



## **MINUTES OF A REGULAR MEETING OF THE MADERA CITY COUNCIL CITY OF MADERA, CALIFORNIA**

**April 6, 2016  
6:00 p.m.**

**Council Chambers  
City Hall**

### **CALL TO ORDER**

The regular meeting for 04/06/16 was called to order by Mayor Poythress at 6:00 p.m.

### **ROLL CALL:**

**Present:** Mayor Robert L. Poythress  
Mayor Pro Tem Charles F. Rigby  
Council Member Andrew J. Medellin  
Council Member Donald E. Holley  
Council Member Derek O. Robinson Sr.  
Council Member William Oliver

Others present were City Administrator David Tooley, City Attorney Brent Richardson, City Clerk Sonia Alvarez, Director of Community Development David Merchen, Director of Financial Services Tim Przybyla, Chief of Police Steve Frazier, Director of Parks and Community Services Mary Anne Seay, Director of Human Resources Wendy Silva, Chief Building Official Steve Woodworth, Information Services Manager Ted Uyesaka, Planning Manager Chris Boyle and Public Works Administrative Analyst Jason Rogers.

**INVOCATION:** Pastor Mike Unger, Madera Rescue Mission

The invocation was given by Pastor John Pursell from the Believer's Church. Pastor Unger was not available to attend.

**PLEDGE OF ALLEGIANCE:** Mayor Poythress led in the Pledge of Allegiance.

### **PUBLIC COMMENT:**

The first fifteen minutes of the meeting are reserved for members of the public to address the Council on items which are within the subject matter jurisdiction of the Council. Speakers shall be limited to three minutes. Speakers will be asked to identify themselves and state the subject of their comment. If the subject is an item on the Agenda, the Mayor has the option of asking the speaker to hold the comment until that item is called. Comments on items listed as a Public Hearing on the Agenda should be held until the hearing is opened. The Council is prohibited by law from taking any action on matters discussed that are not on the Agenda, and no adverse conclusions should be drawn if the Council does not respond to public comment at this time.

No comments were offered.

### **A. WORKSHOP**

There are no items for this section.

**B. CONSENT CALENDAR**

- B-1 Minutes – 9/02/15
- B-2 Information Only – Warrant Disbursement Report
- B-3 Weekly Water Conservation Reports (Report by Dave Randall)
- B-4 Consideration of a Minute Order Rejecting a Claim filed by Shelley Hurdlow (Report by Wendy Silva)
- B-5 Consideration of a Resolution Appointing Emmanuel Gomez to the City of Madera ADA Advisory Council (Report by Wendy Silva)
- B-6 Consideration of a Minute Order Approval of City Administrator Travel to Annual CALED Conference in South San Francisco, April 25 – April 28, 2016 (Report by David Tooley)
- B-7 Consideration of a Resolution Approving Agreement for a Revenue Measure Feasibility Survey to True North Research, Inc. and Authorizing the City Administrator to Sign the Letter of Agreement on Behalf of the City (Report by David Tooley)
- B-8 Consideration of a Minute Order Approving Request for Endorsement Letter for the United Way Fresno and Madera Counties as a 2-1-1 Service Provider in Madera County (Sonia Alvarez)
- B-9 Consideration of a Resolution in Support of Measure C, the State Center Community College District Bond (Sonia Alvarez)
- B-10 Consideration of a Resolution of the City Council, of the City of Madera, California, Approving a Subordination Agreement for Aristeo and Luisa Vaca for a CALHOME and HOME First Time Home Buyer Loan and Authorizing the City Administrator to Sign the Subordination Agreement on Behalf of the City of Madera (Report by Sonia Hall)
- B-11 Minute Order - Consideration of Letter of Support to the Madera County Transportation Commission in Favor of a Grant Application for Funding of the State Route 99 Widening from 4 to 6 Lanes between Avenue 12 and Avenue 17 under the FASTLANE Grant Program (Report by Keith Helmuth)
- B-12 Consideration of a Resolution Approving the Execution of Agreement for the Construction of Improvements for Capistrano XVI and Approving an Advance Construction Permit for Capistrano XVI Subdivision, and Authorizing the Mayor to Execute the Agreement on Behalf of the City

And

Consideration of a Resolution Approving Annexation of Zone of Benefit 51 to Landscape Maintenance District of the City of Madera and Setting Date for Public Hearing to Levy and Collect Annual Assessments for City Wide Landscape Maintenance District, Zone of Benefit 51 (Report by Keith Helmuth)

Mayor Poythress asked if there are any consent calendar items that a Council person would like to have pulled for further discussion. Mayor Pro Tem Rigby requested that Item B-9 be pulled for discussion.

Mayor Poythress asked for a motion for action on the Consent Calendar other than Item B-9.

ON MOTION BY COUNCIL MEMBER OLIVER, AND SECONDED BY COUNCIL MEMBER MEDELLIN, THE CONSENT CALENDAR EXCLUDING ITEM B-9 WAS ADOPTED UNANIMOUSLY BY A VOTE OF 6-0.

- RES. NO. 16-38      A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA APPOINTING EMMANUEL GOMEZ TO THE MADERA ADA ADVISORY COUNCIL
- RES. NO. 16-39      A RESOLUTION APPROVING AWARD OF AGREEMENT FOR A REVENUE MEASURE FEASIBILITY SURVEY TO TRUE NORTH RESEARCH, INC. AND AUTHORIZING THE CITY ADMINISTRATOR TO SIGN THE AGREEMENT ON BEHALF OF THE CITY.
- RES. NO. 16-40      A RESOLUTION OF THE CITY COUNCIL, OF THE CITY OF MADERA, CALIFORNIA, APPROVING A SUBORDINATION AGREEMENT FOR ARISTEO AND LUISA VACA FOR A CALHOME AND HOME FIRST TIME HOME BUYER LOAN AND AUTHORIZING THE CITY ADMINISTRATOR TO SIGN ON BEHALF OF THE CITY OF MADERA
- RES. NO. 16-41      A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPROVING THE AGREEMENT FOR THE CONSTRUCTION OF IMPROVEMENTS FOR CAPISTRANO XVI AND APPROVING AN ADVANCE CONSTRUCTION PERMIT FOR CAPISTRANO XVI SUBDIVISION, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY
- RES. NO. 16-42      A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPROVING ANNEXATION OF ZONE OF BENEFIT 51 TO LANDSCAPE MAINTENANCE DISTRICT OF THE CITY OF MADERA AND SETTING DATE FOR PUBLIC HEARING TO LEVY AND COLLECT ANNUAL ASSESSMENTS FOR CITY WIDE LANDSCAPE MAINTENANCE DISTRICT, ZONE OF BENEFIT 51

*B-9      Consideration of a Resolution in Support of Measure C, the State Center Community College District Bond (Sonia Alvarez)*

Mayor Pro Tem Rigby indicated that it looks to him like the initiative is looking for support of the Council and he has several questions, mainly because their website doesn't even work and number two just as a representative of the voting public, he would like to know what he is putting his name behind.

Bobby Kahn, EDC Director stated that he is not here tonight as the Economic Development Director, but is here representing the State Center Community College District as their trustee for Area 1. He didn't know if the Council wanted to ask him questions or if they wanted an explanation however, they wanted to handle this.

Mayor Pro Tem Rigby stated that they could handle it any way that Mr. Kahn wanted, maybe give them a brief Reader's Digest version or what Mr. Kahn felt was necessary and if Mr. Kahn didn't answer his questions within that presentation, he would be more than happy to follow up.

Mr. Kahn stated that the State Center Community College District has deemed it necessary to go out on a bond. They have made a study and can go out to a bond of \$600 million. They have opted to go to a bond of \$485 million that will calculate to about \$18.85 per \$100,000 of value. So on a \$200,000 home, you are looking at \$37 per year. When the District says that, it is the maximum amount. The District has a history of being very prudent with the bond money that they use and the taxpayer's money. Their last bond was projected to cost the taxpayers about \$14 and change, but because of their oversight and refinancing and

taking advantage of market conditions, they were able to lower that to, he thinks, \$7 per \$100,000. He is referring to the bond for Madera in particular, which is the part of the bond he represents as the representative for Madera County and the eastern parts of Fresno, but Madera is near and dear to his heart.

Mr. Kahn stated that the Madera Community College Center will be receiving \$40 million of that money and that will be able to complete the Academic Village 1. It would be adding about 24 classrooms and labs and they will also do extensive expansion for the career for advanced manufacturing. This is a critical component in order for them to keep moving forward to bring that center to full college accredited status. Madera County, he believes, is the only county in California that doesn't have a fully accredited college within their boundaries. They have a plan in place under Dr. Caldwell's master plan to begin the accreditation process in a few years and have the college accredited by 2025. In order to do that, they need to continue their growth pattern at that college. They have experienced extensive growth in the last few years and they are adding classes, adding opportunities for students and extending the offerings. They are expanding the science technology, engineering and math sector of the college, as well as starting a new agri-business section to the college.

Mr. Kahn stated that in addition to that, also benefiting Madera County will be \$25 million that will go to the Oakhurst campus. The Oakhurst campus is a 2½ acre parcel with all portable buildings on it at this time. The District is committed to doing something permanent in eastern Madera County, however, they don't think it's a prudent idea to build a permanent building on 2½ acres, because they will pretty much be built out at that point. What their master plan is for Oakhurst, is to find an alternative site that is 15 to 20 acres, that they can build a permanent building on and then have room for expansion as that college campus grows.

Mr. Kahn stated that other parts of the bond, because Fresno City is their starship campus, a lot of the money will be going to that particular campus, but again the Council needs to realize that many Madera students, are students from Madera, take advantage of the opportunities at Fresno City College, so they have a fairly large representation at that campus as well. Reedley College and their newly accredited Clovis Community College, will also be receiving funds from this bond, as they can imagine. He offered to answer any questions. He is sure he left something undone.

Mayor Pro Tem Rigby offered full disclosure in that he is an employee of the state school system. He advised that he works at Reedley College, just so Mr. Kahn knows that he is not trying to roadblock anybody. \$40 million to the Madera Center, another \$25 million, if we are talking County to Oakhurst, that is still less than a ¼ of what's going to be allocated to Clovis, Fresno City and Reedley. Mayor Pro Tem Rigby asked if Mr. Kahn knows what exactly is being allocated to Clovis.

Mr. Kahn responded that to be honest, he has only focused on the Madera numbers. He can get the information for him, but Mayor Pro Tem Rigby also has to keep in mind that in Madera County, their student body represents 10% or less of the total population of the State Center Community College District, so he thinks the proportionate share that is being allocated to their campuses is more than fair. He thinks they are getting more than their fair share of the money.

Mayor Pro Tem Rigby asked if Mr. Kahn felt it was argumentative simply because they don't have the classes, and if they were to get the money, they would be able to offer the classes then they wouldn't lose the students to the other campuses where they are going to find the classes.

Mr. Kahn agreed that is a very valid argument, because during the recession the one campus that they really hit hard was the Madera Community College Center. To be honest with them, it was one of the things that made him get more involved with the system, and the fact that they basically gutted that campus and turned it into a remedial classes only. Dr. Caldwell has come on board, she has recognized that. She is very visionary. She has been very active in the Madera community. She has reached out to a lot of the leaders asking what needs to be done. She's done incredible work along with Dr. Fitzer. They have met with the City Administrator and City's transportation staff to try to get better transportation out to the college center to make it more accessible for all students of Madera. To be honest and fully transparent with

Council, they are re-building that campus, but they are rebuilding it in a rapid manner and it's one of the fastest growing campuses now within the system.

Mayor Pro Tem Rigby agreed absolutely and asked who determines the allocation of funds. He doesn't want to put words in Mr. Kahn's mouth, but it makes it sound like this is being determined based on per student per capita.

Mr. Kahn replied no, not really. He didn't want to leave them with that impression and he apologized for doing that. What it was is that each campus had a committee that put forth what they felt was their most important needs. This started about 2½ years ago when they started thinking about a bond. What are the needs, what are the needs district-wide? So each campus was evaluated and then it came together as a big group and then the presidents and the cabinets of each college, along with the Chancellor's cabinet, all met over lengthy meetings to determine, ok, what are the highest priorities. So all the top priorities were then listed on what they felt would go for the bond. From there, the waters had to be tested, naturally, with the board to make sure they had the appetite for it and then once they gave the ok they said yes, they want them to take the next step. That's when Brian Speece, the former Vice Chancellor of Operations did all the really hard work of putting the numbers to the facilities and figuring how much each one would cost and that's what really determined the amount of the bond. There were some additions made. They, actually, allocated another \$5 million to Oakhurst, because they felt that with the site work that needed to be done that they were going to need more money, so there was a little massage done there, but it wasn't done on a per capita basis, but when he says that, he does feel they are getting their fair share and he thinks this is one of the first times, in a long time, that Madera will be getting more than its fair share of the bond. In 2002, they did get some money for the Academic Village I, but it went nowhere, and Oakhurst got no money.

Mayor Pro Tem Rigby noted that it's nearly half a billion dollar bond and questioned if Mr. Kahn feels that \$40 million is fair.

Mr. Kahn responded that in his opinion it's fair for where they are in the system right now, because they have to think, as a board member, he's thinking of Madera, but he also has to think district-wide and where their needs are and what are the most pressing needs and Fresno City, to be quite honest with them has some very significant needs. That's a very old campus. It's the oldest campus in the California system. They have a lot of very old buildings that need a lot of retrofit so there's a lot of expense and if they are going to keep up, especially in their math sciences there where their nursing program is. That is the campus that houses their nursing program. He added that in fact, they are going to be building a new math science building if the bond passes. That's how outdated their math science building is.

Mayor Pro Tem Rigby stated he is more curious about the rapid growth that took place in Clovis. It just seems like to him he watched, in the past, as the state allocated funds that could have gone to Madera Center to help grow that, like Mr. Kahn said, rather than grow it, it was stripped. Clovis wasn't stripped. Clovis was grown. He has no problem allocating funding to a campus like Fresno City, the mother ship, if you will, of all these campuses and even Reedley College, the granddaddy of them all. He doesn't know if he can support something as less than \$100 million when he is looking at the pie and where it is being divided up. It would be hard for him to ask a voter in Madera to get behind something that seems though it may be fair from where Mr. Kahn is standing, but just from the outside looking in doesn't seem as fair.

Mr. Kahn responded that again, the Council has to take the needs of the entire district, in all fairness again, Clovis Community College is the fastest growing campus they have. He thinks that Mayor Pro Tem Rigby is referring to a shift in the focus by the district several years ago and that is because the growth of that campus overwhelmed the district. That campus grew much faster than anybody anticipated it growing and therefore, the shift was on Madera. When the Clovis Center was built, when it was a Center status, the growth in that area was much more rapid than ever anticipated by the district, therefore more funds, more focus was put on that. Now that it is accredited, a fully accredited college, there's a lot of infrastructure that needs to be completed on that. He added that because now it does have full college status, they have athletics to look at, they have all the improvements and they need more buildings on that campus. They need to improve that the same way they have to improve Madera. They are getting a fair share of the

money too. As a trustee, it's a tough call, because you want to make sure your area is getting full representation, but he thinks where they are, what their allocation is, what that allocation will accomplish for the Madera Center and moving that to college status is huge especially for the City of Madera. He thinks they have a gem out there now; an unrecognized gem. This will really put another huge feather in the cap of the greater Madera area by having a fully accredited college in their community which is long overdue.

Mayor Pro Tem Rigby thanked Mr. Kahn.

Council Member Robinson stated that he is familiar with the city college noting that he graduated from Long Beach City College. He was the track coach at Fresno City College and then became head coach at Reedley/Kings River Community College. His wife currently attends the Madera Community College, but she has to lengthen her stay there because of availability of classes. He thinks, to be fair, they should have transportation. It should be available so that Madera students take the necessary classes in Clovis and Fresno. They should have free transportation so they don't miss out. He could approve the allocation of the funds since they only represent 10%, but they should have free transportation going to the other two community colleges nearby.

Mr. Kahn stated that he is not going to argue that point. If they could provide more transportation, they would. That's a very costly proposition, for not only them, but also the communities they work with to try to coordinate. They had to do quite a bit of work, and he wants to thank some of the members of the Council for working with the district and especially David Tooley, City Administrator who brought his transportation experts. He noted it was quite a step for them to get more routes just to the Madera Community College Center. Trying to take on transportation to Clovis is a real challenge, because there's really no defined public transportation corridor between those areas. In response to the second part of Council Member Robinson's comment is that you will find, henceforth, that in order to complete a two year degree, they will not have to take classes in Clovis, Fresno City or Reedley. They will be able to start their education at the Madera Community College Center and they will be able to finish it. It will be class offerings where they can finish within the two year timeframe and of course they're also working with dual enrollment and other types of offerings that are available; he's not going to get into all the detail. They won't have to make that drive any more.

Council Member Medellin asked Mr. Kahn where the City Council was when they had all of their meetings for input.

Mr. Kahn replied that meetings were sparsely attended, unfortunately, by the community of Madera and they do still have a taskforce, so if the City Council wants to help walk precincts or whatever, they should let him know.

Council Member Medellin stated he has been in support of the bond since day one but actually, the questions he's had since day one are exactly the questions Mayor Pro Tem Rigby had asked. In order to be transparent and support and write a letter of support from the entire Council, he as a Council Member would then go out and advocate for that and kind of field these same questions that Mayor Pro Tem Rigby is asking and he agrees, he doesn't believe would represent the Madera campus. That leaves between Madera and Oakhurst about 13%, so 86-87% is going to go to three schools which could be \$125 million. He doesn't know what is allocated. What he's trying to say, in order for him as a Council person to advocate for this, it would be easier if they had some more facts and figures and why they came up with these figures. The Fresno Bee did an article a few months ago and some of Mr. Kahn's colleagues have stated that they want the majority of the money to stay in Fresno at Fresno City and in Clovis. Again, they compete with Clovis schools every day and the cost of a new high school has almost increased by 40% here in Madera and they haven't even moved dirt. By the time they start moving dirt, he thinks \$40 million is a drop in the bucket and he thinks they don't have what they need to send their kids from Madera Unified to a short travel distance in their own backyard to continue their education. So all he's asking is more transparency and maybe a little more facts and figures so they can advocate for this bond.

Mr. Kahn clarified the money is not just being allocated to four campuses. They actually have five campuses when they consider the career technical education campus at Annadale in the southeast part of Fresno. The other thing, and he knows this is near and dear to the Chief's heart, is that they also run the police and fire academies that train almost all the public service first responders for the entire region of the Central Valley. Those are two areas that are grossly negligent right now as far as..... They need to have new facilities and that is part of the bond that they will be making a commitment to build a new police and fire academy. He apologized noting that he returned a bunch of fliers that were left at the Economic Development Commission luncheon to the campus because he didn't want them to go wasted. He should have just hung on to a handful of them and brought them tonight. He will get those to the City Clerk. They're just small, brief pamphlets. He can also get the Council a more complete fact sheet that will cover everything, so that they can see exactly where all the money is going. He added that they have a lot bigger responsibility than just the five campuses. They have the training facilities and a lot of career technical education needs that they have to meet to help hold up the region.

Mayor Pro Tem Rigby stated that it sounds good. He advised that the website is down. He can't send a voter to the website to look at all these different things and again, he can't get over the fact that he's going to be asking his constituents in the City of Madera to approve half a billion dollars when over 75% of that approved money is going to go to a campus that they may or may not see. He commented that it's a tough sell.

Mayor Poythress directed his comments to the Council and asked if they want to receive information before they consider this resolution.

Mayor Pro Tem Rigby replied that he would love nothing more than to see their campus in Madera accredited, a college that is well represented in other colleges and competitive within the Central Valley that serves their City, that serves their students most importantly, and creates opportunities for employment as they graduate students. This is something he understands the board members of this measure are trying to move quickly, because June 7<sup>th</sup> is right around the corner, but this was the board's decision not ours. It would be hard for him to support this without further information.

Mayor Poythress suggested they table this particular item until they get some additional information that can answer some of these questions. He thinks Mr. Kahn probably has an idea what those things are. He just wants to make a point, number one, Mr. Kahn's involvement as a Trustee is not even close to what their representation was in prior representation. Mr. Kahn has been very involved and very much an advocate for their campus here in Madera as well as his role with Economic Development, so he kind of gets what they need to move forward. He also understands that, referring to the police academy and the training offered, they can't offer that in every location. It's very specialized and it has to be at one particular place. He thinks that if they can break that out, even though they're not getting, say 10% of the money, but they know, it's broken out to show where it's going more specifically. He thinks there would be a lot of support.

Mr. Kahn responded that along that point is that's exactly what the Mayor says. The public safety academies, they're plan is not to combine them, but to combine them on to one site and put state of the art facilities at one site and make a new career technical education site with the public safety being the anchor tenants, if you would, of that particular site. They're scheduled to be moved to a new state of the art facility.

Council Member Medellin asked Mr. Kahn if this was spelled out in the pamphlet that he was talking about or in some social media that's out there.

Mr. Kahn responded that if it is not spelled out in the pamphlet, because it's a small one, what he will do, if the Council chooses to table this tonight, he would like to request that they can get back on the Council's next agenda, because as Mayor Pro Tem Rigby stated that they are in a sprint right now.

Mr. Kahn requested that the Council give the District 10 minutes to put on a full presentation such as what they did for the Board of Supervisors. He called them off, because he saw this item on the Consent

Calendar. He didn't want to have them here with a bunch of materials, if the Council wasn't prepared for that on their agenda. He apologized as it was his call not theirs. He can have representatives here. They can have the experts that put the bond language together, that put the calculations together and they can have a full on presentation provided to the Council. They can do a much better job than he could in answering some of the technical questions.

Council Member Medellin stated that he wants nothing more than to advocate for it, like he's said before. He just wants to make sure that when he does, they have all the facts and figures, and all the stats and everything they can in order to answer those questions like that of the police academy. It may not be here, but they're going to have a state of the art academy in one location that will be the best of the best. Again, he's just looking for facts so that they can advocate for this.

Mr. Kahn apologized and stated that staff were willing to come. They were going to be driving from Reedley and commuting an hour so he told them that it was a Consent Calendar item and he hated for them to make two hours of driving to sit through a Consent Calendar item. Mr. Kahn apologized for that. He should have had them here and been more prepared to answer the more difficult, more technical questions.

Mayor Poythress stated that the election is in 62 days and the absentee ballots go out May 9<sup>th</sup>, so they will table this item and move forward and get things on the next agenda.

Mr. Kahn stated that he will work with the City Administrator and the City Clerk on agendaizing it and thanked the Council for their time.

Mayor Poythress stated there staff requested that Item E-2 be heard next as Staff has the CPAs who are involved in the audit in the audience. The Council Members didn't object and Mayor Poythress asked Tim Przybyla, Director of Financial Services to announce this item.

*E-2 Acceptance of the Audited Financial Statements and Single Audit Report (Federal Grants) for the Fiscal Year ended June 30, 2015 (Report by Tim Przybyla)*

Tim Przybyla, Director of Financial Services stated that they have completed their Financial Statement Audit for FY 2014-2015 and that the Auditor, Fausto Hinojosa is here to present those Audit Financial Statements.

Mr. Hinojosa greeted the Mayor and members of the Council and thanked them for the opportunity to come and share the results of the audit. He acknowledged that the Council has a long agenda tonight and his plan is not to go into great amount of detail in respects to the Financial Statements, but to share with the Council the results of the audit. Mr. Hinojosa stated that the plan is to go over the Auditor's Report, the opinion on the Financial Statements and to maybe point out a couple of key changes and differences from these Financial Statements to the prior year Financial Statements and then to go over the Single Audit Report which is the report on federal grant compliance.

Mr. Hinojosa stated he would start with the book of probably over 100 pages. The independent auditor's report page 1 is on their letterhead. There are a couple of things here that he would like to point out. First of all, management's responsibility for the Financial Statements. Within the second paragraph of that report, it describes that management is responsible for the internal controls and their job as auditors is to assess risks and look for material error or fraud. That's their responsibility and the way that they do that is by initially conducting a risk assessment and determining where those errors might exist or where fraud might exist. The key component of that is obtaining a solid understanding of the City's internal control processes. Internal control is not just one procedure, but a system that starts with the tone at the top. For example, what they are doing tonight is a part of that control environment. Council's questions to staff and review of financial reports, that's at high level and they'll drill down all the way to the detail level. For example, segregation of duties is one control that a lot of people are familiar with. The person that's reconciling the bank shouldn't be the same person that's signing checks, etc. They obtain an understanding of that and their purpose for doing that is to conduct a risk assessment, because they want to focus their

audit time in those areas of greatest risks. That's management's responsibility as compared to the auditor's responsibility.

Mr. Hinojosa stated that their opinion on page one states that the Financial Statements do present fairly in all material respects. Council has an Unmodified or Clean Opinion, that's the best type of opinion that the City can have. The other three opinions are:

- A Qualified Opinion which says everything is close to being right, but you have a problem
- An Adverse Opinion that says no we don't want to touch these Financial Statements and
- A Scope Limitation which says they tried doing the audit but you were unable to provide the documents, etc.

The City has an Unmodified Opinion which is the best type of opinion to have.

Mr. Hinojosa stated that on page 19 is a Statement of Net Position or a Balance Sheet and just to layout the format of this statement, not to go into any great detail with the numbers, they have a few columns there:

- Governmental Activities column which is a summary of all of your governmental funds such as the General Fund, Gas Tax, all of the funds that are funded through property taxes, sales taxes, etc. Those are all combined in that Governmental Activities column.
- Business Type Activities column includes all of the Enterprise Activity such as those that are funded through user charges, etc. There is more detail about those.

Mr. Hinojosa stated that on the Governmental Activities column, page 19, Council will see that the City has total assets of \$242,000,000. They have liabilities of \$39,000,000, so they have a Net Position of \$200,000,000 which is that bottom line. Most of that net position is a result of capital assets and infrastructure. If they look at the unrestricted net position, they have a negative 14,000,000 number. They will see Unrestricted \$14,000,000 on page 19. That unrestricted deficit resulted from the recording of their pension liability. The Council may remember from prior year presentations that the June 30, 2015 year is the first year where the pension liability is required to be reported.

Mr. Hinojosa directed the Council to jump over to page 56. There is a table there that lists all of the long term liabilities and there are two tables there:

- The Governmental Liabilities table towards the bottom of that says Net Pension Liability. The Council will see a number in the June 30, 2015 column that says \$24.9 million. That is the City's share of the Pers Pension Liability for their Governmental Activities.
- In the Business Type Activity schedule, that is also there on page 56. At the bottom of that schedule, you'll see Net Pension Liability for \$4,000,000. Those two together add up to about \$28,000,000 and that's what caused their net position to go negative in that statement/balance sheet that they were just looking at, because if all of a sudden they were adding \$28,000,000 of liability that was never there before.

Mr. Hinojosa indicated that there is a footnote that starts at page 68 that has a whole lot of information with respect to these pension liabilities. This really is the biggest change this year and in many years for governmental financial statements. There is a table on page 68 and they can see that the total pension liability is almost \$69,000,000 however, the City has assets to fund that liability of \$52,000,000 and so the net is at \$16,000,000. That is for the City's Miscellaneous Plan. They have a Miscellaneous Plan and then you have a Safety Plan. For their Safety Plan, they'll see on page 69 that that liability is \$12,000,000. Miscellaneous Plan \$16,000,000; Safety Plan \$12,000,000. Those add up to the \$28,000,000 that they were looking at on the Financial Statements.

Mayor Poythress stated that this would be considered their unfunded liability.

Mr. Hinojosa confirmed that is their unfunded liability and that the City has two types of plans. One is an agent plan and one is a cost sharing plan. So for one of these liabilities; the Safety Plan, the City is in a cost sharing plan. The \$12,000,000 is their small proportionate share of the billion dollar liability that PERS has and your agent plan; there's an accounting just for the City. The \$16,000,000 number in the City's Miscellaneous Plan is not the City's share of anybody else's, that's just all them. That \$12,000,000 number is part of a bigger pool. That's their share of that big pool. Mr. Hinojosa confirmed that Mayor Poythress was right that this is the unfunded liability; never recorded in prior years. June 30, 2015 is the first year that this liability was required to be reported and the City has included it.

Mr. Hinojosa directed the Council to jump back to the Financial Statements so they can take a look at the General Fund. He asked them to go to page 22 and they would see a General Fund Governmental Fund balance sheet and they'll see multiple columns there. They are the City's Governmental Funds. Mr. Hinojosa directed the Council to notice that there is no pension liability in the General Fund. The first balance sheet that was looked at a minute ago was a balance sheet that includes all of the assets and all of the liabilities on a full-accrual basis as required by the Governmental Accounting Standards Board. Page 22 is a fund financial statement that is more focused on current assets and current liabilities which is why that pension liability doesn't show there. Mr. Hinojosa asked the Council to look at their General Fund Unassigned Fund balance towards the bottom at the third number from the bottom of page 22. They'll see a \$12,000,000 number that is the fund balance of the General Fund. The General Fund here looks healthy; the pension liability is not there. The reason it's not there, is because under the accounting rules, it's not required to be reported here. It's not even permitted to be reported here because this is a schedule that is showing cash and other current assets and liabilities as they are coming due. This long term pension liability is obviously not something that they need to send a check to PERS tomorrow. That is something that they are going to include in their budget and pay over time and that's the focus of this statement.

Mr. Hinojosa indicated that page 24 is basically an income statement for their governmental funds and Mr. Hinojosa thinks that is important. The General Fund at \$25.7 million of revenues had expenses of almost \$28,000,000 but then it had some transfers in and some transfers out so it ended up with an improvement for the year of \$1.1 million. That information is in that General Fund column page 24 and part of the reason for that is that General Fund incurs expenses that are then reimbursed by other funds and that's why they have some of those transfers in. That's how they would read that statement. Those other funds listed there such as gas tax and other non-major funds, they are not going to look at in any detail. Most of those funds have restricted revenue sources that they comply with, so there is nothing further there to look at.

Mr. Hinojosa indicated that page 26 is a balance sheet for those proprietary funds or those Enterprise funds. They will see water, sewer and solid waste there. They'll have assets, liability and net position. In these statements, each of these funds do have their share of that big pension liability.

For example:

- In the water fund, under the non-current liability section, they'll see that the water fund's share of the liability was \$1.1 million.
- The sewer fund's share was 1.5 million, etc.

Mr. Hinojosa stated that page 28 is an income statement for their Enterprise Fund. They'll see their water fund. Their water fund had revenues of almost \$5.6 million; expenses of \$5 million so, operating income of \$539,000. A concern would be if their operating income in any one of these funds didn't have enough operating revenue to cover those operating expenses. The only fund that is that way right now is the drainage operations fund, but all of these other funds actually seem to be doing okay operating income-wise. Mr. Hinojosa stated that was all he wanted to share on the financial statements and he would be glad to answer any questions.

Seeing no questions, Mr. Hinojosa moved on the Single Audit Report which should be a separate bound document; there are two reports there. One report is an independent auditor's report on internal control over financial reporting and that report includes one finding with respect to financial reporting. No findings

with respect to compliance. He apologized and stated that there was one finding with respect to internal control and one with respect to compliance. The report on page 3 of this separate package is the independent auditor's report in accordance with an audit performed in accordance with OMB Circular 133 or Single Audit. This is an audit done for their federal grants and they are reporting that they had two findings.

Mr. Hinojosa stated that the first finding is on page 9. As part of their audit process, they identified some errors and some reconciliation schedules and numbers that were not tying out to the trial balance. They raised those issues to the finance team and for various reasons those numbers just were not properly reconciled. Those were corrected, they proposed audit adjustments and all of that's been corrected. City Council can see management's response at the bottom of page 9. It says, "The City concurs with the finding. Management will further enhance the year-end financial closing process to include the necessary steps to ensure proper reporting and reconciliation of all of these account balances." They've listed the amounts, the audited adjustments that were required or listed at page 9 in those bullet points.

Mr. Hinojosa stated that the other issue is on page 10 and was a compliance issue that they found. Unfortunately the CDBG required reports were not filed timely and once they identified that they talked to management. The reports were caught up and they then audited those reports. Part of their audit process is that when reports are submitted to the federal government, they are taking those reports and they're making sure they agree to the underlying accounting data in the City's system and those reports weren't available, because they weren't filed and that is also part of the reason for the delay or a primary reason for the delay in the audit. They didn't want to complete the audit and simply say, "Geez, you didn't file the reports." They decided to wait and allow the City time to file those reports because the audit was not due until March 31. The reports were filed. They then took those reports and traced them to the underlying accounting data. They didn't find any errors in them but again, unfortunately they were not filed timely and from an audit perspective they are required to report that finding.

Mr. Hinojosa stated that he had been speaking fairly quickly and he sees people making notes, so he is glad to answer any questions that anybody might have.

Mayor Poythress asked the Council and Staff if anyone had questions for Mr. Fausto.

David Tooley, City Administrator thanked Mr. Hinojosa. Mr. Tooley stated that he's been in the business 40 years, noting that he sleeps at night with his CPA, and that was one of the best most concise presentations of the Financial Statement that he's heard.

Council Member Medellin stated that Mr. Hinojosa did a good job.

Mayor Poythress called Item E-2 for discussion and announced that if there are no questions, he will accept a motion for action. No questions were asked.

**ON MOTION BY COUNCIL MEMBER HOLLEY, AND SECONDED BY COUNCIL MEMBER ROBINSON, ITEM E-2 "ACCEPTANCE OF THE AUDITED FINANCIAL STATEMENTS AND SINGLE AUDIT REPORT (FEDERAL GRANTS) FOR THE FISCAL YEAR ENDED JUNE 30, 2015" WAS ADOPTED UNANIMOUSLY BY A VOTE OF 6-0.**

**C. HEARINGS, PETITIONS, BIDS, RESOLUTIONS, ORDINANCES, AND AGREEMENTS**

**C-1 A Public Hearing to Consider an Appeal by Junaid Lateef of the Planning Commission Denial of Conditional Use Permit 2015-28, Conditional Use Permit 2015-29, Variance 2015-03 and Site Plan Review 2015-32**

And

Consideration of a Resolution of Determination on Appeal (Report by Chris Boyle)

Mayor Pro Tem Rigby declared a conflict of interest on Item C-1 and exited the room.

Chris Boyle, Planning Manager thanked Mayor Poythress and the Council and stated that this is a public hearing to consider an appeal by Mr. Lateef as it relates to a cumulative denial of a request for conditional use permits, variance and site plan review that would allow the establishment of a convenience store at the intersection of Martin and West Olive.

Mr. Boyle stated that the Planning Commission took action on December 8<sup>th</sup> of 2015. The permits in questions were:

- Conditional Use permit (CUP) 2015-28 which provided for the sale of tobacco and tobacco related products.
- Conditional Use Permit (CUP) 2015-29 which provided for the sale of beer and wine for off-site consumption.
- Variance (VAR) 2015-03 which was a request for a reduction, a two stall reduction in required parking.
- Site Plan Review (SPR) 2015-32 which would have guided the physical improvements and the repurposing of the site to a convenience store.

Mr. Boyle indicated that the Planning Commission made four findings in terms of their reasons for the cumulative denial.

- The first reason was the proximity of other similar business; that there were too many convenience stores in Madera and in the surrounding area.
- The second reason for denial was the nature of the business would impact the redevelopment of the Bethard Square Shopping Center which is currently undergoing entitlements for a remodel on that site.
- The third reason was the proximity of project to schools. The Commission had concerns with tobacco and alcohol within a mini-mart which attracts children which is within a major walking route to and from school and is not a good location for that use.
- Finally, the Planning Commission made a finding regarding the health and welfare of the community. The issue is with protecting the welfare of this community, the concentration of this area and not just this zone.

Mr. Boyle stated that the applicant, from prior to application through application to the Planning Commission and now into this appeal, has placed a bit of emphasis on the issues that are related to the alcoholic control licensure, the letters of public convenience and necessity and the like. He could take a long period of time doing a primer on the processes within the City of Madera and within the California Department of Alcoholic Beverage Control as relates to issuance of licenses for the sale of alcoholic beverages, but he will set that aside for a different moment.

Mr. Boyle stated that in the synopsis as it relates to those processes, they can ask themselves three questions:

- The first question is, is the area in a zone of over-concentration; a census tract of over-concentration and the answer to that question is, "No, it is not in a census tract of over-concentration." Other census tracts in the City are over-concentrated; not this particular census tract.
- The second component would be, is there a moratorium on the issuance of Type 20 licenses; new Type 20 licenses in Madera County and the answer is, "Yes, there is a moratorium on the issuance of licenses in Madera County of which the City is a part thereof".
- The third component is, does the City of Madera require a use permit for the sale of alcoholic beverages of all types and the answer to that is, "Yes".

Mr. Boyle stated that it should be noted that they looked at these three components and the Planning Commission didn't make findings specific to whether or not there was a moratorium in place or whether or not over-concentration was an issue. Their findings that recommended denial come from other issues not prevalent to the issuance of the ABC license over-all. Mr. Boyle invited them to look briefly at the required findings that the Planning Commission had to look at in advance of making their determination.

- As it relates to a findings required for a variance, ordinance requires that where practical difficulties, unnecessary hardships or results inconsistent with the general purposes of this chapter, may result from the strict interpretation or literal application of the ordinance, a variation may be granted. What that basically says is there must be some special circumstance or hardship that this parcel suffers from that other parcels do not. The Planning Commission did not make that finding.
- As it relates to the required findings for a CUP, the ordinance states that in order to grant any use permit, the findings of the Commission shall be that the establishment, maintenance or operation of the use or buildings applied for will not under the circumstances of the particular case be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to the property and improvements in the neighborhood or general welfare of the city. In this case, the Planning Commission could not make finding specific to granting of the two use permits.

Mr. Boyle stated that in terms of what's before the Council, before the Council can grant any appeal or change any conditions imposed by the Planning Commission, the Council should make written findings of fact setting forth where in the Planning Commission's findings they were in error and Staff has provided a determination of findings resolution as an attachment to their overall packet. In that this is an appeal hearing and not a presentation necessarily by Staff, staff takes the time to brief the Council on the Planning Commission's actions prior. That completes his presentation and he'd be happy to answer any questions the Council might have.

Mayor Poythress thanked Mr. Boyle and stated that in the Planning Commission report to City Council in the Planning Commission's reasons for denial of the application, the last reason confuses him. It's under health and welfare of the community. It says, the issue is with protecting the welfare of this community, the concentration of this area and not just the zone. Mayor Poythress asked what that meant.

Mr. Boyle replied that it's a general statement that calls out the number of convenience stores not just in this general vicinity, but in the City over all. Mr. Boyle stated that in light of the fact that they'd be issuing a new license then that would be exacerbating the condition.

Mayor Poythress asked if there was any discussion on how a mini-mart would compromise the health and welfare in the community.

Mr. Boyle stated that in this particular instance, the Planning Commission's focus was on alcohol and tobacco and its proximity to the school. The staff report at that time noted that the school was 1,000 feet away from the use. The Planning Commission's concern was more about the path the children took to and from school and its proximity to the convenience store within that normal path of travel that the children would take. That introduction of exposure to tobacco and to alcoholic beverages by the youth within the community or within this neighborhood was detrimental to the health, safety and morals of the community.

Mayor Poythress asked that by going in there they would see cigarettes and beer and that would be detrimental to them.

Mr. Boyle stated that was correct.

Mayor Poythress replied that it was interesting, because no other store has those things, he guessed. Mayor Poythress asked the Council if they had any questions of Mr. Boyle before he opens up the public hearing.

Council Member Oliver asked Mr. Boyle that in regards to the concentration levels, was that just for Type 20 licenses or all licenses in general.

Mr. Boyle responded that when they talk about over-concentration, it's for all licenses. There's a breakdown between on-sale and off-sale licenses, but over-concentration addresses all issuance of all types of licenses. The moratorium speaks only to Type 20 licenses.

Council Member Holley asked if licenses are issued by the Police Department.

Mr. Boyle responded that the City's process is encapsulated within the use permit, so when the Planning Commission takes action to approve a conditional use permit for alcohol sales that is the City's comment as it relates to whether we have support or opposition to the sale of beer and wine or other distilled spirits in a particular location. The ABC has a separate process so they kind of run concurrently together where the ABC does their due diligence and the applicant makes application for a ABC license of one type or another and then that applicant must also complete a conditional use permit process through the City and without one or the other, you can't complete that process. He noted that different municipalities have different processes and different policies as it relates to the sale of alcohol but in the City of Madera one, must secure the use permit for the sale of alcohol in advance of or as a component of an ABC license being issued. If the City denies the ABC, the application for use permit, ABC then will not issue the ABC license. Mr. Boyle stated that the Police Department has the opportunity to comment as part of staff's research on behalf of the application request for the use permit and, of course, they weigh their position as a component of staff's final recommendation to the Commission, but they don't specifically make a particular specific hard finding as it relates to an approval.

Council Member Medellin stated that he withdraws his question until after testimony.

Mayor Poythress asked the Council if they had any questions in regards to this item. No questions were asked and Mayor Poythress opened the public hearing for any members of the public who would like to address this issue.

Bruce Evans of Solomon Saltsman & Jamieson is representing the applicant/appellant. Mr. Evans stated that their client is Johnny Lateef and that Mr. Lateef is a product of Madera, Madera High School, Fresno State and he's now studying to be a respiratory therapist. Mr. Lateef also has his younger brother, Sohaib also a product of Madera High and UC Merced who's completed his medical studies and is on his way to becoming a doctor. The family came to Madera starting in the 70s when Mr. Lateef's uncle who's a physician came here and the family followed and they've lived the American dream here opening a number of businesses and are making an effort to open another one.

Mr. Evans stated that they submitted a letter and it had some bold language in it, probably a little too bold. They came out swinging. It was not their intent to offend anyone. Sometimes as attorneys, they get into fight mode and their concern was that Mr. Lateef did not get a fair hearing before that Planning Commission; that the hearing was already lost when Mr. Lateef walked in the door.

Mr. Evans reminded the Council that the Council's professional Planning staff had actually recommended approval of this application before the Planning Commission. The only thing Planning staff wasn't recommending was approval on the alcohol component and that was largely because of the moratorium issue which doesn't actually apply in this case because it's not over-concentrated.

Mr. Evans stated that Planning staff were recommending approval if Mr. Lateef could buy an existing license and transfer it which they tried to do before they came here tonight. They wrote a letter to everybody who had a surrendered license to see if they could buy it but they're not available.

Mr. Evans stated that there were concerns at the Planning Commission, among staff and the Police Department that there were too many mini-marts, too many convenience stores and he gets that. The Super 7 which is the closest one, he's sure they all know it, that's what they have on their minds when they

think convenience store/mini-mart. They think plastered with alcohol advertising, not being able to see through the windows and neon signs. Mr. Evans stated that if he lived in that neighborhood, if he was on the Planning Commission or on this Council, he probably wouldn't want another convenience market either; not one that looked like that.

Mr. Evans stated that Mr. Lateef hired them to work with the City. Mr. Lateef's vision for this business was not a convenience market, but he didn't know how to articulate that, so Mr. Lateef asked them to work with the City to come up with conditions that are consistent with what Mr. Lateef wants for the business. How do they do that? Well, they start with the neighborhood. They have a half mile radius from the location, so they have this one mile swath of land. Rite Aid, their store, the Valero gas station, the Super 7 and the Madera Avenue Market and the only location they could find in this one mile swath that they've called the "food desert" that they can actually get any reasonable groceries, is the Madera Avenue Market which is a pretty nice looking Hispanic market; a lot of specialty items, meat, but that's it. Mr. Evan's asked how the Council approves a use that does not become this; that is something better; that answers the question of the Planning Commission of too many mini-marts.

Mr. Evans asked the Council to look at the building and he knows the Council have all seen it. It's a great looking building. It's got really nice architectural features; very well maintained. It looks like something that they have in their head of a neighborhood grocery store; like the one near his house. It doesn't look like a 7-Eleven or a Circle K. It doesn't look like the Super 7. It looks a lot better. Mr. Lateef has got a lot of space in there. Then they came up with a list of conditions. Mr. Evans asked how does he become a neighborhood grocery store and how do they approve this and make sure they can serve this need to be a neighborhood grocery store; something more than soda and candy and beer. Mr. Evans stated that the Council can add very specific conditions like the ones that they volunteered.

Mr. Evans stated that when the Planning Department recommended approval, it was a good start. The Planning Department already came up with a list of conditions on the business to ensure that it didn't result in nuisance activities, but they worked with Mr. Lateef and they came up with a much more extensive list. Aside from the improvements that they were going to make to the building which the Planning Department also referenced to the Planning Commission and the landscaping, they came up with conditions. The Council can condition that it has to be a general store. That it has to have an assortment of dairy, of produce, of vegetables. Mr. Lateef is not going to be open 24 hours. Mr. Lateef will volunteer to be open from 7 am to 10 pm, that's it. It's not like a 7-Eleven that's selling alcohol till 1 am at night. It's not going to be that. The Council can put that condition on there. Mr. Lateef volunteered a condition that said no more than 10% of his retail space would be allocated to beer or wine. That's a small little space. That's a couple of coolers and maybe a stack. Mr. Lateef also submitted a floor plan that the alcohol will be behind a sales counter totally inaccessible to the customer so you don't have the theft issue or the accessibility of kids. Mr. Evans stated that tobacco by law also has to be behind the counter and not directly accessible to customers. Mr. Lateef agreed not to sell malt liquor. He agreed not to sell certain container sizes and limit the single beer sales. Now they've eliminated the types of beverages that tend to be associated with the problem consumer at a convenience store. Mr. Lateef agreed to no advertising of alcohol on the exterior of the building, so it can't look like that. Mr. Evans stated that this is a very common condition that the state puts in ABC licenses any time a store has nearby residential. It's an appropriate condition. It ensures that the building looks good; that it's a place they could take their kid. Mr. Lateef agreed no games, no arcade games, anything like that that attracts kids.

Mr. Evans stated that the Council can put a limit on the CUP. The Council can call it back for a one year review. Mr. Evans stated that the point is that the Council has all the control. They can condition the business specifically. They can call him back for a review hearing to monitor those conditions. Mr. Lateef would pay for the public notice to do that. There is a way to approve this business so it doesn't add another convenience market to Madera. It adds something better; something more than the soda and the chips and the beer and the candy. Mr. Lateef's goal is to have a food store and they've got to be able to sell beer and wine if you're going to have a little grocery store because that's a staple grocery item, but Mr. Lateef also wants to offer the Pakistani foods and the specialty items that people within his ethnic community want.

Mr. Evans submits that if the Council says no, the building remains vacant, but he asks the Council to find a way. Mr. Evans knows that the Council can't do it tonight because they don't have a resolution but he asks that the Council find a way and direct City staff to work with Mr. Lateef and come up with a list of conditions in conjunction with the City's Police Department, like the ones they volunteered. They can tweak those and they can tailor them or they can drill down on them, but asks that the Council approve it with those conditions and the place can open. Mr. Evans stated that it can have groceries, it can have alcohol, it can have tobacco, but very restricted. Mr. Evans is pretty sure that if he looks at other CUPs, this would be the most restricted business in Madera for a retail store and the goal of Planning is generally to replace the non-conforming uses with conforming uses. Mr. Lateef has a business here that would be a conforming use that might offer those guys some competition that might give that community a nice place to go. If the Council says no, those guys are insulated from any further competition. They just stay doing the same way; they stay as they are. That's what they're asking for. Mr. Evan's stated he would be happy to answer any questions, but he would like Mr. Lateef to have an opportunity to address the Council directly.

Mr. Lateef bade the Council good evening and stated that he just wanted to add a couple of things. His main focus with the neighborhood market is really Indian Pakistani groceries. Mr. Lateef indicated that right now, the other place that he manages which is owned by his dad has a limited amount of groceries that serve their cultural people, but they really need a place where the community can have access to all those groceries and right now people are driving to Fresno to go purchase them. Whether it's some of the Indian communities since they are vegetarian..... There might be spices that are not available here and that's their goal; that's been their vision. He's been in this business for close to 15 years now. He's been here in Madera managing his dad's store for the past 10 years and the way he conducts business is that those are not his customers. The people he sees on a daily basis, they are more of his family now and they know him pretty well and that's how he avoids the trouble that some of those other places may have. He has families that come to the store and they're comfortable there, because he doesn't have advertisements all over the place. The real focus with this is the traditional groceries that are not available here in Madera. That's pretty much his goal. That's his vision and as he's said, he's been managing his dad's place; he's managed a couple of gas stations in Fresno. He's been in this business for a long time and he thinks it's finally the time that he take the next step and has his own place. That's where he's headed with that.

Mayor Poythress thanked him and asked if the Council had any questions for Mr. Lateef before he opened public comment to others in the audience.

Council Member Medellin asked if the dad's store on Cleveland Avenue would be closed as that has a current Type 20 license right now. Mr. Lateef replied that his dad's store has a Type 21 and that he will not be a part of that store any longer.

Council Member Medellin asked if the store will remain open. Mr. Lateef replied that it would be open for the time being.

Council Member Medellin asked if the alcoholic beverages would be catered more to the kind of import of a specialty Pakistani store. Mr. Lateef replied that they'll be catered more to that and not only that. Mr. Lateef stated that he will have specialty wines and beer that people use for cooking; mainly the wines for marinating the steaks and stuff like that. Mr. Lateef would be focusing more on specialty items that are not available.

Council Member Medellin asked that although the license would allow him to sell domestic alcoholic beverages, does he really want to focus on specialty alcoholic beverages. Mr. Lateef responded that right now, he speaks with a lot of people and from Madera. They drive to Fresno to BevMo to purchase an item. There's no place in Madera that has the specialty items that he's going to carry.

Council Member Medellin stated that he likes that vision; they certainly can't deny that.

Mayor Poythress asked the Council if there were any other questions for the proponent. Seeing none, Mayor Poythress opened public comment to the public.

Carrie [last name not given] stated that she lives at 211 North A Street. She is currently going to Mr. Lateef's father's store and what brought her in is she's a chef and she likes her caffeine and she likes to cook so she goes in there before she goes to work and she buys her 32 ounce Mountain Dew sodas. When she was in there, she noticed Mr. Lateef had some Desi food like lentils and different things so she went and took a trip down that aisle and now she uses him for different spices and different things. Carrie stated that it would be amazing as a chef, that goes up to Huntington Lake and cooks for families that come down from other places, in California to represent Madera and be able to cook them an Indian dish which she loves to do. Carrie stated that she focuses on Cuban cuisine so it'd be really fun to see Mr. Lateef get some of the things that she cannot get anywhere like the kaffir lime leaves which are part of their culture, different saffron and turmeric that turn her rice yellow which she absolutely loves and she wants to be able to give that back. So for him to be able to open this store and like she's said, she's been going to his store for about four years now, it would be really opportunistic for everybody not just his culture because she's not Pakistani as you can tell, but everybody who loves to cook, loves spices. They all know that those spices that come from India are topnotch so she would love for the store to be opened. Wines, sauces; different things she can do with it. Beers, beer can chicken. Carrie asked who doesn't love that. She stated that this is something their community could use that there is nothing in Madera like that. She drives all the way into Fresno to get everything that way. She thinks the ones that have the best saffron, she has to go all the way into Selma so definitely something Madera could use. There's nothing else like it. Carrie stated that it will be really pretty so she doesn't see why it was denied in the first place and thanked the Council for their time.

Council Members thanked Carrie.

Mayor Poythress asked if there were any other members of the public wishing to speak on this item.

Jeanie Martinez stated that she's lost her voice and asked that the Council bear with her. Ms. Martinez stated that she's known Mr. Lateef and his dad since they opened the store. She indicates that she is a Pepsi-holic so she is there daily buying her Pepsi. She was a little concerned because they were talking about the mental health and the welfare of the children that might go in and see the beer and the alcohol and the tobacco but asked if the Council has been to Rite Aid. There is the ice cream stand; there's all the liquor. It's right there out in the open. It's not behind anything. It's not locked up. She just kind of found it hard to believe that it would even have been a point since almost directly across the street there's 200 or 300 kids a day eating ice cream with the alcohol sitting on the shelf right beside them. Ms. Martinez stated that Mr. Lateef runs a clean store. They have no problems. They don't allow loitering around outside and she just doesn't think it would be a problem in the neighborhood and she's just here offering her support. Ms. Martinez thanked the Council.

Mayor Poythress thanked Ms. Martinez.

Deborah Bernal with Madera County Health Department stated that this idea for the store is great the way it sounds. The Madera County Health Department wants to highlight the fact that it is close to a school and this new idea versus the previous idea with the tobacco and liquor store focus is great. She stated that the Council could also go the extra mile and restrict flavored tobaccos because as they all know its young children that start smoking. The younger they start smoking, the easier it is for them to become a smoker. Ms. Martinez stated that it's not a particular store owner that decides what goes into their store necessarily, it's the tobacco industry. If they're going to carry Marlboro Lights, they're going to carry the menthols and the other flavored e-juices and all the other items that come with it; they have promotions. The flavors are great tropical fruit, strawberry and chocolate. They have to be very careful with these flavors, because are they marketing to adults or are they marketing to children. Ms. Bernal stated that they see them a lot of times because they go out and do observational surveys. They see them behind the counter but they are literally right next to the gum and sometimes they are not behind a case. She's not saying that is going to be the case at this store. It's very admirable that a family that is into health as a respiratory tech and an

MD, they know the consequences of alcohol, tobacco and the early exposures. If they're walking to and from school every day seeing it what that means. If they go into a store and they see it every day, because the signs are at eye level in a lot of the stores..... This new concept would be great. Ms. Bernal asks that the Council consider asking that flavored tobacco not be a part of the store because who are they targeting with the flavored tobacco. As a mother of two young boys, that's her passion right there. They want to keep children..... She knows it's the parent's responsibility. She knows the lady pointed out Rite Aid.... Twenty-five years ago they could ride in their car without car seats. Today, they would look at that and say they're insane if they don't have a car seat. Just because something was normalized..... She was born in 1979 so she remembers watching tv and seeing people smoking. They don't see that any more so she wants to make, they want Madera to be beautiful. They want Madera to be a place that people compare to Clovis. They had a lot of Clovis talk today. Ms. Bernal asked why people want to move to Clovis. She stated that if they go into a lot of the areas of Clovis, they do not have convenience stores. They have other type of stores like what the family is now thinking of doing. So again she asks the City Council to consider not having flavored tobacco as part of the store. Ms. Bernal asked if the Council had any questions for her.

Mayor Poythress thanked her.

Myra Miranda with the Madera County Public Health Department advised the Council that she brought some education packets on how the retail environment affects youths. Ms. Miranda reiterated that they don't have a problem with businesses opening up or anything. Their concern is with tobacco, specifically with flavored tobacco and e-cigarettes. They're just asking that as a consideration, because as they all know, the average smoker doesn't start as an adult they usually start under 18 years old and the longer a person puts off putting smoking the more likely it is they will not smoke. She doesn't know if the Council has seen some of the ads that the California Department of Public Health has put on and how similar these flavored tobacco products are to candy. That is their concern in terms of the store opening up. They have no problem with the store. They just want to make sure that Madera is healthy and that is the primary goal of the Health Department, to make sure that all Maderans are healthy. Reducing exposure of any kind especially when it comes to tobacco would probably benefit the community in the long term. Ms. Miranda thanked the Council.

Mayor Poythress asked if there were any other members of the public who wished to address the Council on this item.

A gentleman approached the podium and stated that he wasn't going to speak today, but he does know Mr. Lateef and he goes to the store all the time.

Mayor Poythress directed the gentleman to state his name.

Adam Horner stated that although they do sell tobacco and alcohol there as far as compared to other convenience stores around Madera they're very limited in their advertising and where they keep their stuff. They keep all their tobacco behind the thing and they run their store really well and they do that now when they don't have these restrictions in a fair amount. He takes his daughter in the store and it's probably the only convenience store he will take her in to because they're not blasted with those ads. Mr. Horner stated that they do have ads, but they're not blasted with them, they keep them on the low. Mr. Horner stated that they are doing a good job now and he doesn't see why they wouldn't do a good job especially if the Council is going to give them restrictions on what they can sell and how they can sell and stuff like that. Mr. Horner thanked the Council.

Mayor Poythress asked if there were any other members of the public who wished to address this issue.

Mr. Evans thanked everyone for the comments and stated that they're quite reasonable and well-taken. He stated that cigarette smoking is gross and he has two small kids and they get a lot anti-smoking education at school, however it is a legal product. Mr. Lateef has said he'll agree to a condition for no e-cigarettes. He wouldn't sell the flavored tobaccos that he thinks Public Health is talking about. They're not sure where that definition..... There are certain cigarettes that might qualify as flavored tobacco that they think are

different than what the audience is talking about that are marketed to youth so they would have to work with staff to craft something that gets at Public Health's concern but that's fine.

Mayor Poythress stated that if there's no other members of the public who wish to address the particular item, they'll close the public hearing and bring it back to Council for discussion.

Council Member Medellin stated he is a little confused as to these specific conditions. He asked if the specific conditions from the Planning Commission meeting are the same ones that they heard this evening about restrictions and things like that.

Brent Richardson, City Attorney, stated that they are not the same. These conditions were offered up after counsel for the appellant became involved and it is just an attempt at a resolution to the problem. Mr. Richardson stated that they are addressing the objections to the cause of denial and he believes that was the whole purpose. Most of these were offered after the fact and Mr. Boyle can confirm that.

Mr. Boyle stated that at their first meeting with the appellant and their counsel they proposed the set of conditions of approval.

Council Member Medellin asked that in fairness, the Planning Commission did not get to hear the same testimony that they've heard this evening or the same compromise that Mr. Lateef may have.

Mr. Richardson replied that was correct and that it's an attempt to try to work with the objections and overcome the issues.

Council Member Medellin stated that they are here regarding an appeal based on Planning Commission's decision but if Planning Commission's decision was not based on what they're hearing this evening, then how could that be fair.

Mr. Richardson replied that there are a couple options: They can either uphold or deny the decision or overturn it or their other option, as suggested by counsel for the appellant, would be to direct staff to bring back a revised set of conditions which incorporate the restrictions if the Councils feels that would be something they'd entertain.

Mr. Richardson initially thought that the Council should send it back to the Planning Commission but he thinks they would end up going around in circles. He thinks the Council has every right to keep it here and his suggestion would be that if they were to entertain something like that, that the Council direct staff to develop a set of conditions that are livable and bring it back to the Council for a final approval subject to any changes they might want.

Council Member Medellin stated that they can customize it which is not something that they've done and he can appreciate that. He wished they could customize a lot of CUPs based on certain circumstances and surroundings and things of that nature, but it's only as good as enforcement. They can set circumstance or customize this to fit but if they don't have any way of enforcing it then what's the use. It's just a point he's trying to make that's all. He doesn't really expect an answer, but he just wants to make that point. Council Member Medellin stated that they have a Sign Ordinance and as they can see from not only this picture but other pictures, it's not being followed. They are short staffed and he doesn't know who's going go in and see that they have 10% dairy and 20% vegetables. That is something that is just not feasible.

Mr. Evans offered to address the concern.

Mayor Poythress asked that Mr. Evans come up to the microphone.

Mr. Evans stated that they deal with this all the time. Cities are short staffed and how do they hold businesses to their promise. Mr. Evans stated that an easy way is that the Council build in a one year review of the CUP. Not from today's date but from whenever they actually open and get the license if this

is approved. The Council builds in a one year review and directs staff to come back and report to the Council or the Commission if they are following the conditions. Mr. Evans stated that some cities have that in every CUP. He stated that if it's a noticed hearing, Mr. Lateef will reimburse the City for the cost of that notice and he's very confident that Mr. Lateef will run the place like he says he's going to run it but if they don't the City has all the control; the City has all the tools. The City could further condition the CUP; they could suspend it; they could revoke it.

Mayor Poythress asked staff that based on this suggestion and having the premises reviewed at Mr. Lateef's expense, could that be something that they could tickler in some type of system to make sure that happens.

Mr. Richardson responded that is actually not that uncommon. Oftentimes they'll put a certain review period in CUPs especially when there's a concern that maybe something won't be followed. Mr. Richardson stated that Mr. Evans is correct as it's not that uncommon here either.

Council Member Oliver stated that there are a couple of things that came to his mind while reading through the staff report. It is precedents and he knows one of the findings the Planning Commission made was the possibility that this development, this potential business might stunt redevelopment of Bethard Square. Ultimately, he thinks Bethard Square and the new ownership there are going to have some ideas as far as tenants and what they are going to do with that property that the Council may or may not be in agreement with or prefer but ultimately he doesn't think it's going to be the Council's hands guiding that decision but the market and local policy. That is his concern as far as precedence. Council Member Oliver thinks that from everything he's looked at and read, he believes they have the policy in place that would support a use and business like theirs. The other is the precedence with regards to the Type 20 moratorium. Council Member Oliver asked Mr. Boyle if he could quantify how many applications they've denied because of that moratorium in the past two years. Council Member Oliver asked if this is something that comes up quite often and asked that Mr. Boyle elaborate a little bit.

Mr. Boyle responded that most of the ABC licenses that are issued are not Type 20 licenses and that's important to note. More often than not, the licenses they issue are for restaurants and the like which are not Type 20 licenses; they're on-site consumption. When they have granted Type 20 licenses they're typically transfer licenses that come from one location in the County or in some cases in the City to another location. That hasn't always been the case. There have been, call them accidents that have happened..... The last time that they didn't catch the Type 20 moratorium was in 2012. As you move further back in the record and policies change over time and he couldn't volunteer what type of record they would have back in time.....but in the time that he's been here, which is about nine years, they've required transfer of license except in the omission in 2012.

Mayor Poythress asked if that was the Chevron station at Yosemite. Mayor Poythress asked if there had been an issue with that. It was owned by somebody and they lost the....

Council Member Medellin stated that was the Myers family and it was like 2009, 2010.

Mr. Boyle replied that was a case of another appeal where ultimately the Council took action to allow for the re-establishment of that use. Mr. Boyle stated that the use he's calling out is Family Mart at Howard and Pine Street.

Council Member Oliver asked that if there were any repercussions from the state with the Family Mart application or did they meet those exceptions.

Mr. Boyle replied, no, that as noted in his report once a use permit is approved the process that is followed with ABC has been satisfied. The PCN is issued on the part of ABC not the City so the City's opportunity to comment came with the use permit.

Council Member Robinson stated that if the store was a restaurant such as an Indian Pakistani Restaurant and they had beer, wine and on-site consumption which would be much more favorable for ethnic foods as opposed to a convenience store where a lot of people are against alcohol consumption because of health problem and smoking.....

Council Member Medellin stated that it is the stigma of another convenience store. He knows the Lateef family and he knows their current business and it is very clean and is run very professional. A well-planned City is something that they look at five years, 10 years and 20 years down the road. He read the minutes where the Chief had made a comment about the moratorium although they have room in the census tract. If you look at the City of Madera as a whole there's an issue. There's a problem with calls for service, drunk in public or whatever. He's not putting that label on this family but in general. He is pro-business and he would like it to be done right and professionally and within the law and give every business owner every opportunity to be successful but he still has concern over some of the Planning Commission concerns with proximity to the school and in relation to development across the street at Bethard Square. Bethard Square has been a blight for a long, long time and they're just now starting to renovate.

Council Medellin stated that there were issues on Planning Commission years ago about having a convenience store across the street from a lung cancer center or things of that nature. They had people in there asking what kind of message and saying that same thing such as that they are treating people with diseases and as they walk out to the parking lot there's signs like that Super 7 mart right there. Council Medellin stated that if he's correct, they're putting a fitness center across the street at Bethard Square.

Mr. Boyle replied that there is an application for Planet Fitness to be established in the Mi Rancho Market.

Council Member Medellin stated that he's just looking at a well-planned City that they can be proud of, starting with this particular community in Bethard Square. He's just making comments and kind of speaking out because he's going back to being fair and everything he's read and the minutes that he's read and everything that was presented to Planning Commission and today there's kind of a little bit of a monkey wrench into it. He thinks a specialty Indian Pakistani store, of things we're all tired of people driving out of town to obtain, he would love to see that here and who better to do that than the proponent and his family and who better knows that particular market than the proponent. Council Member Medellin stated that he just wants to be sure that they're not setting precedent. That they are not doing a case-by-case basis and putting stipulations on something and then they are not policing that.

Mayor Poythress stated that from what he heard tonight, based on some of the self-imposed conditions and suggestions, he likes what he heard. He looks through some of the reasons this was denied and he has some problems with it. Too many convenience stores, there are, they're everywhere but a traditional convenience store is not something that's going to bring additional revenue. It's going to cut into an existing pie but they're talking about something little bit different in this particular case. Mayor Poythress stated that at looking at what's proposed, he doesn't see how in the world it would interfere with a positive redevelopment of Bethard Square. In regards to the proximity of schools and he thinks they already beat that up and the issue of protecting... He doesn't know, he thinks that as Council Member Medellin pointed out there are a lot of things that the Planning Commission didn't have an opportunity to review but he thinks that the Lateef family has been pro-active in terms of looking for ways to overcome some of the objections and he wouldn't be opposed to directing staff to come up with some conditions that would be acceptable for opening for this particular market especially with the 7 am to 10 pm. They are not talking about particular late hours. Mayor Poythress stated that knowing the Lateef family, he knows that a lot of testimony .....and he can't tell you how many phone calls how many people that were calling him in terms of proponents but he thinks it goes to show their reputation in terms of operating stores. Mayor Poythress again stated that he would not be opposed to having staff take a look at some of these conditions and bringing back something that's acceptable.

Council Member Medellin stated that he too can appreciate the input of Madera County Health Department, as they should be. He spoke with them about underage smoking and drinking and things of that nature and it should be addressed. He would have thought there would be more neighbors here expressing

concern as well so that they have an opportunity to work together and pitch their idea and that's what it's about. Council Member Medellin stated that that is what it's about, trying to come to an agreement to where they can all get along. He has no objection to staff reviewing what's been proposed. He also has no objection to keeping this item at this level instead of back at Planning Commission if it will save some time and if they're going to be the ultimate say and if they have that option. Council Member Medellin suggested that they just keep it there at the Council level.

Mayor Poythress asked for consensus.

Council Member Holley stated that he would like to say one thing. He kept quiet for a reason because he serves on one of the boards out there but when he sees a business come into Madera that's homely, that's trying to do something for a culture, he loves that and they can talk about why do they have so many convenience stores. It's because they can't get the big stores to come to Madera so they get these mom and pop stores that pop up all over their City and some make great. He hasn't really seen a whole lot that has caused a lot of issues because he's probably got 8 or 9 of them right in the same area but they're problem-less. There's no problems around them. They're conducting themselves. Council Member Holley stated that sometimes they go in there and see the signs and the Health Department goes in and talk with the different owners and they comply with moving items out of the way out of people's sight. So they have to work at these things but he wouldn't want to see a business that's trying hard to do something and is going to do the right thing for a culture which means a lot that he takes his family in consideration and trying to have something there specially for them. Council Member Holley stated that he'd like to see some graphics drafted up to where they can make this work. Also, throw in, if this is not working then have a review in year and see where they're at with that.

Council Member Medellin stated that the original use, because they bought it from Captain Kirk, was going to be a cell phone use. They haven't talked about that tonight and Council Member Medellin asked if that is still something that they're considering as part of their square footage, to still do accessories, cell phones, things like that or are they now strictly talking about a convenience store.

Mr. Lateef responded that as far as the cell phone goes, he's mainly doing repairs. He doesn't have a whole lot of products excessive like selling new phones or offering new plans. He's just doing repairs. He has a separate repair room in the back. Customers come and drop off their phone and they leave. He handles the repair part in the back.

Council Member Medellin asked if the customer floor space area will be devoted to the convenience store and Mr. Lateef replied affirmatively.

Council Member Medellin asked if in the back room; he's been there plenty of times and Mr. Lateef replied that in a side room.

Council Member Medellin reiterated that Mr. Lateef will do some small repairs and stuff and Mr. Lateef agreed it was just small repairs and stuff.

Council Member Medellin stated he was just getting clarification and thanked Mr. Lateef.

Mr. Lateef stated it was no problem and thanked Council Member Medellin.

Council Member Robinson stated that a lot of convenience stores start out doing one, two or three things and then before you know it they are doing 15 things; a variety of things to make up for other businesses not being around.

Mayor Poythress commented they are looking for opportunity.

Council Member Robinson agreed that they're looking for opportunity but stated that when he lived in Berkeley he went to this Indian restaurant. They made some of the best chicken and they need more

culinary in the City of Madera and that would be a plus. Also, they can look forward to doing something like that.

Council Member Medellin stated that at Planning Commission they did sometimes put a one year review or sometimes a six month review or there was a time they did an every three month review. It sounds a little harsh but at the same time it could work in their favor that the more times they go in and visit and see that they're running the business as they said they were it's just more feathers in their cap.

Mr. Lateef stated that he doesn't have a problem with that.

Council Member Medellin jokingly stated someone may be there every day, but won't say who.

Mr. Lateef replied, "Be my guest."

Council Member Medellin thank Mr. Lateef.

Mr. Richardson suggested that if the Council wants staff to bring something back then they should continue this item to a date certain to avoid any further noticing requirements. Maybe to one of the May meetings or something like that. He doesn't know what staff feels it will take to get something put together. They're going to obviously get to together with the...

Dave Merchen, Community Development Director, stated that he thinks that in terms of the direction that's been given they understand that and it's not going to take meaningful time to incorporate the conditions which have already really been drafted by Mr. Evans and the applicant so they incorporate those in short order and as early as the next Council meeting. He thinks they can be prepared to do so.

Mr. Richardson stated that would be two weeks and asked the applicant if April 20<sup>th</sup> would work for him.

Mr. Evans stated that he and Ms. Odin were talking on the way up here and his office has five appearances on April 20<sup>th</sup>, so he would ask for 30 days.

Mayor Poythress stated they're looking for the first meeting in May.

Mr. Richardson stated, May 4<sup>th</sup>.

Mr. Evans stated he can make that work, absolutely.

Mr. Richardson stated that he would suggest a motion continuing to that date if that's what the Council's desire was.

**ON MOTION BY COUNCIL MEMBER HOLLEY, AND SECONDED BY COUNCIL MEMBER MEDELLIN, ITEM C-1 WAS CONTINUED TO THE MAY 4, 2016 CITY COUNCIL MEETING BY A VOTE OF 5-0. ABSTENTION: MAYOR PRO TEM RIGBY**

Mayor Pro Tem Rigby reentered the Council Chambers.

Council Member Robinson asked Mayor Poythress if they could take a five minute break.

Mayor Poythress stated that it's been requested that they take a five minute break. They will convene back in five minutes. [Break at 7:45 pm.]

Mayor Poythress resumed the meeting at 7:49 pm. He stated that they've had a really great fulfilling five minute break and now they're ready to hit the rest of the agenda with gusto.

**C-2 Public Hearing and Consideration of a Resolution of the City Council Confirming Special Assessments for Delinquent Administrative Fines (Report by Brent Richardson)**

Brent Richardson, City Attorney, state that he would like to pull the 1100 Garfield Avenue property off the exhibit, so they'll just be confirming the first property on the Exhibit A. He stated that he'd contacted counsel for the bank that is in charge of the Garfield property and counsel for the bank had some concerns that he, Mr. Richardson, wasn't prepared to address so he wants to vet those out before they confirm it rather than get something wrong. He'd rather confirm they're doing it right. Mr. Richardson asks that they just confirm the first one.

Mayor Poythress asked if there were any questions for Mr. Richardson before they opened up the public hearing. Seeing none; he opened up the public hearing. He asked if there were any members of the public who would like to address the Council on this item: Seeing none, he closed the public hearing and brought it back to Council for action.

**ON MOTION BY COUNCIL MEMBER MEDELLIN, AND SECONDED BY COUNCIL MEMBER OLIVER, ITEM C-2, RES. NO. 16-43 WAS ADOPTED WITH THE EXCLUSION OF THE GARFIELD PROPERTY UNANIMOUSLY BY A VOTE OF 6-0.**

**RES. NO. 16-43 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA CONFIRMING SPECIAL ASSESSMENTS FOR DELINQUENT ADMINISTRATIVE FINES.**

**C-3 Public Hearing and Annual Report on Development Impact Fees for the 2014-2015 Fiscal Year and Consideration of a Resolution Adopting this Report and Making Certain Findings Related to this Report (Report by Tim Przybyla)**

Tim Przybyla, Director of Financial Services, stated that the Government Code Section 66001 requires public agencies to review on an annual basis the status of collected development impact fees. The code also requires that the public agencies post the notice at least 15 days prior to the public hearing and staff has posted the notice at the City bulletin board. The detail breakdown of each of these fees and the staff report are included in this agenda packet for their review. Mr. Przybyla stated that Staff recommends that Council open a public hearing to allow the public to ask or to give any input on this matter and then upon closing the public hearing if Council accepts the report, staff recommends that the Council adopt the resolution provided herein.

Mayor Poythress asked if there were any questions for Mr. Przybyla before they opened up the public hearing. Seeing none; he opened up the public hearing. He asked if there were any members of the public who would like to address the Council on this item: Seeing none, he closed the public hearing and brought it back to Council for action. No other questions were asked and Mayor Poythress called for title.

Sonia Alvarez, City Clerk, advised the Mayor that this item is a resolution.

Mayor Poythress apologized and asked for a motion for action.

**ON MOTION BY COUNCIL MEMBER HOLLEY, AND SECONDED BY COUNCIL MEMBER OLIVER, ITEM C-3, RES. NO. 16-44 WAS ADOPTED UNANIMOUSLY BY A VOTE OF 6-0.**

**RES. NO. 16-44 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA REVIEWING CERTAIN IMPACT FEE ACCOUNTS, ADOPTING THE REPORT AND MAKING CERTAIN FINDINGS RELATED THERETO**

**C-4 Second Reading and Consideration of Adoption of an Ordinance Rezoning Approximately 18.96 Acres Located at the Northwest Corner of Tozer Street (Road**

**28) and South A Street to the PF (Public Facilities) Zone District in Support of the Construction of an Elementary School (Report by Chris Boyle)**

Chris Boyle, Planning Manager stated that staff would continue to recommend adoption of the ordinance which would allow for the subsequent application for annexation by the school district and facilitate the construction of the elementary school. He stated that completes his presentation and he would be happy to answer any questions.

Mayor Poythress stated that this is in an area where the County is going to be putting in some improvements that's going to create a huge economic impact on that area of town, he's teasing, he heard that on report last week and was just wondering if this was nearby.

Council Member Medellin stated that they pinky swore from what he heard.

Mayor Pro Tem Rigby stated it was a town house agreement.

Mayor Poythress asked if members of the Council had any questions for Mr. Boyle in regards to this item. No questions were asked and Mayor Poythress called for title.

The ordinance was read by title by the City Clerk.

**ON MOTION BY COUNCIL MEMBER OLIVER, AND SECONDED BY COUNCIL MEMBER MEDELLIN, FURTHER READING WAS WAIVED AND ITEM C-4, ORD. NO. 933 C.S. WAS ADOPTED UNANIMOUSLY BY A VOTE OF 6-0.**

**ORD. NO. 933 C.S.      AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA AMENDING THE OFFICIAL CITY OF MADERA ZONING MAP PREZONING APPROXIMATELY TWENTY ACRES LOCATED AT THE NORTHWEST CORNER OF TOZER STREET (ROAD 28) AND SOUTH A STREET TO THE PF (PUBLIC FACILITY) ZONE DISTRICT AS IDENTIFIED WITHIN EXHIBIT "A"**

**D.      WRITTEN COMMUNICATIONS**

There are no items for this section.

**E.      ADMINISTRATIVE REPORTS**

**E-1      Presentation of the Preliminary City of Madera Capital Budgets for Fiscal Year 2016/2017**

Tim Przybyla, Director of Financial Services, introduced Patricia Barboza the new Financial Services Manager. Mr. Przybyla stated that she is very influential in helping them get the clean opinion with the auditors. She helped prepare the AB 1600 reports that he presented to the Council recently. She comes with a lot of experience and has been very helpful to him and he just wanted to give a little credit to her for those things.

Mayor Poythress thanked him.

Mr. Przybyla stated that he will give a quick presentation of the preliminary capital project budgets for Fiscal Year 16/17. He just wanted to beat their chest a little bit and have Council recognize that they are an award winning City and that they obtained the California Society of Municipal Finance Officers Operating Budget Excellence award for their 15/16 Fiscal Year budget.

Mayor Poythress congratulated him.

Mr. Przybyla indicated that they are now getting the budget rolling. This is the first of six presentations. There will be four preliminary presentations. This is the first of those four. Then there'll be a budget workshop in early June and then a Final Budget presentation on June 15 and no action is required on this item. This is informational. Mr. Przybyla stated that the Capital Projects are somewhat different than Operational Budget. They're funded by grants, special revenues or reserves that are built up over time until there's enough money built up to fund the major projects that they have in mind. They may fluctuate because of that from one year to another whereas Operational Budgets you expect them to stay somewhat consistent unless there's a real good reason for increases or decreases. These budgets also tend to be postponed when funds are tight, but currently they plan to complete a good number of deferred maintenance over the next several years. In the 2016/2017 proposed projects, they have a total of \$8 million. \$2.7 of that is for water projects; \$221,000 for sewer projects, \$1.5 million for an airport project, \$3.2 million in streets, sidewalks and paths and \$107,000 in non-street park projects. The reason he says non-street is because part of the street, sidewalk and paths figure includes a couple of projects that are actually Parks, but he grouped them with Streets and then there's \$67,000 in fire projects and \$160,000 in drainage projects. Current year's 15/16 budget included over \$9 million of capital projects. Mr. Przybyla indicated that the Council has packets with a listing of Capital Projects and at the bottom it shows how those are grouped and directly where those numbers came from. Mr. Przybyla stated that if there are any questions on any of the projects, he is sure that the departments would be glad to answer them at this time.

Mr. Przybyla stated that the mid-year budget looked good. Departments are still performing well in their budgets. They hope to finish this year with a surplus in the General Fund and departments are working hard on their budgets and submitting information in a timely manner, and they anticipate another award winning budget. Mr. Przybyla stated that he would answer any questions they might have, but he doubts that they have any at this time.

Mayor Poythress indicated that he did have a question. Mayor Poythress asked for the criteria to get an award winning budget. Mr. Przybyla stated that, that was a whole other meeting. Mayor Poythress asked if they submitted a video. Mr. Przybyla stated that there were no videos and that the City Administrator could comment.

David Tooley, City Administrator stated that there is a great deal of objective criteria against which their presentation is judged.

Mayor Poythress stated that he was curious. It sounded really interesting.

Mr. Przybyla stated that it was a big team effort. They had to state City goals and objectives and as they do further budget presentations they will tout those as they give those presentations.

Mr. Tooley commented that only a banker or a finance professional is fascinated by those kinds of things.

Council Member Medellin stated that if there's an award to be had, Mr. Mayor wants a piece of it.

## **E-2      Acceptance of the Audited Financial Statements and Single Audit Report (Federal Grants) for the Fiscal Year ended June 30, 2015 (Report by Tim Przybyla)**

This item was heard out of order and discussion may be found immediately following consent items above.

## **F.      COUNCIL REPORTS**

Council Member Robinson stated that he has nothing to report.

Mayor Pro Tem Rigby stated that he had the opportunity to join the Rosewood Court Neighborhood Watch group; their first meeting with Council Member Medellin. It went really well. He was able to present the Blue Stripe Initiative as that's moving forward as well. They'll be painting curbs blue with red stripes beginning next Monday.

He was also honored to be invited to Desmond Middle School where he got to share a little bit more about what their City government does to the Desmond Community Service Group under the direction of Miss Jamie Ashburn.

Mayor Pro Tem Rigby stated that he enjoyed their State of the City that Mr. Mayor addressed; well done. He's sure the team did a great job of putting together the video and kudos to Joseph in the Parks Department for a job well done, above and beyond. That was so great.

He just wanted to say a special thank you from his wife to staff. They received a special gift from staff celebrating the birth of their son. Mayor Pro Tem Rigby stated that it's good to be back, after missing a month, but his wife and sons are doing well. They are on no sleep, but that's the duty of what they chose. It's fun.

Council Member Holley stated that he had one great exciting project coming up this Saturday; Bowl For Kids' Sake for the Big Brothers Big Sisters Program. They are welcome to come out and watch it at Madera Bowl. It's going to be from 12 to 2 pm and watch it Hawaiian style, so they can come out and they might win some great prizes. It's going to be exciting.

Council Member Medellin stated that he has nothing to report.

Council Member Oliver stated that last Saturday he attended the First Stride for Inclusion 5K and Family Walk for Madera Special Needs Sports and Recreation. The event was a great success. He had an opportunity to welcome the crowd on behalf of his colleagues and the Mayor and it was just very impressive to see the turn out, to see all that they've been able to accomplish in just a short period of time. Council Member Oliver believes that a little over 200 people were there in total, so it was a great success and hopefully he'll be able to run again next year.

Mayor Poythress stated that they were really worried when they first had this idea to get this thing going and it turned out to be a great success. Mayor Poythress stated that it was great and wonderful and thanked Council Member Oliver for being there.

Mayor Poythress stated the only thing he has to report is that he had an opportunity to participate in a wedding, not his own, but that of his daughter, last Saturday. He stated that for the dads out there and for the dads who've had married daughters, he thought it was no big deal until he's right there and you have your daughter there and you're getting ready to walk her down and it kind of hits you and it just like "Woah". It was a wonderful time.

Mayor Poythress stated that the other thing is this Saturday; they have their great Parks & Rec opportunity in the park; participate in park clean ups and trail work and getting the community together to participate as one to help clean up our City, so he's looking forward to that. 8:30 am at the Town & County Park parking lot. Coffee from 8 to 9 am, so he may be there at 8:05 am.

**G. CLOSED SESSION – This item was withdrawn. No discussion or action taken.**

G-1 Closed Session Announcement – City Attorney

G-2 Conference with Legal Counsel – Pending Litigation pursuant to Government Code §54956.9(d)(1); 2 cases:

Marvin Fortner WCAB No. ADJ 8269630 & ADJ 8269726

G-3 Closed Session Report – City Attorney

## **ADJOURNMENT**

The meeting was adjourned by Mayor Poythress at 8:03 p.m.

## **CONSISTENCY WITH THE VISION MADERA 2025 PLAN**

Approval of the minutes is not addressed in the vision or action plans; the requested action is also not in conflict with any of the actions or goals contained in that plan.

  
SONIA ALVAREZ, City Clerk

  
ROBERT L. POYTHRESS, Mayor

  
Prepared by:  
ZELDA LEÓN, Deputy City Clerk

