent Elizondo, Director of Parks & Recreation Department, 713-4367

Department Recommendation:

City staff recommends that authorization be given to advertise the construction of Phase 2 of the Riverway Sports Park without the requirement for the payment of established State and Federal Prevailing Wage Rates. Staff has determined that this project is of local concern and, pursuant to Resolution No. 83-02, a prevailing wage rate will not be specified for this project.

Background and Summary:

Construction drawings and bid specification are completed for the Riverway Sports Park, Phase 2. This phase will include the development of a four field lighted youth baseball complex with a concession & restroom building, paved parking for an additional 252 vehicles and the installation of field lighting for two existing soccer fields and the BMX track.

The estimated cost for the Phase 2 improvements including design, impact fees, construction management and administration, utilities, and contingencies is approximately \$6 Million. The HLA Group has used the best information available in developing this estimate. Currently there is a ten-percent contingency of \$400,000 included in the estimate.

The project is funded from local revenues and will not use state or federal funds in the second phase. Funding sources include the general fund reserve and park development impact fees. Funding of \$5,825,000 has been approved in the 2008-09 Capital Improvement Projects Program.

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.): _____

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Prior Council/Board Actions: On June 18, 2007, the Council authorized staff to proceed with construction documents for phase 2 of the Visalia Riverway Sports Park.

Committee/Commission Review and Actions:

Alternatives:

Attachments: Phase 2 Park Map

Recommended Motion (and Alternative Motions if expected): Move to authorize the Riverway Sports Park Phase 2 (No. 3011-720000-0-0-8029) to be bid without the requirement to pay established State and Federal Prevailing Wages pursuant to Resolution No. 83-02.

Environmental Assessment Status

CEQA Review: Mitigated Negative Declaration No. 2003-81

NEPA Review: N /A

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)*

Copies of this report have been provided to:

Plan Legend

- A. Lighted BMX Track
- B. Lighted Soccer Field (210' x 330')
- C. Lighted Softball Diamond Complex
- D. Lighted Youth Baseball Diamond Complex
- E. Accessible Creative Play
- F. Interactive Children's Water Feature
- G. Community Center / Gym
- H. Events Courtyard
- I. Group Picnic Area
- J. Multi-Use Open Space
- K. Informal Picnic Area
- L. Multi-Use Path with Security Lighting
- M. Future Connection to St. John's River Parkway
- N. Park Entry Monumentation and Signage
- O. Park Access Road
- P. Plaza Drop Off
- Q. Parking
- R. Concession / Storage / Restroom Building
- S. Maintenance Facility
- T. Public Transit Stop



The HA Group, Inc. and/or Architects & Planners, Inc.
1202 Seventh Street, Suite 2007, Sacramento, California 95814

Visalia Riverway Sports P
Revised Master Plan
Visalia, California

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 8e

Agenda Item Wording: Authorization for the City Manager to accept and appropriate a grant award for \$27,250.00 from the Office of Homeland Security, Homeland Security Grant Program.

Deadline for Action: January 5, 2009

Submitting Department: Police

Contact Name and Phone Number: Stacy Handley, ext. 4175,
Chuck Hindenburg, ext. 4250

Department Recommendation: It is recommended that the City Council authorize the City Manager to accept and appropriate a grant award for \$27,250.00 from the Office of Homeland Security, Homeland Security Grant Program; and to approve the expenditure of the Homeland Security Grant Program funds for the purchase of two (2) interoperable base radio consoles and associated licenses and equipment for the Communications Center.

Summary/background: The County of Tulare applied for and received a grant from the Office of Homeland Security, Homeland Security Grant Program. The following equipment purchase for the Visalia Police Department was approved.

As the population in the City of Visalia continues to increase, so do the calls for service and amount of radio traffic. In order to accommodate this increase it is necessary to expand the Dispatch Center by adding two call taking/dispatch stations which will allow the dispatch staff to grow to a level that will support the higher demands. The Department is currently in the process of upgrading the 9-1-1 system to a digital system that will provide interoperability between agencies and is consistent with the system that Tulare County Fire and Tulare County Sheriff's Department is utilizing. The addition of radio equipment will enhance the interoperability and provide a full functioning system.

The Homeland Security Grant award will fund 100% of the purchases price with no matching funds required.

Prior Council/Board Actions: N/A

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.): 1

Review:

Dept. Head _____

Finance _____

City Atty N/A
(Initials & date required or N/A)

City Mgr _____

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Committee/Commission Review and Actions: N/A

Alternatives: Refuse the designated grant money.

Attachments: Letter from County of Tulare Health & Human Services Agency announcing the approval of the grant for the Visalia Police Department.

Recommended Motion (and Alternative Motions if expected): I move that the City Council authorize the City Manager to accept and appropriate a grant award for \$27,250.00 from the Office of Homeland Security, Homeland Security Grant Program for Communications base radio consoles and associated licenses and equipment

Environmental Assessment Status

CEQA Review:

NEPA Review:

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.)

Copies of this report have been provided to:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 8f

Agenda Item Wording: Appointment of City Council representatives to the Special City Selection Committee of the San Joaquin Valley Air Pollution Control District.

Deadline for Action: January 15, 2009

Submitting Department: Administration

Contact Name and Phone Number: Jesus Gamboa, Mayor

Department Recommendation

It is recommended that the Visalia City Council appoint Mayor Jesus Gamboa to the San Joaquin Valley Air Pollution Control District's Special City Selection Committee and Council Member Greg Collins to serve as an alternate.

Department Discussion

SB 1548, effective January 1, 2009, creates Section 40600.5 of the Health and Safety Code establishing a valley-wide Special City Selection Committee charged with making appointments of city representatives to the San Joaquin Valley Air Pollution Control District's Governing Board. The Special City Selection Committee consists of one member of the council of each city located within the District.

The District Governing Board of the San Joaquin Valley Air Pollution Control District consists of 15 members with five of those members being elected city council representatives. Three of the city seats are currently vacant and a fourth seat will be vacated at the end of the year.

The Special City Selection Committee will begin meeting in January 2009 to establish rules and procedures for the process of filling the vacancies on the District Governing Board.

Cities are to forward their appointments and contact information to the SJVAPCD no later than January 15, 2009.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: N/A

Alternatives:

Attachments: None

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.): _____

Review:

Dept. Head

Finance

City Atty

City Mgr

Recommended Motion (and Alternative Motions if expected):

I move to appoint Mayor Jesus Gamboa to the Special City Selection Committee of the San Joaquin Valley Air Pollution Control District and Council Member Greg Collins to serve as alternate.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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)*

City of Visalia Agenda Item Transmittal

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 8g

Agenda Item Wording: Authorization to submit a grant application in the amount of \$119,264 to the Governor's Office of Homeland Security for lighting equipment at the Visalia City Coach bus stops. **Resolution No. 2009-01 required.**

Deadline for Action: January 5, 2009.

Submitting Department: Administration – Transit Division

Contact Name and Phone Number:
Monty Cox 713-4591

Department Recommendation: Authorization to submit a grant application in the amount of \$119,264 to the Governor's Office of Homeland Security for lighting equipment at the Visalia City Coach bus stops.

Summary/background: The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by voters as Prop 1B on November 7, 2006, includes just under \$20 billion for various programs such as Corridor Improvement, State Route 99, Ports, School bus, State Highways, Infrastructure, Safety and Security, Seismic Retrofit, Railroad Crossing, Local Streets and Roads, and a program of funding in the amount of \$1 Billion to be made available for Transit System Safety, Security and Disaster Response Account. The City of Visalia's allocation is \$119,264 for fiscal year 2008-2009 and must be expended within three years after award.

The Transit Division is requesting authorization to submit an application to the Governor's Office of Homeland Security through the California Transit Security Grant Program (CTSGP). The grant program is part of the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond (Prop 1B) to provide funding for transit system safety & security projects.

If awarded the grant funds will be used to purchase bus shelters and solar lighting to install at our busiest bus stops. This has become necessary as our hours of operation have expanded into the evening and we have customers waiting in the dark in many locations. Currently there are two types of solar lighting available, one that attaches to the shelter and one that is mounted on a pole for stops that do not have a shelter.

The solar lighting, positioned at bus stops, will protect passengers by deterring crime and making customers feel safer riding the bus. It will also reduce or eliminate vandalism and

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.): 1

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

increase the life of existing bus stop equipment. Providing safety measures to passengers potentially can increase ridership. This grant opportunity is part of a continuous effort to secure our transit infrastructure.

The Transit Division applied for and was awarded \$154,456 in funds to purchase solar lighting and bus shelters last fiscal year 2007-2008. Fifteen (15) bus shelters with solar lighting were purchased and an estimated 10 stand alone solar lights will be purchased with the funds received.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: None

Alternatives: None

Attachments: Resolution No. 2009-01

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move that the City Council authorize staff to submit a grant application in the amount of \$119,264 to the Governor's Office of Homeland Security for lighting equipment at the Visalia City Coach bus stops. **Resolution No. 2009-01 required.**

Financial Impact

Funding Source:

Account Number:

Budget Recap:

Total Estimated cost:	\$ 0	New Revenue:	\$ 0
Amount Budgeted:	\$ 0	Lost Revenue:	\$
New funding required:	\$ 0	New Personnel:	\$
Council Policy Change:	Yes_____ No <u>X</u>		

Environmental Assessment Status

CEQA Review:

Required? No
Review and Action: Prior:
Require:

NEPA Review:

Required? No
Review and Action: Prior:
Require:

Tracking Information: *Record a Notice of Completion with the County Recorder*

Copies of this report have been provided to:

RESOLUTION NO. 2009-01

A resolution of the City Council of the City of Visalia authorizing the Transit Division to accept a grant from the Governor's Office of Homeland Security for lighting equipment at the Visalia City Coach bus stops.

WHEREAS, the Governor's Office of Homeland Security awarded a grant to the City of Visalia, FY08-09 Prop.1B-6161-0002; and

WHEREAS, the Governor's Office of Homeland Security is administering these funds in the State of California; and

WHEREAS, the City of Visalia was named in the Governor's Office of Homeland Security as the subawardee for the purchase of capital projects within the grant guidelines; and

NOW, THEREFORE, BE IT RESOLVED, that the City Manager, or his/her designee, is hereby authorized and empowered to execute in the name of the City of Visalia an agreement with the Governor's Office of Homeland Security and all other necessary documents to implement and carry out the purposes of this resolution.

Passed, approved, and adopted this _____ day of _____, 20__.

Signatures of Governing Body Members:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 8h

Agenda Item Wording: Request authorization to file a Notice of Completion for project No. 4511-00000-720000-0-9399, the second floor tenant improvements located at the Transit Center 425 E. Oak.

Deadline for Action: January 5, 2009

Submitting Department: Administration Department – Transit Division

Contact Name and Phone Number: Monty Cox, X4591

Department Recommendation

It is recommended that Council authorize staff to file a Notice of Completion for project No. 4511-00000-720000-0-9399 for the second floor tenant improvements located at the Transit Center at 425 E. Oak.

Summary

The second floor tenant improvements were completed on November 26, 2008. All the work has been completed on this project by the contractor, LRG Construction, at a final cost of \$76,523.44. The contract amount for this job was \$74,198.44.

There was one change order for additional work on the third floor and minor additions to the second floor. The change order totaled \$2,325 or 3% of the original contract.

Discussion:

The second floor tenant improvements were part of the original design and concept for the Transit Center. The tenant improvements were constructed on time and within the federal funding available (remaining from the Federal Transit Administration Transit Center construction grant). The following is a summary of the change orders:

- | | | |
|----|---|------------|
| 1) | Remove double door opening on 3 rd floor | \$1,485.00 |
| 2) | Chair rail, stained & installed | \$ 375.00 |

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.): _____

Review:

**Dept. Head
(Initials & date required)**

**Finance _____
City Atty _____
(Initials & date required
or N/A)**

**City Mgr _____
(Initials Required)**

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3) Move thermostat, 3 plugs & 3 data boxes	<u>\$ 465.00</u>
Total	\$2,325.00

Prior Council/Board Actions: None

Committee/Commission Review and Actions: None

Alternatives: None

Attachments: None

Recommended Motion (and Alternative Motions if expected):

I move to authorize staff to file a Notice of Completion for project No. 4511-00000-720000-0-9399, the second floor tenant improvements located at the Transit Center.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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)*

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 8i

Agenda Item Wording: Repeal of Ordinance 2002-27 and first reading of replacement Ordinance 2009-01 authorizing a correctory grant deed to the County of Tulare for the land at the Tulare County Library

Deadline for Action: N/A

Submitting Department: Administration

Contact Name and Phone Number: Leslie Caviglia, 713-4317

Department Recommendation

It is recommended that the City Council repeal Ordinance 2002-27 authorizing a correctory grant deed for the property beneath the Tulare County Library, and replace it with Ordinance 2009-01 which convene the land to Tulare County to correspond with the land underneath the remodeled library.

Department Discussion

In 1976, the City of Visalia conveyed the property beneath the Tulare County library to the County as part of an agreement to consolidate the Visalia City Library with the Tulare County Library system.

As part of the library expansion and remodel project, in 2002, the City Council adopted an ordinance authorizing the city manager to execute an agreement with the County of Tulare to donate approximately 3,109 sq. ft. of City-owned land to Tulare County for the expansion of the Tulare County Library. The County needed the City to take this action in order to qualify for grant funding for the remodel of the Library.

As part of that process, it was determined that the original grant deed was inaccurate and did not include the land under a portion of the library facilities. In December of 2002, a correctory grant deed was issued in order to comply with the requirements of the grant. However, the land description was based on preliminary plans. Now that the project is completed, the grant deed needs to be correct to correctly define the land now occupied by the Tulare County Library.

Staff recommends that the City Council hold the first reading for Ordinance 2009-01 authorizing the city manager to execute a correctory grant deed to amend and correct the legal description for the property granted from the City of Visalia to the County of Tulare for the Tulare County Library.

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.): _____

Review:

Dept. Head LBC 121708

Finance

City Atty

City Mgr

Prior Council/Board Actions:

December, 2002 – Authorized correctory grant deed

June, 2002 – Authorized an agreement with the County to donate the land under the expanded library

1976- Conveyed the land under the Tulare County Library to the County

Committee/Commission Review and Actions: N/A

Alternatives:

Attachments:

Ordinance 2009- w/exhibit “A” and “B”

Recommended Motion (and Alternative Motions if expected):

I move to approve the repeal of Ordinance 2002-27 and the first reading of Ordinance 2009-01 authorizing a correctory grant deed to the County of Tulare for the Tulare County Library in Visalia.

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)*

Ordinance No. 2009-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA AUTHORIZING THE EXECUTION OF A CORRECTORY GRANT DEED TO THE COUNTY OF TULARE FOR THE TULARE COUNTY LIBRARY IN VISALIA

WHEREAS in 1975 the City of Visalia entered into an agreement with the County of Tulare to consolidate the Visalia City Library with the Tulare County Library system; and,

WHEREAS said agreement required the City to transfer ownership of the property beneath the existing City Library building and property for the construction of the then contemplated library expansion project; and,

WHEREAS in May, 1976 the Visalia City Council adopted Resolution No. 1570 transferring, as required by contract with Tulare County, all buildings, new and used, to the County that have to do with the new consolidated library; and,

WHEREAS in August, 1976 the Visalia City Council adopted Resolution No. 1603 authorizing the Mayor and City Clerk to execute, on behalf of the City of Visalia, a Grant Deed to transfer real property to Tulare County for the library project and that said property is to be used for library purposes only; and,

WHEREAS in June, 2002, the Visalia City Council adopted Ordinance No. 2002-14 authorizing the City Manager to execute an agreement with the County of Tulare to donate approximately 3,109 sq. ft. of City-owned land to Tulare County for the expansion of the Tulare County Library; and,

WHEREAS in December, 2002 the Visalia City Council adopted Ordinance No. 2002-27 authorizing the City Manager to execute a correctory grant deed to amend and correct the legal description for the property granted from the City of Visalia to the County of Tulare for the Tulare County Library; and,

WHEREAS now that the expansion of the library is complete and the actual footprint of the expanded facility has been accurately documented; and,

WHEREAS City of Visalia Charter Article VI, Section 16, Sale and Lease of City Property, states "No sale of real estate shall be authorized by the Council except by ordinance passed by the affirmative vote of four-fifths of all the members and no lease shall be made for a period of longer than five years, except by ordinance adopted by the Council"; and,

WHEREAS it is the City Council's desire to take an action to convey the property to the County in accordance with the 2002 agreement.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Visalia as follows:

Section 1. The Visalia City Council repeals Ordinance 2002-27, an ordinance of the City Council of the City of Visalia authorizing the execution of a correctory grant deed to the County of Tulare for the Tulare County Library in Visalia.

Section 2. The City manager for the City of Visalia is hereby authorized to execute a correctory grant deed containing the legal description identified as Exhibit "A" attached, and as displayed in the map included as Exhibit "B", granting to the County of Tulare property for Tulare County Library in Visalia.

Section 3. This Ordinance shall go into effect thirty (30) days after passage thereof.

Section 4. A summary of this Ordinance shall be published once in the *Visalia Times-Delta*, a newspaper of general circulation in the City of Visalia

PASSED AND ADOPTED:

City of Visalia Agenda Item Transmittal

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 8j

Agenda Item Wording: Authorize the City Manager to execute a Joint Use Agreement (REL07184313-J.O. 2994) between Southern California Edison Company (SCE) and the City of Visalia for the relocation of SCE facilities on the north side of Riggin Avenue between Dinuba Blvd. and Giddings Street.

Deadline for Action: N/A

Submitting Department: Community Development Department

Contact Name and Phone Number:

Chris Young, Assistant Public Works Director 713-4392
Ken McSheehy, Associate Engineer 713-4447

Department Recommendation: Staff recommends that the City Council authorizes the City Manager to execute the Joint Use Agreement with the Southern California Edison Company (SCE) for the relocation of facilities on the north side of Riggin between Dinuba Blvd. and Giddings Street.

Summary/background: The Orchard Walk project was required to complete the full widening of Riggin Avenue across the frontage of the project and a tapered transition across the adjacent property. The widening occurred on the north side of the street. The widening required the relocation of six power poles. Prior to relocation, these facilities were located in an existing SCE easement that was executed on June 11, 1948. The widening provides four travel lanes and a tapered transition for this segment of Riggin Avenue.

The City acquired the additional right-of-way on the north side of Riggin Avenue for the street widening. The relocated power poles are within this additional right-of-way, but outside the existing SCE easement. In order for SCE to keep the "prior rights" that the existing easement affords them, the City is establishing a strip of land for joint use of the public right-of-way. In the future, if any rearrangement, relocation, reconstruction or removals of these SCE facilities are necessary, the City will be responsible for the costs of such work. SCE will consent to the construction, reconstruction, maintenance or use by the City of a street over, along and upon the SCE easement.

Prior Council/Board Actions: N/A

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.): 1

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Committee/Commission Review and Actions: N/A

Alternatives: None recommended. The Existing power poles were located in an existing SCE easement and they have been moved to allow the street widening.

Attachments: Location Map, Joint Use Agreement

Recommended Motion (and Alternative Motions if expected): Move to authorize the City Manager to execute a Joint Use Agreement (REL07184313 – JO 2994) between Southern California Edison and the City of Visalia for the relocation of facilities on the north side of Riggins between Dinuba Blvd. and Giddings Street.

Environmental Assessment Status

CEQA Review: Environmental finding completed for tentative subdivision map.

NEPA Review:

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)*

Copies of this report have been provided to:

City of Visalia Agenda Item Transmittal

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 8k

Agenda Item Wording: Second reading of the Substandard Housing Inspection Program Ordinance and 3 related text amendments to existing codes.

Deadline for Action: None

Submitting Department: Housing and Economic Development

Contact Name and Phone Number:

Ricardo Noguera, Housing & Economic Dev Director 713-4190
Tim Burns, Neighborhood Preservation Manager 713-4172
Alex Peltzer, City Attorney 636-0200

Summary/background:

At the regularly scheduled City Council meeting December 15, 2008 Council accepted staff recommendations and unanimously approved the introduction of Ordinance 2008-15, the Substandard Housing Inspection Program Ordinance and Council authorized 3 associated Municipal Code text amendments.

Based on Council's approval the ordinance was scheduled to be presented to Council on January 5, 2009 for final adoption, along with any changes as directed by the Council.

Suggested Visalia Municipal Code Text Amendments

Staff is requesting that Council affirm their approval of the proposed ordinance and three text amendments to the City's Municipal Code by approving the second reading of the proposed ordinance and text amendments.

The existing sections of the Visalia Municipal Code provides that an owner, after failing to abate nuisances, as defined in the code, shall be subject to required inspections for a 3 year period for the subject property.

By adopting a new ordinance, utilizing existing codes and amending other codes flagrant repeat and uncooperative owners of vacant and substandard residential properties will be required to have their substandard properties inspected annually at their expense for a minimum of 3 years.

To reinforce existing code, staff recommends that the mandatory inspection provisions be expanded to include instances where a nuisance has been declared twice or more in two calendar years, regardless of

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.): _____

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

whether there was a failure to abate the nuisance. Staff further recommends that mandatory inspections be available as a remedy for rental properties for which structurally unsound conditions are identified.

Proposed Ordinance and Text Amendments:

To institute these changes, the City Attorney’s office has prepared the attached proposed Ordinance 2008-15, making the following text amendments to the Visalia Municipal Code:

- Visalia Municipal Code Section 15.44.160 (A) (4) is added to include text requiring mandatory inspections for 3 years at the property owner’s expense for properties identified with a major substandard housing violation(s) caused as a result of deferred maintenance or neglect (dangerous electrical, inadequate sewage disposal, inadequate heating system, lack of smoke detector).
- Amend Visalia Municipal Code Section 15.44.160 (A) (2) to require mandatory inspections for 3 years at the property owner’s expense for properties identified as habitually non compliant (a second substandard housing violation).
- Amend Visalia Municipal Code Section 15.44.050 (A) and (B) to comply with the specific administrative appeal requirements contained in Chapter 1.13. Section 15.44.050 does not contain the specific language required to proceed with a hearing that is required by section 1.13.080.
- Amend Visalia Municipal Code Section 8.40.060 (D) to comply with the requirements of Visalia Municipal Code Section 1.13.060 (B) which details the noticing process.

Prior Council/Board Actions:

- On January 25, 2008, at the Council Retreat; Council directed staff to investigate the establishment of a Residential Rental Inspection Program.
- On December 15, 2008 Council authorized the introduction of Ordinance 2008-15 and 3 associated text amendments.

Committee/Commission Review and Actions: None

Alternatives: Conduct business as usual utilizing existing tools.

Attachments:

1. Proposed Ordinance 2008-15

Recommended Motion (and Alternative Motions if expected):

- Approve Ordinance 2008-15 making text amendments to the Visalia Municipal Code to increase the applicability of mandatory three year inspections for substandard properties, clarify enforcement capabilities and provide for continuity in the appeal process involving different Visalia Municipal Code Titles

--

Environmental Assessment Status

CEQA Review: N/A

NEPA Review:

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)*

Copies of this report have been provided to:

ATTACHMENT #1

ORDINANCE NUMBER 2008 -- _____

AMENDING SECTION 8.40.060, SECTION 15.44.050, SECTION 15.44.070 AND SECTION 15.44.160 OF THE VISALIA MUNICIPAL CODE REVISING CODE ENFORCEMENT INSPECTIONS AND VIOLATION NOTICES

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA

Section 1: Consistent with its control over municipal affairs and the powers vested in the City of Visalia through the California Constitution, the City of Visalia is authorized to secure and promote the public health, comfort, safety and welfare of its citizenry by requiring the maintenance of property or premises within the City. Therefore, the City Council of the City of Visalia recommends the following revisions to the Municipal Code.

Section 2: Section 8.40.060 of the Visalia Municipal Code is hereby repealed and replaced with the following amended Section 8.40.060as follows:

8.40.060 Declaration of public nuisance; issuance of administrative enforcement order.

A. Right to inspect. The enforcement officer shall have the right to inspect premises pursuant to this code and other applicable laws. Such inspection shall be performed to secure compliance with or prevent the violation of this code or other uniform codes adopted thereunder. Such inspection may be made in the following circumstances:

1. The enforcement officer may inspect a residential unit upon receiving a complaint regarding public nuisance or substandard building conditions from any person upon the premises, who has viewed the premises or who has reason to believe that such conditions exist;
2. The enforcement officer may inspect a premises which he/she reasonably believes fails to meet the requirements of this code or other uniform codes adopted hereunder;
3. The owner, after failing to abate nuisance(s) as defined in this chapter, shall be subject to required annual inspections for a three year period for the subject property.

B. Reimbursement Of Inspection Costs. Costs of inspections pursuant to this chapter shall be determined pursuant to Section 15.44.100 of this chapter, and unless otherwise provided, shall be paid by the owner of the residential unit. Provided, that costs of inspections initiated by tenant complaint shall be paid by the tenant, unless the enforcement officer determines that the public nuisance or a substandard building exists pursuant to the state housing law justifying the complaint exists, in which case the cost shall be paid by the owner.

C. Management Quality Standards. Management quality standards justifying an inspection are:

1. For an individual residential unit, more than six police and/or fire calls over a one year period (other than a medical emergency);
2. For a complex containing between two and four residential units, more than a monthly average of one police and/or fire call per unit over a six month period (other than a medical emergency);
3. For a complex containing more than four residential units, more than a monthly average of .20 police and/or fire calls per unit over a six month period (other than a medical emergency);

4. Any violation of this chapter or the continued presence of graffiti for more than a two week period;
5. Any determination by the health officer that a pest vector is present;
6. Any violation of the Uniform Building Code or Uniform Housing Code relating to maximum occupancy or health and safety standards.

D. The administrative enforcement order required pursuant to this Section shall contain those elements set forth in Section 1.13.060 (B) of this Municipal Code, and shall be substantially in the following form:

TO THE PROPERTY OWNER:

Property Address:

Property Owner's Address (if different) _____

NOTICE IS HEREBY GIVEN, that on the _____ day of _____, 2____, pursuant to Chapter 8.40 of the Municipal Code of the City of Visalia, an Enforcement Officer of the City of Visalia declares that the following conditions set forth in Chapter 8.40 of said Municipal Code constitute a public nuisance and that such nuisance must be abated by the repair, rehabilitation, demolition or removal of said conditions: [description of conditions constituting a nuisance in violation of this Chapter].

Restructure, repair, or removal of said conditions must be completed and maintained by the _____ day of _____, 2____, in accordance with the standards of the current codes as adopted by the City of Visalia or other standards as determined by the Enforcement Officer.

Failure to abate said conditions by the date specified above shall result in the City acquiring jurisdiction to abate the conditions at the owner's expense and in addition, an administrative penalty in the amount of _____ may be incurred.

All property owners who wish to object to the proposed abatement of the conditions cited in this notice are hereby notified that they have the right to request and Administrative hearing before a hearing officer pursuant to the provisions of Chapter 1.13 [Provide contact information]. Sufficient cause must be shown why said conditions should not be abated.

At the time the appeal is filed, an appeal fee is due and payable to the City of Visalia, and a deposit of the administrative penalty must be made, or evidence must be provided that a request for a hardship waiver has been filed with the City of Visalia finance division. All appeals must be made in writing and comply with Section 1.13.080 of the Visalia Municipal Code. If the property owner or responsible party fails to request an appeal before the date specified above, then the administrative order shall become final.

The responsible person or the property owner upon whom this administrative enforcement order has been imposed may seek review of the order pursuant to California Code of Civil Procedure Section 1094.4 and 1094.6. There are no appeals to the Visalia City Council excluding the separate review of the City costs to abate the nuisance, if any.

Section 3: Section 15.440.050 of the Visalia Municipal Code is hereby repealed and replaced with the following amended Section 15.440.050:

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15.44.050 Notice of public nuisance.

A. The enforcement officer is authorized and directed to declare, through an administrative enforcement order issued pursuant to Chapter 1.13 of this Municipal Code or through such other process as may be authorized by law, that the existence of any of the conditions set forth in Section 15.44.010 or in the definition of "Public Nuisance" contained in Section 155.44.020 constitute a public nuisance and direct the responsible person to abate any such conditions set forth in Section 15.44.010 which may exist on said person's property at his or her expense. The responsible person may appear before the enforcement officer for a hearing at an arranged time and place to show cause why such conditions should not be abated by the city at such person's expense.

B. B. Notice of an administrative enforcement order issued pursuant to this Chapter shall be made in the time and in the manner as set forth in Chapter 1.13 of the Municipal Code. Such notice shall, in addition those elements set forth in Section 1.13.060 (B) of this Municipal Code, include the following:

:

NOTICE IS HEREBY GIVEN, that on the ____ (date) pursuant to Section 15.44.010 of the Municipal Code of the City of Visalia, the City Planner and/or Enforcement Officer of the City of Visalia declares that the following conditions exist on said property which are in violation of Section 15.44.010 of the Municipal Code. Said conditions constitute a public nuisance and such nuisance must be abated by the repair, rehabilitation, demolition or removal of said conditions within thirty (30) days of the date first noted above:

Conditions to be Abated in Violation of Section 15.44.010:

Restructure, repair or removal of said conditions must be completed and maintained by the _____ day of _____, _____ as approved by the enforcement officer.

Failure to abate said conditions by the date specified above shall result in the City acquiring jurisdiction to abate the conditions at the owner's expense pursuant to Section 15.44.050 of the Visalia Municipal Code and additional administrative penalties may be incurred.

All property owners or responsible persons who wish to object to the proposed abatement of the conditions cited in this notice are hereby notified that they have the right to attend an appeal hearing as set forth elsewhere herein.

Any costs incurred for such abatement, including but not limited to relocation of displaced tenants, storage of materials and supplies, attorney's fees, inspection fees, administrative costs, and other related costs, will constitute a special assessment on the property. The cost of abating such

nuisance shall include a per parcel charge to cover the costs of administering this Article.

MUNICIPAL CODE SECTION 15.44.110 PROVIDES THAT AFTER THE ASSESSMENT IS MADE AND CONFIRMED; IT IS A LIEN ON THE PROPERTY.

Any property owner, or other responsible person, who, after notification by the Enforcement Officer, fails to abate a condition as set forth in Section 15.44.030 shall become liable for the expenses of persons involved in the abatement of said nuisance, including injury to City employees or contractors for work performed which is determined to have been caused by or attributed to said conditions. This shall also include necessary police assistance in the abatement of said nuisances. Such expenses shall become a lien on the property.

THE FAILURE OF ANY OWNER OR OTHER PERSON TO RECEIVE THIS NOTICE SHALL NOT AFFECT THE ENFORCEMENT OF THIS ORDINANCE.

A notice containing the above provisions shall satisfy the requirements of Municipal Code Section 15.44.060.

Section 4: Section 15.44.070 of the Visalia Municipal Code is amended to allow appeals pursuant to the administrative process in Chapter 1.13 and reads as follows:

15.44.070 Hearing.

The administrative enforcement officer's determination as set forth in an administrative enforcement order issued pursuant to Municipal Code Section 15.44.050 and Section 1.13.060 of the Municipal Code shall be subject to appeal only as provided in Chapter 1.13.

Section 5: Visalia Municipal Code Section 15.44.160 is hereby repealed and replaced with the following amended Section 15.44.160:

15.44.160 Enforcement of codes for rental and owner-occupied structures.

A. Right to Inspect. The enforcement officer shall have the right to inspect premises pursuant to this code and other applicable laws. Such inspection shall be performed to secure compliance with or prevent the violation of this code or other uniform codes adopted thereunder. Such inspection may be made in the following circumstances:

1. The enforcement officer may inspect a residential unit upon receiving a complaint regarding public nuisance or substandard building conditions from any person upon the premises, who has viewed the premises or who has reason to believe that such conditions exist;

2. The enforcement officer may inspect a premises which he/she reasonably believes fails to meet the requirements of this code or other uniform codes adopted hereunder. *In addition, if the enforcement officer identifies a property as habitually non-*

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compliant, meaning more than one notice of public nuisance being sent to it in a two-year period, then the enforcement officer may order mandatory annual inspections for three years as a condition in addition to abatement of the nuisance. The property owner or responsible person shall have the right to object to the mandatory inspections along with the proposed abatement through the appeal procedures listed in this Chapter. If the property owner is required to allow mandatory inspections, then the property owner may subsequently request in writing that the code enforcement officer determine that the mandatory inspection condition may be removed due to substantial changes in property. Substantial changes in the property include, but are not limited to, showing the property has been sold for valid consideration, demolished, or substantially renovated. The code enforcement officer's determination regarding substantial changes shall be considered an administrative enforcement order subject to appeal as provided in Chapter 1.13 of the Municipal Code. If the property owner is not required to abate the nuisance, no mandatory inspections may be ordered;

3. The owner, after failing to abate nuisance(s) as defined in this chapter, shall be subject to required annual inspections for a three year period for the subject property.

4. *If a rental or owner-occupied structure receives a notice identifying a public nuisance that qualifies as a structural hazard posing a danger to human health or safety, then the code enforcement officer may require the subject property be subject to annual inspections for a three-year period as a condition in addition to nuisance abatement. Examples of such structural hazards include those items described in California Health & Safety Code Section 17920.3(b), raw sewage, exposed wiring, no smoke detectors, no legitimate source of heat, or other similar types of public nuisances. The property owner or responsible person shall have the right to object to the mandatory inspections along with the proposed abatement through the appeal procedures described in this Chapter. If the property owner is required to allow mandatory inspections, then the property owner may subsequently request in writing that the code enforcement officer determine that the mandatory inspection condition may be removed due to substantial changes in property. Substantial changes in the property include, but are not limited to, showing the property has been sold for valid consideration, demolished, or substantially renovated. The code enforcement officer's determination regarding substantial changes shall be considered an administrative enforcement order subject to appeal as provided in Chapter 1.13 of the Municipal Code. If the property owner is not required to abate the nuisance, no mandatory inspections may be ordered;*

B. Reimbursement Of Inspection Costs. Costs of inspections pursuant to this chapter shall be determined pursuant to Section 15.44.100 of this chapter, and unless otherwise provided, shall be paid by the owner of the residential unit. Provided, that costs of inspections initiated by tenant complaint shall be paid by the tenant, unless the enforcement officer determines that the public nuisance or a substandard building exists pursuant to the state housing law justifying the complaint exists, in which case the cost shall be paid by the owner.

C. Management Quality Standards. Management quality standards justifying an inspection are:

1. For an individual residential unit, more than six police and/or fire calls over a one year period (other than a medical emergency);

2. For a complex containing between two and four residential units, more than a monthly average of one police and/or fire call per unit over a six month period (other than a medical emergency);
3. For a complex containing more than four residential units, more than a monthly average of .20 police and/or fire calls per unit over a six month period (other than a medical emergency);
4. Any violation of this chapter or the continued presence of graffiti for more than a two week period;
5. Any determination by the health officer that a pest vector is present;
6. Any violation of the Uniform Building Code or Uniform Housing Code relating to maximum occupancy or health and safety standards.

Section 6: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstances, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not effect the validity or enforceability of the remaining sections, subsections, subdivision, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Visalia hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 7: Construction. The City Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section 8: Effective Date. This Ordinance shall take effect thirty days after its adoption.

Section 9: Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED AND ADOPTED:

Jesus Gamboa, Mayor

ATTEST:

Steven M. Salomon, City Clerk

APPROVED AS TO FORM
BY CITY ATTORNEY:

Alex M. Peltzer, City Attorney

City of Visalia Agenda Item Transmittal

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 8I

Agenda Item Wording: Adopt Resolution No. 2009 - 03 approving the application for approximately \$311,400.00 of 2008-09 Environmental Enhancement and Mitigation (EEM) Program funds and authorize the City Manager to execute all documents related to the grant application.

Deadline for Action: Grant submission deadline – January 6, 2009.

Submitting Department: Parks and Recreation Department

Contact Name and Phone Number: Paul Shepard,
Management Analyst, 713-4209

Department Recommendation:

City staff recommends that the City Council adopt Resolution No. 2009 – 03 authorizing the application for Grant Funds in the amount of \$311,400.00 under the Environmental Enhancement and Mitigation Grant Program and authorize the City Manager to execute all documents related to the grant application.

Background Information:

City staff is requesting authorization to apply for grant funds to plant approximately 800 trees and 2,500 drought tolerant shrubs within the city right-of-way on various public streets. Planting sites shall include:

- Caldwell, west side of Lovers Lane
- Two medians on Lovers Lane north of Caldwell (Between K Road and Caldwell)
- Riggan Road from Highway 63 to St. Johns Parkway
- Downtown planters on Center St. from Bridge to Conyer

The grant proposal includes funds for project management, trees, drought tolerant shrubs, stakes, irrigation materials, and labor.

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.):_1__

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

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The project is a partnership with the Urban Tree Foundation and Community Services Education and Training (CSET), Tulare County Conservation Crop (TCC) and the City of Visalia. Brian Kempf of the Urban Tree Foundation will oversee the project and TCC will provide the labor to execute the project. As with past projects, volunteers will be enlisted to participate in the project.

The grant requires an 11% match and staff recommends that Street Division roadway project funds be used for the \$38,500 match.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives:

Attachments: Location map

Recommended Motion (and Alternative Motions if expected):

Adopt Resolution No. 2009 - 03 authorizing the submission of an application for grant funds in the amount of \$311,400 under the Environmental and Mitigation Grant Program and authorize the City Manager to execute all documents related to the grant application.

Environmental Assessment Status

CEQA Review: A Notice of Exemption has been completed for the project.

NEPA Review: N / A

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)*

Copies of this report have been provided to:

RESOLUTION 2009-03

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA
APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE
ENVIRONMENTAL ENHANCEMENT AND MITIGATION PROGRAM UNDER THE SECTION
164.56 OF THE STREETS AND HIGHWAYS CODE FOR THE FOLLOWING PROJECT: 2008-
09 EEM STREET TREE AND SHRUB PLANTING.

WHEREAS, the Legislature of the State of California has enacted AB 471 (Chapter 106 of the Statutes of 1989), which is intended to provide \$10 million annually for a period of 10 years for grant funds to local, state and federal agencies and nonprofit entities for projects to enhance and mitigate the environmental impacts of modified or new public transportation facilities; and

WHEREAS, the Resources Agency has established the procedures and criteria for reviewing grant proposals and is required to submit to the California Transportation Commission a list of recommended projects from which the grant recipients will be selected; and

WHEREAS, said procedures and criteria established by the Resources Agency require a resolution certifying the approval of application by the applicant's governing body before submission of said application to the State; and

WHEREAS, the application contains assurances that the applicant must comply with;
and

WHEREAS, the applicant, if selected, will enter into an agreement with the State of California to carry out the environmental enhancement and mitigation project;

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY OF VISALIA

1. Approves the filing of an application for the Environmental Enhancement and Mitigation Program for grant assistance.
2. Certifies that said applicant will make adequate provisions for operation and maintenance of the project.
3. Appoints Steve Salomon, City Manager as agent to conduct all negotiations, execute and submit all documents, including, but not limited to applications,

agreements, amendments, payment requests and so on, which may be necessary for the completion of the aforementioned project.

PASSED AND ADOPTED:

STEVEN M. SALOMON, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF TULARE) ss.
CITY OF VISALIA)

I, Steven M. Salomon, City Clerk of the City of Visalia, certify the foregoing is the full and true Resolution _____ passed and adopted by the Council of the City of Visalia at a regular meeting held on _____.

Dated:

STEVEN M. SALOMON, CITY CLERK

By Donjia Huffmon, Chief Deputy City Clerk

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 8m

Agenda Item Wording: Authorize the City Manager to enter into a professional services agreement with Swinerton Management and Consulting to provide construction management services for the construction of Phase 2 of the Riverway Sports Park.

Deadline for Action: N / A

Submitting Department: Parks & Recreation Department

Contact Name and Phone Number: Vince Elizondo, Director of Parks & Recreation, 713-4367

Department Recommendation:

Staff recommends that the Visalia City Council authorize the City Manager to enter into a professional services agreement with Swinerton Management and Consulting to provide construction management services for the construction of Phase 2 of the Riverway Sports Park. The fee for the services will be \$153,664. The project is scheduled to be awarded for construction on January 19, 2009. Construction cost is estimated to be \$4,400,000 and construction is expected to begin in February, 2009. The Project Number is 3011-00000-720000-0-8029.

Summary/background:

On June 18, 2007 the City Council authorized staff to develop the second phase of the Riverway Sports Park. The second phase of the Riverway Sports Park will include the development of a four field lighted youth baseball complex with a concession & restroom building, paved parking for an additional 252 vehicles and the installation of field lighting for two existing soccer fields and the BMX track. The project is currently being advertised for bidding.

Since 2005 the City has constructed several large projects including the Acequia Parking Structure, the Sports Park, and the Transit Maintenance Facility. Construction management firms were hired by the city to review plans and specifications, provide constructability reviews, conduct the bid process, and provide contract administration, coordination, planning, and contractor oversight. Construction managers also reviewed, tracked, and processed construction schedules, requests for information, submittals, potential change orders, and

For action by:

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

For placement on which agenda:

Work Session
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Regular Session:

Consent Calendar
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 Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

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potential claims. The project management firms were utilized to provide these specialized services where the size of the project and/or the lack of qualified city staff to oversee these projects made it necessary to retain a construction management service

In September 2008, the City Purchasing Department issued a Request for Proposals (RFP) for the Construction Management (CM) Services for Phase 2 of the Riverway Sports Park. Eleven firms submitted proposals; CM Construction Services (Visalia), Four Creeks (Visalia), Harris and Assoc. (Fresno), Hoffman and Assoc. (San Luis Obispo), McCuskey Group (Escondido), Parsons Brinckerhoff (Sacramento), Seals Biehle (Visalia), Quad Knopf (Visalia), SC Anderson (Bakersfield), Swinerton Management (Fresno), and TRS Consultants (Modesto). The proposals were rated by a committee of City staff that included Jim Bean, Parks and Recreation Manager, Adrian Rubalcaba, City Engineer, Cliff Ronk, City Project Manager, and Don Stone, City Project Manager.

Five firms, CM Construction, Harris and Assoc., Ouad Knopf, SC Anderson, and Swinerton were selected to interview by the rating panel, which also included Vince Elizondo, Parks and Recreation Director. The firms were judged on their qualifications, past performance of project team, and completeness of their proposal, and presentation. Swinerton Management & Consulting was ranked the highest by the panel. Their project team qualifications, experience with similar projects they have managed, and their access to experts in all aspects of construction were the factors that made them the panel's first choice.

Swinerton Management & Consulting is a division of Swinerton Inc. that has provided a full range of construction management services for clients throughout California since 1994. In addition Swinerton Inc. is a general contractor that builds large commercial, residential, and public projects throughout the western states. The firm has resources available to them on a regional basis that can provide cost estimating and scheduling, bonding, risk management and construction safety evaluation. The project team for this project is based out of their Fresno office and the firm will have an on-site office at the sports park site.

In their proposal, Swinerton emphasized their proactive approach to managing the project and their ability to deliver a project on time, on budget, and per plan. City staff conducted reference checks to substantiate these claims.

The Swinerton team recently completed a major project at California State University, Fresno, where the Swinerton project team served as the construction manager. They were the construction manager for a \$100 million addition and renovation to the campus library. The FSU project manager, Mr. Robert Boyd, had high praise for the performance of the Swinerton construction management team. He characterized the team as highly professional and knowledgeable. He also credited the team for their excellent safety record and completing the project on time and within budget.

Since 2002, San Mateo Community College District has used Swinerton Consulting to manage construction projects including the renovation and modernization of athletic facilities. City staff contacted Mr. Jose Nunez, Vice Chancellor of Facilities Planning and Operations regarding these projects. He stated that Swinerton has managed a wide-range of projects including upgrades to utilities and infrastructure, multi-million dollar building projects, and the renovation and improvement of athletic facilities. He praised the work of the Swinerton team and specifically Mr. John Baker for their knowledge of all aspects of construction. Swinerton continues to manage projects for the district.

Swinerton also has experience with athletic projects in the City of Fairfield with the new Multi Sports Complex; Canada College in Redwood City with the renovation of their athletic facilities; and Chabot College in Hayward with the renovation of their athletic facilities.

The proposed difference in fees from the top three ranked firms responding to the RFP was just over thirty-six percent (36%) with Swinerton being the lowest. The cost proposals for the three highest ranked firms are as follows:

#1 Swinerton	\$153,664
#2 CM Construction	\$172,500
#3 SC Anderson	\$210,000

Funding for the contract is part of the Phase 2 budget.

Prior Council/Board Actions:

On June 18, 2007, the Council authorized staff to proceed with construction documents for phase 2 of the Visalia Riverway Sports Park.

Committee/Commission Review and Actions: None

Alternatives: None

Attachments: Proposal Submitted by Swinerton Management & Consulting dated Nov. 7, 2008

Recommended Motion (and Alternative Motions if expected): I move to authorize the City Manager to enter into a professional services agreement with Swinerton Management and Consulting to provide construction management services for Phase 2 of the Riverway Sports Park for a fee of \$153,664.00.

Environmental Assessment Status

CEQA Review:
NEPA Review:

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)*

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 5th, 2009

Agenda Item Number (Assigned by City Clerk): 8n

Agenda Item Wording: Award Landscape Maintenance Contract For City of Visalia L & L Districts' A and B to Westscapes Incorporated, per specifications of RFB 08-09-20.

Deadline for Action: January 5th, 2009

Submitting Department: Parks and Recreation Department, Urban Forestry Division

Contact Name and Phone Number:

David Pendergraft, Parks & Urban Forestry Supervisor, 713-4295, Jim Bean, Parks & Urban Forestry Manager, 713-4564

Department Recommendation:

Staff recommends that Westscapes Incorporated be awarded two maintenance contracts for District A, 1,481,353 sq. ft. @ \$165,488.76 per year and District B, which has 1,106,151 sq. ft @ \$123,751.80 per year.

Background:

For the last year the Landscape and Lighting District for A and B has been maintained by Sacramento Weed and Growth Regulators. The contract for Sacramento Weed and Growth Regulators expires January 15th, 2009. Per the Cities Purchasing Policy, all contracts will be re-bid, because the contractor did not want to renew his contract for another year.

On November 12th, 2008 and November 17th, 2008 bids were solicited by advertising in the Visalia Times Delta and by mailing bid notices to contractors. In addition, the bid was also posted on Bid-Net and approximately 150 letters were sent out to various companies from Fresno to Bakersfield and in between.

Due to the large square footage, the work was split in to two options: Districts A and B. Eight contractors submitted bids as shown below.

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.): _____

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

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Bidders Name	District A	District B
Westscapes Incorporated	\$ 165,488.76 / yr	\$ 123,751.80/yr
Briner and Sons	\$ 179,929.48	\$ 128,860.08
EMTS	\$ 184,872.84	\$ 138,047.64
Mow and Edge Corp.	\$ 193,761.00	\$ 144,684.48
Primow Landscape	\$ 237,016.44	\$ 199,107.24
Able Industries	\$ 241,060.44	No Bid
Perfect Care	No Bid	\$ 182,618.64
Clean Cut Landscape	\$ 293,307.84	\$ 240,255.12

City staff has called the references listed and all were very positive with their level of work. Erin Bell, Westscapes Incorporated was the lowest most qualified bidder at \$165,488.76 per year for District A, a 34 acre contract. Westscapes Incorporated was also the low bidder on District B at \$123,751.80 per year a 25.39 acre contract. City staff requested a list of equipment and personnel and are satisfied the vendor has the equipment and man power to maintain two contracts at a total of 59.39 acres.

Annual price increase adjustments at time of renewal of contract are based on the Consumer Price Index. Cost for future additions to the project area (if necessary) will be calculated by multiplying the Contractor's Unit Price by the square footage of area being added to contract.

The contractual agreement is for a one-year period, but can be extended by the City for a period not-to-exceed five years providing satisfactory performance is provided by Westscape Incorporated. The services for this contract are budgeted in the Landscape and Lighting Fund (1513) and will not need a budget amendment.

Attachments:

- List of References for Westscapes Inc
- Bid Summary Sheets
- Location maps for landscape and Lighting Districts A and B

Recommended Motion (and Alternative Motions if expected):

Recommend that Westscape Incorporated, be awarded the maintenance contracts for District A in the amount of \$165,488.76 per year and District B in the amount of \$123,751.80 per year per specifications of RFB -08-09-20.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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)*

Copies of this report have been provided to:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 8o

Agenda Item Wording: Approval of a two-year contract with the Urban Tree Foundation in an amount not-to-exceed \$101,100 per year to provide services for grant writing, grant administration, construction management services, and consulting related to the City's Urban Forestry Program .

Deadline for Action: N/A

Submitting Department: Parks & Recreation Department

Contact Name and Phone Number: Parks & Urban Forestry Manager Jim Bean, 713-4564, or Director of Parks & Recreation Vincent Elizondo, 713-4367

Department Recommendation:

Approval of a two-year contract with the Urban Tree Foundation in an amount not to exceed \$101,100 per year to provide services for grant writing, grant administration, construction management services, and consulting related to the City's Urban Forestry Program.

Summary/background: Mr. Brian Kempf is the Director and sole employee of the Urban Tree Foundation (UTF). For the past eight years, Mr. Kempf has provided consulting services for the City's urban forestry program. This City is once again proposing to renew an agreement with the UTF.

Mr. Kempf is an acknowledged expert in this field. He is the author of the state standards for nursery tree stock, has written numerous articles on trees, advises other cities on their street tree projects, and has received state-wide awards.

Mr. Kempf will provide the following services under the terms of the proposed agreement:

- As requested, assist in Review of Landscape Plans for Development Projects.
- Advise various City departments, including Parks & Recreation, Public Works, and Community Development on matters related to urban forestry and street landscapes.
- Continue to write grants (as funds become available) to obtain funding for projects related to urban forestry and waterways.

For action by:

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

For placement on which agenda:

Work Session
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Regular Session:

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Est. Time (Min.): 1

Review:

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(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

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- As requested by various departments, provide training on topics related to urban forestry and tree care.
- Provide project management for the Environmental Enhancement and Mitigation Grant (s).
- Provide project management services for the Prop. 50 St. John's River Walk expansion project.
- Manage the implementation of the Prop. 12 and 40 Urban Forestry Grants.
- Perform the duties of a construction manager regarding the installation of irrigation and landscaping for Land and Water Conservation Fund Grant projects along the various Mill Creek trail.
- Provide project management services for the Transportation Enhancement Mitigation Grants.

The contract is funded through a variety of sources. The majority of the agreement will be paid by grants that Mr. Kempf was successful in writing. Under this contract Mr. Kempf will be completing work on several Environmental Enhancement and Mitigation Grant programs. Mr. Kempf's time for this program is monitored and the City is reimbursed for expenses.

The Park and Recreation Department budget includes approximately \$25,000 per year in general fund monies that can be utilized for various aspects of the urban forestry program. The Community Development Department-Planning also has some funding earmarked for the services of the Urban Tree Foundation. Other City departments can also use the services of the UTF for various tasks as requested.

The majority of the funding for this contract comes from reimbursements from various grants that the Urban Tree Foundation has written on behalf of the City. The Urban Tree Foundation acts as the construction manager on behalf of the City to assure these projects come to fruition.

In the new contract, City staff is proposing an increase in Mr. Kempf's hourly rate from \$60.00 to \$65.00 per hour due to the increased costs of travel expenses (due to gasoline) and the rising costs of general liability insurance (as mandated by the City). The contract will increase by the U.S. Department of Labor-CPI for the second year of the contract.

The Urban Tree Foundation contract has been at the \$60.00 rate for the past four years.

Prior Council Actions: Approved a two-year contract with the Urban Tree Foundation in 2006 which terminated in 2008.

Committee/Commission Review and Actions:

Attachments: Professional Services Agreement & Exhibits A & B.

Recommended Motion (and Alternative Motions if expected):

Environmental Assessment Status

CEQA Review:

NEPA Review:

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)*

Copies of this report have been provided to:

2008-10 Urban Tree Foundation Professional Services Contract

EXHIBIT A Scope of Work

All work to be completed upon request of the City of Visalia.

Project 1. Assist in Review of Landscape Plans for Development Projects

- Upon request, assist Planning Staff in the review of landscape plans for development projects, in particular advising on tree selection, location, and irrigation systems.
- Upon request, assist Planning Staff in explaining suggested changes to submitted landscape plans to developers and/or their staff consultants.
- Upon request, hold regular office hours at City of Visalia offices

Hours: Not to exceed 200 hours per year

Completion Date: December 2010

Project 2. Advise the City of Visalia on Matters Related to Urban Forestry

- Upon request, advise various City departments (not contractors) and perform duties as requested relating to City-wide urban forestry issues, including, but not limited to, street tree species, spacing, maintenance, policy issues relating to urban forestry, possible grant funding sources, the Oak Tree Ordinance, Landscape Standards, and strategies for creating an effective and healthy urban forest.
- Upon request, give presentations to community groups regarding urban forestry issues.

Hours: Not to exceed 150 hours per year

Completion Date: December 2010

Project 3. Grant Application Writing

- Upon request, and as agreed upon, submit grant applications related to enhancing the urban forest which includes the acquisition of property, site planning, and landscaping various public right-of-way areas including City parks, and waterways.

Hours: Not to exceed 240 hour per year

Completion Date: December 2010

Project 4. Tree Care & Maintenance Training

- As requested by the Parks & Urban Forestry Manager, provide training related to Urban Forestry

Hours: Not to exceed 10 hours per year

Completion Date: December 2010

Project 5. Provide Construction Management Services for: Prop 50 St. John's Riverwalk

- Upon request, develop and/or coordinate plans for installation of trees and irrigation
- Upon request, oversee tree well construction, tree plantings, and watering/irrigation
- Upon request, manage and oversee implementation of grant.

Hours: Not to exceed grant limitations (estimated 385 hours per year)
Completion Date: December 2010

Project 6. Provide Construction Management Services for: EEM grant

- Upon request, develop and/or coordinate plans for installation of trees and irrigation
- Upon request, oversee tree well construction, tree plantings, and watering/irrigation
- Upon request, manage and oversee implementation of grant.

Hours: Not to exceed grant limitations (estimated 270 hours per year)
Completion Date: December 2010

Project 7. Provide Construction Management Services for: Green Trees for the Golden State grant

- Upon request, develop and/or coordinate plans for installation of trees and irrigation
- Upon request, oversee tree well construction, tree plantings, and watering/irrigation
- Upon request, manage and oversee implementation of grants.

Hours: Not to exceed grant limitations (estimated 115 hours per year)
Completion Date: December 2010

Project 8. Provide Construction Management Services for: TEA/TE grants

- Upon request, develop and/or coordinate plans for installation of trees and irrigation
- Upon request, oversee tree well construction, tree plantings, and watering/irrigation
- Upon request, manage and oversee implementation of grant.

Hours: Not to exceed grant limitations (estimated 170 hours per year)
Completion Date: December 2010

2008-10 Urban Tree Foundation Professional Services Contract

EXHIBIT B

For each project, the Consultant's project fee is \$65.00 per hour for time actually spent.

On the contract anniversary date the rates will be adjusted equal to the cost of living as published by the US Department of Labor for the previous year.

Projects 1 through 8.

- Total cost to the City of Visalia not to exceed \$101,100 per year or a maximum of \$202,200.00 for the term of this two-year agreement.

Schedule of Fee for Professional Services

A. Hourly Rate	\$ 65.00 per hour
B. Unit Rate for Tree Planting	\$ 30.00 per tree

Note: The Urban Tree Foundation is paid \$30.00 per tree that is planted under the Green Tree Grants.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 9

Agenda Item Wording: USE OF \$500,000 REDEVELOPMENT LOW/MOD FUNDS TO ACQUIRE, RENOVATE AND SELL FORECLOSED HOMES

Deadline for Action: None

Submitting Department: Housing & Economic Development Department.

Contact Name and Phone Number: Ricardo Noguera, Housing & Economic Development Director xt: 4190

Department Recommendation:

Authorize the use of a one-time allocation of \$500,000 in RDA Low/mod funds from the 2008/09 budget to support the acquisition, renovation (if necessary) and resale of foreclosed homes.

Background/Summary

On November 3, 2008, the City Council authorized the submittal of a Neighborhood Stabilization Program (NSP) Substantial Amendment in support of the U.S. Housing and Urban Development's (HUD) \$2.38 million award in CDBG funds. This was in response to the September 29, 2008, allocation awarded to the City of Visalia by HUD.

It is the intention of staff to utilize low/mod funds to jumpstart the planned NSP Program which is not expected to commence until May 2009. Staff is proposing to utilize approximately \$500,000 to purchase foreclosed properties and then resell them through the City's First Time Homebuyer Program. The proceeds from the sale of the homes would be used to purchase more foreclosed properties and then resell again. In essence, the goal is to recycle dollars while placing homebuyers in fixed rate mortgages.

It is important to note that all homes sold will include affordability covenants for forty-five years. In the event properties are sold prior to the sunset of the covenant or refinanced, the City will receive its' initial soft second (deferred loan) which was applied toward the purchase of the house. Additionally, if the City serves as the primary lender on the loan; a thirty (30) percent share in equity will be required as part of the loan agreement.

Appraisals would be completed prior to any offerings from the City. It is expected that such homes would be purchased at a discounted rate of no less than fifteen (15) percent of the

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
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 Public Hearing

Est. Time (Min.):_20__

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
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City Mgr _____
(Initials Required)

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current appraised value. The City plans to negotiate an additional reduction in the purchase price to address any required improvements such as: flooring, interior paint, electrical, plumbing, etc.

Funding Allocation

The \$500,000 one time allocation is to be derived from the RDA's 2008/09 low/mod funds in the East Visalia and Mooney Boulevard project areas. \$700,000 will remain in the two project areas low/mod balance. On September 23, 2008, the Governor signed a budget which calls for the shifting of \$350 million from redevelopment agencies throughout the State of California for fiscal year 2008/09. This has resulted in the reduction of Visalia Redevelopment Agency funds in the amount of \$449,082. These funds are to be diverted by May 2009. Three of the four project areas contributed from their general RDA funds while the East Visalia Project Area contributed from its' low/mod budget (\$126,680) since the general RDA budget was in the negative.

Prior Council/Board Actions:

On November 3, 2008, City Council approved the submittal of the City's NSP Substantial Amendment for the Action Plan 2008/09.

Committee/Commission Review and Actions:

None

Alternatives: Await the awarding of the NSP Funds in February/March 2009.

Attachments:

RDA Resolution 2009-01

1. Recommended Motion (and Alternative Motions if expected):

Authorize the use of \$500,000 in RDA Low/mod funds from the 2008/09 budget to support the acquisition, renovation (if necessary) and resale of foreclosed homes and adopt RDA Resolution 2009-01 approving the use of Low and Moderate Income Housing Funds in the City of Visalia and outside the project areas.

Environmental Assessment Status

CEQA Review: Environmental review will be required for the purchase of each home.

NEPA Review: N/A

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*)

Copies of this report have been provided to:

RESOLUTION RDA NO. 2009-01

**A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY
OF THE CITY OF VISALIA
APPROVING THE USE OF LOW AND MODERATE INCOME HOUSING FUND IN THE
CITY OF VISALIA AND OUTSIDE THE PROJECT AREAS**

WHEREAS, the rapid escalation in residential property foreclosures has resulted in numerous detrimental impacts to health, safety and property in the project area and the City of Visalia in general; and

WHEREAS, the U.S. Housing and Urban Development Department (HUD) has awarded the City of Visalia \$2.38 million in CDBG funds pursuant to HUD's Neighborhood Stabilization Program (NSP); and

WHEREAS, the NSP funding will be used to acquire, rehabilitate and sell residential properties meeting certain affordability criteria and program requirements in the City of Visalia; and

WHEREAS, the Community Redevelopment Agency of the City of Visalia (hereinafter "Agency") has authorized the use of \$500,000 from the Low and Moderate Income Housing Fund (hereinafter "LMIHF") to jumpstart the NSP, which is not expected to commence until March 2009; and

WHEREAS, the Agency will retain a covenant on any property acquired, rehabilitated, and sold utilizing LMIHF funding which restricts the use of that property to affordable housing for a period of forty-five (45) years; and

WHEREAS, the Agency desires use of the aforesaid LMIHF allocation to curb the tide of foreclosures and subsequent blighted properties throughout the City through the purchase of bank-owned properties both with and outside of the project areas; and

WHEREAS, Health and Safety Code Section 33334.2(g)(1) allows the Agency to utilize LMIHF outside of the project area if the Agency finds, by resolution, that such use outside the project area will be a benefit to the project area; and

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF VISALIA AS FOLLOWS:

SECTION 1. The Agency hereby approves the use of the \$500,000 allocation of funds from its LMIHF, or a portion thereof, for the acquisition of properties in and outside the project areas, but within the City of Visalia, for the acquisition, rehabilitation and sale of properties in foreclosure.

SECTION 2. The Agency hereby finds that use of the funds authorized in Section 1, or a portion thereof, will benefit the project areas. The benefits to the project areas include the elimination of blighted and abandoned properties in and

outside the project areas, and the conversion of blighted properties near the project areas to affordable housing uses. The acquisition of abandoned and foreclosed residential properties will alleviate blighted conditions while creating affordable homeownership opportunities. It will also serve to stabilize neighborhoods.

I, Steve Salomon, City Manager/City Clerk of the of the City of Visalia, hereby certify that the foregoing Resolution No. _____ was duly and regularly passed and adopted by the Governing Board of the Redevelopment Agency of the City of Visalia at a meeting thereof held on the 5th day of January 2009, and that the foregoing is a full and correct copy of said resolution.

City Manager/City Clerk

PASSED AND ADOPTED this 5th day of January, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairperson

ATTEST:

Steve Salomon, City Manager/City Clerk

City of Visalia Agenda Item Transmittal

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 10

Agenda Item Wording: Retain consultant to complete an economic study of mobile home parks, park residents, and park space rentals within the City of Visalia.

Deadline for Action: None

Submitting Department: Housing and Economic Development

Contact Name and Phone Number: Ricardo Noguera, Housing & Economic Development Director; 713-4190; James Koontz, City Attorney; 636-0200

Department Recommendation: Authorize staff to expend up to \$25,000 to contract with Dr. Kenneth Baar (economic consultant) to prepare a study on mobile home park residents and mobile home park space rentals in the City of Visalia. This report will be used to examine whether there is a need to establish a rent control ordinance.

As an alternative, staff could continue reviewing other qualified consultants and compare them with Dr. Baar. Staff could present alternative consultants to the City Council for their review and approval as to who should conduct the study on behalf of the City.

Summary/Background: During the September 2, 2008, City Council meeting, the City's consultant, Jim Harbottle, provided the Council with a status report on the existing Master Lease program and conditions within the parks. Mr. Harbottle shared with Council the challenges gaining cooperation from some park owners and the need to establish a Master Lease program which received total adherence from all park owners. The Council requested staff review rent control implementation requirements and respond with the next step.

On December 15, 2008 staff requested Council authorization to release a Request For Proposal (RFP) for the selection of an economic consultant to complete a study to provide statistical information and analysis of mobile home parks, park residents, and park space rentals within the City. The purpose of the study would be to provide an independent assessment of what has been occurring with park rentals. The information in this study could be used to determine whether there is a legitimate need for mobile home rent control within the City. The study is important because it can provide an independent assessment and review of the pertinent economic facts.

The study is not the sole evidence concerning whether there is a need for rent control. Additional evidence can and should be gathered from staff, the City's consultants, park residents, and park owners before a decision is made.

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.): ___

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

The park owners have indicated that they have prepared their own economic study and that they intend to present this study or a summary of this study to the City.

Following discussion, Council concluded that due to concerns regarding the lack of adherence to the existing Master Lease and the pending expiration of the program, scheduled for May 2010, it is critical to complete the study immediately and that considering the projected budget for the project is below the minimum amounts mandated by City purchasing procedures for a formal or semi-formal selection process, staff should "sole source" the study, and identify a suitable consultant. The Council requested staff report the name of this consultant to the Council by their first scheduled meeting in January.

City staff, with the concurrence of the City's consultant, is recommending Dr. Kenneth Baar to complete the economic study.

The study requires the services of a well qualified professional with experience in economic policy, urban planning, rent control requirements, mobile home parks, and an understanding of the legal requirements California local governments must consider when determining if rent control is needed. It should be noted that the nature of the economic study requires third party objectivity; that staff does not possess the required expertise or experience to complete the study in an economically efficient manner; there exists an urgent need for the study; and the services are not of an ongoing nature that would require a full-time City employee.

The City does currently maintain a list of qualified consultants for these types of projects. Following City purchasing guidelines staff, and their consultant, researched who would meet the City's requirements. They determined Dr. Baar is well qualified to prepare the study. Dr. Baar has completed similar projects for other cities and appears to be fully capable of completing the project within a reasonable time. Finally, discussions with Dr. Baar concerning fee requirements indicate that his fees would be within the projected budget for the study.

Dr. Baar's Background: Dr. Baar holds a law degree and Ph.D. in urban planning. He also has more than twenty-five (25) years of experience teaching and consulting on housing policy, affordable housing, and rent control issues. He is frequently hired to analyze what constitutes a "fair rate of return" under a rent control ordinance and has served as an expert witness as it relates to affordable housing and rent control issues in over fifty court cases throughout the State of California. His expert testimony and articles on rent control have been favorably cited by various courts, including the California Supreme Court. Although he is commonly retained by cities, he has also worked for tenants and park owners. A copy of his resume is attached to this report.

Dr. Baar has completed several economic studies on mobile home park residents and mobile home park space rentals that have been used by cities considering whether to implement rent control policies. For example, in August 2007, Dr. Baar completed a study on Modesto's mobile home parks entitled "Mobile home Park Space Tenancies in Modesto." His study showed that rent increases in Modesto mobile home parks had substantially outpaced the consumer price index during all but one period between 1985 and 2007. His Modesto study analyzed rent histories, the affordability of mobile home space rentals, the impact of rent increases, information concerning investments in mobile home parks and trends in the value of such parks. Dr. Baar is recommending a similar methodology with Visalia's mobile home parks.

It is important to note that although Dr. Baar has extensive experience in the areas of affordable housing and rent control policies, not all the cities that have hired him have determined that rent control is necessary. He prepared an economic study for the City of Ceres, and after reviewing the study, Ceres did not adopt a rent control ordinance. The purpose of the economic study is

to provide data concerning the economic conditions. The study does not recommend a course of action and as stated above prior to making a decision concerning rent control the City would need to review the available evidence, which would include the economic study that the park owners have stated they will be providing.

Another factor in support of retaining this consultant is the experience of the City's current Administrative Services Director, Eric Frost. Prior to coming to the City of Visalia, Mr. Frost worked in the City of Watsonville when that City retained Dr. Baar in relation to several fair rate of return hearings. Under nearly all rent control ordinances, landlords have the option of challenging the rental rate imposed on them. They do so by requesting a "fair rate of return" hearing, in which evidence of the economic impact of the rate control is presented during an administrative hearing, and an administrative order either upholding or revising the city's imposed rate is made. Dr. Baar served as the City's retained consultant in these hearings in Watsonville. Mr. Frost is of the opinion that Dr. Baar's work was always objective and not slanted to one side or the other. Further, decisions that relied on his work resulted in outcomes both to uphold the city's proposed rates as well as to modify the rate to accommodate a higher return for the property owner.

Alternative

As an alternative to hiring Dr. Baar, staff could continue reviewing other prospective consultants to determine if a similarly suitable candidate would be available and report their findings to the Council. The Council could decide among this larger pool of consultants which should conduct the study. Dr. Baar has been perceived, particularly by park owner groups, as being biased in favor of rent control ordinances. This perception could be a point of contention with park owners. There could also be an argument that the study should be conducted by someone with an emphasis in economics or property value appraisals. The park owners have stated they conducted their own economic study with their own chosen expert. The Council could have staff search for another suitable expert before making a decision.

Funding Source. The cost for preparation of this study will be funded through General Funds.

Attachments:

Letter from John P. Neet, MAI – Appraisal & Consulting Services for Manufactured Housing Communities and RV Parks

Letter from Bruce E. Stanton, representing the Visalia Mobile Home Task Force

Letter from Richard Close, Gilchrist & Rutter, representing Westlake Village and Goldstar Mobile Home Parks re conversion to resident ownership

Letter from Terry Dowdall, Dowdall Law Offices, representing Westlake Village Mobile Home Park re changing from 55 years and older park to allowing residents of all ages

Recommended Motion (and Alternative Motions if expected): Authorize staff to expend up to \$25,000 to contract with Ken Baar (economic consultant) to prepare a study on mobile home park residents and mobile home park space rentals in the City of Visalia.

Alternatives Motion: Authorize staff to provide the City Council with other qualified experts that would be available to conduct the study prior to the Council deciding which consultant to hire.

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)*

Copies of this report have been provided to:

JOHN P. NEET, MAI

APPRAISAL & CONSULTING SERVICES FOR MANUFACTURED HOUSING COMMUNITIES AND RV PARKS

December 21, 2008

Mr. David Evans, Regional Representative
Western Manufactured Housing Communities Association
455 Capitol Mall, Suite 800
Sacramento, CA 95814

Re: Visalia Manufactured Housing Community Rent Study (2003-2008)

Mr. Evans:

As requested, I have conducted a study and analysis of rental rates charged to existing manufactured housing community tenants in the City of Visalia during the five year period from January 2003 through January 2008. This Executive Summary outlines the process followed, summarizes the data considered, and reports the results of this study.

The purpose of the analysis was to determine the average or typical rates of rent increases charged to tenants residing in Visalia manufactured housing communities and mobile home parks during the five year period beginning with January 2003 and ending with January 2008. This time period was chosen for several reasons:

1. The time frame represents the five most recent calendar years, and is the most relevant for determining current trends.
2. This is the same time frame that was referenced in a staff report to the Visalia City Council dated September 2, 2008. The staff report included several estimates of rental growth over this time period, but noted that it was only an "informal estimate". This study is intended provide a factually based estimate, with the conclusions based on review of reported rental rates during the same time period.
3. This time period includes rental rate trends that existed during periods covered by two model lease agreements. The second lease agreement, initiated in 2005, allowed a discretionary rent increase of 15% in addition to the annual inflation based adjustments allowed. Where instituted, this increase would be reflected in the reported growth rate of rental rates, and the aggregate

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LAKE ELSINORE, CA 92531
john.neet@johnneet.com

rental rate increases reported reflects this one-time increase for the spaces upon which it was imposed.

4. Older data is generally less available as records are often placed in deep storage, destroyed, or are inaccessible to the owners.

The goal was to provide the most relevant study possible to indicate market trends over the past 5 years, and to have the most comprehensive collection of data to be analyzed. As indicated below, these goals were substantially met by the consideration of data from this period.

Data Collection and Assembly

Based on records obtained from the California Department of Housing and Community Development and other sources, we determined that there were 10 communities in the City of Visalia containing a total of 1,427 sites. In order to be able to compile the most comprehensive data set for consideration, owners of the parks containing the largest portion of the spaces were contacted to participate by providing factual rental information from January 2003 and January 2008.

The owners of each community were requested to provide actual rent rolls covering the relevant time period, generally consisting of the billing records provided by 3rd party rent and utility billing companies, for my review. One of the important considerations was the independent verifiability of the data. For this reason, the compilation of the rental rate comparisons was made by my office using procedures identical to the procedures used for appraisals as promulgated under the Uniform Standards of Professional Appraisal Practice (USPAP).

The information provided covered 838 of the 1,427 spaces in the community, reflecting 58.7% of the total number of spaces. The ability to use a sample of this size to analyze rental rates within a community is considered excellent from a data analysis perspective. By comparison, a rental survey conducted for appraisal purposes would generally include a smaller sample, and would not analyze specific rental rates for the number of sites included in this analysis. The results of the comparison considered acceptable for determining market rental rates and identifying trends, so the analysis of 58.7% of the actual space rents in the community is likely to provide very strong insight into the trends established by market participants.

Analysis of Data

As the purpose of the analysis is to determine the increases in rental rates experienced by the existing tenants in the manufactured housing communities, changes in rent that result from a change in occupancy were not considered.¹ Turnover in the spaces included in the survey was significant over the 5 year period, and reflect fairly typical turnover levels.² During the 5 year period, the data sample indicates that approximately 59.3% of the spaces were either vacant for some period or had acquired new tenants. In the data set, this was measured by the elimination of data where the tenant name reported in the January 2003 rent roll was not the same as the tenant name reported in the January 2008 rent roll.

The removal of these spaces from the survey reduced the total number of data points to be considered to 341, which is a significant percentage of the data pool, reflecting 40.7% of the spaces for which rental data was available. This indicates that 59.3% of the spaces have turned over during the 5 years studied. This represents approximately 12% turnover per year, which is generally within market parameters.

Rental rates for each of the 341 spaces where no occupancy change was reported were compared over the specified 5 year time period, and a compound percentage change rate for each space was determined using Microsoft Excel and pre-set macros. These changes were accumulated to report the mean (average) increases in reported rents for the sample.

¹ It is a common practice in mobile home parks to moderate rent increases for existing tenants to maintain stability in the park, and to the extent that those increases do not maintain the same growth level as housing cost inflation, the difference is often partially made up for when a change in tenancy occurs. This allows the park owner to partially keep up with housing market changes without rendering the site rent unaffordable for existing tenants. This practice is not universally followed, but is a common practice.

² Annual turnover of space tenants in mobile home parks in California typically falls into the 5%-15% range. Turnover of all spaces in Visalia falls into this range for the most recent two year period, with a 13.6% turnover rate reported in the past two years, based on state registration records.

Conclusions of the Analysis

The average annual increase in monthly rent reported for this period amounted to 4.48%³. By comparison, the median housing price increase for Tulare County during a similar time period⁴ averaged 10.44% per year; and the inflation calculator used for Social Security Cost-Of-Living Adjustments averaged 2.9%⁵ per year during the same 5 year period.

Respectfully,



John P. Neet, MAI

³ This includes the discretionary 15% rent increases allowed under the 2005 model lease agreement.

⁴ Median housing price statistics were obtained via the California Association of Realtors (CAR) a trade organization, and covered the period from October 2004 through October 2007.

⁵ Annual rates from 2003 though 2007 ranged from 2.1% to 4.1%

**PROFESSIONAL QUALIFICATIONS
JOHN P. NEET, MAI**

LICENSES AND MEMBERSHIPS:

Appraisal Institute

Member-Designation No. 7728; Currently certified under the Appraisal Institute's mandatory continuing education requirements

State Certified Real Estate Appraiser

California Certified General Appraiser No. AG003494, Certified through 3/2010

Arizona Certified General Appraiser No. 31052, Certified through 4/2009

Nevada Certified General Appraiser No. 04661, Certified through 5/31/2009

Temporary Certifications Obtained in Washington, Oregon, Texas

EXPERIENCE:

1988-Present

John P. Neet, MAI, Real Estate Appraiser & Consultant

Owner of firm specializing in multi-disciplinary valuation and consultation. Areas of special emphasis include income producing properties with a primary concentration on manufactured housing communities, manufactured housing, and RV parks, leasehold and quasi-leasehold valuations, public acquisition valuations, valuations for rated and un-rated bond issues and resident conversions, expert testimony, and appraisal review. He has completed over 2,000 appraisals of mobile home parks, manufactured housing communities, and RV parks in the past 10 years. Non-appraisal experience includes cash flow projections, rent control financial analysis and consultancy, market studies and analysis, and financial performance analysis for manufactured housing communities and RV parks. Qualified as an expert in United States District Court, in state courts in Orange, Riverside, San Diego, and San Bernardino Counties in California and Federal Bankruptcy Courts in California, Texas, and Nevada.

1981-1987

Terrence F. Wood & Co. Corpus Christi, Texas

Appraisal and review of all types of properties; special emphasis on income producing, development, and resort properties; expert testimony in bankruptcy and foreclosure proceedings. Qualified as an expert in Nueces County district courts and Federal Bankruptcy Courts.

1978-1980

Home Savings and Loan Los Angeles, California

Chief Appraiser, Conventional Loans-Manager in charge of training and review of appraisal staff. Staff Appraiser-valuation of single and multi-family properties.

EDUCATION:

CALIFORNIA STATE UNIVERSITY AT NORTHRIDGE

Business Administration

APPRAISAL INSTITUTE

Courses 101, 102, and 201 (SREA)

Courses 1-A, 1-B, 2-1, 2-2, 2-3 (AIREA)

Courses 410, 420, 700 (AI)

RECENT SEMINARS:

USPAP Updates, FIRREA Requirements, Standards of Professional Practice Updates, Annual Litigation Seminars & Updates, Apartment Valuation, Appraiser Licensing and Certification, HP12-C Seminar, Land Regulation Workshop, Easement Valuation Seminars, Retail Workshop, Limited Appraisals and Report Writing Options, Annual Regional Economic Forecast Workshops & Seminars, Manufactured Housing Community Law Seminars and Operations seminars, Regression Analysis

CLIENT BASE:

The primary client base is lending institutions, including Bank of America, Wells Fargo NA, La Jolla Bank, Union Bank, First Bank of Beverly Hills, Washington Mutual Bank, Wachovia Bank, and CitiBank; FNMA DUS lenders including Green Park Financial, Wells Fargo Realty Finance, Greystone Capital, PNC-ARCS, and GMAC. In most assignments, the institution retains the services of John Neet, MAI to assist in determining the adequacy of collateral pledged in loan applications for purchases, refinances, and extensions of existing financing terms.

Other clients include tax attorneys and accountants (trust consulting, valuation for estate tax returns), public agencies (valuation for municipal bond issues to support non-profit 501C3 purchases and resident purchases, asset valuation), resident owner groups, owners and managers of mobile home parks and manufactured housing communities, public agencies and park owners (discretionary rent increase applications, subdivision of developments).

12/15/08 Handed out
at meeting

BUSINESS PLANNING
CIVIL LITIGATION
ESTATE PLANNING
MOBILEHOME LAW

BRUCE E. STANTON
LAW OFFICES OF BRUCE E. STANTON

LUPA OFFICE PLAZA
6940 SANTA TERESA BLVD, SUITE 3
SAN JOSE, CA 95119

TELEPHONE
(408) 224-4000

FACSIMILE
(408) 224-4022

TO: HONERABLE MAYOR AND CITY COUNCIL OF VISALIA

FR: BRUCE E. STANTON, ESQ.

RE: DISCUSSION OF THE STATUS OF MOBILE HOME PARKS IN VISALIA

I was privileged to address you all on September 2, 2008, when this agenda item was first introduced. As you may recall, I represent the Visalia Mobile Home Task Force, which in turn represents the mobilehome residents of Visalia. My schedule does not allow me to be present this evening. However it is important that I provide you with my clients' perspective, and so I have asked them to deliver this letter on my behalf. Thank you for allowing them to do so.

I wish to begin by extending my thanks, along with the appreciation of my clients, for the Council's willingness to continue the examination and discussion of the issue of mobilehome rents in Visalia. We are ever grateful for the attention and focus which you will be able to provide to this issue, and for your time and energy to save mobilehome affordable housing in Visalia. The residents depend upon you for their protection, and in some cases will not be able to keep their homes unless you act. They eagerly anticipate your involvement and action on their behalf.

We applaud your anticipated decision to move forward with an analysis of the rents within Visalia's parks, and fully support your decision to do so carefully and properly. A professional rent survey and examination of the past and current market conditions is a necessary step for any local jurisdiction to take, as others have done before you. We are confident that the survey will demonstrate the true plight of mobilehome residents and the need to stabilize rents. The residents stand ready to support the City in any way possible during this process, and will be happy to provide whatever information we can to accelerate and aid the consultant in his or her task.

Time, however, is a critical issue for the residents. The recent history of rent increases makes it clear that the process must move forward with all deliberate speed. The residents were hoping that tonight's agenda would result in the hiring of a consultant. We are lead to understand by the Housing & Economic Development Director that the agenda will only include a Request for Proposal to hire the consultant. Given my clients' familiarity with past Council procedures, it appears likely that the "RFP" procedure could take a number of months to conclude, and that a consultant might not be actually retained until April or May to do the work. We would first like to ask this question of staff, or have the Council pose it: *If a RFP is the only action to be taken tonight, how long will it take to complete? And how long before the consultant is actually hired to perform the work?*

If the normal RFP process will in fact take a number of months, then the residents would respectfully request that the Council either avoid the RFP process all together, or at least attach "urgency" status to the Request, so that it can be completed as quickly as possible. There is good reason to do so. Typically, when a local jurisdiction such as yours begins to publicly consider rent stabilization, and takes what could be perceived as the first step towards enacting a rent ordinance of some kind, park owners quickly take steps to increase rents before any legislation would take effect. This comes in the form of rent increases or long-term lease offerings. I am sure you would agree that it is important to maintain the status quo for mobilehome residents while you move forward with your examination. Since these tactics are likely to occur, and under State law a rent increase requires a 90-day notice, it is important to avoid any undue delays in the process which could afford park owners an opportunity to change the status quo and "end run" the rent stabilization process. It would be far more effective to hire the consultant as soon as possible, so that this exposure to rent increases can be avoided. I would thus request on behalf of my clients that any action taken tonight include "urgency" language, and that the typical RFP timeline be shortened to a date certain. In this way the decision about whether to proceed could be investigated and made before even more rent increases take effect.

If park owners do seek to get rent increases in effect "under the wire", then a rent "freeze" or "moratorium" is always an option for the Council to consider. Many other Cities and Counties have acted to protect their residents in this way. But as long as the process moves forward without undue delay, such measures can be avoided. I have instructed my clients to be on the lookout for any predatory rent or lease practices, and to report same to then Council as or if discovered. If a rent moratorium is required because of the length of the process, then the residents will need to come before you with that request.

The residents believe that the time is ripe to hire a qualified consultant and proceed to address this urgency situation before it deteriorates further. We would support the hiring of a consultant without becoming bogged down in a RFP procedure which could take us well into 2009. Please recall that it has already been over three months since this matter first appeared on your agenda. But whatever action you decide to take tonight, please do so on an "urgency" basis.

Thank you for your consideration.

LAW OFFICES
GILCHRIST & RUTTER
PROFESSIONAL CORPORATION

WILSHIRE PALISADES BUILDING
1299 OCEAN AVENUE, SUITE 900
SANTA MONICA, CALIFORNIA 90401-1000

TELEPHONE (310) 393-4000
FACSIMILE (310) 394-4700
E-MAIL: rclase@gilchristrutter.com

December 31, 2008

Received
JAN 2009
City of Visalia
City Clerk's Office

VIA FEDERAL EXPRESS

Mayor Jesus J. Gamboa
Vice Mayor Bob Link
Council Member Amy Shuklian
Council Member Donald K. Landers
Council Member Greg Collins
Visalia City Council
Visalia City Hall
425 E. Oak Street, Suite 301
Visalia, CA 93291

Alex M. Peltzer, Esq., City Attorney
Dooley & Herr, LLP
100 Willow Plaza, Suite 300
Visalia, California 93290

Re: Mobilehome Park Conversions To Resident Ownership Under Government Code Section 66427.5

Dear Mayor Gamboa, Vice Mayor Link, Council Members Shuklian, Landers, and Collins, and Mr. Peltzer:

We represent Richard and Ruth Popkin, the owners of Westlake Village Mobilehome Park and Goldstar Mobilehome Park (the "Parks"), two mobilehome parks located in the City of Visalia (the "City"). The Popkins recently sent letters to the residents of the Parks regarding an effort by some to impose rent control on the Parks. In response to the push for rent control, one of the options the Popkins are considering is conversion of the Parks from rental-only facilities to resident ownership pursuant to the Subdivision Map Act, Government Code section 66427.5 ("Conversion").

We wanted to take this opportunity to educate the City on this unique process and inform you of the state of the law regarding Conversions. This firm has successfully handled many such Conversions throughout the State of California.

I. Introduction To The Conversion Process

The process of converting a mobilehome park from a rental facility to a resident-owned, or condominium-style, park and selling the resulting subdivided parcels is governed by several related California statutes. The first step in the process is obtaining local approval of the application for Conversion. As explained in Section II of this letter, a local government's, such as City's, consideration of such an application is governed by Government Code section 66427.5, which provides specific and detailed requirements for Conversions to resident

Mayor Jesus Gamboa
Vice Mayor Bob Link
Council Member Amy Shuklian
Council Member Don Landers
Council Member Greg Collins

Alex M. Peltzer, City Attorney

December 31, 2008

Page 2

ownership and limits the local government's review of the application to the question of whether the requirements of Section 66427.5 have been satisfied.

Local approval of the application entitles the property for subdivision of the single parcel park into separately transferable real estate units, as well as interest in undivided common areas following further state approval. No construction or physical development at the mobilehome park is contemplated or necessary. Rather, the subdivision is merely a legal division whereby separate sellable interests are created within the park. The subdivision does not involve any expansion of existing use

Please understand that the mobilehome parks are not being closed and no one is being evicted as a result of a Conversion. Upon Conversion, residents have the choice whether to buy the lot their home currently sits on or to continue renting. In fact, low income residents will be forever protected by state rent control which caps rent increases at the Consumer Price Index ("CPI"), or less.

Conversion for lower income residents is a win-win. The law provides rents will not increase faster than they have under local rent control, or are limited to CPI increases, whichever is less, for as long as they live in the park. The state also provides affordable financing for those who choose to purchase. Lot ownership in a mobilehome community provides residents the opportunity to become "homeowners" in the true sense of owning a home and the land beneath it. This means obtaining favorable home loans, building equity, and receiving tax deductions.

II. The Limits Of Local Authority

Because of the aforementioned benefits, the state legislature has expressed an explicit intent to support and promote Conversions. Accordingly, under California law, local authority in the area of mobilehome park Conversions is strictly limited to determining whether or not applicants for Conversion have complied with the specific requirements set forth in Government Code section 66427.5.

In El Dorado Palm Springs, Ltd. v. City of Palm Springs, 96 Cal. App. 4th 1153 (2002) ("El Dorado"), the California Court of Appeal directly addressed the limitations on local government's authority in reviewing a mobilehome park Conversion application and held that local governments "only had the power to determine if [the applicant] had complied with the requirements of [Section 66427.5]." 96 Cal. App. 4th 1153, 1163-64 (2002) (emphasis added).

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In El Dorado, the City of Palm Springs ("Palm Springs") conditionally approved El Dorado's mobilehome park Conversion application; however, the Palm Springs City Council imposed three conditions not found in Government Code section 66427.5. See id. at 1156-57. The Court of Appeal applied the plain and unambiguous language of the statute and held that Palm Springs had no power or authority to impose conditions on El Dorado's Conversion application other than those found in Section 66427.5.

Although Palm Springs argued that the conditions it imposed were designed to prevent an abuse of the Conversion process by a possible fraudulent or "sham" Conversion intended only to avoid the local rent control ordinance, the Court found that "section 66427.5, subdivision (d) [now, subd. (e)] provides that 'The scope of the hearing shall be limited to the issue of compliance with this section.' Thus, the City lacks authority to investigate or impose additional conditions to prevent sham or fraudulent transactions at the time it approves the tentative or parcel map." Id. at 1165 (emphasis added).

Accordingly, under El Dorado, local government authority is strictly limited to confirming that Conversion applications comply with the requirements contained in Government Code section 66427.5. Section 66427.5 requires, in sum, (1) that existing tenants each receive an option to either purchase their lot or continue their tenancy, (2) that the applicant file a tenant impact report on the Conversion, (3) the applicant submit a survey of support for the proposed Conversion by written ballot from the residents, (4) that the applicant shall be subject to a hearing by the local government limited to the issue of compliance with Section 66427.5, and (5) that state rent control, as detailed in subdivision (f), applies to all tenants who elect not to exercise their right to purchase.

The El Dorado court conclusively determined that: (i) Government Code section 66427.5 controls a mobilehome park Conversion from a rental park to a resident-owned park (Id. at 1158-63); (ii) the purpose of Government Code section 66437.5 is to provide uniform statewide standards for converting rental parks into resident-owned parks, thereby promoting Conversions to home ownership (Id. at 1169-1170); (iii) the requirements set out in Government Code section 66427.5 are exclusive and local government has no authority to impose additional conditions (Id. at 1164, 1166); (iv) if the requirements of Government Code section 66427.5 are met, the local agency must approve the Conversion application (Id. at 1165, 1167); (v) local government does not have the ability or the authority to determine whether a Conversion is "bona-fide" or not (Id. at 1165); and (vi) mobilehome park residents do not have and cannot have the ability to veto a Conversion by withholding support for a Conversion application (Id. at 1172, 1181-82).

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The state legislature amended Section 66427.5 in 2002, post-El Dorado, to add the requirement that the applicant obtain a survey of resident support to the other pre-existing statutory requirements. See Gov. Code, § 66427.5, subd. (d). However, the legislature did not amend in any way the scope of authority of the local government or confer authority on residents to veto a Conversion. Rather, local government is restricted to determining whether the survey of resident support is conducted and submitted in accordance with the requirements set forth in Section 66425.7.

Local government authority to regulate mobilehome park Conversions is further constrained by the Mobilehome Parks Act, Health & Safety Code sections 18200 et seq. ("MPA"). Pursuant to the MPA, local government is without authority to regulate the construction and maintenance of mobilehome park facilities and infrastructure. Rather, the California Department of Housing and Community Development ("HCD") holds exclusive jurisdiction over mobilehome park construction and maintenance, and the MPA pre-empts any local authority's attempts at the regulation thereof. See County of Santa Cruz v. Waterhouse, 127 Cal. App. 4th 1483 (2005).

In fact, in light of recent attempts by local governments to regulate Conversions, the HCD issued an Information Bulletin in April 2008 reminding local governments of their limited authority in regulating mobilehome parks, specifically in the context of a Conversion. Among other things, the Information Bulletin states, "The MPA contains an express preemption, with minimal express authority for local ordinances. In addition, the Legislature's findings support its intent to allow only very restrictive authority for local government action within the boundaries of a mobilehome park."

III. Recent Court Cases

Because of misinformation surrounding Conversions, a handful of local governments, in a misguided attempt to frustrate and delay Conversions, have either passed illegal ordinances attempting to impermissibly regulate Conversions or have approved illegal resolutions which have impermissibly denied applications for Conversions. With one exception, these attempts have all failed.¹

¹ The exception is with regards to the County of Sonoma in Sequoia Park Associates v. County of Sonoma, Sonoma County Superior Court, Case No. SCV 240003. There, a temporary judge issued a bare-bones opinion less than one page long upholding the County's ordinance regulating Conversions. This case is currently on appeal.

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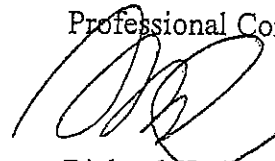
Thus far, this firm has obtained writs of mandates (i) compelling two (2) local governments to overturn resolutions which impermissibly denied Conversion applications for their alleged failure to evidence resident support, (ii) invalidating a local ordinance that attempted to impose illegal conditions on Conversions, such as requiring applicants meet certain health and safety requirements within the parks and provide certain maintenance documents and engineering reports, in violation of the MPA, and requiring the submission of a tenant impact report containing extensive and burdensome information not within the local government's proper discretion or consideration, in violation of Section 66427.5, (iii) vacating a resolution requiring an Environmental Impact Report as part of the Conversion process, (iv) vacating ordinances which imposed illegal temporary moratoriums on Conversions, (v) overturning the requirement that Conversions must comply with local general plans and/or specific area plans, including affordable housing requirements, and (vi) overturning the requirement that an applicant make certain changes to a park's infrastructure to allegedly address health and safety concerns.

We are currently pursuing claims for damages against the local governments involved in these actions and have recently settled a suit for approximately \$1 million against the City of Palm Springs for its actions in the El Dorado case, discussed in Section II of this letter.

In sum, we hope that by opening the channels of communication early regarding future plans for the Parks we can avoid any unnecessary misunderstandings regarding these plans.

Very truly yours,

GILCHRIST & RUTTER
Professional Corporation



Richard H. Close
Of the Firm

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IN REPLY REFER TO:

December 30, 2008

Via Federal Express

Honorable Mayor Jesus J. Gamboa
Honorable Vice Mayor Bob Link
Honorable Council Member Greg Collins
Honorable Council Member Donald K. Landers
Honorable Council Member Amy Shuklian
Visalia City Hall
City Hall North
425 E. Oak Ave.
Visalia, CA 93291



**RE: Westlake Village Mobilehome Park and Goldstar Mobilehome Park:
Change in Rules and Regulations from an "Older Persons" (55 Years) Park to Allowing
Residents of All Ages**

Dear Honorable Mayor and Members of the City Council:

These offices represent Mr. and Mrs. Richard Popkin, the owners of Westlake Village Mobilehome Park, located at 2400 West Midvalley Avenue, Visalia, California 93277 and Goldstar Mobile Estates, located at 2120 South Santa Fe, Visalia, California 93292.

As you are aware, Mr. and Mrs. Popkin recently caused a letter to be sent to all their residents with respect to their position as to rent controls and the Council's ongoing attention to that matter. In that letter, the owners referred to the right to change the rules and regulations of their "older persons" (55+ age-restricted) parks to conform to the "familial status" obligations of the Fair Housing Amendments Act of 1988 (discussed below). It is my understanding that consideration of rule amendments was ongoing well prior to the emergence of the current dialogue as to the Visalia Accord and other alternatives. Indeed, the consideration of rule amendments to, inter alia, comply with applicable law is an ongoing, constant concern for the vigilant park owner. However, in fairness to all residents, such a decision, together with scrutiny of several possible alternatives and decisions of the owners, was given to comprehensively advise the residents of the current thinking of the owners.

I write to advise of the current state of the law in respect to the right of the park owner to change the status of a mobilehome park from "older persons" housing to "all age" housing. In essence, the park owner has the right under federal statute to allow families to reside in a mobilehome park. The park owner's decision cannot be interfered with by any subordinate governmental authority.

I have been authorized by the owners to present the City with this letter for consideration and assistance bearing on the right of the park owner to designate a mobilehome park as housing for "all ages." Indeed, if any ordinance calling for mandatory senior housing were adopted, the City would be vulnerable to very substantial liability from: (1) claims of a very large class of all persons with "familial status" rights or other protected rights under the Federal Fair Housing Act of 1988; and (2) prosecution by the United States Department of Justice for violation of the FHAA. I respectfully submit that promulgation of any regulation of this nature would constitute a violation of federal law and accordingly, the rights of families, a predominant number of which are minorities, of all ages, who have statutory protections to housing.

Discussion

The FHAA Protects "Familial Status" of Prospective Tenants as a Matter of Federal Policy Which Preempts Interference by Local and State Law.

In 1988, Congress enacted the FHAA to proscribe "familial status" discrimination. "Familial status" is defined as "one or more individuals (who have not attained the age of 18 years) being domiciled with ... a parent or another person having legal custody of such individual or individuals." 42 U.S.C. § 3602(k)(1). Specifically, under the FHAA it is unlawful:

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of ... familial status

(b) To discriminate against any persons in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of ... familial status

(c) To make, print, or publish, or cause to be made, printed or published by any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on ... familial status ... or on intention to make any such preference, limitation, or discrimination.

42 U.S.C. §3604.

Moreover, section 3617 of the FHAA provides that, "[I]t shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by ... section 3604." 42 U.S.C. §3617.

An example of "mak[ing] unavailable" in violation of § 804(a) is "steering." "Steering" is "not an outright refusal to rent to a person within a class of people protected by the statute; rather it consists of efforts to deprive a protected homeseeker of housing

opportunities in certain locations." HUD v. Edelstein, Fair Housing-Fair Lending ¶ 25,018, p. 25,236 and 25,239 (1991).

Plaintiff [makes] out a *prima facie* case of discrimination by showing facially discriminatory rules which treat children, and thus, families with children, differently and less favorably than adults-only households. United States v. Badgett, 976 F.2d 1176 (8th Cir.1992).

Summary: An "older persons" rule not only treats children differently, it can bar access to the entire community. However, that allowance is a "narrow exception" to the protections for familial status.¹ As originally enacted and as enforced today, reliance on the "narrow exception" of "older persons" housing required several pre-requisites, one of which is the "intent" of the park owner to provide for "older persons" housing.² Absent the owner's intent, housing for "older persons" is not permitted. Thus, no subordinate government entity can thwart the requirement that the owner possess the requisite "intent" to operate "older persons" housing. By operation of the Supremacy Clause of the United States Constitution, the decision to operate as "older persons" housing or "all age" housing is exclusively to be made by the owner.

Discussion: Local Government Regulations Would Interferes With the Right of the Owner To Age-Restrictive Rules and Regulations

Any local action which punishes a park owner seeking to advance "all age" housing is preempted under the federal supremacy doctrine.

The case of U.S. v. Hayward (1992) 805 F.Supp. 810 is instructive. In early 1990, about a year after adoption of the FHAA by Congress (September 12, 1988), the park owner issued new Rules and Regulations stating its intention to open the park to families with children. The City asserted that the owner opened the park to families with children hoping that it would cause its predominantly senior residents to vacate.

¹ "Among those changes was Congress' decision to include families with children within the scope of Title VIII. The practical effect of that amendment was to make it illegal for housing providers to discriminate against families with children. ¶ However, the amendment also created a narrow exception to that proscription. . . ." Massaro v. Mainlands Section 1 and 2 Civic Association, Inc., (S.D.Fla. 1992) 796 F.Supp. 1499, 1501.

² "Third, the housing facility must publish policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older. See 42 U.S.C. section 3607(b)(2)(c)." Id. "In creating the 'policies and procedures' prong of the 55 and over exemption, Congress determined that it is the owner or manager's intent that is relevant for establishing whether the development in question seeks to provide housing for older persons. See 42 U.S.C. section 3607(b)(2)(C)(iii). The regulations, in turn, take their cue from the statute, and discuss the relevant factors in terms of the owner or manager's compliance with the published policies and procedures. See 24 C.F.R. 100.304(c)(2)." Id., at 1502.

The senior tenants filed a petition with Hayward's Rent Control Office claiming that allowing families with children amounted to a reduction of services, entitling them to a reduction in rent pursuant to the rent control ordinance. Hayward accepted the seniors' petition for filing and assigned an arbitrator to hear and decide the petition. The arbitrator concluded there was a reduction in services and awarded rent reductions. The owner then filed a housing discrimination complaint with the United States Department of Housing and Urban Development ("HUD") against the City. HUD determined the complaint involved the legality of a state or local zoning or land use ordinance, and referred the matter to the Attorney General of the United States. The United States then filed an action against Hayward, alleging a violation of the FHAA for coercing and interfering with the owner's efforts to rescind its "older persons" rules and regulations.

The Court held that Hayward's action violated the FHAA because it penalized and interfered with the decision to provide housing to families with children. The court found that the FHAA applies where no discriminatory housing practice may have occurred at all, but where fair housing "rights have actually been respected by persons who suffer consequent retaliation." Thus, Hayward violated the FHAA by its action. 805 F.Supp. 810 at 813.

As a preliminary matter, neither Hayward nor the petitioners may claim the older persons housing exemption. Although Hayward asserts Eden Roc satisfied the requirements of the older persons housing exemption, it does not assert that Borello [the owner] claimed the exemption. Instead, Hayward attempts to claim the exemption on behalf of the petitioners. This Court concludes that only owners and managers may claim the exemption. . . . 805 F.Supp. 810, 813-814.³ (Emphasis supplied)

In the lower court, no compensatory or punitive damages were awarded against the City. On appeal, however, the Ninth Circuit disagreed, stating:

On September 19, 1994, the United States Court of Appeals for the Ninth Circuit affirmed the District Court's judgment as to liability, and reversed and remanded the judgment as to compensatory damages. United States v. City of Hayward, 36 F.3d 832 (9th Cir. 1994). Specifically, the Ninth Circuit held that "[i]f the United States proves actual damages, the district court shall award compensatory damages." On October 2, 1995, the United States Supreme Court denied the City's petition for writ of certiorari. 116 S. Ct. 65 (1995).

³ The Court reinforced this holding by stating: "Further, the language of section 3607(b)(2) indicates that owners and managers are the only ones who can claim the exemption. The subsection requires a publication demonstrating "intent by the owner or manager to provide housing to persons 55 years of age or older" and requires that owners and managers provide "significant facilities and services specifically designed to meet the physical and social needs of older persons" before the exemption applies. Because only owners and managers can claim the exemption for housing for older persons and Borello never claimed the exemption, the Court need not reach the question of whether the requirements for the exemption have been met under the relevant facts . . ." 805 F.Supp. 810, 814 (emphasis supplied).

Hayward had had enough. It agreed to settle the case with the park owner, by entering into a stipulated injunction and the following order: "IT IS FURTHER ORDERED that defendant shall pay to Borello the sum of \$94,200 in settlement of Borello's claim for compensatory damages, . . . [T]his payment shall be made by check, payable to S.G. Borello & Sons, Inc., and shall be delivered to counsel for the United States within ten days of entry of this Order.."

Following Hayward, a New Jersey Court found that interference with familial status rights constituted a violation of the FHAA on even closer facts.

In Mobile Home Village Inc. v. Township of Jackson, No. 95-0004 (D.N.J. 6-14-95) P-H Prentice Hall Fair Housing Fair Lending Reporter [¶ 16,018], the park owner, Mobile Home Village, had been operating pursuant to a "senior park license" prior to the FHAA. Thereafter, it neither applied nor attempted to qualify for the federal "housing for older persons" exemption. Since 1991, Mobile Home Village accepted younger tenants who do not meet the age requirements of the ordinance. Consequently, Jackson Township prosecuted Mobile Home Village for violating the ordinance. And the park owner filed a complaint against Hayward with HUD.

The park owner contended that the Township could not force it to meet the requirements of the FHAA exemption for older persons housing. Thus, Mobile Home Village sought to invalidate the Township's age restriction ordinance pursuant to the Supremacy Clause of the United States Constitution.⁴

Once again, the Court held that the decision to comply with the superior interest in "all age" housing was exclusively that of the housing provider:

The language of § 3607 (b)(2) indicates that owners and managers are the only ones who can claim the exemption. Judge Nicholas H. Politan thoroughly addressed this point in Cedar Hills Developers, Inc. v. Township of Wyckoff Civil No. 89-5391, Fair Housing-Fair Lending (P-H) ¶ 15,675 (D.N.J. Dec. 11, 1990). In that case, Judge Politan held that the Township of Wyckoff could not force a housing provider to meet the FHA's "housing for older persons" exemption: When Congress passed this law it carefully considered its effect on previously established "seniors" communities. It recognized that, unfortunately, the interest and legitimate desires of all seniors could not always be reconciled with the similarly persuasive interest of families with children. Congress intended that in such cases the latter interest would supersede the former. . .

Page 16,018.4 (emphasis supplied)

⁴ Specifically said the Court: "Plaintiff asserts that Jackson Township cannot compel housing providers to discriminate against a federally protected class. Specifically, plaintiff claims the enforcement of Jackson Township Ordinance § 77-14 is contrary to the provisions of the FHA. Chapter 77-14 of the Jackson Code provides that "[t]he occupancy of any senior citizens' mobile home park shall be limited to persons who are fifty-five (55) years of age or over," with several exceptions not pertinent to this litigation." Page 16,018.4

Thus the court concluded:

These provisions demonstrate that the discretionary decision concerning the community's method of compliance must rest with the owner. In this case, the owner made the decision to comply by selling its units on a wholly nondiscriminatory basis. Under the law, the decision must be respected. Common sense supports this conclusion. . .

The FHA exclusively grants discretion regarding the method of compliance to the "owner or manager." 42 U.S.C. § 3607 (b)(2). The owner or manager may either provide housing on a nondiscriminatory basis or show that it is entitled to an exemption. Jackson Township cannot compel plaintiff to meet the requirements of the FHA exemption. Moreover, Jackson Township has pointed to no authority empowering a local government to force a housing provider to meet the "housing for older persons" exemption. Upon the enactment of the 1988 FHA Amendments, Mobile Home Village had a choice either to terminate its senior-citizens-only policy or to convert to qualified senior housing. The Court refuses to adopt a rule that would deprive landowners of this choice. See *City of Hayward*, 36 F.3d at 838. Pursuant to the Supremacy Clause of the United States Constitution, Jackson Township's ordinance cannot override the dictates of the FHA. The FHA grants an owner or manager discretion to decide whether to qualify for the "housing of older persons" exemption. Jackson Township is powerless to negate this federally mandated discretion by demanding plaintiff meet the requirements of the 1988 Amendments . . . [F]or the foregoing reasons, plaintiffs motion for partial summary judgment is granted.

Id. (Emphasis supplied)

In other words, liability was established as a matter of law and without a trial. The issue for the municipality in these circumstances is not whether it is liable, but how much in compensatory damages it will have to pay to the claimant. These cases are very important to examine in this instance.⁵

This proposition has been accepted in California law as well. In a prior pre-trial summary judgment ruling in the United States v. Plaza Mobile Estates litigation (C.D. California, 273 F.Supp.2d 1084), I sought summary judgment for one of the parks in that litigation because it was a "senior" housing facility (100 percent occupancy by 62 years of age and older tenants). However, there were two underage care givers for the frail and ill. I had argued that the California statutes (Civil Code §798.34) providing for caregivers under the required age limits in senior parks should be harmonized with the FHAA. The court ruled that the caregiver section of the California statute was preempted by the FHAA. The entire park was disqualified due to the presence of two caregivers. Simply, no state law or local ordinance can interfere with the FHAA.

⁵ "Moreover, we note that Jersey Maid addressed an issue of first impression without discussing precedents from other jurisdictions, or the policy implications of its rule." I.J. Weinrot & Son, Inc. v. Jackson (1985) 40 Cal.3d 327, 336 [220 Cal.Rptr. 103, 708 P.2d 682].)

ordinance can interfere with the FHAA.

Because “familial status” is a federally protected right, it stands on the same pedestal as race, national origin, color and sex. Cedar Hills Developers, Inc. v. Township of Wyckoff, No. 89-5391 (D.N.J. 12-11-90) P-H Prentice Hall Fair Housing Fair Lending Reporter, [¶ 15,675]. Indeed, the Wyckoff court stated:

There is little dispute, therefore, that the Act applies to practices, even pre-existing ones, defined to be discriminatory. There is nothing in the statute to suggest that this finding should be different because the discrimination at issue is familial rather than racial.

¶ 15,675, at p. 16,465⁶

Finally, the sheer number of Visalia residents affected by an effort to stop conversion to an “all age” community is compelling. According to the U.S. Census (200) the number of households with persons over 60 years of age in the City is 8,608. Yet, the number of households with persons under 60 is reportedly 22,275—more than *twice* the number of seniors. Families would be foreclosed from purchasing in the owners’ parks on a 2 to 1 basis. This form of differential impact of a regulation constitutes an FHAA violation. The impact is even greater on the Hispanic population (discussed, *infra*).

Zoning Issues and Attorney General Opinion

In 2004 the Attorney General of California issued an opinion in contradiction to the positions stated herein. Respectfully, that opinion is inexplicably myopic and plainly wrong. Atty.Gen.Op. No. 04-704. There is no analysis of the federal supremacy doctrine at all. Nor of the FHAA. It does not constitute any precedent in the face of the FHAA, and the federal and controlling precedents which deal with this issue. Hayward, *supra*.

It is unremarkable for even the State courts to reject opinions of the Attorney General of California. Judges routinely overturn these opinions in reported and unreported court opinions. For example, Board of Retirement v. Lewis (1990) 217 Cal.App.3d 956, 966 [266

⁶ The Court went on to state that: “Nor is it dispositive that the mechanism embodying the discrimination is a municipal ordinance. Courts have consistently held that the Fair Housing Acts provisions apply to municipal zoning powers. Huntington Branch, NAACP v. Town of Huntington, 844 F.2d 926 (2d Cir. 1988), *affd*, 109 S.Ct. 276 (1988); Metropolitan Housing Dev. Corp. v. Village of Arlington Heights, 558 F.2d 1283 (7th Cir. 1977), *cert. denied*, 434 U.S. 1025 (1978). Moreover, as noted by HUD, the legislative history reflects that Congress carefully considered this very issue before passing these Amendments. See Hearings before the SubComm, on Constitutional Rights of the House Comm. on the Judiciary, 100th Cong., 1st Sess. (April 22, 29, May 6, 7, 13 and 14, 1987) (“House Hearings”), pp. 609-18; Hearings before the Subcomm. on the Constitution of the Senate Comm. on the Judiciary, 100th Cong., 1st Sess. (March 31, April 2, 7, 9, June 9, and July 1, 1987) (“Senate Hearings”) pp. 477-88. The fact that many communities, originally designed to be either adult or seniors residences, would be adversely affected by this legislation must, therefore, be viewed as an unfortunate byproduct of Congress’ legitimate objective of eradicating familial status discrimination.”

Cal.Rptr. 225, 230] (“ . . .we note the Attorney General rendered an opinion concluding this age restriction was constitutionally valid. (62 Ops.Cal.Atty.Gen. 106, 107 (1979).) But Auditor's proposed interpretation of section 31558, as amended by Chapter 840, would place its constitutional validity in serious doubt. We can think of no legitimate governmental purpose that would be served by excluding persons employed in safety member position from receiving the pension benefits available for their work solely because they were over 35 . . .”).

Indeed, on occasion, the Attorney General even argues against its own opinions when it suits its interest. See, City of Sacramento v. State of California (1984) 156 Cal.App.3d 182, 192 [203 Cal.Rptr. 258, 263] (“ . . .The Attorney General is now in the position of having to argue to this court that his prior opinion was wrong and should be disregarded . . .”).⁷

⁷ And see County of Fresno v. Clovis Unified School Dist. (1988) 204 Cal.App.3d 417, 422 [251 Cal.Rptr. 170, 172] (“ . . .The Attorney General's opinion turns upon an expansive interpretation of the word 'election' in [section] 5424 so as to include services antecedent to the call. However, it seems to me that that position neglects the plain meaning of the precise wording of [Education Code section] 5424, overlooks the content of related and companion statutes . . .”); and at pp. 177-178 (“ . . .We reject the reasoning of the California Attorney General's Opinion No. 85-906 and plaintiff's argument herein. [FN2] . . .”); Homes on Wheels v. City of Santa Barbara, 119 Cal.App.4th 1173, 1178 [15 Cal.Rptr.3d 132, 135] (“ . . .They rely on an Attorney General opinion that states, "Any parking restrictions that a local authority would choose to impose would have to apply to all vehicles or none." (73 Ops. Cal.Atty.Gen. 13, 19 (1990) [1990 WL 484741 (Cal.A.G.), p. 5].) We disagree. . . .”); One2One Learning Foundation, 10 Cal.Rptr.3d 456, 474 (“ . . .In 1995, the Attorney General concluded this portion of the statute meant that charter schools were subject to the terms of section 51747.3. (78 Ops.Cal.Atty.Gen. 253, 257-258 (1995).) In light of our conclusion that the law in effect prior to January 1, 2000, did not apply to charter schools (see post), we conclude this portion of the Attorney General's opinion is erroneous. . . .”); People v. Silva (2003) 114 Cal.App.4th 122, 125 [7 Cal.Rptr.3d 473, 474] (“ . . .The trial court properly rejected an opinion of the Attorney General that had held to the contrary. (85 Ops.Cal.Atty.Gen. 106, 114 (2002).) . . .”); In re Markelle T., 2003 WL 21350550, 6-7 (Cal.App. 1 Dist.) Not Officially Published (“ . . .The court in Tara S. rejected a 1978 opinion of the Attorney General [FN4] interpreting "placement" as including the home of a natural parent . . .”); Santa Clara County Local Transportation Authority v. Guardino (1995) 11 Cal.4th 220, 246, 12 Cal.4th 344E [45 Cal.Rptr.2d 207, 223] (“ . . .we find unpersuasive an opinion of the Attorney General that petitioner also cites, insofar as it concludes that a statute (Rev. & Tax.Code, § 7285) containing a voter approval requirement similar to that of section 53722 is an impermissible referendum on a tax. (73 Cal.Ops.Atty.Gen. (1990) 111, 113-114 . . .”); Anderson v. Superior Court (1995) 38 Cal.Rptr.2d 890, 900 (Review Granted, Previously published at: 32 Cal.App.4th 1716, 36 Cal.App.4th 1537) (“ . . .The majority further rejects a 1953 California Attorney General opinion, opinion No. 53-82 (22 Ops. Cal. Atty. Gen. 177 (1953)), which reaches a contrary conclusion . . .”); Freedom Newspapers, Inc. v. Orange County Employees Retirement System Bd. of Directors, 11 Cal.Rptr.2d 488, 496 (Review Granted, Previously published at: 9 Cal.App.4th 134, 15 Cal.App.4th 345, 20 Cal.App.4th 569) (“ . . .We decline in this opinion to join this circle of error. While we agree that courts should give great weight to the published opinions of the Attorney General, they are not bound to perpetuate obvious errors in nonpublished indexed letters. [n.18]”: (n 18. “[U]nlike court decisions, opinions and letters of the Attorney General are not forged in the crucible of the

In sum, the Opinion of the Attorney General bearing on the issues in this instance is patently in error.

One case in the California courts has discussed senior zones, but avoided deciding whether a senior zone violated the FHAA (as squarely held in Mobile Home Village, Inc. v. Township of Jackson, Civil No. 95-0004, Fair Housing-Fair Lending (P-H) ¶ 16,018, at 16,018.4 (D.N.J. June 14, 1995) and Cedar Hills Developers, Inc. v. Township of Wyckoff, Civil No. 89-5391, Fair Housing-Fair Lending (P-H) ¶ 15,675 (D.N.J. Dec. 11, 1990)). Rather, in Gibson v Riverside (C.D.Cal. 2002) 181 F.Supp.2d 1057, 58 Fed. R. Evid. Serv. 544 the court never addressed the issue presented here. There, the Court only ruled that an injunction should issue against Riverside County "from denying to any person on the basis of age the enjoyment of residence, landownership, tenancy or other land use through the use of its zoning or planning functions." At 1063. That order was sustained. Because there was apt failure to comply with any semblance of adherence to federally-mandated requirements for "older persons" housing, the County law was struck down. Clearly, when faced with the issue squarely, the decisions will be the same. One telling example forecasts such a result. If an area is zoned senior and several older residents die, leaving underage survivors which act to disqualify the project from the senior citizen exemption (at least 80 percent of occupants must be at least 55 years of age to qualify any mobilehome park), then the federal law applies and the project must be declared "all age." This absolute rule of federal law cannot be eviscerated by local action. Hence, the federal statute cannot be changed by any

adversarial process, nor are they subject to direct review by higher courts."); Southwest Concrete Products v. Gosh Const. Corp., 263 Cal.Rptr. 387, 389 (Review Granted, Previously published at: 215 Cal.App.3d 134) (" . . . the Attorney General's opinion rejected in Crestwood. . . "); Conservatorship of Drabick (1988) 200 Cal.App.3d 185, 202, 245 [Cal.Rptr. 840, 850], n.12 (" . . . The only decision that mentions the Attorney General's opinion rejects it. In Dority v. Superior Court (1983) 145 Cal.App.3d 273, 280, fn. 4, 193 Cal.Rptr. 288, the court stated without further discussion that it had "examined the opinion and [was] not persuaded by its logic." . . . "); Madera Police officers Assn. v. City of Madera (1984) 36 Cal.3d 403, 411 [682 P.2d 1087, 1091, 204 Cal.Rptr. 422, 426] (" . . . we reject defendants' contention that the opinion of the Attorney General 39 Ops.Cal.Atty.Gen. 261 (1962), analyzing the single restriction of on-call status, is controlling . . . ").

The Opinion of the Attorney General has been rejected for failing to properly read legislative history. See, People v. Thompson (1977) 72 Cal.App.3d 1, 4 [139 Cal.Rptr. 800, 801] (" . . . We note that an opinion of the Attorney General which seems to support this conclusion is based, in relevant part, upon an erroneous view of legislative history . . . "); California Sch. Employees Assn. v. Pasadena Unified Sch. Dist. (1977) 71 Cal.App.3d 318, 324 [139 Cal.Rptr. 633, 636] (" . . . the opinion erroneously implies, and plaintiff erroneously leaps to the conclusion, that because such reductions cannot be made Except with the employee's consent in lieu of layoff, therefore they cannot be made at all. . . "); Bellino v. Superior Court (1977) 70 Cal.App.3d 824, 828 [137 Cal.Rptr. 523, 526] (" . . . Petitioners argue that the Attorney General's opinion is incorrect and we agree. . . "); C. R. Fedrick, Inc. v. State Bd. of Equalization, (1974) 38 Cal.App.3d 385, 398-399 [120 Cal.Rptr. 434, 444] (" . . . As we have previously indicated, this Board policy and Attorney General opinion were held to be erroneous in King v. State Board of Equalization . . . "); State Bd. of Equalization (1972) 22 Cal.App.3d 1006, 1012 [99 Cal.Rptr. 802, 806] (" . . . In view of that conclusion, the administrative interpretation of the sales tax act stemming from the Attorney General's 1936 property tax opinion is incorrect . . . ").

regulations, whether such regulations emanate from state or local authority, or from HUD.

Discrimination against Families is Also
Discrimination on the Basis of National
Origin, Color and Race

Moreover, if it can be established that the families in the City of Visalia able to seek "all age" housing were predominantly of a protected color or national origin status, a claim of discrimination on the basis of national origin, color and race, based on disparate impact could also be made against the city.

In a pre-FHAA case, Halet v. Wend Investment (9th Cir. 1981) 672 F.2d 1305, Halet applied for an apartment in a complex. His application was denied because the landlord had an adults-only rental policy and Halet had a child in his household. Halet brought this suit against the landlord, charging that the adults-only rental policy violated his right to live with his family and was racially discriminatory. Specifically, he claimed that the County and property owner violated the fourteenth amendment, Civil Rights statutes, 42 U.S.C. §§ 1981, 1982, 1983, and 2000d, and the Fair Housing Act, 42 U.S.C. § 3604. Halet's claims of racial discrimination are based on the ". . . greater effect that an adults-only policy has on Blacks and Hispanics because more of those households include minor children." The court granted standing to make such an allegation under the FHA:

Halet does, however, have standing to raise a racial discrimination claim under the Fair Housing Act. Congress expanded standing under that Act to the full extent of Article III. The Supreme Court, in Gladstone Realtors v. Village of Bellwood, 441 U.S. 91, 99-100, 103 n.9, 99 S.Ct. 1601, 1607-08, 1609-10 n.9 (1979), held that a plaintiff who has suffered an actual injury is permitted to prove that the rights of another are infringed. Here, Halet claims that he was denied an apartment because of a policy that allegedly infringes on the rights of Blacks and Hispanics. Under Gladstone this is sufficient to support Halet's standing under the Act.

672 F.2d 1305 at 1309.

If persons in the "all-age" protected class are also members of other protected classes under the FHAA in other or "secondary" categories (such as race, color or national origin) and, if the prevalence of the secondary class membership is more predominant than the Caucasian "all age" population, complainants with "familial status" claims could also allege a disparate or discriminatory impact based on such other protected class characteristics--even if they did not personally possess them.

The City of Visalia statistics are particularly compelling in this regard. Please consider the following U.S. Census data (Data Set: Census 2000 Summary File 1 (SF 1) 100-Percent Data).

- The 2000 census reveals that the household size for Hispanics is **3.74 - 3.93** persons vs. **2.50-2.99** persons for White households. The Hispanic household is larger than the White household.

- Of households containing three (3) or more persons, **70 percent (.70408) of Hispanic households have three or more persons**, while just **39 percent (.39114) of White households have three or more persons**.
- Conversely, of households with children under the age of eighteen (18), **41 percent (.40734) of Hispanic households have children under the age of 18**, while only **27 percent (.27069) of White households have children under the age of 18**. Stopping “all age” housing is dramatically more likely to adversely impact Hispanic families with children under the age of eighteen in Visalia.
- Another striking statistic is the number of persons 55 and older by race and origin. **23 percent (.22534) of Whites in Visalia are 55 years of age or more**, while just **1 percent (.07762) of Hispanics are 55 years of age or older**. *Mandatory regulations to stop conversion to an “all age” park are more than twenty times more likely to benefit the White resident.*

Plainly, efforts to stop all age housing would — indisputably — disproportionately impact Hispanics and Hispanic families more adversely and intrusively than Whites.

While the disparate impact on Hispanic people by requiring senior housing is clear, no evidence has yet been revealed to ascribe any malevolent intention behind the motivations for stopping Hispanic families from moving into mobilehome parks. However, since violation of the fair housing laws is based on a strict liability theory of proof, no intent need be shown to establish a disparate impact violation.

Conclusion

The foregoing information is presented in the hope that this issue can be thoroughly studied and evaluated in light of all the salient facts. Any local effort to stop “all age” housing violates the FHAA and the rights of Visalia residents in need of clean decent housing. The fact that the brunt of a local regulations impacts most adversely on Hispanics is even more troubling.

Indeed, the lawsuits which seek relief against housing discrimination, exemplified by class action treatment of such fair housing claims, can pose extreme financial burdens for defendants. The U.S. v. Plaza Mobile Estates case in which I participated as an attorney for defense of the housing providers, is a representative illustration. The first portion of that litigation, involving a portion of the targeted parks carrying liability insurance, was settled by consent decree. That action was based on class treatment of all claimants. The Court reported as follows:

"The consent order established a claim fund of approximately **two million dollars** for the benefit of the class members. One of the partnerships contributed \$75,000 to the fund and an insurance company contributed the remaining amount"

152 F.3d 931, 1998 WL 385466 (9th Cir.(Cal.)) at 1. (Emphasis supplied)

In other words, a class action challenging local action or regulations, coupled with

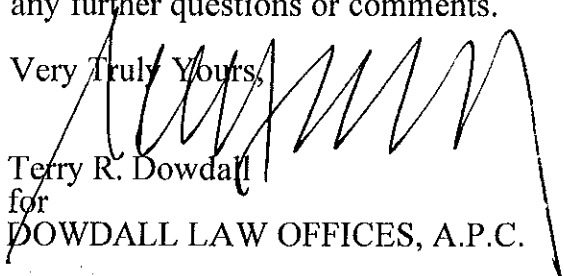
Honorable Mayor Jesus J. Gamboa, *et al.*
December 30, 2008
Page 12

private class claims, as against an entire city, may pose extreme financial risk.

It is my intention that the foregoing information prove useful and informational to assist the City in its continuing evaluation of these issues. In this regard, I invite any request for further information or assistance which may be sought.

Thank you for your kind attention to the foregoing. Please feel free to contact me with any further questions or comments.

Very Truly Yours,



Terry R. Dowdall
for
DOWDALL LAW OFFICES, A.P.C.

cc: Mr. and Mrs. Popkin

City of Visalia Agenda Item Transmittal

Meeting Date: January 5, 2008

Agenda Item Number (Assigned by City Clerk): 11

Agenda Item Wording: Receive, discuss, and give direction to staff regarding the recommendations from the Downtown Parking Committee;

Deadline for Action: None

Submitting Department: Community Development
Engineering Division

Contact Name and Phone Number:

Chris Young, Assistant Community Dev. Director - 713-4392
Mike Olmos, Assistant City Manager – 713-4332

Department Recommendation: Staff recommends that the Visalia City Council receive and act on the recommendations of the Downtown Parking Committee and provide direction to staff as appropriate.

Summary/background: At a Joint Work Session meeting with the City Council and the City of Visalia Planning Commission held on March 26, 2007, the City Council approved the formation of a Downtown Parking Committee.

Originally, the Committee was to be composed of nine members:

- Two City Council members,
 - Jesus Gamboa
 - Bob Link
- One Planning Commissioner,
 - Sam Logan
- Three members of Downtown Visalians & Alliance,
 - Mike Fistolera
 - Barbara Hood
 - William Martin
- Two members that are a business owner and/or property owner from east downtown, and
 - Harvey May
 - Cliff Dunbar
- One member of the general public.
 - Steven Peck

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.): _____

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

The Downtown Parking Committee was asked by the City Council to consider the following areas:

1. Analyze revenue sources for downtown parking,

This would include analyzes of fees charged in the parking structures, the City's Parking In Lieu Program, Assessments Districts, Impact Fees, and the potential use of the PBID to generate capital dollars.

2. Identify areas where additional on-street parking can be created,

The Task Force would review the greater downtown area to see if additional on-street parking can be created through diagonal spaces, eliminations of curb cuts, and different on-street parking regulations.

3. Analyze the City Ordinances which allows new downtown uses to provide off-site parking,

Current ordinances allow off-site parking in the downtown within certain number of feet of the business. Discussion and recommendations would be made concerning the location of private parking on specific corridors such as Main Street and whether these off-site parking provisions be altered for new uses.

4. Review the differences between the parking requirements in the core downtown and the east downtown area covered by the new interim parking ordinance,

The Committee met six times to discuss and consider the different facets of downtown parking for the current and future needs. The Committee encouraged input from developers, business owners and operators and others. The Committee was assisted by several City staffers including; Mike Olmos (Assistant City Manager), Andrew Benelli (Public Works Director), Chris Young (City Engineer), and Eric Bons (Senior Civil Engineer).

Items #3 and #4 were not addressed by the Committee because the interim ordinance regarding development standards for a portion of the East Downtown (Ordinance No. 2006-10) has expired. Since this ordinance has expired, the development standards are the same for the different downtown areas. Members of City staff (headed by Fred Brusuelas) are working on zoning and development standards for the East Downtown that will address compatibility with the core downtown and will be reporting to Council in the near future.

The Downtown Parking Committee did make six recommendations that are listed below:

1) Parking Enforcement/Citations – Tiered/Escalating Fines

The committee recommends that the City change the parking enforcement hours in the downtown area to 10:00 a.m. thru 7:00 p.m. (Monday – Friday). Currently, the parking enforcement hours are 8:00 a.m. thru 5:00 p.m. (Monday – Friday).

The committee recommends that City staff be directed to evaluate and report to Council on a tiered/escalating parking citation/fine structure.

2) Gating and Metering of Parking Garages

The committee recommends that the potential gating and metering of the East and West Acequia parking structures be pursued. This process should identify existing usage, cost to implement, operational issues, and a financial analysis including potential generation of revenue to help support downtown parking efforts.

3) Additional On-street Parking

The Committee recommends directing City staff to continue pursuing opportunities for additional on-street parking (diagonal and parallel) in the downtown area. Staff should review the existing uses of driveways, painted curbs, designated loading/unloading zones, one-way/two-way street designations and time restricted parking in order to identify any potential additional parking.

4) Signage

The committee recommends that a “way-finding” sign program be implemented throughout the downtown area. These signs should highly visible, give clear direction to off-street parking and not be located among clusters of other signs. The committee also recommends that the way-finding sign program review existing street signage in the downtown area and remove any extraneous signs.

5) Grant Opportunities

The committee recommends, in addition to utilizing other revenue sources, that the City pursue all available grant opportunities that would help pay for the costs of parking facilities.

6) On-street Parking Meters

After careful consideration, the committee recommends not implementing parking meters in the downtown area at this time.

Some of the Committee’s recommendation’s (numbers 1-4) require evaluation/research by City staff. If the City Council approves, staff will perform the necessary evaluations and report back to Council (within the next several months) with specific recommendations.

Prior Council/Board Actions: On March 26, 2007, City Council approved the formation of a Downtown Parking Committee.

Committee/Commission Review and Actions: None

Alternatives: N/A

Attachments: None

Recommended Motion (and Alternative Motions if expected): City Council accepts the recommendations of the Downtown Parking Committee. Council directs City staff to perform the necessary studies and report back to Council with specific recommendations.

Environmental Assessment Status

CEQA Review: N/A

NEPA Review:

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)*

Copies of this report have been provided to: Planning Commission Members, Downtown Parking Committee Members, Mike Williams (Kaweah Delta Hospital), Glen Morris (Chamber of Commerce), Michael Kreps (President Downtown Visalians) and Kelly Hauert (Downtown Visalians)

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 12

Agenda Item Wording: Public hearing regarding issuance of tax-exempt housing bonds by Tulare County Housing Authority in a principal amount of approximately \$7,600,000, for the purpose of financing the construction and certain other matters relating thereto, of Sierra Meadows Senior apartments, and adoption of Resolution 2009-02 approving the issuance by the Housing Authority of the bonds and affirming consent to operation by the Housing Authority within the City.

Deadline for Action: January 5, 2009

Submitting Department: Housing & Economic Development

Contact Name and Phone Number:

Rhonda Haynes, Housing Specialist (559) 713-4460

Department Recommendation: It is recommended that the Visalia City Council open a public hearing regarding issuance of tax-exempt housing bonds by Tulare County Housing Authority in a principal amount of approximately \$7,600,000, for the purpose of financing the construction and certain other matters relating thereto of Sierra Meadows apartments, take any testimony offered by the public regarding the financing of the proposed apartment project, close the public hearing, and adopt Resolution 2009-02 approving the issuance of bonds by the Tulare County Housing Authority to finance the apartment project and affirming the City Council's consent to the operation by the Housing Authority in the City.

Summary/background: The Tulare County Housing Authority has informed the City that it is planning to issue \$7,600,000 tax-exempt bonds to finance the construction of a 43 unit rental housing apartment project for seniors to be located at 1120 East Tulare Avenue in the City. The bond will be paid back at the end of construction with permanent sources listed below. The project will be owned by Visalia Meadows, L.P., a limited partnership sponsored by Christian Church Homes of Northern California and Visalia Senior Housing, Inc.

The planned financing for the Sierra Meadows Senior Housing Development consists of:

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.): 15

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Acquisition, Predevelopment Financing:	
City of Visalia HOME Funds	\$ 2,500,000 (2/3 disbursed)
Permanent Financing:	
HUD Section 202 Capital Advance	\$ 5,693,800 (secured)
4% Low-Income Housing Tax Credit Equity	\$ 2,885,000 (appl in progress)
General Partner Equity	\$ 402,200 (in progress)
Federal Home Loan Bank AHP Grant	\$ 344,000 (in progress)
Christian Church Homes/Sponsor Equity	<u>\$ 25,000</u> (secured)
<i>Total Development Cost</i>	<i>\$11,850,000</i>

Permanent Financing costs listed, plus the City's contribution total the projects development costs. The \$7,600,000 Tax Exempt Bond being utilized as a construction loan, will be paid back with the permanent financing sources.

The tax-exempt bond portion of the project is equivalent to a traditional market-rate construction loan for private real estate development. In the subsidized housing world of affordable rental unit development, this traditional structure is replaced with tax-exempt bond financing – a method to leverage public resources for the production of more affordable units for low-income families and individuals. Thus, for Sierra Meadows, the tax-exempt bond/construction loan will be used during construction and then paid back to the bank upon completion of the project using the funds awarded from the HUD Section 202 program and the equity yield from the Low-Income Housing Tax Credit program.

The Housing Authority of Tulare County (TCHA) is planning to issue up to \$7.6 million tax-exempt revenue bonds of which the proceeds will be loaned by TCHA to Visalia Meadows, L. P., to finance a portion of the costs of construction of the 43 unit multi-family senior rental housing development (Sierra Meadows).

Need of Council Approval:

The Internal Revenue Code of 1986, Section 147 (f) requires that, in order for the interest on a private activity bond to be excluded from the gross income of the owner of the bond (i.e., tax-exempt), an “applicable elected representative” of a governmental unit in whose jurisdiction the project to be financed is located must approve the issuance of the bond after a public hearing following reasonable public notice. The proposed Bond issue by the TCHA (the proceeds of which will be used by TCHA to make a loan to the Borrower to finance the Project) is classified as a private activity bond for purposed of the Code. Because the TCHA’s Board of Commissioners is not an elected body, Section 147 (f) (2) (E) (ii) of the Code provides that a governmental unit with elected representatives and jurisdiction over the area in which the project to be financed is located, in this case the City Council, is an “applicable elected representative” with respect to the bond issue. The City will incur no obligation whatsoever by reason of its holding of the public hearing and approval of the issuance of the Bonds by TCHA

In order for the interest on the bonds to be tax-exempt, bond counsel has advised that the City Council needs to hold a public hearing regarding the proposed financing, and to adopt a resolution approving the issuance of the bonds by the Housing Authority. As noted above, the approval must be by an elected body in whose jurisdiction the project is located, as required by applicable IRS regulations.

Christian Church Homes of Northern California and Visalia Senior Housing Inc. will be the co-developers of the project, and have formed a corporation that will be the general partner

of Visalia Meadows, L.P, the limited partnership that will own the project. The Tulare County Housing Authority will issue the bonds for the project and will loan the proceeds of the bonds to Visalia Meadows, L.P., but the Housing Authority will not have any ownership interest in the project.

The bonds issued by the Housing Authority will be repaid by revenues from the rental of apartment units in the project to seniors. The City will not be involved in the bond issue, and will have no responsibility for the repayment or administration of the bonds. Following the adoption of the Resolution by the City Council, the City will have no further involvement in the bond program.

Prior Council/Board Actions: Resolution 2006-83 adopted September 18, 2006 confirming City Council approval for the Housing Authority to operate in the City.

Committee/Commission Review and Actions: None

Alternatives: To not approve the issuance of the bonds by the Tulare County Housing Authority.

Attachments: Notice of Public Hearing
Resolution No. 2009-02
Letter of November 11, 2008 from Quint & Thimmig LLP, Bond Counsel

Recommended Motion (and Alternative Motions if expected):

I move to approve the adoption of Resolution 2009-02 approving the issuance of the bonds by the Housing Authority of Tulare County and confirming the City Council's approval of the operation by the Housing Authority in the City.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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)*
Resolution No. 2009-

Copies of this report have been provided to:

RESOLUTION NO. 2009-02

A RESOLUTION OF THE VISALIA CITY COUNCIL APPROVING
THE ISSUANCE OF BONDS BY THE HOUSING AUTHORITY
OF THE COUNTY OF TULARE IN A PRINCIPAL AMOUNT OF
APPROXIMATELY \$7,600,000 FOR THE PURPOSE OF
FINANCING THE CONSTRUCTION OF SIERRA MEADOWS
SENIOR APARTMENTS AND CERTAIN OTHER MATTERS
RELATING THERETO

WHEREAS, Christian Church Homes of Northern California and Visalia Senior Housing, Inc., on behalf of Visalia Meadows, L.P., a California limited partnership (the "Borrower"), has requested that the Housing Authority of the County of Tulare (the "Authority") issue revenue bonds in an aggregate principal amount of approximately \$7,600,000 (the "Bonds"), and to lend the proceeds of the Bonds to the Borrower for the purpose of financing the costs of construction of a multifamily residential rental senior housing facility (the "Facilities") to be owned by the Borrower and located at 1120 East Tulare Avenue in the City of Visalia, California (the "City"); and

WHEREAS, in order for the interest on the Bonds to be tax-exempt, Section 147(f) of the Internal Revenue Code of 1986 (the "Code"), requires that the issuance of the Bonds by the Authority be approved by an elected body in whose jurisdiction the Facilities are to be located following a public hearing regarding the Bonds; and

WHEREAS, the City Council of the City (the "City Council") is an elected body authorized to hold the public hearing and approve the issuance of the Bonds under Section 147(f) of the Code; and

WHEREAS, the Authority has requested that the City Council hold the public hearing and approve the issuance of the Bonds by the Authority in order to satisfy the public approval requirement of Section 147(f) of the Code; and

WHEREAS, the City Council has, following notice duly given, held a public hearing regarding the issuance of the Bonds, and now desires to approve the issuance of the Bonds by the Authority; and

WHEREAS, on September 18, 2006, the City Council adopted Resolution No. 2006-83, confirming its consent to the operation by the Authority within the City as necessary or convenient to the conduct of housing programs, and the City Council now derives to affirm such consent so that the Authority may proceed with the issuance of the Bonds to finance the Facilities.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Visalia as follows:

1. The City Council hereby approves the issuance of the Bonds by the Authority. It is the purpose and intent of the City Council that this resolution constitute approval of the issuance of the Bonds by the Authority, for the purposes of (a) Section 147(f) of the Code, by the applicable elected representative of the governmental unit having jurisdiction over the area in which the Facilities are to be located, in accordance with said Section 147(f).

2. The adoption of this Resolution shall not obligate the City or any department thereof to (i) provide any financing to construct the Facilities; or (ii) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the construction or operation of the Facilities.

3. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this Resolution and the financing transaction approved hereby.

4. The City Council hereby affirms its consent to the operation by the Authority within the City as necessary or convenient to the conduct of housing programs, including the financing of the Facilities by the Authority.

5. The City Clerk shall forward a certified copy of this Resolution to the bond counsel for the Bonds, addressed as follows:

Paul J. Thimmig, Esq.
Quint & Thimmig LLP
575 Market Street, Suite 3600
San Francisco, CA 94105-2874

6. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED:

STEVEN M. SALOMON, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF TULARE) ss.
CITY OF VISALIA)

I, Steven M. Salomon, City Clerk of the City of Visalia, certify the foregoing is the full and true Resolution 2009-___ passed and adopted by the Council of the City of Visalia at a regular meeting held on January 05, 2009.

Dated:

STEVEN M. SALOMON, CITY CLERK

By _____, Chief Deputy