

G/L Account No	Total Amount	Extension	FUND Description	ACCT Description	DEPT Description
000 1045	-87823.82	-87823.82	Cash Clearing	Umpqua Bank-General	Checking
210 2400	112.22	-87711.60	Smip	Accounts Payable	
245 2400	133.20	-87578.40	Bld. Standards	Accounts Payable	
301 2400	55859.33	-31719.07	General	Accounts Payable	
313 2400	348.86	-31370.21	Willows Lightin	Accounts Payable	
318 2400	8928.47	-22441.74	Sewer Maint.	Accounts Payable	
325 2400	1807.75	-20633.99	Water Enterpris	Accounts Payable	
341 2400	-41.74	-20675.73	Zip Books-State	Accounts Payable	
343 2400	13165.10	-7510.63	Sb 2 Grant	Accounts Payable	
351 2400	4170.89	-3339.74	Computer Print	Accounts Payable	
352 2400	2619.36	-720.38	Clsa Delivery	Accounts Payable	
372 2400	720.38	.00	Gas Tax 2103	Accounts Payable	



# Willows City Council Draft Action Meeting Minutes March 28, 2023

City Council  
Rick Thomas, Mayor  
David Vodden, Vice-Mayor  
Jeff Williams, Councilmember  
Gary Hansen, Councilmember  
Casey Hofhenke, Councilmember

201 North Lassen Street  
Willows, CA 95988  
(530) 934-7041

City Manager  
Marti Brown

City Clerk  
Vacant

1. **CALL TO ORDER– 6:00 PM**

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

Councilmembers Present: Councilmembers Hansen, Hofhenke and Williams, Vice Mayor Vodden, and Mayor Thomas.

4. **CHANGES TO THE AGENDA**

None

5. **Proclamation presented recognizing National Vietnam War Veterans Day, March 29, 2023**

6. **PUBLIC COMMENT & CONSENT CALENDAR FORUM**

**Consent Calendar:**

**Passed** a motion to adopt Consent Calendar items a, b, d & e. (Unanimous).

**Moved/Seconded:** Councilmembers Hansen and Vice Mayor Vodden.

**Yes:** Councilmembers Hansen, Williams and Hofhenke, Vice Mayor Vodden and Mayor Thomas.

a. **Register Approval**

Action: Approved general checking, payroll, and direct deposit check registers.

b. **Minutes Approval**

Action: Approved City Council Minutes of the February 21 and 28, 2023, City Council meetings and February 27 and March 21, 2023 Special City Council meetings.

- c. **Pulled - Appointment of Planning Commissioners to the Willows Planning Commission.**  
Recommended Action: Receive applications, review, interview candidates and appoint new Planning Commissioners to serve on the Planning Commission
- d. **2022 Housing Element Annual Progress Report (APR)**  
Action: Approve the Housing Element APR.
- e. **2022 General Plan Annual Progress Report (APR)**  
Action: Approve the General Plan APR
- f. **Pulled - Training Reminder: Brown Act Prohibitions Memorandum to Council**  
Recommended Action: Council direction to waive privilege and make training memorandum public on City website.

**Passed** a motion to approve Consent Calendar item c (unanimous)

Moved/Seconded: Councilmembers Williams and Hansen

**Yes:** Councilmembers Williams, Hansen and Hofhenke, Vice Mayor Vodden and Mayor Thomas

**Passed** a motion to accept Consent Calendar item f (unanimous)

Moved/Seconded: Councilmembers Hansen and Williams

**Yes:** Councilmembers Hansen, Williams, Hofhenke, Vice Mayor Vodden and Mayor Thomas

## 7. DISCUSSION & ACTION CALENDAR

### a. **Mid-Year Budget Review and Adjustment**

Action: Adopted resolution approving the Mid-Year Budget

Moved/Seconded: Councilmember Hansen and Vice Mayor Vodden

**Yes:** Councilmembers Hansen, Hofhenke, Williams, Vice Mayor Vodden and Mayor Thomas  
(Roll call vote)

## 8. COMMENTS & REPORTS

- a. City Council Correspondence
- b. City Council Comments and Reports

## 9. CLOSED SESSION

### a. **Public Employee Appointment (§ 54957)**

Title: City Attorney

### b. **Conference with Legal Counsel – Existing Litigation (§ 54956.9) (1 case)**

Name of case: John O’Connell v. City of Willows et al, Superior Court of California, County of Glenn Case No. 20CV02511

### c. **Public Employee Performance Evaluation (§ 54957)**

Title: City Manager

**10. OPEN SESSION REPORT FROM CLOSED SESSION**

- a. No report

**11. ADJOURNMENT – 7:15 PM**

Dated: March 31, 2023

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Marti Brown, City Manager



# Willows City Council Draft Action Minutes Special Meeting April 6, 2023

City Council  
Rick Thomas, Mayor  
David Vodden, Vice-Mayor  
Jeff Williams, Councilmember  
Gary Hansen, Councilmember  
Casey Hofhenke, Councilmember

City Manager  
Marti Brown

City Clerk  
Vacant

201 North Lassen Street  
Willows, CA 95988  
(530) 934-7041

1. **CALL TO ORDER – 3:02 PM**

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

Councilmembers Present: Councilmembers Hansen, Williams and Hofhenke, Vice-Mayor Vodden and Mayor Thomas

4. **ADDITIONAL CLOSED SESSION REPORT FROM THE MARCH 28, 2023 CITY COUNCIL MEETING**

**Action:** To place the City Manager on paid administrative leave.

**Moved/Seconded:** Councilmembers Hofhenke and Williams

**Yes:** Councilmembers Hofhenke and Williams

**No:** Councilmember Hansen, Vice Mayor Vodden and Mayor Thomas

Motion failed.

5. **CLOSED SESSION**

a. **Public Employee Appointment (§ 54957)**

Title: City Attorney.

Potential Action: Review proposals for City Attorney services, conduct interviews of candidates and appoint a new contract City Attorney.

6. **OPEN SESSION REPORT FROM CLOSED SESSION**

**Action:** To execute an agreement with Prentice | Long PC for City Attorney services based on the retainer in the proposal; and delegate authority to Mayor Thomas to execute the contract.

**Moved/Seconded:** Councilmembers Hofhenke and Williams

**Yes:** Councilmembers Hofhenke, Williams and Hansen, Vice Mayor Vodden and Mayor Thomas

Motion passed.

7. **REGULAR SESSION – DISCUSSION AND ACTION**

a. **Letter of Support, Opposition or No Action – National Register of Historic Places for Willows-Glenn County Airport**

**Action:** To submit a letter of support to the Department of Parks & Recreation, Office of Historic Preservation related to the proposed application recognizing the Willows-Glenn County Airport as a historic place on the National Register

**Motion/Seconded:** Councilmember Hansen, Vice-Mayor Vodden

**Yes:** Councilmembers Williams and Hansen

**No:** Mayor Thomas, Vice-Mayor Vodden and Councilmember Hofhenke  
Motion failed.

## 8. ADJOURNMENT 6:32 PM

Dated: April 7, 2023

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Marti Brown, City Manager



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# DISCUSSION & ACTION CALENDAR



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Date: April 11, 2023  
To: City Council  
From: Pat Piatt, Community Development and Services Director  
& Nate Monck, Fire Chief  
Marti Brown, City Manager  
Subject: Purchase Flexibility for the Acquisition of a new Flat Bed Pickup, or Cab & Chassis

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**Recommendation:**

Approve purchase flexibility of a F550 truck or similar model and size vehicle during a time of continued supply chain issues. This action would remediate the action taken by council February 14, 2023.

**Rationale for Recommendation:**

To date, staff have made several unsuccessful attempts to purchase the vehicle approved by the City Council at the February 14, 2023 Council meeting due to the tremendous shortage of vehicles and supply chain demands. As a result, staff requests greater purchase flexibility in order to secure a vehicle that matches the needs of the Public Works Department while also staying within the Department's overall budget.

**Background:**

On June 27, 2022, the Council approved the Fiscal Year 2022-23 Operating Budget, which included replacement vehicle expenditures. As part of the FY 2022-23 Capital Outlay Budget, City Council approved \$60,000 for the purchase and outfitting of a new ¾ ton, flat bed, utility truck chassis to replace vehicle number 4, which was purchased in 1999, and removed from service in 2022. Funding for this purchase was originally allocated from the General Fund (60%) and from the Sewage Enterprise fund (40%). The Fire Chief was able to secure a USDA Grant, for a total of \$139,500 to match the City of Willows \$104,500, reducing the impact to the general fund while maximizing the ability to purchase vehicles. The USDA grant expires in September 2023, and for this reason, securing a vehicle and expending the funds are important to ensure the USDA funds are not lost.

To date, staff has made several unsuccessful attempts to locate a vehicle suitable for the needs of the Public Works Department. The sale of vehicle # 4 was made with the assumption that a replacement vehicle would soon follow. However, supply chain issues that began in 2020 and continue into 2023 have made it difficult to find a vehicle to purchase. Ordering a new vehicle



through the State of California's bargaining program is not possible at this point as the narrow window of opportunity to place an order has closed, and had the city placed an order, a vehicle would not be available until the fall of 2023. Staff pivoted and through shopping online and speaking directly with dealers, staff located new, 2022 model year vehicles that meet the City's needs. However, they were already sold before the city could purchase one.

Per the City of Willows Municipal Code (3.05.090) all purchases that exceed the \$5,000 signing authority of the City Manager must be publicly noticed. On January 7, 2023, a public notice was placed for quotes with a deadline of January 19, 2023, at 4:00 pm. Staff made direct requests to dealers who stated they had suitable ¾ ton, dual truck chassis in stock and staff encouraged those dealers to submit a quote. At the close of the bidding period, only one quote had been submitted; however, the recommended vehicle was not adequate to meet the demands of the Public Works Department.

### **Discussion & Analysis:**

Purchasing products that are limited due to supply chain demands has proven to be difficult given the delay necessary to meet the City's purchasing policy. By making a commitment to purchase a vehicle as soon as it's located, the City will have increased opportunity to make a purchase that meets the City's needs.

Staff has also received bids to replace the City of Willows Backhoe which are significantly higher than what was budgeted, partially grant funded.

As a result of these challenges, staff recommend obtaining the F550 Cab and chassis for approximately \$75,000, and then circulating a RFP to upfit the vehicle with a flat bed and dump lift. It is anticipated that this vehicle with upfit will cost approximately \$20,000. This F550 will be able to do all duties of the ¾ ton truck previously approved, as well as work in a more heavy-duty capacity as a dump truck.

This cost will also allow staff approximately \$160,000 left of grant funds to replace the current backhoe that was originally purchased in 1999.

With this methodology, staff will be able to obtain 3 of the immediately needed pieces of public works equipment, that will serve the most versatile functions: a flatbed truck with a dump lift, backhoe, and one side-by-side. It is anticipated that all grant funding will be expended with these three purchases, fulfilling the requirements of the already awarded USDA grant. Department Heads have met with the Public Works Superintendent and City Mechanic, who are in agreement that these purchases will best meet the City of Willows needs with the available FY 2022-23 resources.

Staff will continue to seek out grant funding for the larger dump truck in FY 23-24, which will no longer be compliant with emission standards in 2025.

**Fiscal Impact:**

There is no fiscal impact to the FY 2022-23 budget as funds were already allocated in the adopted FY 2022-23 budget. Funding for these purchases have been adjusted in the FY 2022-23 Mid-Year Budget Adjustment.

**Attachment:**

- Attachment 1: Resolution xx-2023



**City of Willows  
Resolution xx-2023**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILLOWS, CALIFORNIA,  
AUTHORIZING THE FLEXIBILITY OF STAFF TO PURCHASE A VEHICLE THAT BEST FITS THE NEEDS  
OF THE CITY WITHIN THE LIMITS APPROVED BUDGET.**

**WHEREAS**, the City Council of the City of Willows adopted the budget for Fiscal Year 2022-23 on June 27, 2022; and

**WHEREAS**, the purchase of a flatbed truck with a dump lift was approved for a cost of \$60,000 as part of the City's Capital Outlay; and

**WHEREAS**, due to supply chain issues and rising costs, vehicle sales occur too quickly for staff to bring to Council for a request for approval; and

**WHEREAS**, the costs have increased significantly and the purchase price including upfitting will be as much as \$95,000;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WILLOWS  
AS FOLLOWS:**

1. The above recitals are true and correct and are hereby incorporated into this Resolution as findings of the City Council of the City of Willows.

2. This is not a project and is therefore categorically exempt from CEQA.

3. The City hereby finds the quote by Work and Play Powersports for two side by side utility vehicles to be the lowest responsive quote and waives any irregularities in such quote in accordance with applicable law.

4. The City Manager is hereby authorized and directed to purchase a suitable vehicle that will meet the needs of the Public Works Department and perform the necessary upfitting if necessary, for an estimated amount of \$95,000.

5. This Resolution shall become effective immediately.

11. All portions of this resolution are severable. Should any individual component of this Resolution be adjudged to be invalid and unenforceable by a body of competent jurisdiction, then the remaining resolution portions shall be and continue in full force and effect, except as to those resolution portions that have been adjudged invalid. The City Council

of the City of Willows hereby declares that it would have adopted this Resolution and each section, subsection, clause, sentence, phrase and other portion thereof, irrespective of the fact that one or more section subsection, clause sentence, phrase or other portion may be held invalid or unconstitutional.

**PASSED, APPROVED AND ADOPTED** at the regular meeting of the City Council on this 11<sup>th</sup> day of April 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTESTED:

\_\_\_\_\_  
Richard Thomas, Mayor

\_\_\_\_\_  
Tara Rustenhoven, Deputy City Clerk



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Date: April 11, 2023  
To: Honorable Mayor and Councilmembers  
From: Marti Brown, City Manager  
Subject: City Council Swimming Pool Ad Hoc Committee

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**Recommendation:**

Receive update from the Pool Ad Hoc Committee on current progress; and Council to approve converting the City Council Swimming Pool Ad Hoc Committee to a Standing Committee with regularly scheduled meetings and a posted agenda to develop a long-range recreation vision for the city, including potential design and programming changes to Sycamore Park, an Aquatic Center, recreational programming, a budget for proposed changes, and identify potential funding sources.

**Rationale for Recommendation:**

On March 17, 2023, the City Attorney released a memo to the Council entitled: "Training Reminder: Meetings, Brown Act prohibitions against "serial" or "seriatim" meetings and related remedial actions, Committees and social media" (Attachment 1). In it, the City Attorney suggested that the current structure of the Ad Hoc Committee may be limiting the Council and Ad Hoc's ability to operate with full engagement and recommended several potential options to remedy the situation. One option would be to turn the Ad Hoc Committee into a Standing Committee.

**Background:**

In an effort to understand how this recommendation was developed, it's relevant to revisit the timeline, approved minutes and audio from past Council meetings as it related to establishment of the Swimming Pool Ad Hoc Committee, as well as the attached March 17 memo to the City Council (Attachment 1). To that end, the following timeline and approved plan of action is outlined below:

**January 10, 2023, Agenda – Approved Minutes**

**Council Ad Hoc Committee to Address the City's Swimming Pool**

Action: Mayor Thomas appointed Vice-Mayor Vodden and Councilmember Hofhenke to the

Council Ad Hoc Committee to Address the City's Swimming Pool with the consent and approval of the full Council. Moved/Seconded: No motion was required. Council consent. Yes: There were no votes cast.

From the Audio (January 10, 2023): Vice-Mayor Vodden expressed strong interest in including additional members of the public on the "Pool Committee." The City Attorney advised that was not part of the January 10 agenda and, therefore, could not be subject to a vote. Councilmember Hofhenke suggested that expanding the "Pool Committee" to include members of the public be placed on a future agenda.

### **Preparation for the January 24, 2023, Agenda**

In preparation for the January 24 agenda and based on dialogue during the January 10 agenda, the City Manager reached out to Vice-Mayor Vodden to confer with him about agendizing the appointment of a "Swimming Pool Steering Committee" to include members of the public. The Vice-Mayor agreed and it was agendized.

### **January 24, 2023, Agenda – Approved Minutes** **Swimming Pool Steering Committee**

Action: Established no time frame for a structure for appointing members of the public to a Swimming Pool Steering Committee to research options for renovating the City's existing swimming pool and/or fundraising for a new swimming pool and other associated structures. Moved/Seconded: No motion was required. There were no votes cast.

### **Discussion & Analysis:**

In an effort to provide greater access for public participation and for the committee to operate with staff support, staff recommends converting the Ad Hoc Committee to a Standing Committee that includes Vice-Mayor Vodden and Councilmember Hofhenke only or appoints members of the public to the Committee to serve with them. The Standing Committee meetings would be agendized and publicly noticed per the Brown Act and the Committee would meet in Council Chambers or the Eubanks Room. The appointed members of the Council would provide monthly verbal reports to the full Council on the Committee's progress and project status.

Staff also recommends that the appointed Councilmembers make recommendations to the full Council regarding the level of staff involvement desired and that the full Council take action on those recommendations on an as-need basis. This approach will ensure that staff receives explicit direction from the full Council after receiving staff analysis as to how to proceed on various aspects of the project and not be expected to take direction from one or two Councilmembers only. This will ensure transparency and that everyone is on the "same page" as it relates to Council direction and expectations for achieving the end goal. It also ensures that operational functions remain with City staff as outlined in the Municipal Code. In addition, it will confirm staff involvement at the beginning of various steps in the process to avoid

unnecessary delays in project development and/or diversions of Committee time on project design elements that may not be possible or require adjustments and additional staff analysis in order for them to be operational.

**Fiscal Impact:**

There is no fiscal impact.

**Attachment:**

- Attachment 1: March 17 Memorandum from the City Attorney – “Training Reminder: Meetings, Brown Act prohibitions against “serial” or “seriatim” meetings and related remedial actions, Committees and Social Media”

**ATTORNEY-CLIENT PRIVILEGE AND ATTORNEY WORK PRODUCT**

**MEMORANDUM**

**TO:** Mayor Rick Thomas, Vice-Mayor David Vodden, and Councilmembers Gary Hansen, Jeff Williams and Casey Hofhenke

**CC:** Marti Brown, City Manager

**FROM:** David G. Ritchie

**DATE:** March 17, 2023

**SUBJECT:** Training Reminder: Meetings, Brown Act prohibitions against “serial” or “seratim” meetings and related remedial actions, Committees and Social Media

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**BACKGROUND:**

There have been recent circumstances, including email correspondence by some members copied to multiple other elected members of the Council, and reported members in attendance at City ad-hoc committee meetings (creating a quorum). All involve matters within the subject-matter jurisdiction of the City and are anticipated or likely to come before council for decisions within the foreseeable future. These circumstances demonstrate an immediate need for further clarification and training of councilmembers on what constitutes a meeting, what are prohibited activities relating to gatherings outside of properly noticed meetings and what can constitute “serial meetings”, prohibited by the Brown Act.

**SUMMARY AND RECOMMENDATIONS:**

I have received reports that a quorum of members in attendance in at least one or more City-sponsored meetings relating to the swimming pool, originally stylized as an “ad-hoc” committee. This has caused me to review the parameters of this committee as established by council. In particular I take note of the comments by Vice-Mayor Vodden when he expressed that the committee not include any particular structure or parameters and entertain broadly any ideas from the public. The committee, as structured by Council is advisory in nature – meaning that it does not have the authority to make policy decisions. Further the committee does not have direct staff involvement and staff do not attend. The Committee did not have a set or regular schedule. It was not established with a prescribed limited specific time period (meaning it is open-ended as to how long the committee would endure).

Since the establishment of the committee, it has held meetings open to the public, but has not noticed any of these meetings in a manner that is consistent with the Brown Act. It is believed that at one or more of these meetings, a quorum was reached (e.g., a majority of council members was in attendance). It is not known in what capacity or to what extent the third member



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(not assigned by council as a committee member) actively participated, if at all. E-mail messages from certain committee members to staff are beginning to reveal that the discussions taking place are broadly about the direction of recreation and development of recreational facilities within the City. Some members of the public have made requests to have keys to City-owned facilities issued (this request was not granted) for the purpose of having contractors and/or other service providers inspect the facilities. These functions are historically and ordinarily strictly operational and conducted by staff rather than being conducted by advisory ad-hoc committee members. Moreover, these functions have never been known to be undertaken by ad-hoc committee members that are members of the public and not officials or employees of the City. Most often facility tours to vendors that may engage in public works design and construction, or repairs and maintenance are done within the context of an existing City-issued request for proposals so that the facilities inspection activities do not lead to allegations of an unfair proposal process in which some vendors get access and others do not. Issuing an RFP does not bind the City to move forward with a public works project but does help to create a level playing field for proposing firms and create circumstances that help the City directly compare proposals.

Overall, given the open-endedness and apparent broadening scope (the work of the Committee is not strictly defined), as well as the fact that a majority of council members appear to be attending meetings, and the committee or members are acting within operational areas, that this committee does not meet the strict requirements needed to be defined as an “ad-hoc” committee and is, in fact, a standing committee (if the third member in attendance is acting strictly in an observer role or if there have been no third members in attendance); or, alternatively, that the meetings of the committee are de facto meetings of the City Council (if the third member in attendance has engaged in any participation beyond being an observer ONLY).

**RECOMMENDATION 1: Meetings of the committee must be noticed as meetings of a Standing Committee and the Committee must operate as subject to the Brown Act. No city councilmembers who are NOT assigned to the Committee may attend other than in a limited capacity that they are OBSERVERS ONLY. Alternatively, the Council, should prescribe strict time limits and parameters over the scope of the subject-matter that the Committee will review, limit the Committee’s operational functions and ensure that it operates in a capacity that is advisory to the Council only. A third option is to disband the committee and have the issue taken up by the entire City Council that may result in new direction to staff and/or a new committee structure.**

A review of a range of email messages shows they were sent to a quorum of members of the City Council outside of a noticed meeting and pertaining to City business (relating to the pool, and access to pool facilities), and to the termination of the City Clerk.

**RECOMMENDATION 2: I am recommending that in addition to each of you reading this memorandum carefully. I will also be further recommending that Council, at its earliest opportunity, act to require a copy of the Ralph M. Brown Act (Brown Act) (Govt. Code 54950 et. seq.) be given to each member of the legislative body – a power**

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**provided for in Gov. Code 54952.7. Notwithstanding whether Council ultimately requires distribution of copies of the Brown Act to each member, I recommend that each member read the Act in its entirety.**

These recommendations are consistent with and directly relate to the role of a City Attorney, which includes rendering advice about the rules of procedure and decorum at City Council meetings and meetings of other legislative bodies of the City.

**RECOMMENDATION 3: I am recommending that an agenda item be placed on the Council Agenda for the March 28<sup>th</sup> Regular Council meeting to “sunshine” both the committee meeting activities and the email correspondence relating to the pool committee and to the termination (to the extent that the termination item can be shared due to personnel matter privacy restrictions, it may be that some of the messages require redaction).** This agenda item appears to be necessary due to the fact that been meetings of a standing committee (purportedly an ad-hoc committee, but not operating as such) that were not properly noticed were held, and the email correspondence appears to reveal that a serial meeting may have taken place. At minimum, the public should be informed as to these activities.

### **BASIC GUIDANCE ON MEETINGS AND SERIAL MEETINGS, USE OF SOCIAL MEDIA:**

1. The Brown Act (Gov. Code 54950) requires meetings of the City Council to be open and public. The transparency rights of the public require this openness as well, by virtue of Cal. Cost Article I, Section 3(b)(1).

2. Elected officials must conform their conduct to the Act – this includes members who are elected or appointed but have not yet taken formal office (Note that this compliance is required even though the number of members or number needed for a quorum is unaffected by the existence of council-members elect.)

3. A “Meeting” in the traditional sense is: any congregation of a majority of the City Council at the same time and location (including permitted teleconference locations) to hear, discuss, deliberate, or take action on any item that is within the subject-matter jurisdiction of the Council.

4. KEY POINT TO CONSIDER: Although there is a physical, simultaneous focus in the definition of “meeting”, the Act also prohibits a majority of members, outside an open and noticed meeting, from using a series of communications *of any kind, directly or through intermediaries, to discuss, deliberate or take any action on any item of business within the subject matter jurisdiction of the City Council. This includes information gathering and any and all other steps, tasks or functions that are preliminary to deliberating or talking action.*

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### 5. SEVEN EXCEPTIONS:

A. Individual contacts are not meetings and not prohibited, where a member and any other person can meet and discuss items within the subject-matter jurisdiction. There are limits on these discussions. During and after these contacts, members cannot communicate their comments or positions to any other members of the body. This allows individuals to “lobby” members (even all of them individually) but members should be cautious NOT to deliberate or reveal an intended position or action as this could create a violation in which a consensus is developed by the individual as an “intermediary”. Contacts with staff are similarly allowed to answer questions and provide information as long as the staff person is not converted into an intermediary. Staff cannot communicate a member’s position or comments to any other member (so that they do not become the “hub” in a hub and spoke serial meeting. (Gov. Code 54952.2(c)(1) and 54952.2(b))

B. Members can attend conferences and seminars (even a quorum of members) without them being characterized as meetings IF: the gathering is open to the public (even if attendees have to pay to attend), AND it involves discussion of items of general interest to the public or public agencies, AND members do not discuss business of any specific nature that is within the subject matter jurisdiction of the City with any other members. (Gov. Code 54952.2(c)(2))

C. Members can attend open community meetings. These are meetings that are organized by persons or entities that are NOT the local agency (organized, held, promoted NOT by the City). Members who attend shall not discuss amongst themselves business of a specific nature that is within the subject-matter jurisdiction of the City. Best practices are to avoid sitting together when at such a meeting, and not making any comments on items that come up at the meeting that are within the subject-matter jurisdiction of the City. (Gov. Code 54952.2(c)(3))

D. Meetings of OTHER legislative bodies. A majority can attend properly noticed open meetings of other legislative bodies (like a County Board of Supervisors meeting for example). Members cannot discuss business within the subject-matter jurisdiction of the City amongst themselves. There are instances when a member can comment – you should seek additional guidance if you attend a meeting at which the other legislative body is discussing an agenda item that intersects with city business and you are selected to attend to communicate the view point of the City council as a whole. (Gov. Code 54952.2(c)(4))

E. Social or Ceremonial Gatherings. Examples of such events include weddings, holiday parties, swearing-in ceremonies. Members must not discuss any business within the subject-matter jurisdiction of the City. As with other types of exceptions, it is recommended that members do not sit together and do not make any comments or express views about City business at such events. (Gov Code 54952.2(c)(5))

F. Meetings of Standing Committees. Attendance of a majority of members at a properly noticed open standing committee of the City is not a meeting of the City Council IF

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members of the Council who are not members of the Standing Committee attend ONLY AS OBSERVERS. (Gov. Code 54952.2(c)(6)). This means other City Council members are allowed to be present but are prohibited from asking questions, making statements, sitting in their usual places on the dais. (81 Ops. Cal. Atty. General 156 (1998)). NOTE: this rule is for *STANDING COMMITTEES ONLY*. There is NO exception covering City ad-hoc committee meetings (those meetings, if they meet certain criteria are true ad-hoc committee meetings and are not subject to the Brown Act). The challenge is ensuring that an ad-hoc committee meeting is truly ad-hoc and not a standing committee meeting in disguise. (See additional discussion below for distinctions between Ad-hoc and Standing Committees.)

G. Grand Jury Testimony. An individual member, multiple members or the entire council may meet to provide testimony in private before a Grand Jury. This is not prohibited by the Brown Act. (Gov Code 54953.1)

H. Any Other Gathering that Does NOT fit into an exception (above). If you are unable to assign a gathering of a majority of Council members into one of the exceptions in A-G (above), there is NO exception for your gathering and it is a “meeting”. If you find yourself in a “meeting” that isn’t in a covered exception, that is not a properly noticed meeting of the City Council and is open to the public, you should immediately leave and report the incident to the City Attorney.

6. SOCIAL MEDIA. Members of Council can use social media to answer questions from the public, share information or solicit information from the public regarding matters within the subject matter jurisdiction of the City. There are some requirements if you are doing this.

A) The platform must be “open and accessible to the public”, which means that members of the general public have to have the ability to access and participate, free of charge, without any approval by the social media platform or moderators, or any other person or entity other than the social media platform. This includes forums, chatrooms, bulletin boards etc. and members of the public cannot be blocked, conditionally approved, or filtered from participating except when the internet based social media platform (the platform itself) determines the individual violated protocols or rules of the platform. (Gov Code 54952.2(b)(3)(B)(iii)).

B) Members cannot use ANY social media to “Discuss amongst themselves” (even just between two members) any official business. (Gov. Code 54952.2(b)(3)(A)) For purposes of social media, discuss amongst themselves means “communications made, posted or shared on an internet-based platform between members of a legislative body, including comments or use of digital icons [i.e., emojis] that express reactions to communications made by other members of the legislative body.” (AB 992)

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### ADDITIONAL DISCUSSION:

Meetings and Serial Meetings: Any discussion of prohibitions on serial meetings requires a clear understanding of what a meeting is, and is central to applying the Brown Act:

**“Meeting” defined:** Under the Brown Act, a “meeting” means “any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location . . . , to hear, discuss, deliberate, or take action on any item” within the legislative body’s subject matter jurisdiction. [Gov.C. § 54952.2(a)]

The definition above clearly includes a range of activities which can constitute a meeting. **There is no decision required:** The definition covers any discussions between a majority of the members on an item within the body’s jurisdiction, *whether or not any collective decision is made*. A prior case decision in *Wolfe v. City of Fremont* had held that a series of individual conversations by City Councilmembers without an agreement did not constitute a meeting, however the legislature later rejected this.<sup>1</sup> The word “meeting” in the Brown Act “is not limited to gatherings at which action is taken by the relevant legislative body; deliberative gatherings are included as well. Deliberation in this context connotes not only collective decision making, but also the collective acquisition and exchange of facts (information gathering efforts) preliminary to the ultimate decision.”<sup>2</sup> These preliminary gatherings in which information is collected include study sessions or pre-meeting briefing sessions.<sup>3</sup>

In *Sacramento Newspaper Guild v. Sacramento County Bd. of Suprs.*, supra, 263 Cal.App.2d 41, 69 Cal.Rptr. 480, the members of a county board of supervisors were present at a luncheon at which the public business was discussed. This court deemed the informal luncheon discussion at a meeting should follow the Brown Act even though no formal action was taken there (p. 51, 69 Cal.Rptr. 480). The collective decision-making process consists of both “actions” and “deliberations” which must respectively be taken and conducted “openly” (§ 54950). Thus, the meeting concept cannot be confined exclusively to either action or deliberation but rather comprehends both and either (*id.*, at p. 47, 69 Cal.Rptr. 480). Since deliberation connotes not only collective discussion but also the “collective acquisition and exchange of facts preliminary to the ultimate decision,” the Brown Act is applicable to collective investigation and consideration short of official action. (*Id.*, at pp. 47–49, 69 Cal.Rptr. 480; see also *Rowen v.*

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<sup>1</sup> See Stats. 2008, Ch. 63 (uncodified legislative declaration disapproving dictum in *Wolfe v. City of Fremont* (2006) 144 CA4th 533, 545, 50 CR3d 524, 531, fn. 6, that indicated a series of individual meetings by body members that did not result in collective concurrence was not a “meeting” for Brown Act purposes)

<sup>2</sup> 216 *Sutter Bay Assocs. v. County of Sutter* (1997) 58 CA4th 860, 876-877, 68 CR2d 492, 502 (internal quotes and citations omitted) (superseded by statute on other grounds)

<sup>3</sup> See **California** Attorney General's Office, A Handy Guide to the Bagley-Keene Open **Meeting Act** 2004, 5, available on the **Calif.** Attorney General's website ([www.oag.ca.gov](http://www.oag.ca.gov))

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*Santa Clara Unified School Dist.* (1981) 121 Cal.App.3d 231, 234, 175 Cal.Rptr. 292.)<sup>4</sup>

Clearly, gatherings in which a majority of members are in the same room at the same time – whether a decision is made or not (including study sessions, deliberations and information gathering that is precedent to deliberations and decision-making outside of a duly convened meeting is prohibited (Gov. Code 54952.2, *Frazer v. Dixon Unified School District* (1993) 18 CA4th 781, 795). What about when the congregation of members is not simultaneous or is staggered over time, or doesn't involve direct contact at all between members and is a series of indirect contacts through an intermediary? When are these prohibited?

Discussion on this subject turns in part on the distinctions between a “meeting” and the prohibition on a “serial meeting”. The Brown Act defines a meeting (described in detail above) to include a congregation of a majority of the local legislative body members “at the same time and location” to “hear, discuss, deliberate, or take action on any item” within the body's subject matter jurisdiction. [Gov.C. § 54952.2(a)] In contrast, the serial meeting prohibition is limited to “discuss[ing], deliberat[ing], or tak[ing] action on any item *of business*” within the body's subject matter jurisdiction. [Gov.C. § 54952.2(b)(1) (emphasis added)] Note that there is no clear authority on the distinctions -- the difference in the plain language of the two subdivisions suggests that the serial-meeting prohibition is limited to current or future business meeting agenda items (“item of business”), rather than the broader in-person meeting prohibition on “any item” within the body's subject matter jurisdiction. For example: members of a planning commission may, arguably, be permitted to engage in serial communications about a news story one of them read regarding a new design for rooftop solar arrays, so long as the technology is not foreseeably a subject of a pending or impending agenda item.

Standing Committees and Ad-Hoc Committees: As a threshold matter, California’s Ralph M. Brown Act applies to *any* committee of a legislative body that is empowered to make decisions, rather than simply advise. It is only advisory committees that *may* be exempt from the Brown Act. See Gov. Code section 54952(a)-(b). As to advisory committees, the Brown Act applies to “standing committees,” but **not** to “ad hoc committees.”

The challenge can come in defining which is which. Under the Brown Act a “standing committee” is one that has “continuing subject matter jurisdiction, **or** a meeting schedule fixed by charter, ordinance, resolution or formal action of a legislative body.” Gov. Code section 54952 (emphasis added). Whereas, purported ad hoc committees meet infrequently and not on a regular basis, the Attorney General has said that if the committee has the authority to hear and consider issues within the subject matter jurisdiction of the City Council, and the committee’s authority does not need to be periodically renewed (i.e., it is open-ended), the committee may be subject to the Brown Act. 79 Op. Atty Gen. Cal. 69 (1996) (you can find this opinion on the California Attorney General’s web site by searching for opinion number 95-614).

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<sup>4</sup> *Stockton Newspapers, Inc. v. Members of Redevelopment Agency*, 171 Cal. App. 3d 95, 101–02, 214 Cal. Rptr. 561, 564 (Ct. App. 1985)

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It's important to note the highlighted "or" above. If an advisory committee has a fixed meeting schedule, then it is a "standing committee" subject to the Brown Act. But even advisory committees without a fixed meeting schedule will constitute a "standing committee" if they have "continuing subject matter jurisdiction," for example if a city council were to create a committee empowered to address, e.g., homeless issues in an open-ended and continuing way – even if it does not meet on a regular schedule – then it would be a "standing committee."

The California Attorney General's Brown Act publication sets forth several hypothetical examples that help illustrate some of the important distinctions here:

A city council creates four bodies to address various city problems:

- Commission comprised of councilmembers, the city manager and interested citizens: This committee is covered by the Brown Act because there is no exemption for it regardless of whether it is decision-making or advisory in nature.
- Advisory committee comprised of two councilmembers for the purpose of reviewing all issues related to parks and recreation in the city on an ongoing basis: This committee is a standing committee which is subject to the Act's requirements because it has continuing jurisdiction over issues related to parks and recreation in the city.
- Advisory committee comprised of two city councilmembers for the purpose of producing a report in six months on downtown traffic congestion: This committee is an exempt advisory committee because it is comprised solely of less than a quorum of the members of the city council. It is not a standing committee because it is charged with accomplishing a specific task in a short period of time, i.e., it is a limited term ad hoc committee.
- Advisory committee comprised of two councilmembers to meet on the second Monday of each month pursuant to city council resolution: This committee is subject to the Act as a standing committee because its meeting schedule is fixed by the city council.

### CONCLUSION:

I recognize that the above represents a large amount of information and that there are subtle nuances spread throughout. Please review the Brown Act and schedule an appointment with me for further discussion, if you feel that you need more training on any of these issues after you have reviewed the memo on these topic areas:

- What a "Meeting" is?
- What is not a "meeting?"
- What communications can constitute a "serial Meeting?"
- What are the differences between an Ad-Hoc and Standing Committee?
- What level of participation you may have in ad-hoc and standing committees?



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Date: April 11, 2023  
To: Honorable Mayor and Councilmembers  
From: Patrick Piatt, Community Development and Services Director  
Marti Brown, City Manager  
Subject: City Swimming Pool Repairs to Re-Open in June 2024

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**Recommendation:**

Direct staff to prepare a Request for Proposals to complete the minimum work required to repair the swimming pool to re-open for the 2024 summer swim program, including a scope of work, budget and funding sources in the amount of \$668,265.

**Rationale for Recommendation:**

Re-opening the City's swimming pool as soon as possible is a priority for the City Council and the citizens of Willows.

**Background:**

The public pool in the City of Willows has been a source of community enjoyment and recreation for decades. Generations have spent summer days engaged in periods free swim, taking swim lessons, and in organized recreation programs designed to increase fitness.

The pool was closed during the 2020 swim season due to the COVID-19 pandemic with the intention that it would open in the summer of 2021. Upon inspection ahead of the 2021 swim season it was discovered that the pool had deficiencies that could cause injury to the public and staff.

An assessment was conducted in 2022 by Total Aquatic Management (Attachment 1), a Northern California pool company with 25 years of experience, to review the Willows Public Pool and to provide a list of updates that would be needed for the pool to be reopened to the public. The assessment focused on safety, function, and accessibility.

The items with the highest costs would be the resurfacing of the pool, new fencing, and the replacement or update to the mechanical system and room. Repairs to the concrete decking and



to the bathrooms will be necessary and replacement of the depth markers, lifeguard stands, lighting, and a pool lift to meet the American with Disabilities Act requirements are a sample of other items to be replaced.

The City Engineer, John Wanger of Coastland Engineering, generated a list of the critical, required and minimum elements to be repaired in order to reopen the pool by June 2024 along with a cost estimate of \$668,265 (Attachment 2).

During the January 24, 2023, City Council meeting, the Council formed an Ad Hoc Committee to discuss the potential for reopening the pool as soon as possible as well as the potential to expand the pool.

**Discussion & Analysis:**

Since January 2023, the Ad Hoc Committee has held two community meetings to determine a course of action and to identify additional sources of funding for the project in addition to the Proposition 68 Grant that provides \$177,952 of funding. In a show of support for this important feature to the Willows Community, the County of Glenn has also pledged \$200,000 to the Ad Hoc Committee in support for the community pool effort. In addition, staff recommends using approximately \$100,000 of the remaining American Rescue Plan Act (ARPA) funds, as well as approximately \$190,313 of General Fund monies or seek more donations to fill the budget shortfall and complete the swimming pool repairs.

At the time the Council formed the Ad Hoc Committee, the Council determined that the Committee would operate without staff assistance. The Ad Hoc Committee has made great progress in building community consensus, determining a path for the pool to be reopened to the public, and identified a funding source (e.g., donation) from Glenn County. As a result of all of these community efforts, it is recommended that the Council direct City staff to develop a scope of work and budget, circulate a Request for Proposals, and bring a recommendation to Council for a contractor to perform the work to repair the city swimming pool.

**Fiscal Impact:**

The total cost for minimum repairs to the swimming pool in order to re-open it in June of 2024 is \$668,265. Based on the total budget to repair the swimming pool, staff recommends using the following sources of funds:

- \$177,952 – Proposition 68 Grant
  - \$200,000 – Donation from County of Glenn
  - \$100,000 – ARPA Funds
  - \$190,313 (shortfall) – General Fund monies or donations
- TOTAL = \$668,265**

Should the Council wish to seek additional donations for the \$190,313 shortfall, staff requests the assistance of the Swimming Pool Ad Hoc Committee or Standing Committee to secure additional funding.

**Attachments:**

1. Total Aquatic Management Pool Assessment
2. City Engineer List of Minimum Repairs and Cost Estimate

City of Willows  
Community Development Services  
City of Willows Swimming Pool  
Aquatic Facility Report

May 15, 2022



Prepared by:  
James Wheeler, Owner  
Total Aquatic Management



May 15, 2022

John Wanger  
City of Willows  
201 North Lassen Street  
Willows, CA 95988

Dear Mr. Wanger,

Thank you for allowing us the opportunity to provide an evaluation of the City of Willows Swimming Pool located at 815 W. Laurel St. I have reviewed correspondence from the Glen County Department of Health, reviewed previous Glen County Health Department reports and did an on-site facility inspection. Our inspection included looking at the entire complex including everything from the front gate and fencing to the building interiors, pool decks and equipment and the mechanical room.

We have provided detailed analysis and cost estimating in all areas of review. Total Aquatic Management also contacted Ron Ybarra of AquaSource Commercial Pool Systems to provide cost estimates directly to the city for mechanical room repairs/renovation.

There is significant work that should be done to the facility to re-open it in the future. Please see the attached report for the suggested areas of the facility needing attention. Depending upon the scope of renovation work, the suggested improvements are estimated at approximately \$500,000-\$800,000, depending on chosen alternatives. These costs are high level estimates that may be used for planning purposes and could cost more or less depending upon whether City Staff or outside vendors are utilized for the improvements.

Sincerely,

James Wheeler  
Owner



In late February 2022, James Wheeler of Total Aquatic Management (TAM) was contacted by Mr. John Wanger to request an evaluation of the swimming pool facility located at 815 W. Laurel St in Willows, CA. Once a desired scope of work was developed and agreed upon, TAM set-up a site visit to take place on April 9, 2022.

Wheeler spent six hours on site on April 9, 2022. While at the pool he inspected the customer service and entry areas, office area, changing rooms and restrooms, signs, general pool area, safety and program equipment, deck equipment, pool decks, pool surface, chemical storage, and the mechanical room. The inspection was performed to check compliance with local and state codes.

Previous Glen County reports and communication indicated these main areas of concern:

The pool shell needs to be resurfaced as there were complaints that children were scraping or cutting their feet due to the condition of the fiberglass surface which is old. TAM agrees the pool should be resurfaced and suggests removal of the fiberglass liner and replacement with plaster and tile.

There was concern regarding the condition and age of the high-rate sand filters. The filter vessels appear to be in good condition but should have the backwash valves overhauled. With a visual inspection and media replacement these filters could still meet state requirements for system turnover rates. This is however unknown until the system is operating with an accurate flowmeter in the plumbing system. The main pump plays a critical role in meeting these turnover targets.

The County is requiring variable frequency drives for pool pumps. When coupled with higher efficiency motors these allow for changing pump speed for improved energy savings and better circulation of pool water.

The pool deck needs repairs due to cracking and pitting and missing sealant in some expansion joints. Whereas, a full deck replacement could be considered, this is extremely costly. Alternatives include replacing some of the deck in areas that need repair or grinding and patching. Previous patching of deck cracks is very messy. Careful grinding, pressing in foam “backing rod” and patching using a Quick Crete type product or sealant is a standard fix and can work. This work requires skill and patience to make the patches seamless but can be done and can save a lot of expense.

The chemical system is patch worked together. It looks like there was an automated controller, but it was removed. The estimates from AquaSource include the replacement of the chlorine and acid systems with erosion tablet feeders and a new controller to automate the feeding of chemicals on demand when required. Currently it appears that the system must be manually turned on and off, this is inefficient and must take a lot of worker time, it is also not a good way to maintain consistency in feeding chemicals and therefore having consistent amounts of chemicals in the pool.

Structurally the mechanical room is in good condition, but strongly consider replacing the iron supports that run from the floor to the roof before the room is renovated or operated. The room is also considered a confined space and therefore needs venting, procedures and training put in place for safe and compliant operation of the mechanical systems.

Consideration should be given to replacing all the rusting plumbing before resuming operations. This work is included in the estimates from AquaSource.

The Willows swimming pool is a tremendous community asset. Repair of structural items along with replacement of the pool system and some minor equipment would be much less expensive than constructing a new facility. This facility could be put back in operation and provide the community with a recreational pool for swimming lessons, recreational swim, a swim team, community events and other programs. Initial estimates show that the necessary work could be done for approximately one million dollars. This estimate takes into account inflation during the time for design, any bidding and contingency funds at 10% of estimated project costs.

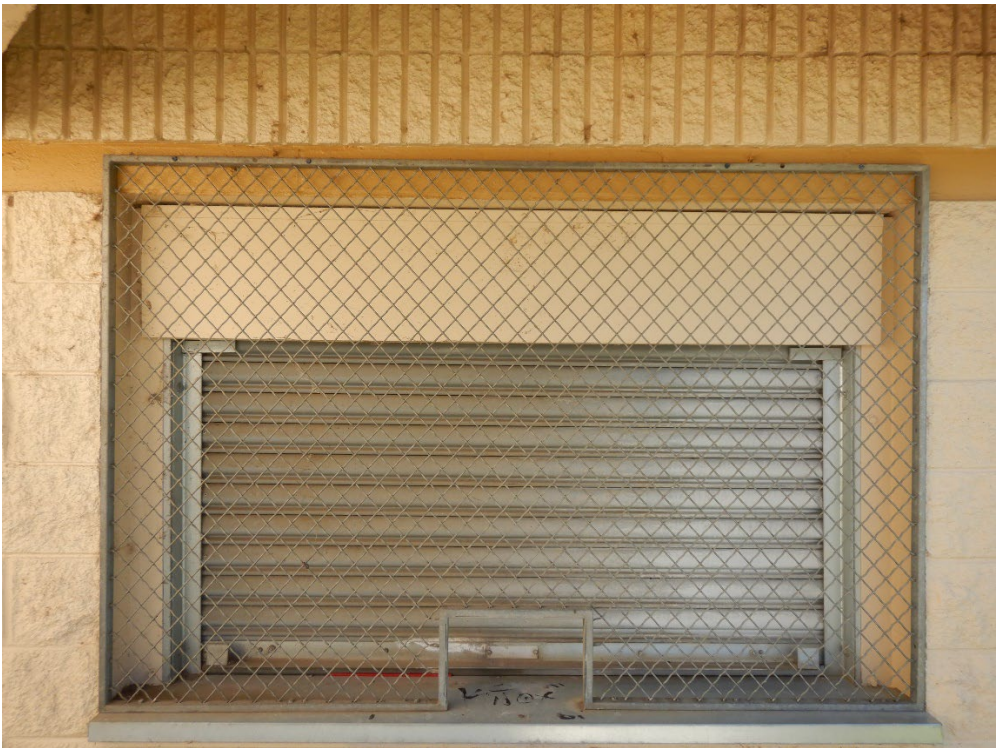
Exhibit A contains the mechanical room Estimate from AquaSource.

Exhibit B has preliminary cost estimates.

The following pages contain the results of the facility and mechanical room inspections.

Evaluation Categories	Comments	Fiscal Impact
Facility schedule and fees are posted,	Pool has been closed for two years and there is no name on the facility. Entry window has space for hours, programs, and fees above it.	\$1,000





Evaluation Categories	Comments	Fiscal Impact
Lobby and customer service counters are clean.	The pool has been closed so the office is not in "operations" condition. Clean well before opening	\$0





Evaluation Categories	Comments	Fiscal Impact
Restroom toilets and sinks are functional and clean with towels, TP and/or hand dryers	Water was off, all toilets and sinks need to be checked for operability and proper functioning. Leaking urinal and floor pad under the urinal are noted in the 7/7/19 Health Department report. They are stainless and do not need replacing if cleaned. Towel dispensers all need replacing.	\$200



