



CITY OF CORNING
CITY COUNCIL AGENDA
TUESDAY, AUGUST 11, 2009
CITY COUNCIL CHAMBERS
794 THIRD STREET

A. CALL TO ORDER: 7:00 p.m.

B. ROLL CALL:

Council:

Becky Hill
Ross Turner
Toni Parkins
John Leach
Gary Strack

Mayor:

The **Brown Act** requires that the Council provide the opportunity for persons in the audience to briefly address the Council on the subject(s) scheduled for tonight's closed session. Is there anyone wanting to comment on the subject(s) the Council will be discussing in closed session? If so, please come to the podium, identify yourself and give us your comments.

C. ADJOURN TO CLOSED SESSION:

CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO SECTION 54957.6:
Agency Negotiator: William May, Labor Relations Consultant
Management, Miscellaneous, Dispatch and Public Safety Employees
Bargaining Units

D. RECONVENE AND REPORT ON CLOSED SESSION: 7:30 p.m.

E. INVOCATION AND PLEDGE OF ALLEGIANCE:

F. PROCLAMATIONS, RECOGNITION'S, APPOINTMENTS:

G. **BUSINESS FROM THE FLOOR:** If there is anyone in the audience wanting to speak on an item not already on tonight's Agenda, if so, please come to the podium, identify yourself and briefly present your information to the Council. **A three-minute time limit will apply unless the Council makes an exception due to special circumstances.** If your matter will require more time or formal action by the Council, the law requires that it be placed on the printed Agenda for a future meeting so that interested members of the public will have the chance to appear and speak on the subject.

H. **CONSENT AGENDA:** It is recommended that items listed on the Consent Agenda be acted on simultaneously unless a Councilmember or members of the audience requests separate discussion and/or action.

1. Waive reading, except by title, of any Ordinance under consideration at this meeting for either introduction or passage, per Government Code Section 36934.
2. Waive the Reading and Approve the Minutes of the July 14, 2009 Meeting with any necessary corrections.
3. Waive the Reading and Approve the Minutes of the July 28, 2009 Meeting with any necessary corrections.
4. August 5, 2009 Claim Warrant - \$311,956.59.

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5. July 2009 Wages and Salaries - \$520,849.63.
6. July 2009 – Treasurer’s Report.
7. July 2009 Building Permit Valuation - \$370,533.94.
8. City of Corning Wastewater Operation Summary Report – July 2009.
9. Approve Three-Year Extension of City Weed and Tree Spraying Agreement with Larry’s Pest & Weed Control.
10. Ordinance 636 Amending the Dollar Amount Limits of Corning Municipal Code Chapter 15.32; Contract and Bidding Procedures for Public Projects (Second Reading & Adoption).

I. ITEMS REMOVED FROM THE CONSENT AGENDA:

J. PUBLIC HEARINGS AND MEETINGS: Any person may speak on items scheduled for hearing at the time the Mayor declares the Hearing open. ALL LEGAL NOTICES PUBLISHED IN ACCORDANCE WITH LAW.

11. Clark Park Municipal Well Project, consider adoption of the Mitigated Negative Declaration prepared pursuant to the provisions of the California Environmental Quality Act for the construction of a municipal water well in the northeast corner of Estil Clark Park.
12. Solicit Citizen Input related to the Fiscal-Year 2009-10 California Community Development Block Grant – Economic Enterprise Fund Component Application for Façade Improvement. REMOVED FROM AGENDA.

K. REGULAR AGENDA:

13. Presentation by Chamber of Commerce Manager Valanne Cardenas.
14. Loss of State Division of Aeronautics 2.5% Match; Corning Municipal Airport Improvement Project.
15. Study Matter; Raising “Construction Water” Rates within the City of Corning.
16. Rodgers Theatre: Submit \$220,000 Park Bond Application.
17. Adopt Urgency Measure – Interim Ordinance No. 637, An Interim Ordinance of the City of Corning Prohibiting Medical Marijuana Dispensaries, Collectives or Cooperatives.
18. Approve Resolution No. 08-11-09-01 Adopting the 2009-2010 Budget and Program of Service for the City of Corning, Discussion and Action.

L. ITEMS PLACED ON THE AGENDA FROM THE FLOOR:

M. COMMUNICATIONS, CORRESPONDENCE AND INFORMATION:

N. REPORTS FROM MAYOR AND COUNCIL MEMBERS:

19. Hill:
20. Turner:
21. Parkins:
22. Leach:

23. Strack: Request City Attorney and City Staff's assistance with the preparation of a Non-Profit Application for the Skateboard Park Committee.

O. ADJOURNMENT!

POSTED: FRIDAY, AUGUST 7, 2009



**CITY OF CORNING
CITY COUNCIL MINUTES
TUESDAY, JULY 14, 2009
CITY COUNCIL CHAMBERS
794 THIRD STREET**

A. CALL TO ORDER: 7:30 p.m.

B. ROLL CALL:

Council:

**Becky Hill
Ross Turner
Toni Parkins
John Leach
Gary Strack**

Mayor:

All members of the City Council were present except Mayor Strack.

C. INVOCATION AND PLEDGE OF ALLEGIANCE:

Councilor Leach gave the invocation and Chris Prest and Jacob Woodby of Boy Scout Troop No. 62 led the Pledge of Allegiance.

D. PROCLAMATIONS, RECOGNITION'S, APPOINTMENTS: None.

E. BUSINESS FROM THE FLOOR:

Mr. Dean Cofer requested to present a prepared statement to Council noting that it might take more than the allotted 3 minutes. Vice Mayor Hill asked the members of Council if they wished to grant Mr. Cofer more than the allotted 3 minutes and by Council consensus they agreed.

Mr. Cofer then read his statement regarding part-time employee, City Attorney Michael Fitzpatrick's retirement with CalPERS (previously agendized and discussed at the June 23, 2009 City Council Meeting). Mr. Cofer alleged in his statement that the City Attorney and City Manager had misled/lie to the Council and the voters in the information previously provided. Mr. Cofer presented these allegations based upon his interpretation of information found through researching the CalPERS Procedures Manual, speaking with CalPERS representatives and through information provided via Public Records Act Requests to the City of Corning. He then suggested that:

- a. The 2005 Agreement providing CalPERS Retirement to Mr. Fitzpatrick be declared null, void, and unenforceable;
- b. Mr. Fitzpatrick cannot be allowed to profit from his enrollment in PERS as he was never entitled to be so enrolled,
- c. Council vote no on the recommendation that the City and Mr. Fitzpatrick enter into a new agreement regarding retirement benefits.

Mr. Cofer then stated that should the Council decide to pay the refunded PERS contributions to City Attorney Fitzpatrick per his Contract it is his opinion that these payments would be found to be contrary to public policy and construed to be an illegal gift of public funds. He also strongly recommended that the City Council engage outside legal assistance to investigate and advise on how the City should proceed. Following this statement Mr. Cofer stated he had sent copies of this letter to the Tehama County and Trinity County District Attorneys, the Tehama and Trinity County Grand Juries, CalPERS Compensation Review Department, and the CA State Bar Association. He also stated that both Mr. Fitzpatrick and City Manager Stephen Kimbrough should be terminated.

Vice Mayor Hill stated Council will take this under advisement.

Councilor Turner asked that this item be agendized for a future meeting and a Closed Session scheduled.

- F. **CONSENT AGENDA:** It is recommended that items listed on the Consent Agenda be acted on simultaneously unless a Councilmember or members of the audience requests separate discussion and/or action.
1. Waive reading, except by title, of any Ordinance under consideration at this meeting for either introduction or passage, per Government Code Section 36934.
 2. Waive the Reading and Approve the Minutes of the June 18, 2009 Special Meeting with any necessary corrections.
 3. July 10, 2009 Claim Warrant - \$295,176.41.
 4. June 2009 Wages and Salaries - \$355,074.76.
 5. June 2009 – Treasurer’s Report.
 6. Business License Report – June 2009.
 7. June 2009 Building Permit Valuation - \$164,300.00.
 8. City of Corning Wastewater Operation Summary Report – June 2009.
 9. Resolution No. 07-14-09-01 Revoking the No Parking Zone Located at 3070 Highway 99-W established through adoption of Resolution 04-08-08-01 on April 8, 2008.
 10. Corning Police Department: Response to Grand Jury Findings

Councilor Turner moved to approve Consent Agenda Items 1-10. Councilor Leach seconded the motion. **Ayes: Hill, Turner, Parkins and Leach. Opposed: None. Absent: Strack. Abstain: None. Motion was approved by a vote of 4-0 with Strack absent.**

G. **ITEMS REMOVED FROM THE CONSENT AGENDA:** None.

H. **PUBLIC HEARINGS AND MEETINGS:** Any person may speak on items scheduled for hearing at the time the Mayor declares the Hearing open. **ALL LEGAL NOTICES PUBLISHED IN ACCORDANCE WITH LAW.**

11. Approve Engineers Report and Adopt Resolution No. 07-14-09-02 Setting the Fiscal-Year 2009-2010 Assessment at \$63.09 per Parcel for Landscaping and Lighting District 1, Zone 1

Vice Mayor Hill introduced this item by title. Public Works Director John Brewer stated that there are 14 parcels and the assessment cost per lot has not changed and remains \$63.09 per parcel.

Vice Mayor Hill opened the public hearing. With no comments from the audience Vice Mayor Hill closed the public hearing. Councilor Parkins moved to approve the Engineer’s Report and adopt Resolution Number 07-14-09-02 setting the Fiscal-Year 2009-2010 Assessment at \$63.09 per parcel for Landscaping and Lighting District 1, Zone 1. Councilor Turner seconded the motion. **Ayes: Hill, Turner, Parkins and Leach. Opposed: None. Absent: Strack. Abstain: None. Motion was approved by a vote of 4-0 with Strack absent**

12. Approve Engineers Report and Adopt Resolution No. 07-14-09-03 Setting the Fiscal-Year 2009-2010 Assessment at \$142.10 per Parcel for Landscaping and Lighting District 1, Zone 3

Vice Mayor Hill introduced this item by title. Public Works Director John Brewer stated that there are 30 parcels and based upon the annual Engineer’s report no change is proposed in the previous fiscal year assessment of \$142.10 per parcel.

Vice Mayor Hill then opened the public hearing. Joe DeScala asked if the type of landscaping is stated within the Landscape and Lighting District documents; he was informed that it was and that this information is available at City Hall. With no further comments Vice Mayor Hill closed the public hearing. Councilor Parkins moved to approve the Engineer's Report and adopt Resolution Number 07-14-09-03 setting the Fiscal-Year 2009-2010 assessment at \$142.10 per parcel for Landscaping and Lighting District 1, Zone 3. Councilor Leach seconded the motion. **Ayes: Hill, Turner, Parkins and Leach. Opposed: None. Absent: Strack. Abstain: None. Motion was approved by a vote of 4-0 with Strack absent**

13. Approve Engineers Report and Adopt Resolution No. 07-14-09-04 Setting the Fiscal-Year 2009-2010 Assessment at \$4,772.90 per Parcel for Landscaping and Lighting District 1, Zone 4.

Vice Mayor Hill introduced this item by title. Public Works Director John Brewer stated that there is currently only one parcel, the Salado Orchard Apartment Complex, and based upon the annual Engineer's report no change is proposed in the current fiscal-year assessment of \$4,772.90 for the one parcel.

Vice Mayor Hill then opened the public hearing. Mr. DeScala asked if the property owner had been informed of this assessment; Mr. Brewer informed Mr. DeScala yes, in fact they had requested the assessment district. With no further comments, the public hearing was closed. Councilor Parkins moved to approve the Engineer's Report and adopt Resolution Number 07-14-09-04 setting the Fiscal-Year 2009-2010 Assessment at \$4,772.90 for Landscaping and Lighting District 1, Zone 4. Councilor Turner seconded the motion. **Ayes: Hill, Turner, Parkins and Leach. Opposed: None. Absent: Strack. Abstain: None. Motion was approved by a vote of 4-0 with Strack absent**

14. Ordinance No. 635 – An Ordinance of the City of Corning adding a chapter to Title 5 of the Corning Municipal Code that would regulate street vending in the City.

Vice Mayor Hill introduced this item by title and Planning Director John Stoufer outlined the proposed Ordinance. Vice Mayor Hill asked how the City plans on setting the price for business licenses and Councilor Leach asked how this would be monitored; Mr. Stoufer responded to these questions.

Vice Mayor Hill then opened the public hearing. Mr. Bucky Bowen asked if this would apply to the Farmers Market and was informed that they would be exempt. Mr. DeScala asked if this is a new issue/problem questioning why it is being considered now. Vice Mayor Hill stated that the City Council requested this be researched and prepared. Mr. Alan Turner asked about the requirement for providing location of restroom facilities and Mr. Louis Davies asked about Business License Fees. With no further discussion the public hearing was closed.

Councilor Parkins moved to adopt the four Subfindings and Findings presented in the Staff Report for Ordinance 635 and to waive the first reading of Ordinance No. 635, the Ordinance to implement regulations for Street Vendors within the City of Corning. Councilor Leach seconded the motion. **Ayes: Hill, Turner, Parkins and Leach. Opposed: None. Absent: Strack. Abstain: None. Motion was approved by a vote of 4-0 with Strack absent** The Ordinance was then introduced by title.

I. REGULAR AGENDA:

15. Accept 2-year time extension for tentative tract map 06-1009, pursuant to Section 66452.6 of the Subdivision Map Act and Section 16.18.010 (C) of the Corning Municipal Code consider a 2-year time extension for Tentative Tract Map 06-1009.

Vice Mayor Hill stated she would be abstaining from voting on this item due to a possible conflict of interest (she then left the room at 8:08 p.m.). Councilor Turner introduced this item by title

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and Planning Director John Stoufer provided more information relating to this item stating that this last week the Governor has already approved an automatic one-year extension on all projects. Councilor Turner asked if the extraction of trees from the property had any bearing on this extension and was informed no.

Councilor Leach moved to approve a two-year time extension for Tentative Tract Map 06-1009 subject to the original 51 Conditions as approved by the Corning City Council on August 8, 2006. Councilor Parkins seconded the motion. **Ayes: Turner, Parkins and Leach. Opposed: None. Absent: Strack. Abstain: Hill. Motion was approved by a vote of 3-0 with Strack absent and Hill abstaining.**

16. Review and Approval of Corning Municipal Airport Improvement Plans and Financing Plan

Vice Mayor Hill introduced this item by title and City Manager Kimbrough outlined the improvement plans and specifications. Public Works Director John Brewer further explained the plans such as moving the runway to the north, construction of a new apron area, etc. Mr. Brewer stated that the total cost would be approximately 2.75 million dollars with 95% of the project funded hopefully by an FAA Grant; the City's portion will be approximately \$65, 625. He also proposed financing options for the City's share of costs such as borrowing from Caltrans Aeronautics, or possibly an external loan from the City's Transportation Fund with a repay equivalent to the interest it is currently earning.

Vice Mayor Hill asked if we expect to obtain the funding through stimulus funds. Mr. Brewer stated no.

Councilor Leach stated he was hesitant to enter into a long-term loan at this time and asked if there was a reason to do this at this time. Mr. Brewer responded stating that according to the City's consultant Robert Wadell, if we hesitate we would go to the bottom of the list in regards to FAA funding. Mr. Brewer also explained the Airport Avigation Agreement with the High School and the safety issues in relation to the proximity of the High School to the Airport.

Vice Mayor Hill asked if the City currently had the funds in the Development Impact Fee Fund; she was informed by the City Manager yes the City did.

Councilor Turner stated he believed using Option 3 utilizing the City's reserve funds to be the soundest option.

Councilor Leach suggested that Mr. Brewer bring this back to the Council at the July 28th City Council meeting for further discussion, possibly with additional funding options. By Council consensus this item will be agendaized for the July 28th City Council meeting for further discussion and possible action.

J. ITEMS PLACED ON THE AGENDA FROM THE FLOOR:

Dean Cofer requested that the Airport Lease be placed on the next Agenda. He also stated that he requested that the Council place discussion of revoking the Council reduced stipend on this Agenda and was disappointed that it wasn't.

Brian and Carol Carpenter, Corning Fixed Base Operators (for Corning Airport) requested that the Airport Lease be placed on the Council Agenda in August as they will not be able to attend the next meeting and this discussion directly affects them. By Council consensus this item is to be agendaized for the August 11, 2009 meeting.

K. COMMUNICATIONS, CORRESPONDENCE AND INFORMATION:

Vice Mayor Hill read the Memo from City Manager Kimbrough, City Attorney Michael Fitzpatrick and Administrative Assistant Lisa Linnet stating their commitment to the Furlough Plan and their participation in said Plan.

L. REPORTS FROM MAYOR AND COUNCIL MEMBERS:

17. Hill: Informed the Council that she has made it to the next round in her bid for a position on the League of California Cities Board of Directors.

18. Turner: Nothing.

19. Parkins: Announced that the JPA meeting is to be held here tomorrow.

20. Leach: Announced that the Community Action meeting is next Thursday and that he turns 67 tomorrow.

21. Strack: Absent.

M. ADJOURNMENT!: 8:38 p.m.

Lisa M. Linnet, City Clerk



**CITY OF CORNING
CITY COUNCIL MINUTES
TUESDAY, JULY 28, 2009
CITY COUNCIL CHAMBERS
794 THIRD STREET**

A. CALL TO ORDER: 6:30 p.m.

B. ROLL CALL:

Council:

**Becky Hill
Ross Turner
Toni Parkins
John Leach
Gary Strack**

Mayor:

All members of Council were present.

The **Brown Act** requires that the Council provide the opportunity for persons in the audience to briefly address the Council on the subject(s) scheduled for tonight's closed session. Is there anyone wanting to comment on the subject(s) the Council will be discussing in closed session? If so, please come to the podium, identify yourself and give us your comments.

C. ADJOURN TO CLOSED SESSION: 6:31 p.m.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION: Gov't Code 54957

Title: City Attorney

Title: City Clerk

D. RECONVENE AND REPORT ON CLOSED SESSION: 7:30 p.m.

The Mayor announced that the Council reviewed the PERS issue that has been raised concerning our City Attorney. We have seen no documentation of any kind which would allow us to conclude that it would be illegal for the City now to pay the City Attorney these retirement funds. However, we're willing to take no action on this matter at this time to allow adequate time for others to fully investigate this issue.

Mayor Strack also stated that they gave the City Clerk direction on how to respond to Public Records Act Requests.

E. INVOCATION AND PLEDGE OF ALLEGIANCE:

Councilor Leach gave the invocation and City Manager Kimbrough led the Pledge of Allegiance.

F. PROCLAMATIONS, RECOGNITION'S, APPOINTMENTS: None.

G. BUSINESS FROM THE FLOOR:

Mr. Wolverton stated that he had addressed the City Manager and the Council regarding the pet rescue issue and wished to know the final outcome. Mayor Strack stated that Animal Shelter Caretaker Debbie Englebarger had withdrawn her request for the additional funding due to the current financial situation of the City.

Gene May addressed the Council in relation to the response by the Grand Jury regarding his complaint. Mr. May stated three people have finally come and talked to him after seven years and he is still waiting for the Police Chief to contact him. He announced that he is now a member of the Concerned Citizens Group and believes that both the Police Chief and City Manager should be removed from office.

- H. **CONSENT AGENDA:** It is recommended that items listed on the Consent Agenda be acted on simultaneously unless a Councilmember or members of the audience requests separate discussion and/or action.
1. Waive reading, except by title, of any Ordinance under consideration at this meeting for either introduction or passage, per Government Code Section 36934.
 2. Waive the Reading and Approve the Corrected Minutes of the June 18, 2009 Special Meeting with any necessary corrections.
 3. Waive the Reading and Approve the Minutes of the June 23, 2009 Meeting with any necessary corrections.
 4. Waive the Reading and Approve the Minutes of the June 30, 2009 Special Meeting with any necessary corrections.
 5. Waive the Reading and Approve the Minutes of the July 7, 2009 Special Meeting with any necessary corrections.
 6. July 22, 2009 Claim Warrant - \$266,949.07.
 7. Business License Report – July 22, 2009.
 8. Approve Resolution No. 07-28-09-02 Authorizing the Tehama County Sanitary Landfill Agency to Submit a Regional Used Oil Recycling Grant Application for FY 2009-2010.
 9. Accept Resignation of Mr. Jerry Rindahl from the Airport Commission.
 10. Appoint Mr. Tony Miller as City Representative to the Tehama County Airport Land Use Commission.
 11. Approve Relocation and Remodel Plans for the Transportation Center, Suites B & D and City Hall Storage Room to Provide Accommodations for the PAL Program and the Recreation Supervisor.
 12. Adopt Ordinance No. 635 – An Ordinance of the City of Corning adding a chapter to Title 5 of the Corning Municipal Code that would regulate street vending in the City. (Second Reading and Adoption).
 13. Authorize Public Works Staff to Complete Weed Abatements on Non-Compliant Properties and Imposition of Liens for Cost Recovery.

Councilor Turner asked that Items 11 and 13 be removed for further discussion and Councilor Hill requested that Item 9 be removed for further discussion. Councilor Leach moved to approve Consent Items 1-8, 10 and 12. Councilor Hill seconded that motion. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

I. **ITEMS REMOVED FROM THE CONSENT AGENDA:**

9. Accept Resignation of Mr. Jerry Rindahl from the Airport Commission.

Councilor Hill stated that she would like to publicly acknowledge Mr. Rindahl's importance to the City Airport and thank him for the contributions he has made to the City and the Airport during his years on the Airport Commission. It was announced that a formal presentation is being planned. Councilor Hill moved to regretfully accept Mr. Jerry Rindahl's resignation from the Airport Commission. Councilor Leach seconded the motion. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

11. Approve Relocation and Remodel Plans for the Transportation Center, Suites B & D and City Hall Storage Room to Provide Accommodations for the PAL Program and the Recreation Supervisor.

Councilor Turner asked if the City is required to obtain State approval for the remodeling plans for the Transportation Center. The City Manager stated that in past discussions the State doesn't have a problem as long as the City maintains a bus waiting area. Public Works Director John Brewer stated that he has been in touch with the County Transportation Contact, Barbara O'Keeffe, and she has stated that she has no problem with this arrangement as long as the bus waiting area remains available to the public.

With no further questions, Councilor Turner moved to approve the relocation/remodel plans for the Transportation Center's Suites B & D and the City Hall Storage Room to accommodate the PAL Program and the Recreation Supervisor's relocation. Councilor Parkins seconded the motion.

Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.

13 Authorize Public Works Staff to Complete Weed Abatements on Non-Compliant Properties and Imposition of Liens for Cost Recovery.

Councilor Turner asked why the City didn't use an outside contractor to do the weed abatement work rather than Public Works Personnel. City Manager Kimbrough stated that because General Fund dollars would be used for this, and it might take 1-2 years to recover these funds, it was better to spend it on our own employees.

With no further discussion, Councilor Turner moved to authorize Public Works Staff to complete the weed abatements on non-compliant properties and impose liens on these properties for cost recovery. Councilor Leach seconded the motion. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

J. PUBLIC HEARINGS AND MEETINGS: None.

K. REGULAR AGENDA:

14. Designation of Voting Delegate and Alternate for 2009 League Annual Conference.

After little discussion, Mayor Strack moved to appoint Councilor Hill to be the City's voting representative at the 2009 League of California Cities Annual Conference since she is the only member of Council that will be attending. Councilor Turner seconded the motion. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

15. Ordinance 636 Amending the Dollar Amount Limits of Corning Municipal Code Chapter 15.32; Contract and Biding Procedures for Public Projects (First Reading).

Mayor Strack introduced this item by title and Public Works Director John Brewer explained that this is being proposed to raise the thresholds for Force Account Labor (Public Works Employees) from the existing \$25,000 to \$30,000 in response to State law.

Councilor Hill moved to waive the first reading and introduce Ordinance No. 636, an Ordinance to amend the dollar amount limits of Corning Municipal Code Section 15.32.010 from \$25,000 to \$30,000. Councilor Parkins seconded the motion. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

16. Approval of Corning Municipal Airport Improvement Plans and Financing Plan, and Authorize Staff to Seek Bids for the Project; CEQA Notice of Exemption.

Mayor Strack introduced this item by title. Public Works Director John Brewer then presented a brief explanation of the project explaining that the projected funding would be from FAA

(\$2,375,000), the State (\$59,375), and what the City's match would be (\$65,625). He outlined the possible funding sources for the City's match and Staff's recommendations to Council. Councilor Leach suggested utilizing City Transportation Funds rather than seek funding via a loan. City Manager Kimbrough stated that if this is the Council's decision then he suggests the City draw up a loan note against these funds to be presented for Council approval.

Mayor Strack moved to:

- a. Find that the Corning Municipal Airport Runway and Taxiway Improvement Project is exempt from the California Environmental Quality Act (CEQA);
- b. Approve the Plans for the Corning Municipal Airport Runway and Taxiway Improvement Project, including the additive bid item;
- c. Authorize Staff to seek bids for the project, including the additive bid item, returning to Council for bid award; and
- d. Direct the City Manager, Consultant Bob Wadell and City Staff to pursue the Grant Funding for the Project from the Federal Aviation Administration and California Department of Transportation – Division of Aeronautics.

Councilor Turner seconded the motion. **Ayes: Strack, Hill, Turner, Parkins and Leach.**

Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.

By Council consensus, the funding source for the City's matching funds is to be decided by Council at a later date.

17. Informational Item Only – Report on City Council Vote to Reduce Mayor and Council Monthly Stipend.

Mayor Strack introduced this item by title. He informed the Council that the City Council may not reduce the salary of its members during their current terms of office. Mayor Strack asked to Agendize this item for the next Council Meeting on the Regular Agenda. Councilor Hill stated she would also like a legal opinion on whether Council can voluntarily take a reduction.

18. City Attorney Employment Agreement – Modify Method of Providing Retirement Contribution.

Council made the statement upon reconvening the meeting that no action would be taken on this item at this time.

19. Approve Resolution No. 07-28-09-01 Adopting the 2009-2010 Budget and Program of Service for the City of Corning, Discussion and Action.

Councilor Hill stated she would like to postpone a decision on the budget until the State finalizes their budget. By Council consensus this will be carried over to the next meeting.

Councilor Turner stated that he had heard that the City of Orland received some stimulus funds and asked Chief Cardenas if this was associated with the grants he had applied for. Chief Cardenas stated no, they were different kinds of grants. Chief Cardenas then announced that the City had received notification that they had received the funding for the vehicle, however we did not receive the funding for the officer at the elementary school.

L. **ITEMS PLACED ON THE AGENDA FROM THE FLOOR:** None.

M. **COMMUNICATIONS, CORRESPONDENCE AND INFORMATION:** None.

N. **REPORTS FROM MAYOR AND COUNCIL MEMBERS:**

20. **Hill:** Reported on the League's Sacramento Valley Division Meeting in Paradise.

21. **Turner:** Nothing.

22. **Parkins:** Nothing.

23. **Leach:** Stated that the Skateboard Committee had a meeting and have selected Leaders.

24. Strack: Discussion of proposed Museum Wall Mural. He stated that he would like one or two members of the Council to serve on a committee to select an artist. Councilors Leach and Hill have both stated they would like to serve on this.

Mayor Strack announced that the Airport Lease would be on the Council Agenda for August 28th.

Julie Johnson stated that Assembly Member Theona Ma would be visiting Tehama County including Lucero Olive Oil per Supervisor Robert Williams

O. **ADJOURNMENT!: 8:10 p.m**

**Lisa M. Linnet,
City Clerk**



MEMORANDUM

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: LORI SIMS
ACCOUNTING TECHNICIAN

DATE: August 5, 2009

SUBJECT: Cash Disbursement Detail Report for the
Tuesday, August 11, 2009 Council Meeting

PROPOSED CASH DISBURSEMENTS FOR YOUR APPROVAL CONSIST OF THE FOLLOWING:

A.	Cash Disbursements	Ending	07-30-09	\$	16,284.95
B.	Payroll Disbursements	Ending	07-29-09	\$	69,940.47
C.	Cash Disbursements	Ending	08-05-09	\$	225,731.17
GRAND TOTAL					\$ <u>311,956.59</u>

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Description
009029	07/27/09	ARA02	ARAMARK UNIFORM SRV. INC.	28.75	.00	28.75	4212541	Mat/supplies-
009030	07/27/09	EAS01	BASIC LABORATORY, INC	86.00	.00	86.00	0906873	ProfServices Water Dept
009031	07/27/09	COR11	CORNING SAFE & LOCK	26.95	.00	26.95	2495	SENIOR CENTER-BLD MAINT
				49.06	.00	49.06	2497	MAT & SUPPLIES-PARKS
			Check Total.....	76.01	.00	76.01		
009032	07/27/09	DAR01	DARST, ANNIE	25.00	.00	25.00	090727	MAT & SUPPLIES-PARKS
009033	07/27/09	GAL02	GALL'S INC	75.92	.00	75.92	51775	MAT & SUPPLIES-FIRE
009034	07/27/09	NOR01	NORTH VALLEY BARRICADE	127.46	.00	127.46	12467	MAT & SUPPLIES-
009035	07/27/09	PGB2A	PG&E	49.11	.00	49.11	090717	ELECT-BLUE HERON CT
009036	07/27/09	SCO02	SCOTT'S APPLIANCE	79.95	.00	79.95	25678	SENIOR CENTER-BLD MAINT
009037	07/27/09	TEH06	TEHAMA CO ENVIRON HEALTH	357.00	.00	357.00	200944006	MAT & SUPPLIES-
009038	07/27/09	WHI03	WHITE, JEREMY D.	227.00	.00	227.00	090727	TRAINING/ED-POLICE
009039	07/29/09	9-101	911 MAGAZINE	64.95	.00	64.95	1084491R2	Traing/Educ. PoliceDispat
009040	07/29/09	CAM02	CAMELLIA VALLEY SUPPLY	325.46	.00	325.46	0719749	SHORT DRIVE STORM DRAIN-S
009041	07/29/09	DEP08	DEPARTMENT OF FISH & GAME	50.00	.00	50.00	090728	STREAM CLEANING PERMIT
009042	07/29/09	JES10	JESSEE HEATING & AIR, INC	75.00	.00	75.00	48279	MAT & SUPPLIES-BLD MAINT
009043	07/29/09	LIN02	LINNETS TIRE SHOP	117.95	.00	117.95	48862	Veh Opr/Maint-POLICE
009044	07/29/09	NAP01	NAPA AUTO PARTS	177.68	.00	177.68	090723	MAT & SUPPLIES-FIRE
009045	07/29/09	NOR31	NORM'S PRINTING	17.27	.00	17.27	007143	MAT & SUPPLIES-BLD MAINT
009046	07/29/09	PAC16	PACIFIC TELEMANAGEMENT SE	303.00	.00	303.00	130458	COMMUNICATIONS-GEN CITY
009047	07/29/09	QUI02	QUILL CORPORATION	65.32	.00	65.32	8103646	Office Supplies-FINANCE
009048	07/29/09	TEH01	TEHAMA ASPHALT	230.31	.00	230.31	3193	A/C CITYWIDE-STR PROJ
009049	07/30/09	COR12	CORNING FORD MERCURY, INC	2255.00	.00	2255.00	110656	Veh Opr/Maint-POLICE
				331.75	.00	331.75	110761	Veh Opr/Maint-WTR
			Check Total.....	2586.75	.00	2586.75		
009050	07/30/09	DEP03	DEPT OF TRANS/CAL TRANS	67.68	.00	67.68	185126	Equip.Maint. Sta&Trf Light

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CITY OF CORNING
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Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Description
009051	07/30/09	HAT10	HATFIELD'S	334.23	.00	334.23	090725	Mat/Supplies-
009052	07/30/09	HOL04	HOLIDAY MARKET #32	19.96	.00	19.96	31758	Mat/Supplies BuildingMain
009053	07/30/09	MCC01	MCCOY'S HARDWARE & SUPPLY	161.76	.00	161.76	090725	MAT & SUPPLIES-
009054	07/30/09	NEX01	NEXTEL COMMUNICATIONS	386.36	.00	386.36	090729	COMMUNICATIONS-
009055	07/30/09	NOR31	NORM'S PRINTING	256.71	.00	256.71	007199	OFFICE SUPPLIES-FINANCE
009056	07/30/09	OFF01	OFFICE DEPOT	155.69	.00	155.69	482116864	Office Supplies Policedis
009057	07/30/09	PET03	PETTY CASH	282.73	.00	282.73	090729	PETTY CASH-
009058	07/30/09	PGE2B	PG&E	8021.76	.00	8021.76	090729	ELECT-WWTP
009059	07/30/09	PRIO3	PRICE'S PHARMACY	6.68	.00	6.68	76614	Mat/Supplies-PARKS
009060	07/30/09	QUI02	QUILL CORPORATION	51.04	.00	51.04	8167055	Office Supplies-FINANCE
009061	07/30/09	RED01	RED BLUFF DAILY NEWS	116.52	.00	116.52	090730	BOOKS/PERIODICS-LIBRARY
009062	07/30/09	TEH11	TEHAMA CO TAX COLLECTOR	300.98	.00	300.98	1939	TAXES-BLACKBURN PROP
009063	07/30/09	USB01	US BANCORP	976.96	.00	976.96	129604823	Rents/Leases-GEN CITY
Cash Account Total.....:				16284.95	.00	16284.95		
Total Disbursements.....:				16284.95	.00	16284.95		
Cash Account Total.....:				.00	.00	.00		

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Description	Payment Information
4081	07/29/09	BAN03	POLICE OFFICER ASSOC.	350.00	.00	350.00	A90728	POLICE OFFICER ASSOC	
4082	07/29/09	CAL37	CALIFORNIA STATE DISBURSE	138.46	.00	138.46	A90728	WITHHOLDING ORDER	
4083	07/29/09	EDD01	EMPLOYMENT DEVELOPMENT	3669.92	.00	3669.92	A90728	STATE INCOME TAX	
				1221.59	.00	1221.59	1A90728	SDI	
			Check Total.....	4891.51	.00	4891.51			
4084	07/29/09	ICM01	ICMA RETIREMENT TRUST-457	275.00	.00	275.00	A90728	ICMA DEF. COMP	
4085	07/29/09	OE003	OPERATING ENGINEERS	800.00	.00	800.00	A90728	CREDIT UNION SAVINGS	
4086	07/29/09	PERS1	PUBLIC EMPLOYEES RETIRE	29296.25	.00	29296.25	A90728	PERS PAYROLL REMITTANCE	
4087	07/29/09	PERS4	Cal Pers 457 Def. Comp	25.00	.00	25.00	A90728	PERS DEF. COMP.	
4088	07/29/09	TEH15	TEHAMA CO SHERIFF'S DEPT	589.71	.00	589.71	A90728	WAGE ASSN # 43462	
4089	07/29/09	VAL06	VALIC	925.00	.00	925.00	A90728	AIG VALIC P TAX	
4090	07/29/09	AFL01	AMERICAN FAMILY LIFE	1935.15	.00	1935.15	A90731	AFLAC INS.PRE TAX	
4091	07/29/09	BL002	BLUE SHIELD OF CALIFORNIA	12930.00	.00	12930.00	A90731	MEDICAL INSURANCE	
4092	07/29/09	CIT01	CITY OF CORNING	9.00	.00	9.00	A90731	CHGS FOR WAGE ATCHMT	
4093	07/29/09	OE001	OPERATING ENGINEERS #3	11046.00	.00	11046.00	A90731	MEDICAL INSURANCE	
4094	07/29/09	OE002	OPERATING ENG. (DUES)	215.00	.00	215.00	A90731	UNION DUES MGMNT	
				559.00	.00	559.00	1A90731	UNION DUES POLICE	
				240.00	.00	240.00	2A90731	UNION DUES DISPATCH	
				600.00	.00	600.00	3A90731	UNION DUES-MISC	
			Check Total.....	1614.00	.00	1614.00			
4095	07/29/09	PR104	PRINCIPAL	3350.64	.00	3350.64	A90731	DENTAL INSURANCE	
				613.25	.00	613.25	1A90731	VISION INSURANCE	
			Check Total.....	3963.89	.00	3963.89			
4096	07/29/09	TRF03	TRANSAMERICA LIFE INS CO.	1151.50	.00	1151.50	A90731	LIFE INSURANCE	
			Cash Account Total.....	69940.47	.00	69940.47			
			Total Disbursements.....	69940.47	.00	69940.47			

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Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Payment Information Description
009074	08/03/09	BRE01	BREWER, JOHN	400.00	.00	400.00	000A908011	VEH OP/MAINT-
009075	08/03/09	CAR03	CARDENAS, ANTHONY	400.00	.00	400.00	000A908011	ProfServices PoliceService
009076	08/03/09	COR07	CORBIN WILLITS SYSTEMS	729.72	.00	729.72	000A908011	Finance Dept.
009077	08/03/09	COR09	CORNING CHAMBER OF COMM.	1600.00	.00	1600.00	000A908011	CngChamberComm. Economic
				-1600.00	.00	-1600.00	000A90801u	Ck# 009077 Reversed
			Check Total.....	.00	.00	.00		
009078	08/03/09	HAL05	HALL, ROBERT	104.70	.00	104.70	000A908011	ProfServices FireDepartme
009079	08/03/09	KEN00	KEN VAUGHAN & SONS	904.17	.00	904.17	000A908011	Landscape Maint-Parks
009080	08/03/09	KEN01	KEN VAUGHAN & SONS	800.00	.00	800.00	000A908011	Janitorial
009081	08/03/09	PIT01	PITNEY BOWES	241.84	.00	241.84	000A908011	Rents/Leases Finance Dept
009082	08/03/09	S&L00	S & L BREWER ENTERPRISES	200.00	.00	200.00	000A908011	K-9 PROGRAM-POLICE
009083	08/03/09	TLD01	TEDC	1666.66	.00	1666.66	000A908011	Economic Devel
				-1666.66	.00	-1666.66	000A90801u	Ck# 009083 Reversed
			Check Total.....	.00	.00	.00		
009084	08/03/09	TOM03	TOMLINSON JR., ROBERT L.	54.70	.00	54.70	000A908011	Prof. Svcs.-Fire Dept.
009085	08/03/09	COR09	CORNING CHAMBER OF COMM.	400.00	.00	400.00	090803	CngChamberComm. Economic
009086	08/04/09	ALL11	ALL SPORTS EQUIPMENT &	289.13	.00	289.13	090731	MAT & SUPPLIES-REC
009087	08/04/09	ARA02	ARAWARK UNIFORM SRV.INC.	28.75	.00	28.75	4215490	Mat/Supplies-
009088	08/04/09	BAS01	BASIC LABORATORY, INC	114.00	.00	114.00	0907086	ProfServices Water Dept
009089	08/04/09	CHI04	CHICO DRAIN OIL SBRV LLC	45.00	.00	45.00	207242	MAT & SUPPLIES-
009090	08/04/09	CLA01	CLARKS DRUG STORE	29.88	.00	29.88	33825	MAT & SUPPLIES-POLICE
009091	08/04/09	COM01	COMPUTER LOGISTICS, INC	24.00	.00	24.00	46413	COMMUNICATIONS-FIRE
				26.00	.00	26.00	46414	COMMUNICATIONS-POLICE
				24.00	.00	24.00	46471	COMMUNICATIONS-
				116.67	.00	116.67	46472	COMMUNICATIONS-POLICE
			Check Total.....	190.67	.00	190.67		
009092	08/04/09	COP00	COP SHOP INSTALLATION INC	11.70	.00	11.70	2293	VEH OP/MAINT-POLICE

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Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Payment Information-Description
009093	08/04/09	COR01	CORNING VETERINARY	280.00	.00	280.00	21517	SPAY/NEUTER VOUCHER PROGR
				280.00	.00	280.00	21843	SPAY/NEUTER VOUCHER PROGR
			Check Total.....:	560.00	.00	560.00		
009094	08/04/09	COR08	CORNING LUMBER CO INC	423.67	.00	423.67	090725	Mat/Supplies-
009095	08/04/09	COR12	CORNING FORD MERCURY, INC	389.87	.00	389.87	112210	Veh Opr/Maint-POLICE
009096	08/04/09	COR20	CORNING ELECTRONICS	8.65	.00	8.65	10082524	MAT & SUPPLIES-WTR
009097	08/04/09	DEP03	DEPT OF TRANS/CAL TRANS	3186.64	.00	3186.64	02012949	Equip.Maint. St&Trf Light
009098	08/04/09	DEP12	DEPT OF JUSTICE	175.00	.00	175.00	746631	PROF SVCS-POLICE
009099	08/04/09	FIR00	FIRST BANKCARD	33.02	.00	33.02	090729	CONF/MTGS-CITY COUNCIL
009100	08/04/09	FIR01	FIRST BANKCARD	291.27	.00	291.27	090729	MAT & SUPPLIES-
009101	08/04/09	HAT10	HATFIELD'S	54.07	.00	54.07	090725A	EQUIP MAINT-FIRE
009102	08/04/09	IMA01	IMAGE SALES, INC.	16.13	.00	16.13	20429	MAT & SUPPLIES-POLICE
009103	08/04/09	KOE01	KOEFRAN	250.00	.00	250.00	536806	PROF SVCS-ACO
009104	08/04/09	LIN02	LINNETS TIRE SHOP	40.00	.00	40.00	48006	Veh Opr/Maint-FIRE
009105	08/04/09	LNC01	LN CURTIS & SONS	124.82	.00	124.82	117652000	EQUIP REPL-FIRE
				142.24	.00	142.24	117714800	EQUIP REPL-FIRE
				140.04	.00	140.04	117714801	EQUIP REPL-FIRE
				1353.13	.00	1353.13	614029400	SAFETY ITEMS-FIRE
			Check Total.....:	1760.23	.00	1760.23		
009106	08/04/09	NOR10	NORTHERN FIRE PROTECTION	37.48	.00	37.48	2437	FIRE EXTINGUISHER-BLD MAI
009107	08/04/09	NOR25	NORTHERN LIGHTS ENRGY, INC	3455.00	.00	3455.00	6650	VEH OP/MAINT-
				245.76	.00	245.76	6696	VEH OP/MAINT-FIRE
			Check Total.....:	3700.76	.00	3700.76		
009108	08/04/09	ODC01	OVERHEAD DOOR COMPANY	225.00	.00	225.00	27210	BLD MAINT-FIRE
009109	08/04/09	OFF01	OFFICE DEPOT	86.70	.00	86.70	482148977	Office Supplies Policedis
				30.96	.00	30.96	482233076	Office Supplies Policedis
				254.52	.00	254.52	482328684	Office Supplies Policedis
			Check Total.....:	372.18	.00	372.18		
009110	08/04/09	PGE01	PG&E	396.23	.00	396.23	090728	ELECT-SWR

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CITY OF CORNING
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Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Payment Information-Description
009111	08/04/09	PUB03	PUBLIC SAFETY CENTER, INC	97.67	.00	97.67	182501LN	SAFETY ITEMS-FIRE
009112	08/04/09	RED14	RED BLUFF OUTDOOR POWER,	13.25	.00	13.25	000679	MAT & SUPPLIES-PARKS
009113	08/04/09	SEI01	SEILER, ROY R., CPA	623.70	.00	623.70	23451	ProfServices Finance Dept
009114	08/04/09	TEH13	TEHAMA CO AUDITOR	32.50	.00	32.50	090701	PkngCiteToCnty PoliceServ
009115	08/04/09	WAD01	WADELL ENGINEERING CORP	103715.00	.00	103715.00	1399-3F	ProfServices Airport
009116	08/04/09	WAS01	WASTE MANAGEMENT OF	67658.68	.00	67658.68	090630	WASTE MGMT PYMT-SOLID WAS
009117	08/04/09	WIL10	TOM WILLIAMS CONSTRUCTION	17560.40	.00	17560.40	090803	SRTS-RETENTION
009118	08/05/09	AND03	ANDERS, JOANN	402.50	.00	402.50	09-207	GRANT ADM-HOUSING ELEMENT
			Check Total.....	1050.00	.00	1050.00	09-208	PROF SERV ADM-HOUSING REH
009119	08/05/09	COR01	CORNING VETERINARY	368.10	.00	368.10	21839	ProfServices ACO
009120	08/05/09	GAY02	GAYNOR TELESYSTEMS, INC	124.00	.00	124.00	000012226	COMMUNICATIONS-CITY ADMIN
009121	08/05/09	LAC00	LACY, JOHN	160.00	.00	160.00	090804	REC INSTRUCT-REC
009122	08/05/09	LAM03	LAMBETH, TAMMY	608.00	.00	608.00	090804	REC INSTRUCT-REC
009123	08/05/09	MAH01	MAHUTGA, MARYA	330.00	.00	330.00	090804	REC INSTRUCT-REC
009124	08/05/09	NAP01	NAPA AUTO PARTS	253.25	.00	253.25	090723A	Veh OP/MAINT-
009125	08/05/09	NOR25	NORTHERN LIGHTS ENRGY, INC	2406.33	.00	2406.33	6695	MAT & SUPPLIES-
009126	08/05/09	REC01	RECORD SEARCHLIGHT	326.99	.00	326.99	1339797	PROF SVCS-AIRPORT
009127	08/05/09	TAS00	TASER INTERNATIONAL, INC.	595.38	.00	595.38	S11169426	SAFETY ITEMS-POLICE
009128	08/05/09	VAL07	VALLEY VETERINARY CLINIC	304.55	.00	304.55	53065	K-9 PROGRAM-POLICE
009129	08/05/09	WAR04	WARREN, GLORIA	598.50	.00	598.50	090804	REC INSTRUCT-REC
009130	08/05/09	AND01	ED ANDERSON	712.50	.00	712.50	09-0805	ProfServices-
009131	08/05/09	ATT02	AT&T	1211.74	.00	1211.74	761523	COMMUNICATIONS-
009132	08/05/09	CHE02	CHEM QUIP, INC.	1039.80	.00	1039.80	2057719IN	MAT & SUPPLIES-WTR
009133	08/05/09	COM01	COMPUTER LOGISTICS, INC	19.00	.00	19.00	46412	Equip.Maint.-GEN CITY

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CITY OF CORNING
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Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Payment Information-Description
009134	08/05/09	FIT01	FITZPATRICK LAW OFFICES	424.67	.00	424.67	090803	City Attny Srvs LegalServ
009135	08/05/09	JON02	JONES INSURANCE	5450.00	.00	5450.00	090805	LIABILITY INS-AIRPORT
009136	08/05/09	NOR31	NORM'S PRINTING	73.57	.00	73.57	007224	OFFICE SUPPLIES-
009137	08/05/09	PGE05	PG&E	2458.87	.00	2458.87	090730	FIRE-ELECT & GAS
009138	08/05/09	PGE2A	PG&E	107.37 109.07	.00 .00	107.37 109.07	090730 090731	ELECT-MARTINI, McDONALD & ELECT-CLELAND PROP
Check Total.....:				216.44	.00	216.44		
009139	08/05/09	TH001	THOMES CREEK ROCK CO	433.82	.00	433.82	090731	SHORT DRIVE STORM DRAIN-S
Cash Account Total.....:				225731.17	.00	225731.17		
Total Disbursements.....:				225731.17	.00	225731.17		

CITY OF CORNING**JULY 2009****TREASURERS REPORT**

AGENCY	BALANCE	RATE	MATURES ON
LOCAL AGENCY INVESTMENT FUND	2,044,265.27	1.51	
PREMIER WEST BANK	194,928.06	1.78	03/28/10
PREMIER WEST BANK	174,722.33	1.78	04/20/10
TRUST ACCOUNTS			
PREMIER WEST BANK RIDELL TRUST	205,170.25	2.52	06/13/10

Respectfully Submitted

Pala Cantrell
City Treasurer

PERMITS ISSUED (sort by Permit #)

Item No.: H-7

For the Period 7/1/2009 thru 7/31/2009

Owner and Address	Parcel Number	Issued On	Valuation
TAMMY SMITH 2043 BLOSSOM AVE CORNING CA 96021 Permit Description: NEW RESIDENCE WITH ATTACHED GARAGE	7120517 Site Street Address: 2043 BLOSSOM AVE	7/17/2009	188,850.00
ROLLAND GUICE 1216 COLUSA ST CORNING CA 96021 Permit Description: TEAR OFF & REROOF	7105406 Site Street Address: 1216 COLUSA ST	7/1/2009	5,400.00
TERRY RAGLAND 711 SOUTH ST CORNING CA 96021 Permit Description: TEAR OFF & REROOF	7310111 Site Street Address: 711 SOUTH ST	7/1/2009	56.00
MAGGIE BISWELL 1426 YOLO ST CORNING CA 96021 Permit Description: DEMO SMALL BUILDING & COVERED CARPORT	7110613 Site Street Address: 1426 YOLO ST	7/2/2009	100.00
ARTHUR JONES 1471 WEST ST CORNING CA 96021 Permit Description: 14' X 32' INGROUND POOL	7126214 Site Street Address: 1471 WEST ST	7/2/2009	33,636.56
RANDY HARDWICK 299 N. MARGUERITE AVE CORNING CA 96021 Permit Description: CONVERT GARAGE TO BEDROOM & BATH	7531001 Site Street Address: 299 N. MARGUERITE AVE	7/9/2009	3,000.00
ROBERT BROWN 1407 WEST ST CORNING CA 96021 Permit Description: NEW 25' X30' DETACHED GARAGE	7126228 Site Street Address: 1407 WEST ST	7/13/2009	15,000.00

CITY OF CORNING
PERMITS ISSUED (sort by Permit #)
For the Period 7/1/2009 thru 7/31/2009

Owner and Address	Parcel Number	Issued On	Valuation
JOHN ELLER 705 EAST ST CORNING CA 96021 Permit Description: TEMORARY BAR-B-QUE AREA	7301062 Site Street Address: 705 EAST ST	7/17/2009	2,000.00
FRANK LANGLEY 730 MARGUERITE AVE CORNING CA 96021 Permit Description: REPLACE HVAC UNIT	7321201 Site Street Address: 730 MARGUERITE AVE	7/14/2009	8,600.00
PETE PALERMO 651 TOOMES AVE CORNING CA 96021 Permit Description: TEAR OFF & REROOF	7108041 Site Street Address: 651 TOOMES AVE	7/15/2009	6,434.38
RETRO 2151 SOUTH AVE CORNING CA 96021 Permit Description: KITCHEN HOOD SYSTEM	8710066 Site Street Address: 2151 SOUTH AVE	7/15/2009	6,000.00
FELIPE MORFIN 1313 SOUTH ST CORNING CA 96021 Permit Description: CHANGE OUT ELECT. SERVICE	7117213 Site Street Address: 1313 SOUTH ST	7/16/2009	200.00
MAGGIE BISWELL 1424 YOLO ST CORNING CA 96021 Permit Description: 20'X32' GRANNY HOUSE	7110613 Site Street Address: 1424 YOLO ST	7/23/2009	25,000.00
CLAUDIO & ALMA ROMO 1809 McKINLEY CORNING CA 96021 Permit Description: COVERED PATIO	7115403 Site Street Address: 1809 McKINLEY	7/17/2009	2,000.00
FELIPE MORFIN 1313 SOUTH ST CORNING CA 96021 Permit Description: 2 BEDRMS & 2 BATHS ADDITION & REROOF	7117213 Site Street Address: 1313 SOUTH ST	7/24/2009	44,000.00

PERMITS ISSUED (sort by Permit #)

For the Period 7/1/2009 thru 7/31/2009

Owner and Address	Parcel Number	Issued On	Valuation
MARIA & ORLANDO MENDOZA 492 EL PASO CORNING CA Permit Description: CHANGE OUT HVAC (ON GROUND)	7305312 Site Street Address: 492 EL PASO	7/29/2009	10,407.00
CORY KILMER 1317 SOLANO ST CORNING CA 96021 Permit Description: ADD 2 NONBEARING WALLS	7113203 Site Street Address: 1317 SOLANO ST	7/31/2009	800.00
CHETINA AUSTIN 561 EDITH AVE CORNING CA 96021 Permit Description: INSTALL NEW HVAC SYSTEM	7108022 Site Street Address: 561 EDITH AVE	7/30/2009	12,000.00
BENNY BROWN 2087 SOLANO ST CORNING CA 96021 Permit Description: REMOVE PORTION OF TOWER	7114004 Site Street Address: 2087 SOLANO ST	7/30/2009	6,250.00
CITY OF CORNING 794 THIRD ST CORNING CA 96021 Permit Description: ADD 2 WALLS FOR OFFICE	7113503 Site Street Address: 794 THIRD ST	7/31/2009	800.00
20 Permits Issued from		7/1/2009 Thru 7/31/2009	OR A TOTAL VALUATION OF \$ 370,533.94
*** END OF REPORT ***			



**CITY OF CORNING
WASTEWATER OPERATION SUMMARY REPORT
July 2009**

Below is a summary of the Monthly Operations Report that will be available for City review on August 11, 2009.

- 1) Filled out monthly reports.
- 2) Performed weekly Operator 10 maintenance on all plant equipment.
- 3) Changed flow disk.
- 4) Sent vehicle report to Texas.
- 5) Wasted to thickener.
- 6) Pumped to beds from thickener and EQ.
- 7) Changed chart on So3 analyzer.
- 8) Safety meeting
- 9) Installed new cleaning pump on SO3 analyzer.
- 10) Cleaned up around plant getting ready for inspection.
- 11) Cleaned up shop.
- 12) Inspected eyewash and emergency showers.
- 13) Unloaded chlorine truck.
- 14) Added buffer to So3 analyzer.
- 15) Annual service of standby generator.
- 16) Cleaned So2 pump.

- 17) Cleaned chlorine building.
- 18) Took out trash.
- 19) Tested all chlorine and So₂ sensors.
- 20) River samples.
- 21) Ordered 2 new CL₂ and So₂ sensors.
- 22) Patterson Elect here installed new timer for screw pumps.
- 23) Checked all fire extinguishers.
- 24) Cleaned probe at lift station.
- 25) Calibrated So₃ analyzer.
- 26) Worked on plant SOP's.
- 27) Tested alarms with Fire Dept.
- 28) Mowed lawn.
- 29) Sprayed weeds around plant.
- 30) Cleaned 5 drying beds.
- 31) Went through and updated pretreat files.
- 32) Replaced hour meter on control panel.
- 33) Resubmitted RMP to EPA.
- 34) Changed SO₃ probe on analyzer.
- 35) Loaned Bell-Carter 16 in. pipe plug there working on their line.
- 36) Mounted fire extinguisher in $\frac{3}{4}$ ton.
- 37) AT&T repaired fax line.
- 38) Informed John Brewer the last time outfall was inspected was 2003.

Total daily plant flow for the month of July 2009 was 593,355 GPD.

Total daily plant flow for the previous month of June 2009 was 645,333 GPD

July 2009

Industrial Flow = 630,948 GPD
(Flow into the Bell Carter Ponds)

Domestic Flow = 593,355 GPD

June 2009

Industrial Flow = 721,678 GPD

Domestic Flow = 645,333 GPD

**ITEM NO.: H-9
APPROVE THREE-YEAR EXTENTION
OF CITY WEED AND TREE SPRAYING
AGREEMENT WITH LARRY'S PEST &
WEED CONTROL**

AUGUST 11, 2009

**TO: MAYOR AND COUNCILMEMBERS
OF THE CITY OF CORNING**

**FROM: STEPHEN J. KIMBROUGH, CITY MANAGER
JOHN L. BREWER, AICP; DIRECTOR OF PUBLIC WORKS**

STEVE

JB

SUMMARY:

City Staff has received a letter from Larry Gordon; President and Owner of Larry's Pest & Weed Control requesting a three-year extension to his current Agreement with the City of Corning. Mr. Gordon does not propose a rate increase for services.

The letter from Mr. Gordon and the current Agreement are attached for Council review.

City Staff is satisfied with Larry's Pest & Weed Control services. Mr. Gordon always provides prompt and courteous service to the City of Corning.

BACKGROUND:

The Agreement between the City of Corning and Larry's Pest & Weed Control expires on December 31, 2009. Item number 18 within the Agreement allows for an extension provided both parties mutually agree.

City Staff recommends a three-year extension for weed and tree spraying and pest control services. The new expiration of this Agreement would be December 31, 2012.

The City Budget has allowed for a total of \$28,000 to fund the spraying of City trees and weeds and pest control. The funding is budgeted under Public Works Streets; Weed/Tree Spraying item number 114-6175-3000 (\$28,000).

RECOMMENDATION:

MAYOR AND COUNCILMEMBERS APPROVE THREE-YEAR EXTENTION OF CITY WEED AND TREE SPRAYING AGREEMENT WITH LARRY'S PEST & WEED CONTROL UNDER BUDGET ITEM NUMBER 114-6175-3000 FOR \$28,000 PER YEAR. THE CONTRACT WILL NOW EXPIRE DECEMBER 31, 2012.

Larry's Pest & Weed Control

7519 Cutting Avenue

Orland, CA 95963

530 865-9183

RECEIVED

JUL 31 2009

CITY OF CORNING

July 31, 2009

To: City of Corning

Re: Weed & Tree Spraying Service

I am writing this to express my interest in extending the Weed & Tree Spraying Service Contract for another 3 years between Larry's Pest & Weed Control and the City of Corning, as stated in #18 of current contract, "Upon agreement of both parties, contract may be extended from year to year or for an additional term of years upon such terms as are acceptable to both City and Contractor."

I am willing to continue service at the same price as in current contract (Tree Spraying-Exhibit A-\$15,000.00 per year and Weed Spraying- Exhibit B- \$13,000.00 per year).

Thank you for considering this request.

Sincerely,

A handwritten signature in cursive script that reads "Larry Gordon". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Larry Gordon, President

AGREEMENT

COPY

THIS AGREEMENT IS MADE AND ENTERED INTO as of this day First 1st of January 2007 by and between the City of Corning, a Municipal Corporation, hereinafter referred to as "**City**" and Larry's Pest and Weed Control hereinafter referred to as "**Contractor**". In consonance with the terms, conditions and considerations of the covenants herein contained, it is hereby agreed by and between the parties that Contractor shall supply tree spraying and weed control spraying for City, as hereinafter more particularly described.

1. CONTRACTOR'S OBLIGATION:

- a) Contractor shall, on a monthly basis with touch-up services at the City's request, safely supply a mist spray for pest control, to all City owned trees located between sidewalk and curbs upon City streets and in City Parks. Such application shall be done safely and in a workmanlike manner with the materials approved and as indicated herein. Trees to be sprayed, dates and place of application are as described on **EXHIBIT "A"** attached hereto and incorporated by this reference. The City reserves unto itself the right to reject any or all performance hereunder and to require touchup services to the City's satisfaction. Such touchup service shall be without further compensation.
- b) Contractor shall also perform weed and grass control for periods during the late fall and winter periods, as well as any appropriate growing season. Contractor shall apply chemicals safely and in a workmanlike manner, utilizing boom and wand spraying, upon the terms, conditions, places and times as set forth in "**EXHIBIT "B"**", attached hereto and incorporated by this reference. All chemicals used shall be of the following types and rate of mixture:

PER LABEL INSTRUCTIONS

- c) Contractor shall, during the term of this Contract, maintain a valid City of Corning Business License.

2. COMPENSATION

For those services as outlined in **EXHIBIT "A"** hereto the City shall pay to Contractor the sum of **\$15,000** per year. This contract shall run for a period of three years, commencing on the date first above written.

For those services outlined in **EXHIBIT "B"** hereto, City shall pay to Contractor the sum of **\$13,000** per year. The contract providing such services as listed on **EXHIBIT "B"** shall be for a period of three years, through December 31, 2009, unless sooner terminated under paragraph 2 below.

All payments will be made in the amount of 75% of the yearly bid amount upon presentation of the invoice setting forth Contractor's declaration that initial application has been made. Thereafter, on June 1st of each and every year of this contract period, the further sum of 15% shall be paid to Contractor upon request, and thereafter, the remaining 10% to paid upon written request on September 1st of each year. However, should performance not be satisfactory as determined by the Director of Public Works, as hereinafter specified, the City may retain and use such funds as the Director of Public Works deems appropriate for purposes of insuring proper performance and/or hiring other chemical spraying companies to complete to the City's satisfaction the contract.

3. TERMINATION:

Should contractor fail to perform satisfactorily during any one of the three contract years as herein set forth, City reserves to itself the right to cancel any remaining portion of said contract upon thirty days written notice to Contractor, by notice in writing provided to Contractor at his usual place of business. Should Contractor breach any of the terms and conditions of this contract, or violate any laws, especially those relative to the utilization of hazardous materials, pest control chemicals or similar chemicals, mixtures or materials, the City reserves unto itself the right to direct Contractor to immediately cease performance and then terminate this contract thereafter, upon thirty days written notice, and pay contractor such amounts as he may then be entitled to on a pro-rata basis (pro-rated according to amount of work satisfactorily completed).

4. PAYMENTS:

The acceptance of the final payment by the Contractor shall constitute a waiver of all claims by him except those previously made in writing and still unsettled.

5. SUSPENSION OF WORK:

The Director of Public Works shall have authority to suspend the work wholly or in part for such period as he may deem necessary to investigate complaints regarding improper or unsafe use of chemicals or pesticides.

6. AUTHORITY OF DIRECTOR OF PUBLIC WORKS:

The Director of Public Works shall be the City's representative in deciding any and all questions that may arise as to the quality or acceptability of the work performed, all questions that arise as to the acceptable fulfillment of the contract on the part of the Contractor, and all questions as to claims and compensation.

7. LAWS TO BE OBSERVED:

The Contractor shall keep himself fully informed of all State, Federal and Municipal Ordinances and/or regulations of the City of Corning which in any manner affect those engaged in or employed in the work, or the materials used in the work, or which in any way affect the conduct of the work and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Contractor must comply with all provisions of the Immigration Reform and Control Act and of the California Labor Code.

8. LABOR DISCRIMINATION:

No discrimination shall be made in the employment of persons in this project because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex of such persons. Violation of this section shall subject Contractor to penalties referenced in **Section 1735** of the **Labor Code**.

9. RESPONSIBILITY FOR DAMAGES:

- a) Neither the City of Corning, the City Council, nor the City Staff, shall be responsible or accountable in any manner for any loss or damage that may happen during the work or any part thereof; or for any materials or equipment used in performing the work; or for injury or damage to any person or persons, either workers or the public; or for damage to adjoining property from any cause whatsoever.
- b) The Contractor shall indemnify and save harmless the City of Corning, the City Council, and the City Staff from any suits, claims, or actions brought by any person for or on account of any injuries or damage sustained by or arising in the performance of the work or in consequence thereof. The City Council may retain so much of the money due the

Contractor as shall be considered necessary until disposition has been made of such suits or claims for damages as aforesaid.

10. LIABILITY INSURANCE:

The Contractor shall maintain in full force and effect, during the term of this agreement, a valid comprehensive public liability and property damage insurance policy listing the City as additional insured in the following amounts:

- (1) \$1,000,000.00 for death or injury to any person arising out of any incident or accident;
- (2) \$50,000.00 for property damage arising out of any one incident or accident.

11. WORKMAN'S COMPENSATION INSURANCE:

Contractor at all times shall keep fully insured, at his own expense, all persons employed by him in connection with this **Agreement** as required by Workman's Compensation and Insurance (California Labor Code Section 3200 et seq.), and shall hold the City free and harmless from all liabilities that may arise by reason of the injuries to any of the employees of the Contractor who are injured while performing at work any labor necessary to carry out the provisions of this agreement.

12. CERTIFICATION OF INSURANCE AND CANCELLATION THEREOF:

The Contractor shall keep on file with the City a Certificate of Insurance duly executed by the Contractor's insurance carrier or carriers, which shall serve as evidence of the continued existence of said insurance policies. The Contractor's insurance carriers shall be required to give the City thirty (30) days written notice prior to the cancellation of the Contractor's Insurance.

13. PERSONAL LIABILITY:

Neither the Council, City Manager, Director of Public Works, or any other officer, authorized assistant, or agent of the City shall be personally responsible for ordinary liability under this contract.

14. INDEMNITY:

The City shall not, nor shall any officer, employee or agent thereof, be liable or responsible for any accident, loss or damage happening or occurring during performance of work. The Contractor shall indemnify and hold harmless the City and its officers and employees from any and all liability resulting from any such loss or damage and the defense of any legal action arising out of the activities described in this Agreement. The Contractor shall, at his own expense, defend the City, its officers, employees or agents, from any such legal actions.

15. ACCIDENTS:

The Contractor shall provide at the site of the project such equipment and medical facilities as are necessary to supply first aid service to anyone who may be injured in connection with the work.

The Contractor must promptly report in writing to the city all accidents whatsoever arising out of, or in connection with the performance of the work, whether on or adjacent to the job site, which caused death, personal injury, or property damages, giving full details and statements of witnesses. In addition, if death or serious injuries or serious damages are caused, the accident shall be reported to the City immediately by telephone or messenger.

16. SAFETY:

In accordance with generally accepted practices, the Contractor will be solely and completely responsible for the conditions of the job site (s), including safety of all persons and property during the performance of the work. This requirement will apply continuously and not be limited to normal working hours.

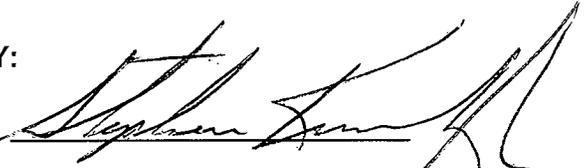
17. CONTRACTOR AGREEMENT:

Contractor agrees to perform the services between the hours of 5:00 a.m., and 10:00 p.m., on any day. Such application as set forth in **EXHIBIT "A"** hereto, shall be made at a time when there is less than 5 mile per hour wind. **Contractor further agrees to publish notice of any spraying within the areas of which spraying will be conducted, as to provisions of this contract (exhibits "A" or "B"), at least once in the Corning Observer during a period of time 5 days prior to each such spraying.**

18. RENEWAL OF CONTRACT:

Upon agreement of both parties, this contract may be extended from year to year or for an additional term of years upon such terms as are acceptable to both City and Contractor.

CITY:

BY: 

CONTRACTOR:

BY: 

**PROPOSAL
FOR FURNISHING WEED & TREE SPRAYING SERVICE
FOR THE CITY OF CORNING**

TO: The City of Corning
Tom Russ, Director of Public Works

DATE: 12-5-06

The undersigned Larrys Pest & weed control
(Corporate Name of Bidder)

agrees to furnish to the City of Corning, California, at the prices quoted below, in accordance with the specifications, and drawings on file in the office of the Public Works Department of the City of Corning, copies of which are attached hereto and are made a part of this proposal:

Tree Spraying Service,

Lump Sum: Furnish Tree Spraying Service as stated in Job Specifications,
Contract and Exhibit A of Contract document.

For the Lump Sum Price of \$15,000 /per year

Weed Spraying Service,

Lump Sum: Furnish Weed Spraying Service as stated in Job Specifications,
Contract and Exhibit B of Contract documents.

For the Lump Sum Price of \$13,000 /per year

The prices quoted herein are firm, and are not subject to change.

It is understood that this proposal shall remain open and shall not be withdrawn for a period of forty-five (45) days from the date prescribed for the opening of the Proposals.

It is further agreed that the service to be provided under this proposal will be for the contract period.

Sign: Larrys Pest & weed control
Owner of Authorized Person

SPECIFICATIONS – TREE SPRAYING

EXHIBIT “A”

- a) Ash Trees: Application shall be of Diazanon Oil and fungicide to control aphid and fungus blight on or before March 1st; approximately 850 trees. Trees shall also be sprayed in July for Tingid Bugs.
- b) Elm Trees: Application shall be of Diazanon Seven Oil to control Elm Leaf Beetles on or before June 1st; approximately 70 trees.
- c) Walnut Trees: Application shall be of Diazanon Seven Oil to control Red Hump Caterpillar on or before July 1st; approximately 50 trees.
- d) Fruitless Pear Trees (Fire Blight): Solano St. (Third St. west to Houghton Ave.).
- e) Spraying City Olive Trees for Olive Fruit Fly and to prevent production of fruit.
- f) Recently pruned Ash Trees may need resprayed.
- g) Trees are to be sprayed from a separate tank and hose from that which weeds are sprayed.
- h) All City buildings are to be sprayed for pest control as needed:
 - 1) All buildings at Corporation Yard located at 1106 Butte Street, inside and out.
 - 2) Animal Control Shelter located at 4312 Rawson Road.
 - 3) All nine pump houses, locations as follows:

Hwy. 99W Well @ 2005 Hwy. 99W	Woodson Park Well @ 1051 Peach Street
Blackburn Well @ 302 Blackburn Ave.	Edith Avenue Well @ 225 Edith Avenue
Sixth Street Well @ 1402 Colusa Street	Houghton Ave. Well @ 950 Houghton Ave.
Fripp Street Well @ 205 Divisadero Ave.	Petro Wells (2) @ 3365 Hwy. 99 W
Butte Street Well @ 1106 Butte Street	
 - 4) Dugouts, around/under bleachers at Yost Field (998 Tehama St.) and Clark Park (103 Fig Lane).
 - 5) Northside Park buildings, bleachers and Playground equip. at 1414 Colusa Street.
 - 6) Restroom building at Woodson Park located at 1051 Peach Street.
 - 7) City Hall located at 794 Third Street.
 - 8) Library located at 740 Third Street.
 - 9) Senior Center at corner of South Street and Fourth Avenue
 - 10) Fire Hall and Auxiliary Building located at 814 Fifth Street.
 - 11) Grounds and residence at 642 Blackburn Avenue
 - 12) Airport Terminal Building and Main Hangar located at 930 N. Marguerite Avenue.
 - 13) Wastewater Treatment Plant located at 25010 Gardiner Ferry Road (all buildings).
 - 14) Transportation Center located at 1081 Solano Street.
 - 15) Rodger’s Theater located at 1217 Solano Street.

NOTE: The above stated months to apply throughout the term of the Contract.

SPECIFICATIONS FOR SPRAYING AND WEED CONTROL

EXHIBIT "B"

- a) All alleys and rights-of-way.
- b) 4' to 12' wide area on uncurbed streets.
- c) Narrow strip application over seam where curbing and blacktop come together on curbed streets.
- d) Little League ballpark infield area including bases, bullpen and all areas not paved, including drain ditch. Clark and Yost Parks (998 Tehama St. and 103 Fig Lane); Strip along outfield fence at Yost Park, and fence line at south edge of Clark Park.
- e) Fence line to road along Marguerite and Blackburn Avenue adjoining Airport property.
- f) A 4' path on both sides of taxiway and runway at Airport (930 N. Marguerite Ave.). The runway should be treated at edge of runway to 4' beyond the lights. Spray around hangar buildings, office building and on asphalt tie down area.
- g) Dog Pound (4312 Rawson Road), gravel-parking area, around all four sides of the Dog Pound.
- h) Grounds at City Yard (1106 Butte Street).
- i) Areas at parks as directed by Director of Public Works.
- j) Puncture Vine must be sprayed in all areas in June and July.
- k) Follow up sprays in spring and summer with systemic material on perennials such as Johnson Grass, Bermuda and Morning Glory. Roundup Chemical or equal to be used.
- l) Houghton Avenue, Highway 99 W, Blackburn, and Petro Pump Houses.
- m) Blackburn Moon Drain from Edith Avenue to the Corona Avenue Bridge.
- n) End of Marin Street at Blackburn ditch – east side of drain ditch.
- o) Where ditches exist along streets or roads, ditches shall be sprayed.

Initial spraying shall be not later than January of each year and re-sprayed as often as necessary to control weed and grass growth through out term of contract. Initial spray shall be Diuron or Simazine and Amino Triazole. Above stated months shall apply throughout the term of the Contract.

**ITEM NO. H-10
SECOND READING-ORDINANCE NO. 636;
AMENDING THE DOLLAR AMOUNT LIMITS
OF CORNING MUNICIPAL CODE CHAPTER
15.32; CONTRACT AND BIDDING
PROCEDURES FOR PUBLIC
CONSTRUCTION PROJECTS.**

AUGUST 11, 2009

TO: CITY COUNCIL OF THE CITY OF CORNING, CALIFORNIA

**FROM: STEPHEN J. KIMBROUGH; CITY MANAGER
JOHN L. BREWER, AICP; PUBLIC WORKS DIRECTOR**

STEVE
JB

SUMMARY:

On July 28, 2009, the City Council waived the first reading and introduced Ordinance No. 636. Tonight, staff recommends Council waive the second reading and adopt the ordinance. The ordinance will amend the City Code to reflect the increased public project bid thresholds included in City Code Chapter 15.32. The revised thresholds are in accordance with the current dollar amount limits of Section 22032 of the State Public Contract Code (attached).

BACKGROUND:

In an effort to standardize contracting procedures, the state adopted the Public Contracts Code (hereafter PCC). That code includes regulations that describe the process for which public construction projects can be completed by City employees, or "put out to bid" by private contractors. Included among the regulations is a section permitting an "alternative bidding process" for agencies that adopt the "statewide costs accounting standards". The City of Corning adopted those standards as Ordinance No. 601 in 2003. The ordinance was incorporated into the Municipal Code as Chapter 15.32.

The alternative bid procedures include bid "thresholds" codified within PCC Section 22032) and locally as "dollar amount limits" within Section 15.32.010 (attached). Those PCC thresholds were amended in 2005. It is now appropriate to amend our City Code to reflect the updated thresholds.

Most notable among the changes is the increase of the "force account" threshold, from \$25,000 to \$30,000. The other thresholds have to do with the distinction between "informal" and "formal" bid processes. The threshold for the informal process has been increased from \$75,000 to \$125,000. Projects costing over \$125,000 must be bid in accordance with the formal bidding process.

STAFF RECOMMENDATION:

That the City Council:

- **Waive the second reading and adopt Ordinance No. 636, the ordinance to amend the “dollar amount limits” of Corning Municipal Code Section 15.32.010**

ORDINANCE NO. 636
AN ORDINANCE OF THE CITY OF CORNING
AMENDING CHAPTER 15.32 OF THE CORNING MUNICIPAL CODE
REGARDING THE DOLLAR COST LIMITS OF THE "CONTRACT AND BIDDING
PROCEDURES FOR PUBLIC PROJECTS"

The City Council of the City of Corning, having conducted a hearing in accordance with state law, on July 28, 2009, does hereby ordain as follows:

To amend Sections 15.32.010(A), 15.32.010(B) and 15.32.010(C) of Title 15 (Building and Construction) of the City of Corning to read as follows:

Section 1. Section 15.32.010(A) of the Corning Municipal Code is amended to read as follows:

"Public Projects of thirty thousand dollars or less may be performed by the employees of the City of Corning by force account, by negotiated contract or by purchase order."

Section 2. Section 15.32.010(B) of the Corning Municipal Code is amended to read as follows:

"Public projects of one hundred twenty five thousand dollars (\$125,000) or less may be let to contract by informal procedures as set forth below."

Section 3. Section 15.32.010(C) of the Corning Municipal Code is amended to read as follows:

"Public projects of more than one hundred twenty five thousand dollars (shall, except as otherwise provided herein or within the Uniform Public Construction Cost Accounting Act, be let to contract by formal bidding procedures."

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Corning, held on July 28, 2009 and adopted at a regular meeting of the City Council of the City of Corning, held _____ by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Gary R. Strack, Mayor

ATTEST:

Lisa M. Linnet, City Clerk

Published: _____

PUBLIC CONTRACT CODE

SECTION 22030-22045

22030. This article applies only to a public agency whose governing board has by resolution elected to become subject to the uniform construction cost accounting procedures set forth in Article 2 (commencing with Section 22010) and which has notified the Controller of that election. In the event of a conflict with any other provision of law relative to bidding procedures, this article shall apply to any public agency which has adopted a resolution and so notified the Controller.

22031. Nothing in this article shall prohibit a board of supervisors or a county road commissioner from utilizing, as an alternative to the procedures set forth in this article, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1.

22032. (a) Public projects of thirty thousand dollars (\$30,000) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order.

(b) Public projects of one hundred twenty-five thousand dollars (\$125,000) or less may be let to contract by informal procedures as set forth in this article.

(c) Public projects of more than one hundred twenty-five thousand dollars (\$125,000) shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.

22033. It shall be unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of this article requiring work to be done by contract after competitive bidding.

22034. Each public agency that elects to become subject to the uniform construction accounting procedures set forth in Article 2 (commencing with Section 22010) shall enact an informal bidding ordinance to govern the selection of contractors to perform public projects pursuant to subdivision (b) of Section 22032. The ordinance shall include all of the following:

(a) The public agency shall maintain a list of qualified contractors, identified according to categories of work. Minimum criteria for development and maintenance of the contractors list shall be determined by the commission.

(b) All contractors on the list for the category of work being bid or all construction trade journals specified in Section 22036, or both all contractors on the list for the category of work being bid and all construction trade journals specified in Section 22036, shall be mailed a notice inviting informal bids unless the product or service is proprietary.

**ITEM NO: J-11
CLARK PARK MUNICIPAL WELL PROJECT:
CONSIDER ADOPTION OF THE MITIGATED
NEGATIVE DECLARATION, PREPARED
PURSUANT TO THE PROVISIONS OF THE
CALIFORNIA ENVIRONMENTAL QUALITY
ACT (CEQA), FOR THE CONSTRUCTION OF
A MUNICIPAL WELL IN THE NORTHWEST
CORNER OF ESTIL CLARK PARK.
APN: 73-260-30**

AUGUST 11, 2009

TO: HONORABLE MAYOR AND CITY OF CORNING CITY COUNCIL

FROM: JOHN STOUFER, PLANNING DIRECTOR
JOHN BREWER, PUBLIC WORKS DIRECTOR
STEVE KIMBROUGH, CITY MANAGER

JBS

PROJECT DESCRIPTION & LOCATION:

The Council will consider adopting the Mitigated Negative Declaration filed and circulated for public review pursuant to Title 14, Sections 15072 & 15073 of the California Code of Regulations. The City of Corning plans to construct a new municipal water well, 400 feet deep with a 14" casing, included as a part of the project will be the installation of a pump, controls, emergency generator, well house building, and approximately 1,400 feet of pipeline for connection to existing City water lines. The proposed well site is located in the City of Corning along the south side of Fig Lane, in Estil Clark Park, approximately 700 ft. east of the Fig Lane / Marguerite Ave. intersection. Described as a portion of the south half of Section 23, T. 24N., R. 3W., M.D.M. APN: 73-260-30

GENERAL PLAN LAND USE DESIGNATION:

P- Park

ZONING DESIGNATION:

PQ – Public/Quasi Public

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Mitigated Negative Declaration, A mitigated negative declaration means a negative declaration prepared for a project when the initial study has identified potentially significant effects on the environment, but (1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.

Staff completed a CEQA Initial Study that identified certain potentially significant effects attributable to the development of this project. Staff determined that those effects could be reduced to a Less than Significant level by the imposition of seven (7) mitigation measures as identified in the Initial Study and Mitigation Monitoring Program.

ZONING:

As previously identified the site is zoned PQ, Public/Quasi Public. The PQ district regulations are included to achieve the following purposes:

- A. To accommodate the wide range of public, institutional and auxiliary uses which are established in response to the health, safety, welfare and cultural needs of the citizens of the City;
- B. To organize the assemblage of specific, nonprofit and profit public facilities into efficient, functionally compatible, and attractively planned administrative centers in conformance with the general plan;
- C. To establish site approval for uses thereby ensuring compatibility with adjacent more restrictive districts.

The PQ Zoning District currently does not allow any permitted uses outright, any proposed use must obtain a use permit for specific uses as identified in Sections 17.33.030 A thru G of the Corning Municipal Code.

Staff recommends the following Subfindings, Findings, and Action for consideration by the City Council, pursuant to the California Environmental Quality Act (CEQA).

Subfinding #1

An Initial Study analyzing the environmental impacts associated with the project has been prepared and a Mitigated Negative Declaration has been filed in the Tehama County Clerk & Recorder's Office.

Finding #1

The Initial Study and Mitigated Negative Declaration filed on the construction of a municipal water well in the northwest corner of Estil Clark Park identified and analyzed the environmental impacts associated with the project and identified impacts have been mitigated to a Less than Significant Level.

Subfinding #2

A copy of the Initial Study and Mitigated Negative Declaration was sent to the Governor's Office of Planning & Research, State Clearinghouse & Planning Unit for a 30 day review period as required by Title 14, Sections 15072 & 15073 of the California Code of Regulations.

Finding #2

The State Clearinghouse submitted the Initial Study & Mitigated Negative Declaration to selected state agencies for review. The review period closed on July 14, 2009 and no comments from public agencies were received. The City of Corning has complied with the State Clearinghouse review requirements for draft environmental documents pursuant to the California Environmental Quality Act.

ACTION

1. MOVE TO ADOPT THE SUBFINDINGS AND FINDINGS AS PRESENTED IN THE STAFF REPORT AND ADOPT THE MITIGATED NEGATIVE DECLARATION FILED FOR THE CONSTRUCTION OF A MUNICIPAL WELL IN THE NORTHWEST CORNER OF ESTIL CLARK PARK.

(PLEASE NOTE : PRIOR TO ADOPTING THE RECOMMENDED SUBFINDINGS & FINDINGS THE COUNCIL HAS THE ABILITY TO MODIFY OR REMOVE ANY OF THE SUBFINDINGS AND FINDINGS IF DEEMED APPROPRIATE BY A MAJORITY OF THE COUNCIL)

EXHIBITS

- | | |
|-------------|---|
| EXHIBIT "A" | MITIGATED NEGATIVE DECLARATION & INITIAL STUDY |
| EXHIBIT "B" | LETTER TO ADJOINING OWNERS & RESOURCE AGENCIES |
| EXHIBIT "C" | LETTER FROM STATE CLEARINGHOUSE |
| EXHIBIT "D" | LETTER FROM TEHAMA COUNTY AIR POLLUTION CONTROL DISTRICT. |
| EXHIBIT "E" | LETTER FROM ZARA & LORENZO RICHEY |
| EXHIBIT "F" | RESPONSE TO RICHEY LETTER |

Exhibit "A"

CITY OF CORNING PLANNING DEPARTMENT
794 THIRD STREET
CORNING, CALIFORNIA 96021

MITIGATED NEGATIVE DECLARATION FOR THE CLARK PARK MUNICIPAL WELL PROJECT

PROJECT TITLE: Clark Park Municipal Well Project

DESCRIPTION OF PROJECT: The City of Corning plans to construct a new municipal water well, 400 feet deep with a 14" casing. Included as a part of the project will be the installation of a pump, controls, emergency generator, well house building, and approximately 1,400 feet of pipeline for connection to existing City water lines. Located in the City of Corning along the south side of Fig Lane, within Estil Clark Park approximately 700 ft. east of the Fig Lane / Marguerite Ave. intersection. Described as a portion of the south half of Section 23, T. 24N., R. 3W., M.D.M. APN: 73-260-30

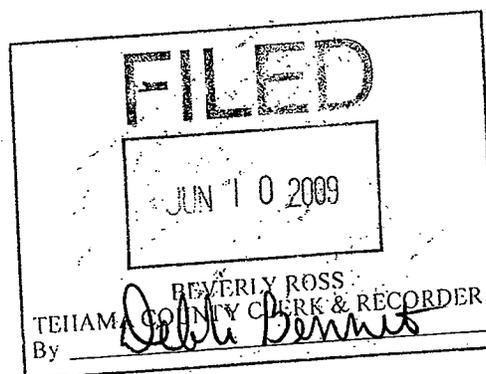
The City of Corning Planning Department has evaluated potential environmental impacts and prepared an Initial Study, using the Initial Study Environmental Checklist Form distributed by the California Office of Planning and Research, and found that with the implementation of mitigation measures and recommended conditions of approval, identified in the initial study, the above described project will have no significant adverse effect on the environment.

Attached is a copy of the Initial Study with identified mitigations and recommended conditions of approval, a Mitigation Monitoring Program and a Traffic Study that is included as an addendum to the Initial Study. Copies of this Mitigated Negative Declaration and Initial Study are available upon request from the Tehama County Clerk & Recorder's Office and the City of Corning Planning Department.

Those wishing to comment regarding this Mitigated Negative Declaration must do so on or before **July 15, 2009** . Comments received after this date will not be valid.


John Stoufer :
Planning Director

DATE: 6-10-09





Initial Study Environmental Checklist Form

1. Project title: Clark Park Municipal Well
2. Lead agency name and address:
City of Corning
794 Third St.
Corning, CA 96021
3. Contact person and phone number: John Stoufer; (530) 824-7036
4. Project location:
Located in the City of Corning along the south side of Fig Lane, within Estil Clark Park approximately 700 ft. east of the Fig Lane / Marguerite Ave. intersection. Described as a portion of the south half of Section 23, T. 24N., R. 3W., M.D.M. APN: 73-260-30
5. Project sponsor's name and address:
City of Corning
794 Third Street
Corning, CA. 96021
6. General plan designation: Park
7. Zoning: PQ – Public / Quasi Public
8. Description of project:
The City of Corning plans to construct a new municipal water well, 400 feet deep with a 14” casing. Included as a part of the project will be the installation of a pump, controls, emergency generator, well house building, and approximately 1,400 feet of pipeline for connection to existing City water lines.
9. Surrounding land uses and setting: Briefly describe the project's surroundings:
The well will be located within the northwest corner of Estil Clark Park a 10 acre city park that is currently developed with baseball and softball fields, a rodeo arena and other recreational facilities. North of the site is a single family residence and Centennial High School the continuation school for the Corning High School District. West of the site is an existing mobilehome park. The property to the south and east is outside the city limits and is currently used as an olive orchard and pasture respectively.
10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.) The City will be required to obtain a permit to drill the well from the Tehama County Environmental Health Department. The city will apply for a USDA Rural development loan under the “Water and Waste Disposal Loan and Grant Program” to fund the well.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input checked="" type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input checked="" type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology /Soils |
| <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Population / Housing |
| <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Mandatory Findings of Significance | |

DETERMINATION: (To be completed by the Lead Agency)
On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.


Signature

June 10, 2009
Date

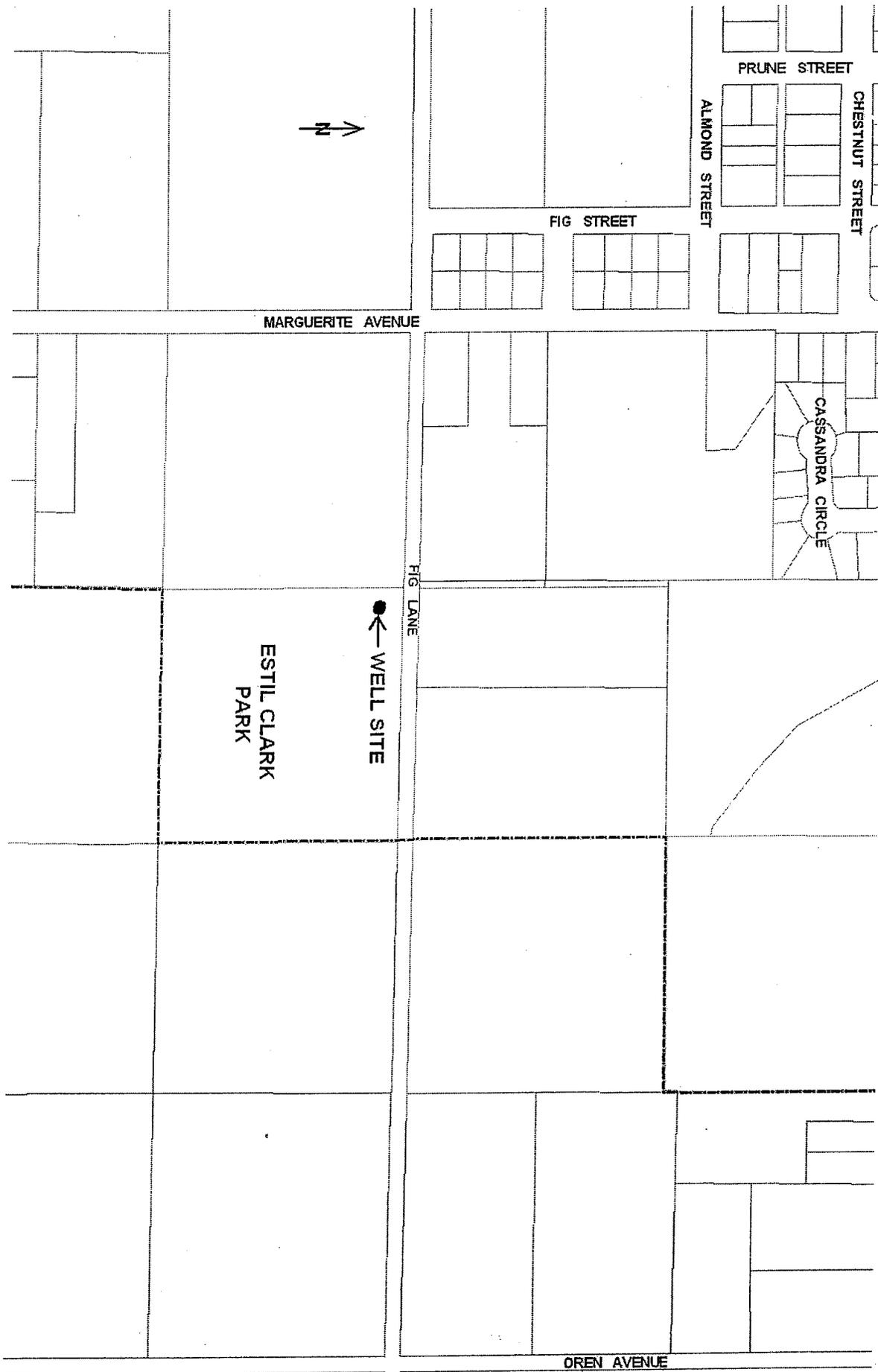
EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a) the significance criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significance

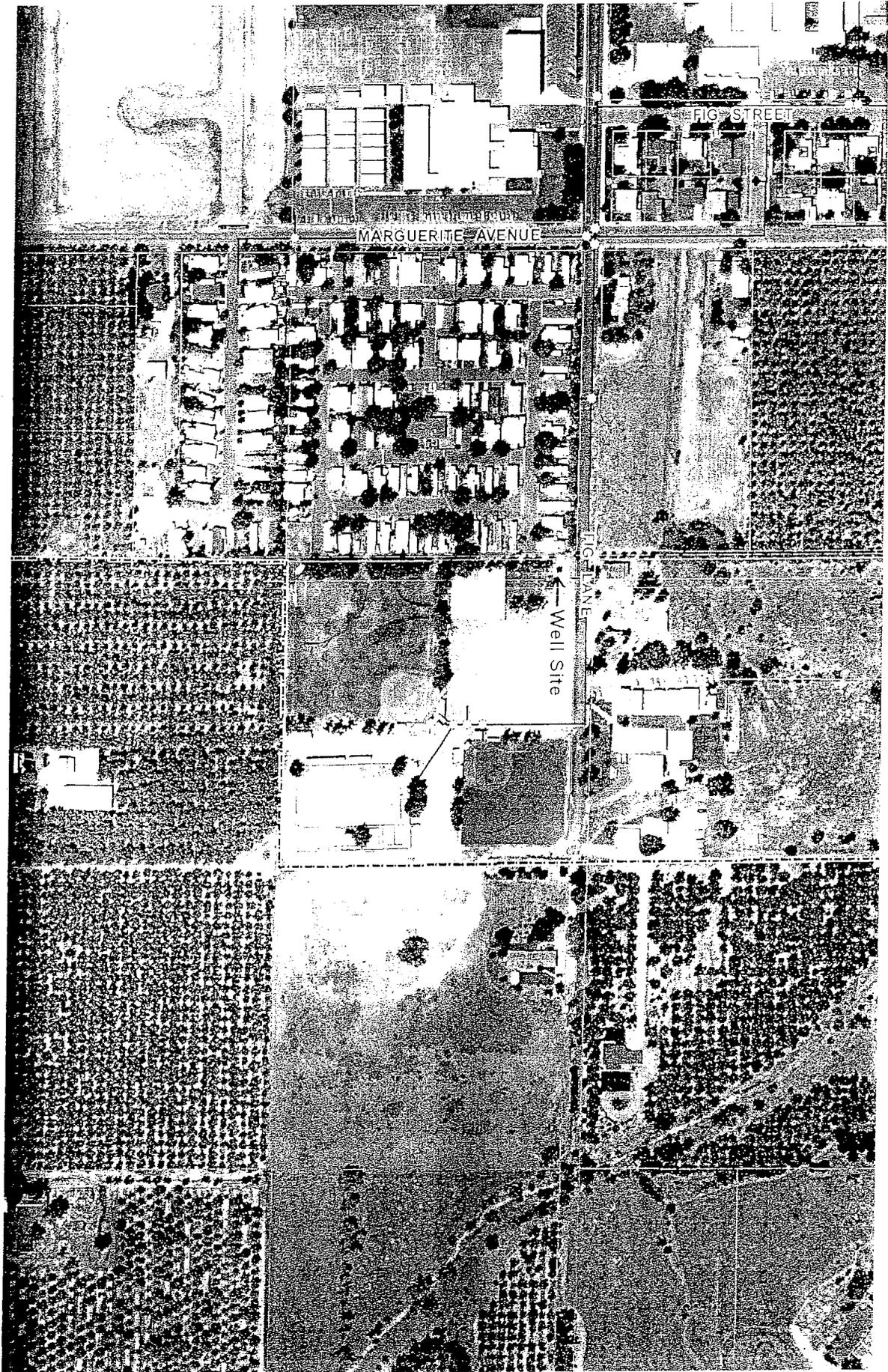
EXHIBITS

VICINITY MAP	PAGE 5
AERIAL PHOTO	PAGE 6
TOPOGRAPHY MAP	PAGE 7
EXISTING WATER LINES & WELLS	PAGE 8
PUMP STATION CONSTRUCTION PLAN	PAGE 9

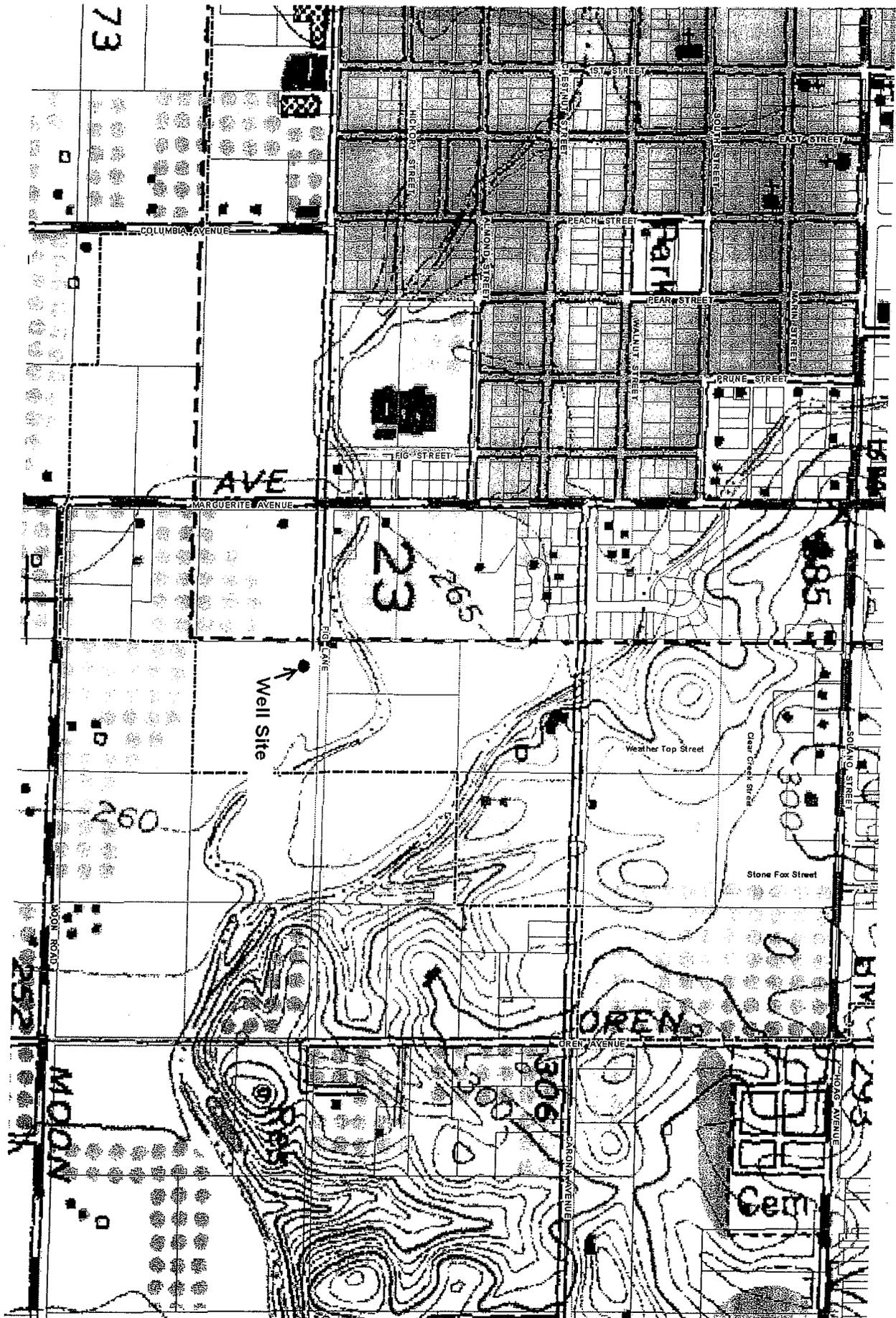
VICINITY MAP



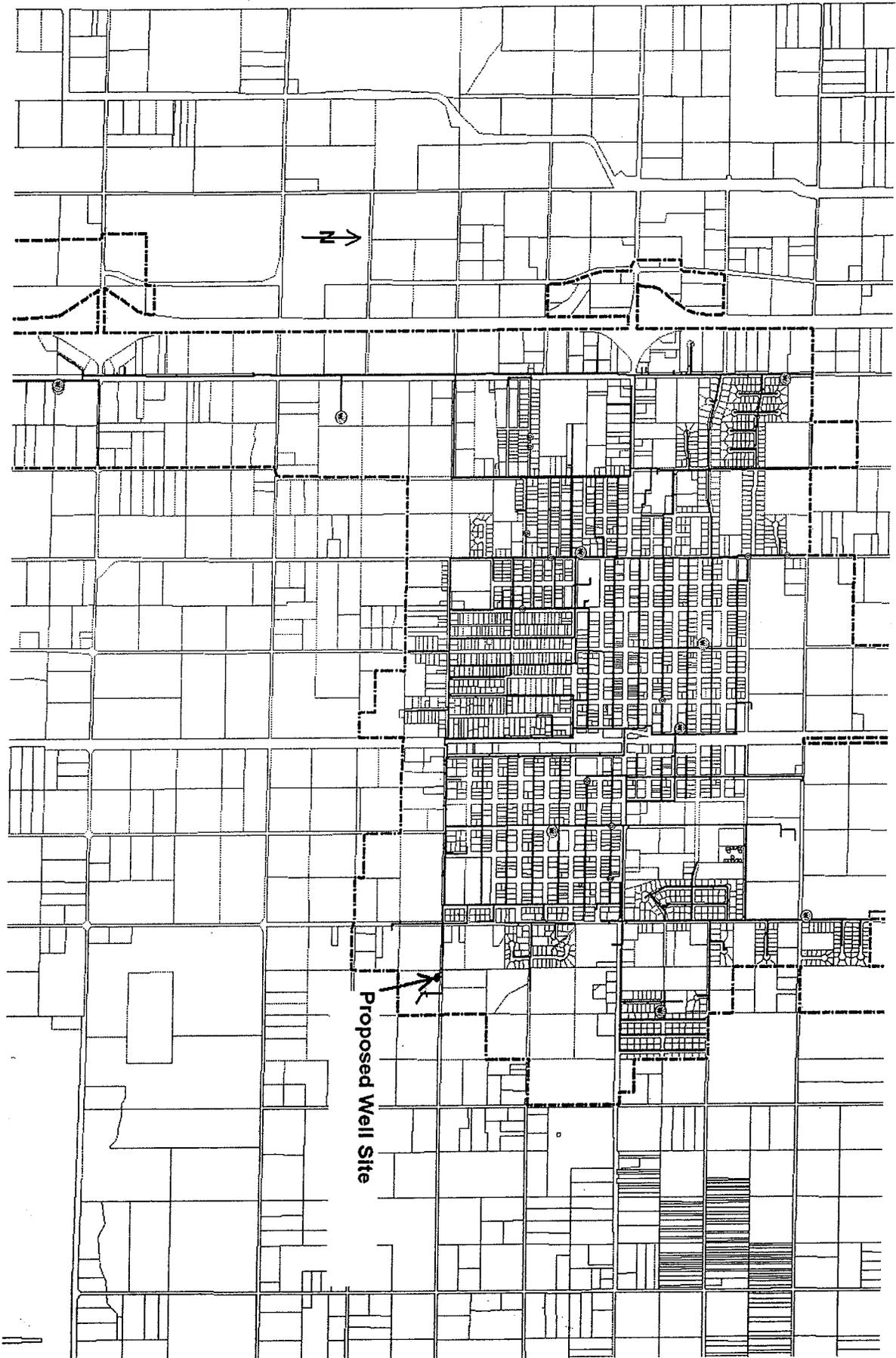
AERIAL PHOTO



TOPOGRAPHY MAP



EXISTING WATER LINES & WELL



<i>Issues:</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?				X
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?		X		
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				X

DISCUSSION: The proposed well site is relatively flat with no structures, scenic vistas or scenic resources that will be impacted by the proposed well site. The well, pump and accessory equipment will be placed within a 480 sq. ft. building for safety and security purposes. Construction of the pump building and drilling of the well will create construction debris on the site. To assure that the building and construction debris does not degrade the character of the site the following mitigation measures will be implemented:

Mitigation Measure I. C. (1)

Building Exterior

The exterior of the building proposed to house the well, pump and accessory equipment shall use earth tone colors for the walls, doors and roof.

Mitigation Measure I. C. (2)

Construction Debris

All construction debris, including soil, resulting from the drilling of the well, construction of the pump building, and related pipe installation shall be removed from the site and properly disposed of.

The project will not create a new source of light that will impact nighttime views or increase glare in the area.

CONCLUSION: Placement of a municipal well with a pump house building does not have any potentially significant impacts on the existing aesthetics of the site or surrounding area.

<i>Issues:</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?				X

DISCUSSION: The well site is within Estil Clark Park and the related pipeline work will be within the right-of-way of Fig Lane and Marguerite Ave.

CONCLUSION: There will be no impacts to agricultural resources.

<i>Issues:</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?			X	
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?		X		
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?		X		
d) Expose sensitive receptors to substantial pollutant concentrations?			X	
e) Create objectionable odors affecting a substantial number of people?				X

DISCUSSION: The project will be require drilling a well to an estimated depth of 400 feet, the installation of approximately 1,400 feet of pipe for connection to the municipal water system and the placement of an emergency generator to power the well during power outings. State and federal ambient air quality standards provide a basis by which the City can evaluate the significance of air quality impacts. Under CEQA, as well as the State and Federal Clean Air Acts, non-attainment of any air quality standard is considered to be an impact. Incremental emissions of non-attainment pollutants are generally considered to be cumulatively significant, because they contribute to non-attainment. Construction, drilling and grading activities will generate dust adding to PM10 emissions. Heavy equipment and vehicular trips by construction personnel will contribute vehicular emissions as well. Construction cleanup will require the removal of soil and other wastes. These would be considered short term impacts.

The following mitigation measures will be implemented to reduce any impacts the project will have on air quality to a Less than Significant level.

Mitigation Measure III. B. 1

FUGITIVE DUST PERMIT

Prior to commencement of any type of construction activities the contractor must submit a construction emission dust/control plan and obtain a Fugitive Dust Control Permit from the Tehama County Air Pollution District and comply with the conditions of approval.

Mitigation Measure III. B. 2

AUTHORITY TO CONSTRUCT

Prior to operation of the drilling rig, the Tehama County Air Pollution Control District will require an application for an Authority to Construct for each of the stationary internal combustion engines used: or Portable Equipment Registration Program Permit issued by the California Air Resources Board must accompany each emission devise and the District shall be notified of the operation no later than three (3) days after commencement of drilling activities.

Mitigation Measure III. C. 1

AUTHORITY TO CONSTRUCT

Prior to installation and operation of the emergency generator the City of Corning must apply for and receive an Authority to Construct from the Tehama County Air Pollution Control District.

CONCLUSION: The identified mitigation measures reduce construction related impacts to a less than significant level and will also assure that impacts to sensitive receptors such as Centennial High School, park users, and orchards in the area are not significant.

<i>Issues:</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
IV. BIOLOGICAL RESOURCES -- Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?				X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X
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DISCUSSION: The well site will be located in the northwest corner of the 10 acre Estil Clark Park, an area currently paved and used for parking. The related pipeline work will be placed within the existing easements of Fig Lane and Marguerite Ave., two roads that are constructed.

CONCLUSION: The construction of the well site and associated pipeline work will not have an impact to Biological Resources.

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X
--	--	--	--	---

DISCUSSION: The well site will be located in the northwest corner of the 10 acre Estil Clark Park, an area currently paved and used for parking. The related pipeline work will be placed within the existing easements of Fig Lane and Marguerite Ave., two roads that are constructed.

CONCLUSION: The construction of the well site and associated pipeline work will not have an impact to Biological Resources.

<i>Issues:</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES -- Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in 15064.5?		X		
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to 15064.5?		X		
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?		X		
d) Disturb any human remains, including those interred outside of formal cemeteries?		X		

DISCUSSION: Historical recognized environmental conditions (HRECs) are defined by the ASTM Practice E1527-00 as an environmental condition which in the past would have been considered a recognized environmental condition, but which may or may not be considered a recognized environmental condition currently. Should any type of cultural resources be unearthed, as a result of construction activities, they could be disturbed or damaged. Therefore, the following mitigation measures will be implemented to prevent significant impacts associated with the construction of the well site and related pipe installation.

Mitigation Measure V. 1

CULTURAL RESOURCES. If subsurface deposits believed to be cultural in origin are discovered during construction, then all work must halt within a 100-foot radius of the discovery, and the City of Corning notified. A qualified professional archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards for prehistoric and historic archaeologist, shall be retained to evaluate the significance of the find. Work cannot continue at the discovery location until the archaeologist conducts sufficient research and data collection to make a determination that the resource is either 1) not cultural in origin; or 2) not potentially significant. If a potentially-eligible resource is encountered, then the archaeologist, lead agency, and project proponent shall arrange for either 1) total data recovery as a mitigation, or, preferably, 2) total avoidance of the resource, if possible. The determination shall be formally documented in writing and submitted to the lead agency as verification that the provisions in CEQA for managing unanticipated discoveries have been met.

Mitigation Measure V. D. 1

HUMAN REMAINS. If human remains, or remains that are potentially human, are discovered during project construction or implementation, all work must stop within a 100-foot radius of the find. The construction supervisor must notify the Corning Police Department immediately, and take appropriate action to ensure that the discovery is protected from further disturbance or vandalism.

Conclusion: Implementation of these mitigation measures will reduce any impacts to Cultural Resources to a Less than Significant level.

<i>Issues:</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
VI. GEOLOGY AND SOILS -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				X
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
ii) Strong seismic ground shaking?				X
iii) Seismic-related ground failure, including liquefaction?				X
iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?				X
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X

DISCUSSION: On May 5, 2008 GEOPlus, Inc. prepared a limited hydrogeologic assessment of a well at this site. In their assessment they state *“The site is located west of a north-south trending structural ridge (anticline) in the Cretaceous bedrock formed by the North and South Corning Domes. The nearest major fault (not active) is the Corning Fault, located east and parallel to Interstate 5 approximately 1-1/2 miles west of the site.”*

The site and surrounding area is relatively flat and there is no risk of landslides or liquefaction. Therefore, there are no potential impacts, or risks to people or structures, associated with construction of a well at this site.

CONCLUSION: There are no impacts associated with the geology and soils at the proposed well site.

<i>Issues:</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
VII. HAZARDS AND HAZARDOUS MATERIALS Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X

DISCUSSION: No hazardous material will be on the site, therefore there is no risk of the release of hazardous materials into the environment. The site is not in any safety zones of the Corning Municipal Airport and there are no known private airports within the vicinity of the proposed well site. Development of the well will not interfere with an adopted emergency response plan or emergency evacuation plan or expose people or structures to wildland fires.

CONCLUSION: There are no significant impacts from hazards or hazardous materials.

<i>Issues:</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
VIII. HYDROLOGY AND WATER QUALITY -- Would the project:				
a) Violate any water quality standards or waste discharge requirements?			X	
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?			X	
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?				X
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?				X
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				X
f) Otherwise substantially degrade water quality?			X	
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X

i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
j) Inundation by seiche, tsunami, or mudflow?				X

DISCUSSION: The hydrogeologic assessment prepared by GEOPlus did a review of environmental data to assess potential sources of chemical contaminants that could affect water quality at the proposed well site. The assessment did not reveal releases of contaminants in the vicinity of the proposed well site which would constitute a threat to groundwater quality. This conclusion was based on conversations with officials of the Tehama County Department of Environmental Health, Regional Water Quality Control Board (RWQCB) and review of RWQCB's Goetracker web site. Testing of groundwater in the wells nearest the proposed well indicate the existing water quality is within drinking standards enforced by the State Office of Drinking Water.

The City recently abandoned its two municipal water wells located at the Petro truck stop near South Ave. and Hwy. 99W. The City made this decision after the gasoline additive MTBE was discovered in adjacent shallow monitoring wells. Note that the City wells were taken "offline" to avoid possible contamination.

The municipal well at Houghton Ave. near Solano St. has been similarly abandoned to avoid possible contamination by dry cleaning solvents from a separate source. Since the loss of these three wells, system pressure drops have been observed during peak uses during a period when one of the City's remaining seven wells was down for routine servicing. To make up for the closure of three wells, and provide an adequate water supply for existing and future demands on the system, the City must drill a new well.

The City of Corning supply wells typically obtain water occurring in multiple 5- to 40- foot thick variable cemented sand and gravel formations. The wells nearest the proposed site are 505 to 830 feet deep, have 12 to 14 inch diameter casings, and produce 600 to 700 gpm. The proposed well is replacing two wells that were previously used to supply the city's water system. This well will not significantly increase the drawdown on the aquifer, deplete groundwater supplies or interfere substantially with groundwater recharge.

Development of the well site will not alter the existing drainage of the site or surrounding area. The FEMA Flood Insurance Rate Map (FIRM) for this area indicates that the site is outside the 100 year floodplain. Additionally the site is not in an area where there is a risk of flooding due to a dam breaking or inundation by seiche, tsunami or mudflows.

Conclusion: Information obtained from local and state agencies and confirmed in the hydrogeologic assessment performed by GEOPlus indicates that there are no significant impacts to hydrology and water quality.

<i>Issues:</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
IX. LAND USE AND PLANNING - Would the project:				
a) Physically divide an established community?				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

DISCUSSION: The proposed well site is within the city-owned 10 acre Estil Clark Park, therefore construction of a municipal well will not physically divide an established and placement of a municipal service in a Public/Quasi Public Zoning District is consistent with the Corning General Plan and Zoning Code. There is no habitat conservation plan or natural community conservation plan established for this area.

CONCLUSION: Development of a well site at this location will not have an impact on land use and planning.

<i>Issues:</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
X. MINERAL RESOURCES -- Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

DISCUSSION: The site is not in a Mineral Resource Zone and construction and operation of the well will not result in the loss or availability of any mineral resources.

CONCLUSION: No Impact

<i>Issues:</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XI. NOISE Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X

DISCUSSION: The human ear is subject to a wide range of sound intensities and people hear changes in sound in proportion to those intensities. The decibel (db) scale is a logarithmic scale used to compress this range. The threshold of human hearing corresponds roughly to 0 db. The "A" weighting scale, that which most closely resembles human hearing is noted by the symbol (dBA). Ambient noise levels constitute the composite from all sources far and near. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location.

The Corning General Plan Noise Element identifies the normally acceptable range for multi-family residential uses as less than 60 dB, while the conditionally acceptable range is 60-70 dB. Sound travels through the air as waves of minute air pressure fluctuations caused by some types of vibrations. In general, sound waves travel away from the noise source as an expanding spherical surface. The energy contained in a sound wave is consequently spread over an increasing area as it travels away from the source. The result is a decrease in loudness at greater distances from the noise source.

Noise barriers or walls are used to reduce noise levels from stationary sources. Noise barriers serve a dual purpose in that they can reduce both outdoor and indoor noise levels. To be effective, a noise barrier must be large enough to prevent significant noise transmission through it. It must also be high and long enough to shield the receiver from the noise source. A safe minimum surface weight for a noise barrier is 3.5 pounds per square foot (equivalent to 0.75-inch plywood). To be effective, a barrier must intercept the line of noise between the noise source and the receiver.

The proposed well site would be approximately 50 feet from the closet mobilehome located in the mobilehome park adjacent to the site. To assure that noise generated from the pump placed on the well head will not exceed the acceptable levels identified in the General Plan a 480 sq. ft. fully enclosed building will be constructed to house the well, pump, emergency generator and accessory equipment. The sides of this building will be constructed with 8"x6"x16" concrete slump block and all cells will be filled with grout.

The Airport Noise Contour Map shows that the site is well outside the 55 CNEL noise contour, which is well below the acceptable range for residential land uses, therefore, noise from the airport will not significantly impact the project site.

CONCLUSION: Short-term construction noise will not significantly impact the site or surrounding area. Construction of the well house with filled concrete slump block will provide an adequate buffer for surrounding uses from the noise generated by the well and pump.

<i>Issues:</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XII. POPULATION AND HOUSING -- Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			X	
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X

DISCUSSION: As previously mentioned the new well will replace two existing wells that served the municipal water system but had to be abandoned due to possible ground contamination. The only new infrastructure proposed for the project, other than the well and pump, is pipes from the well site to be connected to existing pipes currently serving the system. Additional pipes will not be extended to undeveloped areas therefore installation of a well at this site will not induce a substantial growth in population.

CONCLUSION: There are no significant impacts associated with the project.

<i>Issues:</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XIII. PUBLIC SERVICES				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?			X	
Police protection?				X
Schools?				X
Parks?				X
Other public facilities?				X

DISCUSSION: The well will be operated and maintained by the City of Corning's Public Works Department. The Public Works Department currently has one full time employee that is responsible for well maintenance and testing. The addition of one additional well will not expand his daily responsibilities or work load to a point where additional personnel would be necessary.

With two wells being removed from the system pressure drops have occurred during peak usage. The addition of this well will help in preventing pressure drops which will be a benefit to fire protection for the City.

CONCLUSION: Construction of a well at this site will not have an impact on Public Services.

<i>Issues:</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XIV. RECREATION				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X

DISCUSSION: When completed the well site will occupy approximately 500 sq. ft. of the 10 acre Estil Clark Park. The proposed area where the well be located is currently used for parking and none of the existing recreational structures located in the park will be impacted by the proposed well location.

CONCLUSION: Construction of the well at this location will not have an impact to recreation or existing recreational facilities.

<i>Issues:</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XV. TRANSPORTATION/TRAFFIC -- Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				X
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X
e) Result in inadequate emergency access?				X
f) Result in inadequate parking capacity?			X	
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X

DISCUSSION: The Public Works Department will make one or two daily trips to the well site for maintenance and water sampling which will not substantially increase the existing traffic load. All work within the easements of Fig Lane and Marguerite Ave. will be backfield and repaved. Estil Clark Park has a large parking lot capable of holding approximately 300 automobiles and there is a bicycle rack that can hold 12 bikes. The well site will eliminate approximately 3 parking spaces which is not a significant decrease or impact to the parking area for the park.

CONCLUSION: Development of the well site will not impact the transportation system in the City of Corning.

<i>Issues:</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XVI. UTILITIES AND SERVICE SYSTEMS Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?			X	
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the projects projected demand in addition to the providers existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the projects solid waste disposal needs?				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X

DISCUSSION: The City of Corning owns and operates its water supply and distribution system. The system relies solely on groundwater and does not have any surface entitlements. The proposed well will replace two existing wells that have been abandoned due to possible contamination. The well will be used as an additional source of water for the existing system and will be placed in an area that will not cause significant environmental effects.

CONCLUSION: Existing utilities and service systems will not be significantly impacted by the project.³²

<i>Issues:</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XVII. MANDATORY FINDINGS OF SIGNIFICANCE --				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			X	
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?				X

DISCUSSION: There are no biological or historical values to the site and all identified impacts have been mitigated to a Less than Significant level. Establishment of the well site will not have cumulative impacts.

CONCLUSION: Mitigation measures have reduced identified impacts to a Less than Significant level.

BIBLIOGRAPHY

Source:

City of Corning General Plan
Land Use Element
Circulation Element
Open Space Element
Housing Element
Safety Element
Noise Element
Conservation Element
Public Facilities Element
GEOPlus - Limited Hydrogeologic Assessment
Zoning Code
Subdivision Ordinance
Building & Construction Ordinance

State of California Regulations
Subdivision Map Act
California Environmental Quality Act
Planning and Zoning Law

Persons/Agencies Contacted
John Brewer-Corning Public Works Director
Ed Anderson-Corning City Engineer

Principal Author:
John Stoufer-Planning Director, City of Corning

MITIGATION MONITORING PROGRAM
PROJECT TITLE: CLARK PARK WELL
NAME, ADDRESS, PHONE NUMBER OF APPLICANT

City of Corning
794 Third Street
Corning, CA. 96021
(530) 824-7036

The size and complexity of the proposed project require development of a formal mitigation monitoring program to ensure that monitoring is carried out in all stages. Monitoring is divided into three categories related to the timing of activities and implementation of mitigations.

1. Pre-Construction Mitigations (PC). These are activities that precede any actual land disturbance. Included among these mitigations are the development of drainage, erosion control and tree management plans. Also included are the delineation of any wetlands that may be subject to development impact and the establishment of Environmentally Sensitive Areas (ESAs) or Zones (ESZs) around archaeological sites and specimen oak trees.
2. Construction-Related Mitigations (DC). These include implementation of the drainage and erosion control plans, building setbacks from sensitive areas, and all other measures required to reduce the impacts of construction and development.
3. Ongoing Mitigations (OG). These include the maintenance programs necessary to ensure long-term control of erosion, protection of surface water quality in runoff, and protection of the wildlife and wildlife habitat resources on the project.

Monitoring will be the responsibility of various city, county and state agencies, although the physical inspections may be delegated to a private company or individuals chosen by these agencies and/or an environmental coordinator. All costs of mitigation monitoring will be borne by the developers, who are usually required to deposit money with the city, county or state agency in advance of the required monitoring effort.

The following environmental mitigation measures were incorporated in the conditions of approval for this project in order to mitigate identified environmental impacts to a level of insignificance. For tentative maps, some mitigation measures must be completed prior to map recordation (PR). Others are implemented during permitting stages following map recordation (AR), or are ongoing mitigation measures. A completed and signed checklist for each mitigation measure indicates that the mitigation measure has been complied with and implemented, and fulfills the monitoring requirements with respect to Assembly Bill 3180 (PRC Section 21081.6).

Currently, the applicant is seeking approval of Clark Park Well Project. A description of the pending project can be found in the initial study. Questions about this monitoring program should be directed to the City of Corning Planning Department.

ACRONYMS USED

CDFG	California Department of Fish and Game
CalTrans	California Department of Transportation
CDF	California Department of Forestry
CSD	Community Services District
CVRWQCB	Central Valley Regional Water Quality Control Board
DEV	Developer
HOA	Homeowners' Association
TCAPCD	Tehama County Air Pollution Control District
CBD	City of Corning Building Department
CFD	City of Corning Fire Department
CPLD	City of Corning Planning Department
CPD	City of Corning Police Department
CPWD	City of Corning Public Works Department
USACOE	United States Army Corps of Engineers

Monitoring Phases

PC Pre-Construction

DC During Construction

OG Ongoing

BP During Building Permit Approval

Subdivision Map Phase (Tentative Maps)

PR Prior to Map Recordation

AR After Map Recordation

MITIGATION MONITORING PROGRAM

ISSUE: Aesthetics

IMPACT(S): The site is relatively flat with no structures, scenic vistas or scenic resources that will be impacted by the proposed well site. The well, pump and accessory equipment will be placed within a 480 sq. ft. building for safety and security purposes. Construction of the pump building and drilling of the well will create construction debris on the site. To assure that the building and construction debris does not degrade the character of the site the following mitigation measures will be implemented:

Mitigation Measure I. C. (1)

Building Exterior

The exterior of the building proposed to house the well, pump and accessory equipment shall use earth tone colors for the walls, doors and roof.

Mitigation Measure I. C. (2)

Construction Debris

All construction debris, including soil, resulting from the drilling of the well, construction of the pump building, and related pipe installation shall be removed from the site and properly disposed of.

Implementing Agency: Project applicant

Monitoring Agency: CPLD

Funding Source: Developer/Applicant

Subdivision Map Phasing: N/A

Phase of Monitoring: PC, DC, OG

Performance Standards (standard for success): As determined by Monitoring Agencies.

Additional Notes:

COMPLIANCE VERIFIED

(see attached verification report)

DATE _____

MITIGATION MONITORING PROGRAM

ISSUE: Air Quality

IMPACT(S): The project will be require drilling a well to a depth of 400 feet, the installation of approximately 1400 feet of pipe for connection to the municipal water system and the placement of an emergency generator to power the well during power outings. State and federal ambient air quality standards provide a basis by which the City can evaluate the significance of air quality impacts. Under CEQA, as well as the State and Federal Clean Air Acts, non-attainment of any air quality standard is considered to be an impact. Incremental emissions of non-attainment pollutants are generally considered to be cumulatively significant, because they contribute to non-attainment. Construction, drilling and grading activities will generate dust adding to PM10 emissions. Heavy equipment and vehicular trips by construction personnel will contribute vehicular emissions as well. Construction cleanup will require the removal of soil and other wastes. These would be considered short term impacts.

Mitigation Measure III. B. 1

FUGITIVE DUST PERMIT

Prior to commencement of any type of construction activities the contractor must submit a construction emission dust/control plan and obtain a Fugitive Dust Control Permit from the Tehama County Air Pollution District and comply with the conditions of approval.

Mitigation Measure III. B. 2

AUTHORITY TO CONSTRUCT

Prior to operation of the drilling rig, the Tehama County Air Pollution Control District will require an application for an Authority to Construct for each of the stationary internal combustion engines used: or Portable Equipment Registration Program Permit issued by the California Air Resources Board must accompany each emission devise and the District shall be notified of the operation no later than three (3) days after commencement of drilling activities.

Mitigation Measure III. C. 1

AUTHORITY TO CONSTRUCT

Prior to installation and operation of the emergency generator the City of Corning must apply for and receive an Authority to Construct from the Tehama County Air Pollution Control District.

Implementing Agency: Project applicant

Monitoring Agency: TCAPCD -CPWD

Funding Source: Developer/Applicant

Subdivision Map Phasing: N/A

Phase of Monitoring: PC, DC, OG

Performance Standards (standard for success): As determined by Monitoring Agencies.

Additional Notes: _____

COMPLIANCE VERIFIED

(see attached verification report)

DATE _____

MITIGATION MONITORING PROGRAM

ISSUE: Cultural Resources

IMPACT: Historical recognized environmental conditions (HRECs) are defined by the ASTM Practice E1527-00 as an environmental condition which in the past would have been considered a recognized environmental condition, but which may or may not be considered a recognized environmental condition currently. Should any type of cultural resources be unearthed, as a result of construction activities, they could be disturbed or damaged. Therefore, the following mitigation measures will be implemented to prevent significant impacts associated with the construction of the well site and related pipe installation.

Mitigation Measure V. 1

CULTURAL RESOURCES. If subsurface deposits believed to be cultural in origin are discovered during construction, then all work must halt within a 100-foot radius of the discovery, and the City of Corning notified. A qualified professional archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards for prehistoric and historic archaeologist, shall be retained to evaluate the significance of the find. Work cannot continue at the discovery location until the archaeologist conducts sufficient research and data collection to make a determination that the resource is either 1) not cultural in origin; or 2) not potentially significant. If a potentially-eligible resource is encountered, then the archaeologist, lead agency, and project proponent shall arrange for either 1) total data recovery as a mitigation, or, preferably, 2) total avoidance of the resource, if possible. The determination shall be formally documented in writing and submitted to the lead agency as verification that the provisions in CEQA for managing unanticipated discoveries have been met.

Mitigation Measure V. D. 1

HUMAN REMAINS. If human remains, or remains that are potentially human, are discovered during project construction or implementation, all work must stop within a 100-foot radius of the find. The construction supervisor must notify the Corning Police Department immediately, and take appropriate action to ensure that the discovery is protected from further disturbance or vandalism.

Implementing Agency: Project applicant

Monitoring Agency: CPWD

Funding Source: Developer/Applicant

Subdivision Map Phasing: N/A

Phase of Monitoring: DC, OG

Performance Standards (standard for success): As determined by Monitoring Agencies.

Additional Notes: _____

COMPLIANCE VERIFIED

(see attached verification report)

DATE _____



Exhibit "B" City of Corning

794 Third St. Corning, CA 96021 (530) 824-7020 Fax (530) 824-2489

CITY OF CORNING CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION

Pursuant to the State of California Public Resources Code and the "Guidelines for Implementation of the California Environmental Quality Act of 1970", as amended to date, a Mitigated Negative Declaration has been filed on the project listed below:

PROJECT TITLE: Clark Park Municipal Well Project

DESCRIPTION OF PROJECT: The City of Corning plans to construct a new municipal water well, 400 feet deep with a 14" casing. Included as a part of the project will be the installation of a pump, controls, emergency generator, well house building, and approximately 1,400 feet of pipeline for connection to existing City water lines. Located in the City of Corning along the south side of Fig Lane, within Estil Clark Park approximately 700 ft. east of the Fig Lane / Marguerite Ave. intersection. Described as a portion of the south half of Section 23, T. 24N., R. 3W., M.D.M. APN: 73-260-30

A Mitigated Negative Declaration means a statement describing the reasons that the proposed project will not have a significant effect on the environment. The Mitigated Negative Declaration, and Initial Study prepared for the project, are available for public review at the Tehama County Clerk & Recorder's Office, Tehama County Courthouse, Red Bluff, California and Corning City Hall, 794 Third Street, Corning, California.

The public review period for submitting comments on the Mitigated Negative Declaration will begin on June 15, 2009 and end on July 15, 2009. If you have any comments after reading the Mitigated Negative Declaration they are to be made in writing and submitted to City of Corning, Planning Department.

The City wants you to be aware that the Mitigated Negative Declaration, plans and other project information are available for your review at City Hall, 794 Third Street in Corning. You are invited to attend a Public Hearing to be conducted by the Corning City Council in the City Council Chambers in City Hall at 794 Third Street at 7:30 p.m. on Tuesday, August 11, 2009. Please note if this project is challenged in court, you may be limited to raising only those issues that were raised at the Public Hearing or in writing delivered to the Council at or prior to the Public Hearing.

John Stoufer,
Planning Director

Date: June 10, 2009

Mailed 6/11/09



Exhibit "C"

STATE OF CALIFORNIA

GOVERNOR'S OFFICE of PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

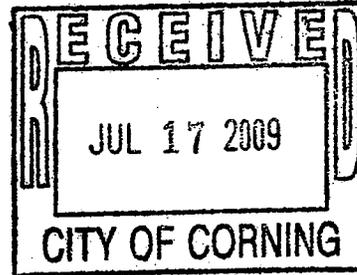


ARNOLD SCHWARZENEGGER
GOVERNOR

CYNTHIA BRYANT
DIRECTOR

July 15, 2009

John Stoufer
City of Corning
794 Third Street
Corning, CA 96021



Subject: Clark Park Municipal Well Project
SCH#: 2009062058

Dear John Stoufer:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. The review period closed on July 14, 2009, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Terry Roberts
Director, State Clearinghouse

Document Details Report
State Clearinghouse Data Base

SCH# 2009062058
Project Title Clark Park Municipal Well Project
Lead Agency Corning, City of

Type MND Mitigated Negative Declaration
Description Construct a new municipal well, 400 ft deep with a 14" casing. Included as part of the project will be the installation of a pump, controls, emergency generator, well house building, and ~1,400 ft of pipeline for connection to existing water lines.

Lead Agency Contact

Name John Stoufer
Agency City of Corning
Phone (530) 824-7036
email
Address 794 Third Street
City Corning **State** CA **Zip** 96021
Fax

Project Location

County Tehama
City Corning
Region
Lat / Long
Cross Streets Fig Ln / Marguerita Ave
Parcel No. 73-260-30
Township 24N **Range** 3W **Section** 23 **Base** MDB&M

Proximity to:

Highways
Airports Corning Municipal
Railways UPRR
Waterways Jewett Creek
Schools Maywood MS, Olive View ES
Land Use City Park / Public/Quasi Public / Park

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic

Reviewing Agencies Resources Agency; Department of Fish and Game, Region 1; Department of Parks and Recreation; Department of Water Resources; Caltrans, District 2; Department of Health Services; Regional Water Quality Control Bd., Region 5 (Redding); Native American Heritage Commission; State Lands Commission

Date Received 06/15/2009 **Start of Review** 06/15/2009 **End of Review** 07/14/2009



Exhibit U

COUNTY OF TEHAMA

Air Pollution Control District

P.O. Box 8069 * 1750 Walnut Street
Red Bluff, CA 96080

ALAN ABBS

Phone: (530) 527-3717

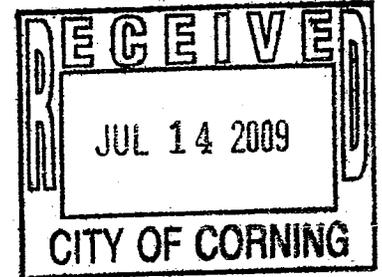
AIR POLLUTION CONTROL OFFICER

Fax: (530) 527-0959

E-MAIL: aabbs@tehcoapcd.net

July 10, 2009

Mr. John Stoufer
Planning Director
City of Corning Planning Department
794 Third Street
Corning, CA 96021



RE: Mitigated Negative Declaration, City of Corning Municipal Well

Dear Mr. Stoufer:

The Tehama County Air Pollution Control District (District) has reviewed the Mitigated Negative Declaration associated with the proposed installation of a new municipal water well by the City of Corning. The District agrees with the three mitigation measures which include the Fugitive Dust Permit and Authority to Construct applications with the District prior to drilling or installation activities. The District has no additional services or conditions to provide or require at this time as a condition of County approval.

If there are questions or concerns, please contact me at (530) 527-3717.

Sincerely,

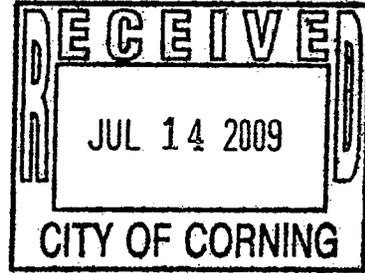
Carol A. Golsh
Air Pollution Specialist

Exhibit "E"

784 Orkney Ave
Santa Clara, CA 95054

July 10, 2009

Attn: John Stoufer
Planning Director
City of Corning
794 Third St
Corning, CA 96021



Re: Clark Park Municipal Well Project

Dear Mr Stoufer:

My wife and I own ten acres of producing olives located on the north side of Moon Road w/Oren Ave .2 mile.

The west side of our property borders the easement road between Estil Clark Park and Moon Road. I am enclosing a copy of page 6 of your Mitigated Negative Declaration showing our property and well location.

We have a 150 foot deep well on the southwest corner of our property used for irrigation of the olive orchard.

Our concern is that the proposed City of Corning well, at a depth of 400 feet, will lower the water table and impact the irrigation of our orchard.

Sincerely,

Zara M Richey

Zara M. Richey
Lorenzo Lee Richey
Lorenzo Lee Richey

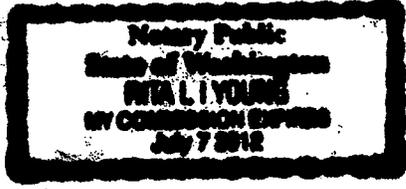
STATE OF WASHINGTON, } ss.
COUNTY OF CLALLAM, }

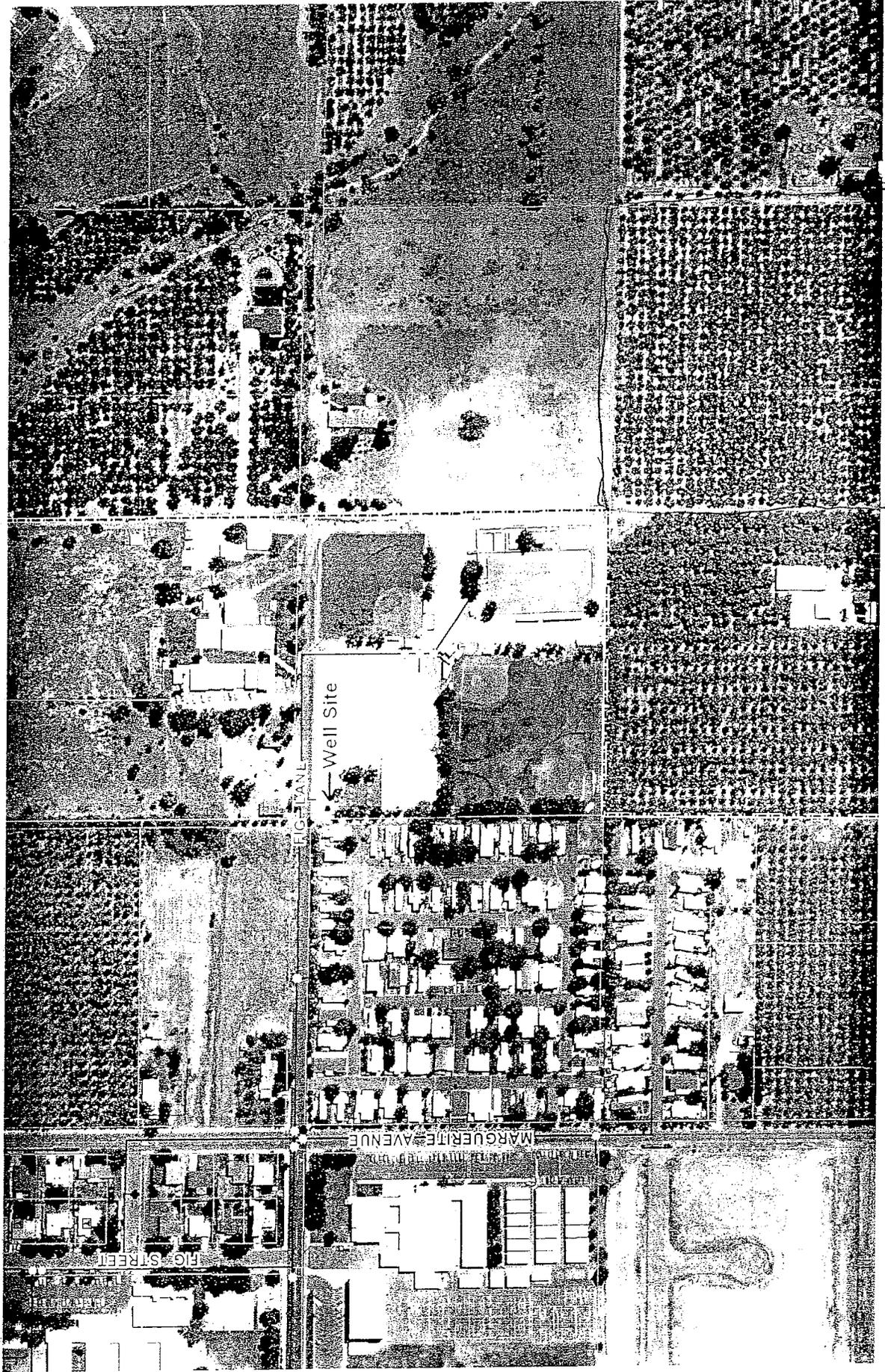
On this day personally appeared before me, Zara M Richey & Lorenzo Lee Richey to me known to be the individual S described in and who executed the within and foregoing instrument and acknowledged that they executed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal

this 10th day of July, 2009

Paul L. Young
Notary Public in and for the State of Washington residing in Sequim





AERIAL PHOTO

⊕ Richey Property

Well location



Exhibit "F" City of Corning

794 Third St. Corning, CA 96021 (530) 824-7020 Fax (530) 824-2489

July 28, 2009

Zara & Lorenzo Richey
784 Orkney Ave.
Santa Clara, CA. 95054

RE: Clark Park Municipal Well Project

Dear Mr. & Mrs. Richey;

I have received your letter regarding the municipal well proposed for construction in the northwest corner of Estil Clark Park. I would like to offer the following information to support the determination in the initial study that the well will not have a significant impact to, or substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted).

In 1988 the City of Corning contracted with Meade and Associates, an engineering, planning and environmental assessment group from Napa, CA to prepare a Master Environmental Assessment (MEA) for the City of Corning and the City's Sphere of Influence. The MEA was prepared to provide the City of Corning with documentation of existing environmental conditions within the City's planning area. The MEA is used by staff in the review of individual development projects to determine the level of impact to a variety of environmental factors as identified in the initial study.

The MEA is also intended to be of use to project applicants, neighborhood interest groups, those reviewing project Environmental Impact Reports and Negative Declarations, and the general public. The MEA provides information to determine whether certain environmental effects are likely to occur and whether certain environmental effects will be significant.

In regards to Groundwater the MEA states: *"Beneath the City of Corning and the Sacramento Valley lies the vast Sacramento Valley groundwater basin extending from about five miles north of Red Bluff southward 150 miles to the Sacramento-San Joaquin River Delta."*

"The large quantities of water stored within the largely unconfined groundwater basin are derived from the thick non-marine sedimentary deposits from the post-Eocene. Underlying these deposits are marine and continental deposits from the Eocene which contain brackish or saline water. The rocks of these older deposits are impermeable and form the bottom of the basin. Fresh water is not present beneath them."

"The primary yielding formations upon which the City of Corning is located are the alluvial deposits found along the Sacramento River and its tributaries. These deposits are characteristically unconsolidated sand, gravel, and silt with minor amounts of clay and include natural levees and floodplain deposits. Gravelly portions are highly permeable and yield large quantities of water to wells of shallow depth."

"Another formation found in the Corning area is the Pleistocene gravel of the Red Bluff Formation. This formation generally contains poorly sorted, gravelly deposits with a red silt clay matrix, and may be found resting on the eroded surface of the Tehama Formation. The main deposits lie west of the Sacramento River where they are not over 50 feet thick. Generally, this formation is unimportant as a source of groundwater, due to poor permeability and the fact that the deposits are for the most part above the zone of saturation. The deposits may contain shallow, perched water."

"The third formation found in the Corning area is the Tertiary-Quaternary deposits of the Tehama Formation. The sand and gravel of the Tehama Formation are an important source of groundwater along the west side of the valley. In the Corning area, the Tehama Formation is exposed along the Corning Anticline east of the developed portion of the City."

"The alluvial deposits and the Tehama Formation are the primary water yielding formations for groundwater within the Corning area."

In regards to Groundwater Recharge the MEA states: "Replenishment of groundwater occurs through deep percolation of streamflow, precipitation, and applied irrigation, Seepage from private septic-tank leachfields also contributes to groundwater."

"The primary source of groundwater recharge in the Corning planning area and for the Corning groundwater sub-basin is through percolation of waters through the sand and gravel of streams and drainage courses. Although a determination of the amount of groundwater recharge from either Jewett or Burch creeks has not been undertaken, each creek does provide an indeterminate amount of groundwater recharge to the local groundwater aquifer. Thomes Creek which runs northwest to southeast approximately three miles north of the City is identified by the Department of Water Resources (DWR) as a major groundwater

recharge source: it is estimated that ten percent of the valley total of natural recharge occurs in the Thomes Creek area."

In regards to Groundwater Quantity the MEA states: "Because groundwater levels are directly related to the rates of recharge and discharge of the groundwater aquifer, any project which results in an overall or cumulative change in the recharge to discharge ratio will likely have an impact. A project may increase discharge through additional pumping in response to increased water demand, or a project may decrease recharge through over-covering of the recharge area with impervious material (pavement, and other impervious structures) or decreasing the water availability to the recharge area (diversions, changes in irrigation practices etc.)."

"Since primary groundwater recharge in the Corning area is most likely associated with Thomes Creek outside of the Corning Planning area, it is unlikely that development within the City of Corning or its Sphere of Influence would in itself result in a significant decrease in recharge through overcovering permeable soils. In addition, the floodplains of Jewett and Burch Creeks which may provide a source for local groundwater recharge are (or should be protected) from development through various land use policies (Floodplain ordinance on Jewett Creek, Protection of Riparian Habitat policy on Burch Creek).

Since the MEA was prepared in 1988 there has been very little development that would impact the floodplains and recharge capabilities of Jewett and Burch Creeks. Minimum setbacks, in conjunction with the California Department of Fish & Games policies, is 50 feet from the edge of the riparian habitat which assists in the protection of the groundwater recharge areas on both creeks.

Tehama County has recently adopted a new General Plan which raised the minimum parcel size on parcels that bound Thomes Creek from 10 acres to 20 acres on non-contracted agricultural parcels and for agricultural parcels that are contracted under the provisions of the Williamson Act the minimum parcel size is 40 acres. These minimum parcel sizes along with development setbacks established by Fish & Game policies will assure that Thomes Creek will remain as the primary groundwater recharge source for the City of Corning.

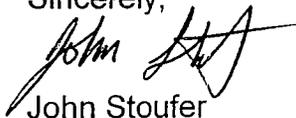
The MEA also assessed the Depth of Groundwater and stated: *"Depth of groundwater in the Corning area is highly variable, depending on the specific location and geologic formation. An evaluation of well logs in the City of Corning planning area has been made to determine the minimum, maximum, and average depths of wells in the area."* The average well depth for irrigation wells such as yours is 193 feet and for municipal wells such as the one proposed for Clark Park is 522 feet.

"The value of the depth of well measurements is to provide an indication of the average depth of wells within the planning area. In many parts of the Corning area, water bearing gravels are found at various depths, separated by non-bearing clays or clay silts."

Your letter states that your well is 150 feet deep. The proposed municipal well at Clark Park will be 400 feet deep, a separation of 250 feet, which as you can see by the information provided, will more then likely draw water from a separate source of water bearing gravel. This separation, along with the continued protection of the three main recharge creeks provides sufficient evidence to conclude that the construction of a 400 feet deep municipal well at this location will not impacted surrounding wells.

Adoption of the Mitigated Negative Declaration is scheduled for a Public Hearing before the Corning City Council on Tuesday, August 11, 2009 at 7:30 P.M. The meeting will be held in the Council Chambers at 794 Third Street, Corning, CA. If you have any questions or require additional information please contact me at (530) 824-7036.

Sincerely;

A handwritten signature in black ink, appearing to read "John Stoufer", with a stylized flourish at the end.

John Stoufer
Planning Director

ITEM NO.: K-14
LOSS OF STATE DIVISION OF
AERONAUTICS 2.5% MATCH; CORNING
MUNICIPAL AIRPORT IMPROVEMENT
PROJECT

AUGUST 11, 2009

TO: CITY COUNCIL OF THE CITY OF CORNING, CALIFORNIA

FROM: STEPHEN J. KIMBROUGH; CITY MANAGER
JOHN L. BREWER, AICP; PUBLIC WORKS DIRECTOR



SUMMARY:

Staff was informed on Tuesday, August 4th, that the recently approved state budget eliminated the Division of Aeronautics state match for airport improvement projects. That means the City will be responsible for nearly twice the projected "City Match" amount-or about \$125,000.00.

BACKGROUND:

At the last two City Council meetings, staff presented plans for improvements to the Corning Municipal Airport. Additionally, Council approved details of the funding package for the project. As you may recall, airport improvement project funding typically comes from three separate sources; the FAA, the State Division of Aeronautics, and the City.

The staff reports presented at those two meetings included the chart shown that presents the funding source "shares", based on a projected \$2.5 million project.

FAA	\$2,375,000.00	95% of Engr. Estimate
Cal Div. Aeronautics	\$59,375.00	2.5% of FAA "Grant"
City of Corning	\$65,625.00	2.625% (remainder)
Engineer's Estimate	\$2,500,000.00	

On the afternoon of Tuesday, August 4th, the Federal Aviation Administration (FAA) contacted your Public Works Director. The caller relayed that the California Division of Aeronautics had opted not to provide matching funds for improvements planned for Benton Airpark in Redding. The FAA wanted an immediate answer as to whether the City would proceed with the project without the (2.5%) Division of Aeronautics funding.

Staff immediately contacted the Division of Aeronautics to check on the information and confirmed that the "Aeronautics match" funds had been taken to balance the state general fund. See the attached letter from the Division of Aeronautics.

After discussing the matter with Airport Consultant Bob Wadell, staff informed the FAA that we'd proceed with the project. Answering in the negative would have been contrary to City Council direction to date. Moreover, it would have caused FAA to redirect the funds that have been reserved for our airport project.

FUNDING:

Council has previously authorized borrowing the City match (\$65,625.00) from the Development Impact Fee Traffic Mitigation Fee account. The loss of the Division of Aeronautics funds means we'll need to come up with (up to) an additional \$59,375.00 as our share of the airport improvement project. The combined total would then be \$125,000.00 if the total project bids at \$2.5 million.

Recent construction bids have been coming in 20% under the engineer's estimates, so that \$2.5 million could become \$2.0 million, just due to the downturned economy and the competitive bids of "hungry" contractors. At \$2.0 million, we'd be looking at the need to come up with a total of \$100,000.00, or \$34,375.00 more than we've anticipated.

We will get credit for "administrative costs" associated with the project. We can take reimbursement (at 95%) or get credit toward our "Match" amount. For example, Mr. Wadell recently billed for \$4,800 in City administrative costs. FAA will reimburse \$4,560.00 of that. We also expect to accumulate P/W crew labor costs for removing the runway lights, extending an onsite water line, and additional support costs as the project proceeds.

Another possible revenue source of matching funds is the value of "construction water". Construction water is water drafted from fire hydrants that's used to control excavation dust or to compact filled aggregate or soils. Staff has prepared a separate staff report to present the concept of increased construction water rates for your consideration.

The balance in the Traffic Mitigation Fee Account currently stands at \$403,216.00. We're simultaneously starting the design work on the traffic signal that's planned for the intersection of Solano Street and Marguerite Avenue. The City Engineer expects that overall signalization project will cost about \$250,000.00. As you can see from the chart below, there are sufficient funds in the DIF account to cover both the cost of the traffic signal project and a loan for the "combined match".

<u>Account/Item</u>	<u>Balance/Cost</u>
Traffic Mitigation Fee Balance	\$ 403,216
Traffic Signal	\$ (250,000)
Airport "Combined Match" Loan	\$ (125,000)
Remainder	\$ 28,216

The City will know exactly what our "combined match" liability will be when the bids come in. At that point, Council could reverse direction and opt not to award the bid

for the project. Of course abandoning the project could have long-lasting negative effects on our reputation and relationship with the FAA, and significantly reduce our chances of additional future project funding.

If the Council feels that borrowing the additional amount will leave the Traffic Mitigation Fee account too low, the option of the "loan" from the Division of Aeronautics might be worth reconsideration. We confirmed that, while the grant funds have been "taken", the Division of Aeronautics Loan fund is still available. For that reason, we've re-presented it as an alternative recommendation.

RECOMMENDATION:

That the City Council:

- **Direct staff to continue collecting bids for the Corning Municipal Airport Improvement Project , and upon bid closure, to present the lowest responsive bidder for Council consideration of bid award, and the "internal" loan from the Traffic Mitigation Fee Account, and,**
- **Direct the City Manager to prepare the loan documentation for the equivalent to five percent (5%) of the total project cost, up to \$125,000.00 from the City's Transportation Development Impact Fee Account with the understanding that the City shall repay the principal with interest equivalent to the annual rate that would have otherwise accrued in the DIF account, or,**
- **Authorize the City Manager to sign the loan application with the California Department of Transportation-Division of Aeronautics, seeking funds to provide the five percent (5%) match portion of the project costs up to a maximum loan amount of \$125,000.00.**

DEPARTMENT OF TRANSPORTATION
DIVISION OF AERONAUTICS – M.S.#40
1120 N STREET
P. O. BOX 942873
SACRAMENTO, CA 94273-0001
PHONE (916) 654-4959
FAX (916) 653-9531
TTY 711



*Flex your power!
Be energy efficient!*

*League
researching
legality of taking*

July 30, 2009

All Airport Managers:

Subject: Division of Aeronautics budget

As many of you are aware, the State of California recently adopted a budget effective Tuesday, July 28, 2009. I would like to bring to your attention Assembly Bill X4 10 that was signed into law along with the State budget. One section amends the Public Utilities Code, State Aeronautics Act, and has numerous budget implications for the Division of Aeronautics. Here is the aeronautics related language from ABX4 10:

SEC. 3. Section 21683.3 is added to the Public Utilities Code, to read:
21683.3

- (a) Notwithstanding any other provision of this article, the grant or funding programs described in Sections 21682, 21683, and 21683.1 are suspended for the 2009-10 fiscal year.
- (b) Upon the order of the Director of Finance, the Controller shall transfer four million dollars (\$4,000,000) from the Aeronautics Account to the General Fund.
- (c) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

This budget bill will “transfer” \$4.0 million from the Aeronautics Account to the General Fund *and* will suspend the issuance of new grants from our Annual Grant, Acquisition & Development, and AIP Local Match programs (respectively) for Fiscal Year 2009/10. Existing grants that have been approved prior to July 28, 2009, will be honored.

Please refer to our website (www.dot.ca.gov/aeronautics) and click on the Grants and Loans link for the latest information and updates.

Sincerely,

GARY CATHEY, Chief
Division of Aeronautics

ITEM NO. : K-15
STUDY MATTER; RAISING
"CONSTRUCTION WATER" RATES WITHIN
THE CITY OF CORNING

AUGUST 11, 2009

TO: CITY COUNCIL OF THE CITY OF CORNING, CALIFORNIA

FROM: STEPHEN J. KIMBROUGH; CITY MANAGER
JOHN L. BREWER, AICP; PUBLIC WORKS DIRECTOR

STEVE
JB

SUMMARY:

Staff recommends the Council direct staff to schedule a public hearing to consider increasing the rate the City charges for "construction water" within the City of Corning.

BACKGROUND:

Earthmoving contractors regularly use City water for construction related purposes like dust control and aggregate compaction. They typically draft the water from city fire hydrants. Our current billing policy requires the contractor to monitor their use via a city water meter that we loan.

The typical "10-wheeler" water truck carries up to 4,000 gallons of water. We charge \$1.14/1000 gallons for that water. So, to fill up the truck, we currently charge a "water cost" of \$4.64. Of course, single truckloads of water are seldom individually billed. The Finance department typically bills on at least a monthly basis. In addition to the water costs, we assess a \$23.00 monthly "Hydrant Use" fee and a 10% administrative fee to cover costs associated with the billing. In a month where a 4,000 gallon capacity water truck is filled twice a day each day, the total water usage would be 240,000 gallons and the City would bill a total of \$323.96, or about \$1.35/1,000 gallons.

SYSTEM IMPACTS:

Construction projects can use a lot of water. The upcoming Airport Improvement Project is expected to use about 7,000,000 gallons of water to suppress dust and aid in soil compaction. That quantity amounts to nearly 1% of the total that the City pumps¹ for an entire year, and the equivalent of that used by 44.6² single family residences use in a year here in Corning. Seven million gallons is the equivalent of 1,750 "fill-ups" of a 4,000 gallon water truck. Pumping that much water will affect the overall water system, causing wear and tear on the pumps, the overall water distribution system and the aquifer.

Other effects include the reduced water volume and pressure available to other users and customers in the vicinity, such as businesses, residences and even diminished fire flows while the hydrant drafting occurs. This is particularly an issue in the airport area due to the relative elevation. Also, adding the multiple heavy water

truck trips to City streets takes an extraordinary toll on the pavement, especially during the summer months when the asphalt is most malleable, and coincidentally, when most construction occurs.

Staff believes the fees for water obtained through the hydrant meters for construction use should be increased to account for the impacts to the overall water system, neighborhood and streets. Staff recommends the Council consider increasing the construction water rate to \$5.00/1,000 gallons to mitigate these effects.

In the case of the airport improvement project, the contractor would be charged about \$35,000 for the 7 million gallons water used. If the City water system were to provide that water to the Corning Municipal Airport Fund, the amount could end up being a sizeable credit for our "Combined Match" (now 5%) share of the airport improvement costs.

**RECOMMENDATION:
That the City Council:**

- **Direct staff to schedule a public hearing in accordance with Proposition 218 to consider an increase the water rate for "construction water" obtained from the City's fire hydrants to \$5.00/1,000 gallons.**

¹ In 2008, the City pumped about 876 million gallons of water from City wells. 7,000,000 gallons amounts to 0.8% of that total.

² We averaged the water use of four Councilmembers and the City Treasurer using the average of three winter months and three summer months. Using those five residential properties water use, the "average" turns out to be about 430 gallons/day. Thanks to Mary Ramirez at the Finance Dept. for compiling the use data.

Approx. Average SFR* Water Use in Corning
(based on average of 5 SFR's)

	SFR 1	SFR 2	SFR 3	SFR 4	SFR 5	
Use data:1000 gallons						
DEC USAGE	4	9	3	3	3	
JAN USAGE	6	11	5	5	4	
FEB USAGE	5	11	2	4	3	
AVG COST	\$ 15.54	\$ 34.23	\$ 14.78	\$ 14.78	\$ 14.40	
JUNE USAGE	21	8	11	14	27	
JULY USAGE	23	14	19	22	47	
AUG USAGE	21	12	14	18	38	
AVG COST	\$ 34.54	\$ 35.37	\$ 26.56	\$ 30.36	\$ 52.40	
Summary: 1000 gallons						
AVG Winter	5.00	10.33	3.33	4.00	3.33	OVERALL 5.20
AVG Summer	21.67	11.33	14.67	18.00	37.33	20.60 Check
AVG Yearlong	13.33	10.83	9.00	11.00	20.33	12.90 12.90 ✓
<hr/>						
Average Daily Use-Gallons						
Winter	173					
Summer	687					
Average Yearlong	430					
*SFR=Single Family Residence						

ITEM NO.: K-16
RODGERS THEATRE: SUBMIT
\$220,000 PARK BOND
APPLICATION
AUGUST 11, 2009

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: STEPHEN J. KIMBROUGH, CITY MANAGER



SUMMARY:

The Corning Community Foundation has met and wants to move forward with the restoration and reopening of our historic Rodgers Theatre. In the attached letter dated August 4, 2009, they are asking the City to move forward with the application to the State of California for the \$220,000 Park Bond Allocation to Corning.

The Foundation's priority is "to prevent further damage to the building...and...begin the restoration of the Theatre facility." They agreed that their first priority "should be to reroof the building so no further water damage will occur to the interior of the structure and to restore the front of the building as a visible indicator to the public that restoration has begun."

City Staff is recommending Council approval with the understanding that Staff will move forward to make application for the Park Bond Funds and ensure that all Grant requirements, including public bid and prevailing wage issues are addressed.

BACKGROUND:

Following the letter from the Community Foundation, Staff has attached a copy of the Budget Report "City Park Development Funds" dated June 4, 2009. This shows all of the funds available for Park Development and Expansion. The deadline of June 30, 2011 for use of the funds is actually later than thought.

On January 13, 2009, the City Council received a "Plan of Action" for Rodgers Theatre, and the Council decided to move forward with a commitment of up to \$200,000 as foundation grant match. An excerpt from the Council Minutes and the original Staff Report are attached for information.

As Council expected, identifying available grant funding has been difficult, but the City's Grant Consultant JoAnn Anders is working on two potential opportunities for funding administered by the State of California and outside of the State's general fund crisis.

In spite of the difficulty in finding grants, the Foundation appears ready to move forward aggressively on the Theatre project.

Staff has already confirmed that the Theatre is eligible for the use of the Park Bond Funds under the State regulations.

RECOMMENDATION:

- MAYOR AND COUNCIL, HAVING CONSIDERED THE COMMITMENT OF THE CORNING COMMUNITY FOUNDATION TO RESTORING THE RODGERS THEATRE:**
- **APPROVE THE ALLOCATION OF THE STATEWIDE 2002 PARK BOND ISSUE AMOUNT OF \$220,000 TO THE THEATRE; AND**
 - **DIRECT CITY STAFF TO MAKE APPLICATION FOR THE FUNDS AND WORK CLOSELY WITH THE CORNING COMMUNITY FOUNDATION.**



Corning Community Foundation

"Working for a Cause"

August 4, 2009

Corning of Corning Mayor and City Council
Attn: Lisa Linnet, City Clerk
794 Third Street
Corning, CA 96021

Honorable Council:

Rodger's Theatre was closed in 2006 when a City inspection revealed several deficiencies in the facility, which would require correction for both the integrity of the structure and the health and safety of the public.

In September 2006, the City Council authorized the formation of the Friends of the Theatre Committee to explore alternative uses for the Theatre and funding sources for its renovation.

In April 2008, with approval from the City Council, the Committee had engineered plans prepared that could expand the Theatre into a multi-function facility that could include (but not limit the use) venues such as concerts, stage plays and film screenings.

At the November 13, 2008 City Council meeting, alternative means to fund the restoration of the Theatre were discussed. The Council acknowledged that the Friends of the Theatre Committee had raised over \$49,000 in private donations. However, the Council also recognized the need to form a private foundation that would be able to leverage what had been accomplished. The Council authorized staff to seek proposals from grant writers to research potential grant sources and prepare grant submittal documents. The Council also expressed its support to the project in the form of committing up to \$220,000 of the City's Park Bond grant funds as a potential funding source.

The Corning Community Foundation (CCF) was incorporated on January 12, 2009 as a public benefit corporation, with the specific purpose to:

Provide facilities and services especially designed to meet the physical, social, recreational, educational, cultural and other needs of the Corning community and to promote the quality of life for persons of all ages living, working and spending time within the community being served.

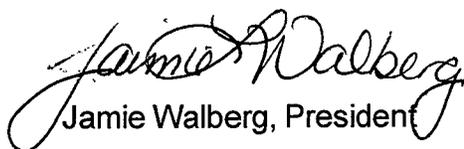
At its July 30, 2009 meeting, the CCF Board of Directors discussed the state of Rodger's Theatre, its current priority. The conversation focused on what needed to be done to prevent further damage to the building and what actions, in sequence, should be taken to begin the restoration of the Theatre facility. It was agreed at this meeting that the first priorities should be to re-roof the building so no further water damage will occur to the interior of the structure and to restore the front (face) of the building, as a visible indicator to the public that restoration has begun.

The re-roofing will entail: removal of the existing roofing; the installation of new roofing; and, the installation of rough-in duct work for the future heating and air conditioning system with required electrical rough-in. The restoration of the front of the building will entail: re-coloring the stucco, installing new ceramic tile; installing new entry doors; and, exterior carpeting.

Mr. Richard Rezendes of C&R Construction, a local general contractor who has volunteered his time to the Friends of the Theatre Committee, provided an estimate of \$221,748 to do the following: Install a new roof and restore the front of the building (as detailed above), do all interior demolition work (including the flooring), install new concrete flooring (to include replacing the concrete flooring in the bathroom areas, install all rough plumbing, install a new electrical main service panel and sub-panel with conduits and sub-feeder wiring. Mr. Rezendes' estimate is based upon his donation of any profit and does not include prevailing wage. If prevailing wage must be paid, the total cost for this work is \$274,751. In addition, costs of any work that volunteers may wish to do will reduce the overall cost accordingly.

The Foundation is aware that the City Council has Park Bond grant funds in the amount of \$220,000, which must be expended by September 2010. The City Council had previously advised these funds were available as a resource for the restoration of the Theatre. In light of this recent information, the Foundation is hereby requesting that the City Council consider using the Park Bond grant funds to complete the work as detailed above.

Respectfully submitted,


Jamie Walberg, President

City Park Development Funds

Park Acquisition Fund # 341 **Fund Balance** **\$284,528**

The annual Audit p. 60 shows a year end balance of \$302,978. Park Acquisition Fees collected along with interest earned to date is \$17,155 less expenditures to date of 35,606.

Established in 1970, through Ordinance 320, City Code Chapter 3.32 "RESIDENTIAL CONSTRUCTION TAX" (page 41) requires all residential dwelling units including mobile home lots to pay a tax to fund the "acquisition, improvement and expansion of public parks, playgrounds and recreational facilities" in the City. The proceeds of the tax "may also be used for the development of recreational facilities on public school grounds which provide a desirable site and immediate access to the public from the street."

The tax is collected with the issuance of Building Permits:
 \$200 per new mobile home lot or one bedroom dwelling
 \$100 per each additional bedroom

Park Improvement Fund # 353 **Fund Balance** **\$ 15,759**

Annual Audit page 60 shows a balance of \$15,410. Interest earned to date is \$349.

Established by City Council to segregate those Budget appropriations made by the City Council periodically for the special park improvement and refurbishment projects identified jointly by the Recreation Commission and Park Volunteer Committee. Current Balance exists because extra Recycling Grant funds were placed in it.

Statewide 2002 Park Bond Issue Fund # 354 **Reserved for Corning** **\$220,000**

The July, 2003 State Procedural Guide states that the funding allocation is "...intended to maintain a high quality of life for California's growing population by providing a continuing investment in parks and recreational facilities. Specifically, it is for the acquisition and development of neighborhood, community, and regional parks and recreation lands and facilities in urban and rural areas." "Capital Projects that will provide lands and facilities for recreational activities and services are eligible. The following types of Capital Projects are eligible for grant funding: Acquisition..., or Development."

Established by City Council to receive and segregate the \$220,000 "per capita" allocation to the City of Corning from the "2002 Resources Bond Act" also known as the "California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002". This "pork barrel" Proposition from the Legislature was meant to have something for everyone and insured that each City received a minimum "per capita allocation" of at least \$220,000. **Projects and all paperwork must be complete by June 30, 2011.**

Parkland Development Fund # 355 **Fund Balance** **\$195,750**

The annual Audit p. 60 shows a year end balance of \$184,620 and Bedroom Tax collected along with interest earned to date is \$11,130 less land appraisal costs of \$0.

Established in 1991, through Ordinance 515, City Code Chapter 3.40 "PARKLAND DEVELOPMENT FEE" (page 44-1) imposes a fee on lots in all "newly created" parcel maps and subdivision maps "solely for the purchase and preparation of land for city parks."

The fee is collected with the issuance of Building Permits: \$ 875 per dwelling unit.

Rodgers Theater Trust #402 **Fund balance** **\$ 22,411**

Annual Audit page 66 shows a balance of \$22,972. Add interest to date of \$399, less Marquee work to date of \$960.

CITY OF CORNING
CITY COUNCIL MINUTES
TUESDAY, JANUARY 13, 2009
CITY COUNCIL CHAMBERS
794 THIRD STREET

Excerpt from Minutes-two pages

21. Rodgers Theatre: Approve Plan of Action.

Mayor Strack introduced this item by title.

Councilor Parkins stated that she believes this is the best plan presented to date.. .and it has a backup.

Councilor Leach stated that he is not opposed to having the Theatre in town, however he is not in favor of a loan or using the Park money for the Theatre, he is in favor of obtaining a grant.

Mayor Strack stated that he is not in favor of using the Park Bond Monies...the Park Bond money must be used within the next two years and he doesn't believe the Theatre would be ready to move forward in two years.

Councilor Hill stated that due to the economy, we might be able to obtain lower bids for some of these projects. Councilor Turner requested and received the dollar amounts of the other funds available.

Mayor Strack suggested utilizing an RFP (Request for Proposal) for a grant writer, instead of just assuming to use the school's grant writer stating that there have been others who have offered their services.

Councilor Hill stated that she believes the Theatre would be used as a Community Cultural Center. She stated that the Council should never delude themselves into believing that the Theatre would ever be self-supporting. She stated that we should think of the Theatre as an investment in the City and its residents, and hope that from that investment it will grow fruit and tax revenues.

Councilors Hill and Parkins both stated that they like the proposal and acknowledged that the only item it seems that the Council is not in agreement on is item 3 (committing the State Park 2002 Park Bond Act Funds).

Councilor Turner stated that he was not in favor of using the Parks Grant monies for the Theatre when the City has other funds available to use.

Darlene Dickison stated that she had collected 175 signatures in support of reopening the Theatre and that these signatures were collected in a one-week period. Danny Dunigan outlined the history of the discussions on the Theatre and discussions on possible grants available.

Mayor Strack stated that in this plan no restrooms were mentioned, he stated that the restrooms must be restored.

The City Manager stated that he needed a specific dollar amount for the City's matching funds for the Grant Writer to Use in the Application; Council set the dollar amount at \$.

Tony Cardenas updated the Council and the audience on resent information he had received from the Cowell Foundations, they stated that if the City can supply 50% of the funding at prevailing wage the Cowell Foundation may consider it.

Councilor Hill moved for Mayor and Council to:

1. Approve the "Action Plan" to renovate and reopen the Rodgers Theatre; and
2. Direct the City Manager to return to Council with a proposal for grant writing services; and
3. Commit funds from Park Acquisition Funds 341 and 355 up to \$200,000 as a foundation Grant match; and 5. City Council makes no commitment to the "Alternative Plan of Action" nor City funding until the private foundation opportunity is exhausted.

(The motion excluded recommendation 4 "Authorizing the City Manager to submit the application for the State Park Bond money in order to commit the State to the Project and define any State conditions of Grant which may add to the project cost with the condition that the City Council can reallocate and modify the State Grant Application should private foundation funds not be available".

Councilor Leach seconded the motion.

Ayes: Hil, Parkins and Leach. Opposed: Strack and Turner.

Absent/Abstain: None.

Motion approved by a 3-2 vote with Strack and Turner opposing.

ITEM NO.: L-21
RODGERS THEATRE: APPROVE PLAN
OF ACTION
JANUARY 13, 2009

TO: CITY COUNCIL OF THE CITY OF CORNING
FROM: STEPHEN J. KIMBROUGH, CITY MANAGER

SUMMARY:

This report contains considerable new or revised information. It is by necessity very long and detailed, but should be studied carefully.

The City Council and Community discussion of the future for the City owned Rodgers Theatre has led from the formation of a City recognized citizen volunteer organization called "Friends of the Rodgers Theatre" to a successful fund raising campaign with \$50,000 in community donations in the bank.

The City Council authorized the use of Rodgers Theatre "trust" funds to refurbish and repair the theater marquee and restore the neon lighting.

Then, at the request of the volunteers, the City Council authorized \$5,000 for design and structural engineering services to create a master plan of improvements to make the theater a multi-use Community auditorium. The City Council adopted that Rodgers Theatre Master Plan.

The City Council directed the City Attorney to prepare and file the Incorporation of the "Corning Community Foundation" with the specific purpose:

"To provide facilities and services especially designed to meet the physical, social, recreational, educational, cultural and other needs of the Corning community and to promote the quality of life for persons of all ages living, working and spending time within the community being served."

The Incorporation was filed last Friday January 9, 2009.

The City Council reviewed and discussed the proposed "Action Plan for the Rodgers Theater" (covered later in this Report) at their meeting last meeting on December 9, 2008, The Council concluded that the City should not pursue a USDA loan to refurbish the theater; the long term debt and annual debt service was not a practical solution. USDA Rural Development cost of money was 4.5% for 30 years for \$400,000. This would have required an annual debt service of \$30,700 from the General Fund.

The City Council wanted to continue the discussion for refine the Plan and take possible action at this meeting on January 13, 2009.

BACKGROUND:

At the Council meeting on November 13, 2008, the Council discussed several obstacles that have stalled the re-opening of Rodgers Theatre.

First there is the Architects estimate totaling almost \$900,000 for the total renovation of the Theatre under public bid and prevailing wage laws versus his estimate of \$661,300 for full renovation if the Theatre were a non-publicly owned building.

The second obstacle is the difficulty of integrating public money and work with private volunteer work and money under State prevailing wage laws.

A third obstacle is how to structure the ownership of the Theatre in private hands through a non-profit community foundation.

The City closed the Rodgers Theatre two years ago after a City inspection disclosed deficiencies in the facility. A portion of the ceiling had fallen in a corner of the projection room exposing the attic to the potential of fire. The roof needed repair, the public restrooms were partially inoperable, and the snack bar area needed refurbishing for both appearance and public health considerations.

On October 10, 2006, City Council received the Staff Report (attached) estimating the minimal cost to reopen the Theatre at that time would be \$91,000. As an alternative, the Theatre could remain closed with minimal repairs to the fire sprinkler system and the roof for an estimated cost of \$7,800. Council decided to keep the Theatre closed, make the minimum repairs to the sprinkler system and the temporary repairs to the roof. Council also asked that City Architect, Robert Heaton join with City Staff to make a thorough inspection of the facility and produce a cost estimate of the amount work necessary to fully restore the Theatre. City Council was well aware that any first step in the restoration of the Theatre would lead to full commitment, therefore any such decision would need to have the estimated cost fully disclosed.

Mr. Heaton then responded with a November 27, 2006 narrative report and a December 5, 2006 cost estimate totalling \$892,755 at prevailing wage under public bid.

The October 10, 2006 meeting had already led to the formation of "**Friends of the Rodgers Theatre**" which volunteered to begin fund raising for the Theatre. Over the course of their work during the last two years, they have **raised over \$49,000** from the Community. Hometown Revitalization, our Community non-profit is holding the money for them to apply towards theatre restoration.

In addition, the Volunteers asked the City Council to provide \$5,000 of the Rodgers Theatre Trust to retain a building designer to work with Community Volunteer Tony Cardenas and Volunteer Contractor Richard Rezendes to develop a floor plan for the reuse of the Theatre as both a Theatre and a Community Auditorium/Center. Since that time, City Council has approved the floor plan as an **ultimate Master Plan**, and Mr. Rezendes has produced an estimate of all of the work needed if done with private money. His estimate is also attached; it totalled \$538,493 and is the most current estimate now available as a target for the complete improvements. **If this work were to be done by public contract under prevailing wages, the estimate would be \$726,966.**

WHERE DO WE GO FROM HERE

As presented on November 13th, City Staff has tried to identify middle ground that would allow for the Theatre to reopen both as a Movie Theatre and Cultural Center and leave the rest of the work as future objectives. Using the most current estimates prepared by General Contractor Richard Rezendes and adding a public bid and prevailing wage factor of 35% to the project, Staff believes **the essential work can be done for about \$400,000**. Here is a breakdown for the minimum funds necessary to reopen the building:

- **Reroofing**, replacing all dry rotted wood over the steel trusses, including structure to support air conditioning: \$36,000.
- Refrigeration air conditioning and heating, including sheet metal work: \$90,800.
- All **electrical**, including lighting: \$145,125.
- **Floor repair** and resurfacing: \$53,970.
- **New seating**: \$42,693.
- **Unanticipated costs**: \$30,577.

Total: \$400,000.

The building, walls, and steel trusses are structurally sound. The steel trusses themselves appear to be well capable of supporting the weight of the refrigerated air conditioning and heating system. There is dry rot in the wood overlay on top of the trusses and leaks along the Theatre sidewalls.

The swamp cooler would be completely replaced with the new air conditioning and its associated structures. All electrical would be replaced.

The lobby and snack bar floor covering would all be replaced, any dry-rotted wood floor in the Theatre would be replaced, and the entire area resurfaced.

In Mr. Rezendes' estimate the cost of the new Theatre seats includes shipping a new hot dog boiler, popcorn machine, and used drapes. This does not include the labor to install, which would be supplied by volunteers. Prior to the commencement of the project, the General Contractor chosen to do the work would sit down with the Public Works Department and Volunteer Leadership and determine which work would be done by volunteers, and which work would be done by the General Contractor and Subs, much the same as a General Contractor working with a Homeowner who desires to do some of the work themselves.

OWNERSHIP OF THE THEATER

The City needs to retain title to the theater building and land. This is important in order to provide the no direct cost City Liability and Workers' Compensation Insurance coverage available only to the city owned properties and activities. Additionally the city has budgeted between \$10,000 and \$12,000 per year (current budget \$8,600) to cover electric and gas and maintenance and property insurance. The City does not charge City owned facilities for water and sewer service and Waste Management does not charge the theater for refuse service.

In discussions with the volunteer leadership of Red Bluff's "State Theater", they noted that the cost of insurance for the privately owned theater was very high. The City Self Insurance Fund does not increase "premiums" based on use. Maintaining the city coverage of the theater does not cost the City more, except for the Property (fire) Insurance currently in the City budget

A long term operating agreement would be created between the City and the Foundation which would spell out the responsibilities of both parties.

The theater is too important of a community asset to release complete City control. In the future if the theater no longer was a viable use, a lack of control could allow it to become a land use detrimental to the efforts to restore the downtown. One community found its old theater in the hands of the "Pussy Cat" theater chain! Another community watched as new owners converted the theater to a flea market in the downtown!

ADA REQUIREMENTS:

The City Building Official has confirmed that the **proposed initial work** including the roof, electrical and air conditioning **will not trigger the "ADA" type Code requirements** to modify the restrooms to make them more handicapped assessable. The Master Plan adopted by the City Council (building improvement plans) does provide for handicapped restrooms and their construction is still a high priority as funds become available. A **wheel chair platform** will be constructed on the main floor at part of the initial work.

ACTION PLAN:

As one alternative for discussion, consider some of the ideas discussed that would utilize the "Coming Community Foundation". The presence of a Community Arts Foundation will make the program more competitive for a grant.

Pinning down any unexpected State 2002 Park Bond grant conditions is extremely important. The State requirements may affect construction plans and costs. For this reason, City Staff should insure that the state application for funds can be made for the theater and withdrawn if the conditions are unacceptable to the City.

Here is an ACTION PLAN that calls for all funding, both City and Grant, to be in place prior to undertaking any actual construction expenditures. Following this is an "**ALTERNATIVE ACTION PLAN**" if a grant is not available.

- City to formally recognize the Theatre as a "Community Arts Center" to qualify the restoration project for grant consideration. (must be identified as more than a movie theater)
- Seek "Joint Use" Resolutions from both the Coming Elementary and Coming High School Districts with NO expectation of any financial commitment from the Districts in order to demonstrate schools support and commitment to joint community action.
- Engage the Coming Union Elementary School Dist. Librarian (the District's very successful grant writer) to write grant application to Cowell Foundation and any other foundations identified.
- Engage local service clubs and Churches who will benefit from availability of a "Venue" for musical performances and obtain written support with NO expectation of financial commitment.
- Make the City Council commitment of \$230,000 in 2002 State Park Bond funds set aside at the State for the City of Corning. (commitment only if the Grant is approved)
- Prepare Phased Construction Plan integrating Volunteers into the work.
- Prepare the construction and public bid documents for the roof, A/C and electrical to be paid by the Park Bond funds.
- Submit the Park Grant Application to the State.
- Following State Approval AND Cowell Foundation Grant Approval, complete the roof, A/C and electrical work in order to make ready for a transfer of the building management to the new Corning Community Foundation.
- Develop a long term lease and operating agreement for the Theatre building with the Corning Community Foundation rather than a transfer of title, in order to allow the City to continue insurance coverage and payment of utilities at a cost of about \$10,000 per year.
- The Community Foundation would circulate a Request For Proposals for a "Concessionaire" Agreement to operate the Theatre. Former Theatre Manager Phil Bridgeford has indicated that he is interested in submitting a proposal to operate as City Concessionaire or as Foundation Center Manager.

THE ALTERNATIVE ACTION PLAN

We need to be prepared to be turned down for a foundation grant. The original objective of protecting the struggling downtown from the blight caused by an abandoned or poorly utilized theater (that flea market) still exists.

Tony Cardenas suggested a "Plan B alternative" which would complete only the work necessary to reopen the doors as a movie theater and work toward the future community uses.

The original commitment of the park bond money by the City Council only applies to using it to obtain a matching foundation grant as part of the original Action Plan, and the City Council has made it clear that it wants to retain its ability to allocate the state bond for any important priority of which the theater is only one.

Here is the Alternative Action Plan which would fund the new roof, the AC heating unit, and only the essential electrical necessary to support the AC and fix any remaining safety issues. All would be competitive bid together as a "public project" to insure coordination and control of the work by the Public Works Department and "bid additives" would be included to provide for additional work which would consume the entire park grant.

- Make the City Council commitment of \$230,000 in 2002 State Park Bond funds set aside at the State for the City of Corning.
- Submit the Park Grant Application to the State.
- Prepare Phased Construction Plan integrating Volunteers into the work.
- Working with the already allocated annual City Budget for the Rodgers Theatre, the City Public Works crew, during the winter months, would complete the restoration of the existing restrooms which remain legal under State and Federal ADA requirements (see the State Theater as an example) and remove any unnecessary structures within the building.
- Prepare the construction and public bid documents for the roof, A/C and electrical to be paid by the Park Bond funds.
- Following State Approval, complete the roof, A/C and electrical work in order to make ready for a transfer of the building management to the new Corning Community Foundation.
- Develop a long term lease and operating agreement for the Theatre building with the Corning Community Foundation rather than a transfer of title, in order to allow the City to continue insurance coverage and payment of utilities at a cost of about \$10,000 per year.
- The Community Foundation would assume responsibility for the \$50,000 in community donations currently held by "Hometown Revitalization".
- The Community Foundation would circulate a Request For Proposals for a "Concessionaire" Agreement to operate the Theatre. Former Theatre Manager Phil Bridgeford has indicated that he is interested in submitting a proposal to operate as City Concessionaire or as Foundation Center Manager.
- The Community Foundation, working with its new Concessionaire and the City would prepare and execute a plan to utilize the community donations to continue the refurbishment of the theater.

ITEM NO.: K-17
ADOPT URGENCY MEASURE – INTERIM
ORDINANCE NO. 637, AN INTERIM
ORDINANCE PROHIBITING MEDICAL
MARIJUANA DISPENSARIES,
COLLECTIVES OR COOPERATIVES.

AUGUST 11, 2009

TO: HONORABLE MAYOR AND COUNCIL MEMBERS
FROM: STEPHEN J. KIMBROUGH, CITY MANAGER
JOHN STOUFER, PLANNING DIRECTOR

STGVB

SUMMARY:

The City of Corning has been in the process of preparing a Draft Ordinance to regulate the cultivation and possession of medical marijuana in order to protect the public safety, health, and welfare of the citizens of Corning and prevent the cultivation or distribution of medical marijuana in violation of Health and Safety Code Section 11362.5.

Before the City Planning Commission and City Council can study these regulations at duly noticed public hearings, an application for a business license has been submitted to the City for the establishment of a business by a Mutual Benefit Corporation for a Medical Cannabis Collective.

California Government Code Section 65858 (Attached as Exhibit "A") allows the adoption of an "Urgency measure": interim zoning ordinance without having to follow the procedures otherwise required prior to the adoption of a zoning ordinance. The urgency measure requires a four-fifths vote of the legislative body and will take effective immediately for a period of 45 days. Section 65858 (c) states: "*The legislative body shall not adopt or extend any ordinance pursuant to this section unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare.*"

Interim Ordinance No. 637 complies with applicable State Law, as well as imposes reasonable rules and regulations protecting the public health, safety and welfare of Corning residents and businesses.

BACKGROUND:

The City has recently received additional inquiries whether any of the Zoning Districts within the City Limits of Corning would allow a Medical Marijuana Dispensary, Collective or Cooperative to be established.

Proposition 215, "The Compassionate Use Act of 1996" added Section 11362.5 to the California Health and Safety Code, which:

- Exempts patients and defined caregivers who possess or cultivate Marijuana for medical treatment recommended by a physician from criminal laws which otherwise prohibit possession or cultivation of Marijuana.

- Exempts patients and defined caregivers who possess or cultivate Marijuana for medical treatment recommended by a Physician from criminal laws which otherwise prohibit possession or cultivation of Marijuana.
- Provides Physicians who recommend use of Marijuana for medical treatment shall not be punished or denied any right or privilege.
- Declares that the measure is not be construed to supersede prohibitions of conduct endangering others or to condone diversion of Marijuana for non-medical purposes.

The Municipal Code does not specifically permit the location and operation of a Medical Marijuana Dispensary, Collective or Cooperative within any of the City Zoning Districts as either a Permitted or Conditional Use.

In California Cities that have allowed the establishment of Medical Marijuana Dispensaries, Collectives and Cooperatives, issues and concerns have arisen related to their location in proximity to residential properties, Schools and Daycare Facilities. Some Communities have reported adverse impacts on public health, safety and welfare, including an increase in crimes such as loitering, illegal drug activity, burglaries, robberies and other criminal activity within and around Dispensaries, as well as increased pedestrian and vehicle traffic, noise and parking violations, thereby generating a need for increased police response.

RECOMMENDATION:

Mayor and Council adopt as an urgency measure, Interim Ordinance 637, an Interim Ordinance of the City of Corning Prohibiting Medical Marijuana Dispensaries, Collectives or Cooperatives.

**INTERIM ZONING ORDINANCE NO.637
AN INTERIM ORDINANCE OF THE CITY OF CORNING
PROHIBITING MEDICAL MARIJUANA DISPENSARIES, COLLECTIVES OR
COOPERATIVES**

WHEREAS, To protect the public safety, health, and welfare of the citizens of Corning, and prevent the possibility of the cultivation or distribution of medical marijuana in violation of Health and Safety Code Section 11362.5, the City of Corning has prepared a Draft Ordinance to regulate the cultivation and possession of medical marijuana. An application for a business license has been submitted to the City for the establishment of a Mutual Benefit Corporation for a Medical Cannabis Collective. In order to prevent the establishment of this business before the City Planning Commission and City Council can study these regulations, at duly noticed public hearings, the City Council determines that it is necessary to adopt an urgency measure in the form of Interim Ordinance No 637

WHEREAS, THE City has recently received additional inquiries whether any of the Zoning Districts within the City Limits of Corning would allow a Medical Marijuana Dispensary, Collective, or Cooperative to be established; and

WHEREAS, the Municipal Code does not specifically permit the location and operation of a Medical Marijuana Dispensary, Collective or Cooperative within any of the City Zoning Districts as either a Permitted or a Conditional Use; and

WHEREAS, in California Cities that have allowed the establishment of Medical Marijuana Dispensaries, Collectives and Cooperatives, issues and concerns have arisen related to their location in proximity to residential properties, Schools and Daycare Facilities and some communities have reported adverse impacts that threaten public health, safety and welfare, including an increase in crimes such as loitering, illegal drug activity, burglaries, robberies and other criminal activity within and around Dispensaries, as well as increased pedestrian and vehicle traffic, noise and parking violations, thereby generating a need for increased police response; and

WHEREAS, The establishment of a medical marijuana collective in the downtown area of the City of Corning, as proposed by Tehama Herbal Collective, will increase loitering and promote illegal drug activity by established gang members in and around the City that will cause an immediate threat to the public safety; and

WHEREAS, Interim Ordinance No. 637 complies with applicable State Law, as well as impose reasonable rules and regulations protecting the public health, safety and welfare of Corning residents and businesses.

WHEREAS, the State of California approved Proposition 215 "The Compassionate Use Act of 1996" (Health and Safety Code Section 11362.5), which was to enable persons who are in need of marijuana for medical purposes; and

WHEREAS, the State also enacted SB 420 in 2004 (Health and Safety Code Section 11362.7 et seq.) to clarify the scope of The Compassionate Use Act to allow local governing bodies to adopt and enforce rules and regulations consistent with SB 420; and

WHEREAS, State law has created a limited affirmative defense to criminal prosecution for qualifying persons who collectively gather to cultivate medical marijuana but there is no provision in State law which specifically authorizes or protects the establishment of a medical marijuana dispensary or other storefront distribution operation;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORNING to adopt Interim Ordinance No. 637.

Prohibiting Medical Marijuana Dispensaries, Collectives or Cooperatives.

Definition of a Medical Marijuana Dispensary:

“Medical Marijuana Dispensary” or “Dispensary” means any facility or location where medical marijuana is made available to and/or distributed by or to three or more of the following: a primary care giver, a qualified patient, or a person with an identification card, in strict accordance with California Health and Safety Code Section 11362.5 et seq. A “medical marijuana dispensary” shall not include the following uses, as long as the location of such uses are otherwise regulated by this code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code; a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; or a residential hospice or home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including but not limited to, Health and Safety Code Section 11362.5 et. seq.

Definition of a Medical Marijuana Collective:

“Medical Marijuana Collective” or “Collective” as referenced in Health and Safety Code Section 11362.775 shall be defined in accordance with State statutory and case law.

Definition of a Medical Marijuana Cooperative:

“Medical Marijuana Cooperative” or “Cooperative” as referenced in Health and Safety Code Section 11362.775 shall be defined in accordance with State statutory and case law.

Medical Marijuana Dispensaries, Collectives and Cooperatives Prohibited:

It is unlawful to establish or operate a profit or nonprofit medical marijuana dispensaries, collectives or cooperatives within any zoning district in the city limits of the City of Corning.

Public Nuisance:

A violation of any of the provisions of this chapter shall constitute a public nuisance and be subject to abatement as provided by all applicable provisions of law including but not limited to California Code of Civil Procedure Section 731, et. seq.

The foregoing Ordinance was introduced and adopted a regular meeting of the City Council of the City of Corning, held on August 11, 2009 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ordinance No. 637 shall take effect immediately upon adoption by a four-fifths vote of the City Council pursuant to Cal. Gov't Code Section 65858, and before the expiration of fifteen (15) days after its passage, it or a summary of it, shall be published once, with the names of Council persons voting for and against the same, in a newspaper of general circulation in the County of Tehama.

Gary R. Strack, Mayor

ATTEST:

Lisa M. Linnet, City Clerk

PUBLISH: _____

ATTACHMENTS

EXHIBIT "A" CALIFORNIA GOVERNMENT CODE SECTION 65858

EXHIBIT "B" GUIDELINES FOR THE SECURITY AND NON-DIVERSION OF MARIJUANA GROWN FOR MEDICAL USE. THIS IS FROM THE ATTORNEY GENERAL'S OFFICE. PAGE 8 PROVIDES GUIDELINES REGARDING COLLECTIVES AND COOPERATIVES.

Exhibit "A"

65858. (a) Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body of a county, city, including a charter city, or city and county, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. That urgency measure shall require a four-fifths vote of the legislative body for adoption. The interim ordinance shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to **Section** 65090 and public hearing, the legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption. Not more than two extensions may be adopted.

(b) Alternatively, an interim ordinance may be adopted by a four-fifths vote following notice pursuant to **Section** 65090 and public hearing, in which case it shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to **Section** 65090 and public hearing, the legislative body may by a four-fifths vote extend the interim ordinance for 22 months and 15 days.

(c) The legislative body shall not adopt or extend any interim ordinance pursuant to this **section** unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare. In addition, any interim ordinance adopted pursuant to this **section** that has the effect of denying approvals needed for the development of projects with a significant component of multifamily housing may not be extended except upon written findings adopted by the legislative body, supported by substantial evidence on the record, that all of the following conditions exist:

(1) The continued approval of the development of multifamily housing projects would have a specific, adverse impact upon the public health or safety. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date that the ordinance is adopted by the legislative body.

(2) The interim ordinance is necessary to mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1).

(3) There is no feasible alternative to satisfactorily mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1) as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim ordinance.

(d) Ten days prior to the expiration of that interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.

(e) When an interim ordinance has been adopted, every subsequent ordinance adopted pursuant to this **section**, covering the whole or a part of the same property, shall automatically terminate and be of no further force or effect upon the termination of the first interim ordinance or any extension of the ordinance as provided in this **section**.

(f) Notwithstanding subdivision (e), upon termination of a prior interim ordinance, the legislative body may adopt another interim ordinance pursuant to this **section** provided that the new interim ordinance is adopted to protect the public safety, health, and welfare from an event, occurrence, or set of circumstances different from the event, occurrence, or set of circumstances that led to the adoption of the prior interim ordinance.

(g) For purposes of this **section**, "development of multifamily housing projects" does not include the demolition, conversion, redevelopment, or rehabilitation of multifamily housing that is affordable to lower income households, as defined in **Section** 50079.5 of the Health and Safety **Code**, or that will result in an increase in the price or reduction of the number of affordable units in a multifamily housing project.

(h) For purposes of this **section**, "projects with a significant component of multifamily housing" means projects in which multifamily housing consists of at least one-third of the total square footage of the project.

Exhibit "B"

EDMUND G. BROWN JR.
Attorney General



DEPARTMENT OF JUSTICE
State of California

GUIDELINES FOR THE SECURITY AND NON-DIVERSION OF MARIJUANA GROWN FOR MEDICAL USE August 2008

In 1996, California voters approved an initiative that exempted certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana. In 2003, the Legislature enacted additional legislation relating to medical marijuana. One of those statutes requires the Attorney General to adopt "guidelines to ensure the security and nondiversion of marijuana grown for medical use." (Health & Saf. Code, § 11362.81(d).¹) To fulfill this mandate, this Office is issuing the following guidelines to (1) ensure that marijuana grown for medical purposes remains secure and does not find its way to non-patients or illicit markets, (2) help law enforcement agencies perform their duties effectively and in accordance with California law, and (3) help patients and primary caregivers understand how they may cultivate, transport, possess, and use medical marijuana under California law.

I. SUMMARY OF APPLICABLE LAW

A. California Penal Provisions Relating to Marijuana.

The possession, sale, cultivation, or transportation of marijuana is ordinarily a crime under California law. (See, e.g., § 11357 [possession of marijuana is a misdemeanor]; § 11358 [cultivation of marijuana is a felony]; Veh. Code, § 23222 [possession of less than 1 oz. of marijuana while driving is a misdemeanor]; § 11359 [possession with intent to sell any amount of marijuana is a felony]; § 11360 [transporting, selling, or giving away marijuana in California is a felony; under 28.5 grams is a misdemeanor]; § 11361 [selling or distributing marijuana to minors, or using a minor to transport, sell, or give away marijuana, is a felony].)

B. Proposition 215 - The Compassionate Use Act of 1996.

On November 5, 1996, California voters passed Proposition 215, which decriminalized the cultivation and use of marijuana by seriously ill individuals upon a physician's recommendation. (§ 11362.5.) Proposition 215 was enacted to "ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana," and to "ensure that patients and their primary caregivers who obtain and use marijuana for

¹ Unless otherwise noted, all statutory references are to the Health & Safety Code.

medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.” (§ 11362.5(b)(1)(A)-(B).)

The Act further states that “Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient’s primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or verbal recommendation or approval of a physician.” (§ 11362.5(d).) Courts have found an implied defense to the transportation of medical marijuana when the “quantity transported and the method, timing and distance of the transportation are reasonably related to the patient’s current medical needs.” (*People v. Trippet* (1997) 56 Cal.App.4th 1532, 1551.)

C. Senate Bill 420 - The Medical Marijuana Program Act.

On January 1, 2004, Senate Bill 420, the Medical Marijuana Program Act (MMP), became law. (§§ 11362.7-11362.83.) The MMP, among other things, requires the California Department of Public Health (DPH) to establish and maintain a program for the voluntary registration of qualified medical marijuana patients and their primary caregivers through a statewide identification card system. Medical marijuana identification cards are intended to help law enforcement officers identify and verify that cardholders are able to cultivate, possess, and transport certain amounts of marijuana without being subject to arrest under specific conditions. (§§ 11362.71(e), 11362.78.)

It is mandatory that all counties participate in the identification card program by (a) providing applications upon request to individuals seeking to join the identification card program; (b) processing completed applications; (c) maintaining certain records; (d) following state implementation protocols; and (e) issuing DPH identification cards to approved applicants and designated primary caregivers. (§ 11362.71(b).)

Participation by patients and primary caregivers in the identification card program is voluntary. However, because identification cards offer the holder protection from arrest, are issued only after verification of the cardholder’s status as a qualified patient or primary caregiver, and are immediately verifiable online or via telephone, they represent one of the best ways to ensure the security and non-diversion of marijuana grown for medical use.

In addition to establishing the identification card program, the MMP also defines certain terms, sets possession guidelines for cardholders, and recognizes a qualified right to collective and cooperative cultivation of medical marijuana. (§§ 11362.7, 11362.77, 11362.775.)

D. Taxability of Medical Marijuana Transactions.

In February 2007, the California State Board of Equalization (BOE) issued a Special Notice confirming its policy of taxing medical marijuana transactions, as well as its requirement that businesses engaging in such transactions hold a Seller’s Permit. (<http://www.boe.ca.gov/news/pdf/medseller2007.pdf>.) According to the Notice, having a Seller’s Permit does not allow individuals to make unlawful sales, but instead merely provides a way to remit any sales and use taxes due. BOE further clarified its policy in a

June 2007 Special Notice that addressed several frequently asked questions concerning taxation of medical marijuana transactions. (<http://www.boe.ca.gov/news/pdf/173.pdf>.)

E. Medical Board of California.

The Medical Board of California licenses, investigates, and disciplines California physicians. (Bus. & Prof. Code, § 2000, et seq.) Although state law prohibits punishing a physician simply for recommending marijuana for treatment of a serious medical condition (§ 11362.5(c)), the Medical Board can and does take disciplinary action against physicians who fail to comply with accepted medical standards when recommending marijuana. In a May 13, 2004 press release, the Medical Board clarified that these accepted standards are the same ones that a reasonable and prudent physician would follow when recommending or approving any medication. They include the following:

1. Taking a history and conducting a good faith examination of the patient;
2. Developing a treatment plan with objectives;
3. Providing informed consent, including discussion of side effects;
4. Periodically reviewing the treatment's efficacy;
5. Consultations, as necessary; and
6. Keeping proper records supporting the decision to recommend the use of medical marijuana.

(http://www.mbc.ca.gov/board/media/releases_2004_05-13_marijuana.html.)

Complaints about physicians should be addressed to the Medical Board (1-800-633-2322 or www.mbc.ca.gov), which investigates and prosecutes alleged licensing violations in conjunction with the Attorney General's Office.

F. The Federal Controlled Substances Act.

Adopted in 1970, the Controlled Substances Act (CSA) established a federal regulatory system designed to combat recreational drug abuse by making it unlawful to manufacture, distribute, dispense, or possess any controlled substance. (21 U.S.C. § 801, et seq.; *Gonzales v. Oregon* (2006) 546 U.S. 243, 271-273.) The CSA reflects the federal government's view that marijuana is a drug with "no currently accepted medical use." (21 U.S.C. § 812(b)(1).) Accordingly, the manufacture, distribution, or possession of marijuana is a federal criminal offense. (*Id.* at §§ 841(a)(1), 844(a).)

The incongruity between federal and state law has given rise to understandable confusion, but no legal conflict exists merely because state law and federal law treat marijuana differently. Indeed, California's medical marijuana laws have been challenged unsuccessfully in court on the ground that they are preempted by the CSA. (*County of San Diego v. San Diego NORML* (July 31, 2008) --- Cal.Rptr.3d ---, 2008 WL 2930117.) Congress has provided that states are free to regulate in the area of controlled substances, including marijuana, provided that state law does not positively conflict with the CSA. (21 U.S.C. § 903.) Neither Proposition 215, nor the MMP, conflict with the CSA because, in adopting these laws, California did not "legalize" medical marijuana, but instead exercised the state's reserved powers to not punish certain marijuana offenses under state law when a physician has recommended its use to treat a serious medical condition. (See *City of Garden Grove v. Superior Court (Kha)* (2007) 157 Cal.App.4th 355, 371-373, 381-382.)

In light of California's decision to remove the use and cultivation of physician-recommended marijuana from the scope of the state's drug laws, this Office recommends that state and local law enforcement officers not arrest individuals or seize marijuana under federal law when the officer determines from the facts available that the cultivation, possession, or transportation is permitted under California's medical marijuana laws.

II. DEFINITIONS

A. **Physician's Recommendation:** Physicians may not prescribe marijuana because the federal Food and Drug Administration regulates prescription drugs and, under the CSA, marijuana is a Schedule I drug, meaning that it has no recognized medical use. Physicians may, however, lawfully issue a verbal or written recommendation under California law indicating that marijuana would be a beneficial treatment for a serious medical condition. (§ 11362.5(d); *Conant v. Walters* (9th Cir. 2002) 309 F.3d 629, 632.)

B. **Primary Caregiver:** A primary caregiver is a person who is designated by a qualified patient and "has consistently assumed responsibility for the housing, health, or safety" of the patient. (§ 11362.5(e).) California courts have emphasized the consistency element of the patient-caregiver relationship. Although a "primary caregiver who consistently grows and supplies . . . medicinal marijuana for a section 11362.5 patient is serving a health need of the patient," someone who merely maintains a source of marijuana does not automatically become the party "who has consistently assumed responsibility for the housing, health, or safety" of that purchaser. (*People ex rel. Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1390, 1400.) A person may serve as primary caregiver to "more than one" patient, provided that the patients and caregiver all reside in the same city or county. (§ 11362.7(d)(2).) Primary caregivers also may receive certain compensation for their services. (§ 11362.765(c) ["A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred for services provided . . . to enable [a patient] to use marijuana under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, . . . shall not, on the sole basis of that fact, be subject to prosecution" for possessing or transporting marijuana].)

C. **Qualified Patient:** A qualified patient is a person whose physician has recommended the use of marijuana to treat a serious illness, including cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief. (§ 11362.5(b)(1)(A).)

D. **Recommending Physician:** A recommending physician is a person who (1) possesses a license in good standing to practice medicine in California; (2) has taken responsibility for some aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient; and (3) has complied with accepted medical standards (as described by the Medical Board of California in its May 13, 2004 press release) that a reasonable and prudent physician would follow when recommending or approving medical marijuana for the treatment of his or her patient.

III. GUIDELINES REGARDING INDIVIDUAL QUALIFIED PATIENTS AND PRIMARY CAREGIVERS

A. State Law Compliance Guidelines.

1. **Physician Recommendation:** Patients must have a written or verbal recommendation for medical marijuana from a licensed physician. (§ 11362.5(d).)
2. **State of California Medical Marijuana Identification Card:** Under the MMP, qualified patients and their primary caregivers may voluntarily apply for a card issued by DPH identifying them as a person who is authorized to use, possess, or transport marijuana grown for medical purposes. To help law enforcement officers verify the cardholder's identity, each card bears a unique identification number, and a verification database is available online (www.calmmp.ca.gov). In addition, the cards contain the name of the county health department that approved the application, a 24-hour verification telephone number, and an expiration date. (§§ 11362.71(a); 11362.735(a)(3)-(4); 11362.745.)
3. **Proof of Qualified Patient Status:** Although verbal recommendations are technically permitted under Proposition 215, patients should obtain and carry written proof of their physician recommendations to help them avoid arrest. A state identification card is the best form of proof, because it is easily verifiable and provides immunity from arrest if certain conditions are met (see section III.B.4, below). The next best forms of proof are a city- or county-issued patient identification card, or a written recommendation from a physician.
4. **Possession Guidelines:**
 - a) **MMP:**² Qualified patients and primary caregivers who possess a state-issued identification card may possess 8 oz. of dried marijuana, and may maintain no more than 6 mature or 12 immature plants per qualified patient. (§ 11362.77(a).) But, if "a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient's needs." (§ 11362.77(b).) Only the dried mature processed flowers or buds of the female cannabis plant should be considered when determining allowable quantities of medical marijuana for purposes of the MMP. (§ 11362.77(d).)
 - b) **Local Possession Guidelines:** Counties and cities may adopt regulations that allow qualified patients or primary caregivers to possess

² On May 22, 2008, California's Second District Court of Appeal severed Health & Safety Code § 11362.77 from the MMP on the ground that the statute's possession guidelines were an unconstitutional amendment of Proposition 215, which does not quantify the marijuana a patient may possess. (See *People v. Kelly* (2008) 163 Cal.App.4th 124, 77 Cal.Rptr.3d 390.) The Third District Court of Appeal recently reached a similar conclusion in *People v. Phomphakdy* (July 31, 2008) --- Cal.Rptr.3d ---, 2008 WL 2931369. The California Supreme Court has granted review in *Kelly* and the Attorney General intends to seek review in *Phomphakdy*.

medical marijuana in amounts that exceed the MMP's possession guidelines. (§ 11362.77(c).)

c) **Proposition 215:** Qualified patients claiming protection under Proposition 215 may possess an amount of marijuana that is “reasonably related to [their] current medical needs.” (*People v. Trippet* (1997) 56 Cal.App.4th 1532, 1549.)

B. Enforcement Guidelines.

1. **Location of Use:** Medical marijuana may not be smoked (a) where smoking is prohibited by law, (b) at or within 1000 feet of a school, recreation center, or youth center (unless the medical use occurs within a residence), (c) on a school bus, or (d) in a moving motor vehicle or boat. (§ 11362.79.)

2. **Use of Medical Marijuana in the Workplace or at Correctional Facilities:** The medical use of marijuana need not be accommodated in the workplace, during work hours, or at any jail, correctional facility, or other penal institution. (§ 11362.785(a); *Ross v. RagingWire Telecomms., Inc.* (2008) 42 Cal.4th 920, 933 [under the Fair Employment and Housing Act, an employer may terminate an employee who tests positive for marijuana use].)

3. **Criminal Defendants, Probationers, and Parolees:** Criminal defendants and probationers may request court approval to use medical marijuana while they are released on bail or probation. The court's decision and reasoning must be stated on the record and in the minutes of the court. Likewise, parolees who are eligible to use medical marijuana may request that they be allowed to continue such use during the period of parole. The written conditions of parole must reflect whether the request was granted or denied. (§ 11362.795.)

4. **State of California Medical Marijuana Identification Cardholders:** When a person invokes the protections of Proposition 215 or the MMP and he or she possesses a state medical marijuana identification card, officers should:

a) Review the identification card and verify its validity either by calling the telephone number printed on the card, or by accessing DPH's card verification website (<http://www.calmmp.ca.gov>); and

b) If the card is valid and not being used fraudulently, there are no other indicia of illegal activity (weapons, illicit drugs, or excessive amounts of cash), and the person is within the state or local possession guidelines, the individual should be released and the marijuana should not be seized. Under the MMP, “no person or designated primary caregiver in possession of a valid state medical marijuana identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana.” (§ 11362.71(e).) Further, a “state or local law enforcement agency or officer shall not refuse to accept an identification card issued by the department unless the state or local law enforcement agency or officer

has reasonable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.” (§ 11362.78.)

5. **Non-Cardholders:** When a person claims protection under Proposition 215 or the MMP and only has a locally-issued (i.e., non-state) patient identification card, or a written (or verbal) recommendation from a licensed physician, officers should use their sound professional judgment to assess the validity of the person’s medical-use claim:

a) Officers need not abandon their search or investigation. The standard search and seizure rules apply to the enforcement of marijuana-related violations. Reasonable suspicion is required for detention, while probable cause is required for search, seizure, and arrest.

b) Officers should review any written documentation for validity. It may contain the physician’s name, telephone number, address, and license number.

c) If the officer reasonably believes that the medical-use claim is valid based upon the totality of the circumstances (including the quantity of marijuana, packaging for sale, the presence of weapons, illicit drugs, or large amounts of cash), and the person is within the state or local possession guidelines or has an amount consistent with their current medical needs, the person should be released and the marijuana should not be seized.

d) Alternatively, if the officer has probable cause to doubt the validity of a person’s medical marijuana claim based upon the facts and circumstances, the person may be arrested and the marijuana may be seized. It will then be up to the person to establish his or her medical marijuana defense in court.

e) Officers are not obligated to accept a person’s claim of having a verbal physician’s recommendation that cannot be readily verified with the physician at the time of detention.

6. **Exceeding Possession Guidelines:** If a person has what appears to be valid medical marijuana documentation, but exceeds the applicable possession guidelines identified above, all marijuana may be seized.

7. **Return of Seized Medical Marijuana:** If a person whose marijuana is seized by law enforcement successfully establishes a medical marijuana defense in court, or the case is not prosecuted, he or she may file a motion for return of the marijuana. If a court grants the motion and orders the return of marijuana seized incident to an arrest, the individual or entity subject to the order must return the property. State law enforcement officers who handle controlled substances in the course of their official duties are immune from liability under the CSA. (21 U.S.C. § 885(d).) Once the marijuana is returned, federal authorities are free to exercise jurisdiction over it. (21 U.S.C. §§ 812(c)(10), 844(a); *City of Garden Grove v. Superior Court (Kha)* (2007) 157 Cal.App.4th 355, 369, 386, 391.)

IV. GUIDELINES REGARDING COLLECTIVES AND COOPERATIVES

Under California law, medical marijuana patients and primary caregivers may “associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes.” (§ 11362.775.) The following guidelines are meant to apply to qualified patients and primary caregivers who come together to collectively or cooperatively cultivate physician-recommended marijuana.

A. Business Forms: Any group that is collectively or cooperatively cultivating and distributing marijuana for medical purposes should be organized and operated in a manner that ensures the security of the crop and safeguards against diversion for non-medical purposes. The following are guidelines to help cooperatives and collectives operate within the law, and to help law enforcement determine whether they are doing so.

1. **Statutory Cooperatives:** A cooperative must file articles of incorporation with the state and conduct its business for the mutual benefit of its members. (Corp. Code, § 12201, 12300.) No business may call itself a “cooperative” (or “co-op”) unless it is properly organized and registered as such a corporation under the Corporations or Food and Agricultural Code. (*Id.* at § 12311(b).) Cooperative corporations are “democratically controlled and are not organized to make a profit for themselves, as such, or for their members, as such, but primarily for their members as patrons.” (*Id.* at § 12201.) The earnings and savings of the business must be used for the general welfare of its members or equitably distributed to members in the form of cash, property, credits, or services. (*Ibid.*) Cooperatives must follow strict rules on organization, articles, elections, and distribution of earnings, and must report individual transactions from individual members each year. (See *id.* at § 12200, et seq.) Agricultural cooperatives are likewise nonprofit corporate entities “since they are not organized to make profit for themselves, as such, or for their members, as such, but only for their members as producers.” (Food & Agric. Code, § 54033.) Agricultural cooperatives share many characteristics with consumer cooperatives. (See, e.g., *id.* at § 54002, et seq.) Cooperatives should not purchase marijuana from, or sell to, non-members; instead, they should only provide a means for facilitating or coordinating transactions between members.

2. **Collectives:** California law does not define collectives, but the dictionary defines them as “a business, farm, etc., jointly owned and operated by the members of a group.” (*Random House Unabridged Dictionary*; Random House, Inc. © 2006.) Applying this definition, a collective should be an organization that merely facilitates the collaborative efforts of patient and caregiver members – including the allocation of costs and revenues. As such, a collective is not a statutory entity, but as a practical matter it might have to organize as some form of business to carry out its activities. The collective should not purchase marijuana from, or sell to, non-members; instead, it should only provide a means for facilitating or coordinating transactions between members.

B. Guidelines for the Lawful Operation of a Cooperative or Collective:

Collectives and cooperatives should be organized with sufficient structure to ensure security, non-diversion of marijuana to illicit markets, and compliance with all state and local laws. The following are some suggested guidelines and practices for operating collective growing operations to help ensure lawful operation.

1. **Non-Profit Operation:** Nothing in Proposition 215 or the MMP authorizes collectives, cooperatives, or individuals to profit from the sale or distribution of marijuana. (See, e.g., § 11362.765(a) [“nothing in this section shall authorize . . . any individual or group to cultivate or distribute marijuana for profit”].)

2. **Business Licenses, Sales Tax, and Seller’s Permits:** The State Board of Equalization has determined that medical marijuana transactions are subject to sales tax, regardless of whether the individual or group makes a profit, and those engaging in transactions involving medical marijuana must obtain a Seller’s Permit. Some cities and counties also require dispensing collectives and cooperatives to obtain business licenses.

3. **Membership Application and Verification:** When a patient or primary caregiver wishes to join a collective or cooperative, the group can help prevent the diversion of marijuana for non-medical use by having potential members complete a written membership application. The following application guidelines should be followed to help ensure that marijuana grown for medical use is not diverted to illicit markets:

a) Verify the individual’s status as a qualified patient or primary caregiver. Unless he or she has a valid state medical marijuana identification card, this should involve personal contact with the recommending physician (or his or her agent), verification of the physician’s identity, as well as his or her state licensing status. Verification of primary caregiver status should include contact with the qualified patient, as well as validation of the patient’s recommendation. Copies should be made of the physician’s recommendation or identification card, if any;

b) Have the individual agree not to distribute marijuana to non-members;

c) Have the individual agree not to use the marijuana for other than medical purposes;

d) Maintain membership records on-site or have them reasonably available;

e) Track when members’ medical marijuana recommendation and/or identification cards expire; and

f) Enforce conditions of membership by excluding members whose identification card or physician recommendation are invalid or have expired, or who are caught diverting marijuana for non-medical use.

4. **Collectives Should Acquire, Possess, and Distribute Only Lawfully Cultivated Marijuana:** Collectives and cooperatives should acquire marijuana only from their constituent members, because only marijuana grown by a qualified patient or his or her primary caregiver may lawfully be transported by, or distributed to, other members of a collective or cooperative. (§§ 11362.765, 11362.775.) The collective or cooperative may then allocate it to other members of the group. Nothing allows marijuana to be purchased from outside the collective or cooperative for distribution to its members. Instead, the cycle should be a closed-circuit of marijuana cultivation and consumption with no purchases or sales to or from non-members. To help prevent diversion of medical marijuana to non-medical markets, collectives and cooperatives should document each member's contribution of labor, resources, or money to the enterprise. They also should track and record the source of their marijuana.

5. **Distribution and Sales to Non-Members are Prohibited:** State law allows primary caregivers to be reimbursed for certain services (including marijuana cultivation), but nothing allows individuals or groups to sell or distribute marijuana to non-members. Accordingly, a collective or cooperative may not distribute medical marijuana to any person who is not a member in good standing of the organization. A dispensing collective or cooperative may credit its members for marijuana they provide to the collective, which it may then allocate to other members. (§ 11362.765(c).) Members also may reimburse the collective or cooperative for marijuana that has been allocated to them. Any monetary reimbursement that members provide to the collective or cooperative should only be an amount necessary to cover overhead costs and operating expenses.

6. **Permissible Reimbursements and Allocations:** Marijuana grown at a collective or cooperative for medical purposes may be:

- a) Provided free to qualified patients and primary caregivers who are members of the collective or cooperative;
- b) Provided in exchange for services rendered to the entity;
- c) Allocated based on fees that are reasonably calculated to cover overhead costs and operating expenses; or
- d) Any combination of the above.

7. **Possession and Cultivation Guidelines:** If a person is acting as primary caregiver to more than one patient under section 11362.7(d)(2), he or she may aggregate the possession and cultivation limits for each patient. For example, applying the MMP's basic possession guidelines, if a caregiver is responsible for three patients, he or she may possess up to 24 oz. of marijuana (8 oz. per patient) and may grow 18 mature or 36 immature plants. Similarly, collectives and cooperatives may cultivate and transport marijuana in aggregate amounts tied to its membership numbers. Any patient or primary caregiver exceeding individual possession guidelines should have supporting records readily available when:

- a) Operating a location for cultivation;
- b) Transporting the group's medical marijuana; and
- c) Operating a location for distribution to members of the collective or cooperative.

8. **Security:** Collectives and cooperatives should provide adequate security to ensure that patients are safe and that the surrounding homes or businesses are not negatively impacted by nuisance activity such as loitering or crime. Further, to maintain security, prevent fraud, and deter robberies, collectives and cooperatives should keep accurate records and follow accepted cash handling practices, including regular bank runs and cash drops, and maintain a general ledger of cash transactions.

C. **Enforcement Guidelines:** Depending upon the facts and circumstances, deviations from the guidelines outlined above, or other indicia that marijuana is not for medical use, may give rise to probable cause for arrest and seizure. The following are additional guidelines to help identify medical marijuana collectives and cooperatives that are operating outside of state law.

1. **Storefront Dispensaries:** Although medical marijuana “dispensaries” have been operating in California for years, dispensaries, as such, are not recognized under the law. As noted above, the only recognized group entities are cooperatives and collectives. (§ 11362.775.) It is the opinion of this Office that a properly organized and operated collective or cooperative that dispenses medical marijuana through a storefront may be lawful under California law, but that dispensaries that do not substantially comply with the guidelines set forth in sections IV(A) and (B), above, are likely operating outside the protections of Proposition 215 and the MMP, and that the individuals operating such entities may be subject to arrest and criminal prosecution under California law. For example, dispensaries that merely require patients to complete a form summarily designating the business owner as their primary caregiver – and then offering marijuana in exchange for cash “donations” – are likely unlawful. (*Peron, supra*, 59 Cal.App.4th at p. 1400 [cannabis club owner was not the primary caregiver to thousands of patients where he did not consistently assume responsibility for their housing, health, or safety].)

2. **Indicia of Unlawful Operation:** When investigating collectives or cooperatives, law enforcement officers should be alert for signs of mass production or illegal sales, including (a) excessive amounts of marijuana, (b) excessive amounts of cash, (c) failure to follow local and state laws applicable to similar businesses, such as maintenance of any required licenses and payment of any required taxes, including sales taxes, (d) weapons, (e) illicit drugs, (f) purchases from, or sales or distribution to, non-members, or (g) distribution outside of California.

**ITEM NO.: K-18
ADOPT RESOLUTION 08-11-09-01,
ADOPTION OF THE 2009-2010 CITY
BUDGET, DISCUSSION AND ACTION
AUGUST 11, 2009**

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: STEPHEN J. KIMBROUGH, CITY MANAGER



SUMMARY:

The City Council received the Budget on Friday, June 12, 2009 and met in public for a study session on June 18, 2009, and the regularly scheduled meeting on June 23, 2009 and a Special Meeting on June 30, 2009 to receive public input and discuss the program of service and its costs with the City Staff and Community present at the meetings.

The City Council continued further discussion of the Budget scheduled to be adopted on July 28, 2009, in order to better understand the impact of the State "Taking" of 2009-2010 City Property Tax estimated at \$147,105.

Fortunately the Gas Tax Taking failed after a long fight in the State Assembly.

IMPACT OF STATE BUDGET:

In the usual convoluted manner of the State budget process, the Legislature took the local property tax, but included a provision to allow Cities and Counties to borrow money to cover the loss until the State pays Corning the approximately \$147,105 plus interest back in 2013.

Included at the end of this report is an explanation of the process of joining with other cities to "sell" Corning's account receivable to the joint powers bonding authority "California Communities" who will issue the bonds to buy the tax receivable from each participating city. "California Communities" the state-wide Joint Powers Agency to which Corning belongs. The Attachments answer the questions and indicate that the City will receive the full amount taken by the State.

City Staff will initiate participation in the bond deal, but, of course, will not make any commitments unless the Council first approves the terms. Our other alternative is to loan the money to ourselves since the State Constitution guarantees pay back.

As a local financial auditor and CPA said last week, "the state is running a classic ponzi scheme that would put anyone else in jail!"

The City has now received the entire \$100,000 allocated by the State for "COPS" FY 08-09 which funds the cost of one Police Officer. The report on the Budget package currently considered for adoption includes the continued funding of COPS at \$100,000 and also covers the local Jail Booking Fees and continues State Crime Lab funding.

Add the State taking to the \$732,000 estimated shortfall already presented in previous reports brings the city budget shortfall in revenue to \$879,105. Talks with the City Employees about a 10% reduction in compensation through furloughs are underway with the target implementation of the furloughs starting October 4, 2009 coinciding with the beginning of the pay period.

RESOLUTION NO. 08-11-09-01 ADOPTING THE 2009-2010 BUDGET AND PROGRAM OF SERVICE FOR THE CITY OF CORNING:

The Council already adopted the annual "Appropriation Limit" Resolution as required by the State Constitution leaving only the final Budget Resolution implementing the Budget.

The attached Resolution sets the revenues and expenditures for each of the Funds which support the operations of this City. The table in the Resolution sets the estimated revenue and the expenditure limit for each of these funds. The reserve used or carryover shows the amount of dollars to be used from each of these Fund Reserves. The Fund Reserves represent prior year savings that will be applied to projects or activities in the coming year.

Following the table in the Resolution is a list of budget policies and transfers that implement the programs. Most of these are restated each year to provide direction to the Finance Department. A few need additional explanation.

Number 10 provides a \$225,000 transfer from one Sewer Development Impact Fund to another in order to meet the Bond Debt Service on the Wastewater Treatment Plant Expansion. When the Bonds were approved for the WWTP Expansion, the City sought to avoid imposing an expansion of the Plant on current ratepayers, therefore the burden was placed upon new development.

If there was insufficient development to meet the debt service, the funds would come from the Sewer Collection System Capital Improvement Fund No. 347, from the rate payers. This transfer makes it possible to avoid any impact on the ratepayers for this fiscal year and probably next fiscal year. Because these development impact fee funds will be used for the intended purpose of mitigating development impact, there is no prohibition against this transfer.

Please note in paragraphs 14, 15 and 16 that the Police Department and Public Works Department have asked that portions of their Capital Replacement Funds be returned to the General Fund to help offset this current year's shortfall. These savings have already been incorporated into the yearend "guess" already presented to the City Council.

Numbers 18-21 close out projects following final accounting. The deficits noted are also included in the yearend "guess".

Approval of the attached Resolution No. 08-11-09-01 adopts the 2009-2010 Budget and Program of Service for the City of Corning.

ADDITION OF SHORT DRIVE AND EDITH STORMDRAIN PROJECT:

On May 26, 2009, the City Council approved the funding for the Short Drive and Edith Avenue Storm Drain Improvement. Since the construction will take place during this new budget year, the \$20,350 appropriation of the previously approved project has been added to the new budget in Account 345-8030-3001, Street Projects.

RECOMMENDATION:

MAYOR AND COUNCIL:

APPROVE RESOLUTION NO. 08-11-09-01 ADOPTING THE 2009-2010 BUDGET AND PROGRAM OF SERVICE FOR THE CITY OF CORNING.



City Advocate Weekly

LEGISLATION AND POLICY AFFECTING CALIFORNIA CITIES

What You Should Know About "Securitization" Of The Prop. 1A Loan

7-31-09

The enactment on July 24 of legislation providing for the "borrowing" of up to 8 percent of the local property tax under Proposition 1A (2004) recognizes the state's constitutionally required repayment obligation by June 30, 2013. The Prop. 1A repayment legislation (ABx4 15) also authorizes cities and other local agencies to sell this repayment commitment (or "Prop. 1A receivable") to a joint powers authority (JPA), sponsored by the League and the California State Association of Counties (CSAC), (California Communities), and in return receive a portion of bond proceeds from the JPA long before the state is required to repay the "Prop. 1A loan."

The League and CSAC helped design and implement a similar bond securitization program in 2005 in connection with the state "borrowing" a portion of VLF revenues from cities and counties. It was accomplished through California Communities, our jointly-sponsored JPA. The JPA issued the VLF securitization bonds to provide advance repayment to participating cities and counties of the state's loan repayment of local VLF funds

Pending clean-up amendments the Prop. 1A securitization bonds would ideally be issued by the JPA and payments made to local agencies over the next 3 – 4 months, assuming everything works properly. This will hopefully mean cities will receive their funds from the bond issue prior to the normal December 10 property tax distribution date. Any number of factors could cause a delay in this schedule, however.

In the near future California Communities and the League hope to send you information on how your city can participate and the required actions by the city council by the applicable deadline. In theory it should not cost the city anything except the cost of city attorney review of the applicable agreement to sell the Prop. 1A receivable to the JPA. ABx4 15 provides that the state will pay all interest and costs of issuance of the bond transaction up to a certain cap.

In order to control the state's cost, the legislation limits the issuance of the Prop. 1A securitization bonds to a large JPA like California Communities, with oversight by the Department of Finance and State Treasurer's Office. Local agencies can either participate in the JPA securitization or wait until 2013 to receive repayment, with interest at a rate above the PMIA rate to be set by the Director of Finance in a few months.

Even though California Communities successfully completed a similar bond issue in 2005, there are still some unknowns. The first is how potential investors will view the strength of the State's Prop. 1A loan repayment commitment. Since ABx4 15 appears to appropriately give this constitutional repayment commitment a very high priority (behind only schools and general obligation bonds), it should be an attractive investment and the recent turbulence in the market concerning California debt obligations will hopefully not be an issue. This is particularly important because, unlike in 2005, no municipal bond insurance is available today.

It also appears to the League that a number of amendments to ABx4 15 are necessary to improve the feasibility, timing and affordability of the securitization bond issue. We are in discussions now with state officials about these issues. These matters could be addressed when the legislature returns after its recess.

In the next few weeks the board of directors of California Communities is expected to select a finance team for the bond issue. Cities and other local agencies will then begin to be contacted with the detailed information on how to participate if they so choose.

California Communities Establishes Prop. 1A Securitization Program

8-6-09

California Communities, a joint powers authority (JPA) sponsored by the League and the California State Association of Counties (CSAC), announced its plans on Aug. 5 to launch a securitization program for the Proposition 1A loan to the state. The announcement was distributed to the various local government associations whose members will lose 8 percent of their property tax revenues to the state for FY 2009-10. The program is intended to replace 100 percent of the funds loaned by local agencies to the state. California Communities is soliciting proposals to put together the financing team for this project and is prepared to move expeditiously to structure the project.

The California Communities announcement is posted on the League's Web site.
[http://www.cacities.org/resource_files/28241.Securitization Program Letter.pdf](http://www.cacities.org/resource_files/28241.Securitization%20Program%20Letter.pdf)

Following the passage of the budget, the League, CSAC and the California Special Districts Association began working with the Department of Finance on cleanup amendments to the securitization bill, ABX 4 15. California Communities' intent is to sell the bonds with the proceeds of the sale going to the local governments by the end of November. In return, California Communities will have the authority to collect the participating local governments' future receivable from the state. The goal is that local governments are not harmed by the loss of this portion of property tax.

It's important for city officials to understand the choices being offered local government through this mandatory state loan.

Cities can receive 100 percent of their loss paid through the securitization process and receive payment at approximately the normal payment schedule. Because the state is paying the interest on the bonds plus the costs of issuing, the full amount of the funds will be available to cities. Thus the city will not suffer any loss of funds.

Cities that do not choose to participate in the securitization will forego the FY 2009-10 payments until the state repays the loan in 2013. These funds will be paid back with interest at that time.

The state is determining the amount of interest that will be paid to local governments that are not securitizing their receivable. The state's approved interest rate must be announced by Sept. 28 and must be greater than the current Pooled Money Investment Account rate, but no more than 6 percent. This information will help city officials to determine whether their city wants to hold the receivable as an investment or participate in the pool to sell their receivable at 100 percent of value. City officials will have approximately 30 days following the announcement on Sept. 28 to decide whether to participate in the securitization.

The League will continue to provide city officials with information on the securitization process, including the progress of cleanup legislation to ABX 4 15, as it develops.

California Communities is also available as a resource and will be distributing information via www.cacommunities.org. Please contact James Hamill at (800) 635-3993 ext 216, Richard Watson at (800) 635-3993 ext 217 or Michael Chin at 635-3993 ext 224 with further questions.

RESOLUTION NO. 08-11-09-01
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORNING
ADOPTING THE ANNUAL PROGRAM OF SERVICES AND CITY BUDGET
FOR FISCAL YEAR 2009-2010

WHEREAS, the City Council received the proposed Budget on June 12, 2009; and

WHEREAS, the City Council conducted two Public Meetings, on June 23rd, 2009, and on June 30th, 2009, and a Study Session on June 18th, 2009, in order to receive public input on levels of service and general concerns of the citizens; and

WHEREAS, the City Council has made various changes in the proposed Annual Program of Service and Budget; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Corning approves the Annual Program of Service and Budget, with changes, by adopting the Appropriations and Expenditures for each City Fund as listed in the following table:

<u>FUND DESCRIPTION</u>	<u>ESTIMATED REVENUE AND TRANSFERS</u>	<u>APPROPRIATED EXPEND. & TRANS</u>	<u>RESERVE USED / CARRY OVER</u>
001 General Fund	\$3,738,050	\$4,470,026	\$(731,976)
071 PD Equip. Replace. Fund	\$ 84,580	\$ 112,000	\$(27,420)
072 ACO F & A	\$ 3,000	\$ 5,500	\$(2,500)
076 Fire Equip. Replace. Fund	\$ 71,808	\$ 71,808	\$ -0-
078 PW Equip Replace. Fund	\$ 100	\$ 2,000	\$(1,900)
105 Rural Planning	\$ 31,000	\$ 30,871	\$ 129
107 STIP	\$ 1,152	\$ 53,000	\$(51,848)
108 Federal Programs	\$ 500	\$ 28,250	\$(27,750)
109 Gas Tax	\$ 43,100	\$ 61,534	\$(18,434)
110 Gas Tax / 2106	\$ 32,700	\$ 51,932	\$(19,232)
111 Gas Tax / 2107	\$ 57,600	\$ 127,693	\$(70,093)
112 Gas Tax	\$ 2,200	\$ 2,200	\$ -0-
114 Tr. Sales Tax	\$ 64,000	\$ 79,500	\$(15,550)
115 Traffic Cong.	\$ 68,850	\$ 68,400	\$ 450
116 Traffic Mitigation Fees	\$ 77,000	\$ 5,101	\$ 71,899
118 Safe Routes to School	\$ -0-	\$ -0-	\$ -0-
120 T.E.A. Downtown	\$ -0-	\$ -0-	\$ -0-
150 Planning Envir. Review	\$ -0-	\$ -0-	\$ -0-
161 Office/Traffic Safety Close Fund June 30, 2009	\$ -0-	\$ -0-	\$ -0-
164 Office/Traffic Safety 2	\$ 19,696	\$ 19,696	\$ -0-
170 Abandoned Vehicles	\$ 4,000	\$ 7,000	\$(3,000)
188 SAFE Grant	\$ 10,000	\$ 7,500	\$ 2,500
303 Flood Prevention Close Fund June 30, 2009	\$ -0-	\$ -0-	\$ -0-
304 GIS Planning Close Fund June 30, 2009	\$ -0-	\$ -0-	\$ -0-
305 Retail Trade Close Fund June 30, 2009	\$ -0-	\$ -0-	\$ -0-

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<u>FUND DESCRIPTION</u>	<u>ESTIMATED REVENUE AND TRANSFERS</u>	<u>APPROPRIATED EXPEND. & TRANS</u>	<u>RESERVE USED / CARRY OVER</u>
308 Housing Element	\$ 35,000	\$ 43,750	\$ (8,750)
321 Salado Home Grant Close Fune June 30, 2009	\$ -0-	\$ -0-	\$ -0-
322 CDBG 08	\$1,500,000	\$ 1,480,370	\$ 19,630
323 Prog. Income Unrestricted	\$ -0-	\$ -0-	\$ -0-
324 Program Housing	\$ -0-	\$ -0-	\$ -0-
325 Program Income ED	\$ -0-	\$ -0-	\$ -0-
326 Program Income General	\$ -0-	\$ -0-	\$ -0-
341 Park Acquis. Quimby Act	\$ 12,200	\$ 14,541	\$ (2,341)
344 Salado Wall	\$ -0-	\$ -0-	\$ -0-
345 Drainage	\$ 13,000	\$ 24,409	\$ (11,409)
346 Water Capital Improve.	\$ 29,000	\$ 613,000 ¹	\$ (584,000)
347 Sewer Capital Improve.	\$ 31,000	\$ 227,000	\$ (196,000)
348 WWTP Sewer	\$ 345,500	\$ 234,160	\$ 113,340
352 Park & Rec. Revolving Fund	\$ 2,000	\$ 2,800	\$ (800)
353 Park Volunteer Fund	\$ 500	\$ -0-	\$ 500
355 Parkland Acquisition	\$ 15,000	\$ 1,500	\$ 13,500
356 Trail Development	\$ 1,000	\$ -0-	\$ 1,000
365 Curb/Gutter-Revolving	\$ -0-	\$ -0-	\$ -0-
380 WWTP Capital Replace	\$ 60,000	\$ 70,000	\$ (10,000)
381 Sewer Capital Replace.	\$ 19,300	\$ 72,000	\$ (52,700)
383 Water Capital Replace.	\$ 72,000	\$ 22,500	\$ (49,500)
401 J. T. Levy	\$ 500	\$ 500	\$ -0-
402 Rodgers Theatre Trust	\$ 500	\$ 1,500	\$ (1,000)
403 Ridell Library Trust	\$ 1,500	\$ 1,000	\$ 500
610 Sewer Enterprise	\$ 1,412,990	\$1,331,783	\$ 81,207
611 Sewer Rate Coven. Fund	\$ -0-	\$ -0-	\$ -0-
615 Solid Waste	\$ 305,000	\$ 306,000	\$ (1,000)
620 Airport	\$ 18,980	\$ 17,200	\$ 1,780
621 Airport CIP	\$ 3,320,000	\$ 3,320,000	\$ -0-
625 Transportation Center	\$ 13,220	\$ 13,500	\$ (280)
630 Water Enterprise	\$ 1,227,675	\$ 1,220,248	\$ 7,427
701 Lighting & Landscape Dist.	\$ 1,090	\$ 1,725	\$ (635)
703 Lighting & Landscape Dist.	\$ 2,900	\$ 2,625	\$ 275
704 Lighting & Landscape Dist.	\$ 4,775	\$ 3,400	\$ 1,375

¹ USDA Rural Development Loan Proceeds for Clark Park Well estimated at \$578,000.

BE IT FURTHER RESOLVED, that the City Council hereby maintains the following policies:

1. The Annual System Replacement commitment from the Sewer Enterprise Fund as mandated in the Federal Wastewater Treatment Plant Construction Grant is committed to pay debt service for Sewer Replacement Bonds.

2. Public Safety Sales Tax, approved by the voters in Prop. 172, is distributed between the Police Equipment Replacement Fund 071 and Fire Equipment Replacement Fund 076. Upon receipt, funds shall be deposited into the General Fund Revenue Account #001-4122, and become a part of the annual transfer in support of Funds 071 and 076.

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3. The State Indian Gaming money shall be deposited in the General Fund Revenue Acct. 001-4160 to be used for the funding of front-line law enforcement personnel costs.
4. From the General Fund 001, transfer \$53,280 to the Police Equipment Replacement Fund 071.
5. From the General Fund 001, transfer \$22,000 to the Fire Equipment Replacement Fund 076. Deposit Fire Dispatch Contract income into Fund #076, Revenue Account #076-4671.
6. Deposit Fire Dispatch Contract income into Fire Equipment Replacement Fund 076, Revenue Account #076-4671.
7. From the General Fund 001, transfer \$-0- to Public Works Equipment Replacement Fund 078.
8. \$50,000 per year for Equipment Replacement shall be transferred annually from the Sewer Enterprise Fund 610 to the Wastewater Treatment Plant Capital Replacement Fund #380.
9. \$18,300 per year for Equipment Replacement shall be transferred annually from the Sewer Enterprise Fund #610 to the Sewer Capital Replacement Fund #381.
10. \$225,000 shall be transferred from the Sewer Capital Improvement Fund 347 to the WWTP Expansion Fund 348 to pay the WWTP Bond Debt Service.
11. \$70,000 per year shall be transferred annually from the Water Enterprise Fund #630 to the Water Capital Replacement Fund #383.
12. The Annual General Fund Subsidy of the Corning Municipal Airport Enterprise Fund #620 shall be set at \$0.
13. The Annual rent for PAL Program Use paid to the Transportation Center Fund shall be set at \$5,000, and transferred from the General Fund 001, to the Transportation Center Fund 625.
14. Authorize City Manager to make annual year end transfer of Unrestricted CDBG Program Income into its separate Fund, Fund #323, in order to segregate funds available for use.
15. Effective June 30, 2009, return \$180,000 from the Police Equipment Replacement Fund #071 to the General Fund #001.
16. Effective June 30, 2009, return \$35,000 from Public Works Equipment Replacement Fund #078 to the General Fund #001.
17. Effective June 30, 2009 return \$18,000 from the Curb and Gutter Revolving Fund #365 to the General Fund #001.
18. Transfer to the General Fund 001, prior to June 30, 2009, the excess interest earned from the Solid Waste Fund 615, equal to the June 30, 2009, Fund 615 balance less the amount payable to Waste Management, Inc.
19. Transfer Downtown TEA Fund #120 project deficit of \$1,011 from the General Fund #001 by June 30, 2009.

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20. Transfer Flood Prevention Grant Fund 303 project deficit of \$6,969 from the General Fund 001 by June 30, 2009.
21. Transfer GIS Planning Grant Fund 304 project deficit of \$7,150 from the General Fund 001 by June 30, 2009.
22. Transfer Retail Trade Grant Fund 305 balance of \$4,356 to the General Fund 001 by June 30, 2009.



The foregoing Resolution was adopted at a regular meeting of the City Council of the City of Corning, held on August 11, 2009 by the following vote:

AYES:
NOES:
ABSTAINING:
ABSENT:

Gary R. Strack, Mayor

ATTEST:

Lisa M. Linnet, City Clerk