



CITY COUNCIL MEETING

COUNCIL CHAMBERS, 33 SOUTH MAIN STREET, COLFAX, CA

MAYOR DONNA BARKLE • MAYOR PRO-TEM TONY HESCH
COUNCILMEMBERS • KIM DOUGLASS • JASON MCKINNEY • TOM PARNHAM



REGULAR MEETING AGENDA

CLOSED SESSION at 5:30pm • October 23, 2013 **REGULAR SESSION at 7:00pm**



Colfax City Council Meetings are ADA compliant. If you need special assistance to participate in this meeting, please contact the City Clerk at (530) 346-2313 at least 72 hours prior to make arrangements for ensuring your accessibility.

1) OPENING of CLOSED SESSION

- A. Call to Order
- B. Roll Call

2) PUBLIC COMMENT – CLOSED SESSION ITEMS

3) CLOSED SESSION AGENDA

- A. Conference With Legal Counsel - Anticipated Litigation: Initiation of litigation pursuant to Government Code Section 54956.9(c), 2 cases
- B. Conference With Legal Counsel - Anticipated Litigation: Significant exposure to litigation pursuant to Government Code Section 54956.9(b), 1 case
- C. Public employee performance evaluation pursuant to Government Code Section 54957.
Title: Technical Services Administrator
- D. Public employee employment pursuant to Government Code Section 54957
Title of position to be filled: City Manager

4) OPENING of REGULAR SESSION

- A. Pledge of Allegiance
- B. Roll Call
- C. Announcement of Action Taken in Closed Session
- D. Approval of Agenda Order
 - a. This is the time for changes to the agenda to be considered including removal, postponement, or change to agenda sequence.
RECOMMENDED ACTION: By motion, accept the agenda as presented or amended.

Members of the public who addresses the Council shall do so in an orderly manner. No person shall yell or make profane or threatening remarks to any member of the Council, staff, or general public. No person shall engage in disorderly or boisterous conduct, including the utterance of loud, threatening or abusive language, whistling, stamping of feet, clapping, or other acts that unreasonably disturb, disrupt, delay or otherwise impede the orderly conduct of the Council meeting. Except as allowed by rules of order, a Councilmember or staff member shall not by conversation or other means delay the Council proceedings or disturb any other Councilmember or staff member while speaking.

5) COUNCIL, STAFF AND OTHER REPORTS

The purpose of these reports is to provide information to the Council and public on projects, programs, and issues discussed at committee meetings and other items of general information. No decisions will be made on these issues. If a member of the Council prefers formal action be taken on any committee reports or other information, the issue will be placed on a future Council meeting agenda.

6) PRESENTATIONS

7) CONSENT AGENDA

All matters listed under the Consent Agenda are considered routine in nature and will be approved by one blanket motion with a roll call vote. There will be no separate discussion of these items unless persons request specific items to be removed from the Consent Agenda for discussion and separate action. Any items removed will be considered after the motion to approve the Consent Agenda. If you wish to have an item pulled from the Consent Agenda for discussion, please notify the City Clerk.

AGENDA ITEM	RECOMMENDED ACTION
A. Minutes: October 9, 2013	<i>Receive and File</i>
B. Cash Summary: September 30, 2013	<i>Receive and File</i>
C. 2014 Holiday Schedule	<i>Receive and File</i>
D. Project Acceptance: Pond 3 Liner Project Wastewater Treatment Plant Upgrade City Project No. 11-01.02, SWRCB Project No. C-06-7806-110	Accept Project as complete and direct the City Clerk to file a Notice of Completion

8) PUBLIC COMMENT

At this time, members of the audience are permitted to address the Council on matters of concern to the public that are not listed on this agenda. Please make your comments as brief as possible. Comments should not exceed three (3) minutes in length. The Council cannot act on items not included on this agenda; however, if action is required it will be referred to staff.

9) PUBLIC HEARING

NOTICE TO THE PUBLIC:

City Council will take the following actions when considering a matter scheduled for hearing:

1. Open the public hearing
2. Presentation by staff
3. Presentation, when applicable, by applicant or appellant
4. Accept public testimony
5. When applicable, applicant or appellant rebuttal period
6. Close public hearing. (No public comment is taken after the hearing is closed.)
7. Council comments and questions
8. City Council action

Public hearings that are continued will be announced. The continued public hearing will be listed on a subsequent Council Meeting Agenda and posting of that agenda will serve as notice.

- A. Second Reading and Adoption of Ordinance No. 522: An Ordinance Of The City Of Colfax Repealing and Replacing Chapter 17.104 of Title 17 of the Colfax Municipal Code (#PL-01-13)

Recommended Action: Conduct Public Hearing, Consider Public and Staff Comments and Adopt Ordinance No. 522 to become effective in 30 days

- B. Introduction and First Reading of Ordinance No. 523: An Ordinance Of The City Of Colfax Repealing And Reenacting Chapter 15.04 And 15.08 Chapter Of The Colfax Municipal Code And Adopting By Reference The 2013 Edition Of The California Building Standards Code

Recommended Action: Staff recommends that the ordinance referenced above be introduced for first reading by title only and scheduled for second reading, public hearing and adoption at the November 13 regularly scheduled council meeting to be effective 30 days thereafter

10) COUNCIL BUSINESS

- A. Consideration of Adoption of Resolution No. 43-2013: A Resolution Of The City Council Of The City Of Colfax Authorizing The Interim City Manager To Execute An Agreement With Water Pollution Control Services, Inc., For Chief Plant Operator Services At The WWTP

Recommended Action: Adopt Resolution No. 43-2013

- B. Conduct discussion and consider taking action to suspend or terminate all or part of the I-80 corridor project and/or reallocating project funding.

Recommended Action: Conduct discussion and provide direction to staff

- C. Conduct discussion and provide direction to staff regarding City planning costs.

Recommended Action: Conduct discussion and provide direction to staff

- D. Conduct discussion and provide direction to staff regarding whether to allow issuance of a business license to a medical marijuana dispensary in Colfax.

Recommended Action: Conduct discussion and provide direction to staff

- E. Conduct Discussion about Adopting City Council Policies and Procedures.

Recommended Action: Conduct discussion, which will focus on Sections 5-7 of the draft rules, and direct staff

- F. Opportunity for Colfax Citizens to provide input regarding recruitment and selection of City Manager.

Recommended Action: Conduct discussion and provide direction to staff

11) ADJOURNMENT

**Agenda Posted at Colfax City Hall
and Colfax Post Office locations October 17, 2013.**



Karen Pierce, City Clerk

Administrative Remedies must be exhausted prior to action being initiated in a court of law. If you challenge City Council action in court, you may be limited to raising only those issues you or someone else raised at a public hearing described in this notice/agenda, or in written correspondence delivered to the City Clerk of the City of Colfax at, or prior to said public hearing.

Minutes
City Council Meeting
October 9, 2013

1. OPENING

Mayor Pro-tem Hesch called the meeting to order at 6:31pm.

Present and answering roll call were Council members Douglass, Parnham, McKinney and Mayor Pro-tem Hesch.

Mayor Barkle was absent due to medical reasons. Interim City Manager, Gabe Armstrong was absent for personal reasons.

2. PUBLIC COMMENT

There was no public comment

3. CLOSED SESSION

Mayor Pro-tem Hesch called the closed session to order at 6:31pm

A. Public employee discipline/dismissal/release pursuant to Government Code Section 54957

B. Public employee employment pursuant to Government Code Section 54957
Title of position to be filled: City Manager

Mayor Pro-tem Hesch closed the closed session at 6:56pm.

4. OPENING AND AGENDA APPROVAL

Mayor Pro-tem Hesch called the regular meeting to order at 7:02pm.

Connie Heilaman led the Pledge of Allegiance

Mayor Pro-tem Hesch stated that in closed session Mike Faudoa's resignation was accepted with a 3 to 1 vote, councilman Douglass being the no vote.

A motion was made by councilman McKinney and seconded by councilman Parnham to approve the agenda as presented. The motion was passed by voice vote.

5. CITY COUNCIL COMMITTEE REPORTS

Councilman McKinney reported on attending Railroad Days

Councilman Douglass reported on attending Railroad Days and the Project Go meeting

Mayor Pro-tem Hesch reported on Railroad Days and made the following requests to be placed on a future agenda:

- Action item to suspend all expenses for the I-80 project and to divert the funds for that project toward the Housing Element Update.

- Action item directing staff to include on all staff reports whether the item is funded or unfunded in the current budget and if it is funded which fund it is funded by.
- Action item for staff to report why the routine expense of the Housing Element Update was not considered in the budget.

6. INFORMATION REPORTS FROM STAFF AND OTHERS

7. CONSENT AGENDA

AGENDA ITEM	ACTION TAKEN
A. Minutes: September 25, 2013	<i>Pulled for discussion</i>

A. Minutes: September 25, 2013

Councilman McKinney asked if it was appropriate to list Mayor Barkle’s absence as due to Medial reasons and not as an excused absence. City Attorney, Mick Cabral noted that either was appropriate and acceptable. Councilman Hesch requested that his absence to the September 11 meeting be listed as due to a family emergency. Councilman Hesch requested that his questions that were stated during the last council meeting regarding the Housing Element be listed in the minutes if they were recorded. A motion was made by councilman Parnham and seconded by councilman Douglass to approve consent agenda item A. The motion was passed by voice vote.

8. PUBLIC COMMENT

Connie Heilaman, President Sierra Vista Community Center and business owner spoke regarding the letter the SVCC received from the city.

Otis Walen, Sierra Vista Community Center Board member spoke about negotiations and wanting to continue with negotiations to solve the issue.

Will Stockwin, resident noted that the dispensers for the dog waste bags have been empty for the past two weeks.

Suzanne Roberts, county resident requested that council not approve the medical marijuana store.

9. PUBLIC HEARING

Sitting as Planning Commission- The council convened as the Planning Commission for the purpose of considering and making a recommendation on Agenda Item 9A

- A. Consideration of Ordinance No. 522: An Ordinance of the City of Colfax Repealing and Replacing Chapter 17.104 of Title 17 of the Colfax Municipal Code (#PL-01-13/Density Bonus Ordinance Update) and Consideration of Adoption of Resolution No. 41-2013: A Resolution Of The Planning Commission Of The City Of Colfax, California, Recommending The City Council Adopt An Ordinance Repealing And Replacing Chapter 17.104 (“Density Bonuses & Other Incentives”) Of Title 17 Of The Colfax Municipal Code To Comply With California State Law**

Land Use Attorney, Brigit Barnes went over the staff report and Ordinance 522. Council had questions. There was no public comment. A motion was made by councilman McKinney and

seconded by councilman Parnham to adopt Resolution No 41-2013. The motion was passed by voice vote.

Sitting as City Council- The council re-convened as the City Council for the remainder of the meeting.

B. Introduction and First Reading of Ordinance No. 522: An Ordinance Of The City Of Colfax Repealing and Replacing Chapter 17.104 of Title 17 of the Colfax Municipal Code (#PL-01-13)

Land Use Attorney, Brigit Barnes went over the staff report. There was no public comment. A motion was made by councilman McKinney and seconded by councilman Parnham to introduce Ordinance No. 522 by title only, waive reading and continue for second reading at a future city council meeting. The motion was passed by voice vote.

10. COUNCIL BUSINESS

A. Consider Adopting Resolution No. 42-2013, A Resolution Of The City Council Of The City Of Colfax Authorizing The Mayor And Interim City Manager To Execute A Memorandum Of Understanding Between The City Of Colfax And Stationary Engineers Local 39 And Approving An Adjusted Salary Schedule.

City Attorney, Mick Cabral went over the staff report and MOU. Council had questions. Speaking from the public was:

Suzanne Roberts, county resident spoke about the 4% pay increase being very generous.

Council discussed. A motion was made by council and seconded by council to Adopt Resolution No. 42-2013. The motion was passed by the following vote:

AYES: Douglass, Parnham, and Mayor Pro-tem Hesch
NOES: McKinney
ABSENT: Mayor Barkle
ABSTAIN:

B. Conduct Discussion about Adopting City Council Policies and Procedures.

Councilman McKinney went over sections 1-4 of the draft City Council Policies and made agreed upon changes. Sections 5-7 will be addressed at the next council meeting.

C. Opportunity for Colfax Citizens to provide input regarding recruitment and selection of City Manager.

There was no public comment.

11. PRESENTATION

12. ADJOURNMENT

Being no further business to come before council by voice vote the meeting was adjourned at 8:06 pm.

7B

**City of Colfax
Cash Summary
September 30, 2013**

	Balance 08/31/2013	Debits	Credits	Transfers	Balance 08/31/2013
US Bank	\$ 245,866.02	\$ 439,518.16	\$ (212,521.93)	\$ (150,000.00)	\$ 322,862.25
LAIF	\$ 1,019,524.11	\$ -		\$ 150,000.00	\$ 1,169,524.11
LAIF - County Loan	\$ 1,000,000.00			\$ -	\$ 1,000,000.00
Total Cash - General Ledger	\$ 2,265,390.13	\$ 439,518.16	\$ (212,521.93)	\$ -	\$ 2,492,386.36
Petty Cash (In Safe)	\$ 300.00				\$ 300.00
Total Cash	\$ 2,265,690.13	\$ 439,518.16	\$ (212,521.93)	\$ -	\$ 2,492,686.36

Change in Cash Account Balance - Total **\$ 226,996.23**

Attached Reports:

- 1. Cash Transactions Report (By Individual Fund)
- 2. Check Register Report (Accounts Payable) \$ (126,293.25)
- 3. Cash Receipts - Daily Cash Summary Report \$ 264,821.08
 - Prior Period Adjustment \$ 69.75
 - Payroll Checks and Tax Deposits \$ (41,984.63)
 - Utility Billings - Receipts \$ 130,490.30
 - Bank Service Charges \$ (107.02)
 - \$ 226,996.23** \$ -

Prepared by: Valentina Sutton / 
Laurie Van Groningen, Finance Director

Reviewed by: 
Gabe Armstrong, Interim City Manager

City of Colfax
Cash Transactions Report - September 2013

	Beginning Balance	Debit (Revenues)	Credit (Expenditures)	Ending Balance
Fund Type: 1.11 - General Fund - Unassigned				
Fund: 100 - General Fund	\$ 316,188.04	\$ 101,328.95	\$ 45,819.78	\$ 371,697.21
Fund: 120 - Land Development Fees	\$ 9,868.84	\$ 11,284.20	\$ 2,372.75	\$ 18,780.29
Fund: 570 - Garbage Fund	\$ (345,784.51)	\$ -	\$ -	\$ (345,784.51)
Fund Type: 1.11 - General Fund - Unassigned	\$ (19,727.63)	\$ 112,613.15	\$ 48,192.53	\$ 44,692.99
Fund Type: 1.14 - General Fund - Restricted				
Fund: 571 - AB939 Landfill Oversion	\$ 30,767.26	\$ -	\$ -	\$ 30,767.26
Fund: 572 - Landfill Post Closure Mainten	\$ 732,540.86	\$ 2.00	\$ 2,391.17	\$ 730,151.69
Fund Type: 1.14 - General Fund - Restricted	\$ 763,308.12	\$ 2.00	\$ 2,391.17	\$ 760,918.95
Fund Type: 1.24 - Special Rev Funds - Restricted				
Fund: 210 - Mitigation Fees - Roads	\$ 8,409.45	\$ -	\$ -	\$ 8,409.45
Fund: 211 - Mitigation Fees - Drainage	\$ 2,975.89	\$ -	\$ -	\$ 2,975.89
Fund: 212 - Mitigation Fees - Trails	\$ 45,624.21	\$ -	\$ -	\$ 45,624.21
Fund: 213 - Mitigation Fees - Parks/Rec	\$ 93,045.82	\$ -	\$ -	\$ 93,045.82
Fund: 214 - Mitigation Fees - City Bldgs	\$ 444.45	\$ -	\$ -	\$ 444.45
Fund: 215 - Mitigation Fees - Vehicles	\$ 230.24	\$ -	\$ -	\$ 230.24
Fund: 217 - Mitigation Fees - DT Parking	\$ 25,986.66	\$ -	\$ -	\$ 25,986.66
Fund: 218 - Support Law Enforcement	\$ -	\$ -	\$ -	\$ -
Fund: 236 - CDBG Revitalization Zone	\$ 1,137.20	\$ -	\$ 751.00	\$ 386.20
Fund: 241 - CDBG Housing Rehabilitation	\$ 124,880.00	\$ -	\$ -	\$ 124,880.00
Fund: 244 - CDBG MicroEnterprise Lending	\$ 81,996.14	\$ 300.00	\$ -	\$ 82,296.14
Fund: 250 - Streets - Roads/Transportation	\$ (26,356.84)	\$ -	\$ 8,583.08	\$ (34,939.92)
Fund: 253 - Gas Taxes	\$ 48,372.96	\$ -	\$ 1,677.75	\$ 46,695.21
Fund: 270 - Beverage Container Recycling	\$ 28,908.82	\$ -	\$ -	\$ 28,908.82
Fund: 280 - Oil Recycling	\$ 1,066.68	\$ 325.00	\$ 339.18	\$ 1,052.50
Fund: 286 - Bricks	\$ 5,221.98	\$ -	\$ -	\$ 5,221.98
Fund: 292 - Fire Department Capital Funds	\$ 27,114.78	\$ -	\$ -	\$ 27,114.78
Fund Type: 1.24 - Special Rev Funds - Restrict	\$ 469,058.44	\$ 625.00	\$ 11,351.01	\$ 458,332.43
Fund Type: 1.34 - Capital Projects - Restricted				
Fund: 344 - PROP 40 Capital Projects	\$ (320,000.00)	\$ 100,000.00	\$ 150.00	\$ (220,150.00)
Fund: 350 - Streets Improvements Projects	\$ 217,950.17	\$ -	\$ 3,906.25	\$ 214,043.92
Fund Type: 1.34 - Capital Projects - Restricted	\$ (102,049.83)	\$ 100,000.00	\$ 4,056.25	\$ (6,106.08)
Fund Type: 2.11 - Enterprise Funds - Unassigned				
Fund: 560 - Sewer	\$ 191,038.73	\$ 80,035.62	\$ 61,988.36	\$ 209,085.99
Fund: 561 - Sewer Liftstations	\$ 377,965.85	\$ 15,627.14	\$ 6,927.23	\$ 386,665.76
Fund: 563 - Wastewater Treatment Plant	\$ 670,785.69	\$ 36,567.06	\$ -	\$ 707,352.75
Fund: 565 - General Obligation Bond 1978	\$ 22,255.43	\$ 2.88	\$ -	\$ 22,258.31
Fund: 567 - Inflow & Infiltration	\$ 503,990.67	\$ 1,470.65	\$ -	\$ 505,461.32
Fund Type: 2.11 - Enterprise Funds - Unassigni	\$ 1,766,036.37	\$ 133,703.35	\$ 68,915.59	\$ 1,830,824.13
Fund Type: 2.14 - Enterprise Funds - Restricted				
Fund: 569 - Pond 3 Lining- I&I Repair	\$ (611,708.85)	\$ 50,539.00	\$ 35,630.75	\$ (596,800.60)
Fund Type: 2.14 - Enterprise Funds - Restrict	\$ (611,708.85)	\$ 50,539.00	\$ 35,630.75	\$ (596,800.60)
Fund Type: 9.0 - CLEARING ACCOUNT				
Fund: 998 - PAYROLL CLEARING FUND	\$ 473.51	\$ 42,035.66	\$ 41,984.63	\$ 524.54
Fund Type: 9.0 - CLEARING ACCOUNT	\$ 473.51	\$ 42,035.66	\$ 41,984.63	\$ 524.54
Grand Totals:	\$ 2,265,390.13	\$ 439,518.16	\$ 212,521.93	\$ 2,492,386.36

Check Register Report

AP

Date: 10/03/2013

Time: 4:33 pm

Page: 1

CITY OF COLFAX

BANK: US BANK

Check Number	Check Date	Status	Void/Stop Date	Vendor Number	Vendor Name	Check Description	Amount
US BANK Checks							
49400	09/05/2013	Printed		03572	COOK CONCRETE PRODUCTS, INC	WWTP O&M	1,478.13
49401	09/05/2013	Printed		04234	DE LANG LANDEN	COPY MACHINE PROPERTY TAX &	57.30
49402	09/05/2013	Printed		04592	DWAYNE ARMSTRONG COMMUNICATION	INTERNET WWTP SEPT '13	99.95
49403	09/05/2013	Printed		07570	GRAINGER	MASTER KEY TO NEW KEY SYSTEM	3.81
49404	09/05/2013	Printed		08660	HUNT AND SONS, INC.	GASOLINE PUBLIC WORKS	434.91
49405	09/05/2013	Printed		09455	INLAND BUSINESS SYSTEMS	COPY MACHINE COPY CHARGES	72.01
49406	09/05/2013	Printed		16035	PG&E	UTILITIES AUG '13	17,566.76
49407	09/05/2013	Printed		16300	PLACER COUNTY WATER AGENCY	WATER	4,670.52
49408	09/05/2013	Printed		16165	PLACER COUNTY ENVIRONMENTAL	CORP YARD CLEANUP	16.00
49409	09/05/2013	Printed		18090	RAMOS	USED OIL FILTER PICKUP	30.00
49410	09/05/2013	Printed		19279	SERVICE ENGINEERING	LIFT STATION REPAIRS	320.00
49411	09/05/2013	Printed		16600	STATIONARY ENGINEERS, LOCAL 39	HEALTH INSURANCE OCT '13	11,494.00
49412	09/05/2013	Printed		21560	US BANK CORPORATE PMT SYSTEM	CREDIT CARD PURCHASES	1,232.25
49413	09/05/2013	Printed		22115	VERIZON CALIFORNIA	PHONE WWTP	168.79
49414	09/05/2013	Printed		23169	WAVE BUSINESS SOLUTIONS	PHONE FIRE DEPT	64.70
49415	09/11/2013	Printed		01448	AMERIGAS - COLFAX	ACE EXCHANGE	51.24
49416	09/11/2013	Printed		02084	BRIGIT BARNES	PLANNING SERVICES AUG '13	7,793.00
49417	09/11/2013	Printed		03491	CME SERVICES	WWTP SEEPAGE BOX INSTALLATION	3,300.00
49418	09/11/2013	Printed		04234	DE LANG LANDEN	COPY MACHINE CONTRACT	170.93
49419	09/11/2013	Printed		08075	HARRIS INDUSTRIAL GASES	REGULATOR PARTS	87.34
49420	09/11/2013	Printed		12180	LAWRENCE & ASSOCIATES INC	LANDFILL MONITORING JUL '13	359.09
49421	09/11/2013	Printed		16009	SEAN PATRICK	WWTP CONSULTING AUG '13	710.00
49422	09/11/2013	Printed		06011	PELLETREAU, ALDERSON & CABRAL	LEGAL FEES AUG '13	10,889.66
49423	09/11/2013	Printed		16162	PLACER COUNTY CLERK-RECORDER	NOTICE OF EXEMPTION	50.00
49424	09/11/2013	Printed		16200W	PLACER COUNTY SHERIFFS DEPT.	PCSO PHONE AUG '13	141.89
49425	09/11/2013	Printed		22106	VAN GRONINGEN & ASSOCIATES	FINANCE CONSULTING AUG '13	5,216.25
49426	09/11/2013	Printed		23169	WAVE BUSINESS SOLUTIONS	INTERNET/PHONE CITY HALL	223.58
49427	09/11/2013	Printed		23301	WESTERN PLACER WASTE	SLUDGE REMOVAL AUG '13	461.17
49428	09/19/2013	Printed		01414	ALHAMBRA & SIERRA SPRINGS	WATER WWTP	29.20
49429	09/19/2013	Printed		01766	AT&T MOBILITY	CELL PHONES AUG '13	369.58
49430	09/19/2013	Printed		03151	CAMPBELL CONSTRUCTION, INC	POND 3 LINER PROJECT	31,000.00
49431	09/19/2013	Printed		08170	HILLS FLAT LUMBER CO	SUPPLIES	1,010.11
49432	09/19/2013	Printed		08660	HUNT AND SONS, INC.	GASOLINE PUBLIC WORKS	239.74
49433	09/19/2013	Printed		09540	INTERSTATE SALES	ROAD PAINT	293.91
49434	09/19/2013	Printed		18400	RIEBES AUTO PARTS	SUPPLIES AUG '13	194.56
49435	09/19/2013	Printed		23169	WAVE BUSINESS SOLUTIONS	INTERNET CORP YARD	123.85
49436	09/26/2013	Printed		01448	AMERIGAS - COLFAX	PROPANE DEPOT	53.75
49437	09/26/2013	Printed		01460	AMERIPRIDE UNIFORM SERVICE	UNIFORMS	453.12
49438	09/26/2013	Printed		04400	DIAMOND WELL DRILLING CO.	WWTP MONITORING JULY '13	5,782.00
49439	09/26/2013	Printed		04592	DWAYNE ARMSTRONG COMMUNICATION	INTERNET WWTP OCT '13	99.95
49440	09/26/2013	Printed		12203	LEAGUE OF CA CITIES-SAC. VALLE	CITY MANAGER POSITION AD	900.00
49441	09/26/2013	Printed		30023	PATRICK CLARK CONSULTING	UNION CONSULTING FEES AUG '13	1,650.00
49442	09/26/2013	Printed		16040	PITNEY BOWES	POSTAGE METER LEASE	156.34
49443	09/26/2013	Printed		16727	PONTICELLO ENTERPRISES	ENGINEERING AUG '13	11,075.75
49444	09/26/2013	Printed		18193	RECOLOGY AUBURN PLACER	WWTP DEBRIS BOX RENTAL AUG '13	920.00

Check Register Report

Date: 10/03/2013

Time: 4:33 pm

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CITY OF COLFAX

BANK: US BANK

Check Number	Check Date	Status	Void/Stop Date	Vendor Number	Vendor Name	Check Description	Amount
US BANK Checks							
49445	09/26/2013	Printed		19387	SIERRA FOOTHILL LABORATORY,INC	WWTP TESTING	3,050.00
49446	09/26/2013	Printed		19390	SIERRA MARKET	SUPPLIES	11.36
49447	09/26/2013	Printed		19591	STANLEY CONVERGENT SECURITY	DEPOT SECURITY	111.30
49448	09/26/2013	Printed		23101	LARRY WALKER	NPDES JUL '13	1,422.50
49449	09/26/2013	Printed		23169	WAVE BUSINESS SOLUTIONS	INTERNET CITY HALL	182.95

Total Checks: 50 **Checks Total (excluding void checks): 126,293.25**

Total Payments: 50 **Bank Total (excluding void checks): 126,293.25**

Total Payments: 50 **Grand Total (excluding void checks): 126,293.25**

DAILY CASH SUMMARY REPORT

CR
09/01/2013 - 09/30/2013

Page: 1
10/8/2013
11:08 am

City of Colfax

MJE No.	Line	Posting Date	Type	GL Number	Debit	Credit	Net Chng
Fund: 100 - General Fund							
80349	1	09/04/2013	CR	100-000-1000	240.45	0.00	240.45
80353	5	09/04/2013	CR	100-000-1000	61.00	0.00	61.00
80353	7	09/04/2013	CR	100-000-1000	736.61	0.00	736.61
80566	1	09/04/2013	CR	100-000-1000	0.00	240.45	-240.45
80566	3	09/04/2013	CR	100-000-1000	164.45	0.00	164.45
80609	1	09/04/2013	CR	100-000-1000	76.00	0.00	76.00
09/04/2013	Daily Totals				1,278.51	240.45	1,038.06
80350	1	09/09/2013	CR	100-000-1000	11.00	0.00	11.00
80354	1	09/09/2013	CR	100-000-1000	1,000.00	0.00	1,000.00
80354	5	09/09/2013	CR	100-000-1000	100.00	0.00	100.00
80354	7	09/09/2013	CR	100-000-1000	61.00	0.00	61.00
80354	9	09/09/2013	CR	100-000-1000	10.00	0.00	10.00
80354	11	09/09/2013	CR	100-000-1000	0.60	0.00	0.60
80355	3	09/09/2013	CR	100-000-1000	122.25	0.00	122.25
09/09/2013	Daily Totals				1,304.85	0.00	1,304.85
80090	1	09/10/2013	CR	100-000-1000	0.00	69.75	-69.75
09/10/2013	Daily Totals				0.00	69.75	-69.75
80356	5	09/11/2013	CR	100-000-1000	61.00	0.00	61.00
80356	9	09/11/2013	CR	100-000-1000	203.83	0.00	203.83
80356	11	09/11/2013	CR	100-000-1000	604.72	0.00	604.72
80356	15	09/11/2013	CR	100-000-1000	10.00	0.00	10.00
09/11/2013	Daily Totals				879.55	0.00	879.55
80345	1	09/16/2013	CR	100-000-1000	288.86	0.00	288.86
80345	3	09/16/2013	CR	100-000-1000	80.05	0.00	80.05
80345	5	09/16/2013	CR	100-000-1000	3,554.98	0.00	3,554.98
09/16/2013	Daily Totals				3,923.89	0.00	3,923.89
80351	1	09/17/2013	CR	100-000-1000	793.20	0.00	793.20
80357	1	09/17/2013	CR	100-000-1000	1,240.62	0.00	1,240.62
80357	3	09/17/2013	CR	100-000-1000	20.00	0.00	20.00
80357	5	09/17/2013	CR	100-000-1000	200.00	0.00	200.00
80357	7	09/17/2013	CR	100-000-1000	122.25	0.00	122.25
80357	9	09/17/2013	CR	100-000-1000	50.00	0.00	50.00
80357	11	09/17/2013	CR	100-000-1000	50.00	0.00	50.00
09/17/2013	Daily Totals				2,476.07	0.00	2,476.07
80358	3	09/18/2013	CR	100-000-1000	108.25	0.00	108.25
09/18/2013	Daily Totals				108.25	0.00	108.25
80348	1	09/19/2013	CR	100-000-1000	845.55	0.00	845.55
09/19/2013	Daily Totals				845.55	0.00	845.55
80352	1	09/23/2013	CR	100-000-1000	42.35	0.00	42.35
80359	3	09/23/2013	CR	100-000-1000	20.00	0.00	20.00

DAILY CASH SUMMARY REPORT

CR
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City of Colfax

MJE No.	Line	Posting Date	Type	GL Number	Debit	Credit	Net Chng	
09/23/2013		Daily Totals			62.35	0.00	62.35	
	80561	1 09/25/2013	CR	100-000-1000	107.24	0.00	107.24	
	80562	1 09/25/2013	CR	100-000-1000	304.25	0.00	304.25	
	80563	1 09/25/2013	CR	100-000-1000	89,968.69	0.00	89,968.69	
09/25/2013		Daily Totals			90,380.18	0.00	90,380.18	
Fund: 100 - General Fund					TOTALS:	101,259.20	310.20	100,949.00
Fund: 120 - Land Development Fees								
	80353	1 09/04/2013	CR	120-000-1000	5,000.00	0.00	5,000.00	
	80353	3 09/04/2013	CR	120-000-1000	1,284.20	0.00	1,284.20	
09/04/2013		Daily Totals			6,284.20	0.00	6,284.20	
	80359	1 09/23/2013	CR	120-000-1000	5,000.00	0.00	5,000.00	
09/23/2013		Daily Totals			5,000.00	0.00	5,000.00	
Fund: 120 - Land Development Fees					TOTALS:	11,284.20	0.00	11,284.20
Fund: 244 - CDBG MicroEnterprise Lending								
	80356	1 09/11/2013	CR	244-000-1000	169.25	0.00	169.25	
	80356	3 09/11/2013	CR	244-000-1000	130.75	0.00	130.75	
09/11/2013		Daily Totals			300.00	0.00	300.00	
Fund: 244 - CDBG MicroEnterprise Lending					TOTALS:	300.00	0.00	300.00
Fund: 280 - Oil Recycling								
	80356	13 09/11/2013	CR	280-000-1000	325.00	0.00	325.00	
09/11/2013		Daily Totals			325.00	0.00	325.00	
Fund: 280 - Oil Recycling					TOTALS:	325.00	0.00	325.00
Fund: 344 - PROP 40 Capital Projects								
	80358	1 09/18/2013	CR	344-000-1000	100,000.00	0.00	100,000.00	
09/18/2013		Daily Totals			100,000.00	0.00	100,000.00	
Fund: 344 - PROP 40 Capital Projects					TOTALS:	100,000.00	0.00	100,000.00
Fund: 560 - Sewer								
	80346	1 09/05/2013	CR	560-000-1000	200.00	0.00	200.00	
09/05/2013		Daily Totals			200.00	0.00	200.00	

DAILY CASH SUMMARY REPORT

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City of Colfax

MJE No.	Line	Posting Date	Type	GL Number	Debit	Credit	Net Chng	
Fund: 560 - Sewer					TOTALS:	200.00	0.00	200.00
Fund: 561 - Sewer Liftstations								
80354	3	09/09/2013	CR	561-000-1000	407.00	0.00	407.00	
80355	1	09/09/2013	CR	561-000-1000	407.00	0.00	407.00	
09/09/2013		Daily Totals			814.00	0.00	814.00	
80356	7	09/11/2013	CR	561-000-1000	407.00	0.00	407.00	
09/11/2013		Daily Totals			407.00	0.00	407.00	
Fund: 561 - Sewer Liftstations					TOTALS:	1,221.00	0.00	1,221.00
Fund: 565 - General Obligation Bond 1978								
80345	6	09/16/2013	CR	565-000-1000	2.65	0.00	2.65	
80345	8	09/16/2013	CR	565-000-1000	0.23	0.00	0.23	
09/16/2013		Daily Totals			2.88	0.00	2.88	
Fund: 565 - General Obligation Bond 1978					TOTALS:	2.88	0.00	2.88
Fund: 569 - Pond 3 Lining- I&I Repair								
80347	1	09/06/2013	CR	569-000-1000	50,539.00	0.00	50,539.00	
09/06/2013		Daily Totals			50,539.00	0.00	50,539.00	
Fund: 569 - Pond 3 Lining- I&I Repair					TOTALS:	50,539.00	0.00	50,539.00
GRAND TOTALS:					265,131.28	310.20	264,821.08	

DAILY CASH SUMMARY REPORT

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09/01/2013 - 09/30/2013

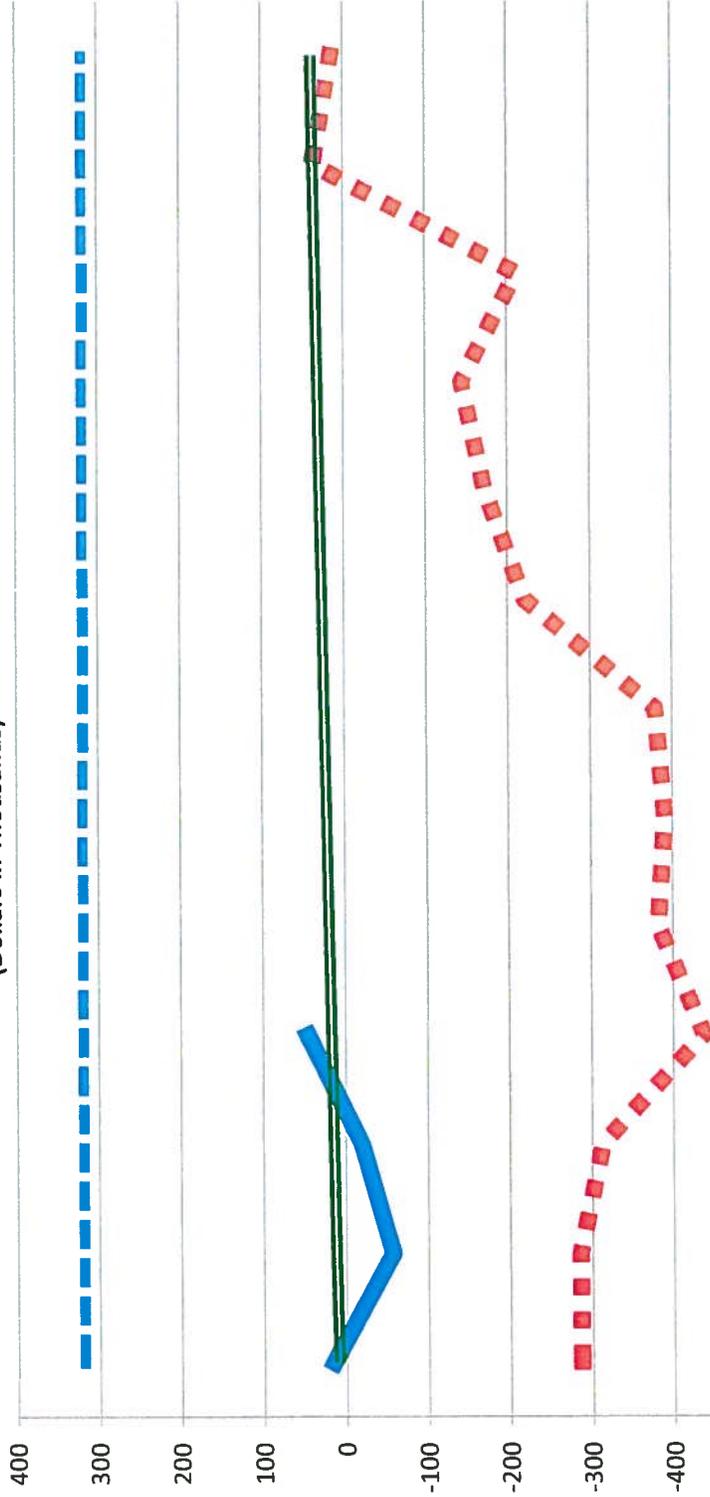
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City of Colfax

MJE No.	Line	Posting Date	Type	GL Number	Debit	Credit	Net Chng	
Fund: 100 - General Fund								
80252	1	09/10/2013	RE	100-000-1000	69.75	0.00	69.75	
09/10/2013					69.75	0.00	69.75	
Fund: 100 - General Fund					TOTALS:	69.75	0.00	69.75
GRAND TOTALS:					69.75	0.00	69.75	

City of Colfax - September 2013 General Fund Unassigned Cash Analysis

(Dollars in Thousands)



	Prev Yr	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Cash Balance FY2014	15	-57	-20	45									
Cash Balance FY2013	(287)	(286)	(314)	(438)	(383)	(391)	(380)	(221)	(173)	(144)	(212)	37	15
Reserves Target 25%	319	319	319	319	319	319	319	319	319	319	319	319	319
Budget FY2014	9	12	14	17	19	22	24	27	29	32	34	37	39



CITY of COLFAX

C A L I F O R N I A

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T • (530) 346-2313 F • (530) 346-6214 www.Colfax-CA.gov
33 S Main Street, PO Box 702, Colfax, CA 95713

TO: City Council
All Employees

RE: 2014 Holiday Schedule

The following are City of Colfax recognized holidays in 2014. City offices will be closed on these days.

New Year's Day	January 1
Martin Luther King Day	January 20
President's Day	February 17
Memorial Day	May 26
Independence Day	July 4
Labor Day	September 1
Columbus Day	October 13
Veterans' Day	November 11
Thanksgiving Day	November 27
Day after Thanksgiving	November 28
Christmas Eve	December 24
Christmas Day	December 25

Every day that is designated by the President or Governor for public fast, thanksgiving or holiday and approved by the City Council is also deemed a city holiday.

In addition, every employee has one floating holiday instead of Lincoln's Birthday to be used during the calendar year with authorization of the employee's supervisor.



STAFF REPORT TO THE COLFAX CITY COUNCIL

FOR THE OCTOBER 23, 2013 COUNCIL MEETING

FROM: Gabe Armstrong, Interim City Manager

PREPARED: Alan Mitchell, City Engineer

SUBJECT: Project Acceptance: Pond 3 Liner Project Wastewater Treatment Plant Upgrade
City Project No. 11-01.02, SWRCB Project No. C-06-7806-110

RECOMMENDED ACTION: Staff recommends that City Council accept the Pond 3 Liner Project Wastewater Treatment Plant Upgrade Project as complete and direct the City Clerk to file a Notice of Completion

ISSUE STATEMENT AND DISCUSSION:

On June 18, 2012, through Resolution 24-2012, City Council awarded a construction contract to Campbell Construction Co., Inc., in the amount of \$2,395,000 for installation of the geomembrane liner at the City's wastewater treatment plant within Pond 3. Construction began in early July 2012 and the majority of the work was completed in January 2013. After winter rains, the project was placed on hold because the pond was filled with storm water related overflows. In July 2013, the City was able to dewater the pond and the Contractor was able to complete all remaining work - a concrete access road and a slide gate. The work was fully completed on August 21, 2013.

The project was part of a Regional Water Quality Control Board, USDA, and USEPA funded project to increase the useable volume in the pond during wet weather months. The liner reduces or eliminates groundwater entering the pond and is a barrier between the wastewater and groundwater. The Pond 3 Liner project is part of a larger project which included the I&I Mitigation Project and the SCADA project.

At this time, the work has been completed to the satisfaction of the City Engineer with the following exception. This August, a single split in a seam was located at the joint between the liner and the slide gate. The contractor was provided written notification of the warranty defect and the potential for other defects. Acceptance of the project does not relieve the Contractor of their warranty obligation.

Staff recommends the City Council accept the project as complete and direct the City Clerk to file a Notice of Completion.

FINANCIAL AND/OR POLICY IMPLICATIONS

Council authorized a contract with Campbell Construction in the amount of \$2,395,000. During construction, several change orders were reviewed and approved by a two member committee originally comprised of Ex-Mayor Steve Harvey and Ex-Councilmember Ken Delfino, and subsequently comprised of Councilmember Kim Douglass and the City Manager. The final construction cost was \$2,785,542, with the

majority of the added cost a result of removal of excess sludge, which represented almost 4 times the volume originally estimated in the contract documents.

SUPPORTING DOCUMENTS

None

COMMITTEE RECOMMENDATION

This report was not discussed by any committee.



STAFF REPORT TO THE COLFAX CITY COUNCIL

9A

FOR THE OCTOBER 23rd, 2013 COUNCIL MEETING

FROM: Brigit S. Barnes, City Land Use Attorney

PREPARED: October 16, 2013

SUBJECT: Second Reading and Adoption of Ordinance No. 522: An Ordinance Of The City Of Colfax Repealing and Replacing Chapter 17.104 of Title 17 of the Colfax Municipal Code (#PL-01-13)

RECOMMENDED ACTION: Conduct Public Hearing, Consider Public and Staff Comments and Adopt Ordinance No. 522 to become effective in 30 days

DISCUSSION:

The Staff Reports to the Planning Commission and City Council dated October 2, 2013 are attached hereto for background (see Attachment Nos. 1 and 2). These reports discuss the Density Bonus Ordinance Update Project (#PL-01-13) at length.

On October 9, 2013, the Planning Commission conducted a public hearing on the Project. At the conclusion of the hearing, the Planning Commission made a recommendation to the City Council to adopt the Ordinance for the Density Bonus Ordinance Update Project.

On October 9, 2013, the City Council introduced and waived the first reading of the Ordinance for the Density Bonus Ordinance Update Project and scheduled a second public hearing for October 23, 2013.

RECOMMENDATION:

Staff recommends that the City Council waive the full reading of the text of Ordinance No. 522 and adopt said Ordinance (see Attachment No. 3).

ATTACHMENTS:

1. October 2, 2013 Staff Report to Planning Commission
2. October 2, 2013 Staff Report to City Council
3. Draft Ordinance for the Density Bonus Ordinance Update Project (with new proposed Chapter 17.104)



STAFF REPORT TO THE COLFAX CITY COUNCIL

SITTING AS THE PLANNING COMMISSION

FOR THE OCTOBER 9th, 2013 CITY COUNCIL MEETING

FROM: Brigit S. Barnes, City Land Use Attorney

PREPARED: October 2, 2013

SUBJECT: Consideration of Ordinance No. 522: An Ordinance of the City of Colfax Repealing and Replacing Chapter 17.104 of Title 17 of the Colfax Municipal Code (#PL-01-13/Density Bonus Ordinance Update) and Consideration of Adoption of Resolution No. 41-2013: A Resolution Of The Planning Commission Of The City Of Colfax, California, Recommending The City Council Adopt An Ordinance Repealing And Replacing Chapter 17.104 ("Density Bonuses & Other Incentives") Of Title 17 Of The Colfax Municipal Code To Comply With California State Law

RECOMMENDED ACTION: Adopt Resolution No. 41-2013

ISSUE STATEMENT AND DISCUSSION

When the City's Housing Element was updated in 2009, it included a requirement that the City update its affordable housing ("Density Bonus") ordinance to comply with recent changes in State law, which was never done.

Planning Staff is now in the process of updating said ordinance as directed under Program #28 of the City's Housing Element. If the Density Bonus Ordinance Update is adopted by the City Council **on or before October 31, 2013**, it will have met one of the criteria for qualifying for a streamlined review process for the City's upcoming Housing Element Update.

BACKGROUND

State law requires cities to adopt ordinances that offer incentives for affordable housing, including density bonuses. In 2004, the California State Legislature passed State Senate Bill 1818 amending Government Code Section 65915 (density bonus law) in a number of ways. Beginning January 1, 2005, applicants have been eligible for a range of density bonuses of up to 35% based on the percentage of affordable units in a development. Applicants are also eligible for density bonuses based on land donation and/or inclusion of child care facilities. Additionally, localities are now required to offer at least one to three incentives rather

than one, based on the percentage of affordable units in a development. These changes are not reflected in the City's current affordable housing regulations as required by State law.

A summary of the proposed changes to the Density Bonus & Other Incentives Chapter of the Zoning Code is attached (see Attachment 1.)

The City's current Housing Element, adopted by the City Council on April 28, 2009, includes a program (Program #28) for a Zoning Code Amendment to maintain consistency with state requirements with regard to the granting of Density Bonuses and incentives, and specifically directs that the Density Bonus Ordinance be updated to reflect the changes required by Senate Bill 1818.

GENERAL PLAN CONSISTENCY

The proposed Zoning Code amendment would implement Program #28 of the 2009 Housing Element of the General Plan, which states that the Zoning Code shall be revised to incorporate the Density Bonus provisions, with options, as per SB 1818, to bring the City into compliance with State law and enhance the feasibility of affordable housing projects. As such, it is consistent with the City's General Plan.

ENVIRONMENTAL ANALYSIS

Based on the following, Planning Staff has determined that the proposed ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations since it can be seen with certainty that there is no possibility the adoption and implementation of this Ordinance may have a significant effect on the environment:

The proposed ordinance codifies the revisions to the City's previously adopted Density Bonus law to comply with changes to State law (Government Code Section 65915 et seq.) enacted by the Legislature through the adoption of Senate Bill 1818. The revisions modify the criteria and incentives offered to qualifying developments, but do not authorize construction not already permitted under the City's existing plans and codes. Most of the incentives and concessions the City has designated as a matter of right are already authorized by the Zoning Code. Further, each individual project will be subject to its own environmental review.

The current Zoning Code already allows for at least 25% density bonuses, together with incentives, which conceivably could include increases of up to 35%, which is the new stated maximum under SB 1818.

The proposed ordinance does not modify locations where housing could occur, so adoption of this amendment would not increase the exposure of people to environmental impacts in relation to current policy or increase impacts on historic resources or have other environmental effects not already considered in the City's General plan environmental analysis. Government Code Section 65915 and the proposed ordinance explicitly preclude application of the ordinance to sites where the incentives would have unmitigated adverse effects on the physical environment.

COMMITTEE RECOMMENDATION

This project was discussed with the Land Use Committee on September 9, 2013. The Land Use Committee recommended updating the Density Bonus Ordinance to comply with State law as soon as possible to meet

the October 31, 2013 adoption deadline, since doing so will meet one of the criteria for qualifying for a streamlined review process for the City's upcoming Housing Element Update.

STAFF RECOMMENDATION

Staff recommends the Planning City Council adopt the attached Resolution (see Attachment 2) recommending that the City Council adopt the Ordinance (see Attachment 3) repealing and replacing the "Density Bonus and Other Incentives" Chapter (17.104) of the Zoning Code as discussed herein.

RECOMMENDED FINDINGS

Staff has drafted the Resolution to include the following recommended findings, among others:

1. The Zoning Code amendment consists of repealing and replacing Chapter 17.104 ("Density Bonuses & Other Limitations").
2. The proposed Zoning Code amendment will not have a direct and significant impact on the environment, so is exempt under Section 15061(b)(3) – General Rule (for the reasons stated above in this Staff Report). The general rule states that the California Environmental Quality Act (CEQA) applies only to projects that have the potential for causing a significant effect on the environment.
3. The proposed Zoning Code amendment is consistent with the actions, goals, objectives, policies and programs of the General Plan. The proposed Zoning Code amendment would implement a program (#28) of the Housing Element to adopt an ordinance to ensure the City's Zoning Code is consistent with California's Density Bonus Law (Government Code Section 65915).
4. The proposed Zoning Code amendment would not be detrimental to the public interest, health, safety, convenience or general welfare of the City. It is a procedural amendment that provides for consistency of the Zoning Code density bonus regulations with state requirements, which are meant to encourage the provision of affordable housing.
5. The proposed Zoning Code amendment is internally consistent with all other applicable provisions of the Zoning Code. The amendment would implement an objective of the Housing Element to provide for a procedure to grant density bonuses and incentives so as to allow and encourage the provision of affordable housing, and does not provide for land use deviations in a manner that is inconsistent with the General Plan Land Use Element.

ATTACHMENTS

1. Resolution No. 41-2013
2. Summary of Changes
3. Draft Ordinance and Draft proposed new Chapter 17.104



STAFF REPORT TO THE COLFAX CITY COUNCIL

FOR THE OCTOBER 9th, 2013 COUNCIL MEETING

FROM: Brigit S. Barnes, City Land Use Attorney

PREPARED: October 2, 2013

SUBJECT: Introduction and First Reading of Ordinance No. 522: An Ordinance Of The City Of Colfax Repealing and Replacing Chapter 17.104 of Title 17 of the Colfax Municipal Code (#PL-01-13)

RECOMMENDED ACTION: By motion introduce Ordinance by title only, waive reading and continue for second reading at a future city council meeting

DISCUSSION:

The October 2, 2013 Staff Report submitted to the Planning Commission is incorporated herein by reference for background, which discusses the Density Bonus Ordinance Update Project (#PL-01-13) at length.

On October 9, 2013, the Planning Commission will conduct a public hearing on the Project. At the conclusion of the hearing, the Planning Commission may make a recommendation to the City Council to adopt an Ordinance repealing and replacing Chapter 17.104 of the Colfax Zoning Code.

RECOMMENDATION:

If the Planning Commission makes the above-referenced recommendation, Staff recommends that the City Council introduce and waive the full reading of the text of the Ordinance for the Density Bonus Ordinance Update and schedule a second hearing on said Ordinance for October 23, 2013.

ATTACHMENTS

1. October 2, 2013 Staff Report to Planning Commission
2. Draft Ordinance and Draft proposed new Chapter 17.104 (attached to Planning Commission Staff Report)

SUMMARY OF CHANGES TO DENSITY BONUS ORDINANCE CHAPTER

PRIOR COLFAX CHAPTER	NEW COLFAX CHAPTER
“At least” 25% density bonus allowed	Up to 35% density bonus allowed; based on sliding scale of number of units set aside for affordable housing purposes
<p>Eligibility requirements:</p> <p>20% of total units for lower income</p> <p>10% of units for very low income</p> <p>50% of units for “qualifying residents” (seniors)</p> <p>33% of condominium units for low or moderate income; or 15% of condominium units for lower income</p>	<p>Eligibility requirements:</p> <p>10% of total units for lower income</p> <p>5% of units for very low income</p> <p>10% of condominium units for moderate income</p> <p>Senior housing development</p> <p>Land Donation to the City for very low income units</p> <p>Child Care facility when built in conjunction with qualifying affordable housing minimums set forth in the first three items</p>
“At least” one concession or “incentive”	<p>One incentive if 10% for lower income or 5% very low income or 10% (condominium project) for moderate income</p> <p>Two incentives if 20% for lower income or 10% very low income or 20% (condominium project) for moderate income</p> <p>Three incentives if 30% for lower income or 15% very low income or 30% (condominium project) for moderate income</p>
<p>Concession or “incentives” included:</p> <p>Reduction in site development standards or modification of zoning code requirements or architectural design requirements</p> <p>Approval of mixed-use zoning</p> <p>Other incentives proposed by developer or city that would reduce costs</p>	<p>Incentives include:</p> <p>Reduction in site development standards (reduced lot size, dimensions, setbacks, max lot coverage, max building height or stories and street standards)</p> <p>Reduction in architectural design standards</p> <p>Density bonus greater than otherwise allowed</p> <p>Other incentives proposed by developer or city that would reduce costs</p>

	<p>Special parking standards:</p> <p>0-1 bedroom: 1 on-site parking space</p> <p>2-3 bedrooms: 2 on-site parking spaces</p> <p>4+ bedrooms: 2.5 on-site parking spaces</p>
No definitions of key terms	Adds definitions of key terms, such as “Density Bonus,” “Incentive,” “Lower Income,” “Lower Income Unit,” “Very Low Income,” “Very Low Income Unit,” “Moderate Income,” “Moderate Income Unit,” “Child Care Facility,” “Senior Citizen Housing Development”, etc.
No discussion of application requirements	Adds discussion of application requirements
No discussion of findings	Adds discussion of findings

[PROPOSED] ORDINANCE 522

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLFAX,
CALIFORNIA, REPEALING AND REPLACING CHAPTER 17.104 (“DENSITY
BONUSES & OTHER INCENTIVES”) OF THE COLFAX MUNICIPAL CODE TO
COMPLY WITH CALIFORNIA STATE LAW**

Whereas, in 2004 the California State Legislature enacted SB 1818 revising several aspects of the density bonus law (California Code Section 65915), including creating a range of density bonuses of up to 35% for which applicants would be eligible based on the percentage of affordable units provided in a development; requiring localities to offer at least one to three incentives, also based on affordable housing; and introducing land donations and inclusion of child care facilities in developments as a means of obtaining a density bonus; and

Whereas, the City Council adopted a revised Housing Element of the General Plan as required by State law on April 28, 2009; and

Whereas, the Housing and Community Development Department of the State of California certified the City’s Housing Element to be in substantial conformance with State law; and

Whereas, Program #28 of the City’s Housing Element states the Zoning Code shall be revised to incorporate the Density Bonus provisions, with options, as per SB 1818, to bring the City into compliance with State law and enhance the feasibility of affordable housing projects; and

Whereas, the Planning Commission and City Council held duly-noticed public hearings on October 9, 2013 to consider said Zoning Code amendment; and

Whereas, on October 9, 2013, the Planning Commission recommended that the City Council adopt the Ordinance repealing and replacing Chapter 17.104 of the Zoning Code (Title 17) to ensure the City’s density bonuses regulations are consistent with State law; and

Whereas, the City Council has reviewed and carefully considered said Zoning Code amendment following lawfully-noticed public hearings and, based on the reasons and findings set forth in this Ordinance, the City Council adopts the Ordinance repealing and replacing Chapter 17.104 of the Zoning Code (Title 17).

NOW, THEREFORE, BE IT ORDAINED that, based on the entirety of the record before it, which includes, without limitation, the California Environmental Quality Act, the City of Colfax General Plan, all reports, minutes and public testimony submitted as part of the City Council and Planning Commissions duly-noticed public hearings on October 9, 2013, and any other evidence, the City Council of the City of Colfax does hereby ordain as follows:

SECTION 1 – FINDINGS:

1. The foregoing recitals are true and correct and made a part of this Ordinance.
2. The Zoning Code amendment consists of repealing and replacing Chapter 17.104 (“Density Bonuses & Other Limitations”) – a copy of the new Chapter 17.104 is attached to this Ordinance as Exhibit A);
3. The City Council hereby finds that the proposed Zoning Code amendment will not have a direct and significant impact on the environment, so is exempt under Section 15061b(3) – General Rule, for the reasons stated in the Notice of Exemption. The general rule states that the California Environmental Quality Act (CEQA) applies only to projects that have the potential for causing a significant effect on the environment.
4. The documents and other material constituting the record for these proceedings are in the custody of the Planning Director and located at the City of Colfax Planning Department, whose office is located at 33 S. Main Street, Colfax, CA 95713.
5. This Zoning Code amendment is consistent with the actions, goals, objectives, policies and programs of the General Plan. The proposed Zoning Code amendment would implement a program of the Housing Element to adopt an ordinance to ensure the City’s Zoning Code is consistent with California’s Density Bonus Law (Government Code Section 65915).
6. This Zoning Code amendment would not be detrimental to the public interest, health, safety, convenience or general welfare of the City. It is a procedural amendment that provides for consistency of the Zoning Code density bonus regulations with state requirements, which are meant to encourage the provision of affordable housing.
7. This Zoning Code amendment is internally consistent with all other applicable provisions of the Zoning Code. The amendment would implement an objective of the Housing Element to provide for a procedure to grant density bonuses and incentives so as to allow and encourage the provision of affordable housing, and does not provide for land use deviations in a manner that is inconsistent with the General Plan Land Use Element.

SECTION 2 – REPEAL OF CHAPTER 17.104 OF TITLE 17

Chapter 17.104 of Title 17 is hereby repealed in its entirety and replaced as provided in Section 3 below.

SECTION 3 – NEW CHAPTER 17.104 OF TITLE 17 ADOPTED

Chapter 17.104 of Title 17 is hereby added to the Colfax Municipal Code to read as set forth in Exhibit A attached hereto and incorporated herein.

SECTION 4 – SUPERCEDING PROVISIONS

The provisions of this ordinance and any resolution adopted pursuant hereto shall supercede any previous ordinance or resolution to the extent the same is in conflict herewith.

SECTION 5 – SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of this Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of Colfax hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid or unenforceable.

SECTION 6 – EFFECTIVE DATE

This ordinance shall be in full force and effect thirty (30) days from and after its adoption.

This ordinance shall, within fifteen (15) days after its adoption, be published or posted in accordance with Section 36933 of the Government Code of the State of California with the names of those City Council members voting for and against it.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Colfax, duly-held on the 9th day of October, 2013 and passed and adopted at a regular meeting of the City Council of the City of Colfax, duly-held on the 23rd day of October, 2013, by the following vote:

- Ayes:**
- Noes:**
- Absent:**
- Abstain:**

Donna L. Barkle, Mayor

ATTEST:

Karen Pierce, City Clerk

Chapter 17.104 DENSITY BONUSES AND OTHER INCENTIVES

REPEAL & REPLACE

17.104.010 Purpose.

This chapter is adopted pursuant to the provisions of California Government Code Sections 65915—65918. The purpose of adopting this chapter is to encourage affordable housing by providing the incentive of increased density and such other incentives provided by this chapter. The provisions of this chapter are intended to comply with California Government Code Sections 65915—65918. In the event that any provision of this chapter conflicts with California Government Code Sections 65915—65918, or any after-enacted amendment of these sections, State law shall control over the conflicting provision.

17.104.020 Definitions.

For the purpose of this chapter, the following words and phrases shall have the following meanings:

- A. “Approval authority” is as defined in the Colfax Municipal Code – Title 17, Zoning Chapter 17.40.020.
- B. “Child care facility” is defined as a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and school-age child care centers.
- C. “Density bonus” means an increase in density over the otherwise maximum allowable residential density under the applicable general plan designation as of the date of filing of an application for density bonus with city. A density bonus request shall be considered as a component of a qualified housing development.
- D. “Development standard” is defined as the site, development, or construction standards and/or conditions of approval that apply to a residential development.
- E. “Housing development” is defined as one or more groups of projects for residential units constructed within a large lot parcel. For the purposes of this chapter, “housing development” also includes a subdivision or common interest development as defined in Section 1351 of the Civil Code and consists of residential units or unimproved residential lots. A density bonus may be permitted in geographic areas of the housing development other than the areas where the affordable units are located, so long as the density bonus units are located on the same large lot parcel.
- F. “Incentive” is defined as a reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission. An incentive can be requested by the applicant for purposes of reducing the cost of development to make the project financially feasible. The term “incentive” includes the term “concession” as that term is used in California Government Code Sections 65915—65918.
- G. “Large lot parcel” is defined as that term is used in any applicable specific plan (large lot parcel is hereby generally deemed as a geographic area).
- H. “Lower income” is defined as less than 80 percent of the area median income, as defined by Section 50079.5 of the California Health and Safety Code.
- I. “Lower income unit” is defined as a unit with an affordable rent or payment that does not exceed 30 percent of 60 percent of area median income adjusted for family size appropriate for the unit.

J. "Moderate income" is defined as less than 120 percent of the area median income, as defined in Section 50093 of the California Health and Safety Code.

K. "Moderate income unit" is defined as a unit with an affordable rent or payment that does not exceed 35 percent of 110 percent of area median income adjusted for family size appropriate for the unit.

L. "Very low income" is defined as less than 50 percent of the area median income, as defined in Section 50105 of the California Health and Safety Code.

M. "Very low income unit" is defined as a unit with an affordable rent or payment that does not exceed 30 percent of 50 percent of the area median income, adjusted for family size appropriate for the unit.

N. "Senior citizen housing development" is defined as a housing project where residency is restricted to persons 62 years of age or older, or 55 years of age or older in a senior citizen housing development per Sections 51.3 and 51.12 of the California Civil Code.

17.104.030 Application requirements.

A density bonus may be approved pursuant to a request for approval of a density bonus, provided the request complies with the provisions of this chapter. Each application for a density bonus request shall be accompanied by the following:

- A. A site plan that identifies all units in the project including the location of the affordable units and the bonus units;
- B. A narrative briefly describing the housing development and shall include information on:
 1. The number of units permitted under the general plan,
 2. The total number of units proposed in the project,
 3. The number of affordable and/or senior units,
 4. The number of bonus units requested based on the tables provided in Section 17.104.050 of this chapter,
 5. A breakdown of units proposed for very low, lower, and moderate income, senior citizen, and/or market rate units, and
 6. Any requested incentive(s), including an explanation as to why the incentive(s) is required for the housing development;
- C. Information indicating that appropriate and sufficient infrastructure capacity (water, sewer, roadway) and water supply is available to serve the bonus units;
- D. A pro-forma illustrating the financial need for the density bonus and/or any requested Incentives. The information that shall be included is as follows:
 1. The project pro-forma shall include, but is not limited to: capital costs, operating expenses, return on investment, revenues, loan-to-value ratio and debt-coverage ratio, any contribution provided by subsidy programs, and the economic effect created by the use and income restrictions of the affordable units,
 2. An appraisal report indicating the value of the density bonus and any incentive(s) requested, and

3. A source and use of funds statement identifying any projected financing gap of the project. The developer shall establish how much of the gap is covered by the density bonus units, and how much will be covered by the requested incentive(s);

E. Any such additional information in support of a request for a density bonus as may be requested by the planning and redevelopment department.

17.104.040 Eligibility for bonus.

A developer of a housing development containing five or more units may qualify for a density bonus and at least one other incentive as provided by this chapter if the developer does one of the following:

- A. Agrees to construct and maintain at least five percent of the units dedicated to very low income households;
- B. Agrees to construct and maintain at least 10 percent of the units dedicated to lower income households;
- C. Agrees to construct and maintain at least 10 percent of the units in a common interest development (as defined in Section 1351 of the California Civil Code) dedicated to moderate income households, provided that all units in the development are offered to the public for purchase;
- D. Agrees to construct and maintain a senior citizen housing development as defined in Section 17.104.020 of this chapter;
- E. Donates land to the city dedicated for the construction of very low income units pursuant to Section 17.104.080 of this chapter; or
- F. Includes a qualifying child care facility as described in Section 17.104.070 of this chapter in addition to providing housing as described in subsections (A) through (C) of this section.

17.104.050 Density bonus calculation and allowance.

- A. State Law Preemption. Pursuant to state law, the granting of a density bonus or the granting of a density bonus together with an incentive(s) shall not be interpreted, in and of itself, to require a general plan amendment, specific plan amendment, rezone, or other discretionary approvals.
- B. Density Bonus Calculation. An applicant must choose a density bonus from only one applicable affordability category in below subsection C and may not combine categories with the exception of child care facilities or land donation, which may be combined with an affordable housing development, for an additional density bonus up to a combined maximum of 35 percent.
- C. Density Bonus Allowance. In calculating the number of units required for very low, lower and moderate income households, the density bonus units shall not be included. In no event shall a density bonus exceed 35 percent. A housing development that satisfies all applicable provisions of this chapter shall be allowed the following applicable density bonuses:
 - 1. Very Low Income. The density bonus for very low income units shall be calculated as follows:

Percentage of Very Low-Income Units	Percentage Density Bonus
5	20
6	22.5

Percentage of Very Low-Income Units	Percentage Density Bonus
7	25
8	27.5
9	30
10	32.5
11	35

2. Lower Income. The density bonus for lower income units shall be calculated as follows:

Percentage of Lower Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35

3. Moderate Income. The density bonus for moderate income ownership units shall be calculated as follows:

Percentage of Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19

Percentage of Moderate-Income Units	Percentage Density Bonus
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

4. **Senior Citizen Housing Development.** The density bonus for a senior citizen housing development that provides housing for seniors consistent with Section 17.104.040 of this chapter shall be 20 percent.

5. **Child Care Facility.** A project (whether a housing, commercial, or industrial project) is eligible for a density bonus for a child care facility when in compliance with Section 17.104.070 of this chapter and California Government Code Section 65917.5.

6. **Donation of Land.** A project is eligible for the following density bonus for the donation of land when in compliance with Section 17.104.080 of this chapter:

Percentage of Very Low-Income Units	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26

22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

7. Conversion of Apartments to Condominiums. A project is eligible for a 25 percent density bonus for the conversion of apartments to condominiums when in compliance with California Government Code Section 65915.5.

17.104.060 Eligibility and application requirements for incentives.

A. Available Incentives. A housing development qualifying for a density bonus may be entitled to at least one incentive. Incentives may include, but are not limited to:

1. A reduction in site development standards such as:
 - a. Reduced minimum lot sizes and/or dimensions,
 - b. Reduced minimum lot setbacks,
 - c. Increased maximum lot coverage,
 - d. Increased maximum building height and/or stories,
 - e. Reduced street standards;
2. A reduction in architectural design requirements;
3. A density bonus greater than the amount required by this chapter;
4. Other regulatory incentives proposed by the developer or the city, which result in identifiable, financially sufficient, and actual cost reductions;
5. If an applicant qualifies for a density bonus pursuant to this chapter, the applicant may request, in addition to any requested incentive(s), that the following parking requirement be applied to the project in place of the city's current parking requirements. The parking requirement is inclusive of handicapped and guest parking for the entire housing development, but shall not include on-street parking spaces in the count towards the parking requirement:
 - a. Zero to one bedroom: 1 on-site parking space,
 - b. Two to three bedrooms: 2 on-site parking spaces,
 - c. Four or more bedrooms: 2.5 on-site parking spaces.

B. Eligibility for Incentives. Incentives are available to a housing developer as follows:

1. One incentive for housing developments that (a) restrict at least 10 percent of the total units to lower income households, at least five percent for very low income households, or at

least 10 percent for persons and families of moderate income in a common interest development, or (b) are for senior housing.

2. Two incentives for housing developments that restrict at least 20 percent of the total units to lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

3. Three incentives for housing developments that restrict at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

17.104.070 Child care facilities.

A. **Child Care Facility Density Bonus.** When an applicant proposes to construct a housing development that is eligible for a density bonus under Section 17.104.040 of this chapter and California Government Code Section 65917.5, and includes a child care facility that will be located on the premises or adjacent to the housing development, the city shall grant either:

1. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the square footage of the child care facility up to a combined maximum of 35 percent of the project square footage without the density bonus; or

2. An additional incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

B. **Child Care Facility Requirements.** The city shall require, as a condition of approving the housing development, the following to occur:

1. The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the affordable units are required to remain affordable per this chapter; and

2. Of the children who attend the child care facility, the children of very low income households, lower income households or families of moderate income households shall equal a percentage that is equal to or greater than the percentage of affordable units in the housing development that are required for very low, lower or families of moderate income households.

C. **Child Care Facility Criteria.** The city shall not be required to provide a density bonus or incentive for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

17.104.080 Donation of land.

A. **Donation of Land Density Bonus.** When a developer of a tentative subdivision map, parcel map, or other residential development donates land to the city, the developer shall be entitled to a density bonus above the otherwise maximum allowable residential density, up to a maximum of 35 percent depending on the amount of land donated (see Section 17.104.050 of this chapter). This increase shall be in addition to any increase in density permitted by Section 17.104.040 of this

chapter up to a maximum combined density increase of 35 percent if an applicant seeks both the increase required by Section 17.104.040 and this section of this chapter.

The developer shall be eligible for the density bonus for the donation of land, if all of the following conditions are met:

1. The developer shall donate and transfer land no later than the date of approval of the final subdivision map, parcel map, or residential development application;
2. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in the amount not less than 10 percent of the residential units in the proposed development;
3. The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure. The transferred land shall have appropriate zoning and development standards to make the development of the affordable units feasible. No later than the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income units on the transferred land, except that the city may subject the proposed development to subsequent design review if the design is not reviewed by the local government prior to the time of transfer;
4. The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with Section 17.104.110 of this chapter if required by financing programs or subsidy programs;
5. The land is transferred to the city or to a housing developer approved by the city. The city may require the developer to identify and transfer the land to the affordable housing developer; and
6. The transferred land shall be within the boundary of the proposed development or, if the city determines appropriate, within one-quarter mile of the boundary of the proposed development.

17.104.090 General guidelines.

A. **Location of Bonus Units.** As required by California Government Code Section 65915(g), the location of density bonus units within the qualifying housing development may be at the discretion of the developer, and need not be in the same area of the project where the units for the lower income households are located as long as the density bonus units are located within the same housing development.

B. **Preliminary Review.** A developer may submit to the planning and redevelopment department a preliminary proposal for the development of housing pursuant to this chapter prior to the submittal of any formal application for a density bonus. The city shall, within 90 days of receipt of a written proposal, notify the housing developer in writing of either (1) any specific requirements or procedures under this chapter, which the proposal has not met, or (2) the proposal is sufficient for preparation of an application for density bonus.

C. Infrastructure and Supply Capacity. Criteria to be considered in analyzing the requested bonus will include the availability and capacity of infrastructure (water, sewer, road capacity, etc.) and water supply to accommodate the additional density.

17.104.100 Findings for approval for density bonus and or incentive(s).

A. Density Bonus Approval. The following finding shall be made by the approval authority in order to approve a density bonus request:

1. The density bonus request meets the requirements of this chapter.

B. Density Bonus Approval with Incentive(s). The following findings shall be made by the Approval Authority in order to approve a density bonus and incentive(s) request:

1. The density bonus request meets the requirements of this chapter;

2. The incentive is required in order to provide affordable housing; and

3. Approval of the incentive(s) will have no specific adverse impacts upon health, safety, or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to very low, low, and moderate income households.

C. Denial of a Request for an Incentive(s). The approval authority shall make the following findings prior to disallowing an incentive (in the case where an accompanying density bonus may be approved, or in the case of where an incentive(s) is requested for senior housing or child care facility):

1. That the incentive is not necessary in order to provide for affordable housing costs as defined in Section 17.104.020 of this chapter, or for rents for the targeted units to be set as specified in Section 17.104.020 of this chapter.

2. That the incentive would result in specific adverse impacts upon health, safety, or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to very low, low, and moderate income households.

17.104.110 Affordable housing agreement required.

A. Agreement Required. In approving a density bonus, the associated permit or tentative map shall require that an affordable housing agreement, or other form of agreement as approved by the city attorney, effectuating the terms of affordability of the development be executed prior to effectuation of the permit or recordation of the final map.

B. Continued Availability. The density bonus request shall include the procedures proposed by the developer to maintain the continued affordability of all affordable income density bonus units and shall be evidenced by an affordable housing agreement as follows:

1. An applicant shall agree to, and the city shall ensure, continued affordability of all very low and low income units that qualified the applicant for the award of the density bonus for 30 years or a longer period of time if required by the construction or mortgage financing

assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 17.104.020 of this chapter. Owner-occupied units shall be available at an affordable housing cost as defined in Section 17.104.020 of this chapter.

2. An applicant shall agree to, and the city shall ensure that, the initial occupants of the moderate income units are directly related to the receipt of the density bonus in the common interest development as defined in Section 1351 of the California Civil Code, are persons and families of moderate income, as defined in Section 17.104.020 of this chapter and that the units are offered at an affordable housing cost, as that cost is defined in Section 17.104.020 of this chapter. The city shall enforce an equity-sharing agreement unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity-sharing agreement:

a. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The city shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in subdivision (e) of Section 33334.2 of the California Health and Safety Code that promote homeownership.

b. For purposes of this subdivision, the city's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

c. For purposes of this subdivision, the city's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.



STAFF REPORT TO THE COLFAX CITY COUNCIL

FOR THE OCTOBER 23, 2013 COUNCIL MEETING

FROM: Gabe Armstrong, Interim City Manager

PREPARED: October 15, 2013

SUBJECT: Introduction and First Reading of Ordinance No. 523: An Ordinance Of The City Of Colfax Repealing And Reenacting Chapter 15.04 And 15.08 Chapter Of The Colfax Municipal Code And Adopting By Reference The 2013 Edition Of The California Building Standards Code

RECOMMENDED ACTION: Staff recommends that the ordinance referenced above be introduced for first reading by title only and scheduled for second reading, public hearing and adoption at the November 13 regularly scheduled council meeting to be effective 30 days thereafter

ISSUE STATEMENT AND DISCUSSION:

Staff is requesting the City Council adopt by reference the 2013 California Building Codes and the 2013 California Fire Code for the purpose of providing for the public welfare and safety.

Every three years, the construction code writing organizations update their respective technical and administrative codes. Health and Safety Code, section 17922 requires that jurisdictions within the State of California adopt Building and Fire Codes as required by the State Building Standards Commission.

The City staff has chosen to modify certain sections of the Building and Fire Codes by deleting or revising them as published by the code writing organizations and adopting modified sections such as the appendixes in order to more clearly reflect the needs of the city and the citizens of Colfax.

FINANCIAL AND/OR POLICY IMPLICATIONS:

None

SUPPORTING DOCUMENTS:

Proposed Ordinance 523

A Full Set of the Building Codes and Fire code are available in City Hall at the Building Department.

COMMITTEE RECOMMENDATION:

This report was not discussed by any committee.

CITY OF COLFAX

Ordinance No. 523

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLFAX REPEALING AND REENACTING CHAPTER 15.04 AND 15.08 CHAPTER OF THE COLFAX MUNICIPAL CODE AND ADOPTING BY REFERENCE THE 2013 EDITION OF THE CALIFORNIA BUILDING STANDARDS CODE, PARTS 1, 2, 2.5, 3, 4, 5, 6, 8, 9, 11 & 12 OF TITLE 24 OF THE CALIFORNIA CODE OF REGULATIONS WHICH INCORPORATES THE 2012 EDITION OF THE INTERNATIONAL BUILDING CODE, THE 2012 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE, THE 2012 EDITION OF THE UNIFORM PLUMBING CODE, THE 2012 EDITION OF THE UNIFORM MECHANICAL CODE, THE 2011 EDITION OF THE NATIONAL ELECTRICAL CODE, THE 2009 EDITION OF THE UNIFORM, POOL, SPA & HOT TUB CODE, THE 2012 EDITION OF THE INTERNATIONAL FIRE CODE AND AMENDING THOSE PORTIONS OF CALIFORNIA BUILDING STANDARDS AS IDENTIFIED HEREIN PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREOF, TOGETHER WITH AMENDMENTS AND ADDITIONS TO THE VARIOUS CODES PROVIDING FOR PENALTIES FOR THE VIOLATION THEREOF AND REPEALING ALL OTHER ORDINANCES IN CONFLICT THEREWITH

The City Council of The City of Colfax does ordain as follows:

Section 1.

The following sections of Colfax Municipal Code Chapter 15.04 are hereby repealed: Sections 15.04.010, 15.04.020, 15.04.030, 15.04.040, 15.04.060, 15.04.100, 15.04.130 and 15.08.010

Section 2. Purpose and Authority:

The purpose of this Ordinance is to adopt by reference the 2013 edition of the California Building Standards Code, Title 24- Part 1; Part 2; Part 2.5 Part 3; Part 4; Part 5; Part 6; Part 8; Part 9; Part 11 and Part 12, of the California Code of Regulations and to provide minimum requirements and standards for the protection of the public safety, health, property and welfare of the City of Colfax. This Ordinance is adopted under the authority of Government Code Subsection 50022.2 and Health and Safety Code Section 18941.5.

Section 3: Conflicts with Other Laws, Rules and Regulations.

In the event of any conflict between this Code and any law, rule or regulation of the Federal or State of Government, that requirement which establishes the higher standard of safety shall govern. Failure to comply with such standard of safety shall be a violation of this Code.

Section 4. Reenactment.

The following sections are hereby reenacted as:

15.04.10 Building Code--Adopted.

The California Building Code, known as Part 2 of the 2013 Edition of the California Code of Regulations, Title 24, incorporating the International Building Code, 2006 Edition, published by the International Code Council is hereby adopted by reference, including the following Appendices:

Appendix Chapter C *Group U – Agricultural Buildings*

Appendix Chapter I *Patio Covers*

Appendix Chapter J *Grading*

There is one copy of the code on file in the office of the building official for use and examination by the public.

15.04.15 Building Code—Amended

Amendments to the 2013 California Building Code

Chapter 1 of the 2013 California Building Code is hereby adopted and amended as follows:

Subsection 105.5 Expiration is hereby amended to read as follows:

105.5 Expiration. Every permit shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The Building Official is authorized to grant in writing one or more extensions of time for periods not more than 180 days each. The extensions shall be requested in writing and justifiable cause demonstrated. For the purpose of this section, work shall be considered abandoned if a required inspection has not been recorded and approved within 180 days.

Subsection 109 Fees, is hereby included and amended to read as follows

109.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the established fee schedule as adopted by resolution of the City Council of the City of Colfax.

15.04.130 Building Code Appendixes—Adopted and Amended

The following Building Code appendixes are hereby adopted and amended as follows:

California Building Code, Appendix J amended--Excavation and Grading.

The following sections of Appendix J of the California Building Code are hereby amended to read as follows:

Section J101 "Scope" is amended to add the following: "All references to the "Building Official" within this appendix are hereby amended to read "City Engineer". All grading operations within the City of Colfax shall be performed in accordance with the provisions of the Building Code, the City of Colfax Grading Ordinance and any other regulations of the City pertaining to grading operations.

15.04.020 Plumbing Code--Adopted.

The California Plumbing Code, known as Part 5 of the 2013 Edition of the California Code of Regulations, Title 24, incorporating the Uniform Plumbing Code, 2009 Edition, published by the International Association of Plumbing and Mechanical Officials and the non-building and administrative regulations of the Uniform Plumbing Code, 2012 Edition are adopted by reference. There is one copy of the code on file in the office of the building official for use and examination by the public.

15.04.025 Plumbing Code--Amended

Chapter 1, subsection 103.4 of the 2013 California Plumbing Code is hereby adopted and amended as follows:

115.1: General. Fees shall be assessed in accordance with the fee schedule as adopted by resolution of the City Council. All References to in Table 1-1 Subsection 103.4.1 and 103.2 are hereby deleted.

15.04.030 Mechanical Code--Adopted.

The California Mechanical Code, known as Part 4 of the 2013 Edition of the California Code of Regulations, Title 24, incorporating the Uniform Mechanical Code, 2009 Edition, published by the International Association of Plumbing and Mechanical Officials 2012 Edition, are adopted by reference. There is one copy of the code on file in the office of the building official for use and examination by the public.

15.04.035 California Mechanical Code-- Amended

Chapter 1, subsection 115.0 of the 2013 California Mechanical Code is hereby adopted and amended as follows:

115.1: General. Fees shall be assessed in accordance with the fee schedule as adopted by resolution of the City Council. All References to in Table 1-1 Subsection 115.1, 115.2, and 115.3 are hereby deleted.

15.04.040 Electrical Code--Adopted.

The California Electrical Code, known as Part 3 of the 2013 Edition of the California Code of Regulations Title 24, incorporating the National Electrical Code, 2011 Edition, published by the National Fire Protection Association is hereby adopted by reference. There is one copy of the code on file in the office of the building official for use and examination by the public.

15.04.050 Residential Building Code-- Adopted.

The California Residential Building Code, 2013 Edition, based on the 2012 International Residential Building Code including, the administrative provisions in the California Building Code, Chapter 1, Division II and Appendix H - Patio Covers as published by the International Code Council (ICC) as adopted and amended by the California Building Standards Commission in the California Building Standards Code, Title 24 of the California Code of Regulations, Part 2.5 is hereby adopted by reference. There is one copy of the code on file in the office of the building official for use and examination by the public.

15.04.055 Residential Building Code--Amended
Amendments to the 2013 California Building Code

Chapter 1 of the 2013 California Residential Building Code is hereby adopted and amended as follows:

Subsection 105.5 Expiration is hereby amended to read as follows:

105.5 Expiration. Every permit shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The Building Official is authorized to grant in writing one or more extensions of time for periods not more than 180 days each. The extensions shall be requested in writing and justifiable cause demonstrated. For the purpose of this section, work shall be considered abandoned if a required inspection has not been recorded and approved within 180 days.

Subsection 108 Fees, is hereby included and amended to read as follows

108.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the established fee schedule as adopted by resolution of the City Council of the City of Colfax.

15.04.60 CALGreen Code adopted.

The California Green Building Standards Code, 2013 Edition including, the administrative provisions in the California Building Code, Chapter 1, Division II as adopted and amended by the California Building Standards Commission in the California Building Standards Code, Title 24 of the California Code of Regulations, Part 11 is hereby adopted by reference.

There is one copy of the code on file in the office of the building official for use and examination by the public.

15.04.100 Uniform Swimming Pool, Spa and Hot Tub Code, 2009 Edition--Adopted.

The 2009 Edition of the Uniform Swimming Pool, Spa and Hot Tub Code, published by the International Conference of Plumbing and Mechanical Officials is hereby adopted by reference. There is one copy of the code on file in the office of the building official for use and examination by the public.

15.08 Fire Code adopted.

California Fire Code, 2013 Edition Volumes 1 & 2, including, the administrative provisions in the California Building Code, Chapter 1, Division II based on the 2012 International Fire Code including the Appendices, as published by the International Code Council (ICC) as adopted and amended by the California Building Standards Commission in the California Building Standards Code, Title 24 of the California Code of Regulations, Part 9 is hereby adopted by reference. There is one copy of the code on file in the office of the building official for use and examination by the public.

15.08.010 Fire Code amended.

The California Fire Code adopted in Section 15.04.700 [Gabe: I think this is an incorrect reference that should be changed to 15.08. There is no 15.04.700. There probably was at one time and it was placed in its own section of the CMC and renumbered.] is modified, amended and/or supplemented as follows:

1. The California Fire Code (CFC) as adopted above with approved amendments and appendix chapters, and all State Fire Marshal codes delegated to local agencies, are to be enforced by the Chief of each Fire District, CSA, or as designated by contract. In the absence of the above, the Placer County Fire Warden shall act as the County Fire Marshal. Where provisions in the CFC conflict with other statutes/regulations or County ordinances, including but not limited to the Placer County Land Development Manual, the most restrictive shall govern.
Pursuant to State Health and Safety Code Section 13869.7, all Fire District amendments to the CFC will be valid after such amendments are first authorized by the Fire District board and then approved by the Board of Supervisors.
2. Section 103.1, Department of Fire Prevention – General, is amended by replacing the first paragraph with the following:

The Chief of a fire department/district, with the written approval of the Board of Directors of the particular fire department, is authorized to make and enforce such rules and regulations for the prevention and control of fires and fire hazards as may be necessary from time to time to carry out the intent of this Code. Three certified copies of such rules and regulations shall be filed with the Clerk of the jurisdiction and shall be in effect immediately thereafter. Pursuant to State Health and Safety Code Section 13869.7, rules and regulations that involve building standards will be valid when approved by the City Council of the City of Colfax. [Gabe: since these regulations will be effective within Colfax, they probably need to be approved by the Colfax City Council. That is what Government Code Section 13869.7

requires. Section 13869.7 also pertains to fire protection districts organized under H&S Section 13800. Is the fire department such an entity?]

- C. Section 108, Board of Appeals, is amended by replacing the first paragraph with the following:

In order to determine the suitability of alternate materials and type of construction and to provide for reasonable interpretation of the provisions of this code, there is hereby appointed a board of appeals consisting of the board of directors of each fire protection district [Same question as above. H&S Section 13800 et seq applies to specific types of entities. Does the City's fire service entity qualify?] for matters within their jurisdiction and the Placer County Building Board of Appeals in the remaining areas of the County. The Chief shall be an ex-official member of the Board and shall act as secretary to the Board. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the chief with a duplicate copy to the appellant and may recommend to the Executive Body such new legislation as is consistent therewith.

- D. Chapter 1 Section 109.3, Notice of Violation, is amended by adding the following:

The Chief of any fire department/district within the County or his/her authorized representatives shall have authority to enforce this code and issue citations for violations in their respective jurisdiction.

- E. Section 202 – Definitions: Add the following:

Fire Hydrant: Shall mean a hydrant supplied by a 6 inch or larger branch line, one or more pumper connection (4½ inch) and 2 or more 2½ inch outlets, capable of supplying required fire flow for at least 2 hours.

Section 502 - Definitions: Add the following:

Emergency Vehicle Access and occupant emergency egress/evacuation roads:
Use / Access for emergency vehicles during an emergency. Emergency egress/evacuation for residents during an emergency.

Size - Roadways shall meet the requirements of the local authority having jurisdiction but shall not be less than the requirements set in PRC 4290 and Placer County Code.

Fire Department Access Gates:

Use - Fire Department access to open lands and vegetated areas for the purpose of extinguishing a vegetation fire.

Size - Minimum 10' wide opening with 15' clear vertical clearance.

Access restrictions - Access is for emergency firefighting equipment only.

Approved gates:

- a. Any gate approved for Emergency Access, Residential Egress and Evacuation shall be manually opening with no lock or latch requiring special knowledge.
- b. Any gate approved by authority having jurisdiction.

Section 503 Fire Apparatus Access Roads is amended to read;

Section 503.2.1 Dimensions

Fire apparatus access roads for commercial applications required by this section shall have an unobstructed continuous width of not less than 26 feet for all Fire Department access lanes and an unobstructed vertical clearance of not less than 15 feet. The roadway may be required to be increased to 28' when determined that aerial firefighting apparatus are required as part of the fire department response.

503.2.1.2 Residential or other fire and emergency access and circulation roads

All other fire apparatus access roads shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 15 feet.

Section 503.2.4 Turning Radius:

The inside turning radius for a Fire Access road shall be 30 feet or greater. The outside turning radius for an access road shall be 50 feet or greater.

Section 503.6 Security gates to include the following:

Private Road Gated Entrance:

- a. Gate openings to be 2' wider than the roadway served.
- b. Emergency vehicle access shall be provided by both a "Knox" over-ride switch and an approved emergency radio frequency gate opening device (Click2Enter type) or other device approved by the authority district.
- c. An approved hammerhead, turn-around bulb or other means of turn-around shall be provided on the entry side of the gate.
- d. Gates shall automatically open from the interior without use of a special code or device. (Magnetic strip or pressure pad assemblies are acceptable).
- e. All electric gates shall fail in the open position, i.e. loss of power, battery failure.
- f. Vertical clearances shall be no less than 15'.
- g. Gate shall be located no closer than 30' from the intersecting roadway ultimate edge of pavement.
- h. Provide a separate personnel gate or opening sized and surfaced to allow for pedestrian and accessibility access.
- i. Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective.

Residential driveway gated entrance;

Gated residential driveways shall be provided with Fire Department access locks or switches as approved by the authority having jurisdiction.

F. Section 903.2, Where Required, is amended to read, adding the following:

In all occupancies except Group R, Division 3 and Group U Occupancies an approved automatic sprinkler system shall be installed where the occupancy/building has 3,600 or more square feet of total floor area, except where other sections of the IFC or the California State Fire Marshals regulations, and/or local Fire District ordinances applicable to a project are more restrictive, then the more restrictive shall apply. Where additions increase the total size of the building to 3,600 square feet or more, the addition and the existing

occupancy/building shall be provided with an approved automatic sprinkler system. Fire separation areas shall not be used to reduce this requirement.

G. Section 903.3.1.3, NFPA 13D Sprinkler Systems, is amended to read, add the following:

Automatic sprinkler systems installed in one-and two-family dwellings, Group R-3 and R-4 congregate living facilities and townhouses shall be permitted to be installed throughout in accordance with the latest edition of NFPA Standard 13D and shall be equipped with a residential fire sprinkler water flow switch and interconnection to the residential smoke detector alarm system as defined in Building Service Division policy manual.

H. Section 903.4, Sprinkler System Monitoring and Alarms, is amended to read:

All valves controlling the water supply for automatic sprinkler systems and water-flow switches on all sprinkler systems shall be electrically supervised. Valve supervision, ~~and~~ water-flow alarm, fire alarm systems, and trouble signals shall be distinctly different and shall be automatically transmitted to an approved central station.

EXCEPTION: Group R, Division 3 Occupancies will only be monitored if required by the local Fire District and/or authority having jurisdiction.

I. Section 907.2 of the IFC, Where Required – new buildings and structures, is amended to read as follows:

All occupancies except Group R, Division 3 and Group U occupancies shall have an approved automatic fire alarm system installed when the occupancy/building has 1,500 square feet or more of total floor area unless other sections of the CFC or California State Fire Marshals regulations are more restrictive, then the more restrictive shall apply. Fire alarms systems shall be in accordance with Section 907 of the CFC or the current edition of NFPA 72 if the specific occupancy is not covered in the CFC.

Additionally, all A, E, H, I and M occupancies shall have an automatic smoke/heat detection system installed in addition to any other system(s) required by this code. Where additions increase the total size of the building to 1,500 square feet or more, the addition and the existing occupancy/building shall be provided with an approved automatic smoke/heat detection system.

Fire alarm control panels in new buildings shall be sized to allow for maximum number of anticipated devices at build-out.

All automatic smoke and heat detection systems installed in addition to any other system(s) required by this code shall be automatically transmitted to an approved central station.

J. Section 3201, General, is amended by adding the following item:

Tires: No person shall pile, cause to be piled, or maintain any pile of tires (of any manufactured material) at a height greater than ten (10) feet, except in approved horizontal storage racks, measured in all cases from the ground level. Tires shall be neatly piled and in no case shall any one pile occupy more than two hundred (200) square feet of floor or lot area. An aisle of at least ten (10) feet shall be maintained at all times between the piles in such a manner as to allow free access.

K. Section 5701.1, Scope and Application, is amended to read as follows:

It shall be unlawful to store flammable liquids as defined in Chapter ~~34~~ 57 of the International Fire Code including gasoline and other motor fuels, in above ground storage containers, either portable or installed, in a RS, RM, RA, RF, F or AE zoned area on a parcel

of less than ten (10) acres. In areas where above ground storage is permitted, minimum distances from property lines and structures for a tank of any type shall be not less than 50 feet. The limitations/prohibitions of this section shall also apply to areas in Squaw Valley designated as Low Density Residential (LDR), High Density Residential (HDR), Forest-Recreation or Conservation Preserve. In addition, the limitations/ prohibitions of this section shall apply to areas in the Lake Tahoe Basin which are designated as Tourist/ Residential, Tourist, Residential, Recreation and Conservation.

Any above ground storage must be approved, in writing, by an official of the appropriate fire protection department/district. This section shall not be applicable to portable containers suitable for such storage of 5 gallons or less.

- L. Section 5704.2.9.6.: “Locations where above ground tanks are prohibited” is amended to read as follows:

Storage of Class I and Class II flammable liquids in aboveground tanks outside of buildings is prohibited unless approved by the Fire Chief having jurisdiction, using standards not less than the IFC or recognized equivalent.

- M. Section 5706.4, Bulk Plants or Terminals, is amended to read as follows:

No new bulk plant shall be constructed within the limits established by the Placer County zoning ordinance, as limits of the districts in which such plants are prohibited. Where allowed portions of properties where flammable and combustible liquids are received by tank vessel, pipelines, tank cars or tank vehicles and are stored or blended in bulk for the purpose of distributing such liquids by tank vessels, pipelines, tank cars, tank vehicles or containers shall be in accordance with IFC Section 5706.4.

- N. Appendix C, Fire Hydrant Locations and Distribution, Table C105.1, is amended to read:

**TABLE C 105.1
NUMBER AND DISTRIBUTION OF FIRE HYDRANTS**

FIRE-FLOW REQUIREMEN T (gpm)	MINIMUM NO. OF HYDRANT S	AVERAGE SPACING BETWEEN HYDRANTS ^{1,2,3,} (feet) ⁶	MAXIMUM DISTANCE FROM ANY POINT ON STREET OR ROAD FRONTAGE TO A HYDRANT ⁴
X 3.85 for L/min.		X 304.8 for mm	
1,000 - 1,750	2	300	250
2,000 - 2,250	2	300	225
2,500	3	300	225
3,000	3	300	225
3,500 - 4,000	4	300	210
4,500 - 5,000	5	300	180
5,500	6	300	180
6,000	6	250	150
6,500 - 7,000	7	250	150
7,500 or more	8 or more ⁵	200	120

- a. Reduce by 100 feet for dead-end streets or roads.
- b. Where streets are provided with median dividers which can be crossed by firefighters pulling hose lines, or arterial streets are provided with four or more traffic lanes and have a traffic count of more than 30,000 vehicles per day, hydrant spacing shall average 500 feet (152.4m) on each side of the street and be arranged on an alternating basis up

to a fire-flow requirement of 7,000 gallons per minute (26 495L/min.) and 400 feet (122 m) for higher fire-flow requirements.

- c. Where new water mains are extended along streets where hydrants are not needed for protection of structures or similar fire problems, fire hydrants shall be provided at not less than 1,000-foot (305m) spacing to provide for transportation hazards.
- d. Reduce by 50 feet (15 240 mm) for dead-end streets or roads.
- e. One hydrant for each 1,000 gallons per minute (3785 L/min.) or fraction thereof.
- f. Spacing may be increased to 500' for Single Family Dwelling Residential Sub-Divisions.

15. Appendix D, Fire Apparatus Access Roads is adopted and amended as follows:

D102.1 amended to read: Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road with asphalt, concrete, or other approved driving surface capable of supporting the imposed load of fire apparatus as determined by the fire authority having jurisdiction but no less than 40,000 pounds.

D103.1 (add: Exception: R-3 Occupancies)

D103.2 In areas above 5,000 ft. elevation:

Exception 1: Driveways of R-3 Occupancies shall not exceed 12 percent in grade, unless otherwise authorized by the fire chief.

Exception 2: The driveway slope may exceed 12% (12 vertical feet in one hundred horizontal feet) slope provided the driveway meets or exceeds the prescribed minimum width, and is not longer in length than the maximum permissible height of the structure within such jurisdiction, but in no case more than 35 feet, and has the appropriate transitional slopes at the edge of pavement to property line, and has no significant articulation greater than 45% angle in its entire length).

D103.2 In areas below 5,000 ft:

Elevation driveway grade shall not exceed 16% unless authorized by the fire chief.

Delete Section D103.5

Section D104 Commercial and Industrial Developments. D104.2 is amended to read:

Buildings or facilities having a gross building area of more than 62,000 square feet (5760 m²) shall be provided with two separate and approved fire apparatus access roads.

Delete exception

Section D107 One or Two Family Residential Developments.

D107.1 is amended to read:

Developments of one- or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with separate and approved fire apparatus access roads and shall meet the requirements of Section D104.3.

Delete exception 1 and 2

Section 6. Superceding Provisions

The provisions of this ordinance and any resolution adopted pursuant hereto shall supercede any previous ordinance or resolution to the extent the same is in conflict herewith.

Section 7. Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision; and such holding shall not affect the validity of the remaining portions hereof.

Section 8. Effective Date.

This ordinance shall be in full force and effect thirty (30) days from and after its adoption.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Colfax held on the 23rd day of October 2013, and passed and adopted at a regular meeting of the City Council of the City of Colfax held on the 13th day of November 2013, at a duly held regular meeting of the City Council of the City of Colfax, by the following vote:

AYES:
NOES:
ABSENT:

Donna L. Barkle
Mayor

APPROVED AS TO FORM:

ATTEST:

Alfred Cabral
City Attorney

Karen Pierce
City Clerk



STAFF REPORT TO THE COLFAX CITY COUNCIL

FOR THE October 23, 2013 COUNCIL MEETING

FROM: Gabe Armstrong, Interim City Manager

PREPARED: October 16, 2013

SUBJECT: Consideration of Adoption of Resolution No. 43-2013: A Resolution of the City Council of the City of Colfax authorizing the Interim City Manager to execute an agreement with Water Pollution Control Services to provide Chief Plant Operator Services at the WWTP

RECOMMENDED ACTION: Adopt Resolution No. 43 -2013

ISSUE STATEMENT AND DISCUSSION:

The City of Colfax is required to have a designated Chief Plant Operator at the WWTP. The former Chief Plant Operator resigned his employment effective October 2, 2013. Recruitment of his replacement will begin soon.

Water Pollution Control Services has been serving as Chief Plant Operator on a contract basis since the position became vacant. Its principal, Steve Calderwood, is very familiar with the City's Wastewater Treatment System. Mr. Calderwood previously served as Chief Plant Operator for more than two years and was extensively involved in helping defend the Edwards litigation. Although Mr. Calderwood's business is located in South Carolina, he has assigned Mark Fisher as the on-site operator. Mr. Fisher was previously employed by the City as a wastewater treatment plant operator and is also very familiar with the plant.

Staff anticipates that this will be a limited term agreement that will terminate when, or shortly after, a new chief plant operator is hired.

FINANCIAL AND/OR POLICY IMPLICATIONS:

Staff is requesting contracting authority in an amount not to exceed \$50,000. This should be sufficient to cover all costs while a replacement Chief Plant Operator is recruited. Costs for this agreement will be paid from the City's sewer fund, not from general fund revenues.

SUPPORTING DOCUMENTS:

1. Contract
2. Resolution

COMMITTEE RECOMMENDATION:

This report was not discussed by any committee.

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and entered into on this 23rd day of October, 2013 by and between the City of Colfax, a municipal corporation of the State of California ("City") and Water Pollution Control Services ("Consultant").

RECITALS

A. The City desires to retain Consultant to provide the Services set forth in detail in Exhibit A hereto (the "Services") subject to the terms and conditions of this Agreement.

B. Consultant is duly licensed and sufficiently experienced to undertake and perform the Services in a skilled and workmanlike manner and desires to do so in accordance with the terms and conditions of this Agreement.

Now, therefore, in consideration of the mutual covenants, promises and conditions set forth in this Agreement, the City and Consultant agree as follows:

Section 1. Services.

Subject to the terms and conditions set forth in this Agreement, Consultant shall furnish and perform all of the Services described in detail in Exhibit A hereto and incorporated herein by this reference (the "Services") to the satisfaction of the City. Consultant shall not perform any work exceeding the scope of the Services described in Exhibit A without prior written authorization from the City.

Section 2. Time of Completion.

Consultant's schedule for performance of the Services is set forth in Exhibit A hereto which is incorporated herein by this reference. Consultant shall commence performance of the Services promptly upon receipt of written notice from the City to proceed. Performance of the Services shall progress and conclude in accordance with the schedule set forth in Exhibit A. During the performance of the Services, Consultant shall provide the City with written progress reports at least once each month and at such additional intervals as City may from time to time request.

Section 3. Compensation.

A. Except as may otherwise be provided in Exhibit A or elsewhere in this Agreement or its exhibits, Consultant shall invoice City once each month for the Services performed during the preceding month. Such invoices shall itemize all charges in such detail as may reasonably be required by City in the usual course of City business but shall include at least (i) the date of performance of each of the Services, (ii) identification of the person who performed the Services, (iii) a detailed description of the Services performed on each date, (iv) the hourly rate at which the Services on each date are charged, (v) an itemization of all costs incurred and (vi) the total charges for the Services for the month invoiced. As long as the Consultant performs the Services to the satisfaction of the City, the City shall pay the Consultant an all inclusive compensation that shall

not exceed the amount as detailed in Exhibit A except pursuant to an authorized written change order issued pursuant to Section 15 of this Agreement before the Services requiring additional compensation are performed. City shall pay Consultant no later than thirty (30) days after approval of the monthly invoice by City's staff.

B. The Consultant's compensation for the Services shall be full compensation for all indirect and direct personnel, materials, supplies, equipment and services incurred by the Consultant and used in carrying out or completing the Services. Payments shall be in accordance with the payment schedule established in Exhibit A or elsewhere in this Agreement or its exhibits.

C. The City shall have the right to receive, upon request, documentation substantiating charges billed to the City pursuant to this Agreement. The City shall have the right to perform an audit of the Consultant's relevant records pertaining to the charges.

D. Any Services performed more than sixty (60) days prior to the date upon which they are invoiced to the City shall not be compensable.

Section 4. Professional Ability; Standard of Quality.

City has relied upon the professional training and ability of Consultant to perform the Services described in Exhibit A as a material inducement to enter into this Agreement. Consultant shall therefore provide properly skilled professional and technical personnel to perform all Services under this Agreement. All Services performed by Consultant under this Agreement shall be in a skillful, workmanlike manner in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

Section 5. Indemnification.

Consultant shall hold harmless and indemnify, including without limitation the cost to defend, the City and its officers, agents and employees from and against any and all claims, demands, damages, costs or liability that arise out of, or pertain to, or relate to the negligence, recklessness or willful misconduct of Consultant and/or its agents in the performance of the Services. This indemnity does not apply to liability for damages for death or bodily injury to persons, injury to property, or other loss, arising from the sole negligence, willful misconduct or material defects in design by the City or its agents, servants employees or independent contractors other than Consultant who are directly responsible to the City, or arising from the active negligence of the City officers, agents, employees or volunteers

Section 6. Insurance.

Without limiting Consultant's indemnification obligations provided for above, Consultant shall take out before beginning performance of the Services and maintain at all times during the life of this Agreement the following policies of insurance with insurers possessing a Best rating of not less than A. Consultant shall not allow any subcontractor, professional or otherwise, to commence work on any subcontract until all insurance required of the Consultant has also been obtained by the

subcontractor.

- A. Workers' Compensation Coverage. Statutory Workers' Compensation insurance and Employer's Liability Insurance to cover its employees. In the alternative, Consultant may rely on a self-insurance program to meet its legal requirements as long as the program of self-insurance complies fully with the provisions of the California Labor Code. Consultant shall also require all subcontractors, if such are authorized by the City, to similarly provide Workers' Compensation insurance as required by the Labor Code of the State of California for all of the subcontractor's employees. All Workers' Compensation policies shall be endorsed with the provision that the insurance shall not be suspended, voided, or cancelled until thirty (30) days prior written notice has been provided to City by the insurer. The Workers' Compensation insurance shall also contain a provision whereby the insurance company agrees to waive all rights of subrogation against the City and its elected or appointed officials, officers, agents, and employees for losses paid under the terms of such policy which arise from the Services performed by the insured for the City.

- B. General Liability Coverage. General liability insurance, including personal injury and property damage insurance for all activities of the Consultant and its subcontractors, if such are authorized by the City, arising out of or in connection with the Services. The insurance shall be written on a comprehensive general liability form and include a broad form comprehensive general liability endorsement. In the alternative, the City will accept, in satisfaction of these requirements, commercial general liability coverage which is equivalent to the comprehensive general liability form and a broad form comprehensive general liability endorsement. The insurance shall be in an amount of not less than \$1 million combined single limit personal injury and property damage for each occurrence. The insurance shall be occurrence based insurance. General liability coverage written on a claims made basis shall not be acceptable absent prior written authorization from the City.

- C. Automobile Liability Coverage. Automobile liability insurance covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount of not less than \$1 million combined single limit for each occurrence.

- D. Policy Endorsements. Each general liability and automobile liability insurance policy shall be endorsed with the following provisions:
 - 1. The City, and its elected or appointed officials, employees and agents shall be named as insureds or additional insureds with regard to damages and defenses of claims arising from activities performed by or on behalf of the Consultant.
 - 2. The insurance afforded by each policy shall apply separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the insurer's limits of liability.
 - 3. The insurance shall be primary insurance as respects the City and its elected or appointed officers, officials, employees and agents. Any other insurance maintained by

the City or its elected or appointed officers, officials, employees, agents or volunteers shall be in excess of this insurance and shall not contribute with it.

4. The insurance shall not be suspended, voided, cancelled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been provided to the City.
 5. Any failure to comply with the reporting requirements of any policy shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, or agents.
- E. Professional Liability Coverage. If required by the City, Consultant shall also take out and maintain professional liability, errors and omissions insurance in an amount not less than \$1 million. The professional liability insurance policy shall be endorsed with a provision stating that it shall not be suspended, voided, cancelled, or reduced in coverage or in limits except after thirty (30) days written notice has been provided to the City.
- F. Insurance Certificates and Endorsements. Prior to commencing the Services under this Agreement, Consultant shall submit to the City documentation evidencing the required insurance signed by the insurance agent and the companies named. This documentation shall be on forms which are acceptable to the City and shall include all required endorsements and verify that coverage is actually in effect. This Agreement shall not be effective until the required insurance forms and endorsements are submitted to and approved by the City. Failure to provide these forms within the time period specified by City may result in the award of this Agreement to another Consultant should the City, in its sole discretion, decide to do so. Current certification of insurance shall be kept on file with the City at all times during the term of this Agreement.
- G. Deductible and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City.
- H. Termination of Insurance. If the City receives notification that Consultant's insurance will be suspended, voided, cancelled or reduced in coverage or in limits, and if the Consultant does not provide for either the reinstatement of that insurance or for the furnishing of alternate insurance containing all of the terms and provisions specified above prior to the termination of that insurance, City may either terminate this Agreement for that breach, or City may secure the required insurance to satisfy the conditions of this Agreement and deduct the cost thereof from compensation which would otherwise be due and payable to the Consultant for Services rendered under the terms of this Agreement.

Section 7. Subcontracts.

Consultant may not subcontract any portion of the Services without the written authorization of City. If City consents to a subcontract, Consultant shall be fully responsible to the City and third parties for all acts or omissions of the subcontractor to which the Services or any portion thereof are subcontracted. Nothing in this Agreement shall create any contractual relationship between City and any subcontractor, nor shall it create any obligation on the part of the City to pay or cause the

payment of any monies due to any such subcontractor except as otherwise is required by law.

Section 8. Assignment.

Consultant shall not assign any right or obligation under this Agreement without the City's prior written consent. Any attempted assignment of any right or obligation under this Agreement without the City's prior written consent shall be void.

Section 9. Entire Agreement.

This Agreement represents the entire understanding of City and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Agreement may not be modified or altered except in writing signed by both parties.

Section 10. Jurisdiction.

This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction over any litigation arising from this Agreement shall be in the Superior Court of the State of California with venue in Placer County, California.

Section 11. Suspension of Services.

Upon written request by Consultant, City may suspend, in writing, all or any portion of the Services if unforeseen circumstances beyond the control of the City and Consultant make normal progress of the Services impossible, impractical or infeasible. Upon written City approval to suspend performance of the Services, the time for completion of the Services shall be extended by the number of days performance of the Services is suspended.

Section 12. Termination of Services.

City may at any time, at its sole discretion, terminate all or any portion of the Services and this Agreement upon seven (7) days written notice to Consultant. Upon receipt of notice of termination, Consultant shall stop performance of the Services at the stage directed by City. Consultant shall be entitled to payment within thirty (30) days for Services performed up to the date of receipt of the written notice of termination. Consultant shall not be entitled to payment for any Services performed after the receipt of the notice of termination unless such payment is authorized in advance in writing by the City.

Should Consultant fail to perform any of the obligations required of Consultant within the time and in the manner provided for under the terms of this Agreement, or should Consultant violate any of the terms and conditions of this Agreement, City may terminate this Agreement by providing Consultant with seven (7) days written notice of such termination. The Consultant shall be compensated for all Services performed prior to the date of receipt of the notice of termination. However, the City may deduct from the compensation which may be owed to Consultant the amount of damage sustained or estimated by City resulting from Consultant's breach of this

Agreement.

Consultant's obligations pursuant to Sections 5 and 6 of this Agreement shall survive termination, and continue in effect for as long as necessary to fulfill the purposes of Sections 5 and 6.

Section 13. Independent Contractor.

Consultant shall in all respects be an independent contractor and not an agent or employee of City. Consultant has and shall retain the right to exercise full control and supervision of the means and methods of performing the Services. Consultant shall receive no premium or enhanced pay for Services normally understood as overtime; nor shall Consultant receive holiday pay, sick leave, administrative leave or pay for any other time not actually expended in the performance of the Services. It is intended by the parties that Consultant shall not be eligible for benefits and shall receive no compensation from the City, except as expressly set forth in this Agreement. Consultant shall submit completed W-9 and Report of Independent Contractor forms upon execution of this Agreement and prior to the payment of any compensation hereunder.

Section 14. Ownership of Documents.

Within thirty (30) days after the Consultant substantially completes performance of the Services, or within thirty (30) days after the termination of this Agreement, the Consultant shall deliver to the City all files, records, materials and documents drafted or prepared by Consultant's in the performance of the Services. It is expressly understood and agreed that all such files, records, materials and documents are the property of the City and not the property of the Consultant. All finished and unfinished reports, plans, studies, documents and other writings prepared by and for Consultant, its officers, employees and agents in the course of performing the Services shall become the sole property of the City upon payment to Consultant for the Services, and the City shall have the exclusive right to use such materials in its sole discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such reports, plans, studies, documents and writings to City or any party the City may designate, upon written request. Consultant may keep file copies of all documents prepared for City. Use of any such documents by the City for projects that are not the subject of this Agreement or for purposes beyond the scope of the Services shall be at the City's sole risk without legal liability or expense to Consultant.

Section 15. Changes and/or Extra Work.

Only the City Council may authorize extra and/or changed Services, modification of the time of completion of the Services, or additional compensation for the tasks to be performed by Consultant. Consultant expressly recognizes that other City personnel are without authorization to order extra and/or changed Services or to obligate the City to the payment of additional compensation. The failure of Consultant to secure the prior written authorization for such extra and/or changed Services shall constitute a waiver of any and all right to adjustment in the contract price due to such unauthorized Services, and Consultant thereafter shall not be entitled to any compensation whatsoever for the performance of such extra or changed Services. In the event Consultant and City agree that extra and/or changed Services are required, or that additional compensation shall be

awarded to Consultant for performance of the Services under this Agreement, a supplemental agreement providing for such compensation shall be prepared and shall be executed by the Consultant and the necessary City officials before the extra and/or changed Services are provided.

Section 16. Compliance with Federal, State and Local Laws.

Consultant shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations affecting the Services, including without limitation laws requiring licensing and prohibiting discrimination in employment because of race, creed, color, sex, age, marital status, physical or mental disability, national origin or other prohibited bases. City shall not be responsible or liable for Consultant's failure to comply with applicable laws, statutes, ordinances, rules or regulations.

Section 17. Retention of Records.

Consultant and any subconsultants authorized by the terms of this Agreement shall keep and maintain full and complete documentation and accounting records, employees' time sheets, and correspondence pertaining to the Services, and Consultant shall make such documents available for review and/or audit by City and City's representatives at all reasonable times during performance of the Services and for at least four (4) years after completion of the Services and/or termination of this Agreement.

Section 18. Alternative Dispute Resolution

- A. Before resorting to mediation, arbitration or other legal process, the primary contacts of the parties shall meet and confer and attempt to amicably resolve any dispute arising from or relating to this Agreement subject to the following provisions. Any party desiring to meet and confer shall so advise the other party pursuant to a written notice. Within 15 days after provision of that written notice by the party desiring to meet and confer, the primary contacts for each party shall meet in person and attempt to amicably resolve their dispute. Each primary contact, or the person acting in their absence with full authority to resolve the dispute, shall attend the meeting and shall be prepared to devote an entire day thereto. If any dispute remains unresolved at the end of the meeting, any party to this Agreement shall have the right to invoke the mediation process provided for in the subparagraph B below.

- B. Subject to the provisions of subparagraph A, any dispute that remains unresolved after the meet and confer shall immediately be submitted to non-binding neutral mediation, before a mutually acceptable, neutral retired judge or justice at the Sacramento Office of the Judicial Arbitration and Mediation Service ("JAMS"). If within five days after the meet and confer the parties are unable to agree upon the selection of a neutral mediator, then the first available retired judge or justice at the Sacramento office of JAMS shall serve as the neutral mediator. The parties agree to commit to at least one full day to the mediation process. Additionally, to expedite the resolution of any dispute that is not resolved by mediation, the parties agree to each bring to the neutral mediation a list of at least five neutral arbitrators, including their resumes, whose availability for an arbitration hearing within 30 days after the mediation has been confirmed.

If to Consultant:

Water Pollution Control Services, Inc.
101 W. McNight Way B146
Grass Valley, CA 95949

Section 23. Execution.

This Agreement may be executed in original counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one original counterpart is signed by both parties hereto. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

Section 24. Successors. This Agreement shall be binding on and inure to the benefit of the respective parties hereto except to the extent of any contrary provision in this Agreement.

Section 25. Attorney's Fees. If any party to this Agreement commences legal proceedings to enforce any of its terms or to recover damages for its breach, the prevailing party shall be entitled to recover its reasonable attorney's fees, costs and the expenses of expert witnesses, including any such fees costs and expenses incurred on appeal.

IN WITNESS WHEREOF, the parties hereby have executed this Agreement on the day first above written:

CITY

CONSULTANT

Signature_____

Signature_____

Printed Name_____

Printed Name_____

Title_____

Title_____

Date_____

Date_____

APPROVED AS TO FORM:

City Attorney

Pay Schedule for Water Pollution Control Services

Revised: 10/17/13

Steve Calderwood: Certified Grade V WWTPPO, Grade T2 WTO and Grade D1 DO.

Contracted plant operations during regular business hours (Mon.-Fri. 0700-1700 hrs. excluding major holidays): \$65.00/hr. After hours and holidays = \$97.50.00/hr

Consulting, hands on training, after hour Plant Operations and call-outs: \$97.50/hr.

(after hour rates for call-outs start from time of notification until returning home- minimum of 2 hrs.).

Emergency and regular standby: \$2.75/hour (standby or on-call pay should not be charged for hours actually worked).

These rates may start after reaching a 5-mile radius of my office at 101 W. McKnight Way, Grass Valley Ca. to help defray travel expenses unless other arrangements are made.

These rates are negotiable on a "case by case" basis and can be revised at any time with a 30-day notice.

Steve Calderwood
Water Pollution Control Services
101 W. McKnight Way B146
Grass Valley, Ca. 95949
(530) 613-6588

City of Colfax

Resolution No. 43-2013

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLFAX
AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE AN
AGREEMENT WITH WATER POLLUTION CONTROL SERVICES, INC., FOR
CHIEF PLANT OPERATOR SERVICES AT THE WWTP**

Whereas, the City is required to have a Chief Plant Operator at its Wastewater Treatment Plant (“WWTP”); and

Whereas, Water Pollution Control Services (WPCS) is qualified to serve as WWTP Chief Plant Operator, and previously served as WWTP Chief Plant Operator for more than two years, is familiar with the WWTP and has qualified operators available to assist the City while a permanent Chief Plant Operator is recruited; and

Whereas, WPCS has agreed to serve as Chief Plant Operator under the terms and conditions of the agreement attached to this Resolution.

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

1. The foregoing recitals are true and correct statements of fact and are incorporated by reference into this resolution.
2. The Interim City Manager is hereby authorized to execute on behalf and in the name of the City of Colfax a Consultant Services Agreement Between The City Of Colfax And Water Pollution Control Services, Inc., in the form attached to this Resolution in an amount not to exceed \$50,000.
3. The Interim City Manager is hereby authorized to appropriate and encumber sufficient funds to pay for the services provided for in said agreement.

The foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Colfax held on the 24th day of October, 2013 the following roll call vote of the Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donna Barkle, Mayor

ATTEST:

Karen Pierce, City Clerk



STAFF REPORT TO THE COLFAX CITY COUNCIL

FOR THE OCTOBER 23, 2013 COUNCIL MEETING

FROM: Gabe Armstrong, Interim City Manager

PREPARED: October 17, 2013

SUBJECT: Conduct discussion and consider taking action to suspend or terminate all or part of the I-80 corridor project and/or reallocating project funding.

RECOMMENDED ACTION: Conduct discussion and provide direction to staff

ISSUE STATEMENT AND DISCUSSION:

This item has been added to the agenda at the request of councilman Hesch. Attached are reports from councilman Hesch and Brigit Barnes, City Land Use Attorney regarding this topic.

FINANCIAL AND/OR POLICY IMPLICATIONS:

SUPPORTING DOCUMENTS:

COMMITTEE RECOMMENDATION:

This report was not discussed by any committee.

Budget item for consideration October 16th 2013 City of Colfax

Housing Element Funding Request by our Planning Department

This is an open ended contract with at least three items that can be expected to require additional hourly expenses. The base contract amount is for \$29,735.00. This base contract includes a significant amount of the work to be conducted by our already over tasked local staff.

The council approved this contract at the October 10th 2013 meeting because in spite of the fact it was unfunded it needed to move forward ASAP.

Some points to ponder and discuss:

Why after several request by myself was this unfunded contract presented to council without it being clearly identified as an UNFUNDED expenditure?

Why was it presented to council as a surprise with no report from the land use committee who apparently reviewed it or our planning Department?

The city is still trying to recover from deficit spending so I am asking that the council first discuss and then move to suspend all expenditures by our planning department on the I-80 corridor project.

The city would then coordinate with the planning staff and determine the most efficient way for this project to go into a hold with regards to expenditures. The council would then direct the planning department on how to best cease expenditures on the I-80 project.

It is mandatory that our city staff alert us in advance that unfunded projects are coming our way to approve. No city or other organization can operate if it doesn't know its liabilities in advance.

To me this represents a very serious breach of procedure and not one to go by without immediate corrective action.

I believe this or similar action is imperative to sustain the financial recovery of the City of Colfax.

I further recommend that after we know how much none categorical money remains in the I-80 corridor project, the Colfax Community and Council consider diverting the remaining I-80 corridor funding to other more immediately effective projects in our community.

In summary the I-80 project can wait the financial recovery of the City of Colfax must come first.

Tony Hesch
Council Member
City of Colfax



STAFF REPORT TO THE COLFAX CITY COUNCIL

FOR THE OCTOBER 23rd, 2013 COUNCIL MEETING

FROM: Brigit S. Barnes, City Planning Director and Special Land Use Counsel

PREPARED: October 17, 2013

SUBJECT: Use of Highway 80 Revitalization Zone Project Funds for Housing Element Update

RECOMMENDED ACTION: Staff recommends that the City Council direct that funds to update the Housing Element come from the General Fund instead of the I-80 Project Fund, since the City Manager previously confirmed that based on current receipts of fees received from Winners Chevrolet Tax Sharing Agreement, General Fund monies are available for the Housing Element Update, and the City has expended substantial funds in preparation of the I-80 plan, a portion of which is not applicable to other planning efforts. In the alternative, if I-80 Project funds are used, that the City Council place on the agenda as soon as possible a discussion on how to complete engineering analysis for and funding of improvements to correct current traffic deficiencies: including completion of overall traffic study, design of capital improvements, amendments to the General Plan, and resulting updates to the Capital Improvement Program.

ISSUE: Councilman Hesch requests that the Council defer or terminate staff and consultant work for the Highway 80 Revitalization Zone Project ("I-80 Project") and use the remaining funding allocation for the I-80 Project to pay for the Housing Element Update.

PRESENT COST ESTIMATES FOR HOUSING ELEMENT UPDATE:

The approved budget for the Housing Element Update is \$17,103 for consultant Laurin Associates/Raney Management. Planning Staff estimates an additional \$7,000 (approximately) for their involvement in the update process.

CURRENT FINANCIAL ANALYSIS OF FUNDS EXPENDED FOR THE I-80 REVITALIZATION PLAN:

The I-80 Project was originally started in late 2009 per City Council direction with the assistance of the CDBG grant obtained by the City of Colfax for \$35,000. These initial funds were used to fund the EPS feasibility analysis in 2010, initial design work by city planners, and first draft of the I-80 redevelopment

plan. Providentially, in November 2012, the City negotiated for the payment of substantial development fees from Gard/Freidig in regards to converting their I-80 signs to digital signs. The sum of \$87,500 was received in 2013. In January 2013, the City Council formally approved a budget and action and phase plan for the I-80 Project.

At the time this Staff Report was submitted (October 17th), the City's Financial Director was not available to provide the amounts paid to date, or the balance remaining from the \$87,500 allocated in 2013. It is expected that these figures will be provided on Tuesday, October 22nd or Wednesday, October 23rd. Total City funds spent up to the end of 2012 was \$ [REDACTED]. Planning work completed during that early phase involved: Economic Analysis; Corridor Study Boundary Map; Opportunity Areas Map; Planning Area Map; Detailed Planning Area Maps with APN identification; Railroad crossing maps; Preliminary draft Planned Development Ordinance; Preliminary draft Planned Development Guidelines. The total amount received from Gard/Freidig was \$95,000, of which approximately \$87,500 has been allocated to partial completion of the I-80 plan beginning in 2013. The Gard/Friedig \$95,000 funding contribution was assumed to represent approximately one/half of the remaining costs of preparation of the plan. City Manager Kranz intended to search for special funding sources or other general fund monies to pay for the remainder of the Plan.

BALANCE OF WORK/\$\$ FOR PHASE I OF I-80 CORRIDOR PLAN

Consultant	Budget Estimate¹	Paid to Date	Major Work Completed to Date	Major Work Still to be Completed
Planning	\$84,285 (for work going forward from January 2013) + \$15,000 for design planning consultant	\$31,301.59	<ul style="list-style-type: none"> o Design and Chart – Recommended Zoning Changes; o Conducted Initial Public Workshop; o Phase & Action Plan; o Budget; o PD Ordinance – preliminary draft; o PD Guidelines – preliminary draft o Corridor Study Boundary Map; o Opportunity Areas Map; o Planning Area Map; o Detailed Planning Area Maps with APN identification; o Preliminary Concept Maps for Opportunity Areas 2, 2a, 6 and 10; o Calculate Inventory List of all properties by size, zoning, FAR, etc.; o Railroad Crossing Maps Cost through April 2012: \$103,351.47	Prepare EIR; Complete Public Input Meetings; Incorporate public and policy concerns into Guidelines and Ordinance; Finalize PD Guidelines; Assist in corrections to Fiscal Study for revised fee structure [CIP]; Amend General Plan Policies, Adoption Hearings including Chapter for Guidelines and Ordinance

¹ Forward Budget Estimate approved January, 2013.

Consultant	Budget Estimate	Paid to Date	Major Work Completed to Date	Major Work Still to be Completed
Engineering	\$10,000	\$___	Identified circulation deficiencies, work with F&P to prepare improvements analysis.	Develop strategy and design for street improvements Assist traffic consultant and planning on EIR analysis; Update Capital Improvement Program
Air Quality Consultant (KdAnderson)	\$23,400	\$2,520	Initial Research for preparation of Air Quality Analysis for EIR	Prepare Air Quality Analysis for EIR
Biological Resources Consultant (Bumgardner Biological Consulting)	\$14,670	\$1,347.49	Evaluated any special environmental concerns, especially Bunch Creek issues	Prepare Biological Resources Analysis for EIR
Traffic Consultant (Fehr & Peers)	\$29,800	\$14,638.62	Identified circulation deficiencies; Negotiated circulation improvements with Caltrans; Developed strategy and design options for street improvements	Prepare Traffic Analysis for EIR
** Market Study prepared by EPS	N/A (Original market study not a part of January 2013 I-80 budget)	N/A	Completed Market Study in 2010 <i>[included because essential to traffic and land use work, but paid from \$35,000 preceding grant not part of \$95,000.00]</i>	Minimal updating

BENEFITS OF CONTINUED IMPLEMENTATION OF THE I-80 REVITALIZATION PLAN:

One of the overall objectives of the I-80 Project was to address and correct existing traffic problems, especially on South Auburn Street leading to the downtown area. This objective is essential to resolving existing safety and circulation issues, with or without the I-80 plan adoption. Until these traffic problems are corrected, there is no way to approve development in the downtown area or on the West End of the City because the individual property owners cannot carry the cost. [See Somerset subdivision example set forth in #7 of "Anticipated Effects of Project Deferral/Termination," below.] City Manager Bruce Kranz and then Land Use Committee Members Josh Alpine and Steve Harvey believed that encouraging high tax revenue business locations along I-80 [retail-commercial] would substantially increase general fund revenues, just as the City tax sharing agreement has been beneficial to Colfax; and that as has occurred in many enterprise zones in California, these businesses effectively fund all manner of general improvements for cities.

1. The Market Study for the I-80 Project relies on current SACOG and Caltrans data and concluded that the General Plan growth assumptions prepared in 2009 were not supported by any evidence, greatly overcast and not realistic. The 2010 Market Study revised the growth figures downward, which in turn *reduces the projected traffic counts and essential traffic improvements*. As part of the I-80 Project, the City's Capital Improvement Program, which sets forth the impact fees that developers pay to fund the improvements, was slated to be corrected and updated.
2. As part of the I-80 Project, staff would seek to amend the General Plan circulation analysis, revise the acceptable LOS designation downward to D, and correct the resulting Capital Improvement Fee Program to reflect these changes. The City Engineers and consulting Traffic Engineer, Fehr & Peers have identified improvements to correct the existing traffic deficiencies. These GP amendments and improvement programs will benefit the entire City because it would permit development of housing west of the UP line, and allow retail and commercial expansion.
3. As part of the I-80 project, an Intelligent Transportation System (ITS) signal has been planned between City Staff and Caltrans to re-direct heavy traffic caused by increased train lengths and run times from South Auburn Street onto Highway 174 to North Main Street to bypass the downtown main intersection.
4. The I-80 project will include widening along South Auburn and Canyon Way that would be incorporated into the CIP, thus reducing the Stahl Route conflicts [Fox Barrel issues].
5. The new overlay zone will encourage business and commercial development in the City's Highway Corridor area by establishing pre-planned uses and development standards, which have been pre-analyzed in accordance with state law. If a development project is found to be consistent with the I-80 Project's pre-planned development, administrative-level review is allowed, instead of full Planning Commission or City Council hearings involving individual environmental evaluation, which would lower

the business and property owner's overall costs, provide assurance of approval, and expedite the development permit process.

6. Adoption is expected to recover "hard" City design costs, and increase general revenue so that the City has funds it can allocate to address the City's priority and unfunded areas of concern, such as essential government services (i.e., road improvements, improving the Emergency Medical Services route to the portion of the City west of the UP tracks ["West end"], etc.).
7. The City has the ability to correct its existing traffic circulation and access problems via the I-80 project, instead of having to impose project-specific circulation and access design solutions upon project applicants. At the present time, and despite efforts from our legislators, neither Caltrans, nor Placer County will contribute financially to correct these deficiencies.

ANTICIPATED EFFECTS OF PROJECT DEFERRAL/TERMINATION:

A substantial portion of the work on the I-80 Project serves to accomplish essential General Plan corrections for serious historical traffic problems (related to both circulation and access).

1. Continued adverse effects to future projects without traffic circulation corrections, which cannot be solved by individual applicants. The City's current general plan requires that the City maintain a Level of Service ("LOS") "C" designation at intersections;
2. The Union Pacific railroad track improvements completed in 2009 have caused a 30% increase in train traffic through Colfax. The increased train traffic (both the number of trains and their length and speed) have resulted in increased traffic congestion waiting for the trains to pass which in turn has resulted in slower and less reliable emergency vehicle response times according to a Fehr & Peers Traffic Analysis completed in 2010.
3. The only alternative to correct the traffic bottleneck in downtown Colfax identified to date would be to negotiate with Union Pacific to help fund traffic improvements. UP has so far refused all overtures. The City may need to research the City's legal remedies against the railroad, but that approach has not been authorized and historically the railroad has been unresponsive in these situations.
4. Current circulation plans in use since 2009 show that the following four intersections presently exceed LOS "C": South Auburn Street/SR174 SR 174 is at "F" in the a.m. school traffic; South Auburn Street/Central Street; East Grass Valley Street/Main Street; and Ben Taylor Road/Rising Sun Road/Tokayana Way. The City's most recent capital improvements fund shows \$ _____ available for correction of these deficiencies. [At the time this Staff Report was submitted (October 17th), the City's Financial Director was not available to provide this figure. It is expected that this figure will be provided on before the hearing.]

5. Current circulation plans were based on significantly over-estimated population and traffic increases—developed without coordination with SACOG and Caltrans models – making traffic impacts appear on paper to be much worse than actually experienced. This faulty information must be corrected so that the true current and future traffic estimates are used to plan circulation improvements and calculate more accurate costs to the City and contributions by project applicants.
6. The net effect is that unless the circulation plan and capital improvement fee program are corrected to reflect actual current and future impacts, any substantial West End projects will be unfairly and disproportionately impacted.
7. Case in point – the proposed Somerset subdivision project was abandoned in early 2012 because it could not mitigate for the existing traffic problems on Main Street and South Auburn Street. Key intersections on South Auburn Street [South Auburn Street/SR174 and South Auburn Street/Central Street] currently are at D- to F. The developer was caught in the horns of an unsolvable dilemma: the Council has historically refused to approve a 4 way signal at Grass Valley and Main, deemed by Caltrans as essential to correct circulation deficiencies, and the estimated project contribution to signalization at South Auburn and 174 [at Central] would have cost the developer approximately \$250,000. The developer would have had to contribute to the signal, *and* pay for an Environmental Impact Report [approximately \$150,000] without assurances that Council would approve overrides regarding the Grass Valley and Main signal.
8. Essential circulation analysis is needed for further negotiations with Caltrans and Placer County related to state and county impacts to City Roads. Currently, Fehr & Peers and the City Engineer using the I-80 Revitalization Fund are working with Caltrans to redesign traffic on and off ramps, expand ramps where possible and avoid dangerous ramp conditions during 7-8:30 a.m. traffic. Funding for this work is occurring through the future planning of the I-80 Revitalization Zone Project.

To decrease funding for, or otherwise inhibit or cease work on the I-80 Project, so as to fund the Housing Element or other projects, stymies the City's overall traffic improvement efforts and results in the unintended negative consequences as discussed in this Staff Report.



STAFF REPORT TO THE COLFAX CITY COUNCIL

FOR THE OCTOBER 23rd, 2013 COUNCIL MEETING

FROM: Brigit S. Barnes, City Land Use Attorney

PREPARED: October 17, 2013

SUBJECT: Conduct discussion and provide direction to staff regarding City planning costs.

RECOMMENDED ACTION: Review Staff Report and Discuss at City Council Meeting. Hereafter, Planning Director should be consulted regularly on costing and budgeting issues, and participate in staff meetings at least monthly to assure that all internal planning and project concerns including costing issues are considered for annualized budgeting.

ISSUES: During the Public Hearing on October 9, Councilman Hesch requested (1) an analysis on how much the Planning Department is costing the City, and (2) an explanation why the cost of preparation of the Housing Element Update was not incorporated into the City Budget. Planning is not consulted on budgeting issues as a regular part of its work, and therefore can only provide information based on its internal review of billings submitted to the City on a per-project basis.

DISCUSSION:

At the time this Staff Report was submitted (October 17th), the City's Finance Director was not available to confirm Planning Costs paid to date. It is expected that these figures will be made available by the Finance Director either on Tuesday, October 22nd or Wednesday, October 23rd. The Planning Staff apologizes for this difficulty. Planning will revise the Staff Report and present a revised Staff Report at the hearing so that the most accurate information is available to the Council.

However, Planning Staff has obtained information from prior analyses provided to members of the Council, and had prepared, at Interim Manager Armstrong's request, our internal analysis in June 2013 based on the billings from Brigit S. Barnes & Associates, Inc. and has included that information in this Staff Report to assist the City in their efforts to analyze Planning Department costs. See Staff Analysis below.

It should be noted that Planning Staff has never been involved in the budgeting process for the Planning Department, and has never been asked to participate in Annual Budget Planning. Planning staff was never

asked to prepare an annual budget for any of the years between 2010-2013, and was not asked to list potential City projects in total. The only estimated costs staff were requested to prepare was the I-80 Revitalization Plan estimated budget. Planning staff is not included in any staff meetings.

Planning Staff has recently been informed that the current [2013] budget for the Planning Department is as follows:

Fund 100	\$30,000
Fund 120 (Private Development Projects)	\$20,000
Fund 236 (I-80)	<u>\$25,000</u>
TOTAL estimated planning costs for all projects:	\$75,000

Planning Staff has no idea how these calculations were reached. First, Planning's per project estimate for work on the I-80 project for 2013 was \$84,285.00, which amount was approved by the Council in January, 2013. Second, at least since 2009, all Planning on private development projects must be paid by the applicant. The planning fee structure proposed by former Manager Kranz and adopted by the Council was to bill 100% of planning, engineering and administrative costs to the private applicant, and add a 37% override to these actual costs to recover the cost of City administration. The Project 120 number may represent a "place holder" for funds expended by the city waiting for applicant refund but Staff has no knowledge of this number. Third, the Fund 100 number for \$30,000 does not appear to relate to the history of funds allocated to planning since 2000. According to that history, total costs attributed to Planning ranged anywhere from \$37,000 in 2001 to \$96,000 in 2007, exclusive of extraordinary consultant fees. **[See attached summary of City expenditures allocable to Planning - Attachment 1].**

Staff does not have access to internal records, and so cannot review the history of actual work performed during by City staff these years, but based on current staff's information, Attachment 1 does not include total planning costs to the City. The City expended \$300,000 between 2008 and 2009 on North Fork Associates and other consultants in preparation of the General Plan update, approximately \$90,000 on North Fork Associates for preparation of a draft Downtown Colfax Plan, in addition to Attachment 1's internal expenditures for permanent staff. During this same time frame, the City also expended approximately \$30,000 on outside consultants on the Housing Element Update, in addition to the \$148,000 spent internally on permanent staff. Most of these costs, staff is informed, may have been covered by special grants to the City.

Planning Staff's costs since the Law Offices of Brigit S. Barnes & Associates, Inc. was employed are as follows:

- Planning staff cost the City in 2010 an estimated gross of \$132,914.07. Reimbursements from the private project applicants and the [37%] override, result in a net cost to the City of \$122,577.12 total or \$10,215 per month.

- Planning staff cost the City in 2011 an estimated gross of \$101,574.70. Reimbursements from private project applicants and the [37%] override, result in a net cost to the City of \$63,300.05 or \$5,275.00 per month.
- Planning staff cost the City in 2012 a gross of \$103,718.83, which when adjusted for private project and the override resulted in gross city cost of \$93,886 or \$7,824.00 per month. The big unreimbursed project in 2012 was the City's Zoning Code Amendment.
- **Staff has attached the Planning Department summary dated June 2013 to assist Councilmembers in their detailed review – see Attachment 2.** The wide disparity in costs relates to which projects are completed in which time period—with the more private projects in a given year netting a significant reduction in net City costs.

JURISDICTIONAL COMPARISON:

A comparison with published yearly staff costs in surrounding communities reveals the following:

Placerville

City Planner \$62K-75K

Community Development Director \$75K-92K

Roseville

Senior Planner \$79K-106K

Planning Director \$135K-181K

Folsom

Senior Planner \$62K-82K

Planning Manager \$77K-102K

Public Works & Community Development Director \$159K-198K + \$6000 car allowance and \$1200 tech allowance

Given that Colfax is a much smaller community, and that staff services are closer to a part-time activity most of the year, the closest estimate available would be Placerville's, which would provide a part-time planner and community development director at approximately \$83,500 a year or approximately \$7,000 a month.

STAFF ANALYSIS:

In June 2013, Planning Staff prepared a Cost Analysis based on the internal billings of Brigit S. Barnes & Associates. [See Attachment 2]

The following is a chart summarizing the information contained in Attachment 2:

Fund	Total paid to BSB, Inc. since 2010 (through April 2013)	Major City Project Work Completed to Date
<p>100 (General Planning Activities)</p> <p>BSB, Inc. charges the City a discounted rate of \$65/hr for JJ (Planner) and \$200/hr for BSB</p>	<p>\$165,330.29</p> <p>Net cost to City (see 37% offset discussed below) = \$137,127.07</p> <p>Results in a monthly average of \$3,500 (\$42,000/yr) for a planner, planning director and land use attorney</p>	<p>Includes the following special one-time extra-ordinary planning projects:</p> <p>Zoning Code Update (complete overhaul)</p> <p>Digital Billboard Ordinance</p> <p>Public Hearing Procedures Ordinance</p>
<p>120 (Private Development Projects)</p> <p>BSB and JJ are paid their standard (non-discounted) hourly rates</p>	<p>\$83,724.91</p> <p>These costs are paid directly by the private developers to the City, in addition to a 37% markup that the City applies</p> <p>(note: the City received \$28,203.22 for the 37% markup to offset the costs set forth in Fund 100)</p>	<p>N/A</p>
<p>236 (I-80 Project) –</p> <p>BSB, Inc. charges the City a discounted rate of \$65/hr for JJ (Planner) and \$200/hr for BSB</p>	<p>\$103,351.47 (includes time since 2009)</p> <p>This amount includes costs for the EPS Market Study and the design planner (RCH) that were paid directly by BSB, Inc.</p> <p>Note: A portion of these costs were covered by \$35,000 CDBG Grant and the Gard Digital Billboard Deal</p>	<p>Includes the following work-product to date:</p> <ul style="list-style-type: none"> ○ Economic Analysis; ○ Corridor Study Boundary Map; ○ Opportunity Areas Map; ○ Planning Area Map; ○ Detailed Planning Area Maps with APN identification; ○ Preliminary Concept Maps for Opportunity Areas 2, 2a, 6 and 10; ○ Inventory List of all properties by size, zoning, FAR, etc.; ○ Chart – Recommended Zoning Changes;

		<ul style="list-style-type: none"> ○ Railroad Crossing Maps; ○ Phase & Action Plan; ○ Budget; ○ PD Ordinance – preliminary draft; ○ PD Guidelines – preliminary draft
<p>Special One-Time Projects (see end column)</p> <p>BSB, Inc. charges the City a discounted rate of \$65/hr for JJ (Planner) and \$200/hr for BSB</p>	<p>\$45,600.72</p> <p>Note: The costs for 5 out of 9 of these projects were covered by Grants</p>	<p>Includes the following special one-time projects:</p> <p>Sewer Lift Station/Sewer I&I (Fund 561)</p> <p>Sewer I&I/Pond Liner (Fund 569)</p> <p>GP Update/Circulation Element Review/Dinky way Closure (Fund 346)</p> <p>Courthouse Building (Fund 230)</p> <p>Sewer Lateral (Fund 567)</p> <p>City Pool CEQA Review</p> <p>Downtown Master Plan</p> <p>CDBG Rental Rehabilitation (Fund 241)</p> <p>Mercury Dry Cleaners (helped local business obtain grant money to upgrade equipment)</p>

Attachments:

1 – Historical Planning Costs

2 – BSB, Inc. Planning Costs through April 2013

City of Colfax
General Fund - Department 450 Planning
Annual Expenditures

	Department 450	Land Develop	Total Expense
2000	\$ 51,255.70		\$ 51,255.70
2001	\$ 37,149.88		\$ 37,149.88
2002	\$ 58,976.95		\$ 58,976.95
2003	\$ 76,623.75		\$ 76,623.75
2004	\$ 61,143.45		\$ 61,143.45
2005	\$ 70,214.05		\$ 70,214.05
2006	\$ 74,767.00		\$ 74,767.00
2007	\$ 96,069.72		\$ 96,069.72
2008	\$ 63,411.21		\$ 63,411.21
2009	\$ 81,662.79		\$ 81,662.79
2010	\$ 46,999.49		\$ 46,999.49
2011	\$ 73,250.04	\$ -	\$ 73,250.04
2012	\$ 41,470.24	\$ 20,810.32	\$ 62,280.56
2013	\$ 36,044.96	\$ 31,739.44	\$ 67,784.40

HISTORY EXPENDITURE REPORT

City of Colfax

	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
2000						
Fund: 100 - General Fund						
Expenditures						
Dept: 450 PLANNING DEPARTMENT						
5070 Commissioner Stipend	2,000.00	1,920.00	60.00	0.00	80.00	96.0
5201 Materials and Supplies	0.00	100.00	100.00	0.00	-100.00	0.0
5440 Printing and Advertising	300.00	673.36	404.19	0.00	-373.36	224.5
5660 Professional Services	0.00	48,123.93	9,075.00	0.00	-48,123.93	0.0
5815 Conferences and Meetings	0.00	40.06	0.00	0.00	-40.06	0.0
8400 Bonds and Insurance	800.00	398.35	0.00	0.00	401.65	49.8
Expenditures	3,100.00	3,100.00	51,255.70	9,639.19	0.00	-48,155.70 1,653.4
Net Effect for: 2000	-3,100.00	-3,100.00	-51,255.70	-9,639.19	0.00	48,155.70

HISTORY EXPENDITURE REPORT

City of Colfax

	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
2001						
Fund: 100 - General Fund						
Expenditures						
Dept: 450 PLANNING DEPARTMENT						
5070 Commissioner Stipend	0.00	1,220.00	0.00	0.00	-1,220.00	0.0
5201 Materials and Supplies	0.00	46.72	0.00	0.00	-46.72	0.0
5440 Printing and Advertising	0.00	881.88	36.05	0.00	-881.88	0.0
5660 Professional Services	0.00	34,208.34	8,050.00	0.00	-34,208.34	0.0
8400 Bonds and Insurance	0.00	792.94	0.00	0.00	-792.94	0.0
Expenditures	0.00	37,149.88	8,086.05	0.00	-37,149.88	0.0
Net Effect for: 2001	0.00	-37,149.88	-8,086.05	0.00	37,149.88	

HISTORY EXPENDITURE REPORT

City of Colfax

	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
2002						
Fund: 100 - General Fund						
Expenditures						
Dept: 450 PLANNING DEPARTMENT						
5070 Commissioner Stipend	0.00	1,360.00	0.00	0.00	-1,360.00	0.0
5440 Printing and Advertising	0.00	361.35	33.30	0.00	-361.35	0.0
5660 Professional Services	0.00	55,777.75	5,037.75	0.00	-55,777.75	0.0
5815 Conferences and Meetings	0.00	481.19	0.00	0.00	-481.19	0.0
8400 Bonds and Insurance	0.00	996.66	0.00	0.00	-996.66	0.0
Expenditures	0.00	0.00	58,976.95	5,071.05	0.00	-58,976.95
Net Effect for: 2002	0.00	0.00	-58,976.95	-5,071.05	0.00	58,976.95

HISTORY EXPENDITURE REPORT

City of Colfax

	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
2003						
Fund: 100 - General Fund						
Expenditures						
Dept: 450 PLANNING DEPARTMENT						
5070 Commissioner Stipend	0.00	1,820.00	240.00	0.00	-1,820.00	0.0
5440 Printing and Advertising	0.00	1,471.52	326.86	0.00	-1,471.52	0.0
5660 Professional Services	0.00	61,525.00	7,225.00	0.00	-61,525.00	0.0
5815 Conferences and Meetings	0.00	180.00	0.00	0.00	-180.00	0.0
8400 Bonds and Insurance	0.00	1,159.50	0.00	0.00	-1,159.50	0.0
8590 Cedar Ridge Appeal	0.00	10,467.73	0.00	0.00	-10,467.73	0.0
Expenditures	0.00	0.00	76,623.75	7,791.86	0.00	-76,623.75
Net Effect for: 2003	0.00	0.00	-76,623.75	-7,791.86	0.00	76,623.75

HISTORY EXPENDITURE REPORT

City of Colfax

	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
2004						
Fund: 100 - General Fund						
Expenditures						
Dept: 450 PLANNING DEPARTMENT						
5070 Commissioner Stipend	0.00	1,460.00	880.00	0.00	-1,460.00	0.0
5201 Materials and Supplies	0.00	22.50	0.00	0.00	-22.50	0.0
5440 Printing and Advertising	0.00	3,104.71	0.00	0.00	-3,104.71	0.0
5660 Professional Services	0.00	56,533.74	5,296.08	0.00	-56,533.74	0.0
5815 Conferences and Meetings	0.00	22.50	0.00	0.00	-22.50	0.0
Expenditures	0.00	0.00	61,143.45	6,176.08	0.00	-61,143.45
Net Effect for: 2004	0.00	0.00	-61,143.45	-6,176.08	0.00	61,143.45

HISTORY EXPENDITURE REPORT

City of Colfax

	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
2005						
Fund: 100 - General Fund						
Expenditures						
Dept: 450 PLANNING DEPARTMENT						
5070 Commissioner Stipend	0.00	1,520.00	840.00	0.00	-1,520.00	0.0
5440 Printing and Advertising	0.00	1,723.81	67.64	0.00	-1,723.81	0.0
5660 Professional Services	0.00	63,028.62	5,202.00	0.00	-63,028.62	0.0
5815 Conferences and Meetings	0.00	252.00	0.00	0.00	-252.00	0.0
8600 Codification	0.00	3,689.62	0.00	0.00	-3,689.62	0.0
Expenditures	0.00	0.00	70,214.05	6,109.64	0.00	-70,214.05
Net Effect for: 2005	0.00	0.00	-70,214.05	-6,109.64	0.00	70,214.05

HISTORY EXPENDITURE REPORT

City of Colfax

	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
2006						
Fund: 100 - General Fund						
Expenditures						
Dept: 450 PLANNING DEPARTMENT						
5010 Salaries and Wages	0.00	192.60	192.60	0.00	-192.60	0.0
5070 Commissioner Stipend	0.00	1,160.00	0.00	0.00	-1,160.00	0.0
5110 Social Security Taxes	0.00	14.73	14.73	0.00	-14.73	0.0
5201 Materials and Supplies	0.00	122.51	0.00	0.00	-122.51	0.0
5440 Printing and Advertising	0.00	1,176.16	79.48	0.00	-1,176.16	0.0
5660 Professional Services	0.00	71,046.00	6,225.00	0.00	-71,046.00	0.0
5815 Conferences and Meetings	0.00	1,055.00	0.00	0.00	-1,055.00	0.0
Expenditures	0.00	0.00	74,767.00	6,511.81	0.00	-74,767.00
Net Effect for: 2006	0.00	0.00	-74,767.00	-6,511.81	0.00	74,767.00

HISTORY EXPENDITURE REPORT

City of Colfax

	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
2007						
Fund: 100 - General Fund						
Expenditures						
Dept: 450 PLANNING DEPARTMENT						
5010 Salaries and Wages	0.00	18,147.06	1,704.46	0.00	-18,147.06	0.0
5110 Social Security Taxes	0.00	1,388.23	130.41	0.00	-1,388.23	0.0
5115 Unemployment & Training Taxes	0.00	108.61	0.00	0.00	-108.61	0.0
5120 Workmen's Compensation	0.00	118.48	29.62	0.00	-118.48	0.0
5130 Health Insurance	0.00	4,920.12	0.00	0.00	-4,920.12	0.0
5160 Retirement	0.00	3,870.60	0.00	0.00	-3,870.60	0.0
5201 Materials and Supplies	0.00	83.69	83.69	0.00	-83.69	0.0
5440 Printing and Advertising	0.00	1,429.36	183.28	0.00	-1,429.36	0.0
5660 Professional Services	0.00	65,325.00	4,125.00	0.00	-65,325.00	0.0
5815 Conferences and Meetings	0.00	336.96	0.00	0.00	-336.96	0.0
8600 Codification	0.00	341.61	0.00	0.00	-341.61	0.0
Expenditures	0.00	0.00	96,069.72	6,256.46	0.00	-96,069.72
Net Effect for: 2007	0.00	0.00	-96,069.72	-6,256.46	0.00	96,069.72

HISTORY EXPENDITURE REPORT

City of Colfax

	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
2008						
Fund: 100 - General Fund						
Expenditures						
Dept: 450 PLANNING DEPARTMENT						
5010 Salaries and Wages	0.00	13,629.97	1,254.49	0.00	-13,629.97	0.0
5070 Commissioner Stipend	0.00	1,800.00	0.00	0.00	-1,800.00	0.0
5110 Social Security Taxes	0.00	948.68	94.08	0.00	-948.68	0.0
5115 Unemployment & Training Taxes	0.00	46.75	0.00	0.00	-46.75	0.0
5120 Workmen's Compensation	0.00	99.24	24.81	0.00	-99.24	0.0
5130 Health Insurance	0.00	4,200.30	360.34	0.00	-4,200.30	0.0
5160 Retirement	0.00	3,570.70	162.68	0.00	-3,570.70	0.0
5201 Materials and Supplies	0.00	101.03	4.97	0.00	-101.03	0.0
5440 Printing and Advertising	0.00	1,864.54	0.00	0.00	-1,864.54	0.0
5660 Professional Services	0.00	36,900.00	5,100.00	0.00	-36,900.00	0.0
5815 Conferences and Meetings	0.00	250.00	0.00	0.00	-250.00	0.0
Expenditures	0.00	0.00	63,411.21	7,001.37	0.00	-63,411.21
Net Effect for: 2008	0.00	0.00	-63,411.21	-7,001.37	0.00	63,411.21

HISTORY EXPENDITURE REPORT

City of Colfax

	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
2009						
Fund: 100 - General Fund						
Expenditures						
Dept: 450 PLANNING DEPARTMENT						
5010 Salaries and Wages	0.00	28,278.64	3,420.18	0.00	-28,278.64	0.0
5110 Social Security Taxes	0.00	2,158.50	262.19	0.00	-2,158.50	0.0
5115 Unemployment & Training Taxes	0.00	413.32	0.00	0.00	-413.32	0.0
5120 Workmen's Compensation	0.00	1,664.00	0.00	0.00	-1,664.00	0.0
5130 Health Insurance	0.00	3,179.95	0.00	0.00	-3,179.95	0.0
5160 Retirement	0.00	7,282.06	-30.26	0.00	-7,282.06	0.0
5201 Materials and Supplies	0.00	212.22	0.00	0.00	-212.22	0.0
5440 Printing and Advertising	0.00	1,281.60	484.60	0.00	-1,281.60	0.0
5660 Professional Services	0.00	37,112.50	0.00	0.00	-37,112.50	0.0
5815 Conferences and Meetings	0.00	80.00	0.00	0.00	-80.00	0.0
Expenditures	0.00	0.00	81,662.79	4,136.71	0.00	-81,662.79
Net Effect for: 2009	0.00	0.00	-81,662.79	-4,136.71	0.00	81,662.79

HISTORY EXPENDITURE REPORT

City of Colfax

	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
2010						
Fund: 100 - General Fund						
Expenditures						
Dept: 450 PLANNING DEPARTMENT						
5010 Salaries and Wages	20,859.00	19,937.40	-921.20	0.00	921.60	95.6
5110 Social Security Taxes	1,596.00	1,525.17	-70.47	0.00	70.83	95.6
5115 Unemployment & Training Taxes	185.00	184.76	0.00	0.00	0.24	99.9
5120 Workmen's Compensation	783.00	-122.49	-905.13	0.00	905.49	-15.6
5201 Materials and Supplies	500.00	63.46	0.00	0.00	436.54	12.7
5440 Printing and Advertising	2,500.00	1,141.05	574.91	0.00	1,358.95	45.6
5570 Planning Services	0.00	2,562.20	1,599.40	0.00	-2,562.20	0.0
5572 Planning - Development Fees	0.00	387.80	0.00	0.00	-387.80	0.0
5660 Professional Services	15,000.00	21,216.64	4,795.39	0.00	-6,216.64	141.4
5815 Conferences and Meetings	0.00	103.50	0.00	0.00	-103.50	0.0
Expenditures	42,065.00	41,423.00	46,999.49	5,072.90	-5,576.49	113.5
Net Effect for: 2010	-42,065.00	-41,423.00	-46,999.49	-5,072.90	5,576.49	

HISTORY EXPENDITURE REPORT

City of Colfax

	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
2011						
Fund: 100 - General Fund						
Expenditures						
Dept: 450 PLANNING DEPARTMENT						
5201 Materials and Supplies	500.00	12.00	0.00	0.00	488.00	2.4
5440 Printing and Advertising	2,500.00	237.68	0.00	0.00	2,262.32	9.5
5570 Planning Services	30,000.00	23,525.78	0.00	0.00	6,474.22	78.4
5572 Planning - Development Fees	0.00	7,130.60	7,130.60	0.00	-7,130.60	0.0
5660 Professional Services	0.00	42,030.98	1,394.87	0.00	-42,030.98	0.0
5815 Conferences and Meetings	0.00	47.00	0.00	0.00	-47.00	0.0
5830 Travel and Mileage Reimb.	0.00	266.00	0.00	0.00	-266.00	0.0
Expenditures	33,000.00	33,000.00	73,250.04	8,525.47	0.00	-40,250.04 222.0
Net Effect for: 2011	-33,000.00	-33,000.00	-73,250.04	-8,525.47	0.00	40,250.04

HISTORY EXPENDITURE REPORT

City of Colfax

	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
2012						
Fund: 100 - General Fund						
Expenditures						
Dept: 450 PLANNING DEPARTMENT						
5440 Printing and Advertising	0.00	795.88	154.76	0.00	-795.88	0.0
5570 Planning Services	0.00	32,540.48	13,734.36	0.00	-32,540.48	0.0
5660 Professional Services	0.00	7,990.70	0.00	0.00	-7,990.70	0.0
5830 Travel and Mileage Reimb.	0.00	143.18	0.00	0.00	-143.18	0.0
Expenditures	0.00	0.00	41,470.24	13,889.12	0.00	-41,470.24
Net Effect for: 2012	0.00	0.00	-41,470.24	-13,889.12	0.00	41,470.24
Grand Total Net Effect:	-78,165.00	-77,523.00	-832,994.27	-94,267.71	0.00	755,471.27

EXPENDITURE REPORT

City of Colfax

For the Period: 7/1/2012 to 6/30/2013	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
Fund: 100 - General Fund						
Expenditures						
5201 Materials and Supplies	500.00	151.52	0.00	0.00	348.48	30.3
5440 Printing and Advertising	1,000.00	216.08	0.00	0.00	783.92	21.6
5570 Planning Services	30,000.00	35,627.36	1,752.70	0.00	-5,627.36	118.8
8300 Payments to Other Agencies	0.00	50.00	0.00	0.00	-50.00	0.0
Expenditures	31,500.00	36,044.96	1,752.70	0.00	-4,544.96	114.4
Grand Total Net Effect:	-31,500.00	-36,044.96	-1,752.70	0.00	4,544.96	

HISTORY EXPENDITURE REPORT

City of Colfax

	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
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2011

Fund: 120 - Land Development Fees

Expenditures

Dept: 000						
9998 Transfer Out	0.00	6,609.12	6,609.12	0.00	-6,609.12	0.0
Expenditures	0.00	6,609.12	6,609.12	0.00	-6,609.12	0.0

HISTORY EXPENDITURE REPORT

City of Colfax

	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
2012						
Fund: 120 - Land Development Fees						
Expenditures						
Dept: 000						
5540 City Engineering Services	0.00	18,361.95	1,695.00	0.00	-18,361.95	0.0
5542 Engineering - Development Fees	0.00	-100.00	0.00	0.00	100.00	0.0
5570 Planning Services	0.00	20,810.32	2,459.00	0.00	-20,810.32	0.0
Expenditures	0.00	0.00	39,072.27	4,154.00	0.00	-39,072.27
Grand Total Net Effect:	0.00	0.00	-45,681.39	-10,763.12	0.00	45,681.39

EXPENDITURE REPORT

City of Colfax

For the Period: 7/1/2012 to 6/30/2013	Amended Bud.	YTD Actual	CURR MTH	Encumb. YTD	UnencBal	% Bud
Fund: 120 - Land Development Fees						
Expenditures						
5201 Materials and Supplies	500.00	0.00	0.00	0.00	500.00	0.0
5440 Printing and Advertising	500.00	484.98	128.60	0.00	15.02	97.0
5540 City Engineering Services	18,000.00	4,798.75	2,257.50	0.00	13,201.25	26.7
5570 Planning Services	20,000.00	31,739.44	4,382.34	0.00	-11,739.44	158.7
Expenditures	39,000.00	37,023.17	6,768.44	0.00	1,976.83	94.9
Grand Total Net Effect:	-39,000.00	-37,023.17	-6,768.44	0.00	-1,976.83	

PLANNING DEPARTMENT COSTS SUMMARY

PRIVATE DEVELOPER PROJECTS

- Full BSB, Inc. costs paid by applicants
- City gets 37% additional revenue from mark-up (as of 2/10/10)
- Pre-application work is billed to the City at discounted rate of \$65/hr for JJ and \$200/hr for BSB; Once application is filed, City recoups that time from the applicant at the higher private-project rates; BSB, Inc. is not reimbursed for the difference (additional benefit to the City)

Year	BSB Invoice	City Mark-up (Additional City Revenue)
2010	\$26,205.46	\$ 9,696.02
2011	\$27,937.70	\$10,336.95 ¹
2012	\$22,404.10	\$ 5,514.52 ²
2013	<u>\$ 7,177.65</u> (Through April)	<u>\$ 2,655.73</u>
TOTAL:	\$83,724.91	\$28,203.22

FUND 100 – GENERAL DAY-TO-DAY ACTIVITIES/ZONING CODE UPDATE

- Out of pocket costs to City
- BSB, Inc. charges the City a discounted rate of \$65/hr for JJ (Planner) and \$200/hr for BSB
- Includes costs for special one-time project: Substantial Zoning Code Update
- Includes costs for special one-time project: Digital Billboard Ordinance
- Includes costs for special one-time project: Public Hearing Procedures Ordinance

Year	BSB Invoice
2010	\$ 58,203.91
2011	\$ 47,854.04
2012	\$ 53,106.14
2013	<u>\$ 6,166.20</u> (Through April)
TOTAL:	\$165,330.29 ³
	- <u>\$28,203.22</u> (mark-up revenue from private projects above)
	\$137,127.07

= approx. \$3,500 per month for a planner, planning director and land use attorney

¹ This total includes a credit for \$800.94, which represents the refund given to the applicant on the 9 Depot Street project.

² Mark-up not applicable to \$7,500 flat fee for Gard Digital Billboard permit fee.

³ Includes \$2,251.10 in fees attributable to applicant Green Clay Development. This amount was charged under Fund 100 even though it was a private project, because the applicant never filed a formal application - so the City never recouped that amount. This occurred prior to Bruce Kranz (City Manager) establishing the policy that Planning is to only spend 1 hour on a project (free of charge), and thereafter planning must collect a deposit to cover planning time.

FUND 236 – I-80 REVITALIZATION ZONE PROJECT

- A portion of the costs covered by \$35,000 CDBG Grant and \$87,500⁴ Gard Digital Billboard Deal
- BSB, Inc. charges the City a discounted rate of \$65/hr for JJ (Planner) and \$200/hr for BSB
- Includes costs for the EPS Market Study
- Includes costs for design planning group RCH (Bob Johnson)
- Includes the following work-product to date:
 - Economic Analysis;
 - Corridor Study Boundary Map;
 - Opportunity Areas Map;
 - Planning Area Map;
 - Detailed Planning Area Maps with APN identification;
 - Preliminary Concept Maps for Opportunity Areas 2, 2a, 6 and 10;
 - Inventory List of all properties by size, zoning, FAR, etc.;
 - Chart – Recommended Zoning Changes;
 - Railroad Crossing Maps;
 - Phase & Action Plan;
 - Budget;
 - PD Ordinance – preliminary draft;
 - PD Guidelines – preliminary draft

Year	BSB Invoice
2009	\$ 8,077.50
2010	\$ 31,069.81
2011	\$ 23,751.20
2012	\$ 26,853.09
2013	<u>\$ 13,599.87</u> (Through April)
TOTAL:	\$103,351.47

⁴ The Gard funding became available as of November 2012.

FUND 561 – SEWER I & I/LIFT STATION

- Special one-time project
- Out of pocket costs to City
- BSB, Inc. charges the City a discounted rate of \$65/hr for JJ (Planner) and \$200/hr for BSB

Year	BSB Invoice
2010	\$ 3,975.47
2011	\$ 571.55
2012	<u>\$ 1,355.50</u>
TOTAL:	\$ 5,902.52

FUND 569 – SEWER I & I/LPOND LINER PROJECT

- Special one-time project
- BSB, Inc. costs covered by USDA, SRF/EPA Grants
- BSB, Inc. charges the City a discounted rate of \$65/hr for JJ (Planner) and \$200/hr for BSB

Year	BSB Invoice
2011	\$159.11

FUND 346 – GENERAL PLAN UPDATE/CIRCULATION ELEMENT

- BSB, Inc. costs covered by Caltrans Grant
- BSB, Inc. charges the City a discounted rate of \$65/hr for JJ (Planner) and \$200/hr for BSB
- Includes one-time special project: Dinky Way Closure
- Project has been put on hold

Year	BSB Invoice
2009	\$16,828.62
2010	\$14,631.08
2011	<u>\$ 205.20</u>
TOTAL:	\$31,664.90

FUND 230 – CITY COURTHOUSE BUILDING PROJECT

- Special one-time project
- Out of pocket costs to City
- BSB, Inc. charges the City a discounted rate of \$65/hr for JJ (Planner) and \$200/hr for BSB

Year	BSB Invoice
2012	\$ 1,095.90

FUND 567 – SEWER LATERAL GRANT

- Special one-time project
- BSB, Inc. costs covered by ARRA Grant
- BSB, Inc. charges the City a discounted rate of \$65/hr for JJ (Planner) and \$200/hr for BSB

Year	BSB Invoice
2010	\$2,063.60

CITY POOL PROJECT

- Special one-time project
- Out of pocket costs to City
- BSB, Inc. charges the City a discounted rate of \$65/hr for JJ (Planner) and \$200/hr for BSB

Year	BSB Invoice
2010	\$1,656.99

DOWNTOWN MASTER PLAN/I&I LIFT STATION⁵

- BSB, Inc. costs covered by Grant
- BSB, Inc. charges the City a discounted rate of \$65/hr for JJ (Planner) and \$200/hr for BSB
- Downtown Master Plan project has been put on hold

Year	BSB Invoice
2010	\$ 2,427.80

FUND 241 – CDBG RENTAL REHABILITATION

- Special one-time project
- BSB, Inc. costs covered by Grant
- BSB, Inc. charges the City a discounted rate of \$65/hr for JJ (Planner) and \$200/hr for BSB

Year	BSB Invoice
2010	\$ 16.80

MERCURY DRY CLEANERS (help local business obtain grant funds to upgrade equipment)

- Special one-time project
- Out of pocket costs to City
- BSB, Inc. charges the City a discounted rate of \$65/hr for JJ (Planner) and \$200/hr for BSB

Year	BSB Invoice
2010	\$ 613.10

⁵ This is before the I&I Lift Station project work was split from the Downtown Master Plan and put into its own Fund 561 (the Downtown Master Plan and I&I Lift Station projects shared a grant at one time).



STAFF REPORT TO THE COLFAX CITY COUNCIL

FOR THE October 23, 2013 COUNCIL MEETING

FROM: Alfred A. "Mick" Cabral, City Attorney

PREPARED: October 18, 2013

SUBJECT: Conduct discussion and provide direction to staff regarding whether to allow issuance of a business license to a medical marijuana dispensary in Colfax.

RECOMMENDED ACTION: Conduct discussion and provide direction to staff

ISSUE STATEMENT AND DISCUSSION:

On October 28, 2009, the City Council adopted an ordinance which outlawed all new medical marijuana dispensaries within City limits. The staff report that accompanied adoption of that ordinance is attached.

The Council exempted existing medical marijuana dispensaries with valid business licenses as of November 27, 2009, the effective date of the ordinance, from its effects. By doing so the Council effectively "grandfathered" only that dispensary and outlawed all others. That dispensary subsequently ceased doing business so it is not lawful for any medical marijuana dispensary to operate within Colfax.

Whether to allow a medical marijuana dispensary to open in Colfax invokes both significant policy and legal issues. Staff is seeking direction regarding whether the Council wants to explore allowing a new medical marijuana dispensary to open as a matter of policy.

If the Council wants to pursue a policy of allowing medical marijuana dispensaries, it will have to contend with the significant legal issues that surround dispensaries. The first and most obvious legal issue involves amending the Municipal Code to allow a dispensary to operate. This will include determining how many dispensaries to allow and where to allow them to operate.

Adjusting the Colfax Municipal Code in this regard is the least difficult of the tasks that will face the Council if it wants to allow medical marijuana dispensaries to exist in Colfax. Although dispensaries are conditionally permissible under California law they are illegal under federal law. The United States Attorney's office has concluded that the distribution of marijuana, other than as part of a federally approved research program, is illegal. This exposes to civil and criminal liability individuals who under color of authority issue licenses and allow the issuance of licenses that permit the distribution of marijuana. This means, for example, that a City official who issues a business license to operate a marijuana dispensary can be subject to federal civil and criminal prosecution even if the dispensary is legal under California law.



**REPORT TO
COLFAX CITY COUNCIL**

**COUNCIL MEETING OF
OCTOBER 14, 2009**

Agenda Item No.

City Manager's Approval

To: Honorable Mayor and Members of the City Council
From: Gary Price, Planning Director
Alfred A. Mick, Cabral City Attorney
Date: October 5, 2009
Subject: Zoning Ordinance Amendment ZOA09-01 Regulations Addressing Medical Marijuana Dispensaries

Recommended Action: Adopt Ordinance No. 506 amending the Municipal Code by introducing a new Chapter 4 (Chapter 17.100) to the Zoning Code concerning regulating medical marijuana dispensaries in Colfax.

ISSUE STATEMENT AND DISCUSSION: The City Council adopted Ordinance No. 502 on June 9, 2009, establishing a 45 day moratorium to new medical marijuana dispensary businesses in the City. A "Medical Marijuana Dispensary" is defined as 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 caregiver, a qualified patient, or a person with an identification card, in strict accordance with the California Health and Safety Code. The Council subsequently adopted Ordinance 503 on July 14, 2009, providing a maximum 10 month, 15 day extension to this moratorium ending July 7, 2010. The Ad-Hoc Committee, consisting of Council Members Barkle and Delfino met to provide direction to staff in the formulation of final regulations. The proposed regulations 1) prohibit new medical marijuana dispensaries, 2) allows the existing medical marijuana dispensary located at 233 B, Highway 174, which was previously established in 2004, to continue operation as a non-conforming use, and 3) allows the City discretion to close the existing dispensary (ceasing its use) in the event the operation violates provisions of the regulations or in the event of criminal prosecution relating to the operation of the dispensary.

FINANCIAL AND/OR POLICY IMPLICATIONS: There are no financial implications to the City from adopting these regulations.

Attachments: Ordinance 506

City of Colfax

ORDINANCE NO. 506

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLFAX PROHIBITING OPERATION OF MEDICAL MARIJUANA DISPENSARIES IN THE CITY OF COLFAX

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, which was codified as California Health and Safety Code Section 11362.5, *et seq.* and entitled the “Compassionate Use Act of 1996” (the “Act”); and

WHEREAS, the intent of the Act was to enable persons who are in need of marijuana for medical purposes to obtain and use it under limited, specified circumstances; and

WHEREAS, on January 1, 2004, Senate Bill 420 (“SB 420”) became effective to clarify the scope of the Act and to allow cities and counties to adopt and enforce rules and regulations consistent with SB 420 and the Act; and

WHEREAS, under the United States Controlled Substances Act, marijuana is classified as a Schedule I drug, meaning it has no accepted medical use; and

WHEREAS, federal law continues to treat the growing, sale and distribution of marijuana as a federal crime; and

WHEREAS, a medical marijuana dispensary has been in operation in the City of Colfax since March of 2004 at 233 “B” Highway 174, Colfax, as a conditionally permitted use in the C-R, Commercial Retail District under Section 17.76.020 of the Colfax Municipal Code; and

WHEREAS, other California cities that have permitted the establishment of medical marijuana dispensaries have reportedly witnessed an increase in crime, such as burglaries, robberies, and the sale of illegal drugs in the areas immediately surrounding such dispensaries; and

WHEREAS, the City Council hereby finds and determines, based on substantial evidence in the record before it, as follows: (a) adoption of this Ordinance does not constitute a “project” as that term is defined by or used in the California Environmental Quality Act (California Public Resources Code Section 21000 *et seq.*, hereinafter “CEQA”), the California Code of Regulations Title 14, Division 6, Chapter 3 “Guidelines for Implementation of the California Environmental Quality Act” (the “CEQA Guidelines”) or any court or attorney general opinion construing the same. Accordingly, the City Council finds that the provisions of CEQA and the CEQA Guidelines are not applicable thereto; (b), this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines 15060(c)(2); and (c) In the event that it is found that said action constitutes a “Project” as defined by or used in CEQA or the CEQA Guidelines, or that CEQA or the CEQA Guidelines are otherwise applicable to this Ordinance, which finding would be contrary to the City’s opinion of its action, the City Council hereby finds that said action is exempt from CEQA and the CEQA

Guidelines because it is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment, the action is not subject to CEQA or the CEQA Guidelines. See CEQA Guidelines Section 15061(b)(3). It can be seen with certainty that this Ordinance cannot possibly have a significant effect on the environment; and

WHEREAS, the City Council has determined that it is not in the public interest of the City to allow a proliferation of medical marijuana dispensaries within the City limits and that there is a need to prohibit them entirely within the City, other than existing dispensaries in operation when the City first regulated such uses;

NOW, THEREFORE, THE CITY OF COLFAX DOES ORDAIN AS FOLLOWS:

Title 17 of the Colfax Municipal Code is hereby amended by adding Chapter 17.109 as follows:

Chapter 17.109. Medical Marijuana Dispensaries

17.109.01 Prohibition of Medical Marijuana Dispensaries. Medical marijuana dispensaries as defined in this Chapter are a prohibited use in all zoning districts throughout the City.

17.109.10 Existing Medical Marijuana Dispensaries. Existing medical marijuana dispensaries with valid business licenses as of November 27, 2009 shall be considered as legal non-conforming uses. Such dispensaries may continue to operate in accordance with the provisions of Chapter 17.32 except that, in addition to such regulations, if any of the following circumstances arise then, without further action by the City, such building and the land on which such building is located shall be subject to the provisions of this chapter prohibiting such use:

- A. The operators of the dispensary are convicted of any crime other than an infraction relating to the operation of the dispensary;
- B. The dispensary becomes a public nuisance;
- C. The dispensary or its operators violate any provision of this Code relating to its operation;
- D. The dispensary is closed or its activities curtailed by the action of a superior governmental authority or by order of any court of competent jurisdiction; or
- E. The dispensary is closed or its activities curtailed by other valid legal process.

17.109.20 Definitions.

Whenever used in this Chapter, the following words or phrases shall have the following meanings:

- A. "Identification card" shall have the same meaning as that set forth in California Health and Safety Code §11362.7 as currently in effect or as may be amended from time to time, or any successor statute.

B. “Medical marijuana dispensary means and refers to any facility or location where medical marijuana is made available, sold, transmitted, given, distributed , supplied or otherwise provided to one or more of the following: (1) more than one qualified patient, (2) more than one person with an identification card, or (3) more than one primary caregiver. The term “Medical marijuana dispensary” includes a medical marijuana cooperative. “Medical marijuana dispensary” shall not include the following uses, as long as the location of such uses is otherwise regulated by applicable law and as long as such use complies strictly with applicable law, including, but not limited to, Health and Safety Code Section 11362.7, *et seq.*:

(1) a clinic, licensed pursuant to Chapter 1, Division 2 of the Health and Safety Code;

(2) a health care facility, licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code;

(3) a residential care facility for persons with chronic life-threatening illness, licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code;

(4) a residential care facility for the elderly, licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code; or

(5) a hospice licensed pursuant to Chapter 8.5 of Division 2 of the California Health and Safety Code, the owner or operator, or

(6) a home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code

C. “Person with an identification card” shall have the same meaning as that set forth in California Health and Safety Code §11362.7 as currently in effect or as may be amended from time to time, or any successor statute.

D. “Primary caregiver” shall have the same meaning as that set forth in California Health and Safety Code §11362.7 as currently in effect or as may be amended from time to time, or any successor statute.

E. “Qualified patient” shall have the same meaning as that set forth in California Health and Safety Code §11362.7 as currently in effect or as may be amended from time to time, or any successor statute.

17.109.30 Penalty Provisions

A. Violation of any provision of this chapter is a misdemeanor unless (1) the City Attorney authorizes issuance of an infraction citation or files, or authorizes the filing of, a complaint charging the offense as an infraction or (2) a court with jurisdiction over the matter, upon recommendation of the City Attorney, determines that the offense should be prosecuted as an infraction.

B. Any person who violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes any violation thereof, and shall be penalized accordingly.

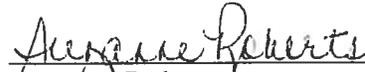
17.109.40 Civil and Administrative Remedies

A. The violation of any provision of this chapter shall be and is hereby declared to be a public nuisance and shall, in the City's discretion, be prosecuted as such and subject to all remedies allowed by law.

B. In addition to the criminal penalties and civil remedies set forth above, any violation of any provision of this chapter shall, in the City's discretion, be subject to any administrative remedies presently or hereafter allowed under the Colfax Municipal Code.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Colfax held on the 14th day of October, 2009 and adopted by the City Council of the City of Colfax at a duly held regular meeting of the City Council of the City of Colfax held on the 28th day of October 2009 by the following vote:

AYES: Council members Alpine, Barkle, Delfino and Mayor Roberts
NOES: None
ABSENT: Harvey



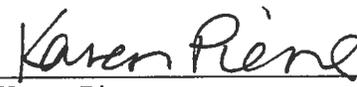
Suzanne Roberts,
Mayor

APPROVED AS TO FORM:



Alfred A. Cabral
City Attorney

ATTEST:



Karen Pierce
City Clerk



STAFF REPORT TO THE COLFAX CITY COUNCIL

FOR THE OCTOBER 23, 2013 COUNCIL MEETING

FROM: Gabe Armstrong, Interim City Manager
Alfred A. "Mick" Cabral, City Attorney

PREPARED: August 21, 2013

SUBJECT: Conduct Discussion And Provide Direction To Staff Regarding Proposed Council Rules
Of Procedure

RECOMMENDED ACTION: Staff recommends that the Council discuss the proposed rules of procedure and provide direction to staff.

ISSUE STATEMENT AND DISCUSSION:

California cities are classified as general law cities or as charter cities. Colfax is a general law city organized as authorized by Government Code §34102. General law cities are subject to all constraints imposed by the general law of California.

Government Code §36813 allows the Council to establish rules for the conduct of its proceedings. The same statute permits the Council to punish a member of the Council or any other person for disorderly behavior at a meeting.

The law imposes few restrictions on the actual rules the Council can adopt for the conduct of its proceedings. The restrictions that exist are fairly obvious. For example, Government Code §54954 requires the Council to hold at least one regular meeting per month. The Council cannot adopt rules of procedure that allow for less than one regular meeting per month. The Brown Act governs the process for noticing and conducting meetings. The Council cannot adopt rules of procedure that modify the Brown Act's requirements. There are many similar examples. The relevant point is that the Council has considerable discretion to adopt local rules and is restrained only by the general statutory and case law applicable to the subject matter it proposes to locally regulate.

The rules of procedure submitted for consideration represent the first draft. Staff anticipates that every member of the Council, the City Attorney, staff and the public will suggest modifications and improvements to this initial draft. Therefore, this draft has been submitted for review and comment. The rules will be submitted for approval once all comments have been received and considered and Council is satisfied that they are appropriate adoption and implementation in Colfax.

FINANCIAL AND/OR POLICY IMPLICATIONS

Rules of procedure constitute a significant policy statement because, once adopted, they will govern many aspects of how the Council conducts its business. The draft rules warrant careful consideration before they are adopted.

SUPPORTING DOCUMENTS

City Council Rules of Procedures (Proposed – August 14, 2013)

COMMITTEE RECOMMENDATION

This report was not discussed by any committee.

CITY COUNCIL

RULES OF PROCEDURES

Proposed – August 14, 2013

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1. Authority
2. General Rules
3. Types of Meetings
4. Chairman and Duties
5. Order of Business and Agenda
6. Ordinances, Resolutions, and Motions
7. Creation of Committees, Boards and Commissions
8. Citizen's Rights
9. Amendments
10. Rules of Conduct

1. AUTHORITY

1.1 Legal Authority

The law of the State of California in general and Government Code §36813 in particular authorize the City of Colfax City Council to establish rules for the conduct of its proceedings. The following rules shall become effective on the day that the ordinance adopting them becomes effective. They shall remain in effect until such time as they are amended or new rules adopted in the manner provided by these rules and as allowed by law.

2. GENERAL RULES

2.1 Attendance

City Councilmembers are expected to attend all scheduled meetings. If absence is unavoidable, the City Manager or Mayor shall be notified as required by Colfax Municipal Code Section 2.04.020.

2.2 Ordinances

Confined to One Subject; Exceptions: No ordinance except an appropriation ordinance, an ordinance adopting or embodying an administrative or governmental code, or an ordinance adopting a code of ordinances, shall relate to more than one subject, which shall be clearly stated in its title.

2.3 Right of Floor for Council Members

Any member desiring to speak shall be recognized by the Chair of the meeting and shall confine their remarks to the subject under consideration or to be considered.

2.4 Right of Floor for Staff

The Chair will be attentive to staff's desire to provide professional advice and recommendations.

2.5 Right of Floor for Public

Members of the public wishing to comment must go to the podium to speak from the microphone at appropriately defined public comment periods during the meeting. All parties speaking shall present comments with courtesy and respect for all others attending the meeting.

1. Persons wishing to speak must announce their name and address.
2. The City Council will listen with respect and an open mind.
3. Council responses to speakers will be as follows:
 - a. Short answers by Council or staff as appropriate; or
 - b. Follow-up questions for clarification; or
 - c. Item is directed to staff for later action/follow-up; or
 - d. Item is placed on a future agenda
4. Conversation between the public and staff or the City Council will not be allowed.
5. A 3-minute time limit per speaker shall be enforced when there are numerous speakers addressing a single agenda item. The City Council (or Mayor?) Mayor, or majority of Council, shall have the right to limit the total amount of time allocated to a particular issue and for each individual speaker.

2.6 City Manager

The City Manager shall attend all meetings of the Council unless excused by the Mayor and Mayor Pro Tem. The City Manager shall designate at his/her discretion a staff representative to Subcommittees and Commission

meetings. The City Manager shall ensure the Council chambers is properly prepared by staff, including any furniture or technology that might be necessary for each meeting, and is maintained in good working order by staff.

2.7 City Attorney

The City Attorney shall attend all regular meetings of the Council unless excused by the Mayor and shall attend special meetings and workshops upon request. The City Attorney shall act as the Council's parliamentarian.

2.8 City Clerk

The City Clerk or his/her delegate shall attend all meetings of the Council unless excused by the Mayor or City Manager, and shall keep the official journal (minutes) and perform such other duties as may be requested by the Council or as otherwise specified in the Colfax Municipal Code.

2.9 Officers and Employees

Staff of the City shall attend Council meetings upon request of the City Manager when there is pertinent business from their departments on the Council agenda..

2.10 Rules of Order

"Roberts Rules of Order" are hereby adopted and shall govern the proceedings of Council meetings where they are not in conflict with state or federal law, the Colfax Municipal Code or these rules.

3. TYPES OF MEETINGS

3.1 Regular Meeting

The Council shall meet in the Council Chambers for regular meetings. Open session Council meetings are to commence at 7:00 p.m., or as close as reasonably possible thereto, on the second and fourth Wednesday of each month, unless otherwise specified in advance.

3.2 Special Meetings

Special meetings may be called by the Mayor or by a majority of the members of the Council. The Mayor or City Council shall make a finding that the issue cannot wait until the next regular meeting and/or the issue is so important and extensive that it should be discussed at a special meeting dedicated to the item. The call for a special meeting shall be filed with the City Clerk in written form and shall be delivered and posted as required by Government Code Section 54956, except that an announcement of a special meeting during any regular meeting at which all Council members are present shall be sufficient notice of such special meeting to the members of the Council. The call and notice of a special meeting shall specify the day, the hour, and the location of the special meeting and shall list the subject or subjects to be considered. No special meeting shall be held until at least twenty-four (24) hours after the call and notice is issued. Only such business may be transacted at a special meeting as may be listed in the call and notice for said meeting.

3.3. Emergency Meetings

An emergency meeting may be called when the Council determines that an emergency situation exists. At least one hour prior to the meeting, telephonic notice must be provided to all Council Members as well as all media outlets, which have requested that they receive notice of special meetings called pursuant to Government Code Section 54956.5. Emergency meetings may be held in closed session as permitted by law.

3.4 Adjourned Meetings

Any meeting of the Council may be adjourned to a later date and time, provided that no adjournment shall be for a longer period than until the next Regular Meeting.

3.5 Study Sessions

The Council may meet informally in Study Sessions open to the public at the call of the Mayor or a majority of the members of the Council. Any Study Session shall be noticed and conducted in the same manner as a special council meeting. A Study Session is for discussion only; no action can be taken by the Council at a Study Session.

3.6 Closed Sessions

Closed Sessions may be held in accordance with the provisions of the Brown Act and as otherwise allowed by law. Action taken on a matter in closed session must be reported out orally upon reconvening in open session as required by the Brown Act. A written summary of action taken shall be included in the minutes of the meeting at which the closed session is held.

3.7 Adjournment of Meetings

All City Council Meetings shall end no later than 11:00 p.m. with no new business beginning after 10:30 p.m. Agenda items which have commenced consideration before 11:00 p.m. shall be completed prior to adjournment which shall in no case extend beyond 12:00 a.m. Upon completion of that item the meeting shall be adjourned. Any agenda items not completed prior to adjournment will be continued to the next meeting agenda subject to section 3.4 above.

4. COUNCIL DUTIES, CHAIR, AND MAYORAL ROTATION

4.1 Duties and Authority of Chair

The Chair of City Council meetings shall be the Mayor. In the Mayor's absence, the Mayor Pro-Tem shall serve as chair for that meeting. The Chair at any meeting can be replaced by a Council member appointed by a majority of a quorum of the Council present and voting. If a majority of a quorum of the Council present and voting cannot agree on which member shall chair a meeting, then the member of the Council present and having the longest tenure on the Council shall chair the meeting.

4.1.1 Call to Order

The Chair shall call the meetings of the Council to order as close as reasonably possible to the hour specified in the agenda for commencement of the meeting. In the absence of both the Mayor and Mayor Pro-Tem, the senior Council Member who shall act as the temporary Chair shall call the meeting to order such that, if necessary, a new chair can be chosen immediately as described in section 4.1 above. Upon arrival of the Mayor or Mayor Pro Tem, the temporary Chair shall relinquish the chair immediately upon conclusion of the item of business being discussed when the Mayor or Mayor Pro Tem arrived.

4.1.3 Preservation of Order

The Mayor shall preserve order and decorum; prevent attacks on personalities or the impugning of members' motives, and confine all parties in debate to the question under discussion.

4.1.4 Points of Order

Point of Order may be used if rules appear to have been broken. If a Point of Order is made by any Council member, the Mayor shall make a ruling on that point of order, subject to the right of any member to request a vote of the entire City Council on the questions whether the determination of the Mayor should be sustained.

4.1.5 Questions to be stated

The Mayor shall state, or call on staff to state, all questions submitted for a vote, call for a vote on all such questions, and announce the decision. A roll call vote shall be taken upon the request of any Council member or as otherwise required by law.

4.1.6 Substitution for Chair

The Mayor may call on the Mayor Pro-Tem, or other Council Member, to temporarily chair any meeting. Such substitution shall not continue beyond adjournment.

4.1.7 Authority to Participate

The Chair may make or second any motion, present and discuss any matter as a member of the Council, vote on any question before the Council, and fully participate in Council decision making.

4.1.8 Execution of Documents

The Mayor, or in the Mayor's absence, the Mayor Pro Tem, shall sign all ordinances, resolutions and other documents necessitating the Mayor's signature unless the authority to execute such documents is lawfully dedicated to another City officer.

4.1.9 Other Powers of Chair

The Chair shall have and exercise such other powers and duties as are authorized by law.

4.2 Rights of Council to Discipline

Any deliberate assembly has the inherent right to make and enforce its own laws and to enforce its own rules and laws, including the discipline of a member of the deliberative body.

The City Council shall have a right to discipline, censure and punish a member where a majority of the entire Council finds that actions of a member are detrimental to the City of Colfax. Such discipline, after the Council duly notices and publicly conducts its investigation, and presents those results at a public hearing, can include, public censure, civil charges and, in grave or extreme cases, recommendation to the Colfax citizens at large for the removal of a sitting Council Member.

4.3 Timing of Selection of Mayor

Once each year the City Council shall select one of its members as Mayor and one of its members as Mayor Pro-Tem. During years in which a general municipal election is held in November, the selection of Mayor and Mayor Pro Tem shall occur immediately after the declaration of election results at the meeting at which the declaration of election results is made pursuant to Elections Code Sections 10262 and 10263, as amended or replaced from time-to-time. During years in which a general municipal election is not held in November, the selection of Mayor and Mayor Pro Tem shall occur at the last regular meeting of the City Council during the calendar year. The Mayor and Mayor Pro Tem shall serve a term of one year or until their successor is selected, whichever is earlier.

4.3.1 Appointing the Mayor by Council Vote

The Mayor and Mayor Pro Tem shall be chosen by majority vote of the total sitting Council. In order to be appointed as Mayor or Mayor Pro Tem, a member of the Council must receive the following affirmative votes which may include his/her vote: (1) Three (3) if there are four or five members of the Council at the time of the selection; or (2) Two (2) if there are three members of the Council at the time of the selection.

4.3.2 Eligibility to Serve as Mayor

Elected and appointed members of the City Council are eligible for appointment as Mayor or Mayor Pro Tem, subject to the following:

- (a) Elected members of the City Council shall serve before appointed members may serve.
- (b) These positions shall be filled based first on the seniority of fully and duly elected Council Members and then by the total number of votes each received at his/her most recent election as confirmed by the City Clerk and rotated until all elected City Council members have served as Mayor or Mayor Pro Tem.
- (c) A member appointed to the City Council may serve as Mayor or Mayor Pro Tem after each elected member of the City Council has served in those positions one time; or if an appointed member is the currently sitting Mayor Pro Tem.
- (d) The Mayor or Mayor Pro Tem may be removed from office at any time by the affirmative vote of a majority of the members of the City Council.

4.3.3 Inability to Serve as Mayor or Mayor Pro-Tem

In the event of a death, removal from office, extreme illness, or abdication, the City Council shall determine who shall serve as the Mayor or Mayor Pro-Tem for the term vacated based upon the rotation described in 4.8 above.

4.3.4 Appointment of Mayor Pro-Tem to Mayor

Upon completion of term as Mayor Pro-Tem, City Council shall appoint the Mayor Pro-Tem as Mayor for a term of one (1) year insofar as that appointment is consistent with 4.8 above.

5. ORDERS OF BUSINESS AND AGENDA

5.1 Order of Business

Shall be as in the agenda prepared by City Clerk as follows:

Colfax City Council Agenda

1. Open Closed Session
 - a. Call To Order
 - b. Roll Call
2. Public Comment – Closed Session Items
3. Closed Session Agenda
4. Opening of Regular Session
 - a. Pledge of Allegiance
 - b. Roll Call
 - c. Announcement of action taken during Closed Session
 - d. Approval of Agenda Order
5. Council Reports
6. Staff Reports
7. New Business Discussion
8. Consent Agenda
9. Presentations

10. Public Comment
11. Public Hearing
12. Council Business
13. Adjournment

5.2 **Agenda**

The City Clerk shall as contained in the Agenda prepare the order of business of each meeting. The Agenda and all Agenda related to be considered by the Council shall be delivered to members of the Council five calendar days [Note: this is quite a bit of time. The legal requirement is 72 hours for a regular meeting] prior to the meeting to which it pertains. The Agenda and all Agenda related reports shall be available on line, posted at identified public notice boards at City Hall and the Colfax Post Office, and distributed via email to any members of the public who request receipt of council agendas, five calendar days prior to the meeting to which it pertains. Any council member may request an agenda item through the City Manager, City Clerk and/or City Attorney. [Note: this does not address authority to place matters on or remove them from an agenda.]

5.2.1 **Supplemental Agenda**

A Supplemental Agenda and related materials may be distributed up to 72 hours before an agenda meeting upon a finding by the Mayor and the City Manager that the materials or the matter to be on the agenda came to the attention of the city after the five day agenda required by 5.2 above had been published and made available. [Note: these time limits may be impractical.]

5.3 **Presentation by Members of Council**

Matters that have not been placed on the agenda and do not relate directly to an agenda item shall not be discussed at a meeting by staff or members of the City Council, except that the Mayor and any Council Member may bring before the Council for scheduling any business or matter that is appropriate for future discussion. For the limited purpose of scheduling, the item may be described with enough sufficiency to allow the other members of the Council to determine whether the matter should be placed on a future agenda, and to set a date for future discussion.

5.4 **Process for Addressing Agenda Items before the City Council**

- Mayor reads the agenda item
- Staff presents their report
- Council questions staff
- Public Comments are heard
- Council discusses item
- A motion is made
- Final Council discussion
- Council votes or provides direction to Staff

5.5 **Consent Calendar**

The Consent Calendar is intended to allow the Council to approve multiple routine and non-controversial matters by motion, with no discussion required. Council members, staff, and members of the public can ask that an item be removed from the Consent Calendar for discussion, prior to a vote being taken on the Consent Calendar items.

No Item shall be placed on the Consent Calendar if that item relates to a contract, or expenditure or financial obligation in excess of \$25,000.00. Any item involving a contract, expenditure or financial obligation in excess of

\$25,000.00 must be scheduled as a regular agenda item with a staff report, and must be approved by separate resolution and a separate vote of the Council.

5.6 **Contracts or Expenditures over \$500,000**

Contracts or expenditures over \$500,000 shall be made available to the Council to study 14 days before the meeting on which the contract or expenditure is placed on the agenda. Facts and findings shall be made for the recommendation of approval of such expenditure or contract.

5.6.1 **Bidding of Contracts**

Competitive bidding (2 or more bids) shall be enforced on building as well as professional service contracts and consultants, unless staff can support facts and findings that no other provider is available who can perform the specialized work required. [Note: this can be problematic. I suggest something like "Competitive Bidding shall be utilized as required by law." This issue became problematic for prior Councils.]

5.7 **Reading of Minutes**

Minutes belong to the City Council. Unless a member of the Council requests a reading of the minutes of a Council meeting, such minutes may be approved without reading if the City Clerk previously furnished each member with a copy thereof. On Consent Calendar, approval of minutes shall be by a standard majority vote and items can be pulled for discussion and reinserted, or pulled for discussion and a separate vote taken.

6. **ORDINANCES**

6.1 **Ordinances Deferred**

Emergencies and Appropriations: Ordinances introduced/ read at a Council meeting shall not be formally acted upon until at least the next official meeting, except that urgency ordinances that qualify to take effect immediately under Government Code Section 36937 and similar provisions of law may be acted on immediately. A standard majority affirmative vote of the Council shall be required for the final passage of an urgency ordinance. Urgency is defined in Government Code Section 36937.

6.2 **Reading by Title Only**

Upon being introduced, each proposed ordinance shall be read by title only, unless any member of the Council requests a full reading of the ordinance.

6.3 **Majority Vote Required**

An affirmative vote of at least a majority of the members of the Council shall be necessary to pass an ordinance, but a resolution or order for the payment of money, motion, or any other proposition may be adopted by a majority voting on the issue except as otherwise specified by City Ordinance or state law. When any vote is called, each Council Member shall respond "yes (aye)," "no", "abstain", or "pass". Any Council Member who responds, "pass" will be given the opportunity at the end of the roll call to change their vote. Any "pass" response not changed shall be recorded as an abstention.

6.4 **Tie Vote**

In the event of a tie in votes on any motion, the motion shall be considered lost. unless the chair votes for the affirmative. The chair may also cast a negative vote to make a tie and thus defeat the measure. [Note: this is problematic because the Mayor can vote in any case.]

6.5 Requests for Preparation of Ordinances or Issuance of Legal Opinions

Any member of the City Council may request the City Manager to place the proposed adoption of an ordinance on the City Council agenda for discussion purposes. Upon direction by a Council Member, the City Attorney shall review proposed ordinances for consideration and adoption by the City Council. Upon direction by a Council Member, the City Attorney shall render legal opinions, either written or oral, on questions of law. Individual members of the City Council may consult with the City Attorney informally regarding legal issues pertaining to City business, but all legal inquiries requiring a substantial commitment of City Attorney time must be authorized by the City Council as a whole, except that an individual City Council member may request written legal advice regarding a potential conflict of interest which may affect that Council member's ability to participate in an upcoming decision. All written legal opinions and ordinances prepared by the City Attorney shall be provided to the City Manager, who shall distribute them to all members of the City Council so that they may be fully informed of the status of City affairs.

7. CREATION OF COMMITTEES, BOARDS AND COMMISSIONS

7.1 Citizen Committees, Boards and Commissions

The Council may create committees, boards, sub-committees and commissions to assist in the conduct of the operation of the City government with such duties as the Council may specify which are consistent with the City Code.

7.2 Membership and Selections

Membership and selection of members shall be appointed by the Mayor if not otherwise specified by the City's Municipal Code. Any committee, board, or commission so created shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the Council. No committee so appointed shall have powers other than advisory to the Council or to the City Manager, except as otherwise specified by the City Code.

7.3 Removal of Members of Boards and Commissions

The Council may remove any member of any board or commission which it has created or as created by the City's Municipal Code by a vote of at least a majority of the Council.

7.4 Sub-Committees - Operation of City Council Sub-Committees

The City Council shall utilize the Sub-Committee process to assist the work of staff and to conduct preliminary policy evaluation for purpose of recommendation to the full City Council. Such Sub-Committee shall have no authority to resolve and act on policy issues and shall not act as a committee of the whole Council.

7.5 Citizen Advisory Boards

A citizen's advisory commission, along with a hired consultant, shall investigate and advise proactively the council on matters of serious integrity allegations, rather than allowing the matter to progress into an investigation by an outside law enforcement agency or the grand jury. The findings and recommendations should then be made available to the public in a report and discussed openly in a city council meeting. A citizen's selection panel shall be formed to advise the council in choosing future city managers and city attorneys, as needed. [Note: this bears discussion.]

8. CITIZENS' RIGHTS

8.1 Public Comment

Any person desiring to address the Council, Commission, Subcommittee or other established body shall first be recognized by the Chair and shall announce their name and address prior to making comment. No person, other than members of the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through the members of the Council.

8.2 Time Limits on Speakers

Disruptive Conduct: The Chair may establish reasonable limits on the amount of time allocated for public testimony on particular issues and for each individual speakers. Speaker time limits should be uniformly applied, so that all members of the public speaking to a particular item receive the same amount of speaking time. The Council shall not set arbitrary time limits, or limit speaker time or grant additional speaker time based on who is speaking or what the speaker has to say.

In addition, The Mayor may rule a speaker to be out of order if that speaker engages in disorderly conduct which disrupts, disturbs or otherwise is disruptive and impedes the orderly conduct of City Council business. A public speaker may be ruled out of order for, among other things; a) uttering loud, threatening, personal or abusive language, continuously interrupting other speakers or speaking out of turn. ; b) by being unduly repetitious; c) by making comments which are not relevant to the City Council's business; or d) by making any superfluous demonstration deemed to be made predominately for the embarrassment of any citizen, staff, or Council Member by any of the same.

8.3 Reading of Protests

Interested persons, or their authorized representatives, may address the Council for the reading of protests, petitions, or communications relating to any matter over which the Council has control when the item is under consideration by the Council., if a majority of the Council present agrees to let them be heard.

8.4 Mayor May Appoint a Committee or Refer Citizen's Complaints

The Mayor may appoint a committee of two members of the City Council to hear Citizens' complaints as the same are referred thereto by the Mayor or may refer Citizens' complaints to an Executive Session of the City Council, whenever the subject meets the criteria specified in the Brown Act. If an appropriate committee of two members of the City Council already exist that properly relates to the subject matter of Citizens' Complaints, the matter may be instead referred to that extant committee as deemed appropriate by the Mayor.

8.5 Written Communications

Interested parties, or their authorized representatives, may address the Council by written communication in regard to any matter concerning the City's business or over which the Council has control at anytime by direct mail, email, or by addressing the City Clerk and copies will be distributed to the Council Members.

9. AMENDMENTS

9.1 Amendment of These Rules

These rules may be amended, or new rules adopted, by a super majority vote of all members by resolution of the Council, provided that the proposed amendments or new rules shall have been introduced into the record at a prior Council meeting.

10. RULES OF CONDUCT

1. Council Members should be prepared to attend all meetings of the City Council.
2. Council Members should prepare themselves for all meetings by reading and reviewing the material provided to them.
3. Members of the City Council should be aware that all information covered in Closed Session is confidential and not for public discussion.
4. Council Members are encouraged to set up appointments with the City Manager, Department Heads and staff, if possible. Section 2-3.105 of the Municipal Code should always be considered when working with staff at City Hall.
5. Council Members conduct when attending meetings, as a representative of the City of Colfax, should always reflect the highest standards.
6. Members of the City Council should remember that they are representing the City of Colfax when attending events, not just themselves. The City Manager shall be advised of any speaking engagement at which a Council Member will speak about City Business within 48 hours of that engagement. The City Manager shall inform the remainder of City Council of those engagements. Council Members should also be aware that, contrary to any verbal disclaimers, audience members will still frequently attribute any personal views of City Business and an opinion of the City of Colfax or of the majority of City Council. In that regard, Council Members should maintain awareness of that likelihood and act with appropriate discretion.