City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Agenda

City Council

THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY AS THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT NO. 1 AND THE FORT BRAGG REDEVELOPMENT SUCCESSOR AGENCY

Monday, May 9, 2016 | **6:00 PM** | **Town Hall, 363 N. Main Street**

MEETING CALLED TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

1A. 16-175 Presentation of Proclamation Declaring May 15 through May 21, 2016 as National Police Week

Attachments: 11-2016 National Police Week

1B. 16-177 Presentation of Proclamation Recognizing National Bike Month - May 2016

Attachments: 12-2016 National Bike Month

2. STAFF COMMENTS

3. MATTERS FROM COUNCILMEMBERS

4A. PUBLIC COMMENTS ON NON-AGENDA, CONSENT CALENDAR & CLOSED SESSION ITEMS (30 Minutes)

MANNER OF ADDRESSING THE CITY COUNCIL: Any member of the public desiring to address the City Council shall submit a "Speaker Card" to the City Clerk and proceed to the podium after being recognized by the Presiding Officer. Speakers will be called up in the order the Speaker Cards are received. All remarks and questions shall be addressed to the City Council and no discussion or action shall be taken on any requests, in accordance with Brown Act Requirements. No person shall enter into any discussion without being recognized by the Mayor or acting Mayor.

IF AGENDA PERMITS: A maximum of thirty (30) minutes shall be allotted to receiving public comments at the initial public comment period and, if necessary, an additional 30 minutes shall be allotted to public comments prior to action on the Consent Calendar. Any citizen, after being recognized by the Mayor or acting Mayor, may speak on any topic that may be a proper subject for discussion before the City Council for such period of time as the Mayor or acting Mayor may determine is appropriate under the circumstances of the particular meeting, including but not limited to, the number of persons wishing to speak on a particular topic or at a particular meeting, or the complexity of a particular topic. Time limitations shall be set without regard to a speaker's point of view or the content of the speech, as long as the speaker's comments are not disruptive of the meeting.

BROWN ACT REQUIREMENTS: Pursuant to the Brown Act the Council cannot discuss issues or take action on any requests during this comment period.

5. PUBLIC HEARING

When a Public Hearing has been underway for a period of 60 minutes, the Council must vote on whether to continue with the hearing or to continue the hearing to another meeting.

6. CONDUCT OF BUSINESS

6A. 16-182 Receive Recommendation from Public Safety Committee and Provide Direction to Staff Regarding an Ordinance to Address Medical Marijuana Manufacturing

Attachments: 05092016 Medical Marijuana Manufacturing

Att 1: 2015-12-09 Med Marijuana Policy Direction staff report

Att 2: 2016-04-13 MMRSA staff report

Att 3: 2015-12-09 Med Marijuana Cultivation

Att 4: 2015-12-09 Med Marijuana Dispensaries

Att 5: 2015-12-09 Public Safety Committee Minutes

4B. PUBLIC COMMENTS ON NON-AGENDA, CONSENT CALENDAR & CLOSED SESSION ITEMS (30 Minutes, If Necessary)

See 4A. above.

7. CONSENT CALENDAR

All items under the consent calendar will be acted upon in one motion unless a Councilmember requests that an individual item be taken up under CONDUCT OF BUSINESS

7A. 16-178 Approve Scope of Work for CDBG Business Loan Development and Loan Servicing Activities

7B. 16-179 Adopt Resolution Confirming the Continued Existence of a Local Drought Emergency in the City of Fort Bragg

Attachments: RESO Declaring Continuing Local Drought Emergency

7C. 16-176 Receive and File Minutes from March 17, 2016 Public Works and Facilities Committee Meeting

Attachments: PWM2016-03-17

7D. 16-181 Approve Minutes of Special Meeting of April 18, 2016

Attachments: CCM2016-04-18_Special

7E. 16-180 Approve Minutes of April 25, 2016

Attachments: CCM2016-04-25

8. CLOSED SESSION

ADJOURNMENT

The adjournment time for all Council meetings is no later than 10:00 p.m. If the Council is still in session at 10:00 p.m., the Council may continue the meeting upon majority vote.

NEXT REGULAR CITY COUNCIL MEETING: 6:00 P.M., MONDAY, May 23, 2016

STATE OF CALIFORNIA)
)ss.
COUNTY OF MENDOCINO)
I declare, under penalty of perjury, that I am employed by the City of Fort Bragg and that I caused this agenda to be posted in the City Hall notice case on May 4, 2016.

_____
Brenda Jourdain, Administrative Assistant

NOTICE TO THE PUBLIC:

DISTRIBUTION OF ADDITIONAL INFORMATION FOLLOWING AGENDA PACKET DISTRIBUTION:

- *Materials related to an item on this Agenda submitted to the Council/District/Agency after distribution of the agenda packet are available for public inspection in the lobby of City Hall at 416 N. Franklin Street during normal business hours.*
- *Such documents are also available on the City of Fort Bragg's website at http://city.fortbragg.com subject to staff's ability to post the documents before the meeting.*

ADA NOTICE AND HEARING IMPAIRED PROVISIONS:

It is the policy of the City of Fort Bragg to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities.

If you need assistance to ensure your full participation, please contact the City Clerk at (707) 961-2823. Notification 48 hours in advance of any need for assistance will enable the City to make reasonable arrangements to ensure accessibility.

The Council Chamber is equipped with a Wireless Stereo Headphone unit for use by the hearing impaired. The unit operates in conjunction with the Chamber's sound system. You may request the Wireless Stereo Headphone unit from the City Clerk for personal use during the Council meetings.

This notice is in compliance with the Americans with Disabilities Act (28 CFR, 35.102-35.104 ADA Title II).

City of Fort Bragg

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Text File

File Number: 16-175

Agenda Date: 5/9/2016 **Version:** 1 **Status:** Mayor's Office

In Control: City Council **File Type:** Proclamation

Agenda Number: 1A.

Presentation of Proclamation Declaring May 15 through May 21, 2016 as National Police Week

P R O C L A M A T I O N

NATIONAL POLICE WEEK

WHEREAS, the United States Congress and the President of the United States have designated May 15th as Peace Officers' Day and the week in which May 15th falls as National Police Week; and

WHEREAS, members of the Fort Bragg Police Department, along with all of the other law enforcement partners who protect and serve our community, provide an essential role in safeguarding the rights and freedoms of the City of Fort Bragg; and

WHEREAS, it is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of our law enforcement agencies, and that members of these law enforcement agencies recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression; and

WHEREAS, the men and women of the Fort Bragg Police Department unceasingly provide a vital public service;

NOW, THEREFORE, I, Dave Turner, Mayor of the City of Fort Bragg, on behalf of the entire City Council call upon all citizens of Fort Bragg and upon all patriotic, civic and educational organizations to observe the week of May 15 – 21, 2016 as National Police Week with appropriate ceremonies and observances in which all of our people may join in commemorating law enforcement officers, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered dedicated service to their communities and, in so doing, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

FURTHERMORE, I call upon all citizens of Fort Bragg to observe Friday, May 15, 2016 as Peace Officers' Memorial Day in honor of those law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to survivors of our fallen heroes.

SIGNED this 9th day of May, 2016.

_____

DAVE TURNER, Mayor

ATTEST:

_____

June Lemos, City Clerk

No.11-2016

City of Fort Bragg

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Text File

File Number: 16-177

Agenda Date: 5/9/2016 **Version:** 1 **Status:** Mayor's Office

In Control: City Council **File Type:** Proclamation

Agenda Number: 1B.

Presentation of Proclamation Recognizing National Bike Month - May 2016

P R O C L A M A T I O N

NATIONAL BIKE MONTH – MAY 2016

WHEREAS, bicycle commuting is an effective means to improve air quality, reduce traffic congestion and noise, increase physical activity, and conserve energy; and

WHEREAS, May 16-20, 2016 has been designated "Bike to Work Week" where bicycle commuting benefits both employees and employers through better employee health and fitness; reduced commuting, parking, and health care costs; lower employee absenteeism and turnover; and increased employee productivity; and

WHEREAS, bicycle commuting to school benefits children and families by promoting physical activity, reducing car-related pollution and traffic hazards, and contributing to a cleaner, safer and healthier community; and

WHEREAS, bus transit, carpooling, vanpooling, and bicycle lanes and paths are concepts which should be embraced if we are to continue to enjoy the amenities that make Fort Bragg an attractive place in which to live and earn a livelihood; and

WHEREAS, touring cyclists pass through the City of Fort Bragg in ever-increasing numbers, including the winter season, thereby improving the local economy; and

WHEREAS, the coast is a popular destination for road and mountain bikers, many of whom eat at Fort Bragg's local dining establishments, drink local craft beer made in Fort Bragg and lodge in the City; and

WHEREAS, the coast now supports its own composite high school mountain bike team in its second year, Mendocino Coast Racing, which has doubled in size from three in 2015 to six, who race all over Northern California who are represented here tonight and volunteer to support our local bike club activities and who maintain our local trails when they're not racing on the road; and

WHEREAS, the City of Fort Bragg has taken an active role in improving bicycle transportation routes and bicycle parking facilities, increasing bicycle safety, and educating the community about benefits of bicycle transportation through its Safe Routes to School, City of Trails, and other grant programs; and

WHEREAS, Fort Bragg has a growing population of cyclists, including Mendocino Coast Cyclists and the SOB's (Seniors on Bikes) who are represented here tonight and are actively involved in shaping city, county, regional, and national transportation and community policies; and

WHEREAS, the month of May is "National Bike Month" which promotes the bicycle as a means of transportation and recreation and May is also "Clean Air Month" which promotes air quality.

NOW, THEREFORE, I, DAVE TURNER, Mayor of the City of Fort Bragg, do hereby proclaim May 2016 as NATIONAL BIKE MONTH throughout the City of Fort Bragg; and I urge all citizens to support and participate in biking and other activities that contribute to the health of the community and the environment.

SIGNED this 9th day of May, 2016.

_____
DAVE TURNER, Mayor

ATTEST:

_____
June Lemos
City Clerk

No. 12-2016

City of Fort Bragg

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Text File

File Number: 16-182

Agenda Date: 5/9/2016 **Version:** 1 **Status:** Business

In Control: City Council **File Type:** Staff Report

Agenda Number: 6A.

Receive Recommendation from Public Safety Committee and Provide Direction to Staff Regarding an Ordinance to Address Medical Marijuana Manufacturing

AGENCY:	**City Council**
MEETING DATE:	**May 9, 2016**
DEPARTMENT:	**Administration**
PRESENTED BY:	**L. Ruffing**

AGENDA ITEM SUMMARY REPORT

TITLE:
RECEIVE RECOMMENDATION FROM PUBLIC SAFETY COMMITTEE AND PROVIDE DIRECTION TO STAFF REGARDING AN ORDINANCE TO ADDRESS MEDICAL MARIJUANA MANUFACTURING

ISSUE:
A local entrepreneur, RootOne Botanicals, Inc., has expressed interest in operating a "cannabis concentrate manufacturing company" to serve the California medical cannabis industry. The facility would produce medical cannabis concentrates using CO_2 extraction, H_2O extraction, and alcohol distillation processes. The Fort Bragg Municipal Code does not allow the proposed use in any zoning district. The Public Safety Committee has reviewed this matter, in the context of sweeping State legislation known as the Medical Marijuana Regulation and Safety Act (MMRSA) that was signed into law by Governor Edmund G. Brown Jr. on October 9, 2015 and became operative January 1, 2016. The Committee has recommended that the City modify its zoning ordinance to allow medical marijuana manufacturing as a conditionally permitted use in the Light and Heavy Industrial zones with restrictions to protect the public health, safety, and welfare.

RECOMMENDED ACTION:
Provide direction to staff to draft an ordinance to allow medical marijuana manufacturing businesses in the Light and Heavy Industrial Zones with a conditional use permit, and to establish a cap on the number of permits to be issued.

ALTERNATIVE ACTION(S):

1. No action. Under this alternative, no further actions would be taken to address medical marijuana manufacturing uses and the use would continue to be prohibited in Fort Bragg.
2. Provide alternative and/or more specific direction regarding regulations addressing medical marijuana manufacturing uses.
3. Continue action on the matter and request additional information and/or analysis by staff.

ANALYSIS:
At the December 9, 2015 Public Safety Committee meeting, the Committee received a detailed report (Attachment 1) on the State's new regulatory and licensing system (MMRSA) which is comprised of State legislative bills known as AB 243, AB 266 and SB 643. (See Attachment 1.) MMRSA establishes five categories for State licenses (Cultivation; Distribution; Testing; Manufacture; Dispensing) and 17 different license classifications. A new Bureau of Medical Marijuana Regulation has been established and, under its direction, the following state agencies have responsibilities for various aspects of the licenses: Department of Consumer Affairs; Department of Food & Agriculture; Department of Public Health; Department of Pesticide Regulation; Department of Fish & Wildlife; State Water Resources Control Board. The legislation was specifically to maintain local governmental control over the issuance of a State license by requiring that a licensee shall not commence or continue commercial cannabis activity under the

authority of a state license unless the applicant has first obtained a permit, license, or other authorization from the local jurisdiction in with the licensee proposes to operate, and continually follows the requirements and conditions of the local permit, license, or authorization.

With this in mind, on April 13, 2016, the Public Safety Committee reviewed the City's regulatory framework for medical marijuana activities (Attachment 2) and discussed whether modifications were necessary. The Committee's recommendation to the City Council is as follows:

1. **Cultivation.** No changes to the City's medical marijuana cultivation regulations (FBMC Chapter 9.32 – See Attachment 3) are needed at this time.
2. **Dispensaries.** No changes to the City's medical marijuana dispensary regulations (FBMC Chapter 9.30 – See Attachment 4) are needed at this time.
3. **Delivery Services**. The City should not expressly prohibit medical marijuana delivery services, and should rely upon the State-mandated licensing process to ensure that the public health, safety and welfare of the community is protected.
4. **Medical Marijuana Transporters**. The City should rely upon the State-mandated licensing process for medical marijuana transporters to ensure that the public health, safety and welfare of the community is protected.
5. **Medical Marijuana Manufacturing.** The City Council should direct staff and the City Attorney's office to prepare an ordinance regulating medical marijuana manufacturing uses. Additional public input and vetting of the draft ordinance should be conducted by the Public Safety Committee prior to the ordinance coming back to the City Council for consideration.

FISCAL IMPACT:

Preparation of an ordinance to regulate medical marijuana manufacturing will require substantial efforts by both City staff and the City Attorney. To date, the City Attorney has not been involved in these discussions, pending direction from the entire Council. If an ordinance is passed allowing medical marijuana manufacturing, the City Council will need to establish appropriate fees to offset costs associated with the permitting process and any subsequent inspections or enforcement activities. If permitted, medical marijuana manufacturing would create new jobs. As a point of reference, RootOne Botanicals' business plan anticipates hiring more than 20 employees once running at full capacity.

IMPLEMENTATION/TIMEFRAMES:

Depending on workload and staffing constraints in the Community Development Department, it may take 2-3 months for an ordinance to be drafted and reviewed by the City Attorney's office. Then, depending on the direction of the Council, it would either be brought forward to the full Council for consideration or return to the Public Safety Committee for additional vetting and a recommendation prior to consideration by the Council.

ATTACHMENTS:

1. December 9, 2015 Public Safety Committee staff report
2. April 13, 2016 Public Safety Committee staff report
3. FBMC Chapter 9.32 – Medical Marijuana Cultivation regulations
4. FBMC Chapter 9.30 – Medical Marijuana Dispensary regulations
5. December 9, 2015 Public Safety Committee minutes

NOTIFICATION:

1. Root One Botanicals, Jon McColley

City Clerk's Office Use Only

Agency Action ☐ Approved ☐ Denied ☐ Approved as Amended

Resolution No.: _____ Ordinance No.: _____

Moved by: _____ Seconded by: _____

Vote: _____

☐ Deferred/Continued to meeting of: _____

☐ Referred to: _____

CITY OF FORT BRAGG
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COUNCIL COMMITTEE ITEM SUMMARY REPORT

MEETING DATE:	December 9, 2015
TO:	Public Safety Committee
FROM:	Marie Jones, Community Development
AGENDA ITEM TITLE:	**Receive Report Regarding New Legislation Regulating Medical marijuana**

ISSUE:

The California Legislature recently passed three bills that will create a broad state regulatory and licensing system governing the cultivation, testing, and distribution of medical marijuana, as well as physician recommendations for medical marijuana. Known collectively as the Medical Marijuana Regulation and Safety Act (MMRSA), these bills were signed by Governor Brown. The MMRSA includes three interrelated laws, which affect the regulation and licensing of a variety of medical marijuana businesses, products and practices, as follows:

AB 266 establishes a dual licensing structure requiring both a State license and a local license or permit. A new Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs (DCA) will issue state licenses for medical marijuana dispensaries and establish licensing requirements for activities related to dispensaries, such as distribution and transportation of marijuana. This law:

1. Limits vertical integration by requiring third party distribution, transportation and testing;
2. Establishes uniform security requirements at dispensaries as well as for transporters;
3. Requires establishment of uniform State minimum health and safety standards, testing standards, and security requirements at dispensaries and during transport of the product;
4. Makes product-testing mandatory;
5. Specifies a standard for certification of testing labs, and specified minimum testing requirements. Prohibits testing lab operators from being licensees in any other category, and from holding a financial or ownership interest in any other category of licensed business;
6. Establishes a licensing procedure for deliveries. “Delivery” means the commercial transfer (via vehicle, mail or the internet) of medical cannabis or medical cannabis

products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient;
7. Phases out the existing model of marijuana cooperatives and collectives one year after the DCA announces that State licensing has begun; and
8. Specifies that patients and primary caregivers are exempt from the State licensing requirement, and that their information is confidential under the California Public Records Act.

AB 243 (Wood) establishes a regulatory and licensing structure for medical marijuana cultivation under the Department of Food and Agriculture (DFA). AB 243 also requires:

1. The DFA to work with other state agencies to develop environmental protection standards;
2. The Department of Pesticide Regulation to establish medical marijuana pesticide standards; and
3. The Department of Public Health to create standards for labeling of marijuana edibles.

SB 643 (McGuire) establishes standards for licensing of medical marijuana businesses, regulates physicians, and recognizes local authority to levy taxes and fees. This law:

1. Establishes a track and trace program for all marijuana;
2. Directs the California Medical Board to prioritize investigation of excessive recommendations by physicians;
3. Imposes fines on physicians for having a financial interest in a marijuana business;
4. Defines a physician making a recommendation for cannabis, without a prior examination, as unprofessional conduct;
5. Imposes restrictions on advertising for physician recommendations;
6. Codifies dual licensing (State license and local license or permit), and itemizes disqualifying felonies for State licensure;
7. Places DPR in charge of pesticide regulation and DPH in charge of production and labeling of edibles; and
8. Authorizes counties to tax through a declaratory of existing law.

SUMMARY:

The MMRSA does not address recreational use of marijuana. It adds a licensing structure for businesses that wish to serve those qualified patients and primary caregivers who use medical marijuana for their personal use. The new law creates five State licensing categories:

1. Dispensary
2. Distributor
3. Transport
4. Cultivation
5. Manufacturing

The law limits cross-licensing. Operators may hold one State license in up to two separate license categories. The law prohibits medical marijuana licensees from also holding licenses to sell alcohol.

Primacy of Local Regulations. MMRSA prohibits a person from engaging in commercial cannabis activity without possessing both a State license and a local permit, license or other authorization. Additionally, a State licensee may not commence activity under the authority of a State license until the applicant has complied with all requirements of the applicable local ordinance (Business & Professions Code Section 19320). However, in the absence of a local ordinance, the State will become the only authorized licensor. The State is expected to begin issuing licenses on January 1, 2018.

This legislation protects local control in the following ways:

1. *Dual licensing*. All all marijuana businesses must have both a State license, and a local license or permit, to operate legally in California. Jurisdictions that regulate or ban medical marijuana will be able to retain their regulations or ban. Jurisdictions without regulations will be regulated through the State legislation only. The law expressly protects local licensing practices, zoning ordinances, and local actions taken under the constitutional police power.
2. *Local Revocation.* The revocation of a local license or permit terminates the ability of a marijuana business to operate in that jurisdiction under its State license.
3. *Enforcement*. Local governments may enforce State law in addition to local ordinances, if they request that authority and if it is granted by the relevant State agency. State law provides for civil penalties for unlicensed activity, and applicable criminal penalties under existing law will continue to apply. Thus, if a local jurisdiction seeks to recover civil penalties for a violation of State law, those penalties would accrue to the local jurisdiction.
4. *Fees & Taxes*. Local jurisdictions retain the power to access fees and taxes, as applicable on facilities licensed by the city.

However, in order to retain local authority, a city must legislate regulations regarding cultivation, dispensing, manufacturing and transport of medical marijuana as follows:

Cultivation. Under the MMRSA, cities must enact regulations for medical marijuana cultivation prior to March 1, 2016, otherwise the State will be the sole licensing authority. Fort Bragg's has medical marijuana cultivation regulations in the Municipal Code (see Attachment 1). The City's ordinance allows cultivation with a Minor Use Permit under specific conditions. Under the MMRSA, a person who cultivates marijuana for his or her personal medical use is not required to get a cultivation license from the State, if the area used for cultivation does not exceed 100 square feet (SF). The City's ordinance limits cultivation to 100 SF.

> **Policy Questions:** The City Attorney will need to advise as to whether it is necessary to incorporate the City's medical marijuana cultivation regulations into the Land Use & Development Code (i.e., zoning ordinance). If the City Council is interested in modifying the City's medical marijuana cultivation regulations, it should do so prior to March 1, 2016.

Delivery. Under the MMRSA, delivery will be permitted with a State license unless a city adopts an express prohibition on delivery (AB 266). The State will establish a Statewide limit on the amount that local delivery services will be authorized to carry, based on security considerations, cash value, and other factors. The threshold amount will be authorized only for delivery to patients, primary caregivers, and testing labs. Larger amounts will not be considered "delivery"

but rather "transport" triggering heightened security requirements while the product is being moved. Counties can charge a transaction tax for delivery. Cities can charge a licensing fee.

If Fort Bragg wants to prevent deliveries within its jurisdiction, it must adopt an ordinance expressly prohibiting them by the end of 2017. State delivery licenses are expected to be issued starting January 1, 2018.

> **Policy Questions:** The City Council should determine whether the City should have a local ordinance prohibiting deliveries. If the City chooses to allow deliveries, it may establish regulations for delivery services and charge a licensing fee.

Dispensary. The new law requires a local permit and a State license before a dispensary can begin operations within a specific jurisdiction. Cities will retain the discretion to regulate and/or deny permits or licenses to marijuana dispensaries. The City of Fort Bragg currently regulates dispensaries through its Municipal Code (see Attachment 2),

> **Policy Questions:** The City Attorney will need to advise as to whether it is necessary to incorporate the City's medical marijuana dispensary regulations into the Land Use & Development Code (i.e., zoning ordinance). The City Council should also determine whether it is interested in modifying the City's medical marijuana dispensary regulations to make them more or less restrictive, or to prohibit dispensaries altogether. In order to serve local caregivers and patients, the City could continue to allow dispensaries and prohibit delivery services or vice-versa.

Manufacture & Testing. Under the MMRSA, a State license is required from DPH to "manufacture" edibles or to test medical marijuana in any of its forms. The City currently allows light manufacturing in both the Heavy and Light zoning districts <u>without</u> a Use Permit. The manufacture of "edible" medical marijuana could be considered "food and beverage manufacturing" under Light Manufacturing or it could be separately regulated. Likewise medical marijuana testing could be considered "Laboratory – Medical, Analytical, Research and Development" under Light Manufacturing or it could be separately regulated. The MMRSA is silent on a local jurisdiction's ability to regulate the manufacture or testing of medical marijuana through zoning limitations.

> **Policy Questions:** Consider how and if the City should regulate the location and operations of medical marijuana manufacturing and testing facilities. Regulations could include: requiring a Use Permit for the manufacture of edibles and testing of medical marijuana and specific regulations regarding smell, security, etc. that are relevant to such businesses.

The new legislation also directs DPH to develop standards for the production and labeling of all edible medical cannabis products (Business & Professions Code Section 19332(c)). The DPH standards are "minimum standards." A city may adopt additional stricter standards, requirements and regulations regarding "edibles" (Business & Professions Code section 19316(a)).

Expedited Permitting. The State licensing authority is required to prioritize the license for any facility or entity that can demonstrate that it was in operation and in good standing with a local

jurisdiction by January 1, 2016. This provision is intended as an incentive for business operators to be in compliance with local ordinances, to ease any difficulties local governments may have in launching their local regulatory structures, and to help expedite the initial phase of issuing State licenses. Some businesses have been seeking approval for medical marijuana operations within Fort Bragg's city limits in order to gain the prioritization. It is unlikely that these potential businesses will become operational by January 1, 2016.

> **Policy Questions:** Should the City establish a new medical marijuana licensing structure for any or all of the various business types (AB 226, Section 1932(b)). The rough timeline for State licensing to begin is January 2018.

RECOMMENDATION:

Provide direction to staff regarding considerations as this item is brought forward to the full Council for policy direction.

ATTACHMENTS:

1) FBMC Section 9.3 Medical Marijuana Cultivation

2) FBMC Section 9.3 Medical Marijuana Dispensaries

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COUNCIL COMMITTEE ITEM SUMMARY REPORT

MEETING DATE:	April 13, 2016
TO:	Public Safety Committee
FROM:	Linda Ruffing, City Manager
AGENDA ITEM TITLE:	**Receive Report and Make Recommendation to City Council Regarding Medical Marijuana Regulations**

ISSUE:

At the December 9, 2015 Public Safety Committee meeting, the Committee received a detailed report (Attachment 1) on the State's new regulatory and licensing system known as the Medical Marijuana Regulation and Safety Act (MMRSA) which is comprised of State legislative bills known as AB 243, AB 266 and SB 643. MMRSA was signed by Governor Brown last October. The report identified specific policy questions for the Committee to consider. The matter is coming back to the Committee in order for the Committee to make a recommendation to the City Council regarding whether or not to modify the City's medical marijuana regulations at this time.

SUMMARY:

MMRSA became effective January 1, 2016 and creates a broad regulatory and licensing system governing the cultivation, testing, and distribution of medical marijuana. The new legislation preserves local control over marijuana facilities and land uses, however cities that wish to ban cultivation facilities and mobile marijuana deliveries will need to enact express bans in order to avoid preemption by the State.

As explained in the December 9th report, MMRSA requires state licenses for all facets of the medical marijuana industry. It establishes a dual-licensing requirement whereby compliance with all local regulations is required prior to issuance of a State license. In the absence of local ordinances, the State will become the only authorized licensor regulating various medical marijuana enterprises. The State is expected to begin issuing licenses for cultivation, dispensaries, deliveries, transport, manufacturing and testing in January of 2018.

The question at hand is whether or not the City of Fort Bragg should update its existing ordinances relating to medical marijuana (see Attachment 2: Fort Bragg Municipal Code Chapter 9.30- Medical Marijuana Dispensaries, and Attachment 3: Chapter 9.32- Medical Marijuana Cultivation) and/or establish new regulations for other sectors of the industry (deliveries, transport, manufacturing, testing).

Medical Marijuana Cultivation

The Fort Bragg Municipal Code establishes regulations for medical marijuana cultivation. FBMC Chapter 9.32 allows indoor cultivation of medical marijuana by qualified patients or primary caregivers in conformance with specific standards and limitations. A cultivation area of up to 50 square feet may be established without a permit; and an area of up to 100 square feet may be established with a minor use permit. To date, two minor use permits have been granted for medical marijuana cultivation in Fort Bragg.

Under MMRSA, a qualified patient who cultivates marijuana for his/her personal medical use is not required to obtain a cultivation license from the State if the area used for cultivation is 100 square feet or less. Given that the City does not allow commercial cultivation of medical marijuana and the cultivation area is capped at 100 square feet, it appears there will be no need for the State to issue cultivation licenses in Fort Bragg.

> **Staff recommendation:** Staff believes that the City's existing regulatory framework for medical marijuana cultivation is appropriate and recommends no further changes. If, however, the Committee feels that commercial cultivation of marijuana should be allowed, FBMC Chapter 9.32 should be amended to regulate the activity and the Land Use & Development Codes should be amended to identify allowable zoning districts for the activity.

Medical Marijuana Dispensaries and Delivery Services

The Fort Bragg Municipal Code (FBMC) currently regulates the establishment of medical marijuana dispensaries (Attachment 2). FBMC Chapter 9.30 requires dispensaries to submit an application to obtain a "Medical Marijuana Dispensary Permit." The application must first be accepted or rejected by the Police Chief. Chapter 9.30 specifies the necessary background check and investigation of the application as well as the grounds for the Police Chief to reject an application. If an application is accepted, then the application is forwarded to the Community Development Department for processing using the same permit process and requirements as established for a use permit as defined in FBMC Title 17 (Coastal Land Use and Development Code) and Title 18 (Inland Land Use and Development Code). Title 17 and Title 18 allow medical marijuana dispensaries in the Light Industrial and Heavy Industrial districts. Chapter 9.30 is cross-referenced, and the requirement for a use permit is specified.

There are currently no medical marijuana dispensaries operating within the city limits. Two dispensaries are located within one mile of the city limits in the unincorporated jurisdiction of Mendocino County.

When the State begins issuing licenses under MMRSA, a local Medical Marijuana Dispensary Permit and a State license will be required before a dispensary can begin operation within the Fort Bragg city limits.

MMRSA also addresses delivery services for medical marijuana. If a city does not expressly prohibit delivery of medical marijuana within its jurisdiction, delivery will be allowed (with a State dispensary license). At this time, the City does not have an express ban on delivery services. However, since medical marijuana delivery services are not listed as a use type in the City's Land Use & Development Code and there are no similar uses, under the tenets of permissive zoning, medical marijuana delivery services are not permitted in Fort Bragg. That said, if the City wishes to ban delivery services, it would be prudent to enact an ordinance that expressly prohibits the activity prior to the State beginning to issue licenses. Alternatively, if the City wishes to allow delivery services, there may be modifications to the City's medical marijuana dispensary ordinance that would help ensure that the delivery services are conducted in a manner that protects the public health, safety and welfare of the community.

> **Staff recommendation:** Staff believes that the City's existing framework for permitting and regulating medical marijuana dispensaries is sufficient. The Committee should

consider whether or not medical marijuana delivery services should be allowed in Fort Bragg and make a recommendation to the Council. If the Council is supportive of delivery services, it could either defer to the State licensing process for dispensaries or establish local regulations as part of FBMC Chapter 9.30. Alternatively, if the Council wants to prohibit delivery services, it should enact an ordinance to expressly prohibit delivery services before the State begins issuing licenses. The State licensing process for dispensaries is expected to begin in January 2018, so ordinance amendments could be prepared any time within the next year and a half.

Medical Marijuana Transporters

The State has not yet determined the amount that local medical marijuana delivery services (by a State-licensed dispensary) will be allowed to transport. Large amounts will be considered "transport" and will require heightened security requirements.

> **Staff recommendation:** Staff recommends that the Committee take a "wait and see" approach to medical marijuana transporters at this time. Once the State releases its draft regulatory framework for medical marijuana transporters, then the Committee and/or Council should consider whether the City should enact parallel or stricter regulations, or no regulations at all.

Medical Marijuana Manufacturing

At this time, medical marijuana manufacturing activities (i.e., processing of marijuana, production of edibles, oils, tinctures, lotions and other products, and warehousing of marijuana products) are not permitted in Fort Bragg. The City has received a request from a prospective manufacturer, RootOne Botanicals, to establish a medical marijuana concentrate manufacturing operation in Fort Bragg. The City has determined that the use is not permitted under existing zoning regulations and amendments would be necessary in order to allow medical marijuana manufacturing. There are several communities (e.g., Oakland, Arcata, San Leandro) that currently allow and regulate medical marijuana manufacturing activities. Arcata's regulations were recently established in preparation for the anticipated rapid expansion of the marijuana industry if California voters approve an initiative authorizing recreational marijuana in November of 2016.

Under MMRSA, a State license will be required from the Department of Public Health to manufacture edibles or to test medical marijuana in any of its forms. Again, these licenses are not expected to be issued until January 2018.

> **Staff recommendation:** If the Committee is supportive of zoning regulations to allow medical marijuana manufacturing activities within the City of Fort Bragg, staff recommends that additional community input be sought and that the matter be brought to the full Council for direction prior to the investment of significant staff and attorney resources in the preparation of an ordinance. Preparing an ordinance regulating medical marijuana manufacturing will require analysis of various policy options. This work would be undertaken by the Community Development Department in coordination with our City Attorney's office.

ATTACHMENTS:

1. December 9, 2015 Public Safety Committee staff report on MMRSA
2. FBMC Chapter 9.30 - Medical Marijuana Dispensaries
3. FBMC Chapter 9.32 - Medical Marijuana Cultivation

CHAPTER 9.32: MEDICAL MARIJUANA CULTIVATION

9.32.010 Purpose
9.32.015 Definitions
9.32.020 Cultivation of Medical Marijuana
9.32.030 Enforcement
9.32.040 Penalty for Violation

§ 9.32.010 PURPOSE.

The purpose and intent of this Ordinance is to regulate the cultivation of medical marijuana in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City. It is not the intent of this ordinance to condone or legitimize the use of marijuana for non-medical purposes, or to create conflict or inconsistency between this Ordinance and (1) the Federal Controlled Substances Act; (2) the Compassionate Use Act; (3) the Constitutions of the United States or the State of California. (Ord. 880, § 2, passed 01-26-2009)

§ 9.32.015 DEFINITIONS.

For purposes of this chapter, the following words shall have the following meaning, unless the context clearly indicates otherwise.

ABATEMENT. The removal of marijuana plants and improvements that support marijuana cultivation which occupy an area or cubic feet in excess of the area and cubic feet that is allowed under this ordinance.

CULTIVATION. The planting, growing, harvesting, drying, or processing of marijuana plants, or any part thereof.

FULLY ENCLOSED AND SECURE STRUCTURE. A space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors.

INDOORS. Within a fully enclosed and secure structure.

OUTDOOR. Any location within the City of Fort Bragg that is not within a fully enclosed and secure structure.

PARCEL. Property assigned a separate parcel number by the Mendocino County Assessor.

PRIMARY CAREGIVER. The individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, as more particularly as set forth in California Health and Safety Code §11362.7(d), as may be amended.

QUALIFIED PATIENT. A person who is entitled to the protections of Section 11362.5 of the California Health and Safety Code and who meets the definition of “qualified patient” as defined in the Health and Safety Code section 11362.7(f).

MEDICAL MARIJUANA. Marijuana that is grown in accordance with state law.
(Ord. 880, § 2, passed 01-26-2009)

§ 9.32.020 CULTIVATION OF MEDICAL MARIJUANA.

A. Outdoor cultivation: It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within any zoning district in the City of Fort Bragg to cause or allow such parcel to be used for the outdoor cultivation of marijuana plants.

B. Indoor cultivation of marijuana restricted to Qualified Patients and Primary Caregivers: It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel in the City of Fort Bragg to cause or allow such parcel to be used for the cultivation of marijuana plants within a fully enclosed and secure structure on the parcel, except as outlined below in Sections 9.32.020(C) and 9.32.020(D).

C. Medical Marijuana for Personal Use. Medical marijuana for personal use shall be cultivated within the City of Fort Bragg in conformance with the following standards:

1. An individual qualified patient shall be allowed to cultivate medical marijuana indoors on the parcel where the qualified patient resides.

2. A primary caregiver shall only cultivate medical marijuana for a qualified patient for whom he/she is the primary caregiver.

3. Medical marijuana cultivation is permitted only on parcels with residential units. Medical marijuana cultivation is permitted only within a residential unit, a garage, or a self-contained outside accessory building that is secured, locked, and fully enclosed. The Cultivation of Medical Marijuana within a residential unit in a multifamily structure shall require administrative review (through a Minor Use Permit process without implementation of public notice procedures) and shall meet specific criteria, as set forth in a) through c) below:

a. Inspection of the cultivation area by a building inspector to confirm that no health or safety concerns are present; and

b. Written permission from the property owner; and

c. The Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.

4. Medical marijuana cultivation is prohibited on parcels adjacent to any school or public park.

5. The medical marijuana cultivation area shall not exceed 50 square feet per residence.

6. Medical marijuana cultivation shall occur only in a fully enclosed and secure structure.

7. Medical marijuana cultivation lighting shall not exceed 1200 watts.

8. The use of gas products (CO2, butane, etc.) for medical marijuana cultivation or processing is prohibited.

9. Medical marijuana cultivation for sale is prohibited.

10. From a public right of way, there shall be no exterior evidence of medical marijuana cultivation.

11. The qualified patient shall not participate in medical marijuana cultivation in any other location within the City of Fort Bragg.

12. The residence shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and these rooms shall not be used for medical marijuana cultivation.

13. Any medical marijuana cultivation area located within a residence shall not create a humidity or mold problem.

14. The qualified patient shall obtain the written permission of the property owner for the cultivation of medical marijuana.

15. The medical marijuana cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to use or storage of materials, processes, products or wastes.

D. Medical Marijuana Cultivation In Excess of 50 Square Feet. Any proposed medical marijuana cultivation by an individual qualified patient or primary caregiver that does not meet the cultivation area standard maximum of 50 square feet per residence shall require administrative review (through a Minor Use Permit, without implementation of public notice procedures) and shall meet specific criteria, as set forth in a) through d) below:

a) Documentation of medical need, such as a physician's recommendation or verification of more than one qualified patient living in the residence; and

b) Inspection of the cultivation area by a building inspector to confirm that no health or safety concerns are present; and

c) Written permission from the property owner; and

d) The Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.

In addition to the standards 1 through 15 listed in subsection C above, approved medical marijuana cultivation uses that exceed 50 square feet shall conform to the following standards:

1. The cultivation area shall not exceed an additional 50 square feet, for a total of 100 square feet; and

2. At a minimum, the medical marijuana cultivation area shall be constructed with a 1-hour firewall assembly of green board.

E. Public nuisance. It is hereby declared to be unlawful for any person owning, leasing, occupying, or having charge or possession of any parcel within the City of Fort Bragg to create a public nuisance in the course of cultivating marijuana plants or any part thereof in any location. A public nuisance may be deemed to exist, if such activity produces:

1. Odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public;

2. Repeated responses (more than three times in a one year time period) to the parcel from law enforcement officers;

3. Repeated disruption (more than three times in a one year time period) to the free passage of persons or vehicles in the neighborhood;

4. Excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public; or

5. Any other impacts on the neighborhood which are disruptive of normal activity in the area.

(Ord. 880, § 2, passed 01-26-2009)

§ 9.32.030 ENFORCEMENT.

A. The violation of this ordinance is hereby declared to be a public nuisance. Any person

violating any provision of this Chapter shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed $1,000.00, by imprisonment in the County jail not to exceed six months, or by both a fine and imprisonment.

B. A violation of the ordinance may be abated by the City Attorney by the prosecution of a civil action for injunctive relief and by the abatement procedure set forth in Chapter 6.12 of the Municipal Code.

C. Abatement procedure. The Code Enforcement Officer and/or the Chief of Police, or his or her designee (hereafter, the "Enforcement Official"), are hereby authorized to order the abatement of any violation of this Chapter by following the abatement procedure as defined in the Municipal Code chapter 6.12. In addition, the Code Enforcement Officer may require the property owner or tenant to personally abate/remove all medical marijuana plants and improvements to the property that exceed the limits set by this ordinance.
(Ord. 880, § 2, passed 01-26-2009)

§ 9.32.040 PENALTY FOR VIOLATION.

Cultivation of marijuana on parcels within the City that does not comply with this Chapter is subject to the penalties and enforcement as provided in Chapter 1.12, Chapter 6.12, and Chapter 9.32.

The remedies and penalties provided herein are cumulative, alternative and non-exclusive. The use of one does not prevent the use of any others and none of these penalties and remedies prevent the City from using any other remedy at law or in equity which may be available to enforce this section or to abate a public nuisance. (Ord. 880, § 2, passed 01-26-2009)

CHAPTER 9.30: MEDICAL MARIJUANA DISPENSARIES

Section

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9.30.030 Permit required
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9.30.050 Time limit for filing application for permit
9.30.060 Term of permits and renewals
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9.30.090 Grounds for rejection of medical marijuana dispensary use permit application
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9.30.220 Public nuisance
9.30.230 Criminal penalties
9.30.240 Civil injunction
9.30.250 Administrative remedies
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§ 9.30.010 PURPOSE AND INTENT.

It is the purpose and intent of this ordinance to regulate Medical Marijuana Dispensaries in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City. It is not the intent nor effect of this ordinance to condone or legitimize the use of marijuana.
(Ord. 850, passed - -2005)

§ 9.30.020 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. A person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a medical marijuana dispensary.

CHIEF OF POLICE. The Chief of Police of the City of Fort Bragg or the authorized representatives thereof.

CHURCH. A structure or leased portion of a structure which is used primarily for religious worship and related religious activities.

CONTROLLED SUBSTANCES. A drug, substance, or immediate precursor which is listed in any schedule in Cal. Health and Safety Code §§ 11054, 11055, 11056, 11057, or 11058.

DRUG PARAPHERNALIA. Shall have the same definition as Cal. Health and Safety Code § 11364.5, and as may be amended.

IDENTIFICATION CARD. Shall have the same definition as Cal. Health and Safety Code §§ 11362.5 *et seq.*, and as may be amended.

MEDICAL MARIJUANA DISPENSARY or ***DISPENSARY.*** Any facility or location where medical marijuana is made available to and/or distributed by or to two (2) or more of the following: a primary caregiver, a qualified patient, or a person with an identification card, in strict accordance with Cal. Health and Safety Code §§ 11362.5 *et seq.* A ***MEDICAL MARIJUANA DISPENSARY*** shall not include the following uses, as long as the location of the uses are otherwise regulated by this code or applicable law: a clinic licensed pursuant to Cal. Health and Safety Code Chapter 1 of Division 2, a health care facility licensed pursuant to Cal. Health and Safety Code Chapter 2 of Division 2, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Cal. Health and Safety Code Chapter 3.01 of Division 2, a residential care facility for the elderly licensed pursuant to Cal. Health and Safety Code Chapter 3.2 of Division 2, a residential hospice, or a home health agency licensed pursuant to Cal. Health and Safety Code Chapter 8 of Division 2, as long as any such use complies strictly with applicable law, including, but not limited to, Cal. Health and Safety Code §§ 11362.5 *et seq.*

PERMITTEE. The person to whom a medical marijuana dispensary permit is issued.

PERSON WITH AN IDENTIFICATION CARD. Shall have the same definition as Cal. Health and Safety Code §§ 11362.5 *et seq.*, and as may be amended.

PRIMARY CAREGIVER. Shall have the same definition as Cal. Health and Safety Code §§ 11362.5 *et seq.*, and as may be amended.

QUALIFIED PATIENT. Shall have the same definition as Cal. Health and Safety Code §§ 11362.5 *et seq.*, and as may be amended.

SCHOOL. An institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any child or day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college, or university.

(Ord. 850, passed - -2005; Am. Ord. 870, § 14, passed 8-25-2008)

§ 9.30.030 PERMIT REQUIRED.

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City the operation of a medical marijuana

dispensary unless the person first obtains and continues to maintain in full force and effect a medical marijuana dispensary permit from the City as herein required.
(Ord. 850, passed - -2005)

§ 9.30.040 APPLICATIONS.

A. All applications for medical marijuana dispensary permits shall be filed with the Chief of Police. The application shall be made under penalty of perjury.

B. Any application for a medical marijuana dispensary permit shall include the following information:

1. The full name, present address, and telephone number of the applicant;
2. The address to which notice of action on the application and all other notices are to be mailed;
3. Previous addresses for the past five (5) years immediately prior to the present address of the applicant;
4. Written proof that the applicant is over the age of 18 years of age;
5. Photographs for identification purposes (photographs shall be taken by the Police Department);
6. The medical marijuana dispensary business history of the applicant, including whether the person, in previously operating in this or another City, county, or state under permit has had the permit revoked or suspended, the reason therefore;
7. The name or names of the person or persons having the management or supervision of applicant's business;
8. Whether the person or persons having the management or supervision of applicant's business have been convicted of a crime(s), the nature of the offense(s), and the sentence(s) received therefore;
9. The names of all employees, independent contractors, and other persons who will work at the medical marijuana dispensary;
10. The proposed security arrangements for insuring the safety of persons and to protect the premises from criminal activity;
11. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the medical marijuana dispensary;
12. An accurate straight-line drawing prepared within 30 days prior to application depicting the building and the portion thereof to be occupied by the medical marijuana dispensary:
    a. The property line of any other medical marijuana dispensary within 500 feet of the primary entrance of the medical marijuana dispensary for which a permit is requested; and
    b. The property lines of any church, school, park, or residential zone or use within 500 feet of the primary entrance of the medical marijuana dispensary.
13. Authorization for the City, its agents and employees to seek verification of the information contained within the application; and
14. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.

C. If the applicant has completed the application improperly, or if the application is incomplete, the Chief of Police shall, within ten (10) days of receipt of the original application, notify the applicant

of the fact and, on request of the applicant, grant the applicant an extension of time of ten (10) days or more to submit a complete application.

D. The fact that an applicant possesses other types of state or City permits or licenses does not exempt the applicant from the requirement of obtaining a medical marijuana dispensary permit.
(Ord. 850, passed - -2005)

§ 9.30.050 TIME LIMIT FOR FILING APPLICATION FOR PERMIT.

All persons who possess an outstanding business license heretofore issued for the operation of a medical marijuana dispensary, must apply for and obtain a medical marijuana dispensary permit within 90 days of the effective date of this ordinance. Continued operation of a medical marijuana dispensary without a permit more than 90 days after the effective date of this ordinance shall constitute a violation of this chapter.
(Ord. 850, passed - -2005)

§ 9.30.060 TERM OF PERMITS AND RENEWALS.

Medical marijuana dispensary permits issued under this chapter shall expire one (1) year following their issuance. Medical marijuana dispensary permits shall be renewed by the Chief of Police for additional one (1)-year periods upon application by the permittee, unless the permit is suspended or revoked subject to § 9.30.180. Applications for renewal shall be made at least 45 days before the expiration date of the permit and shall be accompanied by the nonrefundable fee referenced in § 9.30.070. When made less than 45 days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted on as provided herein for action upon applications for permits.
(Ord. 850, passed - -2005)

§ 9.30.070 FEES.

Every application for a medical marijuana dispensary use permit or renewal shall be accompanied by a nonrefundable fee, as established by resolution adopted by the City Council from time to time. This application or renewal fee is in addition to fingerprinting, photographing, and background check costs and shall be in addition to any other permit fee imposed by this code or other governmental agencies. Fingerprinting, photographing, and background check fees will be as established by resolution adopted by the City Council from time to time.
(Ord. 850, passed - -2005)

§ 9.30.080 INVESTIGATION AND ACTION ON APPLICATION.

After the making and filing of the application for the medical marijuana dispensary use permit and the payment of the fees, the Chief of Police shall conduct a background check of the applicant and all employees and conduct an investigation of the application. After the background checks and investigation are complete, and in no case later than 45 days after receipt of a completed application, the Chief of Police shall either formally accept or reject the application in accordance with the provisions of this chapter.
(Ord. 850, passed - -2005)

§ 9.30.090 GROUNDS FOR REJECTION OF MEDICAL MARIJUANA DISPENSARY PERMIT APPLICATION.

The grounds for rejection of a medical marijuana permit application shall be one (1) or more of the following:

A. The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule, or regulation;

B. The applicant has violated any local or state law, statute, rule, or regulation respecting the medical marijuana business;

C. The applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit;

D. The applicant, his or her agent or employees, or any person who is exercising managerial authority on behalf of the applicant has been convicted of a felony, or of a misdemeanor involving moral turpitude, or the illegal use, possession, transportation, distribution, or similar activities related to controlled substances, with the exception of marijuana related offenses for which the conviction occurred prior to passage of Proposition 215. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere;

E. The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices;

F. An applicant is under 18 years of age;

G. The medical marijuana dispensary does not comply with the Title 18 (Land Use and Development Code); and/or

H. The required application or renewal fees have not been paid.

(Ord. 850, passed - -2005)

§ 9.30.100 APPEAL FROM CHIEF OF POLICE DECISION TO REJECT APPLICATION.

The Chief of Police shall cause a written notice of his or her decision to reject a medical marijuana dispensary permit application to be mailed to the applicant by certified U.S. mail, postage prepaid, return receipt requested, to the address provided by the applicant for sending of notices. An applicant aggrieved by the Chief of Police's decision to reject an application may appeal the decision in accordance with the procedures described in Chapter 1.08. If an appeal is not taken within such time, the Chief of Police's decision shall be final.

(Ord. 900, § 11, passed 12-12-2011)

§ 9.30.110 PROCESSING OF MEDICAL MARIJUANA DISPENSARY PERMIT.

If an application is not rejected by the Chief of Police, it shall be forwarded to the Community Development Department for processing using the same permit process and requirements for a use permit as defined in Title 17 (Coastal Land Use and Development Code) and Title 18 (Land Use and Development Code).

(Ord. 850, passed - -2005; Am. Ord. 900, § 12, passed 12-12-2011)

§ 9.30.120 OPERATING REQUIREMENTS.

A medical marijuana dispensary shall meet the following operating requirements for the duration of the use.

A. A medical marijuana dispensary shall be open for business only between the hours of 8:00 a.m. and 6:00 p.m. on any particular day.

B. A medical marijuana dispensary shall maintain a current register of the names of all employees currently employed by the dispensary.

C. A medical marijuana dispensary shall maintain records of all patients and primary caregivers using only the identification card number issued by the county, or its agent, pursuant to Cal. Health and Safety Code §§ 11362.71 *et seq.*, as a protection of the confidentiality of the cardholders, or a copy of the written recommendation from a physician stating the need for medical marijuana.

D. The building entrance to a medical marijuana dispensary shall be clearly and legibly posted with a notice indicating that persons under the age of 18 are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.

E. A medical marijuana dispensary may possess no more than eight (8) ounces of dried marijuana per qualified patient or primary caregiver. However, if a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the dispensary may possess an amount of marijuana consistent with the patient's needs as prescribed by the recommending doctor.

F. No marijuana shall be smoked, ingested, or otherwise consumed on the premises of the dispensary. The term "premises" includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings. The building entrance to a medical marijuana dispensary shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming marijuana on the premises or in the vicinity of the dispensary is prohibited.

G. No marijuana shall be grown or cultivated on the premises of the dispensary.

H. No medical marijuana dispensary shall hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the dispensary.

I. No medical marijuana dispensary shall conduct or engage in the commercial sale of any product, good or service. The term "commercial sale" does not include the provision of medical marijuana on terms and conditions consistent with this chapter and applicable law.

J. No accessory uses shall be permitted in conjunction with a medical marijuana dispensary.

K. No medical marijuana dispensary shall sell or display any drug paraphernalia or any implement that may be used to administer medical marijuana.

L. A medical marijuana dispensary shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from criminal activity.

M. A medical marijuana dispensary shall provide the Chief of Police with the name, phone number, and facsimile number of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the dispensary. The dispensary shall make every good faith effort to encourage residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the police or planning departments.

N. A medical marijuana dispensary shall meet all the operating criteria for the dispensing of medical marijuana as is required pursuant to Cal. Health and Safety Code §§ 11362.5 *et seq.*

O. Signage will be limited to one (1) sign on premises not to exceed four (4) square feet.
(Ord. 850, passed - -2005)

§ 9.30.130 MINORS.

A. It shall be unlawful for any permittee, operator, or other person in charge of any medical marijuana dispensary to employ any person who is not at least 18 years of age.

B. Persons under the age of 18 shall not be allowed on the premises of a medical marijuana dispensary unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.
(Ord. 850, passed - -2005)

§ 9.30.140 DISPLAY OF PERMIT.

Every medical marijuana dispensary shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for the medical marijuana dispensary in a conspicuous place so that the same may be readily seen by all persons entering the medical marijuana dispensary.
(Ord. 850, passed - -2005)

§ 9.30.150 REGISTRATION OF NEW EMPLOYEES.

A. As a further condition of approval of every medical marijuana dispensary permit issued pursuant to this chapter, every owner or operator shall register every employee with the Police Department within five (5) business days of the commencement of the employee's period of employment at the medical marijuana dispensary, in order to provide necessary information to conduct background checks.

B. Each employee shall be required to provide two (2) recent color passport-quality photographs and, at the discretion of the Chief of Police, shall allow himself or herself to be fingerprinted by the Police Department for purposes of identification.

C. Failure to register each new employee within five (5) days of the commencement of employment, or to maintain a current register of the names of all employees shall be deemed a violation of the conditions of the permit and may be considered grounds for suspension or revocation of the permit.
(Ord. 850, passed - -2005)

§ 9.30.160 TRANSFER OF PERMITS.

A. A permittee shall not operate a medical marijuana dispensary under the authority of a medical marijuana dispensary permit at any place other than the address of the medical marijuana dispensary stated in the application for the permit.

B. A permittee shall not transfer ownership or control of a medical marijuana dispensary or transfer a medical marijuana dispensary permit to another person unless and until the transferee obtains an amendment to the permit from the Chief of Police stating that the transferee is now the permittee. The amendment may be obtained only if the transferee files an application with the Chief of Police in

accordance with § 9.30.040, accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the Chief of Police determines in accordance with § 9.30.090 that the transferee would be entitled to the issuance of an original permit.

C. No permit may be transferred when the Chief of Police has notified the permittee that the permit has been or may be suspended or revoked.

D. Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked.

(Ord. 850, passed - -2005)

§ 9.30.170 SUSPENSION AND REVOCATION — NOTICE.

A. Any permit issued under the terms of this chapter may be suspended or revoked by the Chief of Police when it shall appear to him or her that the permittee has committed any one (1) or more of the acts or omissions constituting the grounds for suspension or revocation under this chapter.

B. No permit shall be revoked or suspended by virtue of this section until a hearing shall have been held by the Chief of Police. Written notice of the time and place of the hearing shall be served upon the person to whom the permit was granted at least five (5) days prior to the date set for the hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery to the permittee, or by depositing it in the U.S. mail in a sealed envelope, postage prepaid, addressed to the permittee at the address provided by the permittee for sending of notices.

(Ord. 850, passed - -2005)

§ 9.30.180 SUSPENSION AND REVOCATION — GROUNDS.

It shall be a ground for suspension or revocation of a permit if any permittee or person, his or her agent, or employee:

A. Does any act which violates any of the grounds set forth in § 9.30.090 which sets forth the grounds for rejection of an application for a permit for the medical marijuana dispensary;

B. Violates any other provision of this chapter or any local or state law, statute, rule, or regulation relating to his or her permitted activity;

C. Conducts the permitted business in a manner contrary to the peace, health, or safety of the public;

D. Fails to take reasonable measures to control the establishment's patrons' conduct resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic-control problems, or creation of a public or private nuisance, or obstruction of the business operation of another business; or

E. Violates or fails to comply with the terms and conditions of the permit.

(Ord. 850, passed - -2005)

§ 9.30.190 SUSPENSION AND REVOCATION — APPEALS.

Any permittee aggrieved by the decision of the Chief of Police in suspending or revoking a permit may, within ten (10) calendar days, appeal the decision in accordance with the procedures described in Chapter 1.08. If a decision of the Chief of Police to suspend or revoke a permit is not appealed within ten (10) calendar days, the decision shall be final.

(Ord. 900, § 13, passed 12-12-2011)

§ 9.30.200 SUSPENSION OR REVOCATION WITHOUT HEARING.

If any person holding a permit or acting under the authority of the permit under this article is

convicted of a misdemeanor in any court for the violation of any law which relates to his or her permit, the Chief of Police shall revoke the permit forthwith without any further action thereof, other than giving notice of revocation to the permittee. If a permit is summarily revoked pursuant to the provisions of this section, a permittee may, within ten (10) calendar days, appeal the revocation in accordance with the procedures described in Chapter 1.08. During the pendency of the appeal, the permit shall be deemed suspended. If the appeal is not taken within ten (10) days, the decision of the Chief of Police shall be final.
(Ord. 900, § 14, passed 12-12-2011)

§ 9.30.210 SEPARATE OFFENSE FOR EACH DAY.

Any person that 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 a violation thereof, and shall be penalized accordingly.
(Ord. 850, passed - -2005)

§ 9.30.220 PUBLIC NUISANCE.

Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is hereby declared a public nuisance and may be abated by the City pursuant to Chapter 6.12 of the Fort Bragg Municipal Code.
(Ord. 850, passed - -2005)

§ 9.30.230 CRIMINAL PENALTIES.

Any person who violates, causes, or permits another person to violate any provision of this chapter commits a misdemeanor.
(Ord. 850, passed - -2005)

§ 9.30.240 CIVIL INJUNCTION.

The violation of any provision of this chapter shall be and is hereby declared to be a public nuisance and contrary to the public interest and shall, at the discretion of City, create a cause of action for injunctive relief.
(Ord. 850, passed - -2005)

§ 9.30.250 ADMINISTRATIVE REMEDIES.

In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this chapter may be subject to administrative remedies, as set forth by City ordinance.
(Ord. 850, passed - -2005)

§ 9.30.270 SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the ordinance. The City Council of the City hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that one (1) or more sections, subsections, sentences, clauses, or phrases may be held invalid or unconstitutional.

(Ord. 850, passed - -2005)

City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Minutes
Public Safety Committee

Wednesday, December 9, 2015 | **3:00 PM** | **Police Department Conference Room**
250 Cypress Street

MEETING CALLED TO ORDER

Committee Member Peters called the meeting to order at 3:00p.m.

ROLL CALL

Present: 7 - Scott Deitz, Lindy Peters, Linda Ruffing, Fabian Lizarraga, Marie Jones, Tom Varga and Debbie Desmond

Absent: 1 - Steve Orsi

APPROVAL OF MINUTES

Approve Minutes of November 12, 2015 Special Meeting

A motion was made by Committee Member Deitz, seconded by Committee Member Peters, that the Committee Minutes be approved. The motion carried by a unanimous vote.

PUBLIC COMMENTS ON NON-AGENDA ITEMS

None received

CONDUCT OF BUSINESS

3. Receive Report Regarding New Legislation Regulating Medical Marijuana

Community Development Director, Marie Jones, presented her written summary report regarding new legislation regulating medical marijuana.
The following was noted during discussion of this item:

- Committee Member Deitz asked if the new regulations will go into effect when licenses are issued in 2018. Jones replied yes, in certain situations that are described further in her report.
- The City of Fort Bragg already has a Marijuana Cultivation Regulation ordinance. It is recommended by the League of California Cities that the regulation be in both the City's Municipal Code and the Zoning Ordinance.
- If the City Council wants to make changes to the City's medical marijuana cultivation regulations, it needs to be done prior to March 1, 2016.
- The question of regulating delivery needs to be added to the current City ordinance. The City can either allow or prohibit delivery within the City limits, although since there are currently no dispensaries in the City, the only way citizens would be able to receive their medical marijuana is by delivery. The common thinking is that if you don't have any dispensaries, then you need to allow delivery. There are two dispensaries just south of town where citizens can purchase medical marijuana, so that may be sufficient.

- The City of Fort Bragg currently allows dispensaries, but the process to get one approved is very difficult, so dispensaries have so far only been located in the County.
- The City issued a business license to operate a medical marijuana edibles business in the City of Fort Bragg to Route One Botanicals in November. After subsequent research, Jones realized that she needs to get some direction from City Council before moving forward with issuing these types of business licenses. City Manager Ruffing reminded the Committee that a business license does not confer a right to conduct the business, that it is merely a mechanism for collecting tax.
- Ruffing stated that in order to frame this discussion she wanted to say that this is only an introduction on the subject and direction from the Committee is not being sought at this point. This is a very complicated subject with many factions and is something that will likely be brought to the whole Council in January or February.
- The cultivation ordinance is perhaps the only time sensitive issue. The City has a cultivation ordinance that is not part of our zoning code. The City Attorneys will look specifically at the language of our ordinance and the language of the new ordinance to determine if it should be part of our zoning code, which the City would need to do before March 1, 2016.
- The question is, does the Council want to consider manufacturing of edibles consistent with light manufacturing zoning. This direction needs to come from Council as a whole, not just committee. Jones needs to know the answer to this question as she is receiving many calls on the subject.
- Committee Member Peters asked who is responsible for inspection for the manufacturing of edibles. Jones mentioned when the law was written they were thinking about dispensaries more than manufacturers. She assumes Environment Health would be responsible for inspections. This law was put in place as a framework where the State Department of Public Health issues licenses and establishes a regulatory framework for the manufacturing and labeling of edibles. This likely will not come until 2018. Growing and Transportation would also be regulated.
- The City has experience with regulating cultivation and dispensaries, but the transportation issue hasn't really been dealt with, except by law enforcement. This will create a whole new licensing structure for transportation and for delivery.
- David Ayster and Jon McColley of Root One Botanicals presented their written business plan and discussed their ideas with the Committee. They are interested in starting a manufacturing facility that will be strictly wholesale, not a store front business. They hope to be a processor and manufacturer of cannabis concentrates. They would like to provide concentrates to the growing edible, medicinal, skin and body care and tincture market.
- Peters asked if an employee would be delivering marijuana to the facility for processing and if Route One Botanicals would be producing the edibles or just the concentrate to sell to others to produce edibles. They would be selling the concentrate and they are currently working under the Compassionate Care Law as licensed care givers as far as transportation.
- The new laws concerning regulations for transportation will not be in place until 2018. Prior to 2018 the City could review the current County laws for transportation and if the Council is comfortable with those regulations, they could possibly adopt them for the City.
- Ruffing asked Ayster and McColley when they plan to open their business. They replied they will be ready once they have worked through their business plan and the City is ready, but they are proceeding with caution. They realize this is a polarizing issue without a lot of precedence.
- Lt. Gilchrist brought up the fact that processing marijuana into hash oil is still illegal. The Governor has indicated that it will eventually become legal. The laws are not easy to understand. Deitz mentioned that there are other facilities already doing this, so there must

be some legality to it on some level.

- The Medical Marijuana Regulatory Agency will be established. The Governor will be appointing a Chief, who will assemble a team to work on the regulations. The team will consist of 13 different agencies. There are established frameworks for agriculture that can be stepped into. The state will limit the number of licenses. There will be two types, one for non-volatile extractions and one for volatile extractions.
- Concentrates can be viewed as medical marijuana but the laws that limit their manufacturing and possession are still on the books. After January 1st the new regulatory agency will have to start wading through these laws.
- The state has given themselves two years to decide how they will be regulating all of the various issues surrounding this subject. Cities are grappling with what to do in the meantime. The State has said they will abide by whatever City or County regulations are put in place. They State is trying to bring this industry into regulation and is encouraging everyone to work within the local framework. The state is also trying to open this new industry up to small business.
- Deitz stated that he feels a use permit would be appropriate for such a business. He asked if Root One opened their business today, what regulations would they be operating under. The answer was the Compassionate Care Act and any City guidelines that are in place.
- Ruffing stated that unfortunately a business license was issued to this business when it shouldn't have been. The City has permissive zoning that says if it is specifically identified as a use, then it is regulated as established in the code and if it's not identified as a use, it may be prohibited. The policy issue for the Council is to figure out if this is a use that they want to accommodate in the City of Fort Bragg. If it is, they then need to decide what the regulatory framework is and then go through the legislative process to establish regulations to govern the use.
- Peters brought up the fact that a few years ago the Federal Government came into dispensaries in Ukiah and arrested a number of people, claiming that it is still illegal under Federal law. It was stated that the Feds don't recognize County or State law.
- In the states like Colorado and Washington, where marijuana is now legal, they have established separate certified testing labs for medical and recreational marijuana. The state wants to regulate the potency of the product. They are tested for many chemicals also.
- Root One Botanicals has secured a building and a lease for their business north of town but in the City limits, at 740 North Main.
- As far as zoning, Jones believes the product would be considered under food and beverage manufacturing. Concerns would be smell, security and waste discharge, depending on the manufacturing process used. The City needs to decide through our current zoning ordinance that this type of manufacturing will not be allowed, or that it is allowed and make a use type for it and decide what the use permit requirements will be. Unless the Council gives direction that the City does not want it at all, there has to be a process to give the businesses a license because they won't be able to get a state license without a local license.
- As Ayster understands it, the licenses for this industry will be overseen and enforced by the Department of Consumer Affairs and the Department of Public Health, as they are known to have strict enforcement for their regulations. Root One has contacted the Board of Equalization and they walked them through the process of being a concentrate manufacturer for cannabis and getting a sellers permit, so they are setting up right now to be able to handle this.
- There may be less need for dispensaries in town if delivery of the product is allowed. Delivery can be regulated as well. There are currently couriers who do this type of delivery now. There is the potential to be able to order online and have it delivered to your house by

FedEx.

- Deitz asked Chief Lizarraga if he could research what the enforcement for manufacturing is right now and where it is going.
- There is a potential for the City to benefit financially from this new market with permit fees, licensing fees, sales tax if there are retail outlets allowed, and new jobs.
- The advice that the City has received is that it has until January of 2018 when the state process is in place to have this worked out.
- It is in the infancy stage right now, but legalization is right around the corner and there is still a great deal that needs to be figured out. It is likely that won't happen quickly.
- Peters stated the Committee will move this item along to the Council for their direction and a broader discussion on how to proceed. At that point Root One will be further along as far as understanding what they are dealing with from a business standpoint. He believes that it is inevitable that California is the next state to go with legalization of recreational marijuana.
- Jones mentioned that she is concerned about bringing this forward to City Council at this very uninformed stage and feels the next step should be for the subject to come back to the Committee to see if the Committee feels that some sort of regulation is appropriate. It then needs to be discussed as far as how to set up the use process and what requirements would be involved. Also licensing fees, delivery and cultivation needs to be discussed. Then the results can then be brought forward to City Council.
- Ruffing mentioned that the City Attorney will need to be involved in the process.
- The Chief will research how other City P.D.s are handling the new laws and regulations.
- Jones will follow up with Salinas and Shasta City to see what their regulations are and how they are allowing these types of businesses to operate within their cities.
- The current cultivation ordinance that the City has is very reasonable. It works and allows for compassionate use. New case law allows cities to prohibit cultivation but Ruffing does not believe that is where this community wants to go with this issue.
- Peters mentioned that it is beneficial to have a real business model such as Route One to assist the City in dealing with this issue, instead of a hypothetical one. He believes it will be good to work this out alongside a business in the industry that wants to work with the City. Root One is happy to make themselves available as a resource for the City.

The Committee will be most likely to be ready to discuss this issue again at the February Public Safety Committee meeting if the Committee is able to collect all the information and feedback by then.

1. Receive Oral Report on Updated Emergency Plan and Multi-Jurisdictional Hazard Mitigation Plan

The following was noted during discussion of this item:

- The Police Chief and City Manager reviewed the emergency plan and made changes to make it more applicable to Fort Bragg. The revised edition is about half the size of the original and it covers everything the City of Fort Bragg would need to address in a variety of emergency situations such as earthquakes, tsunamis, power outages and fires.
- The Emergency Plan is based on the Incident Command System (ICS) as well as the Standardized Emergency Management System that is used in California. The ICS plan works very well and delineates all tasks and responsibilities which makes it very clear who is responsible for what.
- Once the plan is adopted, all of the current information, such as names and numbers for everyone in the Police Department, Public Works and Fire Department will be plugged into the plan. The plan will be kept at those departments and with the City Manager so everyone will have access to it.

- Everyone in the Police Department is familiar with the ICS system. Others will need to be trained. The plan will be reviewed and updated as needed.
- Peters suggested that the hospital be added to the distribution list for the plan. Ruffing also suggested the school district, State Parks, Fish and Wildlife and the Coast Guard.
- Many of the non-perishable food, water and emergency supplies mentioned in the plan will be stored at the Police Department.
- The Emergency Operations Center will be activated at different levels. Level one would be activated when it is believed that something might happen and the situation is just being monitored. Level two would be when an emergency is imminent and a crew is set to staff the EOC. In between those two levels is when someone will be accessing logistics as far as food and water. Town Hall can also be used for food storage. The Food Bank may be available for food storage as well.
- The 2013 emergency plan for the City was updated, approved and put into place. Shortly after that, the County developed a much more comprehensive plan that the City Manager and the Chief of Police have recently re-worked for Fort Bragg. The plan is in place now. The City Manager is the Emergency Services Director in the case of any emergency. Other roles in case of emergency are explained in the plan.
- The City has many new employees that will be trained on the ICS system. All employees are required to take the ICS 100-200 training as soon as possible after being hired, which can be taken online. After that, they are sent to the upper level trainings as they become available. Supervisors are required to take even more advanced ICS courses.
- All public employees take and subscribe to the oath of affirmation set forth in the California Constitution that declares them to be disaster service workers in time of need. The City's Administrative Services Director, Scott Schneider, has put together a pamphlet for City employees to help them better understand the role of a Disaster Services Worker.
- Ruffing believes that the City is well prepared to respond to any emergency that might come up this winter. All of the City's generators have been tested and are operational, the propane vendors have been contacted and requested to make deliveries often so that the tanks do not become less than half full, the internal computer and communication lines are installed in the EOC, the water system is in very good shape, the storm drains have been cleaned, the City is working on hazardous tree removal and there are some leaks in City buildings that are being dealt with.
- The Chief is working with Anna Shaw at the Hospitality Center on keeping the Extreme Weather Shelter available to those who need it. They have agreed to accept those in need that the Police Department personnel bring to them, even if it is in not during regular shelter check in hours. If necessary, they will put them up in their lobby for the night.
- It has been quite a while since the City has done a full scale exercise for response to an emergency. The plan is to do an exercise with Managers and Mid-Managers in the City once the cabinets are installed in the EOC and stocked with necessary supplies. This will make the community feel more secure about the preparedness of the City.
- Ruffing stated that the citizens of Fort Bragg should understand that they need to be prepared to take responsibility for themselves and their neighbors. There are many links on the City web site to assist citizens so they can prepare for emergencies.
- The City has worked with the County Office of Emergency Services on coordination of the response in case of an emergency on the coast, but in a big event such as a large earthquake, Fort Bragg will most likely be on its own. Fortunately the City has a long history of taking care of itself and has great first responders who are very well trained.
- The Multi-Jurisdictional Hazard Mitigation Plan is now in Legistar. There is a resolution on next Monday's Council agenda for the Council to adopt the plan.
- The Federal Emergency Management Agency (FEMA) requires counties to have a local

hazard mitigation plan in order to mitigate hazards before they become disasters. The County has a plan that was adopted in 2008. They are required by FEMA to be updated every five years, so in 2013 they started the process and received an extension from FEMA. In 2014 they completed the process of updating the county wide multi-hazard mitigation plan, which included participation from the Cities of Fort Bragg, Willits, Ukiah and Point Arena.

- The plan identifies a whole host of various hazards and also mitigations for them. In order to be eligible for FEMA hazard mitigation funding, the agency has to adopt the plan within a year of FEMA approval of the plan. They approved the plan on December 29, 2014, so the plan is coming to the Council for approval at the next meeting on December 14th. Once approved Fort Bragg will be eligible for FEMA funding.
- There is nothing in the plan that the City isn't already doing. The funding will not be available until a disaster or local emergency has been declared.

The new and improved Emergency Plan will be brought forward to the City Council. There are still a number of appendices that will be developed and integrated into the plan. It is a living breathing document that doesn't necessary have to go to Council for approval every time it is updated.

2. Receive Oral Update on Status of Emergency Operations Center Upgrade Project

Sergeant Gilchrist presented his oral report to the Committee.
The following was noted during discussion of this item:

- The Emergency Operations Center (EOC) plans have been reviewed from the ground up. The telephone lines have been tested and Internet is available.
- There will be five work stations set up for the Incident Command System (ICS), each with their own cabinet, computer, phone and box of supplies. The specific phone lines will be designated in the plan so those at other EOCs will know how to reach which stations.
- A mobile base station has been purchased that can be moved around as needed.
- The Police Department has a Ham antennae but not a Ham radio yet. The Ham radios are still used quite extensively in ICS operations, usually for monitoring. It is still a viable secondary means of communication. The Department is also looking as the possibility of purchasing satellite phones.
- The new Police Department generator is working, though there are still a few glitches that are being worked out.
- Lt. Gilchrist has completed the supervisory ICS training for his new position as a Lieutenant.
- Police Department Officers gained a great deal of exposure to the ICS system during their participation in assisting with the Lake County Valley Fire. Many of our officers were there the following day providing mutual aid. The Fire Camp that was set up worked amazingly well to feed, clothe and bed hundreds of people.
- Chief Orsi mentioned that the PG&E camp at the mill site during the last big storm worked very well. PG&E will still have access to the mill site in the event of an emergency.
- Public Works Director Varga contacted CalTrans about the problem with traffic signals being out in an emergency. Currently the City is not allowed to respond to any issues like this on Main Street as it is CalTrans' responsibility. It is a hazard at night when the lights are out, especially for people who don't even know there is a light there. The City wants to get it in writing from CalTrans that they do not want the City to respond in any way in this

situation, even with something as small as placing flares in the intersection. Currently officers will often place their patrol cars on either side of the intersection with their amber lights flashing to alert drivers.

MATTERS FROM COMMITTEE / STAFF

Deitz mentioned that the City may get some push back on the new marijuana regulations from the old timers and citizens such as the loggers. Ruffing suggested that perhaps when the item comes back to the Public Safety Committee the City can put out a notice specifically inviting citizens to come voice their opinions and concerns with the issue. Informal discussion at the Committee level is important to the process.

ADJOURNMENT

The meeting was adjourned at 4:50p.m. by Committee Member Peters.

City of Fort Bragg

416 N Franklin Street
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Text File

File Number: 16-178

Agenda Date: 5/9/2016 **Version:** 1 **Status:** Consent Agenda

In Control: City Council **File Type:** Scope of Work

Agenda Number: 7A.

Approve Scope of Work for CDBG Business Loan Development and Loan Servicing Activities

The Community Development Block Grant (CDBG) program provides opportunities to boost economic development in Fort Bragg through provision of subsidized loan funding for eligible businesses. Loan funding may become available if the City successfully applies for a CDBG Business Assistance Loan Program in a new grant application. In addition, for larger loans, the City is eligible to apply for CDBG Over-the-Counter (OTC) loan funds on an "as needed" basis when eligible businesses and projects are identified. The City's most recent loan development and loan servicing contract with Community Development Services ended on March 31, 2016. City staff lacks the specialized knowledge to perform loan underwriting activities, to prepare loan proposals, or to perform other activities required for a successful Business Assistance Loan Program or OTC application. In addition, the City has several outstanding business assistance loans that require CDBG-compliant, post-funding tasks. In order to be pro-active in the creation of economic development opportunities as well as to ensure compliance with existing loan requirements, it would be helpful to engage the services of a qualified CDBG business loan consultant. Consultant fees may initially be funded with General Administration funding from the open 2014 CDBG grant. If a successful OTC application is funded, loan and application development costs specific to a funded OTC project may be retroactively reimbursed through the OTC grant. A CDBG-compliant procurement process is required in order to contract with a consultant for a maximum period of three years. Staff recommends issuance of a Request for Proposals for consultant services, as needed, not to exceed $20,000 for an initial period of up to 16 months or until October 31, 2017 (the termination date of the 2014 CDBG grant). If an additional grant that provides General Administration or Activity Delivery funding is awarded, consideration could be given to extending the contract period. The following scope of work is proposed for these activities:

- Networking, consultation, analysis, financial underwriting and other tasks necessary to develop CDBG-eligible Business Assistance and/or OTC loans pursuant to State HCD requirements and City guidance.
- Coordination with the City to ensure accurate and timely completion of CDBG OTC or other application processes.
- For funded projects, completion of Special Conditions documentation, loan closing documents, documentation of Public Benefit, and assurance of compliance with other HCD OTC and other CDBG funding requirements; and development and implementation of post-funding loan servicing procedures.
- Completion of annual and as-needed CDBG loan verifications, analyses, and reporting for funded loans, excluding loan payment processing and Form 1099-Interest preparation tasks that are completed by City staff.
- Other related economic development activities as may be appropriate and mutually agreed upon between City and consultant.

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City of Fort Bragg

416 N Franklin Street
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Text File

File Number: 16-179

Agenda Date: 5/9/2016 **Version:** 1 **Status:** Consent Agenda

In Control: City Council **File Type:** Resolution

Agenda Number: 7B.

Adopt Resolution Confirming the Continued Existence of a Local Drought Emergency in the City of Fort Bragg

RESOLUTION NO. _____*-2016*

RESOLUTION OF THE FORT BRAGG CITY COUNCIL CONFIRMING THE CONTINUED EXISTENCE OF A LOCAL DROUGHT EMERGENCY IN THE CITY OF FORT BRAGG

WHEREAS, California Government Code section 8630 empowers the Fort Bragg City Council to proclaim the existence of a local emergency when the City is threatened or likely to be threatened by the conditions of extreme peril to the safety of persons and property that are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this City; and

WHEREAS, California Government Code section 8558(c) states that a "local emergency" means the duly proclaimed existence of conditions of extreme peril to the safety of persons and property within the territorial limits of the City, including conditions caused by the drought; and

WHEREAS, on August 10, 2015, the Fort Bragg City Council adopted Resolution No. 3837-2015 declaring a Stage 1 Water Emergency and calling for immediate implementation of water conservation measures; and

WHEREAS, on September 30, 2015, the Fort Bragg City Council conducted an emergency meeting at which the City Manager reported that the City's Noyo River diversion was not reliably providing water due to low flows and high salinity content, thus critically impairing the City's ability to replenish water; and

WHEREAS, based on the aforementioned circumstances, the Fort Bragg City Council adopted Resolution No. 3856-2015, by which it declared a Stage 3 Water Emergency and instituted mandatory water conservation measures intended to reduce water use by 30% from the same period in the previous year as described in Title 14, Section 14.06 of the City of Fort Bragg Municipal Code; and

WHEREAS, at a regular meeting on October 13, 2015, the Fort Bragg City Council adopted Resolution No. 3857-2015, by which it reaffirmed Resolution No. 3856-2015 and its declaration of a Stage 3 Water Emergency; and

WHEREAS, at a regular meeting on October 13, 2015, the Fort Bragg City Council adopted Resolution No. 3858-2015, declaring a local drought emergency in the City of Fort Bragg; and

WHEREAS, at a regular meeting on November 9, 2015, the City Council of the City of Fort Bragg adopted Resolution No. 3865-2015, by which it continued the local drought emergency for an additional 30 days in accordance with California Government Code section 8630(c); and

WHEREAS, at a regular meeting on December 14, 2015, the City Council of the City of Fort Bragg adopted Resolution No. 3875-2015, by which it continued the local drought emergency for an additional 30 days in accordance with California Government Code section 8630(c); and

WHEREAS, at a regular meeting on December 14, 2015, the Fort Bragg City Council unanimously voted to reduce the Stage 3 Water Emergency to a Stage 1 Water Emergency; and

WHEREAS, at a regular meeting on January 11, 2016, the City Council of the City of Fort Bragg adopted Resolution No. 3883-2016, by which it continued the local drought emergency for an additional 30 days in accordance with California Government Code section 8630(c); and

WHEREAS, at a regular meeting on February 8, 2016, the City Council of the City of Fort Bragg adopted Resolution No. 3887-2016, by which it continued the local drought emergency for an additional 30 days in accordance with California Government Code section 8630(c); and

WHEREAS, at a regular meeting on March 14, 2016, the City Council of the City of Fort Bragg adopted Resolution No. 3890-2016, by which it continued the local drought emergency for an additional 30 days in accordance with California Government Code section 8630(c); and

WHEREAS, at a regular meeting on April 11, 2016, the City Council of the City of Fort Bragg adopted Resolution No. 3893-2016, by which it continued the local drought emergency for an additional 30 days in accordance with California Government Code section 8630(c); and

WHEREAS, while the immediate threat to the Noyo River diversion has receded as a result of recent precipitation, the City of Fort Bragg's water system remains imperiled unless and until the Summers Lane Reservoir is constructed, filled, and capable of providing supplemental water during periods of extreme low flows in the Noyo River;

NOW, THEREFORE, BE IT RESOLVED AND PROCLAIMED by the City Council of the City of Fort Bragg that for reasons set forth herein, said local emergency shall be deemed to continue to exist until the City Council of the City of Fort Bragg, State of California, proclaims its termination; and

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg will review the need for continuing the local drought emergency at least once every 30 days until the City Council terminates the local drought emergency; and

BE IT FURTHER RESOLVED that this resolution confirming the continued existence of a local drought emergency shall be forwarded to the Director of the Governor's Office of Emergency Services and the Governor of the State of California, as well as the Mendocino County Office of Emergency Services.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 9th day of May 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
DAVE TURNER,
Mayor

ATTEST:

_____
June Lemos
City Clerk

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City of Fort Bragg

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Text File

File Number: 16-176

Agenda Date: 5/9/2016 **Version:** 1 **Status:** Consent Agenda

In Control: City Council **File Type:** Committee Minutes

Agenda Number: 7C.

Receive and File Minutes from March 17, 2016 Public Works and Facilities Committee Meeting

City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
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Meeting Minutes - Final

Public Works and Facilities Committee

Thursday, March 17, 2016 **3:00 PM** **City Hall Conference Room, 416 N. Frankllin Street**

MEETING CALLED TO ORDER

Meeting opened at 3:10pm

Present: 1 - Dave Turner

Absent: 1 - Lindy Peters

ROLL CALL

Staff Members Present: Tom Varga, Crystal Prairie, Linda Ruffing, John Smith

ADJOURNMENT

Meeting was postponed by Committee Member Turner until the next regular meeting date of Thursday, April 21, 2013 at 3:00pm.

City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
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Text File

File Number: 16-181

Agenda Date: 5/9/2016 **Version:** 1 **Status:** Consent Agenda

In Control: City Council **File Type:** Minutes

Agenda Number: 7D.

Approve Minutes of Special Meeting of April 18, 2016

City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
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Meeting Minutes

Special City Council

THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY AS THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT NO. 1 AND THE FORT BRAGG REDEVELOPMENT SUCCESSOR AGENCY

Monday, April 18, 2016 | **3:00 PM** | **City Hall, 416 N. Franklin Street Downstairs Conference Room**

Special Closed Session

MEETING CALLED TO ORDER

Mayor Turner called the meeting to order at 3:00 PM.

ROLL CALL

Present: 5 - Vice Mayor Lindy Peters, Councilmember Michael Cimolino, Councilmember Scott Deitz, Councilmember Doug Hammerstrom and Mayor Dave Turner

1. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

Public Comment on the closed session item was received from Evan Dick and Rex Gressett.

2. CLOSED SESSION

Mayor Turner recessed the meeting at 3:14 PM. The meeting reconvened to Closed Session at 3:15 PM.

A. 16-142 PUBLIC EMPLOYEE PERFORMANCE EVALUATION; Pursuant to Government Code Section 54957: Title: City Manager

Mayor Turner reconvened the meeting to Open Session at 5:35 PM and reported that no reportable action was taken in Closed Session.

ADJOURNMENT

Mayor Turner adjourned the meeting at 5:35 PM.

_____
DAVE TURNER, Mayor

_____
June Lemos, City Clerk

IMAGED (_____)

City of Fort Bragg

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Fort Bragg, CA 95437
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Text File

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Approve Minutes of April 25, 2016

City of Fort Bragg

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Meeting Minutes

City Council

THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY AS THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT NO. 1 AND THE FORT BRAGG REDEVELOPMENT SUCCESSOR AGENCY

Monday, April 25, 2016 | **6:00 PM** | **Town Hall, 363 N. Main Street**

MEETING CALLED TO ORDER

Mayor Turner called the meeting to order at 6:00 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: 5 - Vice Mayor Lindy Peters, Councilmember Michael Cimolino, Councilmember Scott Deitz, Councilmember Doug Hammerstrom and Mayor Dave Turner

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

1A. 16-144 Presentation of Proclamation Recognizing May 2016 as Mental Health Month

Councilmember Hammerstrom presented a Proclamation recognizing May as Mental Health Month to Lucretia Renteria of Mendocino Coast Clinics.

1B. 16-148 Presentation of Proclamation Declaring the Month of May as Poppy Month

Vice Mayor Peters presented a Proclamation declaring the month of May as Poppy Month to Carol Brown and Jaclynn Larsen of the American Legion Auxiliary.

1C. 16-147 Presentation of Proclamation Recognizing May 2 through May 8, 2016 as Rhododendron Week

Councilmember Deitz presented a Proclamation declaring May 2 through May 8, 2016 Rhododendron Week to Nannette Giomi of the Noyo Chapter of the American Rhododendron Society.

2. STAFF COMMENTS

City Manager Ruffing remarked on:

- Summers Lane Reservoir project funding;
- Budget review workshop;
- Otis Johnson Park caretaker position.

Administrative Services Director Schneider reported on:

- June 4 Coastal Trail celebration.

Police Chief Lizarraga mentioned:

- April 30 Take Back Event for medication disposal;
- Update on Dennis Boardman homicide investigation.

3. MATTERS FROM COUNCILMEMBERS

Mayor Turner reported on:

- Downtown Watch meeting;
- Meeting with Skunk Train representatives;
- Department of Toxic Substances Control (DTSC) meeting regarding the Mill Site cleanup;
- Rooftop solar installations for low income homeowners through Home Energy Link Program.

Vice Mayor Peters spoke about:

- Cedar Street speed bumps;
- Mendocino Transit Authority's addition of a second coast-to-inland route;
- May 7 Cinco de Mayo celebration at Bainbridge Park.

Councilmember Hammerstrom reported on:

- Mendocino Council of Governments meeting;
- DTSC meeting;
- City employee appreciation event;
- Measure U forum.

4A. PUBLIC COMMENTS ON NON-AGENDA, CONSENT CALENDAR & CLOSED SESSION ITEMS (30 Minutes)

- Katie Turner-Carr spoke in opposition to Measure U.
- Jane Arnold, Department of Fish & Wildlife, spoke about ensuring that water diversions occur in a manner that does not adversely affect resources.
- Eric Dwyer requested that Items 7C and 7D be removed from the Consent Calendar to discuss project funding.

5. PUBLIC HEARING

6. CONDUCT OF BUSINESS

6A. 16-115 Receive Report and Consider Rejection of Wylatti Resource Management's Bid Protest and Consider Adoption of City Council Resolution Accepting the Bid of Rege Construction as the Lowest Responsive Bid, Awarding the Contract for the Summers Lane Reservoir Project, Project No. 2016-01, to Rege Construction and Authorizing City Manager to Execute Contract (Amount Not to Exceed $1,241,779.00; Account No. 651-6001-0731)

The City Council reviewed the Summers Lane Reservoir bid contract matter as outlined in the staff report presented by Public Works Director Varga. Following discussion, the City Council rejected the bid protest of Wylatti Resource Management and approved the bid of Rege Construction.

A motion was made by Councilmember Hammerstrom, seconded by Vice Mayor Peters, to reject the bid protest of Wylatti Resource Management. The motion carried by the following vote:

Aye: 4 - Vice Mayor Peters, Councilmember Deitz, Councilmember Hammerstrom and Mayor Turner
No: 1 - Councilmember Cimolino

A motion was made by Vice Mayor Peters, seconded by Councilmember Deitz, that this Resolution be adopted. The motion carried by the following vote:

Aye: 4 - Vice Mayor Peters, Councilmember Deitz, Councilmember Hammerstrom and Mayor Turner

No: 1 - Councilmember Cimolino

Enactment No: RES 3895-2016

4B. PUBLIC COMMENTS ON NON-AGENDA, CONSENT CALENDAR & CLOSED SESSION ITEMS (30 Minutes, If Necessary)

7. CONSENT CALENDAR

Approval of the Consent Calendar

A motion was made by Councilmember Deitz, seconded by Vice Mayor Peters, to approve the Consent Calendar. The motion carried by the following vote:

Aye: 5 - Vice Mayor Peters, Councilmember Cimolino, Councilmember Deitz, Councilmember Hammerstrom and Mayor Turner

7A. 16-146 Adopt City Council Resolution Authorizing Expenditure of Asset Forfeiture Funds and Amending the FY 2015-16 Budget to Purchase Three Fully-Equipped Police Electric Motorcycles (Amount Not to Exceed $70,000; Account #167-4215-0381)

This Resolution was adopted on the Consent Calendar.

Enactment No: RES 3896-2016

7B. 16-150 Adopt City Council Resolution Amending the FY 2015/16 C.V. Starr Community Center Budget to Include Mid-Year Budget Adjustments

This Resolution was adopted on the Consent Calendar.

Enactment No: RES 3897-2016

7C. 16-151 Adopt City Council Resolution Approving a Professional Service Agreement with SHN Consulting Engineers and Geologists, Inc. for Construction Quality Assurance Inspections for the Summers Lane Reservoir (Amount not to Exceed $38,850; Account No. 651-6001-0731)

This Resolution was adopted on the Consent Calendar.

Enactment No: RES 3898-2016

7D. 16-155 Adopt City Council Resolution Approving a First Amendment to the Professional Services Agreement with KASL Consulting Engineers, Inc. for Design and Engineering of the Chestnut Street Corridor Project and Authorizing City Manager to Execute Same (Amount Not to Exceed

$25,115; Account No. 413-5009-0731)

This Resolution was adopted on the Consent Calendar.

Enactment No: RES 3899-2016

7E. 16-161 Receive and File Minutes from the February 17, 2016 Public Safety Committee Meeting

These Committee Minutes were received and filed on the Consent Calendar.

7F. 16-160 Receive and File Minutes from the February 18, 2016 Public Works & Facilities Committee Meeting

These Committee Minutes were received and filed on the Consent Calendar.

7G. 16-159 Receive and File Minutes from the March 2, 2016 Finance and Administration Committee Meeting

These Committee Minutes were received and filed on the Consent Calendar.

7H. 16-157 Approve Minutes of April 11, 2016

These Minutes were approved on the Consent Calendar.

8. CLOSED SESSION

ADJOURNMENT

Mayor Turner adjourned the meeting at 7:01 PM.

_____

DAVE TURNER, MAYOR

_____

June Lemos, City Clerk

IMAGED (_____)