

**MINUTES OF THE WILLOWS CITY COUNCIL & PLANNING COMMISSION  
SPECIAL JOINT MEETING & REGULAR CITY COUNCIL MEETING & REGULAR  
CITY COUNCIL MEETING HELD**

**April 9, 2013**

1. Mayor Cobb called the meeting to order at 5:00 p.m.
2. **PLEDGE OF ALLEGIANCE:** Planning Commission Chair Kerri Warren led the Pledge of Allegiance.
3. **ROLL CALL:**  
  
    Present: Commissioners Carlyle, White, Woods & Chairperson Warren  
              Council Members Domenighini, Mello, Spears, Taylor-Vodden & Mayor Cobb  
  
    Absent: Commissioner Alves
4. **Public Comment:** None
5. **Presentations & Discussions:**
  - a) Presentation by Basin Street Properties:

Vin Smith, Project Manager for Basin Street Properties, introduced himself along with Project Manager Frank Marinello, and Bill White, Chairman. Mr. Smith announced that Basin Street plans to make an application to the City for a slight modification to the Residential portion of their approved development. He also stated that he wanted to take this opportunity to explain what Basin Street has been doing and where they are and give a quick summary of both of the projects that they processed through the City of Willows, and then talk about the suggested changes that they would like to make to the project. They will soon be submitting plans for plan check and approval for phase one of the development of the South part of the project, which is the Commercial portion, and they are currently working with two different prospective tenants for development of that property. They have submitted a request to CDBG to get a grant for construction improvements and those funds are directly tied to job creation. Basin Street still believes strongly in the development of this project and they have been working hard to find tenants that are interested in locating to that site. For the Residential portion of the project, the biggest hurdle for the project right now is the cost for connecting to Tehama Street. The infrastructure necessary for that first phase of development is a fairly large burden for one phase of a development for single-family homes and they hit the market when the prices of residential homes were declining rapidly and construction costs are going up rapidly and those two facts were not intersecting in a way that made it profitable for many of their residential partners to start. What they have been examining is an opportunity to change a portion of the residential project site by applying for a re-zone of a portion of the site to R-3, High Density Residential, to accommodate the development of multi-family residential uses. This will allow them to diversify the eighth phase of the project and to pursue different development partners where that

size and scope of the project can handle the initial cost of some of the improvements. They have had discussions with residential builders and a re-zone seems to be the best way to approach development. The portion that they are requesting to be re-zoned would be the entryway into the development and it would force quality and it will require that the project be consistent with all the other things they are trying to accomplish throughout the rest of the development of the residential site and they believe it will be a showpiece for the overall development.

The other item that has come up most recently is that the Walden Academy is interested in taking over a portion of property at the entry of the site at the first phase of development. Basin Street has had initial conversations with them and they are excited about the property and the opportunity. This is a use that is actually accommodated by - at least with the zoning part of things - a process that would have to be approved through the City. They are especially excited about both of these uses because it helps them defer the costs and they believe that by leveraging these projects they can relieve the burden of some of the infrastructure costs of the future phases of development, and those residential builders who they have been speaking to who haven't been able to agree to development because of the costs may now have an easier time developing the single-family home phases. Basin Street had their Commercial Project and Residential Project approved in 2009 and 2010 respectively and they indicated that they still intend on developing them and they aren't going anywhere and they are committed to making these projects succeed, but what they are finding in the market is that they need to make some adjustments and they are hoping that the City supports them in making those adjustments so that they can move forward and be successful with the development. The idea currently is that there will be approximately 180 multi-family units that could be used for market-rate senior housing or assisted living facilities and they will likely be rental units.

b) Long Term Planning Vision / Needs:

Chairperson Warren introduced this item stating that what the Planning Commission would like is for the Council to give them direction on what they would like them to focus on. The Commission currently deals with items that are brought to them, but she asked whether there was anything specific that the Council would like to see the Planning Commission work on.

Council Member Spears stated that currently the City has a lot of properties that are vacant and are not being utilized and he thinks the City needs to take a look at what they are going to do with those properties. The City needs to start filling in some of the pattern on existing properties in the City and become more critical as to developing a unified direction on those properties. He knows that in the Housing Element those properties have been mentioned in the past, but now that the market is starting to turn he thinks this is the time to look at consolidating their direction for all the vacant properties in the City. At the same time, the City needs to try to find a way to be more attractive to developers to come into the area - whether it is some type of futuristic concepts of fast-tracking applications but at the same time take a philosophy of being helpful and guiding prospective developers to a successful conclusion. He believes the City needs to go back and look at their maps and get serious about flow of property and how it is going to inter-mix and come up with a much finer solution in today's standards as opposed to what it was a few years ago.

Commissioner Woods stated that one of the things that she would like to see is more concrete guidelines for both multi-family and single-family residential. The Planning Commission has looked at Santa Rosa's guidelines and they liked much of its content. When applicants bring plans before the Commission, the Commission doesn't really have any set guidelines of that they would like to see. They have discussed what they would like to see in general but they don't have any firm requirements. She would like to see this move forward in the longer term because the City does not have that many properties that they will be able to develop, so with the projects that will be coming before the Commission she would really like to have guidelines that are consistent with the rest of the City and this is something she would really like for the Planning Commission to begin working on.

Chairperson Warren agreed, stating that when the Planning Commission was reviewing the Basin Street Properties submittal they had to go through every single piece of the project because there were no set guidelines. She stated that reviewing development plans is a long process to begin with, but having some set guidelines in place would make it a little bit easier to get through the process.

Commissioner Woods added that if the City did have guidelines in place, the guidelines could be given to the developers so they are aware of what the City would like to see and the developer would be able to submit their plans and not have the Commission reject them.

Council Member Domenighini, who sat on the Planning Commission for seven years, agreed. He stated that when an applicant comes before the Planning Commission with plans already drawn up, that is not the appropriate time for the Commission to decide what they would like to see. During his tenure with the Planning Commission, something that was always lacking is that the City doesn't have any long-term concept of how they want the City to look. There could also be various sub-topics such as parks and how they should fit into new development. Some of the best and most desirable neighborhoods in the City are those neighborhoods that have a wide range of designs and neighborhoods that were built-out over several decades allowing for diversity of design. He doesn't think future residential developments should consist of the "cookie-cutter" concept where every home is exactly the same. He would like to see the City have a master design of exactly what they would like to see with any future development projects. He thinks the master design should also include parks and recreational needs, as well as roads, sidewalks, etc.

Council Member Taylor-Vodden stated that when she was on the Planning Commission, the Commission denied an application and the applicant filed an appeal and the City Council overruled the Commission and approved the application, even though the Commission felt that they had very valid reasons for denying the application. She believes it is well-intentioned to say what we want but she asked if it can be enforced. Her question is if the City goes forward with developing design guidelines that the Commission wants to enforce, can they actually enforce it? City Planner Karen Mantele addressed this question and stated that if the City has an established vision and we pass that on to the developer, the developer will build as close to that vision as they can. If the City does not have a laid out vision, the developer will then bring to the Commission what they assume the City wants, and as Council Member Domenighini stated, it is not the time to plan when you are sitting before the Commission. Council Member Taylor-

Vodden asked again if it was enforceable. Ms. Mantele stated that enforceable is not the issue but instead whether the developer brings to the Commission what was approved within the design guidelines. If the developer brings a design that is the opposite of the design guidelines, then the Commission could tell them that they will not approve the design because that is not within the guidelines.

Council Member Domenighini stated that part of this process would be to get the City's vision integrated as part of the City's General Plan. He doesn't know if that would involve a complete revision of the General Plan or just an amendment. Commissioner Carlyle stated that the General Plan is basically the City's vision but there are other support documents within the plan such as Design Guidelines, Land Use, Zoning, etc. and they would all be compatible and would support the General Plan vision.

The Planning Commissioners indicated that they are requesting clear and concise direction from the City Council to allow the Commission to begin working on putting together design guidelines for new development in the City. The Council direction that was given was for the Planning Commission to gather up some samples from 4 or 5 different cities and look them over at the next Planning Commission meeting and begin developing design guidelines for the city. It was recommended that due to the fact that Basin Street intends on building out a large R-3 project in the future, that the Commission should make it their first priority to create specific guidelines for the R-3 zone.

c) Training & Staff Support for the Planning Commissioners:

Council Member Domenighini stated that in his seven years of sitting on the Planning Commission he attended very few trainings, most of which he paid for himself. He believes that when you have people that are willing to volunteer their time to the City, it should be the City's obligation to help to train them for their role and help to make them successful. He stated that the City is very lucky to have our Contract Planner, Karen Mantele, and that she is a great addition to the planning efforts in the City, but the Commissioners still need some training. He stated that the League of California Cities offers on-site training to Planning Commissioners at a minimal cost and he thinks this is something worth looking into. This would also give an opportunity to interested citizens who are considering applying for a seat on the Planning Commission to attend the training just to get an idea of what it involves to be a Planning Commissioner. Council Member Domenighini also stated that he would like to see the City get back to preparing written minutes of the Planning Commission meetings. It has been about three years since there have been any minutes transcribed and he would like to see this practice return. The Planning Commissioners all agreed that Commissioner training and minutes transcription are two things that are very important to them. Commissioner Carlyle stated that where the minutes are concerned it is very important that there be a written record of what occurred at the meetings, especially in an event where a Planning Commission decision would be appealed to the City Council. The Commissioners are all mindful that there would be a cost associated with these items, but perhaps this is something the Council could consider when they begin the preparation of the 2013/2014 fiscal year budget. Finance Director Tim Sailsbery stated that currently there is very little money in the training budget, but he will add some line items in the budget for training and a minute clerk for the Planning Commission and present this to the

Council at the Budget Meeting scheduled to take place on April 29 and the Council can decide at that time how to move forward. The City Manager added that it would be his suggestion to begin to earmark funds from anticipated increased future revenues, such as the increase in Transient Occupancy Tax, perhaps beginning in January 2014, and to use those additional revenues to possibly re-fund the Façade Improvement Program and to also be set aside for Planning Commission training and other additional Planning costs. He agrees that the City would benefit tremendously if the Planning Commissioners were required to attend the Planning Institute Training each year that is offered by the League of California Cities.

d) Code Enforcement:

Chairperson Warren stated that one of the big complaints that they get at the Planning Commission is when applicants come before them and the Commission explains to the applicants that they must abide by the rules or the conditions of approvals placed on their application, but then the applicants will get upset because other people are not complying to the same rules. One particular complaint they have heard repeatedly recently is about a commercial vehicle being parked on a residential street, along with other pieces of equipment and machinery. She knows that there is a 120 hour parking limit in residential zones, but according to Willows Municipal Code 10.50.090 which states that "No person shall park any commercial vehicle more than five hours in any residential district except: (1) While loading or unloading property and time in addition to such five-hour period is necessary to complete such work; or (2) When such vehicle is parked in connection with, and in aid of the performance of a service to or on a property in the block in which such vehicle is parked, and time in addition to such five-hour period is reasonably necessary to complete such service." She stated that she realizes that the Police Department is strapped, so the Commission's question to the Council is how important is it that Code Enforcement be addressed at some point? She stated that if the City has a code, and nobody is enforcing it, it is a moot point and essentially a free for all. Council Member Spears explained that in his previous position as Police Chief, the City had a Community Service Officer (CSO) that was responsible for Code Enforcement. He stated that once the City does start enforcing the code the Police Department should anticipate being inundated with complaints that the code is being enforced. However, you know that Code Enforcement is going well when you receive a lot of complaints. As far as Police Officers conducting code enforcement, within the current configuration of the department, it would likely be on a complaint basis, whereas, when the City had a CSO, that person was taking a proactive approach and would actually drive through the town looking for and pointing out violations. It is an economic issue now, with having cut the CSO's position and not refilling it and it is up to determination whether that position will be filled again in the future. Commissioner Warren asked why the Volunteers in Police Service (VIPS) couldn't deal with code enforcement issues. Council Member Spears stated that the VIPS don't have the depths of resource to be able to do this. Although a Code Enforcement Officer doesn't have to be a sworn position, the City sent the last CSO to a school to receive training dealing specifically with CSO duties, including how to handle code enforcement, enforcement tactics, interviews, investigative techniques, etc. and this is a training that the VIPS do not get. Council Member Taylor-Vodden asked if there is an opportunity for the City's Building Official to do some of the code enforcement. Council Member Spears stated that would be a decision for City Staff, but that would simply be adding another facet to the Building Official's job. Chairperson Woods said it boils down to whether the City wants to

enforce the code. Council Member Taylor-Vodden stated that there isn't any doubt that the City desires to enforce the code. Chairperson Woods stated that the next step would then be having somebody who would be able to do it. Chairperson Warren and Commissioner Woods stated that the big enforcement issue that keeps coming up to them is the commercial parking in a residential zone. Mayor Cobb addressed Police Chief Dahl and stated that he understands the Police Department is currently strapped for personnel and the Council and the Department are doing the best that they can to get those vacant positions filled, but he asked Chief Dahl if this is something that his officers could handle. Chief Dahl stated that it is something the Police Department could look at, but one of the issues, too, is that if the Planning Commission could refer these types of complaints to the Police Department, they could deal with them. One of the big issues the Police Department is having is that since he has been the Police Chief, he hasn't had one person come to him with a complaint that a commercial vehicle is parked in front of their home. He suggested that when the Planning Commission hears these types of complaints, that they refer the complainant to the Police Department and they will deal with it with the resources they have as best that they can. Chief Dahl agreed that a new CSO position would be fantastic, but he realizes where the City stands with money.

Mayor Cobb stated that the VIPS and the CSO can be utilized in several ways within the Police Department, but he doesn't like the word "enforcement". They are not armed individuals, they don't have extensive training, and although they are highly educated, they don't have the training that is involved to provide enforcement. Mayor Cobb's suggestion is that if the Planning Commission continues to receive complaints, that they refer them to the Police Department

The Finance Director interposed, stating that he believes we are dealing with separate issues. He stated that parking issues could be enforced from a Law Enforcement standpoint, and that Vice Mayor Taylor-Vodden brought up a question regarding the Building Official assisting with Code Enforcement. He explained that there are many other aspects of "Code Enforcement" here and he would ask that the City [Council and Planning Commission] be hesitant to have somebody discussing concerns over a zoning issue or if somebody didn't go through the proper sign permit process, to hand that over to the Police Department. Chairperson Warren agreed that it should not be generalized, and she reiterated that right now the Commission is more concerned over the complaints of the extended parking of the commercial vehicles parking in residential zones because this is the biggest complaint they have been having from citizens, and she concurred with Mr. Sailsbery's comments. Mayor Cobb stated that he believes Chief Dahl would forward a complaint that he received that is not within his authority or influence to investigate over to the appropriate department.

Commissioner Carlyle stated that besides the complaints that are involved with the Commercial truck parking, there is a lot of lack of code enforcement and lack of code compatibility with various houses. As it pertains to Design Review, the Commission wants things to look nice, but they also want them to look nice five years after they are constructed. In Willows if you drive down a few streets, you will find houses that look like they have a continuous yard sale going on and he believes there has got to be a lack of code compatibility with those types of appearances and those homes tend to bring down the visual appearance of the entire neighborhood. He realizes that there is a lack of sufficient Personnel, as he realizes this with the County in his role as County Counsel, and he understands that compatibility is not going to be complaint-driven

because many people have the mentality that their property is their castle and nobody is going to tell them what to do. If the City is going to have Code requirements, not just in terms of setbacks and design, but the height of the grass, what the yard should look like, etc., he believes that, at some point that becomes a City Council issue, it is a budget issue, it is a compatibility issue; but it also tends to under-cut everything that the Planning Commission is trying to do at the beginning, and then five years later it looks like a disaster.

e) Review of Zoning & Land Use Maps and Potential Zoning Text Amendments:

Commissioner Carlyle stated that if a person were to overlay the City's Land Use and Zoning Maps, they don't even come close to reflecting one another. Over time there has been an erosion of what has been permitted in various zones and so the Planning Commission is looking at trying to clarify some of those lines and maybe come up with some buffer areas to segue from residential to light manufacturing to commercial and things of that nature, so if you are looking at an R-1 Zone what you get now is a lot more than just R-1, you actually get a diversity. Now that is a strength to a point, but only if the City has a handle on what is out there. One of the things the Commission is looking at is a review of the Zoning and Land Use Maps and comparing what is on the maps to what is actually located in those zones in reality. Mayor Cobb thought this was a good idea because it is a necessity for the Commission and the City to have correct and accurate Zoning and Land Use Maps. Commissioner Carlyle said that this will be a long review process for the Planning and Commission and not something that can be completed in only a few months and currently the Commission is relying on the City Planner to assist with the project since she is the only staff member in the Planning department, so there would be no additional cost for this project other than what the City pays to the Planner. Commissioner Woods stated that as discrepancies are found or changes are made, the Commission would like to make the change by way of a zoning text amendment rather than a change to the entire Zoning Ordinance. She also stated that the Commission wants to come up with additional or more defined "definitions" of uses, as some uses are currently either not defined at all or are not very specifically defined.

The direction to the Planning Commission by consensus of the Council was for the Commission to continue to move forward with this project.

Mayor Cobb adjourned the Special Joint Planning Commission and City Council Meeting at 7:00 p.m. and called for a short recess. At 7:07 p.m. the meeting reconvened to the Regular City Council Meeting of April 9, 2013.

6. **Agenda Review:** It was **moved** by Council Member Domenighini and **seconded** by Council Member Taylor-Vodden to accept the April 9, 2013, City Council Meeting as presented. The motion unanimously passed.

7. **Presentations and Proclamations:**

a) Mayor Cobb presented Barbara LaDoucer of the American Legion Auxiliary a Proclamation declaring the month of May as "Poppy Month".

- b) Alan Schauer presented a Press Release Draft to the Council that explained that a group of volunteers from Willows has formed to prevent the invasion of the snowy egrets and black-crowned night herons in the City. The volunteer group, calling themselves "The Egret Team" hopes to prevent colonies from forming because once there are eggs in the birds' nests, it is illegal to disturb them. The team hopes that, given a "hostile welcome" throughout the town, the birds will colonize outside of the City where they belong. Mr. Schauer asked that if the City receives any bird complaints, staff should direct them to contact "The Egret Team". Scott Gruendl, Health Services Director was present at the meeting and stated that the Health Department will definitely get on board with assisting with eradication efforts, as did Glenn County Supervisor Mike Murray, also present at the meeting.

**8. Consent Agenda:**

**Motion** by Council Member Mello, **second** by Council Member Spears to approve the Consent Agenda as presented. The motion unanimously passed and the following items were approved/adopted:

- a) Approval of General, Payroll & Direct Deposit Check Registers (25846-25900; Z04175-Z04202; 32463-32485).
- b) Approval of the Minutes of the Willows City Council Regular Meeting held March 12, 2013.

**9. Public Hearings:**

- a) Conduct a Public Hearing and consider adoption of a Resolution approving the submittal of a CDBG PT/A Grant Application for a Housing Element Update:

City Planner Karen Mantele informed the Council that this is a Public Hearing that is required as part of a submittal of a CDBG Grant. Initially City Staff brought before the Council an item in January that was a Public Hearing for a Program Design stage and this is now at the application stage for a Planning and Technical Assistance (P/TA) Grant Application. This particular application is for a Housing Element Update and it is a requirement that Cities update their Housing Element every 5 years. The City has been successful in the past several years in obtaining grants in order to complete this and conduct this Housing Element Update. Staff is requesting through this application for \$35,000 to conduct the Element's update. The update is due to the Department of Housing and Community Development (HCD) on June 30, 2014, which is actually earlier than the past when they were due in the end of September, therefore, this is a shorter timeframe to have the Element updated and turned over to HCD. With the approval of the submittal of this application, the proposed Resolution does commit the City to a cash match which is required for all Grant Applications. This particular application would commit the City to pay \$1750 and source of this funding is available through Community Discretionary Funding that the City has. Attached to the Staff Report is a summary of the grant application and a Resolution that would need to be adopted as part of this update. Mayor Cobb opened the Public Hearing at 7:30 p.m. Pastor Phil Zabell, Executive Director of "Glenn Communities Working Together" spoke during the Public Hearing stating that his group has

been recognizing the need for Senior Housing in the community for the past few years and he reported that Glenn Communities Working Together in coordination with the County Planning Department were able to have a comprehensive Senior Housing Needs Assessment Study prepared for the entire County, including Willows. One of the outcomes of that study was that Willows was identified as the community that was least served in the area of Senior Housing. Part of that need will be met when Pacific Companies begins building their Senior Housing Project on Sycamore Street in the future, but that still leaves the other issue of market rate housing. Their group is currently in the process of doing a financial feasibility study with respect to market rate Senior Housing, so hopefully all of this will dovetail together and the City's Housing Element will also address the issue of Senior Housing. Mayor Cobb closed the Public Hearing at 7:32 p.m.

**Motion** by Council Member Taylor-Vodden, **second** by Council Member Domenighini, to adopt a Resolution approving a 2013 Super NOFA Grant Application for funding and the execution of a grant agreement and any amendments thereto from the Planning and Technical Assistance Community Development allocation of the State CDBG Program for a Housing Element Update. The motion unanimously passed.

- b) Conduct a Public Hearing and consider adoption of a Resolution approving the submittal of a CDBG PT/A Grant Application for a Housing Conditions Survey

The Planner explained that tonight's second PT/A application under the 2013 Super NOFA that the City is anticipating applying for would be \$35,000 to conduct a Housing Conditions Survey. In Ms. Mantele's research on when the City last had a study conducted, it was found that it was done in February of 1991. The Housing Conditions Survey in essence would help to assess what the City's current housing conditions are within the City and what that does is help establish the City to then apply for future grants for rehabilitation funds. The City, in the early 1990's, applied for rehab assistance for housing and this survey will assist in providing some up-to-date information on what the City of Willows needs and where they need to concentrate on using the rehabilitation funds if granted. There is a goal within the City's current Housing Element that states the City will ensure that the quality, safety, affordability and livability of the housing stock in the City is continually maintained or upgraded, and that dilapidated housing which cannot be improved is replaced. Essentially this survey would help identify those housing units that are in need of rehabilitation. There are also two policies within the City's current Housing Element. One policy states that the City will make maximum use of the public and private resources to help meet the identified housing need, which that program states that the City will assist in applying for funds that will help to rehabilitate affordable, low-income housing for families, including farmworker housing. That program states that the City should apply for funds as soon as NOFA's are released. The second policy within the Housing Element that states that the City will continually apply for Federal and State housing subsidy grants to maintain and rehabilitate homes and apartments where the local needs are met and that the City will continue the rehabilitation of sub-standard residential units by using Federal or State funding. So, with this application, staff is looking to meet two program policies within the City's Housing Element. Ms. Mantele stated that if the Council approves the submittal of this application, the City would have to commit to pay \$1750, similar to the previous item that the Council just approved. Additionally, there would be an approximate \$1000 cost for 3-CORE to prepare the grant

application. Although the City has a contract with 3Core to provide services to the City for grant preparation, this only includes one grant application per year, therefore the City would have to pay for 3Core to prepare this particular grant. Both the \$1750 City match funds and the \$1000 to prepare the grant could use funding from the Community Discretionary Fund. Brief Council discussion ensued and Mayor Cobb then opened up the Public Hearing at 7:42 p.m. and hearing no comments from the Public, he closed the Public Hearing at 7:42 p.m. It was then **moved** by Council Member Domenighini and **seconded** by Council Member Taylor-Vodden to adopt a Resolution approving a 2013 Super NOFA Grant Application for funding and the execution of a Grant Agreement and any amendments thereto from the Planning and Technical Assistance Community Development allocation of the State CDBG Program for a Housing Conditions Survey. The motion unanimously passed.

10. **Ordinances:** None

11. **Items introduced by City Council or Administrative Staff for discussion purposes only:**

Council Member Spears stated that he recently read in the newspaper that the Orland City Council approved a Memorandum of Understanding (MOU) with the City of Willows pertaining to the utilization of their Police Officers for patrol in the City of Willows. He stated that he does not recall that issue coming before this City Council. He had a question about this MOU and also a similar previous MOU between the Sheriff's Department and the City of Willows that was approved by the County Board of Supervisors. He asked if both of these MOU's were presented to, reviewed by and approved as to form and content by the City's Attorney in accordance with the City's Ordinance. Mayor Cobb stated that these MOU's were approved by the prior City Council and he asked the City Manager whether the MOU's were reviewed by the City Attorney. The City Manager stated that they were not reviewed by the City's Attorney. Council Member Spears stated that the issue that was presented by the previous Council was for the City to enter into negotiations and to look at the MOU. There was no MOU actually formulated at that time neither for the Sheriff's Department nor for the City of Orland. As a matter of fact, the City of Orland hadn't approved anything or had anything in their possession until recently when it had been reviewed and approved. Just like the Council has done on many other items this evening that were encumbering City funds, he is concerned that the MOU was not brought back in form and content for the full Council to review and approve. He stated he is not saying there are any improprieties, other than that of format and procedure and obligation of legality that the City Council is the body that has the encumberment to approve MOU's according to the Municipal Code. As he understands that the previous Council directed staff to develop the MOU's, but they still should have come back before the Council for approval as to form and content as to what the actual obligation or encumberment is to the City. Additionally, he stated that the Municipal Code requires that all MOU's must be reviewed and approved by the City Attorney to ensure that the City doesn't go down a road where they could get sued by some unforeseen usage of words or something of that nature, so he stated that he is rather concerned. Council Member Cobb asked the City Manager if Orland's MOU with the City is the same as the MOU the Sheriff's Department has in place with the City. The City Manager stated that they are virtually identical other than the changes that were made for Orland-specific items. The MOU was reviewed by County Counsel for legal sufficiency. If it is reviewed a second time for legal sufficiency, it

would essentially be a duplication of effort for the City Attorney to review what another Attorney has already said is legally sufficient for a public agency to enter into. Although the City Manager agrees that is a technicality, he simply didn't see the need because the direction from the prior Council was to explore and get an item in place to get help with law enforcement in the City because the City needed it. There was some delay on getting that task done, but again, he stated that staff has followed Council's direction in both occasions, and staff has implemented the direction that the Council had given them so he doesn't understand why we are rehashing this issue. This issue is completely different than the application process that the Council reviewed earlier in the meeting, because under State Statute there is a required Public Hearing process that the City must go through in order to apply for those grant monies, not something that the City is doing through another local agency through a cooperative effort. These agreements are already in place and the City cooperates with other agencies regularly, and therefore he doesn't see the need to have everybody's Attorney involved because he doesn't believe the County was trying to rip the City off in any way. The agreements that are in place are working very well and he doesn't see that there are runaway costs associated with them. The City had funding appropriated to cover those costs. The Police Department has recently hired a new Police Officer who was sworn in new yesterday. The second candidate they were going to hire failed the background investigation so the Police Department will have to begin that recruitment again. Staff will move forward as quickly as they can to recruit for and fill the Officer vacancies that the City still has, but in the meantime the Police Department still has a need to fill some shifts. The City of Orland approached the City of Willows and told staff that if the Police Department still had an interest to have assistance from their Police Department that they would be willing to participate. City staff let Orland review the agreement that was in place between the County and the City of Willows and they made some minor changes to the agreement and their Council approved it. The previous Council's direction was to get this done and in place to get the Police Department some temporary help. When the MOU was drafted, it was reviewed by County Council, approved by the Board of Supervisors and subsequently approved by the Orland City Council, so he believes the City just needs to move forward at this point. Mayor Cobb stated that if the MOU was reviewed by the County Council and approved by the Board of Supervisors, he doesn't see where the County would put their agency or the City of Willows in jeopardy. He just sees it as an additional cost to the City to have had the City Attorney also review the MOU. Council Member Domenighini asked if these particular MOU's are on a fixed term. The City Manager stated that the MOU's are only used on an as-needed basis and there isn't an established end date. Staff anticipated that the MOU's would come to a close some time around June or July of this year. Actually, one of the items that the Willows Public Safety Association has asked the Management was to incorporate an end date so it isn't an ongoing MOU. Management met with the Association and the Management asked them to draft some language for Management to look at and they are still waiting on that draft language to be presented to them. The Association has reviewed the proposition of having Orland also participate and they were 100 percent in favor of that, so staff will move forward accordingly. Council Member Domenighini stated the reason he asked is because it was his thinking that why not have some kind of permanent MOU in place because he would expect that some of these staffing shortfalls could occur quickly and the City wouldn't have an MOU in place. As a result, his thinking is why not have some kind of a permanent or automatic renewing of some type of MOU between the three agencies that would be ready to go in an emergency situation. Mayor Cobb asked if the City could just revert back to the current MOU with the Sheriff's Department

now. The City Manager stated that the agreements they have in place currently, although intended to be temporary, do not have an end date, so unless the City specifies an end date or sunset the MOU at some point, the City could always return to the terms and make adjustments as necessary to move forward. He stated he would not see a need for an ongoing, long term commitment unless the City was actually interested in contracting out for the service on a long term basis. That was not the intent of these particular MOU's. The MOU's for put in place to get short term fill-in for a staffing shortage which he believes will come to an end in May, so he thinks the City is drawing close to the 11<sup>th</sup> hour and will be putting these MOU's to rest in the not too distant future. Council Member Domenighini stated that he wasn't looking at any contracting out for services, but just as a hypothetical, suppose some kind of flu epidemic could easily take three Officers out in just a matter of hours and then all of a sudden you need to figure out how to handle the shifts. He wonders if the City could make the MOU's into a "ready-to-go" solution if something like this were to occur. Council Member Spears states that he agrees where Council Member Domenighini is coming from, from a standpoint where it doesn't even have to be an illness. It could be a situation such as an Officer-involved shooting or some other situation where you have 2, 3 or maybe 4 Officers involved in some type of critical incident that as a result of, they are relieved from their duties and the City could be placed in a situation of jeopardy again. However, he stated that is not the issue he is talking about and what he is bringing up is that it says specifically within the City's Municipal Code that any MOU's that are encumbered by the City have to be approved by the City Council and be reviewed for content and legality by the City Attorney, and those laws were put in the code for a reason and that is what he is bringing up. He is not saying there is anything wrong with the MOU's necessarily, other than form of content and procedure that for whatever reason was not taken in this case. He believes in the case of the MOU with the City of Orland, that there was ample time for staff to bring this item to the Council for consideration. The Council approves all other MOU's for labor contracts, and he believes this is a labor contract, whether people want to look at this as a labor contract or not, he stated that this is a labor contract. He stated that it bothers him that the direction from the Council was to go out, formulate, put together, and to look at implementing an MOU is not an open door saying for staff to just go out and do it. Council Member Taylor-Vodden stated that she respectfully disagrees with Council Member Spears. She stated that the Council directed the City Manager to implement the MOU's. Council Member Spears stated that he disagreed from a standpoint that the Municipal Code states that the Council can't do that. Council Member Taylor-Vodden stated that the City Manager put the MOU's in place per the direction of the previous City Council and that she is satisfied they are successfully working. Council Member Spears then asked if the City Council voted to accept an MOU. Council Member Taylor-Vodden stated yes, that the Council voted to direct the City Manager to move forward with the plan and they also during that same time period directed the City Manager to talk to the City of Orland in addition to the Sheriff's Department. Council Member Spears stated that the Council can't violate their own Municipal Code, and he believes that they are. Council Member Taylor-Vodden stated that that is just Council Member Spears' opinion. Council Member Spears then stated that he believes that if it is a matter of a difference of opinion, then he is requesting that this is something that should go to the City Attorney for his legal opinion. Mayor Cobb stated that he believes this would need to be placed on an agenda because they can't take action on that during tonight's meeting. The Council needs to continue their discussion and come to a result and then decide whether to place this on a future agenda and move forward. Mayor Cobb then inquired how often the City would intend to use Orland for coverage because it

seems to him that the Sheriff's Office has been handling coverage fairly well for the City already. The City Manager stated that the reality is that any shift that is open for coverage is first offered to Willows Police Officers, and if there isn't a Willows Officer available to take the shift, then the request goes to the Sheriff's Office. If there are no Sheriff's Officers that are willing to take the shift, then the shift would be offered to an Orland Police Officer. He reported that there have been no problems with these MOU's whatsoever and staff doesn't anticipate that there will be any problems. The Police Department is getting the help that they need and the Chief is thrilled with the relationship that the City has with both agencies and their willingness to step up and commit to helping the Police Department. There have been no incidences where a single question has ever even been raised as to the service that is being provided. City staff is working diligently on getting vacancies filled and there is an Officer that should be returning to work in the very near future and a new Officer that will start in a week. At that point the Police Department will be in much better shape, so the need to fill additional shifts will start to be mitigated and thereafter when additional personnel is hired it is anticipated that there will no longer be a need to rely on these other agencies for assistance. The spirit of cooperation among these three agencies is phenomenal and the level of service and cooperation that the City is getting is exceptional. He stated that he is proud that he has had an opportunity to implement these MOU's and move forward. He would hope that the continued bashing of this topic during Council Meetings is not diminishing the City's reputation among those other agencies.

Council Member Spears stated that at no time is he saying that anyone is doing anything inappropriate as to the coverage, and the spirit of cooperation is up to the highest regard for professional Law Enforcement Officers to help each other. He stated that what he is saying is that the Council, as a body, has to uphold the law like anyone else and that when you enter into an MOU agreement – a labor contract - it has to go back before the board to be approved to encumber the funds and the obligation by that entity. By the City's own Municipal Code, it doesn't say "may", it says "shall" present to the City Attorney all MOU's for review for legal content and format, and the last time he checked the word "shall" is a mandatory. It's not a matter of "if we feel like it". He stated that he has the highest regard for the County Counsel and he has the highest regard for the Attorneys for the City of Orland, but understand that their client in the case of the County Counsel is the County, and in the case of the Orland Attorneys their client is the City of Orland. He is not saying there were improprieties, but their focus, of course, is for the protection of their client and not the City of Willows so they may not have the keen eye that the Willows City Attorney may have. The City's Municipal Code is very explicit and for the Council to say that they will just go ahead and empower the City Manager, the Municipal Code says you can't do that. It states that the Council has to approve the MOU. The content of the contract could be perfect, but what he is saying is that procedurally and legally, by the Municipal Code, the procedure was not followed, and he wants it followed.

The City Manager stated that he would implore the Council just to move forward. This discussion is not necessary. The City Attorney has reviewed, previously and by request, an item concerning the City Manager's ability to hire under special circumstances, a Contractor to perform a special service for the City. That right and that authority is vested solely in the City Manager and not any other officer of the City. Under the Municipal Code, he is the Personnel Officer for the City. If this truly was a labor agreement, then the authority is vested squarely within the City Manager's office to hire whoever he pleases to get the job done. The City

Attorney has reviewed this previously and he has advised that the City Manager is the only officer that has that authority under the Municipal Code. This Council discussed the concept. The plan for staffing was brought before the Council and the Council directed staff to go out and put in place an agreement to get things done. That is exactly what City Management has done. Not only has staff completed the task given at the direction of the Council, but the agreements are in place and they are working on a fantastic basis. To now hire an Attorney to review what he has already reviewed and again say what the City Manager has the authority to do, is a waste of time and money and effort, but if the City Council wants to direct staff to do that, that is what staff will do. The City Attorney has stated that the City Manager has the authority to hire and dismiss employees and to complete labor agreements for the City.

Mayor Cobb then asked how he could determine the consensus of the Council in order to decide whether this item should be placed on a future agenda. Mayor Cobb asked if he can do it by roll call vote of the Council to determine consensus. The City Manager responded that he believed that would be appropriate. Mayor Cobb called upon the Clerk to conduct a roll call vote to determine consensus on whether this item should be placed on a future agenda with the following result: Ayes: Domenighini & Spears; Noes: Taylor-Vodden & Cobb; Abstain: Mello.

Mayor Cobb announced that no consensus was reached to place this item on a future agenda. Council Member Spears stated for clarification that as he understands it, this vote was not necessarily to agree or to deny any thoughts of action, but only to place this on a future agenda and asked if that was correct. Mayor Cobb stated that was correct.

## **12. New Business:**

- a) By consensus, direct staff to work with the City of Orland to jointly execute a tolling agreement with Glenn County and enter negotiations seeking agreement of restoration of property tax assessment fees improperly withheld from both cities:

The City Manager stated that this item was placed on the agenda at the request of the Orland City Manager and the tolling agreement was drafted by the Orland City Attorney. The agreement has also been reviewed by the Willows City Attorney who has advised that it is very straight-forward and that the City should consider implementing the agreement. The County, at the advisement of the State back during the days of Prop 1A, did some shifting of funding and moved funds from place to place to place and ultimately when the money came back to the City, it didn't all come back as a Property Tax. The County looked for a revenue opportunity and assigned the City a fee for the collection of all of those shifting mechanisms that resulted in money coming back to the County for ultimate distribution to the City. The Cities and the Counties have been fighting over this for the past few years, and the courts have recently ruled in favor of the Cities, stating that the Counties have been inappropriately charging this assessment. Glenn County immediately stepped forward and said that they were sorry to the Cities of Willows and Orland and said that they would refund those fees this year. What is still at question is how far back we can collect and there is currently an ongoing lawsuit and there is some debate about whether the statute of limitations on this would be one year or three years. We are now coming up on the eleventh hour for tax allocation and if we don't have an agreement in place with Glenn County

prior to the tax allocation, the City may lose its right to challenge legally in the future for the reimbursement of any fees that were charged in a year that could be available to us in that window – 2010 is the year in which it would drop off and 2011 and 2012 are still in question. Until the question of how far back we can collect is resolved by the courts, the City would like to enter into a joint tolling agreement with Glenn County and the City of Orland, which simply suspends the date at which the City would lose their statutory right to compel the County, through a court order, to pay the City if there were fees due. Staff doesn't believe that this would be necessary because the County did step forward immediately and indicated that they would pay this year but the City isn't sure how far back we can go, and the County, rightfully, is waiting for an answer to that question as well. What staff would like is to have an opportunity to meet and collaboratively discuss resolutions to these issues with the County at some point going forward. However, if the City lets the opportunity to execute the tolling agreement slip, statutorily the City would lose the right to recover the funds. The tolling agreement is simply a mechanism that allows all of the agencies to agree to hold things in place until there is a resolution. Then the City will know how many years of recovery they can do, and at that time, the City could enter into negotiations with the County on an ultimate resolution. Staff is seeking consensus of the Council to approve a joint tolling agreement between the Cities of Orland and Willows and the County of Glenn. Brief Council discussion ensued and it was the unanimous consensus of the Council to allow staff to jointly execute a tolling agreement with Glenn County and enter into negotiations seeking agreement of restoration of property tax assessment fees improperly withheld from both cities.

### **13. Council Member Reports:**

Council Member Mello, per previous direction of the Council, had submitted a report on tonight's agenda for the Council to commence a discussion regarding the potential replacement of the downtown Sycamore Street banner poles to be used for non-profits to advertise special events. Discussion ensued among the Council and Staff over the potential project. Rose Marie Thrailkill stated that local groups and organizations, as well as the Willows Chamber of Commerce, have offered to donate \$2500.00 towards the project if the City should decide to move forward with replacing the poles. After significant discussion, the consensus of the Council was to direct staff to get a total cost estimate of the project, including the poles, installation costs, ongoing maintenance costs, labor costs, etc. and to provide this information to the Council at a later date where they can continue with additional discussions and perhaps review some alternatives.

Council Member Domenighini wished to pass along a compliment that he heard from one of the Principals at Robertson & Ericson Civil Engineering firm in Chico that is doing some of the site work for the Senior Housing Project on Sycamore Street. He stated that they were very complimentary of the City's Public Works Director, the City Planner and the City Engineer and that they were very nice to work with.

Council Member Taylor-Vodden reported that attended a CEDS Advisory Board Meeting at the 3CORE office in Chico last week. She also reported that she attended a LAFCO Meeting this morning at Memorial Hall.

Council Member Spears reported that he attended last Friday night's Toys for Tots fundraiser dinner. He also stated that he will be attending a Senior Housing meeting this Thursday at noon at the Senior Nutrition Center. He reported that next Wednesday there is a Transportation meeting scheduled for 10:00 that he plans to attend.

14. **Public Comment/Written Communications:** None
15. **Executive Session:** None
16. **Adjournment:** Mayor Cobb adjourned the meeting at 8:38 p.m.

Dated: April 9, 2013

NATALIE BUTLER

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City Clerk

The City of Willows is an Equal Opportunity Provider