



CITY OF MENDOTA

"Cantaloupe Center Of The World"

ROLANDO CASTRO
Mayor
VICTOR MARTINEZ
Mayor Pro Tempore
JESSE MENDOZA
OSCAR ROSALES
ROBERT SILVA

AGENDA
MENDOTA CITY COUNCIL
Regular City Council Meeting
CITY COUNCIL CHAMBERS
643 QUINCE STREET
August 22, 2017
6:00 PM

VINCE DiMAGGIO
City Manager
JOHN KINSEY
City Attorney

The Mendota City Council welcomes you to its meetings, which are scheduled for the 2nd and 4th Tuesday of every month. Your interest and participation are encouraged and appreciated. Notice is hereby given that Council may discuss and/or take action on any or all of the items listed on this agenda. **Please turn your cell phones on vibrate/off while in the council chambers.**

Any public writings distributed by the City of Mendota to at least a majority of the City Council regarding any item on this regular meeting agenda will be made available at the front counter at City Hall located at 643 Quince Street Mendota, CA 93640, during normal business hours, 8 AM - 5 PM.

CALL TO ORDER

ROLL CALL

FLAG SALUTE

INVOCATION

FINALIZE THE AGENDA

1. Adjustments to Agenda.
2. Adoption of final Agenda

CITIZENS ORAL AND WRITTEN PRESENTATIONS

At this time members of the public may address the City Council on any matter not listed on the agenda involving matters within the jurisdiction of the City Council. Please complete a "request to speak" form and limit your comments to THREE (3) MINUTES. Please give the completed form to City Clerk prior to the start of the meeting. All speakers shall observe proper decorum. The Mendota Municipal Code prohibits the use of boisterous, slanderous, or profane language. All speakers must step to the podium, state their names and addresses for the record. Please watch the time.

APPROVAL OF MINUTES AND NOTICE OF WAIVING OF READING

1. Minutes of the regular City Council meeting of August 8, 2017.
2. Notice of waiving of the reading of all resolutions and/or ordinances introduced and/or adopted under this agenda.

CONSENT CALENDAR

Matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion and one vote. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Calendar and will be considered separately.

1. AUGUST 04, 2017 THROUGH AUGUST 16, 2017
WARRANT LIST CHECKS NO. 042863 THRU 042922
TOTAL FOR COUNCIL APPROVAL = \$399,788.19
2. Proposed adoption of **Resolution No. 17-48**, authorizing the payment of retainage to the contractor for the Marie & Divisadero Streets Reconstruction Project.
3. Proposed adoption of **Resolution No. 17-49**, fixing the amount taxable on property within the city for the purpose of paying the principal and interest on 1977 general obligation bonds during the 2017-2018 fiscal year.
4. Execution of Settlement Agreement and Mutual Release of Claims by and between the City and Crisanto Villa, settling the case of *City of Mendota v. Crisanto Villa, et al.* (Fresno County Superior Court Case No. 17CECL04704) regarding the failure of Crisanto Villa to comply with the terms and conditions of a written Property Lease Agreement for real property located at 359 Airport Circle, Mendota, California, 93640.
5. Execution of First Amendment to Settlement Agreement and Mutual Release by and between the City and Felipe Gonzalez, amending Section 1 of the Settlement Agreement and Mutual Release dated June 16, 2017 regarding the payment schedule for satisfaction of the City's claims.

BUSINESS

1. Discussion and consideration of **Resolution No. 17-50**, naming the new plaza to be constructed at 7th Street and Derrick Avenue as "Robert Silva Plaza".
 - a. *Receive report from City Manager DiMaggio*
 - b. *Inquiries from Council to staff*
 - c. *Mayor opens floor to receive any comment from the public*
 - d. *Council consider Resolution No. 17-50*
2. Discussion and consideration of attendance issues with the Planning Commission.
 - a. *Receive report from City Manager DiMaggio*
 - b. *Inquiries from Council to staff*
 - c. *Mayor opens floor to receive any comment from the public*
 - d. *Council take action as appropriate*

3. Discussion and consideration of an application for an exclusive-use permit to hold a circus on the city-owned lot on 7th Street and Riofrio Street.
 - a. *Receive report from Economic Development Manager Flood*
 - b. *Inquiries from Council to staff*
 - c. *Mayor opens floor to receive any comment from the public*
 - d. *Council take action as appropriate*

PUBLIC HEARING

1. Introduction of **Ordinance No. 17-13**, amending Title 17 of the Mendota Municipal Code creating a Commercial Marijuana Overlay District and amending Chapter 8.36 for consistency therewith.
 - a. *Receive report from City Manager DiMaggio*
 - b. *Inquiries from Council to staff*
 - c. *Mayor continues the public hearing, accepting comments from the public*
 - d. *Mayor closes the public hearing*
 - e. *Council provide any input and motion to waive the first reading of Ordinance No. 17-13.*

DEPARTMENT REPORTS AND INFORMATIONAL ITEMS

1. Administrative Services
 - a) Monthly Report
2. Public Works
 - a) Monthly Report
3. City Attorney
 - a) Update
4. City Manager

MAYOR AND COUNCIL REPORTS AND INFORMATIONAL ITEMS

1. Council Member(s)
2. Mayor

ADJOURNMENT

CERTIFICATION OF POSTING

I, Celeste Cabrera, Deputy City Clerk of the City of Mendota, do hereby declare that the foregoing agenda for the Mendota City Council Regular Meeting of August 22, 2017, was posted on the outside bulletin board located at City Hall, 643 Quince Street Friday, August 18, 2017 at 2:30 p.m.



Celeste Cabrera, Deputy City Clerk



MINUTES OF MENDOTA REGULAR CITY COUNCIL MEETING

Regular Meeting

August 8, 2017

Meeting called to order by Mayor Castro at 6:00 p.m.

Roll Call

Council Members Present: Mayor Rolando Castro, Mayor Pro Tem Victor Martinez, Councilors Jesse Mendoza, and Robert Silva.

Council Members Absent: Councilor Oscar Rosales.

Flag salute led by Mayor Pro Tem Martinez.

Invocation led by Pastor Mario Plascencia from Christian Tabernacle Church.

FINALIZE THE AGENDA

1. Adjustments to Agenda.
2. Adoption of final Agenda.

City Manager DiMaggio requested that an item be added to the Closed Session portion of the agenda.

A motion was made by Councilor Silva to adopt the agenda as requested by staff, seconded by Mayor Pro Tem Martinez; unanimously approved (4 ayes, absent: Rosales).

CITIZENS ORAL AND WRITTEN PRESENTATIONS

Dino Perez (Westside Youth Center) – stated that the center would like to proceed with holding the annual driver awareness event; that a facility-use application was submitted to request use of the park to hold the event; and requested to utilize the materials that the city has for the event.

Discussion was held on the facility-use application that was submitted; the need to acquire donations; the history of the driver awareness event; the request having to be administratively approved; and the date that was requested to use the park.

Joseph Amador (1890 7th Street) – stated that he is willing to help out for the event; explained how youth programs are beneficial to the community; and inquired on whether there are funds in the Driver Awareness account.

Gloria Ceja de Lopez (501 Oxnard Street) – requested that the Council adopt a resolution supporting the California Values Act, and stated that the community needs to work together to unite families.

Bertha Tarelo (33171 W. El Progreso) – stated that elected state officials are taking the lead by considering SB 54; requested that the Council hold a special meeting to discuss the issue; and requested the creation of a police policy that stating that no resources be used to assist immigration agents.

Carina Rivas (291 L Street) – stated that individuals come to the United States to feel safe; stated that people are afraid to be sent back to their countries; explained that immigrants come to America for the American dream; and that police officers should protect the community, and not separate families.

Maria Ochoa (1833 9th Street) – stated that she has lived here for many years; stated that people are afraid of being separated from their families; and asked the Council to make Mendota a sanctuary community.

Gabriela Lopez (405 Martinez Street) – requested that the police department create an internal policy that states that no resources be used to assist immigration agents; stated that resources should be used to help community, and not to help separate families; and stated that we will be judged by our works and not by citizenship status.

Kevin Romero (160 Tuft Street) – reported on the 2017 football schedule, and summarized the important games that the Aztecs will be playing in.

Joe Gomez (2033 7th Street) – stated that has requested to be on the Council agenda; stated that the abatement of weeds was not done properly on his properties; and inquired on whether the business that performed the weed abatements on behalf of the City had a business license.

Council informed Mr. Gomez that the issue that he wants to discuss had already been discussed at the previous meeting, and Council directed staff to check if the business that performed the weed abatements on behalf of the City had a business license.

Giovanni Aguilar (641 Garcia Street) – requested that the police department not assist immigration agents; stated that families come to American to work hard; and stated that these families produce hard working, law-abiding individuals.

Leticia Valencia – provided clarification on what the individuals that spoke to the Council were requesting.

Mayor Castro requested that City Manager DiMaggio provide a report to the public regarding a conversation that he had with Ms. Valencia.

City Manager DiMaggio reported that he had met with Ms. Valencia and that she had shared the group's perspective on the issue with him; that he understands the concerns that the group has; stated that staff would collaborate with Ms. Valencia to create a policy regarding the issue; and that once the Governor signs SB 54, staff would seek direction from Council to implement SB 54.

APPROVAL OF MINUTES AND NOTICE OF WAIVING OF READING

1. Minutes of the regular City Council meeting of July 25, 2017.
2. Notice of waiving of the reading of all resolutions and/or ordinances introduced and/or adopted under this agenda.

A motion was made by Councilor Mendoza to approve items 1 and 2, seconded by Mayor Pro Tem Martinez; unanimously approved (4 ayes, absent: Rosales).

CONSENT CALENDAR

1. JULY 25, 2017 THROUGH AUGUST 03, 2017
WARRANT LIST CHECKS NO. 042788 THRU 042862
TOTAL FOR COUNCIL APPROVAL = \$328,332.18

A motion was made by Councilor Silva adopt item 1 of the Consent Calendar, seconded by Mayor Pro Tem Martinez; unanimously approved (4 ayes, absent: Rosales).

BUSINESS

1. Consideration of a petition to install speed bumps on the 700 and 800 block of Lolita Street.

Mayor Castro introduced the item and Planning & Public Works Director Gonzalez summarized the report including that he received a request to install speed bumps on the 700 and 800 block of Lolita Street; the request also being accompanied by signatures of 21 out of the 24 residents on the block; the administrative policy in place regarding speed bump installation; and stated that temporary speed bumps will be installed while staff analyses whether to install permanent bumps.

Discussion was held on the amount of cars that speed down Lolita Street; the importance of calling dispatch; the costs associate with installing temporary and permanent speed bumps; and the council thanked the residents of Lolita Street for voicing their concerns.

Art Gallardo (791 Lolita Street) - stated that his family has lived on Lolita Street for many years; stated that he is thankful for the support from the Council and staff; and that he is glad that action is being taken to install speed bumps.

Raymond Aquino (772 Lolita Street) – spoke about recent accidents that occurred on the street; stated that the residents are worried about the children; and thanked Council for their consideration.

PUBLIC HEARING

1. Second reading and proposed adoption of **Ordinance No. 17-12**, imposing a Transactions and Use Tax to be administered by the State Board of Equalization.

Mayor Castro introduced the item and City Manager DiMaggio summarized the report.

Discussion was held on how the fees are collected, and the amount of revenue that the proposed measure would generate.

At 7:06 p.m. Mayor Castro opened the hearing to the public and, seeing no one present wishing to comment, closed it in that same minute.

A motion was made by Mayor Pro Tem Martinez to adopt Ordinance No. 17-12, seconded by Councilor Mendoza; unanimously approved (4 ayes, absent: Rosales).

2. Introduction of **Ordinance No. 17-13**, amending Title 17 of the Mendota Municipal Code creating a Commercial Marijuana Overlay District and amending Chapter 8.36 for consistency therewith.

Mayor Castro introduced the item and City Manager DiMaggio stated that there are two separate reports, one by the City Attorney, and one by him; he summarized his report including that the ordinance is specific to the indoor cultivation of cannabis; the ordinance being a zoning overlay that effects few properties in the east area of the city; the various requirements contained in the ordinance regarding the indoor commercial cannabis cultivation; various of unfunded mandates that are coming down from the State including the minimum wage increase and SGMA; seeking revenue streams to assist in funding such mandates; the possibility of the police department being unsustainable if additional revenue streams are not acquired; the social considerations that were taken into consideration; the inconsistency between the stance of the state and the federal government regarding the issue; stated that there is a revised recommendation, and requested that the Council take no action on the item.

Discussion was held on the requirements contained in the ordinance regarding the indoor commercial cannabis cultivation, and the amount of cities that are looking into allowing commercial cannabis cultivation in the city.

Economic Development Manager Flood requested that the public hearing be continued to the August 22nd City Council Meeting in order to comply with noticing requirements.

Discussion was held on the amount of cities that are looking into allowing commercial cannabis cultivation in the city, and the importance of the special mail-in ballot election.

At 7:24 p.m. Mayor Castro opened the hearing to the public.

Eddie Hatton (1677 N. Garfield) – stated that she was looking for property within the City to purchase; stated that she is concerned about proposed ordinance; stated that the Silver Creek building could be used to for other purposes; reported that the public is unaware that the Council is considering the item; and offered to volunteer her time to the community.

Sergio Valdez – reported on the purpose of Red Ribbon Week, and summarized the negative effects that allowing commercial cannabis cultivation in the city would have on the community.

Jorge Gutierrez (487 Perez Street) – stated that the commercial cultivation of cannabis will be beneficial to the community because of the amount of jobs that will be created and the revenue that will be generated.

Rigoberto Alvarado (270 Valenzuela Street) – stated that he is in favor of the City allowing cannabis cultivation; stated that such allowance would generate jobs for local residents; and stated that it could provide the much needed revenue.

Bianca Prieto (583 L Street) – inquired on who is tax exempt in regards to the proposed sales and use tax measure.

A motion was made by Councilor Mendoza to continue the public hearing to the August 22nd City Council Meeting, seconded by Mayor Pro Tem Martinez; unanimously approved (4 ayes, absent: Rosales).

DEPARTMENT REPORTS AND INFORMATIONAL ITEMS

1. Code Enforcement
 - a) Monthly Report

Chief of Police Andreotti reported on officers having positive contact with members of the community; that Officer Coronado would be going on maternity leave soon; and significant cases for the month of July.

Discussion was held on ensuring that properties are maintained by property owners.

2. Police Department
 - a) Monthly Report

Chief of Police Andreotti summarized the report including significant cases for the month of July; the department's participation in the annual back-to-school backpack giveaway event; provided a personnel update; and stated that the Explorers were honored by the Mendota Unified School District Board of Trustees.

Discussion was held on the success of national night out.

3. City Attorney
 - a) Update

Nothing to report.

3. City Manager

City Manager DiMaggio stated that he has been driving through the city more often.

Council thanked City Manager DiMaggio for his hard work.

MAYOR AND COUNCIL REPORTS AND INFORMATIONAL ITEMS

1. Council Member(s)

Councilor Silva reported on the success of the annual back-to-school backpack giveaway event; requested that the Council honor Mr. Gutierrez at a future meeting; provided an update on proposed passing lanes on Highway 180; and requested an update on the AMOR project.

Economic Development Manager Flood reported on the upcoming charitable softball game; provided information regarding the election; and reported on how to return mail-in ballots.

Councilor Mendoza inquired on the possibility of bringing a pharmacy and a bank to Mendota.

Discussion was held on a lack of existing commercial buildings in the city to hold businesses, and the date of the grand opening of Dollar Tree.

Councilor Mendoza reported that he received a complaint from residents on I Street regarding an infestation, and inquired on whether the city could do something about it.

2. Mayor

Mayor Castro reported on the re-opening ceremony of Washington Elementary School.

Sergio Valdez (Mendota Youth Recreation [MYR]) – thanked the city on behalf of MYR for sponsoring the Harvest Fiesta.

Discussion was held on the importance of helping non-profit organizations.

Chief of Police Andreotti thanked Mayor Castro for his participation in the national night out event.

CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – POTENTIAL LITIGATION
Pursuant to Paragraph (4) of subdivision (d) of Section 54956.9 ([1] potential case).

2. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION
*Pursuant to Paragraph (1) of subdivision (d) of Govt. Code Section 54956.9; City of Mendota v. Villa, Fresno County Superior Court, Case No. 17 CE CL 04704.
[added to the agenda]*

At 8:11 p.m. the Council moved into closed session.

At 8:33 p.m. the Council reconvened in open session and City Attorney Kinsey stated that in regards to items 1 and 2 of the closed session, there was nothing to report.

ADJOURNMENT

With no more business to be brought before the Council, a motion for adjournment was made at 8:33 p.m. by Mayor Pro Tem Martinez, seconded by Councilor Mendoza; unanimously approved (4 ayes, absent: Rosales).

Rolando Castro, Mayor

ATTEST:

Matt Flood, City Clerk

CITY OF MENDOTA
CASH DISBURSEMENTS
08/04/2017 - 8/16/2017
Check # 042863 - 042922

Date	Check #	Amount	Vendor	Department	Description
August 4, 2017	42863	\$2,300.00	ADMINISTRATIVE SOLUTIONS	GENERAL	MEDICAL CHECK RUN 8/2/2017
August 4, 2017	42864	\$524.56	ADT SECURITY SERVICES	GENERAL-WATER-SEWER	SECURITY SERVICES 8/13/17 - 10/11/17 CITY HALL, EDD, & DMV
August 4, 2017	42865	\$222.88	AT&T	GENERAL	POLICE DEPARTMENT DISPATCH 6/27/17 - 7/26/2017
August 4, 2017	42866	\$1,247.71	FRESNO COUNTY AUDITOR	GENERAL	CITY'S PORTION OF LAFCO BUDGET FY 17/18
August 4, 2017	42867	\$130.84	GUTHRIE PETROLEUM	WATER-STREETS	50 BLK DIESEL FUEL FOR BACKHOE
August 4, 2017	42868	\$39.90	SEBASTIAN	GENERAL	SECURITY ALARM SERVICES 7/21/17 -8/20/17 & 8/21/17 - 9/20/17 - PD
August 4, 2017	42869	\$3,350.48	BANKCARD CENTER	GENERAL-SEWER	CREDIT CARD EXPENSES 6/28/17 - 7/26/17
August 8, 2017	42870	\$88,064.00	WESTAMERICA BANK	GENERAL	PAYROLL TRANSFER 07/24/17 - 8/6/17
August 16, 2017	42871	\$2,760.00	ADMINISTRATIVE SOLUTIONS	GENERAL	(4) HRA ADMINISTRATION-AUGUST 2017 (PD), (20) MONTHLY MEDICAL ADMINSTRATIVE FEE FOR AUGUST 2017, MEDICAL CHECK RUN
August 16, 2017	42872	\$586.10	AFLAC	GENERAL	AFLAC INSURANCE FOR AUGUST 2017
August 16, 2017	42873	\$28.84	AIRGAS USA, LLC	WATER	RENT CUL IND SMALL CARBON DIOXIDE 31 DAYS FOR JULY
August 16, 2017	42874	\$522.68	ALERT-O-LITE	GENERAL-WATER	WATER FILLED K-RAIL 42"X6' (6) RENTAL FOR JULY, (30) WORM DRIVE CLAMP 5-7" FLAH STRAPS
August 16, 2017	42875	\$9,209.43	AMERITAS GROUP	GENERAL	VISION INSURANCE FOR SEPTEMBER 2017N & DENTAL INSURANCE FOR SEPTEMBER 2017
August 16, 2017	42876	\$296.85	AMERPRIDE SERVICES INC.	GENERAL-WATER-SEWER	PUBLIC WORKS UNIFORM WEEK 7/6/17, 7/13/17, 7/20/17, &7/27/17
August 16, 2017	42877	\$102.00	GREGG ANDREOTTI	GENERAL	POST REIMBURSEABLE-PER DIEM FOR EXECUTIVE WORKSHOP - PD
August 16, 2017	42878	\$150.00	SENDY AYALA	GENERAL	PER DIEM CHECK FOR SART TRAINING - PD
August 16, 2017	42879	\$971.30	BELMONT NURSERY	GENERAL	(30) LODGE POLE 8FT (100) QUICK TIE TREES
August 16, 2017	42880	\$485.00	BRECK'S TRANSPORT	WATER	(1) CRATE 145"X17"X36" DRUM 24"X24"X44" FOR WTP
August 16, 2017	42881	\$574.00	BSK ASSOCIATES	WATER-SEWER	GENERAL EDT WEEKLY TREATMENT & DISTRIBUTION, WASTE WATER WEEKLY, GENERAL EDT WEEKLY TREATMENT & DISTRIBUTION
August 16, 2017	42882	\$1,207.95	CARROT TOP INDUSTRIES	GENERAL	FLAGS FOR 7TH STREET & ROJAS-PIERCE PARK
August 16, 2017	42883	\$135.70	CONSOLIDATED ELECTRICAL DISTRIBUTORS, INC.	STREETS	(4) STREET LIGHT HID LAMP
August 16, 2017	42884	\$1,335.08	COMCAST	GENERAL-WATER-SEWER	XFINITY SERVICES - CITY HALL, PW, WTP, & PD
August 16, 2017	42885	\$325.00	CORELOGIC INFORMATION	GENERAL-WATER-SEWER	PROPERTY DETAIL RPT REALQUEST SERVICES AUGUST 2017 & CONTRACT RENEWAL
August 16, 2017	42886	\$1,600.00	D&D DISPOSAL INC.	GENERAL	FREEZER PICK-UP ANIMAL DISPOSAL FOR MARCH 2017 & JULY 2017
August 16, 2017	42887	\$296.00	DEPARTMENT OF JUSTICE	GENERAL	(1) FINGERPRINT APPS (1) PEACE OFFICER-BILLED, JULY 2017 (7) BLOOD ALCOHOL ANALYSIS (PD)

CITY OF MENDOTA
CASH DISBURSEMENTS
08/04/2017 - 8/16/2017
Check # 042863 - 042922

August 16, 2017	42888	\$36.03	E.G. BABCOCK CO.	GENERAL	MOWER PARTS (1) PULLEY-SPRING ASSY PAWL RATCHET
August 16, 2017	42889	\$270.74	EINERSON'S PREPRESS	WATER-SEWER	UTILITY BOOKS FOR CLOSING ACCTS
August 16, 2017	42890	\$121.10	EMPLOYEE RELATIONS	GENERAL	PRE-EMPLOYMENT BACKGROUND INFORMATION REPORT - ANIMAL CONTROL
August 16, 2017	42891	\$19.26	FERGUSON ENTERPRISES, INC. #1423	WATER-SEWER	(2) ELECTRICAL CAPACITORS FOR AC UNIT PW OFFICE
August 16, 2017	42892	\$155.00	DAVID A. FIKE, ATTORNEY AT LAW,	GENERAL	PROFESSIONAL SERVICES SPECIAL SERVICES JULY 2017
August 16, 2017	42893	\$381.50	FILTRONICS, INC.	WATER	(1) LOWER LATERAL PIPE STRAPS FH-13 SYS INCL - WTP
August 16, 2017	42894	\$10,833.33	FIREBAUGH POLICE	GENERAL	POLICE DISPATCH SERVICES - JUNE 2017
August 16, 2017	42895	\$137.99	FRESNO COUNTY SHERIFF	GENERAL	RMS JMS ACCESS FEE - JULY 2017
August 16, 2017	42896	\$80.97	HR DIRECT	GENERAL	(1) PSOTER GUARD 1YR STATE/ FED. /LOCAL RENEWAL/ CA ENGLISH
August 16, 2017	42897	\$785.00	JOHNSTON CONTRACTING, INC.	WATER	DEPOSIT REFUND: WATER HYDRANT METER RENTAL MARCH - JULY 2017
August 16, 2017	42898	\$99.00	KERWEST NEWSPAPER	GENERAL	(5.5) LEGAL NOTICES- LOCAL ORDINANCE 17-12
August 16, 2017	42899	\$70.00	LIEBERT CASSIDY WHITMORE	GENERAL	WEBINAR - RECENT DEVELOPMENTS IN IDR & HOW TO PREPARE
August 16, 2017	42900	\$446.42	METRO UNIFORM	GENERAL	(1) XFX CLASS SHIRT (1) XFX CLASS PANT (1) BALLCAP, (5) WOMANS CS POLO (1) CS POLY POLO
August 16, 2017	42901	\$54,902.65	MID-VALLEY DISPOSAL, INC.	REFUSE	40 Y ROLL OFF QTY 4.03 TON & 4.60 TON, 10Y ROLL OFF QTY 9.39 TON, SANITATION CONTRACT SERVICES FOR JULY 2017
August 16, 2017	42902	\$830.44	NORTHSTAR CHEMICAL	WATER	SODIUM HYPOCHLORITE - 12.5% MILL A 420 GALLONS - WTP
August 16, 2017	42903	\$98.08	OFFICE DEPOT	GENERAL-WATER-SEWER	(1) SHARPIE 5PK GLUE STIC PK & (2) COPY PAPER FOR WTP & CITY HALL
August 16, 2017	42904	\$217.45	AT&T	GENERAL-WATER-SEWER	MONTHLY SERVICE FOR 559-266-6456 7/26/17 - 8/25/17
August 16, 2017	42905	\$102,047.07	PAPE MACHINERY	WATER CAPITOL-SEWER CAPITOL	(1) JOHN DEERE 310SL HL BACKHOE LOADER, BACKHOE ATTACHMENTS (1) QUICK COUPLE (2) WASHER
August 16, 2017	42906	\$36,148.06	PG&E	GENERAL-WATER-SEWER-STREETS	CITYWIDE UTILITIES 5/10/17 - 6/08/17, 6/09/17 - 7/10/17
August 16, 2017	42907	\$2,500.00	PRICE, PAIGE, & COMPANY	GENERAL-WATER-SEWER-STREETS-REFUSE	PROFESSIONAL SERVICES - CITYS FINANCE STATEMENTS FY 16/17
August 16, 2017	42908	\$50,501.13	PROVOST & PRITCHARD	STREETS	PASSTHRU FOR LAS PALMAS PHASE VIII CONSTRUCTION, PLAN REVIEW, IMPROVEMENT DRAWINGS, & FINAL MAP, PASSTHRU- TACOBELL&HANSEN
August 16, 2017	42909	\$4,604.78	R&B COMPANY	WATER	(200) 3/4X100 UBING 250PSI, WATER HYDRANT REPAIR-(1) MUELLER GATE VALVE, OPEN LIFT, (4) 4ROMAC 5.57X12 (5) 6ROMAC 7.64X12
August 16, 2017	42910	\$594.00	SAN JOAQUIN VALLEY WATER	WATER	CITY REPRESENTATION ON SAN JOAQUIN VALLEY INFRASTRUTURE AUTHORITY BY ORANGE COVEFY17/18.
August 16, 2017	42911	\$102.00	KEVIN SMITH	GENERAL	PER DIEM CHECK FOR EXECTIVE WORKSHOP - PD
August 16, 2017	42912	\$1,380.67	SORENSEN MACHINE WORKS	GENERAL-WATER-SEWER-STREETS	MULTIPLE DEPARTMENTS SUPPLIES - JULY 2017 PARKS, PW, WTP, & WWTP

CITY OF MENDOTA
 CASH DISBURSEMENTS
 08/04/2017 - 8/16/2017
 Check # 042863 - 042922

August 16, 2017	42913	\$311.57	UNION PACIFIC RAILROAD CO	STREETS	PUBLIC ENCROACHMENT PERMIT 9/1/17 - 9/30/17 10TH & MARIE, MARIE STREET , N OF BELMONT AVE
August 16, 2017	42914	\$194.85	TCM INVESTMENTS	GENERAL	MPC3503 LEASE PAYMENT COPY MACHINE - PD
August 16, 2017	42915	\$300.00	TECH-MASTER PEST MANAGEMENT	AVIATION	PEST CONTROL - CRICKETS 10FT BAND AIRPORT FENCE
August 16, 2017	42916	\$868.38	THE CLIFFS	GENERAL	(2) HOTEL STAY FOR CHIEF'S EXECUTIVE WORKSHOP - PD
August 16, 2017	42917	\$265.75	TRIANGLE ROCK PRODUCTS, LLC	STREETS	STREET REPAIR ST 3/8 AGG & ASPHALT COLD MIX
August 16, 2017	42918	\$150.00	CHRIS TSARIS	GENERAL	PER DIEM CHECK FOR SART TRAINING - PD
August 16, 2017	42919	\$100.00	UNITED HEALTH CENTERS	WATER-SEWER	PRE-EMPLOYMENT SCREEN - ADMINISTRATIVE ASSISTANT
August 16, 2017	42920	\$85.37	UNIFIRST CORPORATION	GENERAL-WATER-SEWER	AUGUST 2017 SERVICE CHARGE FOR MOP, RUGS, TERRY CLOTHS
August 16, 2017	42921	\$1,884.13	USA BLUEBOOK	WATER	(2) 5 HOLE HYDRANT PENT WRENCH APNNER & ROCKER, (1) ALGAE BRUSH SS BRISTLE 12' ALUMINUM POLE, (2) HOG METER BOX PUMP 2'DX3'L
August 16, 2017	42922	\$11,799.17	WANGER JONES HELSLEY PC ATTORNEYS	GENERAL	LEGAL SERVICES: GNERAL RETAINER THRU 7/15/17, LEGAL SERVICES: TERTIARY TREATMENT FACILITY JULY 2017, SPECIAL LEGAL SERVICES 2017
		\$399,788.19			

AGENDA ITEM

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: MICHAEL OSBORN, ASSISTANT CITY ENGINEER
VIA: VINCE DIMAGGIO, CITY MANAGER
SUBJECT: MARIE STREET & DIVISADERO STREET RECONSTRUCTION PROJECT
DATE: AUGUST 22, 2017

ISSUE

Should the City Council authorize the City Manager to release final payment of the retention to Avison Construction, Inc., the contractor for the Marie Street and Divisadero Street Reconstruction Project?

BACKGROUND

Resolution 16-76 authorized the award of the project to Avison Construction, Inc. This project reconstructed portions of Marie Street – from M&M Grocery to Divisadero Street – and Divisadero Street – from Marie to Lolita St. On July 11, 2017 the project was found to be substantially complete and on August 2, 2017 a Notice of Completion was filed and with the Fresno County Recorder (Doc 2017-0096174.)

Following recordation of the Notice of Completion, a 35 day waiting period commenced during which any stop notices or liens may have been filed against the contractor.

ANALYSIS

The project has been substantially complete for over a month. To the best of staff's knowledge, no liens or stop notices have been filed prior to nor during the 35 day waiting period, to date; therefore, payment of the retention may be made in full, assuming no liens or stop notices are filed prior to the close of the 35 day waiting period (September 6, 2017.)

FISCAL IMPACT

Final retainage payment of \$11,443.44 that was included in the approved budget for Fiscal Year 2016-2017.

RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to release final payment of the retention to Avison Construction, Inc., the contractor for the Marie Street and Divisadero Street Reconstruction Project at the close of the 35 day waiting period.

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA TO AUTHORIZE
PAYMENT OF RETAINAGE TO CONTRACTOR
FOR MARIE STREET AND DIVISADERO
STREET RECONSTRUCTION PROJECT**

RESOLUTION NO. 17-48

WHEREAS, Resolution 16-76 authorized award of the Marie Street and Divisadero Street Reconstruction project to Avison Construction, Inc.; and

WHEREAS, this project was found to be substantially complete on July 11, 2017, and

WHEREAS, the Notice of Completion was filed with the Fresno County Recorder on August 2, 2017 (Doc 2017-0096174), and

WHEREAS, during the required 35 day waiting period no stop notices or liens have been filed with the City against Avison Construction, Inc. in relation to this project, and

WHEREAS, payment of the full contract amount including retention was included in the approved budget for Fiscal Year 2016-2017.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Mendota that the City Manager is hereby authorized to release payment of the retention in the amount of \$11,443.44 to Avison Construction, Inc., as final payment for this project.

Rolando Castro, Mayor

ATTEST:

I, Matt Flood, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a regular meeting of said Council, held at the Mendota City Hall on the 22nd day of August, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Matt Flood, City Clerk

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
VIA: VINCE DIMAGGIO, CITY MANAGER
FROM: NANCY M. DIAZ, FINANCE ADMINISTRATIVE SUPERVISOR
SUBJECT: RESOLUTION 17-49 – PAYING FOR THE PRINCIPAL AND INTEREST ON THE 1977 GENERAL OBLIGATION BONDS FOR FISCAL YEAR 2017-2018
DATE: AUGUST 18, 2017

ISSUE

Should the Council approve Resolution 17-49 to pay the principal and interest on the 1977 General Obligation Bonds for Fiscal Year 2017-2018?

BACKGROUND

In order to pay for the principal and interest on the 1977 General Obligation Bonds, the City of Mendota must submit a resolution to the County of Fresno Auditor's Office specifying a taxable amount to not exceed per \$100.00 of the assessed value of real property within the City for each fiscal year based on a debt service schedule.

ANALYSIS

The County of Fresno requests from the City an Assessment Rate for the Tax Override to submit to the County of Fresno Auditor's Office before July 31, 2017. This request is based off the payment for the principal and interest on the 1977 General Obligation Bonds. The County sends the City a fiscal year revenue district value based on the property in Mendota. The total value is used to calculate the taxable amount needed to pay off the obligation bond specified in the debt service schedule. This year the tax rate is not to exceed 0.00229 per \$100.00 of assessed value of real property within the City. If the resolution is not sent to the auditor's office, the City will be in breach of the debt service schedule.

RECOMMENDATION

Staff recommends Council to approve Resolution No. 17-49 for submittal to County of Fresno to add to the 2017-2018 Property Tax.

FISCAL IMPACT

\$5,250.00 to the General Fund.

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA IN THE
MATTER OF FIXING THE AMOUNT
TAXABLE ON PROPERTY WITHIN THE
CITY OF MENDOTA FOR THE PURPOSE
OF PAYING THE PRINCIPAL AND INTEREST
ON 1977 GENERAL OBLIGATION BONDS
DURING THE 2017- 2018 FISCAL YEAR**

RESOLUTION NO. 17-49

**THE CITY COUNCIL OF THE CITY OF MENDOTA DOES HEREBY RESOLVE THE
FOLLOWING:**

- 1) That the tax amount of the City of Mendota for fiscal year 2017-2018 for the purpose of paying the interest and installments of principals falling due within said fiscal year for the bonded indebtedness of the City which will mature and be payable during said year is hereby fixed at the sum of \$5,250. This will result in a tax rate not to exceed .00229 per \$100.00 of assessed value of real property within the City; and
- 2) That the City Clerk is directed to forward copies of this resolution duly certified to the appropriate authorities, including the Fresno County Auditor/Controller.

Rolando Castro, Mayor

ATTEST:

I, Matt Flood, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a regular meeting of said Council, held at the Mendota City Hall on August 22, 2017, by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:**

Matt Flood, City Clerk

SETTLEMENT AGREEMENT
AND
MUTUAL RELEASE OF CLAIMS

This Settlement Agreement and Mutual Release of Claims (the “Agreement”) is made and entered into as of August _____, 2017 (the “Effective Date”) by and among the parties listed below to formalize their resolution of the matters described herein.

PARTIES

The following entities and individuals are parties to the Agreement:

CITY OF MENDOTA, a political subdivision of the State of California (“CITY”); and

CRISANTO VILLA, an individual (“VILLA”).

The individuals and entities identified above shall collectively be referred to herein as the “Parties.”

RECITALS

A. WHEREAS, the parties hereto are also parties to an action styled *City of Mendota v. Crisanto Villa, et al.*, Fresno County Superior Court Case No. 17CECL04704 (the “Action”);

B. WHEREAS, the Action concerns the failure of VILLA to comply with the terms and conditions of a written Property Lease Agreement (the “Lease”), entered into between the parties for real property located at 359 Airport Circle, Mendota, California, 93640 (the “Property”). Specifically, VILLA has failed to provide caretaker services that acted as consideration for the Lease of the Property from the CITY to VILLA;

C. WHEREAS, on March 23, 2017, the CITY served a Sixty Day Notice to Quit requiring VILLA to deliver possession of the Property by May 22, 2017;

D. WHEREAS, VILLA failed to vacate the Property by May 22, 2017 and the CITY thereafter filed the Action to recover possession of the Property;

E. The parties hereto desire to settle and resolve in its entirety the Action and any and all past, present, and future claims which are, were, or could have been asserted by or between them in the Action or in any litigation or arbitration proceeding which could have been filed arising out of or related to the Action, and to reach a full and final settlement of the Released Claims, as more specifically defined below; and

F. The parties acknowledge that they are resolving the Action in order to avoid the costs of litigation and that, by entering into and performing this agreement, none of the parties admit any liability nor do they opine on the validity or invalidity of the claims asserted in the Action.

AGREEMENT

In consideration for the promises and performance herein described, the parties hereby agree as follows:

1. Removal of Trailer and Vacating Property

No later than 5:00 pm on September 10, 2017, VILLA shall vacate the Property and remove the trailer identified with VIN #4YDT2412939084055 (the "Trailer") from the Property.

Within three (3) business days after the CITY receives confirmation that VILLA has vacated the Property and removed the Trailer from the Property, the CITY shall deliver the certificate of title (the "Certificate") to the Trailer, duly endorsed by an authorized representative of the CITY sufficient to transfer ownership of the Trailer to VILLA.

Upon the execution of this Agreement, the Parties agree that the Action shall be set to settled case status with the Court. Within three (3) business days after the CITY receives confirmation that VILLA has vacated the Property and removed the Trailer from the Property, the CITY shall dismiss the Action with prejudice. In the event that VILLA fails to vacate the Property and remove the Trailer by 5:00 pm on September 10, 2017, the terms and conditions of this Agreement shall remain enforceable (including the mutual release in Section 2), with the exception that: (i) the CITY shall be relieved of the obligation to transfer ownership of the Trailer by delivering the Certificate to VILLA, and (ii) the CITY may request that the Court enter judgment against VILLA and obtain a writ of execution directing the Sheriff to remove VILLA from the Property.

2. Mutual Release.

Except with respect to the covenants, promises, and obligations arising from this Agreement and the exhibits hereto, for good and valuable consideration, receipt of which is hereby acknowledged, the Parties, on behalf of themselves and anyone who may succeed to their rights and responsibilities, such as their heirs, beneficiaries, spouses, predecessors, successors, assigns, representatives, affiliates, partners, attorneys, agents, shareholders, officers, directors, and employees, do hereby fully, finally and forever release, relieve, waive, and forever discharge each other and their respective heirs, spouses, predecessors, successors, assigns, representatives, affiliates, partners, attorneys, agents, shareholders, officers, directors, and employees, and each of them, of and from any and all causes of action, claim, debt, liability, obligation, account and lien of any kind whatsoever, in law or in equity, arising from the claims or subject matter of the Action (including any cross-claims by VILLA against the CITY related to his work as a caretaker of the Property or any other work performed by VILLA for the CITY), whether or not presently known, alleged, or which might have been alleged, suspected or unsuspected, disclosed or undisclosed, fixed or contingent (the "Released Claims").

The Parties acknowledge that they intend this agreement to be a full and final settlement of and act as a bar to each and every cause of action, claim, debt, liability, obligation, account

and lien heretofore released, which the Parties have or may have had at any time against each other relating to the Released Claims. Each of the Parties acknowledge that they or their attorneys may hereinafter discover facts different from, or in addition to, the facts which the parties and/or their attorneys are now aware of with respect to the subject matter of this Agreement. However, the Parties intend to fully, finally, absolutely, and forever settle any and all claims, disputes and differences which now exist or heretofore have existed between the Parties and in furtherance of this intention the Mutual Release herein shall be given and remain in effect as a full and complete mutual release, notwithstanding discovery of any such different or additional facts.

The Parties hereto waive any and all claims that they have or may have in the future, as of the date of the execution of this Agreement, that arise out of the Released Claims. Each of the Parties acknowledge that they know or have been informed by their attorneys as to the meaning and effect of California Civil Code§ 1542 which provides:

A general release does not extend to the claim which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

3. Termination of Lease

Upon the Effective Date, the Parties agree and acknowledge that the Lease is terminated and of no further legal force or effect.

4. Warranty of Right

The parties hereto represent and warrant that no other person or entity has or claims to have any interest in any of the Released Claims. The parties hereto represent and warrant that they have not sold, assigned, transferred, conveyed, or otherwise disposed of all or any part of the Released Claims.

5. Binding Effect

This Agreement shall bind and inure to the benefit of all spouses, children, successors, assigns, and heirs of the parties. The parties each agree to execute such other documents or take such further action as may be necessary to effectuate this Agreement.

6. Compromise

The parties expressly agree and understand the liability claimed in connection with the claims for which releases have been given is disputed by all parties herein released, and that this Agreement is a compromise and shall not be construed as an admission of liability or responsibility as against any party.

7. Entire Agreement

Except as expressly provided herein, this Agreement states the entire agreement among the parties who have executed this agreement and supersedes their prior agreements, negotiations or understandings. Each of these parties acknowledges and agrees that no other party, agent, or attorney of any of the parties made any promise, representation or warranty, express or implied, other than those set forth in this Agreement. Each party signing this Agreement acknowledges that such party has not executed this Agreement on reliance on any promise, representation, conduct or warranty of any other party not expressly set forth in this Agreement.

8. Attorney's Fees

In the event any action is brought by any of the parties to enforce this Agreement, the prevailing party therein shall be entitled to reasonable attorneys' fees and costs.

9. Controlling Law

This Agreement shall be interpreted in accordance with and governed in all respects by the law of the State of California. The parties agree that this Agreement is entered into and will be performed within the County of Fresno.

10. Preparation of Agreement

This Agreement is the product of negotiation and preparation by and among each party and their respective attorneys. Therefore, the parties acknowledge and agree that this Agreement shall not be deemed prepared or drafted by one party or another and should be construed accordingly.

11. Counterparts

This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement which shall be binding upon all parties hereto, notwithstanding that all parties' signatures do not appear on the same page. Facsimile or e-mail signatures shall be binding upon any party as though they were an original.

12. Warranty of Authorized Signatories

Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this Agreement on behalf of the party for whom he or she purports to sign, and each agrees to indemnify and hold harmless each other party hereto against all claims, suits, actions and demands, including necessary expenses of investigation and reasonable attorneys' fees and costs, in which it may be successfully asserted that he or she was not competent or so authorized to execute this Agreement.

13. Severability

If any provision or any part of any provision of this Agreement shall for any reason be held to be invalid, unenforceable or contrary to public policy, or any law, then the remainder of this Agreement shall not be affected thereby and shall remain in full force and effect. Any default or breach of this agreement by one or more of the released parties shall not void this Agreement as to any other released parties, and this Agreement shall remain binding with regard to such other released parties.

14. Enforcement of Agreement

The parties hereto agree that this Agreement is binding and enforceable and further shall be admissible in evidence in any action or proceeding to enforce this Agreement, notwithstanding any provisions of the Evidence Code to the contrary. Any party may seek enforcement of this Agreement pursuant to CCP § 664.6 via a motion or other pleading presented to the Court in the Action.

15. Modification Must Be In Writing.

This Agreement may not be altered, amended or modified, except by writing executed by duly authorized representatives of all parties.

16. Review by Counsel

The parties warrant and represent that they have had the opportunity to consult with counsel of their choice relative to the entry into this Agreement and to have had the terms and conditions of same explained to them to the extent requested. To the extent any party hereto has elected or elects not to consult with counsel relative to this Agreement and the subject matter of same, all parties acknowledge and agree that the other parties to this Agreement have given them ample opportunity to do otherwise and that they have acted in a knowing, voluntary, and intelligent manner and that they elect to proceed nonetheless.

SIGNATURES OF THE PARTIES

Dated: August ____, 2017

CITY OF MENDOTA

By: _____
Its: _____

Dated: August ____, 2017

Crisanto Villa

**FIRST AMENDMENT
TO
SETTLEMENT AGREEMENT AND MUTUAL RELEASE**

THIS FIRST AMENDMENT TO SETTLEMENT AGREEMENT AND MUTUAL RELEASE (the “**Amendment**”) is made and entered into to be effective for all purposes as of August __, 2017 (the “**Effective Date**”), by and between the City of Mendota, a political subdivision of the State of California (the “**CITY**”), on one hand, and Felipe Gonzalez (“**GONZALEZ**”). The City and Gonzalez are individually referred to herein as a “**Party**” and collectively referred to herein as the “**Parties.**” This Amendment is made with respect to the following facts and circumstances which the Parties confirm as true and accurate:

A. The CITY and GONZALEZ are the parties designated as such in that certain Settlement Agreement and Mutual Release dated as of June 16, 2017 (the “**Settlement Agreement**”).

B. The CITY engaged GONZALES to demolish and remove structures located on certain real property located at 585 Stamoules Street, Mendota, CA 93640 (the “**Property**”).

C. In consideration for removing the structures from the Property, the CITY has agreed to provide GONZALES with a Seven Thousand and No/100 Dollars (\$7,000.00) credit towards GONZALEZ’ payment obligations to the CITY in the Settlement Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein the Parties hereby agree as follows:

1. Section 1 of the Settlement Agreement is hereby deleted in its entirety and replaced with the following:

“1. **Payment to City.** GONZALEZ shall pay the sum of \$19,866.66 (the “**Settlement Amount**”) to CITY in full satisfaction of all claims against GONZALEZ, including attorney’s fees and costs. The Settlement Amount shall be paid according to the following schedule:

a. In May 2017, GONZALEZ has previously made payment to the City of Mendota in the amount of \$6,666.66.

b. In addition to the above amount, GONZALEZ has delivered a cashier’s check to CITY in the sum of \$3,300.00. CITY shall deposit this check immediately upon mutual execution of this Agreement;

c. In consideration for removing the structures from the Property, the CITY shall credit the sum of \$7,000.00 towards the Settlement Amount; and

d. GONZALEZ shall make two (2) additional payments each in the amount of \$1,450.00, which payments shall be due on September 1, 2017 and October 1, 2017.

Payment shall be made by check payable to the City of Mendota, and delivered to the City Manager for the City of Mendota at 643 Quince Street, Mendota, CA 93640. GONZALEZ shall be considered to be in default under this Agreement if payment is not received on the due date and shall have ten (10) calendar days to cure. In the event that GONZALEZ fails to cure any default under this Agreement within the ten (10) day period, CITY shall be entitled to enforce the terms of this Agreement through any and all available legal and equitable remedies available.”

2. Reaffirmation of Settlement Agreement. Except as expressly amended and modified by this Amendment, the Parties hereby expressly reaffirm each and every term and provision of the Settlement Agreement all of which shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment to be effective as of the Effective Date.

Dated: _____, 2017

Felipe Gonzalez

City of Mendota

Dated: _____, 2017

By: _____

Name: _____

Its: _____

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: VINCE DIMAGGIO, CITY MANAGER
SUBJECT: CONSIDER A RESOLUTION NAMING THE NEW PLAZA TO BE CONSTRUCTED ON 7TH STREET AND DERRICK AVENUE, “ROBERT SILVA PLAZA”
DATE: AUGUST 22, 2017

ISSUE

Should the City Council approve a resolution naming the new open space plaza area currently under construction as part of the 7th Street/Derrick Avenue road improvement project, “Robert Silva Plaza?”

BACKGROUND

About six years ago, planning began for the realignment of the intersection and a small roadway segment at 7th Street and Derrick Avenue. At the time, the project did not have a funding source, but the City was able to purchase a corner of the Food Center property that was necessary for the project to be built.

Over the last two years, using a combination of CDBG funding and Measure C, LTF, and Gas Tax funding, the project was fully funded, approved by Council, and is currently under construction.

The project includes the creation of a small plaza area on the southeast corner of 7th and Derrick. Mary Young, who, in the past owned the Food Center property along with the property now developed with McDonald’s Autozone, etc..., has remained involved with the project design and evolution since the death of her husband several years ago. Mrs. Young suggested in a telephone conversation last week that the plaza be named “Robert Silva Plaza” in honor of Mr. Silva’s many years of service on the City Council, Planning Commission, School Board, and as the City’s longest-serving mayor.

On August 17, 2017, she submitted a letter formally making the request before the City Council.

ANALYSIS

The naming of certain public spaces in the City is the exclusive purview of the City Council. Several public spaces in town are named for individuals who have had a particularly notable impact on the City. Mr. Silva's contributions to the City are long-standing and well-known (see Background section) and consideration of Mrs. Young's request is appropriate.

FISCAL IMPACT

None.

RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution formally naming the plaza under construction at 7th Street and Derrick Avenue as "Robert Silva Plaza."

August 16, 2017

Mary Young
250 Gregg Court South
Mendota, CA 93640

Vince DiMaggio, City Manager
City of Mendota
643 Quince Street
Mendota, CA 93640

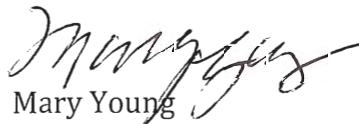
Dear Mr. DiMaggio

I am so pleased to see the work finally beginning on the road project on 7th Street and Derrick. As you know, my husband and I owned the property across Derrick for many years and the Food Center, including a portion of the property that this project will be built on.

I would like to request that the City Council consider naming the small open space area that will be created by this project as "Robert Silva Plaza." I believe this would be a very good idea. Mr. Silva managed the Food Center for many years and he has served as mayor longer than anyone else in Mendota's history. He was always looking for ways to improve the community and I think this would be a good way for the community to thank him.

Thank you for considering my request.

Sincerely,


Mary Young

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA NAMING
THE NEW PLAZA TO BE CONSTRUCTED
AT 7TH STREET AND DERRICK AVENUE
AS “ROBERT SILVA PLAZA”**

RESOLUTION NO. 17-50

WHEREAS, the City is currently constructing a new intersection and roadway alignment at the intersection of 7th Street and Derrick Avenue; and

WHEREAS, a longtime local resident and property owner in the project area, Mary Young, has formally requested that the new open space plaza created as part of this construction project be formally named “Robert Silva Plaza”; and

WHEREAS, Mr. Robert Silva has served the City of Mendota on the City’s Planning Commission, the City’s School Board, the City Council, numerous County commissions, and was the City’s longest serving Mayor; and

WHEREAS, the City Council hereby finds that Mr. Silva’s longtime service to the community in many capacities warrants having a public space named in his honor.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Mendota that the City Council hereby formally designates the new open space plaza to be located at the southeast corner of 7th Street and Derrick Avenue as “Robert Silva Plaza.”

Rolando Castro, Mayor

ATTEST:

I, Matt Flood, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a regular meeting of said Council, held at the Mendota City Hall on the 22nd day of August, 2017, by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:**

Matt Flood, City Clerk

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: VINCE DIMAGGIO, CITY MANAGER
SUBJECT: CONSIDER A RESOLUTION REMOVING ABDUL OBAID AND MARTIN GAMEZ FROM THE PLANNING COMMISSION.
DATE: AUGUST 22, 2017

ISSUE

Should the City Council approve a resolution removing Abdul Obaid and Martin Gamez from the Planning Commission?

BACKGROUND

The last Planning Commission meeting attended by both Mr. Obaid and Mr. Gamez was in April 2017. In the case of Mr. Obaid, staff has learned from local family members that he will be out of the country for at least six months. He did not inform staff of his plans and there is no way of knowing when (or if) he plans to return. Calls to his cell phone go straight to an automated message informing that his voicemail system has not been set up.

In the case of Mr. Gamez, staff is aware that he recently lost his home to a fire. Numerous attempts have been made through email and cell phone to reach Mr. Gamez and have been unsuccessful. Due to his lack of responsiveness to staff's attempts to reach him, staff is unable to confirm whether Mr. Gamez still lives in the City.

ANALYSIS

According to § 2.32.20 of the Municipal Code, Commissioners must attend 75% of all regular meetings. Because Planning Commission meetings are frequently canceled due to lack of business, neither Mr. Gamez nor Mr. Obaid has failed this requirement.

The residency requirements for service on the Planning Commission are found in §2.36.060 of the Municipal Code and simply requires that Commissioners be residents of the City. Because Mr. Obaid is apparently out of the country for at least six months and possibly longer, it is not known whether he will return and reestablish residency. For Mr. Gamez, following the fire that destroyed his home, staff is unable to determine where exactly he currently resides.

While staff appreciates the interest and past involvement of both Messrs. Gamez and Obaid, we cannot confirm whether they, 1) still reside in the City; 2) whether they still wish to continue to serve; or 3) whether they are still able to make the commitment to serve. Given the

Commissioners' failure to respond to numerous attempts by staff to try and answer these questions, staff has no choice but to recommend that the City Council remove them from the Planning Commission and appoint replacements.

FISCAL IMPACT

None.

RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution removing Martin Gamez and Abdul Obaid from the Planning Commission.

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA REMOVING
ABDUL OBAID AND MARTIN GAMEZ
FROM THE CITY OF MENDOTA
PLANNING COMMISSION**

RESOLUTION NO. 17-51

WHEREAS, Section 2.36.060 of the Mendota Municipal Code requires that members of the Planning Commission be residents of the City of Mendota; and

WHEREAS, it has become known to staff that Mr. Abdul Obaid has left the country for an extended period of time and it is not known with certainty when or if he will return to the City of Mendota; and

WHEREAS, despite numerous attempts to ascertain information concerning Mr. Obaid's possible return, staff is unable to confirm for the City Council that he is, or will be a resident of the City; and

WHEREAS, Mr. Martin Gamez's residence was recently destroyed by fire and he has not contacted or updated the City on his current place of residence; and

WHEREAS, despite numerous attempts to contact Mr. Gamez, staff is unable to confirm for the City Council that he is, or will be a resident of the City.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Mendota that the City Council hereby removes Mr. Abdul Obaid and Mr. Martin Gamez from the City's Planning Commission.

Rolando Castro, Mayor

ATTEST:

I, Matt Flood, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a regular meeting of said Council, held at the Mendota City Hall on the 22nd day of August, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Matt Flood, City Clerk

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: MATT FLOOD, ECONOMIC DEVELOPMENT MANAGER
VIA: VINCE DIMAGGIO, CITY MANAGER
SUBJECT: CONSIDERATION OF EXCLUSIVE USE PERMIT FROM MYR TO HOLD A CIRCUS ON THE CITY-OWNED LOT ON 7TH AND RIOFRIO.
DATE: AUGUST 22, 2017

ISSUE

Shall the Council approve an Exclusive Use Permit from Mendota Youth Recreation (MYR) for the purpose of hosting a circus there?

BACKGROUND

Staff received a request from MYR to hold a circus at the empty lot on Riofrio and 7th Street. This circus company has come to Mendota before and appears to have been a benefit to the community since the circus provided an entertaining show and complied with the conditions put on it.

According to the application submitted (attached to this report), the circus would be here for five days, and would have shows from 7pm to 9pm. There would be no animals, only human performers. The applicant was unsure how much patrons will be charged but believes it will be \$15 for entry.

Generally these requests would go to the City Manager for approval or denial. However, due to the unique nature of having a circus in the middle of our crowded commercial sector and an oral request by the applicant to have the fees waived, staff thought it more appropriate to bring this request to Council.

ANALYSIS

Last year, the City charged the circus \$1500 for the use of the lot and \$375 for inspection and other fees required by the Mendota Municipal Code, for a total of \$1875. Due to the revenue received from the circus company when the City rented them the lot last year, as well as the anticipation that any joint venture would result in less funds coming to our community, staff is recommending denial of the application and also recommending that the company contact the City directly in order to hold the circus on the City-owned lot.

FISCAL IMPACT

Potential revenue of at least \$1875 to the General Fund from fees paid by the Circus directly to the City.

RECOMMENDATION

Staff recommends that Council deny the application and direct staff to contact the Circus owners.



→ Penelope park map.

CITY OF MENDOTA FACILITY USE APPLICATION

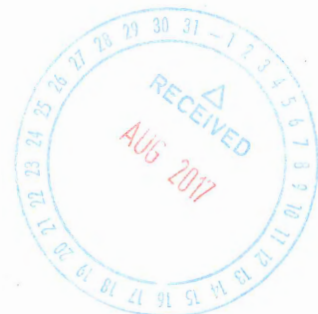
PLEASE COMPLETE ALL QUESTIONS OR ITEMS FOR WHICH INFORMATION IS REQUESTED. PRINT ALL ANSWERS EXCEPT THE SIGNATURE.

FOR USE OF ALL OR SUBSTANTIALLY ALL OF THE ROJAS-PIERCE PARK PICNIC AREA AND BANDSTAND, OR MENDOTA POOL PARK BANDSTAND, VETERANS PARK, APPLICANTS MUST APPEAR BEFORE THE CITY COUNCIL FOR APPROVAL OF THE PERMIT.

NOTE: SECTION 12.20.050 APPLICATIONS FOR EXCLUSIVE USE SHALL BE FILED WITH THE CITY CLERK DURING THE MONTH OF FEBRUARY ANNUALLY AND SHALL BE SET FOR CONSIDERATION BY THE CITY COUNCIL AT ITS FIRST MEETING IN MARCH ANNUALLY. APPLICATIONS FOR EXCLUSIVE USE SHALL BE FILED NOT LESS THAN TWENTY ONE (21) NOR MORE THAN ONE HUNDRED FIFTY (150) DAYS PRIOR TO THE USE OF THE FACILITY. PROMOTERS SHALL REQUEST AN AGREEMENT WITH THE CITY BESIDES THE APPLICATION.

NOTE: SECTION 12.20.110: APPLICANT MUST PROVIDE THE CITY WITH CERTIFICATES OF INSURANCE SPECIFYING THE CITY OF MENDOTA AS NAMED INSURED EVIDENCING LIABILITY AND PROPERTY DAMAGE LIMITS WITH A COMBINED SINGLE LIMIT OF NOT LESS THAN ONE MILLION DOLLARS (\$1,000,000).

- [] COMPLETED APPLICATION.
- [] PROOF OF INSURANCE POLICY SHOWING CITY OF MENDOTA AS ADDITIONAL INSURED.
- [] PROOF OF LIABILITY INSURANCE FOR FACILITY USE
- [] DEPOSIT, USE FEE, AND KEY DEPOSIT SUBMITTED TO FINANCE DEPARTMENT.
- [] OBTAINED SECURITY AS REQUIRED BY MENDOTA POLICE DEPARTMENT
- ✓ [] ORIGINAL SIGNATURE OF PERMITTEE WITH ACKNOWLEDGMENT.
- [] AMPLIFIED MUSIC PERMIT IF APPLICABLE



1. This application is for the use of the following facility:

~~Rojas / Diana's Park~~ Lot corner 7th + Doyno

2. The organization, individual, business or entity applying for the use permit:

Mendota Youth Recreation

3. The contact person on behalf of the applicant, regarding the event or activity for which use permit is requested together with all of the following information:

NAME: Sergio Valdez

ADDRESS (STREET AND CITY): 325 Puchon

TELEPHONE NO.: 559-647-4043

4. DATE: August 4³¹, 2017 - Sept 4⁹ TIME: 7pm - 9pm

5. Please describe the exact park area or areas requested for Exclusive Use. (List below and circle the area on the attached map).

to be determined by City Staff

6. Purpose or function for which the permit is requested. Give statement of reasons for exclusive use. Note: Section 12.20.090(b)(c) Fees and Deposits as required.

Circus

7. Number of persons expected to attend the function or event. 100 to 150

8. Will alcoholic beverages be sold? Yes ___ No note: if yes, you must apply for and receive a separate permit from the state department of alcohol beverage control, if so, liquor liability insurance is required to be purchased thirty (30) days in advance by the applicant. The Fresno County Sheriff's department must be contacted regarding this application. The City of Mendota parks are tobacco free and alcohol free.

9. Has a promoter been contracted to present, produce, or otherwise be involved in the event, activity or entertainment during the event? Yes ___ No . Note: section 12.20.110, if yes, the promoter is required to provide certificate of insurance evidencing liability and property damage limits with a combined single limit of not less than \$1,000,000 with a deductible of not more than \$500, and shall specify the City of Mendota and applicant as named insured.

10. If a promoter will present, produce, or otherwise be involved in the event, activity or entertainment, state the name, address and telephone number of the promoter and describe his/her/its participation in the event. Note: Section 5.08.030 Amusement Park Rides and Attractions; Section 5.08.300 Musical and Theatrical Shows. The Promoter is required to obtain a business license.

NAME: _____ N/A _____
ADDRESS: _____
PARTICIPATION/INVOLVEMENT: _____

11. Detailed description of all entertainment and activities, including equipment and vehicles to be used, the nature and times of use of such equipment, and the nature and time of use of any amplified sound equipment. Please keep in mind that anything not mentioned below will not be allowed.

Circus performers no animals

12. Will concession stand(s) be used? _____ Yes No. Note: for baseball diamond concession, \$150.00 fee, per league, no exemptions.

- 13. Will there be an admissions charge to the event? If so, state the exact amount of each ticket \$15⁰⁰ _____. State the reason for imposing this admission charge.

14. Will there be a live band at this function? _____ Yes No
(See attached municipal code regarding noise ordinance)

15. State the names and addresses of all persons or groups which will receive any of the proceeds from this event, including concessions, and how those proceeds will be divided among such persons or groups.

Mendota Youth Recreation

16. If this permit application is for all or substantially all of the park area, or all or substantially all of the picnic and bandstand area, state the overriding public interest or special circumstances which justify excluding residents of the City of Mendota from using their public park facilities.

- 17. I, Sergio Valdez _____ have read the Mendota Municipal Code Chapter 12.20 re: park permits (attached). I understand all of the requirements for conducting an event or activity in the use of the Rojas-Pierce Park or any City facility. I agree on behalf of myself and Mendota Youth Rec _____ (name of applicant), the organization on whose behalf this application is made, to indemnify, defend and hold the City of Mendota harmless, from and against any and all claims, actions, suits, and proceedings for money damages or other relief for personal injury, property damage or other losses resulting from or caused by the activity or event for which this permit is

issued. The keys to any facility or electrical panel will not be issued until this document is signed by the permittee requesting a facility and/or consent/hold harmless agreements are submitted to city staff and proof of insurance is provided and all fees and deposits are paid.

Signature of Permittee: Sergio Valdez DATE: 8-2-2017

I, Sergio Valdez, declare I have read and understand the foregoing application and all attachments thereto. I further declare that I will abide by all City, State, County and Federal laws at said event.

Dated: 8-2-17
Sergio Valdez
Signature of Permittee

CITY MANAGER APPROVAL

THIS APPLICATION IS APPROVED / REJECTED FOR USE OF THE _____ ON _____ . THE FOLLOWING CONDITIONS OF APPROVAL SHALL APPLY, MAY INCLUDE POLICE DEPARTMENT REQUIREMENTS.

CITY MANAGER: _____ DATE: _____

SECURITY REQUIREMENT OR CONDITIONS AS PER CITY OF MENDOTA POLICE DEPARTMENT:

POLICE DEPT: _____ DATE: _____

A G E N D A I T E M - S T A F F R E P O R T

DATE: July 26, 2017

TO: Honorable Members of the Planning Commission of the City of Mendota

FROM: Vince DiMaggio, City Manager
John P. Kinsey, City Attorney

SUBJECT: Resolution Recommending that the City Council of the City of Mendota Adopt [Proposed] Ordinance No. 17-13 An Ordinance of the Council of the City of Mendota Amending Title 17 of the Mendota Municipal Code Creating a Commercial Marijuana Overlay District and Amending Chapter 8.36 for Consistency Therewith.

RECOMMENDATION:

Adopt a Resolution that:

- A. Recommends that the City Council adopt an ordinance that would add Chapter 17.99 to Title 17 and amend Sections 8.36.050, subd. (B) and 8.36.60, subd. (A) of Title 8, Chapter 8.36 of the Mendota Municipal Code (“MMC”) to create a Commercial Marijuana Overlay District and revise other provisions of the MMC for consistency therewith.
- B. Finds the Proposed Ordinance is not subject to environmental review under the California Environmental Quality Act.
- C. Directs the Secretary to schedule a public hearing before the City Council on the proposed amendments to Chapter 8.36 of the Mendota Municipal Code no less than ten (10) days nor more than forty (40) days after the adoption of the resolution.

BACKGROUND:

In 1996, California voters approved Proposition 215, the Compassionate Use Act, which exempted qualified patients and their primary caregivers from criminal liability for the possession and cultivation of marijuana for medical purposes. In 2003, the California Legislature enacted additional regulations through the passage of Senate Bill 420, the Medical Marijuana Program Act, to establish and implement a program for voluntary registration of qualified patients and their primary caregivers through a statewide identification card.

In late 2015, the Legislature passed, and the Governor signed, three pieces of legislation, AB 266, AB 243 and SB 643, collectively called the Medical Marijuana Regulation and Safety Act (the “Act”). The Act is effective as of January 1, 2016. The Act provides a statewide program for the licensing and regulation of commercial cannabis activity, specifically, the operation of medical marijuana dispensaries and the delivery and cultivation of marijuana. The Act provides that, in accordance with the California Constitution and as expressly held by the California Supreme Court, local authority remains intact, and the City may adopt ordinances to either regulate medical marijuana businesses or to prohibit such operations and related activities altogether.

On November 8, 2016, the voters of the State of California adopted the Adult Use of Marijuana Act (“AUMA”). The purpose of AUMA is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products. Adults, age 21 and older, will be allowed to possess marijuana and grow certain amounts at home for personal use.

Following the adoption of the AUMA, the City adopted amendments to Chapter 8.36 of the Mendota Municipal Code pertaining to Medical Marijuana (the “Marijuana Ordinance”) to (i) regulate the cultivation of marijuana for personal use; (ii) prohibit the location of commercial marijuana operations and dispensaries within the City; (iii) prohibit the delivery of marijuana; (iv) clarify the City’s enforcement of any violations of Chapter 8.36; and (v) provide any further amendments needed to clarify the regulation of marijuana use and cultivation within the City. The effect of these amendments was to prohibit, among other things, commercial marijuana activities within the City.

Since the adoption of the amendments to the Marijuana Ordinance, both the City and several other surrounding communities have received inquiries from various commercial enterprises engaged in the commercial marijuana operations.

On July 11, 2017, the City Council adopted a Resolution No. 17-43: Resolution of Intention to Initiate an Amendment to the Mendota Municipal Code Relating to the Commercial Growing, Production, and Processing of Cannabis Products. A copy of the Resolution of Intention is attached as **Exhibit “A.”**

In response to the Resolution of Intention, City Staff has prepared proposed amendments to add Chapter 17.99 to Title 17 and revise Sections 8.36.050, subd. (B) and 8.36.60, subd. (A) of Title 8, Chapter 8.36. A draft of the proposed ordinance is attached as **Exhibit “B”** (the “Proposed Ordinance”).

DISCUSSION:

Staff is recommending that the Planning Commission consider and adopt a resolution recommending that the City Council adopt the proposed amendments to Title 17 and Chapter 8.36 of the MMC.

The Proposed Ordinance will establish an overlay district to facilitate the establishment of commercial marijuana businesses within the City. It will also revise the City’s existing Marijuana Ordinance to ensure consistency with the new provisions.

The Proposed Ordinance maintains the Zoning Ordinance's existing use classifications and development standards within the Commercial Marijuana Overlay District ("Overlay District"). It then permits specified uses within the Overlay District that would otherwise be prohibited by the Zoning Ordinance and the Marijuana Ordinance, but only if a Conditional Use Permit ("CUP") is first obtained. These uses are: (1) indoor marijuana cultivation, (2) marijuana manufacturing, (3) marijuana testing services, and (4) marijuana distribution. The Proposed Ordinance specifically prohibits outdoor marijuana cultivation and marijuana dispensaries within the Overlay District.

To ensure an appropriate balance between allowing some commercial marijuana businesses and avoiding negative impacts associated with such businesses, the Proposed Ordinance requires the applicant to obtain a CUP before engaging in commercial marijuana activity in the Overlay District. The Proposed Ordinance incorporates existing CUP procedures, but supplements these procedures by requiring that thirteen additional findings be made before a CUP may be granted. These additional findings are designed to ensure that the marijuana activity permitted in the Overlay District does not negatively impact other land uses or the health, safety, and welfare of the citizens of Mendota.

Among other things, the Proposed Ordinance requires a finding that the applicant and the City have entered into a development agreement. The development agreement will contain the specific requirements that the applicant must adhere to in order to engage in the proposed use. This approach is intended to allow City officials the flexibility to regulate the proposed land use based on the particulars of the proposed use, rather than mandating specific requirements that may not be necessary or appropriate under the circumstances of a particular case. Additionally, it is contemplated that the development agreement will contain revenue-raising provisions, such as a fee based on the property's square footage, and, if desired, a fee based on the business's gross revenues. By incorporating these provisions into the development agreement, the City will have the freedom to devise revenue-raising measures without the need to hold an election for the imposition of a new tax, as required by Proposition 218.

Finally, the Ordinance makes two revisions to the City's existing Marijuana Ordinance. These revisions are intended solely to avoid any conflict between the Proposed Ordinance and the existing Marijuana Ordinance.

Staff is also recommending that the City follow the procedures set forth in Chapter 17.08.040 of the Mendota Municipal Code for the amendment, as the regulations affect land uses within the City. As a result, as part of its consideration and adoption of the proposed resolution, City Staff recommends that the Planning Commission direct the Secretary to file the resolution with the City Council, and schedule a public hearing on the proposed amendments to add Chapter 17.99 to Title 17 and revise Sections 8.36.050, subd. (B) and 8.36.60, subd. (A) of Title 8, Chapter 8.36 of the MMC no less than ten (10) days nor more than forty (40) days after the adoption of the resolution.

Staff also recommends that the Planning Commission find the Proposed Ordinance is not subject to environmental review under the California Environmental Quality Act.

CONCLUSION

Based on the foregoing, Staff recommends that the Planning Commission adopt a resolution recommending that the City Council adopt the Proposed Ordinance, which would add Chapter 17.99 to Title 17 and revise Sections 8.36.050, subd. (B) and 8.36.60, subd. (A) of Title 8, Chapter 8.36 of the MMC to create a Commercial Marijuana Overlay District and revise other provisions of the MMC for consistency therewith.

Staff also recommends that the Planning Commission direct the Secretary to file the resolution with the City Council, and schedule a public hearing on the proposed amendments to Chapter 8.36 of the Mendota Municipal Code no less than ten (10) days nor more than forty (40) days after the adoption of the resolution.

Staff also recommends that the Planning Commission find the Proposed Ordinance is not subject to environmental review under the California Environmental Quality Act.

ATTACHMENT

Ex. “A”: July 11, 2017, Resolution No. 17-43: Resolution of Intention to Initiate an Amendment to the Mendota Municipal Code Relating to the Commercial Growing, Production, and Processing of Cannabis Products

Ex. “B”: [Proposed] Ordinance No. 17-13 An Ordinance of the Council of the City of Mendota Amending Title 17 of the Mendota Municipal Code Creating a Commercial Marijuana Overlay District and Amending Chapter 8.36 for Consistency Therewith.

AGENDA ITEM – STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: VINCE DIMAGGIO, CITY MANAGER
SUBJECT: **SUPPLEMENTAL REPORT** - CONSIDERATION OF AN ORDINANCE ALLOWING THE CULTIVATION OF MARIJUANA WITHIN THE CITY
DATE: AUGUST 8, 2017

BACKGROUND

The technical dimensions of the ordinance being considered by the City Council have been outlined in detail in the City Attorney's report. This supplemental report attempts to outline larger policy considerations for the Council to consider.

ANALYSIS

Land Use Regulations

It is important to make clear at the outset that this ordinance does not permit, conditionally or otherwise, the establishment of retail marijuana dispensaries as has been erroneously reported in the media. The Council's direction on this issue has been made clear and unequivocal on several occasions in public meetings: the Council has no interest in allowing marijuana dispensaries. Staff, in assisting the Council in policy formation, agrees with the Council's direction on this matter.

The ordinance before you allows for the indoor commercial cultivation of cannabis under very specific circumstances. First, a conditional use permit is required for any proposed cannabis cultivation operation. A conditional use permit is a discretionary land use entitlement in which the decision making body must take into consideration a number of factors, such as location, security, overall community benefit, and similar factors before positively establishing a set of required findings in support of the proposal. The decision making body of the City – in this case, the Planning Commission (or City Council on appeal) - can deny any conditional use permit application where positive findings cannot be made.

Additionally, in this particular case, any applicant proposing to operate a commercial cannabis cultivation facility must enter into a development agreement with the City. A development agreement allows the imposition of additional conditions on a project, including a taxation element, and must be approved by the City Council *prior* to any action on the conditional use permit application.

Third, the ordinance is presented herein as a zoning overlay district – which in this case is a very small area of the City (see map attached to primary report). A zoning overlay district is used to add a specific use or set of regulations to a specific area of the City that do not otherwise apply to similarly zoned parcels elsewhere in the City.

The combined factors of requiring a discretionary-level land use entitlement (conditional use permit), an executed development agreement, and restricting the cultivation facilities to a geographically limited area of the City, all combine to provide a reasonable level of regulation and oversight.

Fiscal Considerations

The quest by small, economically distressed communities for increased revenue in order to continue to provide the level of municipal services expected by the public is a perpetual challenge. In Mendota’s case, while economic development has resulted in enhanced sales tax revenues, those revenues are not sufficient to keep pace with the cost of providing municipal services. As has been discussed in public session numerous times, in order to stay fiscally healthy, Mendota must consider additional revenue streams either through new taxation measures or capitalizing on the opportunity to allow cannabis cultivation, or a combination of both.

Proposition 64 gives cities virtually unlimited authority in determining how they may tax marijuana cultivation operations. This authority has to be couched by certain market realities: taxes that are set too high will drive cultivators to cities with lower taxes and the opportunity to capitalize on the additional revenue potential will be lost. Presently, cities are using three taxing methods: an excise tax, a canopy tax, and/or a total building area tax.

The excise tax is simply a percentage of declared annual revenue that is payable to the City. The canopy tax is a certain charge per square foot of rented cultivation area, exclusive of common areas within a multi-tenant building. The building tax is a certain charge per square foot for the total square footage of building area of a cultivation operation, inclusive of hallways, common areas, etc...

The recommendation included within the ordinance uses a combined approach. An excise tax based on gross revenue for facilities with a total cultivation building area of under 250,000 square feet is required by this ordinance. The excise tax does not apply to facilities over 250,000 square feet. As we do not yet know the cultivators total annual revenue, it is impossible to estimate how much revenue this tax will potentially generate.

Secondly, the recommendation also includes a building tax applicable to the entire amount of square footage utilized for cultivation. A sliding scale, high to low, is used that results in larger cultivation operations paying less per square foot than smaller cultivation operations. As an example, per the recommendation in the ordinance, a 100,000 square foot building would be subject to *both* the excise tax and the building tax. The building tax would result in \$500,000 of additional revenue to the City plus 5% of annual revenue (which is indeterminate at this time).

Over the last several months, staff has met with a number of cultivators who have expressed interest in locating in Mendota, but who also varied in the degree of their preparedness and financial capitalization. The most qualified group, Canna-Hub, has expressed interest in developing a large, “campus” type facility of over 1 million square feet. Expanding the above example, a cultivation operation of that size would be exempted from the excise tax, but would be subject to the building tax at \$3.50 per square foot of total building area, generating \$3.5 million in potential annual revenue. This figure is more than one and a half times the annual General Fund budget of the City.

Based on conversations with cultivators and analysis of the tax rates of other California cities that have already adopted similar ordinances, staff feels that an appropriate balance has been achieved in the tax structure of the recommendation before you.

Social Considerations

The social considerations surrounding approval of any type of marijuana-related ordinance typically revolves around two principle issues: opposition to retail dispensaries; and opposition to the legalization of marijuana. The first issue is remedied by the fact that the Council has a standing policy against retail marijuana dispensaries in Mendota and the ordinance before the Council makes no provision for such dispensaries, consistent with the Council’s policy direction.

The recreational use of marijuana was approved by California voters this past November as Proposition 64 (The Adult Use of Marijuana Act or AUMA). Although, Proposition 64 passed by a statistically significant margin, 43% of the electorate voted against it. Most of those in opposition cite the potential for increased crime, the potential for increases in the number of intoxicated drivers, and the social signal to minors that (certain drugs) are acceptable.

While it is important to consider the validity of the opposition points of view, certain realities need to be considered as well. Mendota is facing a number of “unfunded mandates” in the next several years placed on the City by state legislation. In order to comply with these various state mandates, additional revenue *must* be secured. At the time of this writing a special mail-in election is underway seeking additional revenue through both a parcel tax and an additional sales tax. Those two measures are vital in securing the long term existence of the City’s police department. If those measures should fail, the Council is left with little choice but to adopt an ordinance of this kind or face the eventual closure of the police department and elimination of other City services in the coming fiscal years.

Council can adopt this ordinance, while still maintaining a prohibition on the retail sale of marijuana. A cultivation operation will move the grown product through a distribution chain and onto legal retail outlets, none of which are permitted in Mendota. With this type of posture, the City can benefit from the additional revenue that taxing a cultivation operation will potentially produce, while continuing to oppose and prohibit the retail sale of the product. This position occupies the middle ground between capitalizing on the legalization of the product, while also respecting the position of a sizable minority who oppose its retail presence in the City.

State-Federal Issues

The passage of Proposition 64 still leaves several unresolved issues pertaining to conflicting state and federal laws. For example, the federal government lists cannabis as a Schedule I drug under the Controlled Substances Act of 1990 – which means the federal government deems cannabis as a substance with no medicinal value and a high potential for abuse. This position is in obvious conflict with Proposition 64. Additionally, because state banks are under the regulatory jurisdiction of the federal government, there remains a question on how profits and proceeds from cannabis related operations will legally move through the banking system. Lastly, the current federal administration – specifically the United States Department of Justice – has repeatedly voiced a “hard line” approach on states that have legalized marijuana, but to date has yet to formally litigate the issue.

These inconsistencies are mentioned herein only as a reference and are not directly germane to the consideration of the ordinance. However, depending upon how the federal government chooses to deal with these inconsistencies could have an impact in the future on the long term continuation of cannabis cultivation.

CONCLUSION

The ordinance before the Council takes advantage of the legalization of cannabis authorized by the passage of Proposition 64 to create a potentially lucrative revenue stream for the City, while still prohibiting the retail sale of marijuana through dispensary outlets. In working with cannabis cultivators and reviewing the ordinances adopted by other cities, staff has created a fair and equitable taxation system that maintains the profitability of the cultivation operation, while also capturing revenue necessary to ensure the long term viability of the City’s municipal operations.

RECOMMENDATION

Staff recommends that the City Council take the necessary steps to approve the attached ordinance creating a cannabis cultivation overlay district.

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA**

**AN ORDINANCE OF THE COUNCIL
OF THE CITY OF MENDOTA AMENDING
TITLE 17 OF THE MENDOTA MUNICIPAL
CODE CREATING A COMMERCIAL
CANNABIS OVERLAY DISTRICT AND
AMENDING CHAPTER 8.36 FOR
CONSISTENCY THEREWITH**

ORDINANCE NO. 17-13

WHEREAS, pursuant to the authority granted the City by Article XI, Section 7 of the California Constitution, the City has the police power to adopt regulations designed to promote the public health, the public morals, or public safety; and

WHEREAS, comprehensive zoning regulations and regulations upon the use of land and property lie within the City's police power; and

WHEREAS, in 1996, the voters of the State of California adopted the Compassionate Use Act of 1996 ("CUA"), the intent being to enable persons who are in need of cannabis for medical purposes to be able to obtain and use it without fear of state criminal prosecution under limited, specified circumstances; and

WHEREAS, in 2003, Senate Bill 420, titled the "Medical Marijuana Program Act" ("MMPA"), was enacted to clarify the scope of the CUA and to promulgate rules by which counties and cities can adopt and enforce regulations consistent with its provisions; and

WHEREAS, in 2011, Assembly Bill 2650 was enacted, affirming that counties and cities can under state law adopt ordinances that control and restrict the location and establishment of a medical cannabis cooperative, collective, dispensary, operator, establishment, or provider; and

WHEREAS, in late 2015, the Legislature passed, and the Governor signed, three pieces of legislation, AB 266, AB 243, and SB 643, collectively called the Medical Marijuana Regulation and Safety Act ("MMRSA"), which provides a statewide program for the licensing and regulation of commercial medical cannabis activity, specifically, the operation of medical cannabis dispensaries and the delivery and cultivation of medical cannabis; and

WHEREAS, in November 2016, the voters of the State of California adopted the Adult Use of Marijuana Act ("AUMA"), the intent being to establish a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacturing,

distribution, testing, and sale of nonmedical cannabis, including cannabis products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of cannabis; and

WHEREAS, in 2012, as amended in 2016 and 2017, the City adopted Chapter 8.36 of the Mendota Municipal Code pertaining to recreational and medical cannabis activities (the “Cannabis Ordinance”), which bans commercial cannabis cultivation, commercial deliveries of cannabis, and cannabis dispensaries in the City based upon various health, safety and welfare and land use findings relating to cannabis cultivation, dispensing, and consumption, which findings are incorporated herein by reference; and

WHEREAS, the City of Mendota has identified a number of health, safety, and welfare concerns associated with cannabis activities. These concerns are set forth in the original report accompanying the Cannabis Ordinance, and are incorporated herein by reference. These concerns continue and have been exemplified throughout Fresno County and the State as evidenced by numerous area agency police reports and news articles. Some of the continued documented problems include offensive odors, trespassing, theft, violent encounters, fire hazards, and problems associated with mold, fungus, and pests; and

WHEREAS, under the MMRSA and the AUMA, the City retains its police powers and land use authority regulate or ban cannabis activities, including commercial cannabis activities, for the health, safety, and welfare of the citizens of Mendota.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MENDOTA, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The Recitals set forth above are incorporated herein and by this reference made an operative part hereof.

SECTION 2. This ordinance amends the City’s Zoning Ordinance, Title 17, by adding Chapter 17.99, and amends the City’s Cannabis Ordinance, Title 8, Chapter 8.36 by revising Sections 8.36.050, subd. (B) and 8.36.60, subd. (A). The ordinance will create an overlay zone to allow the establishment of commercial cannabis businesses and activity which will involve the cultivation, manufacturing, distribution, and testing of cannabis products, and will revise the City’s Cannabis Ordinance for consistency therewith.

SECTION 3. Chapter 17.99 is hereby added to Title 17 of the Mendota Municipal Code to read as follows:

17.99.010 Purpose and Intent

A. There is created a Commercial Cannabis Overlay District, the boundaries of which are shown on the map entitled, "Commercial Cannabis Overlay District", which is on file at city hall. Said map is adopted and made a part of this ordinance.

B. This chapter is enacted to preserve and promote the public health, safety, and welfare of the citizens of Mendota, to facilitate the establishment of permitted commercial cannabis businesses within the City while ensuring that such businesses do not interfere with other lawful land uses, and to provide new sources of revenue to fund City services.

17.99.020 Definitions

"Applicant" shall mean the individual or entity applying for a Conditional Use Permit pursuant to the provisions of this Section.

"Commercial cannabis business" means any business engaged in commercial cannabis activity.

"Commercial cannabis activity" shall have the same meaning set forth in Business and Professions Code Section 26001, subd. (d).

"Cultivation" shall have the same meaning set forth in Business and Professions Code Section 26001, subd. (e).

"Delivery" shall have the same meaning set forth in Business and Professions Code Section 26001, subd. (h).

"Distribution" shall have the same meaning set forth in Business and Professions Code Section 26001, subd. (j).

"Manufacture" or "manufacturing" shall have the same meaning set forth in Business and Professions Code Section 26001, subd. (q).

"Marijuana" or "cannabis" shall have the same meaning set forth in California Business and Professions Code Section 19300.5, subd. (f).

"Cannabis dispensary" means any facility or location, whether fixed or mobile, where cannabis is offered, provided, sold, made available or otherwise distributed for commercial purposes to more than (2) persons.

"Testing" or "testing service" shall have the same meaning set forth in Business and Professions Code Section 26001, subd. (bb).

17.99.030 Conflict between regulations

Where a conflict occurs between the Commercial Cannabis Overlay District and any other section of the zoning code, or any provision of the Mendota Municipal Code, the Commercial Cannabis Overlay District regulations shall prevail.

17.99.040 Use classifications

The use classifications allowed in the Commercial Cannabis Overlay District shall be those use classifications allowed in the underlying base zoning district.

17.99.050 Development standards

The development standards for all development within the Commercial Cannabis Overlay District shall be those standards of the underlying base zoning district.

17.99.060 Permitted uses

A. The following uses shall be permitted in the Commercial Cannabis Overlay District if a conditional use permit is obtained:

1. Indoor cannabis cultivation
2. Cannabis manufacturing
3. Cannabis testing services
4. Cannabis distribution

B. In addition to the findings required by Section 17.08.050, the following findings shall also be made before any conditional use permit for commercial cannabis activity is granted:

1. That a development agreement has been entered into by and between the City and the applicant, which is consistent with the provisions of this Chapter, promotes the purposes and intent of the Commercial Cannabis Overlay District, and ensures that the property will be used for commercial cannabis activity only.
2. That cannabis odors will not be detectable from the property boundary or public right-of-way and that, in multi-tenant buildings, cannabis odors will not be detectable from the building exterior.
3. That all commercial cannabis activities will occur within an enclosed building and will not be visible from the property boundary or public right-of-way.

4. If buildings are proposed for growing purposes that would cause light to be emitted from any building roof or window (sometimes referred to as “light-assisted” or “mixed-light” greenhouses), that no light will be visible through the roof and windows of grow areas from dusk to dawn.
5. That all pesticide use will comply with the State Department of Pesticide Regulations.
6. That a Water Recycling Management Plan has been prepared demonstrating sufficient water supply for the proposed use, including a certification that the applicant may use that water legally under state law, and, if water is used for irrigation purposes, that irrigation water will be recycled to the maximum extent feasible using best management practices.
7. That a Site Security Plan has been prepared demonstrating sufficient site security measures to prevent all unauthorized access to the site.
8. That a Power Use Plan has been prepared demonstrating sufficient power supply for the proposed use.
9. That the applicant has obtained all necessary state permits and authorizations to engage in the proposed use.
10. That the applicant has provided to the City all information required by state authorities pursuant to Business and Professions Code Section 26050 *et seq.*
11. That the applicant will provide to the City all information required by the state for any renewal of a state license related to commercial cannabis activity as well as the state licensing authority’s decision on any such renewal.
12. That the applicant has consented to the City’s inspection, without notice, of any and all records required to be maintained under any local, state, or federal law.
13. That the applicant will immediately provide notice to the City of any suspension or revocation of any state license issued pursuant to Business and Professions Code Section 26050 *et seq.*

17.99.070 Conditions of development

The development agreement required pursuant to Section 17.99.060(B)(1) shall include the following terms:

- A. The applicant agrees to pay an annual fee based on the total square footage of the developed portions of the property in an amount as follows:

1. \$5.00 per square foot for so long as the developed portions of the property are less than 200,000 square feet.

2. \$4.00 per square foot for so long as the developed portions of the property are between 200,000 square feet and 499,999 square feet.

3. \$3.50 per square foot for so long as the developed portions of the property are 500,000 square feet or greater.

B. The fee required pursuant to subdivision (A) shall be paid by the applicant in quarterly installments at times and locations specified by the City, and may not be paid in cash.

C. The applicant shall be responsible for paying the fee required pursuant to subdivision (A) for all developed portions of the property regardless of whether portions of the developed property are leased or otherwise conveyed to third parties. Any transfer of the applicant's interest in the developed property shall not affect the applicant's obligation to pay the fee required pursuant to subdivision (A) unless the recipient assumes the applicant's obligation to pay the fee for all developed portions of the property as required by this Section 17.99.070.

17.99.080 Prohibited uses

The following uses shall be prohibited in the Commercial Cannabis Overlay District:

A. Outdoor cannabis cultivation

B. Cannabis dispensaries

17.99.090 Severability

If any part of this chapter is for any reason held to be invalid, unlawful, or unconstitutional, such invalidity, unlawfulness or unconstitutionality shall not affect the validity, lawfulness, or constitutionality of any other part of this chapter.

SECTION 4. Chapter 8.36, Section 8.36.050, subd. (B) is hereby amended to read in full as follows (additions indicated in bold and underline):

B. Collective or cooperative cultivation. **Except as provided in Chapter 17.99, the** collective or cooperative cultivation of marijuana shall be prohibited in the City.

SECTION 5. Chapter 8.36, Section 8.36.60, subd. (A), is hereby amended to read in full as follows (additions indicated in bold and underline):

A. Commercial marijuana operations. **Except as provided in Chapter 17.99,** commercial marijuana operations as defined in Section 8.36.030 are prohibited within the City.

SECTION 6. The City Council finds the approval of this ordinance is not subject to the California Environmental Quality Act, Public Resources Code, Section 21000, *et seq.* (“CEQA”), pursuant to Section 15060(c)(2) of the CEQA Guidelines, on the ground that the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) of the CEQA Guidelines, on the ground that the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the City Council finds the approval of this ordinance is not a project under Section 15061(b)(3) of the CEQA Guidelines because it has no potential for causing a significant effect on the environment.

SECTION 7. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held for any reason to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Mendota hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 8. The Mayor shall sign and the City Clerk shall certify to the passage of this Ordinance and will see that it is published and posted in the manner required by law.

SECTION 9. This ordinance shall become effective and in full force at 12:00 midnight on the 31st day following its adoption.

* * * * *

The foregoing ordinance was introduced on the 8th day of August, 2017 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 12th day of September, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Rolando Castro, Mayor

ATTEST:

Matt Flood, City Clerk

APPROVED AS TO FORM:

John Kinsey, City Attorney

PUBLIC WORKS REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: CRISTIAN GONZALEZ, PUBLIC WORKS DIRECTOR
VIA: VINCE DIMAGGIO, CITY MANAGER
SUBJECT: PUBLIC WORKS MONTHLY REPORT
DATE: AUGUST 22, 2017

STREETS AND ROADS

- Street sweeping continues as usual.
- Construction continues on the 7th and Derrick Realignment project.
- A pre-bid meeting was held for the upcoming 8th Street reconstruction project.

PARKS AND PUBLIC BUILDINGS

- Public Works continues to maintain the parks for the community.

DRINKING WATER

- Meter reads are complete.
- The City received funding for a water leak detection audit and system overview. The audit was performed and per the audit report, there are no leaks in the distribution system. The audit report included some findings and recommendations for upgrades and replacements that will be used to apply for funding.
- Fire hydrant repair is ongoing. Vehicle damage to a hydrant on 2nd and Naples requires the replacement of the hydrant, parts are on order.

WASTE WATER

- Monthly samples have been submitted.
- Crews continue to transfer water from semi-full ponds to shallow empty ponds to provide capacity for the upcoming winter months. Staff and the City Engineer continue to explore options for addressing our waste water capacity concerns.

ANIMAL CONTROL

- Animals impounded: 8
- Animals euthanized: 7
- Animals redeemed by owner: 1
- Graffiti abated: 3
- Citations issued: 0

ADULT OFFENDER WORK PROGRAM

- AOWP continue working on public right of ways and alley weed abatement.

BUILDING PERMITS ISSUED

- A list of new permits is attached to the report.

PLANNING

- (1) Site plan review was approved for the installation of new parking lot improvements (467 Oller).
- (2) Applications submitted for proposed recycling centers, both on M (Manufacturing) Zones.

STAFFING FOR PUBLIC WORKS

- 13 full time employees
- 4 part time employees
- 4 Proteus employees

FUEL STOCK

- Unleaded: 6,445 gallons
- Diesel: 1,783 gallons

Permits Issued

Report Date Range : 07/20/2017 to 08/17/2017

Permit #	Type of Permit	Date Issued	Job Address
20170156	434(a) RE-ROOF 2000SQ FT PROPOSED ROOF TYPE COMPOSITION 1 EXISTING LAYER COMP 5/12 PITCH	7/25/2017	721 H St
20170157	329(b) INSTALL SOLAR	7/25/2017	636 Garcia St
20170158	MISC FENCE PERMIT - REPLACE FRONT CHAIN LINK, BACK AND SIDE WOOD	7/25/2017	731 Juanita St
20170159	434(a) INSTALL HOT WATER HEATER 40 GALLONS UNIT # 6-G	7/25/2017	647 Perez St
20170160	329(b) SOLAR INSTALLATION PER APPORVED PLAN	7/25/2017	755 Lolita St
20170161	434(a) REPLACEING WINDOW (SMALLER) 23X8	7/25/2017	449 Derrick Ave
20170162	434(b) HVAC INSTALLATION A/C CUT IN 1008 SQ FT PER APPROVED PLAN	7/28/2017	436 L St
20170163	MISC FENCE PERMIT - NEW WOOD FENCE PER APPROVED PLAN	8/8/2017	991 Lolita St
20170164	329(b) SOLAR INSTALLATION PER APPORVED PLAN	8/8/2017	401 SILVA ST
20170165	434(a) RE-ROOF TEAR OFF 1400 SQFT PROPOSED ROOF TYPE SHINGLES 1 EXISTING LAYER COMP 4/12 PITCH PER APPROVED PLAN	8/8/2017	1558 10th St
20170166	329(b) SOLAR SYSTEM R.M. 3.48 KW	8/8/2017	240 Holmes Ave
20170167	434(b) ROOF TOP HVAC REPLACEMENT 3 1/2 TON 14 SEER 70K BTU	8/8/2017	1548 8th St
20170168	434(a) NEW COVERED PORCH/PATIO 306 SQ FT PER APPROVED PLAN	8/8/2017	210 Santa Cruz St
20170169	434(a) NEW PORCH/PATIO 300 SQ FT PER APPROVED PLAN	8/14/2017	935 2nd St

Total Number of Permits List 14