



MINUTES OF A REGULAR MEETING OF THE MADERA CITY COUNCIL CITY OF MADERA, CALIFORNIA

**May 3, 2017
6:00 p.m.**

**Council Chambers
City Hall**

CALL TO ORDER

The regular meeting of the Madera City Council for 05/03/17 was called to order by Mayor Medellin at 6:00 p.m.

ROLL CALL:

Present:

**Mayor Andrew J. Medellin
Mayor Pro Tem Cece Foley Gallegos, District 1
Council Member Jose Rodriguez, District 2
Council Member Derek O. Robinson Sr., District 4
Council Member William Oliver, District 3
Council Member Charles F. Rigby, District 5**

Absent:

Council Member Donald E. Holley, District 6

Others present were City Administrator David Tooley, City Attorney Brent Richardson, City Clerk Sonia Alvarez, City Engineer Keith Helmuth, Director of Human Resources Wendy Silva, Planning Manager Chris Boyle, Director of Financial Services Tim Przybyla, Unit Fire Chief Nancy Koerperich, Police Chief Steve Frazier, Public Works Operations Director David Randall, Community Development Director David Merchen, Grants Administrator Ivette Iraheta, Chief Building Official Steve Woodworth, Information Services Manager Mark Souders, Commander Dino Lawson.

INVOCATION:

Pastor Fred Thurman, New Life Assembly

PLEDGE OF ALLEGIANCE:

Mayor Medellin led in the Pledge of Allegiance.

PUBLIC COMMENT

The first fifteen minutes of the meeting are reserved for members of the public to address the Council on items which are within the subject matter jurisdiction of the Council. Speakers shall be limited to three minutes. Speakers will be asked to identify themselves and state the subject of their comment. If the subject is an item on the Agenda, the Mayor has the option of asking the speaker to hold the comment until that item is called. Comments on items listed as a Public Hearing on the Agenda should be held until the hearing is opened. The Council is prohibited by law from taking any action on matters discussed that are not on the Agenda, and no adverse conclusions should be drawn if the Council does not respond to public comment at this time.

No comments were offered.

INTRODUCTIONS

Mark Souders, Information Services Manager

David Tooley, City Administrator introduced the City's new Information Services Manager, Mark Souders who served as the Director of IT and Operations for Vast Networks where he designed a new 800 mile fiber optic network from Bakersfield to Colusa. This network supplies bandwidth and connectivity to schools, colleges and libraries up and down the Central Valley.

Mr. Tooley stated that Mr. Souders' prior position included service as the Information Services Supervisor for the City of Fresno where he worked within that division to serve most major departments as well as playing a major role in the Traffic Operations Department. Mr. Souders helped with Public Works Information Service and the Police Department in utilizing the fiber infrastructure.

Mr. Tooley asked that Council welcome their new employee.

Mark Souders, Information Services Manager thanked them and stated that he looks forward to working for the City of Madera, working for and with all of them and working for the citizens of this great community.

Mayor Medellin welcomed Mr. Souders aboard.

A. WORKSHOP

A-1 Madera Police Department Annual Report (Presentation by Steve Frazier)

Steve Frazier, Police Chief welcomed Mr. Souders and stated that when he was introduced he had to give a 10 minute speech and he doesn't know how Mr. Souders got off so easy.

Chief Frazier stated Council has had the report for at least a week and he apologized that they are in May and just receiving it. He stated they did their best to put it together and get it out as quickly as they could.

Chief Frazier stated that one reason they have an Annual Report is to build community trust. He stated that transparency is key in a law enforcement agency and when they took over the department that was one of the goals that they had. They wanted to make sure they were putting information out to the community and that the community knows who they are.

Chief Frazier stated that the Annual Report encapsulated what occurred in the past year. It is also a way for them to connect with the community and make sure that they are keeping in touch with them.

Chief Frazier stated that the Annual Report has a picture of every officer and every employee is listed. They want people to be able to put a name to a face.

Chief Frazier stated it provides an opportunity for dialogue about the crime, the programs they have and other things. Chief Frazier stated that when their Police Department and the community are talking, they all win.

Chief Frazier stated there is statistical information, program information and information about things that they want to do with the community down the road in the Annual Report. He stated that is all spelled out in their Annual Report.

Chief Frazier stated there were 51,427 service calls, 29,000 reports processed, 60,000 pieces of evidence and 705 detective cases which are all felonies because they don't have the time or personnel to really pay a whole lot of attention to misdemeanors. He stated that while they realize there is still a community problem, they have enough felonies to focus their time on that from a detective standpoint.

Chief Frazier stated this workshop focuses on their crime statistics and what that looks like as a community. He stated that in the Annual Report opening remarks he talks about walking uphill underwater in snow boots as that is what the State has put up against law enforcement.

Chief Frazier stated that Proposition 47 and Proposition 57 which passed last year created an environment that is more advantageous to the criminals than it is to victims and to community. Chief Frazier stated that Proposition 47 in particular which reduced drug possession felonies to misdemeanors has arguably been the biggest hurdle for them.

Chief Frazier stated violent crime is up fairly significantly. He stated they've had an impact on property crimes. It is a little easier for them to deal with property crimes. They can be progressive if they see they are trending. Burglaries are up. They can put together plans to go out and deal with that. They did that and they brought those down significantly.

Chief Frazier stated it was a little more difficult to deal with the violent crimes. He stated those most typically occur within a household. He stated it is much more difficult to determine when and where those will occur so it's a little more difficult to get a handle on that.

Chief Frazier stated that overall they were able to reduce their statistical area in four categories which is a good thing but obviously there is still work to be done and they recognize that. They have some programs on the horizon that they think will impact the violent crime and juvenile crime in particular. He stated he looks forward to bringing that back to Council down the road and sharing with them what that is.

Chief Frazier stated they should just know that their Police Department is working diligently to get all crimes under control and reduce those levels of Part 1 Offenses. He stated he would answer any questions.

Council Member Rodriguez stated he looked at the Rape category and asked if that was mainly people that lived with each other or other cases.

Chief Frazier stated it was probably split equally. He stated there were 16 occurrences of rape and it is both familial as well as stranger.

Council Member Rodriguez stated that Chief Frazier said that when it comes to theft there's a lot of focus on that but that it is harder to get the more violent...

Chief Frazier stated they try and handicap crime and it's a little easier to do that on property crimes than it is crimes of violence. He stated that domestic violence is a problem in the community and while they can trend that, tempers don't always go with time of day, day of week and those kinds of things so it's far easier to do property crimes in that fashion than it is crimes of violence.

Council Member Oliver thanked Chief Frazier for his report. He stated that there was obviously always room for improvement in some of the categories but he thinks that the Chief and his department certainly represent the undercurrent of positivity and momentum that's felt through the community. He stated that's a testament to the Chief's work especially reflected by voters' sentiments through Measure K.

Council Member Oliver stated he had a question regarding calls from the community. He stated that through Neighborhood Watch especially in areas on the east side they were often reiterating to folks the importance of calling in any suspicious activity even if they don't see a crime that is occurring right then and there. Council Member Oliver asked if he could shed any light as to any increase in those types of proactive calls from the neighborhoods or.... He stated he's sure that they probably have a lot more work to do.

Chief Frazier stated there's always work to be done both in getting people to understand that they do want them to call. He stated it's tough to differentiate necessarily an increase or decrease relative to the work they are doing with Neighborhood Watch. He stated they don't keep a statistical number associated with that. He stated a call is a call and they respond to that.

Chief Frazier stated that clearly if they can continue to make inroads with that partnership with the community and they get people to buy in and understand who they are and what they are about....

Chief Frazier stated their biggest obstacle to date is dealing with immigration issues and people's fear associated with that. They've made a point and the Mayor's made a point to gather community members together and go in and talk with ICE [Immigration and Customs Enforcement] and they explain that the average citizen is not in jeopardy of being deported and in that, they hope they can begin garnering trust and begin having more calls. Chief Frazier stated he thinks there are a significant number of unreported calls in this community based upon their demographics and it's important for them to make inroads so that they feel comfortable enough to call.

Mayor Medellin stated that when they talk about transparency and trust and he's heard him speak a number of times in the community, Chief Frazier as well as his officers and all of his staff use words like us and we and that really resonates with the community and it's also a stat that they can't keep. There's not a trust stat but as his colleague just mentioned Measure K was a little bit of a stat as to the trust and transparency that he and his department have shown this community.

Mayor Medellin stated that Proposition 47 and Proposition 57 has handcuffed them but it has not defined them and they keep plugging away. He applauds Chief Frazier's efforts and his staff. He really appreciates everything that he's done in this community through Neighborhood Watch and the countless meetings that he's had in the community; it's really shown. Mayor Medellin thanked Chief Frazier and his staff.

Chief Frazier stated that the passage of Measure K was indeed a humbling experience. It was phenomenal.

B. CONSENT CALENDAR

- B-1 Minutes – There are no minutes for consideration.
- B-2 Information Only – Warrant Disbursement Report
- B-3 Bi-Weekly Water Conservation Report for 4/10/17 - 4/23/17 (Report by Dave Randall)
- B-4 Consideration of a Minute Order Acceptance of the Construction of Thomas Jefferson Middle School Safe Routes to School Along Sunset Avenue, Pine Street to Schnoor Avenue Project Number SR2SL 5157-091 City Project No. ST 14-06 (Report by Keith Helmuth)
- B-5 Consideration of a Resolution Approving Amendment No. 1 to the Professional Engineering Design Services Agreement with Giersch & Associates Inc. for Sewer Main Replacements at Sherwood Way and Wessmith Way Near Lake Street (Report by Keith Helmuth)
- B-6 Consideration of a Resolution Approving an Agreement with Nan McKay and Associates, Inc. to Provide Community Development Block Grant Fair Housing Education/Training and Auditing Services and Authorizing the Mayor to Execute the Agreement (Report by Ivette Iraheta)
- B-7 Consideration of a Resolution Approving an Amendment to the 16/17 Fiscal Year Budget to Appropriate Funds for the Acquisition of Real Estate and Easements for the Sharon Boulevard Infrastructure Improvements (Report by Dave Merchen)
- B-8 Consideration of a Resolution Approving a Contract with Sam Balbas Painting for Exterior Painting Services at the John W. Wells Youth Center and Authorizing the Mayor to Sign on Behalf of the City (Report by John Scarborough)

Mayor Medellin stated that Staff has asked that B-6 be removed from the calendar.

Mayor Medellin asked if any council members would like to pull items from the consent calendar for further discussion or questions. He entertained a motion for action.

ON MOTION BY COUNCIL MEMBER OLIVER, AND SECONDED BY COUNCIL MEMBER RIGBY, THE CONSENT CALENDAR EXCLUDING ITEM B-6 WAS ADOPTED UNANIMOUSLY BY A VOTE OF 6-0. ABSENT: COUNCIL MEMBER HOLLEY.

RES. NO. 17-59 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA, APPROVING AMENDMENT NO. 1 TO THE PROFESSIONAL ENGINEERING DESIGN SERVICES AGREEMENT WITH GIER SCH & ASSOCIATES INC. FOR SEWER MAIN REPLACEMENTS AT SHERWOOD WAY AND WESSMITH WAY NEAR LAKE STREET

RES. NO. 17-60 A RESOLUTION OF THE COUNCIL OF THE CITY OF MADERA, CALIFORNIA, APPROVING AN AMENDMENT TO THE 16/17 FISCAL YEAR BUDGET TO APPROPRIATE FUNDS FOR THE ACQUISITION OF REAL ESTATE AND EASEMENTS FOR THE SHARON BOULEVARD INFRASTRUCTURE IMPROVEMENTS

RES. NO. 17-61 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA, APPROVING A CONTRACT WITH SAM BALBAS PAINTING FOR EXTERIOR PAINTING SERVICES AT THE JOHN W. WELLS YOUTH CENTER AND AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY

C. HEARINGS, PETITIONS, BIDS, RESOLUTIONS, ORDINANCES, AND AGREEMENTS

C-1 A Continued Public Hearing to Consider an Appeal by Mr. David Delawder of Planning Commission Approval for Conditional Use Permit 2017-07 and Site Plan Review 2017-08, which Allows for Three Outdoor Automotive Sales Events to be Held by 365 Autos in the Madera Marketplace Walmart Parking Lot during 2017 and;

Consideration of a Resolution of Determination on Appeal (Report by Chris Boyle)

Chris Boyle, Planning Manager stated this item is an appeal of a Planning Commission approval of a Conditional Use Permit [CUP] which allowed for three temporary outdoor used car sales events to occur in the Madera Marketplace Shopping Center on a component of the property owned by Walmart.

Mr. Boyle stated he spent some time on research in his staff report looking at the relationship between the two projects. He stated he called them Phase I and Phase II with Phase I being the initial development of the Walmart. Phase II being the development of the remainder of the site with the JCPenney at that time, the Pak N Save and the various tenants that filled out that retail mix.

Mr. Boyle stated he spent that time because in part although there are opportunities for the site to have collaborated in the past with outdoor activities, they largely haven't.

Mr. Boyle stated that Walmart has gotten their annual use permits and had specific events utilizing the use permit for outdoor sales activities and the same can be said for the Safco [Capital] property as well wherein they've used the site for annual use permits for sidewalk sales especially when the JCPenney was in place and the complex was new.

Mr. Boyle stated that his point would be that although the two sites look, act and integrate as one, in essence in terms of the outdoor activities that have been entertained on the site over time, they really have operated as two separate entities.

Mr. Boyle stated that the request for the CUP which was made by 365 Autos and Mr. Jim Estes came to them in a roundabout way. He stated that initially a sales event was initiated without the benefit of a use permit and the Code Enforcement Division responded to that and ultimately the applicant made application for that use permit after beginning that sales event on the next day and staff being a pro-business City allowed for the completion for that activity albeit in a shorter timeframe. Mr. Boyle stated that subsequent to that the applicant made the first available Planning Commission hearing and was approved.

Mr. Boyle referred to a slide of a location map. He stated that it's a site that's been used in the past by most recently Gill Auto that provided for and worked reasonably well with an outdoor used car sales event and ultimately the Planning Commission approved three specific additional dates along with 24 conditions of approval which guided the on-site activities and mitigated any potential nuisances. It worked.

Mr. Boyle stated they are almost identical with the exception of dates to other activities that have occurred on the site for used car sales. He stated there hadn't been a lot of used car sales on this site in the past in part because the [Madera District] Fairgrounds used to host used car sales events prior to the Lowe's site being developed and wherein they would have used car sales events within the City they would largely be on the State's Fairground property.

Mr. Boyle stated the appeal calls out a rationale. He stated that he included the actual appeal document within the staff report. He stated it provides for several rationales for a reason to appeal the decision for approving the use permit. He stated the first rationale which has several components within the appeal are the CC&Rs [Covenants, Conditions and Restrictions] which govern the two properties. Mr. Boyle stated that staff has not seen those CC&Rs. They've inquired about their availability but they've never been volunteered to them so he can't really speak to them. Mr. Boyle stated it is his understanding that the appellant has provided those CC&Rs within a packet that he will distribute at the end of this presentation.

Mr. Boyle stated that the ascertains of the appeal are that the CC&Rs don't specifically allow for an event of this type, that parking is restricted for only customers and vendors to the property, and there are restrictions on what tenants can sell outside of the site. He stated that is the first rationale within the appeal.

Mr. Boyle stated the second rationale is the time of year. He stated there is one event that coincides with the 4th of July week and the third event is the five days which span from December 26th till New Year's Eve. Mr. Boyle stated that the appellant would assert that those are high traffic demand periods during the course of the year. Mr. Boyles stated that staff would note though that this shopping center has been developed with ample, great amounts and overabundance of parking beyond what would normally be required for the uses on the site including the three schools that now house the Phase II portion of the site.

Mr. Boyle stated that the last component would be that there is no limitation on the number of cars. He stated that staff's position would be that in essence there's a limitation on the area which inherently limits the number of cars that might be on display for sale at any given time. They felt that although they are not requiring that x number of cars be incorporated into the event, the dimensional restrictions of the site by themselves restrict the number of cars that might be able to be sold.

Mr. Boyle stated that when looking at the ordinance as it relates to an appeal, the highlighted and underlined section really is where the Council must look for in their decision making powers and it says that the Council shall make a written Finding of Fact setting forth wherein the Planning Commission's findings were in error. Mr. Boyle stated that staff's analysis finds it very difficult to make a finding where the Planning Commission erred in their analysis during the Planning Commission process. He stated that within that process there was only one opponent to that use and staff received no additional support or opposition via written or telephone and with that record in hand the Planning Commission acted favorably in approving the use permit.

Mr. Boyle stated that staff would also recommend that City Council adopt a resolution affirming the Planning Commission decision approving Conditional Use Permit 2017-07 and Site Plan Review 2017-08.

Mr. Boyle stated that concluded his presentation and that the appellant was in the audience. Mr. Boyle stated that barring any questions from the Commission, he could hand out the appellant's packet.

Mayor Medellin stated that the sooner Mr. Boyle handed that out the better.

Council Member Rigby asked how many used car sales had been hosted in that parking lot in the past.

Mr. Boyle stated he didn't have that specific number.

Council Member Rigby stated he would ask the question in a different way. He asked if yes or no there have been car sales on this lot before.

Mr. Boyle stated there have.

Council Member Rigby asked if the City of Madera is an enforcement mechanism for CC&Rs.

Mr. Boyle stated the City of Madera isn't an enforcement mechanism for CC&Rs. He stated CC&Rs are oftentimes provided to staff for their review but staff's review is really defined by two components. One that the City isn't obliged within those CC&Rs to act as an enforcement agent to the CC&Rs. Two that any of the provisions of the CC&Rs can't be less restrictive than the code of the City of Madera. Mr. Boyle stated they can't be in violation of the code within the CC&Rs and those are the only two components of the CC&Rs where staff would look to make certain or have an opportunity to review.

Council Member Oliver stated that 365 Auto Sales are proposing to operate for about 30 days, maybe 26 approximately so it is a temporary use in nature. Council Member Oliver asked what sparks a permanent use as far as the City standards.

Mr. Boyle stated there is nothing in the ordinance that says specifically that a particular timeline passes over this threshold from permanent to temporary. Mr. Boyle stated that it's staff's policy per se that they wouldn't entertain a use permit for a temporary event that would span more than one-twelfth or 30 days of any calendar year so whether that be virtually any temporary outdoor event, they would restrict that to a 30 day period.

Mr. Boyle stated that when they did the last used car event with Gill, there was a restriction for a maximum amount of 30 days and in this particular event including the event that occurred prior to approval by the Planning Commission, there's a total of 30 days entertained. Mr. Boyle stated beyond that he thinks it wouldn't be prudent to say that the event was temporary in nature if it was lasting more than 30 days cumulative.

Council Member Oliver stated that Mr. Boyle had said there was a previous event that had occurred but was interrupted by staff. He asked how long that event lasted.

Mr. Boyle stated he believed it lasted 4 days in total.

Council Member Oliver stated so about 30 days and asked if this was something that is codified or is it just something that staff exercises by their discretion as far as a temporary versus a permanent use.

Mr. Boyle stated he doesn't believe it is codified. He stated they've taken it as a policy decision.

Council Member Oliver stated so basically with this proposed use it being in a properly commercially zoned property..... He asked if he had a t-shirt outlet and wanted to compete with Andy Sport Design and locate on that shopping center and he had an agreement with the property owner and wanted to do it in the 15 days right before Christmas that could potentially be ok.

Mr. Boyle stated yes, that could potentially be ok.

Council Member Oliver asked if they required at all any modified exhibit maps to the site plan because looking at what has been depicted there he can't delineate how many parking spaces exactly are going to be utilized. He stated it looks like there's a brief rectangle and square depiction on there and asked if they require that.

Mr. Boyle stated that part of those conditions of approvals and the set-up itself is confirmed at time of set-up. He stated the Fire Marshal is required to go out, make inspections to make sure that the Fire Code is amply addressed. If their tents are set-up, there is a building permit that is required for the erection of temporary tents and they must be fire stamped as being fire retardant and the like.

Mr. Boyle stated that Planning Department staff goes out and makes sure that things like trashcans and the overall boundaries of the site are in place. He stated that the Fire Department and Building also confirm that safety measures are in place so that they are not going to see potential pedestrian/vehicular conflicts and the like. Mr. Boyle stated that although there isn't a specific site plan like the construction of a home with a floor plan and elevations and the like, the set-up itself is confirmed at the time it occurs.

Council Member Oliver stated but not before. He stated that personally his concern is that this is obviously a prolific shopping center and commercial corridor and certainly they want to invite business and attract those sales and job opportunities.... It's hard for him to wrap his head around a tent pop-up style temporary auto sales event. He doesn't want to say cherry picking off of the hot spots of the year for that industry but for him he is sensitive to that detriment that it might have on the existing businesses that are there in their community and invest a great deal especially in it being a temporary use and them not really having many policies in place to regulate those temporary uses. He thinks that is something that they need to look at.

Council Member Oliver stated he understands the relationship between the CC&Rs and the City having an active role in that which they don't but if it were to be proved true and the appellant was correct in that this was a clear violation of their land use covenants..... He asked if they can really go to say that they can make the finding that as conditioned the outdoor sales events would be compatible with surrounding properties and the operation would not negatively impact those adjoining properties and businesses. Council Member Oliver asked if they can confidentially say that.

Mr. Boyle stated that in light of the overall history of the events in this site, staff's analysis would be that the site has actually seen greater visitation. He stated the applicant himself speaks to the gift cards to Walmart that he passes out for test drives, for example and the additional sales tax is generated by a \$5 gift card in the terms of the average sales that occur there. Mr. Boyle stated there is an opportunity for the individual businesses in the shopping center themselves realizing benefits from a temporary event occurring there. Mr. Boyle stated that in light that they haven't had any complaints in the past over the event occurring, he felt it hasn't been a hardship on the shopping center. He thinks the record would show that it hasn't been a hardship and perhaps even a benefit on the shopping center.

Mayor Pro Tem Foley Gallegos stated she had a couple of questions. She stated the one date is for the day after Christmas and asked if that was correct. She stated that Workforce is also in there, a new sushi restaurant went in there and she knows that a couple of more businesses are going in there and her concern is safety for the residents. She stated that getting in and out of that shopping center the day after Christmas is crazy and putting a used car lot sale there she thinks may be something to look at. Mayor Pro Tem Foley Gallegos stated she is there after Christmas. The sales are there. She stated everybody in Madera seems to be there and not including all the other businesses that have gone in that shopping center. She stated she is concerned about residents coming in and out of that facility. She stated that is something that she had the question and asked if they look at the day after Christmas that would be not the perfect time to go in there.

Mr. Boyle stated they contemplated that date and when they looked at the overall parking that is available on that site and that's just on the Walmart site which has additional parking, the Walmart site is actually built to accommodate an expansion of the property which hasn't occurred and the parking is really built to

house a Christmas Eve where they have enough parking to satisfy demand on the site and in light of that they felt that there was sufficient parking to retire some parking stalls as it relates to that event but certainly December 26th is a high traffic day.

Mayor Pro Tem Foley Gallegos asked how many stalls they were looking to occupy for this event.

Mr. Boyle stated there's probably 80 stalls and that's his mind's eye.

Mayor Pro Tem Foley Gallegos asked if 360 was going to locate by Walmart again; not by the Chase area.

Mr. Boyle stated that was Walmart property right there so it's in a location where it isn't a high parking demand location for the overall shopping center. It has sufficient separation from the primary users of the site and it's functioned adequately in the past for other vendors to hold events there so in light of the fact that they haven't seen any real crisis or any real problematic events occur in this particular location they've largely relied on it for these types of events.

Mayor Pro Tem Foley Gallegos asked if the event in September was going to be held for 12 days; a little longer.

Mr. Boyle replied affirmatively and stated the dates are firm and that includes set-up and tear-down.

Mayor Pro Tem Foley Gallegos asked if there was a reason that it was a 12 day and not a five day event.

Mr. Boyle stated that staff would only restrict any Temporary Use Permit being permitted for more than 30 days and the applicant chose those particular days within his request.

Mayor Pro Tem Foley Gallegos stated there are many people in their City or residents that do have their own business, apply for business permits and go and follow the rules, and she sees that this event that happened in February went in without a permit. She asked if that was correct and Mr. Boyle responded affirmatively. She stated that they ran business as usual without a permit.

Mr. Boyle stated the business was identified not operating this location and Code Enforcement responded very quickly. It was originally identified by someone who called the Code Enforcement Division who responded very rapidly to the site. Mr. Boyle stated that ultimately the completion of the event occurred. Mr. Boyle stated the first location was along the primary Cleveland Avenue frontage. It was very problematic. It did not work in that location. Those were prime parking stalls. Mr. Boyle stated ultimately the applicant moved the site over to this location to complete that event.

Mayor Pro Tem Foley Gallegos stated there were concerned citizens who called her as when they were unloading the vehicles they were blocking Cleveland [Avenue] a main entrance into that area.

Mr. Boyle stated he is not certain but he believes the applicant is in audience and is available to answer those concerns.

Council Member Robinson stated that he remembers they had a used car sales in the same location and he didn't see any problem with it plus competition will be great. They will not have to go to Fresno. They have hundreds of used car sales. They have lower prices. Council Member Robinson stated they can keep the sales in Madera and more traffic for existing business. They have to eat and shop and he thinks it's more conducive to the City to have a type of venture like this.

Council Member Rodriguez stated that Mr. Boyle had mentioned earlier that there had been other events and asked if there had been events in similar holiday seasons; 4th of July. He stated that Mayor Pro Tem Foley Gallegos mentioned Christmas days and asked if in the past they'd seen any other events similar to this in those types of days.

Mr. Boyle stated there are periods of the year where sales may be more opportunistic for car a sales event and it's really up to the dealer to discern what days those might be. He stated he can't recall the last events that occurred as it relates to the Gill event so he can't say with certainty as to whether they conflicted with any holiday sales event or they aligned or were similar to the dates that were requested here. Mr. Boyle stated he could say that the last event that occurred there was on a Veteran's Day weekend in November. He stated there wasn't a request for a Christmas period sales event as it related to the Gill use permit. It was one summer event, one early fall and then the November event.

Council Member Rodriguez asked if Mr. Boyle would say traffic caused chaos in the area where they are locating these events.

Mr. Boyle replied not at all.

Council Member Rodriguez asked what drove the appellant to come before the Council. He asked for the appellant's motive. Council Member Rodriguez asked what the reasoning behind the appeal was if it didn't happen in the past; if these sales events were happening.

Mr. Boyle stated the appellant was in the audience and he thought that might be a question best directed to the appellant.

Council Member Rodriguez stated he's seen that events of this nature have happened in the past and he's just curious as to why it is brought up now and not when other events of similar nature occurred.

Mr. Boyle stated he can only say that staff has had positive relationships with Mr. Delawder on every other permit that has been required within the Phase II component of the site.

Mayor Medellin stated he had a couple of questions and some have been answered but he wants to take it a step further.

Mayor Medellin stated Mr. Boyle seems comfortable with the number of parking stalls; the 80 or so at mind's eye. Mayor Medellin stated the question was also asked about similar dates and also the congestion, the last time, when somebody had done a car sales it was along Cleveland. Mayor Medellin asked if it was working in conjunction with Planning and/or Code Enforcement to decide if something needs to be changed due to dates/congestion or is it totally incumbent upon the car dealer to decide if they need additional parking spaces or less or to move their operation off of Cleveland.

Mr. Boyle stated staff monitors the events both at set-up so that prior to the use opening up and beginning to promote the sale of cars staff approves the overall setup but it monitors it throughout the event. Mr. Boyle stated he is sure if there were issues with circulation, and the like, Code Enforcement, the Police Department or other responding departments that might just be doing general inspection would bring that to their attention.

Mr. Boyle stated that as an example, they've issued permits for a furniture tent sale in the Hallmark Shopping Center wherein the tent was set-up in an inappropriate fashion and blocked pass of travel and that particular event had to stop and make all the necessary corrections to the site prior to staff allowing them to continue so there is a lot of collaboration between various departments in making sure the event operates in a sane and safe fashion.

Mayor Medellin stated he was just trying to determine if it would just be a suggestion or if the City of Madera would not issue a permit based on previous issues such as congestion, parking and things of that nature.

Mr. Boyle stated he thinks that if there were previous issues they would certainly be looking to at least provide conditions of approval that would better address making sure those issues didn't arise again.

Mayor Medellin asked if it was being proactive or was there a complaint issued when the used car sales event was unpermitted and Code Enforcement did their due diligence. He asked if Mr. Boyle knew of that.

Mr. Boyle stated that he thinks that the observation on the part of the Building Official was that it was in an inappropriate location with which to set-up. It was directly in the drive aisles along the frontage with Cleveland Avenue. Mr. Boyle stated the applicant uses a large 5th wheel trailer as a sales center and what have you and so combined with those being primary parking stalls on the site it certainly was an inappropriate location to set-up.

Mr. Boyle stated that just to give all the information that he has at his disposal, it is his understanding that the arrangement that was made between 365 Autos and Walmart came out of their corporate offices and the local management wasn't fully aware of where and how the event was going to transpire so it was prudent for Code Enforcement to step in and look to resolve the matter through their formal application process and fix the location immediately.

Mr. Boyle stated the applicant had made a tremendous investment in that event and staff acknowledged that and provided the event to be completed because of that fact. Mr. Boyle stated that if the application for Conditional Use Permit hadn't been received the very next morning, which it was, they wouldn't have allowed the event to continue.

Mr. Boyle stated Code Enforcement was prepared to stop the event if an application wasn't received.

Mayor Medellin stated they did it the very next morning.

Mayor Medellin asked if they were exempt from the Sign Ordinance as far as displays, balloons, signs and things of that nature in that parking lot.

Mr. Boyle stated there are specific conditions of approval that speak to that. He stated because it is a temporary event they want to provide an opportunity for visibility but signs located in prohibited locations like in the public right-of-way, the center medians, waivers and things along those lines couldn't be provided for so those are the kinds of things they would look for as a component of the use setting up.

Mayor Medellin stated just to be fair to the existing tenants especially during those holiday times... and asked if the existing tenants were notified individually; the business owners or those tenants as well or was it just one person/the management company in charge.

Mr. Boyle stated that only property owners are noticed per their public hearing notice protocols as well as a 10 day notice in the paper.

Mayor Medellin stated that it's been requested if someone from the Planning Commission is available to answer questions.

Mr. Boyle stated that Chairperson, Kenneth Hutchings was in the audience at this time.

Mr. Boyle stated he would distribute an item to Council.

Mayor Medellin thanked Mr. Hutchings for being there and asked if he had anything to add.

Mr. Hutchings stated that he doesn't think it was mentioned in the report but they happened to have six Commissioners there that day and three of them were concerned about what Mr. Delawder had brought up. Mr. Hutchings stated that initially there was a motion to deny the use permit and it failed on a 3 to 3 vote. Mr. Hutchings stated that when they went to the second motion, he was expecting another 3 to 3 but one of the previous three had changed his vote so it carried on a 4 to 2. Mr. Hutchings stated there was division amongst the Commission on that.

Mr. Hutchings stated that speaking personally he felt that the applicant for the CUP had done everything that was expected of them and his personal opinion was that he did not feel that the Planning Commission should get to be an arbiter of what was in the CC&Rs which by the way they did not even have a copy of so he was reluctant to want to deny the CUP for that reason.

Mayor Medellin asked if there was anything else brought up by the Planning Commission other than what he'd already heard by the Council as far as questions or concerns or pretty much the same.

Mr. Hutchings stated he thinks it was pretty much the same issues that were brought up. They had concerns about whether there was enough area to satisfy for it but he thinks their concerns were all resolved. He thinks most of the reservations basically went along with the appellant's concern regarding the CC&Rs.

Mayor Medellin asked if there were any questions for Mr. Hutchings. No questions were asked.

Mr. Richardson stated he would address the concern on the CC&Rs that Council Member Oliver had. He stated he scanned it and some of the stuff was highlighted at least in his copy and he assumes it is in theirs. He directed them to look at Page 9, Sub-section B(iii) about halfway down. He stated that it says that nothing contained herein shall prohibit the rights of any owner/lessee to conduct promotional sales in the parking area of its tract or on the sidewalks located in its tract provided that the owner or lessee does not block the flow of traffic in the common area between Tracts 1 and 2 or adjacent roadways. Mr. Richardson stated he thinks that speaks to the lack of prohibition in this document and he'd also add that the Planning Commission did not have it nor did anybody have it till tonight so it'd be kind of hard to find that they erred in something relative to this when it wasn't presented and could have been.

Mayor Medellin stated exactly.

Mr. Richardson stated Council could make the call on that but he just wanted to direct their attention because it looked like it spoke to it.

Mayor Medellin thanked Mr. Richardson and called on Mr. Delawder and asked him to supply his name and address for the record.

David Delawder Property Manager for Madera Marketplace introduced himself and stated he works for Safco Capital. Mr. Delawder stated his wife, Valerie Delawder will be doing some reading of this.

Mr. Delawder stated the CC&Rs that they have are from 1990 when the shopping center was developed between Walmart and the developer at that time which is now Madera Capital. It talks about Tract 2 and Tract 1. He stated that in there he gave them two site plans. One is a site plan as they see it and it also gives a broken line. It gives the Walmart property and the property that belongs to Madera Capital. Mr. Delawder stated the other site plan he gave them is the exhibit from the back sides. It shows how the CC&Rs define Tract 1 and Tract 2 which is the same layout.

Mr. Delawder stated that he is legally blind and he can see to walk around without a cane or a dog but he can't read this so he will have his wife read this for them if they like. Mr. Delawder stated they highlighted those areas.

Mr. Delawder stated they did see the area that the gentleman read about those different things. He stated that the auto sales in their opinion of determining what the CC&Rs talk about is that the parking lots are used for the sales and promotions of the stores that are existing not bringing outside businesses that are not associated with the shopping center. He stated that auto sales are not a part of the shopping center to their opinion however community events which a lot of shopping centers do have... He comes from 40 years of shopping centers and he's handled up to 200 shopping centers. He's handled up to the Mississippi River to both borders and the ocean for Ole McRoy and Newberry stores. He had a Newberry store here for years. He had a lot of the valley.

Mr. Delawder stated that in the shopping centers that he's had they've had auto shows with brand new cars. It would be on display in strip centers and interior malls but they weren't sold at the shopping centers. They were close to the buildings that put them on so that people could see them and then go to the dealerships in the community.

Mr. Delawder stated that this event is an outside city business coming into the City. He stated the first event that they knew about was with Gill's Auto. They found that out because of their security. They are sort of an absentee landlord at times. They are trying to be more active. When they found this out, that is when they made the appeal on this one. The other one they found out later but they sort of considered it to be a local event with the local car dealerships and there's a difference between promotional events within the communities and bringing other outside businesses to compete with their local communities.

Mr. Delawder stated they do the same thing. They don't allow street vendors to come in and sell food trucks in the shopping centers when they have restaurants because that's in opposite of direction they want to go.

Mr. Delawder stated art shows are different. He stated that events that are outside communities or outside people that don't have anything for the community, that's a different event too.

Mr. Delawder stated that in this situation it is an auto sale from another city coming in that is not part of the community like the last one was.

Mr. Delawder asked if they would like his wife to go through the different sections because the shopping center....

Mayor Medellin stated that his wife was saying no.

Mr. Delawder said that was fine.

Mr. Delawder stated that the agreement with the developer and Walmart talks about outparcels which would be Chase Bank, IHOP and the tire store. He stated each one of those are separate parcels. He stated Chase Bank contributes to the expenses of the shopping center. IHOP does not nor does the tire store but they had to comply with the CC&R standards along with the City for designs, height and all that stuff. Mr. Delawder stated it was the same with all signs. He stated the shopping center has its own sign ordinances. They can't block different things. They can't erect buildings or block visibilities.

Mr. Delawder stated that the events when they occur in the parking lot which are allowed to occur, he believes there is a section in there under the parking lot use, that when the parking lot is used for promotional sales there is not to be a charge for it and in this case they are charging. Mr. Delawder believes it is \$7 or \$8,000.

Mr. Delawder stated he doesn't know who is giving the \$5. He stated a lot of retailers because they do come from the retail side too, will provide their own promotional event. They say they are going to knock off \$5 of your sale if you come to this. He asked is it really the auto sales person giving the \$5, the 50, 60, \$80,000 extra or is it Walmart just knocking off with a coupon and saying they are just going to write it off. He stated he doesn't know which it is.

Mr. Delawder stated he didn't know it was going to be 80 cars. That's a lot.

Mr. Delawder stated they don't mind community events as long as they fall within standards.

Mr. Delawder stated they recognize that Walmart has the right to do what they want to do in a lot of things but they still have their CC&Rs that try to do..... Mr. Delawder stated they have approved and they have no issue with Walmart doing their storage containers. He's had the City call him in the past saying he has to sign something because they want to put a storage... he doesn't own Walmart's property. They do. So he goes back and tells Walmart and they say they own it and he says yeah they do and they have to do

that themselves. Mr. Delawder stated the storage container issue that was brought up at the Planning Commission to them is on the back side of Walmart. It's storage for their sales. That's fantastic.

Mr. Delawder stated that they are not in favor of turning their shopping center into a used car parking lot sales. They would like to keep their image. They talked to different tenants. Pak N Save controls their parking lot and everything that goes on.

Mr. Delawder stated that this parking lot is adjacent to it. The manager there and the people he's talked to don't care. They feel the parking lot sales like Gill's or some other events are fine because they bring in community stuff. Mr. Delawder stated that 4th of July and Christmas are their peak seasons and that's close enough where people will park in their parking lot; maybe not shopping. It's hard to say if they will shop there or not.

Mr. Delawder stated that in looking at the site plan, the property line by the Goodwill gets very narrow and it gets very full during the Christmas season so if people park in the other parking lots then that ties up parking into the other section of their shopping center.

Mr. Delawder stated they don't like auto sales period but if they're community that's a different story. He stated if they bring outside businesses that are going against stuff that's a total different issue which they will appeal.

Mayor Medellin stated he wanted to make sure he was correct in hearing him. He stated generally no auto sales but to be part of the community he doesn't mind auto sales if they are a local auto dealer.

Mr. Delawder replied affirmatively and stated that is a different story because they are dealing with the community. He stated shopping centers are there for the community but he cannot bring in food trucks...

Mayor Medellin stated no competing businesses and there's no existing auto dealers. Mayor Medellin stated he wanted to distinguish between having them there as long as it's local and being part of the local economy versus an outside out of Madera business.

Mr. Delawder stated he's had shopping centers that were three million square feet interior malls, part of big cities/small cities. He stated he's been across the whole country in different places. Community events are good. Sometimes a shopping center is a great draw for everybody. Sometimes they do local communities to bring in and these businesses are there too. He stated that's fantastic. It helps everybody.

Mayor Medellin thanked Mr. Delawder and stated he just wanted to make sure he was clear on that.

Mr. Delawder stated that in this they have standards for buildings. It talks about sidewalk sales. He stated that he looked over the different things that Mr. Boyle talked about that were put in 1996 on some prior things. Mr. Delawder stated it goes pretty much on the sidewalk sales and parking lot, can't block roadways; all that kind of stuff. He stated that's all understandable. They have no problem.

Mr. Delawder asked if his wife could read those to them or did they think it was a waste of time.

Mayor Medellin stated it was never a waste of time, but he would defer to his wife if she would like to or not.

Mrs. Delawder read a highlighted section of the handout.

Mayor Medellin asked Mrs. Delawder if it was her intent to read all the highlighted areas.

Mr. Delawder stated that is what he was asking.

Mayor Medellin stated maybe it was his fault and he misunderstood because for them to get this at the last minute was a little difficult. He stated that with all due respect he didn't want to be read to and he would really like to read it all.

Mrs. Delawder said that was fine.

Council Member Rigby asked for clarification from Mr. Richardson. He asked if this was considered new evidence in the appeal process being that the Planning Commission was not given the CC&R during its original review of the project.

Mr. Richardson stated it was true. It is something that the Planning Commission did not have. Apparently it was out there but they did not have it and again in spite of wondering where they were, this is the first time anybody has seen them. Mr. Richardson stated that if they have to decide that the Planning Commission made an error then they can kind of judge.....

Council Member Rigby asked if the Planning Commission's decision was solely based on not having this information available to them.

Mr. Richardson stated that was correct.

Council Member Rigby stated that what was being asked of them tonight is to oversee an appeal that was being made of a decision that was made without all of this information that has now been presented to them.

Mr. Richardson stated he was correct.

Council Member Oliver stated he had a question on the language that Mr. Richardson was able to find and it does reference any owner or lessee. His question to Walmart Realty Company, if they have any representatives here or the applicant is whether or not there is even a lease agreement for this particular purpose but his initial thoughts would be to allow for the Planning Commission to have the full opportunity to review the full... of this proposal with the CC&Rs in hand.

Council Member Oliver stated that reading through the record or the meeting minutes there was an inkling from some of the members to have that documentation at their ready so he thinks that is kind of what he is gravitating towards at this time especially given the new evidence that Council Member Rigby had just mentioned.

Council Member Rigby stated he wanted to go ahead and agree with Council Member Oliver.

Council Member Rigby addressed Mr. Delawder and offered his condolences on his loss. Council Member Rigby stated that he knows they had to postpone their hearing because of his loss. He stated that he considered this an olive branch or a second chance because when the Planning Commission asks for something as important as a CC&R he would suggest that next time he get that to them as soon as possible.

Council Member Rigby stated that barring any further discussion he was going to move.....

Mayor Medellin stated he has a public hearing and he does still have the public hearing open and he asked that Council Member Rigby hold on to that just one second if he didn't mind.

Mayor Medellin asked Mr. Delawder if he had anything further to add.

Mr. Delawder stated they are in favor of community events that benefit the community but it can't harm the appeal of the shopping center. He stated that the owners have it as a shopping center as they all know shopping centers. They aren't trying to downgrade it in any way. Mr. Delawder stated that he's been in shopping centers for a long time and he's never seen a shopping center with auto dealerships in them or

used auto sales. That's a whole different.... He stated he's had small town communities that do different things and he understands. That's fine. He stated that as the landlord, they are a small company. They have a lot of shopping centers. He is the one with many hats to get around and they see that they have to be here more often. There are some other things going on. They do want to paint the shopping center and do some other stuff.

Mr. Delawder stated that they'd mentioned there are schools there. He stated that they spoke up at that time, not an appeal, when the school was there. They wanted the parking in the back but it was put up front. He stated they are just correcting that with the school and the owner and the same thing here with the autos. They recognize that maybe there's a need for the community to do that. They would like to see that be a community event. They would not like to see it on Christmas or on the 4th of July because those are key times.

Council Member Rodriguez asked if Mr. Delawder's concern was in having vehicles in that center and asked why they would allow any type of promotional sales if they are against the CC&Rs.

Mr. Delawder stated that the promotional sales are for the tenants in the shopping center in their opinion and Walmart is part of the shopping center but Walmart does not run an auto dealership.

Council Member Rodriguez stated that neither does the other local one so why would.....

Mr. Delawder stated that's why he is saying that theirs is a community event though. When they do community events they recognize or help other community things, that's a whole different issue.

Council Member Rodriguez asked if this outside vendor came in and promoted community events would Mr. Delawder allow that.

Mr. Delawder stated they would have to understand all the circumstances. Everything has various variables to it.

Council Member Rodriguez stated he just wants to be clear on the CC&Rs that they have in front of them. He stated that if Mr. Delawder is claiming that these don't allow for that, then why allow any. Council Member Rodriguez stated that was just his concern and he wanted to be clear on that.

Mayor Medellin stated that it also sounds like they need to sit down with the Walmart Corporation and work some of those issues out; that it's not necessarily done here.

Council Member Rodriguez stated that he also agrees with his colleagues that obviously this is something that wasn't produced to their Commission and now the question is to the Planner or the Commission why was this not requested if it was an issue that could arise. When he says he couldn't get a hold of it..... Council Member Rodriguez stated CC&Rs can be obtained in different ways so he wants to ask why they have these.

Mr. Richardson stated that he doesn't believe that anybody was aware they existed till that very night.

Mr. Delawder stated a lot of the reasons he didn't bring it... He handles many projects. He's been doing a lot of different construction projects as well and when he heard about this, the meeting was coming up. It was a last minute for him to even show up and he really wanted to take the time to bring it but did not. He stated that is his excuse.

Council Member Rodriguez stated he doesn't know if it's Mr. Delawder's obligation to produce them. They are out there. Obviously it is a public record. Council Member Rodriguez asked isn't it. So he was just wondering why that wasn't brought before the Commission.

Mayor Medellin asked if there was anyone else wishing to speak to please come forward. Mayor Medellin reminded that they should state their name and address.

Jim Estes of Fresno, California introduced himself and stated he's been heavily involved in the community; Fresno, Madera and Merced County. He stated he's been an auto dealer since 1997. He was a Ford dealer in Sanger, Merced Hyundai, Hayward Hyundai in Hayward, California and he had a previous large used car operation in Fresno.

Mr. Estes stated they have signed a national agreement with Walmart where they do special events and they bring great economic value to local cities and the way they do that is they have direct mail that is sent. They have digital, social and direct mail pieces and most of the mail is targeted to different zip codes outside of the city so their events will generate in revenue to the City probably \$1 million or so in vehicle sales.

Mr. Estes stated they are not targeting other auto dealers. He stated that in the prior event that they did in Kerman, Chowchilla and Merced and if he showed them a sales report, over 60% of the sales that were generated came from outside of the local 93678. He stated that what is interesting is that these events they gave out over 2,000 \$5 Walmart gift cards and VPA is the company that makes these contracts that they honor and travel up and down the state in California and Nevada that they are servicing right now.

Mr. Estes stated they are booked pretty much the entire year. They can alter their dates and they are not set they have to be there the day after Christmas. That was not intentional. They are just trying to fill their calendars for logistical reasons so that they can make it flow.

Mr. Estes stated that the important thing to note is that Walmart has over 1,200 events planned nationally this year up from 700 last year and what they are finding is that the average spend on a \$5 gift card translate into \$47 at the cash register. Mr. Estes stated that if he comes from Chowchilla or Kerman and he walks in and gets his card, he goes in and gets his bread, milk and whatever needs he has.

Mr. Estes stated one of the things that comes along with this is that there are additional prizes or give-outs that are insured by an insurance company. People come in \$1,000, \$100 but everybody gets a minimum of a \$5 gift card. What they've seen is that the benefit is not only to Walmart but to the restaurants because they stop and have lunch. It takes an hour to buy a car. They can go to the restaurant to the IHOP. They go to the Chase Bank to get their down payment out. It's a community event.

Mr. Estes stated they've done numerous managed events across the street at the Fairgrounds in the past with Scott Sample, Mexican concerts and bringing in bands. They are very involved in the Hispanic community. Mr. Estes stated they sell late model cars, not damaged cars. They sell mostly late program model cars that provide daily transportation to an average family. He stated that is just what they are trying to do is to bring economic value. He stated that obviously they are in it for their profit but the benefit they are doing creates an environment where people get excited and everyone wins. Walmart wins. The restaurants wins. The bank wins. He stated that is what they are trying to accomplish.

Council Member Oliver stated he appreciated the interest in the community and he admitted that at first glance seeing the prospect of additional auto sales captured his attention as auto sales reflect a significant part of the City sales tax generation. Council Member Oliver stated that Mr. Estes stated that at previous sales events 60% of the activity came from outside communities.

Mr. Estes stated from outside zip codes of the local City.

Council Member Oliver asked if Mr. Estes reckoned it could be true for the Madera market as well.

Mr. Estes explained that in the auto industry they call it pump in and pump out. If he is an auto dealer and he markets surrounding communities and he's in Madera, he wants to get as much pump out as he can. The reverse if he comes in they want to bring them into the area and that is the concept behind it.

Mr. Estes stated that if they looked at the mail piece it is very specific where zip codes are dropped. They are spread out intentionally because they don't want to saturate any one local area. He stated they are going to get the guy on the corner who drives by and sees it but they want to get the guy 10 miles away and it becomes a destination event.

Council Member Oliver stated he had a question for staff. He asked if sales tax generated from an outside community stayed in our community or if it went back home with them.

Mr. Tooley responded that from his understanding it goes to the community of the person's address so by way of an extended answer if someone from Madera buys a car in Fresno the sales tax actually comes back to Madera.

Council Member Oliver thanked him for the clarification. He asked where the restrooms would be depicted on the site plan.

Mr. Estes stated in that past they've used the Walmart restrooms with an agreement with them in the contract. He stated they could provide temporary restrooms. That would not be an issue. He stated they have probably a 10 page agreement of the do's and don'ts that pretty much coincide with the conditions of approval of the CUP and that's what they've done in the past.

Council Member Oliver stated he didn't see a condition of approval with regards to restrooms and asked Mr. Boyle if he'd missed it. He stated this is 30 days of commercial retail activity.

Mayor Medellin stated that while he was looking that up..... Mayor Medellin stated he is in retail himself, not in the car business, but in retail and anything they can do to promote is big. Anything they can do to bring in customers is big regardless of the season so if they can generate sales and have people come in and either chose his restaurant or somebody else's or Walmart versus a grocery store that's kind of the chance they take. Just get them here and it sounds like this is what's trying to happen but he wished there was some sort of way to measure that in that the retail places that are existing would say that the last time they had this their sales were up 20% or 30% or it wasn't worth it. Their sales were pretty stagnant other than them using their restrooms and parking in their stalls it wasn't worth it to them. Mayor Medellin stated that may be something that the tenants could help in that yes, they like when they do car sales because it definitely generates those sales that they're looking for and just throwing it out there and Mr. Estes doesn't have to answer.

Mayor Medellin stated but in the spirit of non-competing as he'd said with the cars Mayor Medellin asked if he would be opposed to or interested in working with the local car dealers and instead of all 80 stores to do a mini auto mall so that they can all pass out their card and all share in the wealth so to speak.

Mr. Estes stated that Mr. Boyle has been saying that they should develop an auto mall there at the freeway and 99. He loves the Madera community. He loves the Hispanic community. He loves the local valley. He grew up here; the farming. Since he was born, he's been here. Mr. Estes stated if there's an opportunity he would absolutely be there.

Mayor Medellin stated he appreciated that and thanked Mr. Estes.

Mr. Boyle stated there is not a requirement for restrooms perhaps in light of the fact that there is a requirement that doesn't allow for food or drink to be served on the site but there is not a requirement for portable restrooms.

Council Member Oliver asked for the average time for a sales transaction and Mr. Estes responded that it was under 60 minutes.

Mayor Pro Tem Foley Gallegos asked how many years he's been selling cars and Mr. Estes responded since 1997.

Mayor Pro Tem Foley Gallegos asked if he'd been selling cars at other shopping centers and Mr. Estes responded that they've done events all over the state.

Mayor Pro Tem Foley Gallegos asked that he would know that they would need a use permit to do that in the City.

Mr. Estes stated he would clarify that point. They coordinate through VPA and VPA has staff and evidently they contacted the County and they told them they didn't need one and so as soon as he found out there was a problem he was on site. He talked to the Code Enforcement and they made direct contact the same day with Mr. Boyle to find out what they had to do to fix this. Mr. Estes stated that at the point when they started before they even came every contract was in place. The DMV licensing permit was issued and they'd spent over \$40,000 in advertising to get there.

Mayor Pro Tem Foley Gallegos stated that was just a concern knowing that he's been in this profession for years knowing that, to call the County, this is a City event. It doesn't make sense to take it ok from the County that it was a no.

Mr. Estes stated he has staff that does that so it's not something that he was directly involved in but when it was brought to his attention he immediately addressed it.

Mayor Medellin asked if anyone else wishing to speak to step forward and reminded them to state their name and address.

Amer Muhar of Gill Auto Group located at 1100 S. Madera Avenue, Madera, California introduced himself and stated they did three sales there with the community and with Mr. Boyle. They applied for their permits, spent the two months before the sales and DMVs. He stated they were required to have restrooms out there and they had restrooms but this isn't that.

Mr. Muhar stated they are a local business. They have 44 employees. Thirty-three live here in Madera that belong to sales, service to all the departments. Mr. Muhar stated that two years ago they spent \$2 million on a brand new building that the permits alone for the City of Madera were probably over \$100,000 and they haven't done these sales in three years.

Mr. Muhar stated at that time the economy was very slow. There were hardly any used car lots in town. Now they see Madera Auto Plaza and Frontline Cars. Mr. Muhar stated there are plenty of used car in Madera that stay in Madera.

Mr. Muhar stated that when they took over the dealership which was Pistoressi it was 30% to 35% Madera residents. He stated his numbers today are close to 70% Madera residents. He stated all the sales people are from Madera except for their management. He stated there are not enough qualified sales managers in new car/used car business. They are not from here. They are from Fresno or Madera Ranchos.

Mr. Muhar stated to allow somebody else to come in and do these sales it's going to affect his employees. If it's 30 or 40 cars that weekend, it's all local Madera residents and like they said if Madera residents go anywhere that sales tax comes back here. He stated that every month they cut \$150 to \$160,000 in sales tax not counting DMV. If they take 70% of that, that stays in Madera.

Mr. Muhar stated that in his experience, he'd done these mailers, they do the \$5 Walmart gift card, when people are leaving they're mad. He doesn't know if anybody in the audience have gone to these sales. They are mad. That's only for Walmart. These aren't the other 12 businesses they have in that shopping center. Mr. Muhar asked what the guarantee is that the person is going back into that Walmart and not back to Kerman or Fresno to spend that money there.

Mr. Muhar asked what the chances were that they would put gas here if they are traveling 12 miles from Kerman. He stated that is his only concern.

Mr. Muhar stated he doesn't know Mr. Estes personally but if they did a little research this is probably his fifth or sixth used car outfit and he would do a little bit more research on sales tax with his other businesses involved. Mr. Muhar stated it's real simple, go on to the corporations and see why they were suspended, not paying sales tax and that's what the City's after.

Mayor Medellin asked if anyone else wishing to speak to step forward and reminded them to state their name and address.

Camille Nahoul of Frontline Cars located at 16594 Road 26 introduced himself and stated that business has been slow for them like the Chief of Police mentioned earlier about immigration or what have you and it did affect their business and to have another dealer from out of town and comes in and takes whatever is left it is kind of hard.

Mr. Nahoul stated he did a little numbers and he doesn't know if they are too familiar with the car business... He stated if they took 40 cars at each event now they are looking at 160 cars that were sold to another dealer from outside of the area. He stated that at \$3,000 each car they are talking about \$480,000 in money that is going to leave the area. That is not going to stay here. Mr. Nahoul stated that is not including what the commissions are on that \$480,000 that employees in the Madera area would benefit from. He asked how much are they benefiting from bringing another dealer into the area as far as the City but yet they are hurting the local businesses and the local sales people. He stated that was all he had to say.

Mayor Medellin thanked him for his comments. Mayor Medellin asked if there was anyone else wishing to speak on this item to please come forward.

Janice Gomes of Madera, California introduced herself and stated that during the July 4th weekend their Madera Speedway usually has a lot going on and the racers or whatever usually get to park in that area with their racecar where you've got those guys spending money here in town. Ms. Gomes stated she is just saying to think about Christmas holidays and stuff and she agrees with them. Keep the money in Madera, people.

Mayor Medellin thanked her. Mayor Medellin asked if there was anybody else wishing to speak. Someone spoke from the audience and Mayor Medellin instructed the person to come to the podium and tell them his name and address again for the record.

Camille Nahoul stated that if he wasn't mistaken, at the last meeting, it was mentioned that only three events of such event is allowed as far as City code. He stated that if he is not mistaken if they accept this they are basically giving him four events.

Mayor Medellin stated that with barely having the CC&Rs in front of them and issues like that it would certainly be something they would have to consider so he appreciates that.

Mayor Medellin asked if there was anyone else wishing to speak on this item. Seeing none, he closed the public hearing and stated he would bring it back to Council for further discussion.

Mr. Richardson stated he wanted to interject because he senses a direction that he doesn't think was allowed for in the code. He stated there are three options. They can either affirm the decision of the Planning Commission. They can overturn it and if they do that then they have to have findings as to where the Planning Commission erred or they can modify the decision. In other words, they might change a parameter of it or something to that affect. Again they would have to have error findings. Mr. Richardson stated he just wanted to throw that out there in case that was the direction they were going. He wasn't quite sure.

Mayor Medellin stated he is going to listen to his colleagues and he is not sure if error is the word but it certainly seems like there was missing information.

Council Member Rodriguez stated the applicant mentioned thousands of dollars for promotional and asked staff if that was already done or if that is something that will be spent once approved.

Mr. Boyle stated that for the first event that occurred prior to permits he believes those monies have been expended. He doesn't believe any mailings have occurred since that time but he can't confirm or deny that.

Council Member Oliver stated he appreciates the City Attorney's feedback and direction. Council Member Oliver stated as far as the findings with regards to detriment to general welfare of the neighborhood or the community or to the City with some of the figures that the applicant presented this evening especially with regard to the potential leakage that could occur to outside communities and asked if there have ever been instances where that nexus has been form, so to speak, with, if they were to find error in that particular finding because of the information that was shared tonight. He stated he realizes that they didn't have that information either from what he could read in the meeting minutes.

Mr. Richardson asked if Council Member Oliver was saying that the error would be that it was detrimental due to competition.....to providing competition to local.

Council Member Oliver stated that it would in part to the sales tax leakage if they were to have 60% of folks coming from out of town buying vehicles that sales tax leaves the community and goes back with them and he thinks that is kind of the angle he was drawing.

Mr. Richardson stated he thinks he would caution him from going at it strictly from a competitive business angle as far as the detriment. He thinks when it talks about detriments it's is it disrupting traffic, is it causing excess noise, is it creating some sort of nuisance, things like that. That is what he believes is going to be the court's interpretation of detrimental and if they go down the road from a competition basis or leakage he thinks the court would be probably not real quick to jump on that band wagon. Mr. Richardson stated that would be his advice is to stay away from that if that's where he's going with that term.

Council Member Oliver stated he appreciated that clarification. He stated he knows that they kind of stay within the lane so to speak when looking at....

Mr. Richardson stated that may be where he wants to go but he's just telling him where he thinks the court would go.

Council Member Oliver stated he wanted to state for the record where he'd like to go. He thinks it would be to go back to their existing policies with respect to temporary uses. He stated that for him 30 days is an awfully long time and he thinks they should have something in place that allows for less discretion and more structure in entertaining these proposals and he is very sensitive to the existing business community that invest a tremendous amount of money in the community and he thinks this would potentially have a detriment on them however he is also cognizant of the rules that are in place and the appeal decision that they have this evening.

Council Member Oliver advised Mayor Medellin that he would certainly suggest at this time that he could not move forward with a vote or decision on this item. He stated he would like the Planning Commission to have a record of the meeting minutes this evening especially with the testimony from some of the business owners that were there in attendance as well as the applicant and some of those sales figures and he thinks it would be prudent for the Planning Commission to take another look at that especially given the CC&Rs and other developments. Council Member Oliver stated he didn't know what process whether it be through a motion or how they might direct that if they can but....

Mr. Richardson stated there is really no mechanism that sends it back to the Planning Commission. Mr. Richardson stated that in other words this one pretty much rests in their lap because basically the appeal process only identifies the three options.

Mayor Medellin stated what he was going to ask and again he hates to use the word error towards the Planning Commission because he thinks they did their due diligence based on information they had but if they would consider either not asking or not being presented the CC&Rs he's not sure how a decision could be made without that. He asked how do they use the CC&Rs as a basis for what should or should not be clarified without a copy of that.

Mr. Richardson stated he didn't understand that question. Mr. Richardson asked if he was asking if it could be used as error.

Mayor Medellin stated there is a fine line there. He stated they are using the CC&Rs as a measuring stick as to what can or cannot be allowed and during the testimony of the Planning Commission the CC&Rs were brought up. It just depends on the interpretation. Mayor Medellin asked how that could be determined without a copy of that.

Mr. Richardson stated they were brought up but he would remind.....

Mayor Medellin asked if that would be considered error.

Mr. Richardson asked that they didn't suspend/continue it and ask for them. He stated he supposed... Mr. Richardson stated he was trying to remember. He didn't have the record in front of him so he didn't know what the language was.

Mayor Medellin stated that he thinks that to follow his colleague Council Member Oliver he thinks that's kind of what he's trying to go after that given the testimony there and he's not sure of all the testimony that evening but given the testimony there and the lack of CC&Rs he felt the same way. Mayor Medellin stated that with that prudent information that there might be at least a better more fact based determination.

Mr. Richardson stated he would just clarify too where the path would lead them. Mr. Richardson stated that if they decided they errored and that was the error this thing gets overturned and the permit is denied and then it would be up to the applicant to decide if he wanted to try another bite at the apple in light of that. Mr. Richardson stated it doesn't really in effect send it back to the Planning Commission. In other words there's no provision for that. Mr. Richardson stated that again he would remind the Council that the CC&Rs are basically between the two property owners and as he reads them he doesn't see anything in there that would necessarily outright preclude them.

Mayor Medellin stated so they affirm the Planning Commission, they can over turn based on error and that is exactly what this hearing is to determine that the Planning Commission made an error in their determination.

Mr. Richardson stated did they miss something.

Mayor Medellin stated or they could modify.

Mr. Richardson stated that modification would be something like possibly changing the dates they are allowed or something like that. That is what he would consider a modification.

Council Member Rigby stated he is cautious at moving in the direction that he, the Mayor and his colleague Council Member Oliver are moving towards. He definitely shares their sentiments. He feels like this was a valuable piece of information and because it was withheld it put their Commission in a tight spot and more importantly it puts them in a more difficult position. Council Member Rigby stated that he believes that the Planning Commission, had they wanted to seek out the CC&Rs, should have withheld the hearings for a

later date until more information was given. He stated that more importantly the Madera Capital Group including Mr. Delawder should have provided this information. He stated had they been as spirited as they were tonight early on in the process perhaps they wouldn't be here.

Council Member Rigby stated that the unfortunate thing is that he doesn't want to put the City in the position of further litigation if this does go back and is found to somehow be... or the permits are revoked or something is done. It seems like Mr. Estes when you think of his position good or bad has done his due diligence to go to the VPA and get proper paperwork done. Council Member Rigby stated this is decision that he thinks needs to be made at a table that isn't theirs.

Council Member Rigby stated that if the Madera Capital Group is so spirited on events that are being held within the parking lots of their property then he thinks they need to do everything they can to sit down with those properties that are involved specifically Walmart. Council Member Rigby stated they are not the governing board tonight unfortunately. He stated if he was there would probably be a different tune.

Council Member Rigby stated that being that their hands are cuffed to affirm, to modify or to find an error of their Planning Commission he is not sure he is seeing any position where they are going to be able to send this back to the Commission with the CC&Rs in play and he's left with possibly leaning towards affirming the decision that was made that evening based upon all of the testimony that was given and all of the information that was given in order to protect the City from further litigation down the road.

Mayor Medellin thanked him for his input.

Council Member Oliver stated he wanted to pivot back to one of the findings and that would be that these outdoor sales events would be compatible with surrounding properties because its operation would not negatively impact adjoining businesses within both the Marketplace Shopping Center and adjacent properties. He stated that he knows that was discussed briefly at the Planning Commission and it was made note by Mr. Delawder as far as a concern with their respective businesses. Council Member Oliver stated that he thinks that with the testimony that they received this evening he asked could they not make that conclusion that there was and he hates to use the word too error but there was an error in that decision as far as finding that finding so to speak.

Mr. Richardson stated he would caution him to the extent that he was saying it disrupted them or interrupted them he thinks is the wording on it.

Council Member Oliver stated that is part of the findings as documented in the staff report is that the outdoor sales events would be compatible with surrounding properties because its operation would not negatively impact adjoining businesses within the Marketplace Shopping Center and adjacent properties.

Mayor Medellin asked if Council Member Oliver would consider that those particular dates and those traffic patterns would adversely affect the surrounding businesses.

Mr. Richardson asked if that was in the actual staff report or was that in a finding made.

Council Member Oliver stated it was one of the findings that was a part of the Planning Commission action.

Mr. Richardson asked it was a finding then.

Council Member Oliver replied affirmatively and stated it was one of five.

Mr. Richardson stated it is up to them. They have heard the evidence and again they've heard his cautionary tale of what he would consider detrimental or that type of thing. They've heard the evidence and it's their call based on that.

Council Member Rodriguez stated he too shares the sentiment of a lot of the business owners there but he is also concerned and cautious of the decisions they make. He stated that again he doesn't think this is a decision that came before the Council but yet an appeal. He stated that in the future he would hope that this Council would set direction for what can be proposed in these areas so that they don't have these issues arise again. Council Member Rodriguez stated he feels that this has really brought up very interesting questions. He stated that the fact of the matter is he brought in CC&Rs and obviously it puts the Council in a tough situation especially with litigation that could potentially be involved. Council Member Rodriguez stated that if they are to set the direction he thinks the Council should consider in the future really adding some restrictions and what have you so that when it's presented again to the Planning Commission they don't go through that process again.

Mayor Medellin thanked him and stated that he sees they all have their thinking caps on so he's not going to pressure anybody.

Council Member Rigby asked Council Member Oliver if a modification of the time might help him....

Mayor Medellin asked if with the dates or actual time.

Council Member Rigby stated the dates with traffic congestion.

Mayor Medellin stated he was going to go there.

Council Member Rigby stated that he knew for a fact that during the 4th of July week there are going to be two fireworks stands somewhere inside that shopping center. He stated one is usually on the south corner caddy corner of the Chase Bank and the other one is somewhere in the Pak N Save parking lot and he knows that is going to change parking because the Fire Marshal requires x amount of space and he doesn't know if Mr. Estes was aware of that. He doesn't even know if the City was aware of that. Council Member Rigby stated that's going to require x amount of space for parking to be taken away because if the parties do decide to store their fireworks on that lot which they have every right to do that changes the game when it comes to parking and availability.

Council Member Rigby stated he didn't know if Council Member Oliver was saying that no matter when this thing was going to be the pedestrian safety, the loitering, the blight and traffic congestion all play a part into what he's considering to be detrimental to the safety or peace or.....

Mayor Medellin stated that before he answers that he wants to go back to Mr. Richardson. He asked that as far as modifications, Mr. Richardson had mentioned dates. He asked if this Council felt that 28 days or 30 days was too long for a non-permanent, they could make it 10 days if they felt, they could change dates or they could reduce the number of consecutive days.

Mr. Richardson stated that would be a modification supported by some sort of finding as to why.

Council Member Rodriguez stated that the argument that they have before them is that it's going to affect their local business and asked if in modifying that it was going to resolve the issue at hand which is affecting their local business.

Mayor Medellin stated no.

Council Member Rodriguez stated that again his concern is what is it they are trying to modify. He asked if they're trying to modify the fact that they're just going to change the event but yet still affect their local business because it's still a competing outside vendor.

Mayor Medellin stated that is a good point and that is the point that Council Member Oliver brought up that regardless of the number of days it's going to have a negative impact on their local existing businesses.

Council Member Rodriguez asked if they are fighting that then he doesn't think the modification would be the wise thing to do because it still would not remove the competition issue.

Council Member Rodriguez stated that at this point, again, he kind of shares the sentiment of Council Member Rigby that what is presented before them today really caught them off guard and it caught the Commission off guard so he doesn't know if that would signify or become an error and he thinks they expressed that so that puts him a little cautious in the position they are in now and he knows there is money invested on one side of the group and there are not very happy local business owners and/or property managers on the other side so that smells like litigation to him.

Mayor Pro Tem Foley Gallegos stated that she's looking at the safety aspect of the shopping center and when the Planning Commission looked at it, Workforce hadn't gone in there. She stated it is crazy on that side and they have restaurants around there. They have a nail salon that brings in several residents and just that area alone all the parking has been pushed back to go to those venues that are in that shopping center so her thing is just safety. Mayor Pro Tem Foley Gallegos stated they have more residents coming into the shopping center to do business, buy groceries and now instead of being able to park in front of the venue they are at they are having to go a distance. She stated she knows that there are other businesses that will be going into that shopping center in the next few months which means more vehicles so her thing is really just safety for their residents.

Mr. Richardson stated that it's their call if they think that the Planning Commission didn't consider that completely or give it the weight they thought then that would be the area that they identify but if it's something where they decided they want to overturn their decision then they need to identify that specific error that way those will get reduced to writing after.

Mayor Pro Tem Foley Gallegos stated it is stated on the CC&Rs on page 9 about the in and out of the Tract 1 and 2 area.

Mr. Richardson stated that it just says they can't block it. He doesn't know that this does that or not but...

Mayor Pro Tem Foley Gallegos asked if he'd tried getting out of that parking lot area.

Mr. Richardson stated that he thinks it says between Tract 1 and 2 and he doesn't know where Tract 1 and 2

Mayor Pro Tem Foley Gallegos stated it is on the second map.

Council Member Rodriguez stated that with that same concern regarding the safety aspect of it he is still going back. He is trying to help define where the error is at and is that the error that they are going to stick by. Safety must have been some concern to the Planning Commission at their time of deciding whether they were going to approve that or not.

Council Member Rodriguez asked if these issues were brought up in the Planning Commission in regards to safety and what have you. He stated that obviously some of those issues are in the CC&Rs but safety blockage, traffic.... He stated he is sure all those things are elements that are brought into the conversation.

Mr. Boyle stated he didn't believe there was any direct dialogue as it relates to safety of the use on the site in light of the fact that there hadn't been issues in the past and the conditions of approval had worked in the past.

Council Member Rodriguez stated he guesses that is his concern: safety and error. He stated that again, he just wants to make sure that they eliminate all the potential litigations.

Council Member Oliver stated he agrees and shares that sentiment and they certainly don't want to be on that side of things. He stated that he has some deep concerns as far as restroom use. It would be required

to use the Walmart facility. He asked if there was any conversation as to that path of travel between those that would be frequenting that site and going to the Walmart facility to use the facilities there or...

Mr. Boyle stated there was no dialogue along those lines.

Council Member Oliver stated he knows they had one local business owner also raise that they were required to install such facilities. He asked Mr. Boyle if they knew off the top of their head if that was particular the case for.....

Mr. Boyle stated that may have voluntarily been provided on the part of the Gill Auto Group but there was not a condition of approval that mandated it.

Council Member Robinson stated it's already been cemented and affirmed by the Planning Commission. They talk about safety but for instance they are going to have more people coming into the City and before they know it.... He comes from the Bay Area and the Bay Area is overpopulated and that's a sign of success of the City growing. Council Member Robinson stated they can bring in portable restrooms to make up for more clientele. He stated that if they want to make a point next year not to go that way then they should put in their guidelines.

Mayor Medellin stated that again he just wanted to clarify modification with Mr. Richardson. Mayor Medellin stated that basically what was before the Planning Commission and now before the Council in the form of an appeal they can modify any of those terms and conditions of the agreement.

Mr. Richardson stated modifying the terms of the permit is one of the options.

Council Member Rigby asked if in modifying they have to find error in order to support the modification.

Mr. Richardson stated they want to find some basis for the modification. Some error like they didn't look at this so they need to do x, y and z. He stated they want to identify that as the basis for the modification as well.

Council Member Rigby asked if it is speculative such as is it the seasons of the shopping center.

Mayor Medellin commented because they are not sure if it's busy the day after Christmas.

Mr. Richardson stated that if it's what they thought was the error and there's a reason such as they didn't consider this and these things typically do have these effects they can identify that. He thinks anything going into the future is considered speculative.

Council Member Rigby stated he just wants to cross his T's and dot his I's.

Mr. Richardson stated they have to define what they didn't consider or what they didn't take into account; what kind of error they made that would warrant the change.

Mayor Medellin stated that is exactly what he is thinking. First, he understands completely what's before them this evening and trying to find error on a difficult decision made by the Planning Commission made on a 3/3 vote. He stated that is what they have to determine if that error was made and at the same time going through all the testimony and going through the minutes of the Planning Commission meeting and staff's report, it seems as though they have those same questions that show that these are dates that have not been used in the past so they don't have history to show that they've been doing this before and everything works out fine.

Mayor Medellin stated they haven't been there on the 4th of July weekend nor have they been there the day after Christmas when everyone returns and so on and so forth so he is not sure if that is speculative or not.

Mayor Medellin stated they are still not sure if this is its intended use: to bring business into Madera. He stated that is the whole point.

Mayor Medellin stated Mr. Estes is a businessman and he wants to make money and at the same time partner with those businesses in Madera and so to try to determine if this is detrimental or not is a very fine line and so possibly modifying this particular agreement is maybe something they can do and as Council Member Robinson said use it as a measuring stick as to where they go or actually where the two parties go from here. Mayor Medellin stated he is not giving them any of those modifications. He just wants to make sure that they've looked at everything clearly.

Mayor Pro Tem Foley Gallegos stated that a resident brought up that there are three additional, and he's already had one, so that is four and asked Mr. Boyle how many are allowed a year.

Mr. Boyle stated they look at it from a 30 day total perspective. In this case they provided those 30 days to be spread between four events mindful that the first event occurred without permitting being in place.

Mayor Medellin stated that is not necessarily an ordinance. It is kind of a guideline that they use.

Mr. Boyle stated he would term it a guideline. He stated the outdoor sales component of the ordinance doesn't provide any specificity.

Mayor Medellin asked if it also goes for food vendors that have licenses and fruit vendors along the same guidelines.

Mr. Boyle stated that was correct. He stated that he would note that the Walmart site is unique in that these are annual permits so as whereas the SaveMart or the Rancho SanMiguel might secure an outdoor sales event use permit to display cases of soda outside their building, that's a one-time permit and it stays in place so long as it is utilized. In the case of the Walmart and for that matter the Safco properties, their requirements are for annual permits to be secured so note the storage containers is an annually secured permit. Outdoor sales events of any type on either side of the two phases requires permits to be secured annually per the original agreements.

Mayor Medellin asked if Mr. Boyle was saying that they will go before the Planning Commission every year.

Mr. Boyle stated every year.

Mayor Medellin thanked him.

Council Member Oliver asked if they had a wet signature from the Walmart realty company for this application.

Mr. Boyle stated they have a signature from the local manager.

Council Member Oliver stated not from the owner just its representative.

Mr. Boyle stated not from Fayetteville.

Council Member Oliver asked if he'd seen the lease agreement.

Mr. Boyle stated he thinks they do have a lease agreement in the application file.

Council Member Oliver stated that if they were to move forward with the modification and especially based on some of the suggestions that Council Member Robinson recommended he might propose some modified dates that would allow them to look at this time period as a measuring stick. He stated that he might propose June 30th through July 2nd, September 22nd through the 24th and December 29th through the 31st if

it was at all possible. Council Member Oliver stated he thinks that could partially brunt some of the impacts that it may have on surrounding businesses or those that are tenants in the larger shopping center. Council Member Oliver stated he is sure Mr. Richardson is going to jump in any second in regards to that recommendation but he would put that out there as a potential modification.

Mayor Medellin asked that he repeat those dates again.

Council Member Oliver stated June 30th through July 2nd, September 22nd through the 24th and December 29th through the 31st.

Mayor Medellin stated that he is saying essentially in three day increments.

Council Member Oliver stated that was correct.

Mr. Richardson asked what that was based on.

Council Member Oliver stated that was based on the public testimony that they've received this evening. It's based on the CC&Rs that have been presented that were acknowledged as part of the meeting minutes of the Planning Commission's decision so he would err on that fact.

Mr. Richardson stated he is just trying to clarify the record and stated that the error that the Planning Commission didn't find.... He stated he is just trying to clarify the basis for the modification. He asked if Council Member Oliver was saying that the impact.....

Council Member Oliver stated that the impact based on the testimony that they have received would have a negative impact on adjoining businesses both within the center and surrounding areas.

Mr. Richardson asked if the reduced dates would be geared towards reducing that impact.

Council Member Oliver stated that was correct.

Mr. Richardson stated ok, he just wanted to get something clarified.

Mayor Medellin stated that he knows the previous dates included set-up and tear-down which seems like it's a lengthy process so he's not sure if he's specific on that or not.

Council Member Oliver stated he would be amenable to what the previous arrangement was. He believes it was it was the day before at noon. Twelve o'clock was the earliest the day before.

Mr. Richardson asked if he wants to leave the existing set-up and tear-down provisions in place.

Council Member Oliver stated that was fine.

Mayor Medellin asked if he was saying those would be the sale dates.

Council Member Oliver replied affirmatively.

Mayor Medellin stated that while Mr. Boyle was looking that up he would go over to Council Member Rodriguez.

Council Member Rodriguez stated he is still confused here as far as are they going based on the emotions that they heard from the public regarding dates or was into the business because what he heard was local business. He just cautioned that they don't move on something emotionally but they do it rationale and he defers back to Mr. Richardson since he is counsel and asked if that was an error at finding as far as those dates. Council Member Rodriguez stated he appreciates the comments from all their Council there and it's

emotional because they have some of their local businesses there and he shares that sentiment with them but that's not what is brought before them. That's something that the Commission could have definitely handled. He stated that now that it's here, their decision is if they'll be able to, one of the three options. He asked if they have sufficient evidence or facts to be able to prove that its error and that is his concern. Council Member Rodriguez stated he shares the emotions of their local business owners but that's not the decision that they have before them. It's can they find error and he wants to defer that back to Mr. Richardson.

Mr. Richardson stated that basically what they have to do is identify what the actual problem is and if they decide that the Planning Commission didn't adequately identify that as a problem in other words as a detriment, somebody threw out the word safety, then does the modification of the dates help to alleviate that. He stated if that's what they are finding, they need to modify it in a way that addresses that then, that's what they can order but it does need to be articulated in such a way: they missed detrimental impact a) which is whatever they identify and for that reason they think in order to mitigate that they need to make certain modification. Mr. Richardson stated he doesn't want to make the decision for them because he's not the decision maker but that is what they need to articulate.

Mayor Medellin stated he understands completely. He stated he could agree with Council Member Oliver in the sense that the Planning Commission missed the fact that these dates are the most high traffic times in the Walmart shopping center and they should have been cognizant of that fact. Mayor Medellin stated that allowing for more than three days at a time for sales; seven, eight or 12 days in some of these cases is also detrimental so he can certainly support that.

Council Member Rigby stated that he might even add that one of the findings is that there is adequate parking and site features to allow for the proposed outdoor sale event and he thinks that Council Member Oliver's modification specifically to the June 28th to July 5th time because they are not really sure of where the location of the fireworks booths are going to be and the type of requirements that are going to be put on them because of storage of flammable products by the Fire Chief or Fire Marshal, he would exclude that week altogether just because he believes if he is correct they can begin sales seven or 10 days prior to the 4th of July and actually can sell three to four days after so that could change the parking situation and the finding is there's adequate parking for site features that could be jeopardized by the location of the fireworks' stands within that parking lot so he would concur that modifying that week of sales would be imparable.

Mayor Medellin asked if he was proposing other dates other than what Council Member Oliver had proposed.

Council Member Rigby stated he doesn't have a calendar in front of him but he might make a suggestion that 365 Auto be willing to find new dates rather than somewhere around that week. He didn't know, if Council Member Oliver, noting he seemed to have a calendar rocking and rolling over there...that maybe just the week before.

Council Member Rodriguez asked if those dates are modified does that then go back to the Commission or does that go back to the vendor and agreed upon.

Mr. Richardson stated that basically in essence no. He stated basically in essence what they are doing is changing the terms of the Planning Commission decision. Changing the nature of their approval by modifying it and those would be the new dates.

Mr. Boyle stated that in reference to set-up and tear-down it begins at 12 noon before and ends 12 noon the day after per Condition #8.

Council Member Rigby stated he might also add to the modification that the dates be the week before so that would be June 28th and then asked Council Member Oliver what the dates were.

Council Member Oliver stated June 28th was the first day that they had proposed for the first period the week before: June 28th to June 30th.

Council Member Rigby stated June 28th to June 30th sounded right. He stated he might also make an addition to that modification. He stated sending people to Walmart, they would have to cross that major, they'll call it an, arterial pathway of traffic that separates Tract 1 from Tract 2 in reference to the CC&R map; the display area. Council Member Rigby stated that could be difficult so he might suggest that 365 Autos provide temporary restrooms for patrons during their sales periods.

Mayor Medellin asked again, that would be based on the safety issues of pedestrians walking through the parking lot to Walmart.

Council Member Rigby stated he thinks so.

Mayor Medellin stated that is just restroom use. They are not trying to keep them from Walmart by any means. They have a \$5 gift card. It's just for the safety of.....

Council Member Rigby stated that according to testimony they heard that \$5 gift card is going to take people to Walmart.

Mayor Medellin asked if there were any other suggestions and if not he would look for a motion.

Mr. Richardson stated that the motion should articulate fairly specifically everything.

ON MOTION BY COUNCIL MEMBER OLIVER, AND SECONDED BY COUNCIL MEMBER RIGBY, ITEM C-1, RES. NO. 17-62, TO MODIFY DATES OF OPERATION TO JUNE 28, 29 & 30, SEPTEMBER 22, 23 & 24 AND DECEMBER 29, 30 & 31; ADDING THE CONDITION OR REQUIREMENT TO ADDING RESTROOMS ON-SITE GIVEN THE CONCERN WITH PATRONS HAVING TO CROSS THE PARKING LOT TO USE THE FACILITIES AT WALMART; SET-UP AND BREAKDOWN TIME TO CONTINUE CONSISTENT WITH THE PROPOSED USE PERMIT; AND FINDINGS FOUND IN ERROR TO BE IMPACT OR DETRIMENT ON THE SURROUNDING BUSINESSES AS PRESENTED AND ISSUES WITH PATH OF TRAVEL FOR PATRONS REQUIRING ON-SITE RESTROOM USE; MOTION WAS ADOPTED BY A SPLIT VOTE OF 4-2. ROLL CALL: AYES: COUNCIL MEMBERS OLIVER, RIGBY, ROBINSON AND MAYOR MEDELLIN. NOES: COUNCIL MEMBER RODRIGUEZ AND MAYOR PRO TEM FOLEY GALLEGOS. ABSENT: COUNCIL MEMBER HOLLEY.

RES. NO. 17-62 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA, MAKING A DETERMINATION AFTER HEARING AN APPEAL OF THE PLANNING COMMISSION DECISION APPROVING CONDITIONAL USE PERMIT 2017-07 AND SITE PLAN REVIEW 2017-08

Council Member Rigby stated he seconded the motion but he felt like their hands were tied tonight because of the lack of information being made available by Mr. Delawder not having the CC&R available to the Planning Commission at the appropriate time. He wishes they could support local businesses more like Mr. Gill by abiding by things that he's done to improve their community. He is grateful for that but again, unfortunately their hands are kind of tied at this and hard lesson learned but he does thank the Planning Commission for doing their due diligence with what information was provided.

Council Member Rodriguez stated that just for the record his no was based on the fact that he doesn't see an error in the modification and although he is very sentiment to the local businesses he is just afraid that this could lead to some litigation.

Mayor Medellin thanked him for his input and asked if Mr. Estes had something else to add.

Mr. Estes stated that a three day event is just not economically feasible because of logistics however they are very flexible on the dates. He stated those dates were picked but works for the neighboring tenant and Walmart.... He stated they just need to book their calendar out for the 12 months and those are the two main issues that he would have. Mr. Estes stated he would ask them to reconsider because they have a large investment and again, what works for the City, for the neighboring tenant and for Walmart as far as adding restrooms and the site things are not a problem. They just need lead time. Mr. Estes stated that if they look at just the logistics of moving 70-80 cars and making that kind of investment, they cannot get the return in three days. It just does not work.

Mayor Medellin thanked him and stated he doesn't know if there is any further comment on that. The motion has already passed 4 to 2.

- C-2 Consideration of a Resolution Approving a Second Amendment to the City Clerk At-Will Employment Agreement Relating to Ceasing Receipt of a Technology Allowance and Authorizing the Mayor to Execute the Amendment (Report by Wendy Silva)

Wendy Silva, Director of Human Resources stated that the City Clerk would like to cease receiving the cell phone allowance and have a City issued cell phone. The amendment as written would provide for that to occur effective June 1.

Mayor Medellin asked if he had an announcement that he had to read and Ms. Silva responded affirmatively.

Mayor Medellin asked if it was time to read it and Ms. Silva replied that he could read it now.

Mayor Medellin announced that for Item C-2 after oral report given by Wendy Silva pursuant to Government 54953 prior to taking action on this item the Council must publically announce a summary of the action being considered. If approved, the proposed amendment to the City Clerk's At-Will Employment Agreement would stop her receipt of a \$75 per month Technology Allowance and provide for issuance of a City cell phone for business use effective June 1, 2017.

ON MOTION BY COUNCIL MEMBER RIGBY, AND SECONDED BY MAYOR PRO TEM FOLEY GALLEGOS, ITEM C-2, RES. NO. 17-63, WAS ADOPTED UNANIMOUSLY BY A VOTE OF 6-0. ABSENT: COUNCIL MEMBER HOLLEY.

RES. NO. 17-63 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA APPROVING A SECOND AMENDMENT TO THE CITY CLERK AT-WILL EMPLOYMENT AGREEMENT AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

D. WRITTEN COMMUNICATIONS

There are no items for this section.

E. ADMINISTRATIVE REPORTS

- E-1 Presentation of the Preliminary City of Madera Enterprise Fund Budgets for Fiscal Year 2017/2018 (Report by Tim Przybyla)

Tim Przybyla, Director of Financial Services stated he does not have a slide presentation for the preliminary Enterprise Fund budgets but he will have one for the preliminary General Fund budgets. Mr. Przybyla stated this is the second of four preliminary fund budget presentations.

Mr. Przybyla stated the General Fund preliminary budget will also be presented this evening and all other preliminary budgets will be made at the second meeting in May. He stated that a special budget workshop

will be held on a date of choice by the Council which they will find out later this evening. He is hoping to present the Final Budget on June 21st or July 5th for their consideration of approval.

Mr. Przybyla stated that at this point they are preliminary budgets and they are working feverishly to bring together accurate and adequate budget presentations for them.

Mr. Przybyla stated the major Enterprise Funds are reflecting \$35.9 million of expenses which is 86.8% of the total projected Enterprise Fund expenditures for FY 17/18 with the projected \$9.3 million deficit for that same fiscal year. That includes \$13.6 million of the capital outlay. He stated that in total the Enterprise Fund project an \$11.5 million or 27.8% deficit for FY 17/18 but that includes \$16 million of the capital outlay.

Mr. Przybyla stated he had mentioned they would have information regarding the Water Fund, Sewer Fund of the Enterprise Funds fund balances or reserves at this meeting. He stated the Water Fund balance is \$7.2 million. The Sewer Fund is \$6.7 million and the Solid Waste is \$3.2 million. The Drainage Fund actually has a slight deficit or fund balance of about \$100,000.

Mr. Przybyla stated Public Works Department staff are here and others that have Enterprise Fund budgets and they would answer any questions Council may have regarding the preliminary Enterprise Fund budgets that are presented there that evening.

Mayor Medellin stated that they don't have any numbers in front of them and asked if the Drainage Fund is something that was normally in the red.

Mr. Przybyla stated that is something that just recently went in the negative and they are taking measures to correct that and Dave Randall from the Public Works Department may want to respond to that.

Dave Randall, Public Works Director stated that Storm Drainage is a lot more difficult to keep their balance than Sewer and Water. The difference is that they don't have the ability to adjust the fees. They technically could but it would take a positive vote of the electorate versus a protest hearing. So they have seen a depleting fund balance over the years.

Mr. Randall stated what they have done to try to offset that is some of the more creative things where they've taken the storm drain basins and looked at them and are actually improving them a little differently so they are now an asset of the Water Fund. They maintain those and deal with those and those costs get shifted to the Water Fund where they can recoup those costs. Mr. Randall stated that is sort of what is happening.

Mr. Randall stated that on the other end there is nothing new. They keep increasing requirements for storm drainage requirements and other things that drive costs up as well as just the normal inflationary things.

Mr. Randall stated there was an effort two years ago to try to change that law to make it so that they could adjust fees based upon a simple protest hearing. It didn't go anywhere. They didn't find that they could have adequate support for the bill so it didn't happen. Mr. Randall stated there is currently one piece of legislation that has the potential to affect that where they would classify storm drainage as a component of sewer and thereby effect the same thing but it's anyone's guess whether or not that will happen.

Mr. Randall stated that staff has been trying to look at ways to try to economize and do things. This year from some shifts in economies they've sort of been able to address that so they're actually not in the negative. They're going to have a positive revenue to expenditure ratio but it won't maintain itself.

Mayor Medellin thanked them.

Council Member Rodriguez stated that obviously the summary shows that there is an \$11.5 million deficit for the year ending 17/18. He asked what they can project especially with the presentation that Mr. Tooley presented to them weeks back in regards to the CalPERS [California Public Employees' Retirement

System]. Council Member Rodriguez asked if this has some type of effect into that if they have those draconian cuts. He asked how they would address that through this type of fund.

David Tooley, City Administrator stated that a loss in the Enterprise Funds when driven by capital purchases is not a basis for concern. He stated they can control that through the amount of investment they put back into the capital program every year.

Mr. Tooley stated that directly to Council Member Rodriguez's point, there are going to be increases in operating costs that are driven in part by the CalPERS increases. They are at the end of their five year cycle on rate increases and he would think that in advance of a year and half they're going to have to be in the planning process where they reevaluate their rates and Council will have to go through that process again. Mr. Tooley stated it is driven a little by the cost of personnel but it's a larger issue in terms of cost of operations and on about a five year cycle they come back and have that discussion with Council.

Council Member Rigby addressed Mr. Randall and stated that he remembers their process of talking about capital projects and some other things. He stated that he thought some of those projects were being pushed back to 2019 but then he saw the proposed budget of the capital outlays with sewer going up 241% and water going up 220%. Council Member Rigby asked to be reminded again of what those projects are.

Mr. Randall stated that all the projects are within the CIP [Capital Improvement Project] and Mr. Helmuth can maybe speak to some of them. Mr. Randall stated he couldn't really articulate all of them.

Council Member Rigby stated that he can go back and look at that and he should have. He apologized. Council Member Rigby stated he meant to send an email to Mr. Randall earlier this week.

Mr. Randall stated there are more recent items that he is more familiar with particularly at the Waste Water Treatment Plant to address some issues.

Council Member Rigby asked if that was just regular maintenance.

Mr. Tooley stated that they will be bringing back a report to the Council as part of the budget process. He stated they see some maintenance issues that are going to be fairly large dollar expenditures at the Waste Water Treatment Plant. He stated they should think of the Waste Water Treatment Plant just like their cars; parts wear out over the course of time. Mr. Tooley stated the difference is they are a lot more expensive in the Waste Water Treatment Plant.

Council Member Rigby stated he was going to wait for that report.

Mayor Medellin instructed Mr. Przybyla to continue.

Mr. Przybyla stated that concluded his presentation.

E-2 Presentation of the Preliminary City of Madera General Fund Budgets for Fiscal Year 2017/2018 (Report by Tim Przybyla)

Tim Przybyla, Director of Financial Services stated this is a work in progress. This information is presented at a high level overview of the anticipated budget at this time with no major changes over the FY 16/17 budget except for inclusion of Measure K revenues and expenses.

Mr. Przybyla stated that a specific budget workshop will be scheduled where individual pieces of the budget will be addressed in detail. Mr. Przybyla stated that prior to the budget workshop the City Administrator and the Director of Financial Services will meet with each department to review their anticipated revenues and expenditures requests for FY 17 and 18.

Mr. Przybyla stated that in summary this is the third of the four preliminary budget presentations. This General Fund budget request represents a 17% increase in expenditures, 8.4% increase in total General Fund personnel costs, Maintenance Operations costs are up 18.7% and Capital Outlay is up 272% but that is before they move the police vehicles over. He believes that it reflected a 390 some percent increase once they move that over there. Mr. Przybyla stated there are a lot of pieces they are still solidifying and trying to move forward with the budget and that's just one of them.

Mr. Przybyla stated the General Fund revenue projects increase 11% due primarily to the \$3.5 million of Measure K revenue and there should actually be a slight decrease in revenue without Measure K with the projections they are looking at from this point going from 16/17 to 17/18. Mr. Przybyla stated there is a projected deficit of \$3.1 million with roughly \$35.4 million in revenue and \$38.5 million in expenditures.

Mr. Przybyla stated the adopted budget for 16/17 included a deficit of slightly over \$1.4 million for the current year and yet they may finish FY 16/17 with \$1.4 million deficit but that would be including the \$800,000 of ERP and fire truck costs. Mr. Przybyla stated that they may recall that last year they basically balanced their budget by getting that \$1.5 million of financing revenue well this year they're expending part of that \$1.5 million. Mr. Przybyla stated that if they exclude that they would be looking at their best guess at this point is possibly a \$600,000 deficit in the General Fund for the current fiscal year.

Mr. Przybyla stated they are still fine tuning those and getting the best guess from the departments on their projections for the current fiscal year.

Mr. Przybyla stated that the addition of Measure K funding will increase the minimum reserve balance also and they'll need to work within those boundaries so because they've increased the expenditures by \$3.5 million, the 30% will need to be applied to that also because that's considered part of the General Fund.

Mayor Medellin stated that just to be clear, that Measure K money albeit General Fund money, it's already been discussed to be public safety money.

Mr. Przybyla replied affirmatively. He stated the next point says that the Measure K funds are budgeted for safety.

Mr. Przybyla stated in this budget they've included exact expenses matching to exact revenues with 50% going to police and 50% to fire in this budget. They are not making the General Fund look like it's better than it would be by saying they're going to bring \$3.5 million and only spend two and say they are off-setting the General Fund by \$1.5 million because it doesn't work like that and they will account for those funds separately in its own fund grouped together as part of the General Fund for presentation purposes.

Mr. Przybyla stated this is what they are looking at and that is what is included in the report: nearly \$2 million of deficit is related to the regular General Fund 1020. He stated that when they moved over to Munis they included the Code Enforcement as part of the General Fund 1020 because by nature it is part of the General Fund but for presentation purposes tonight, he's kept it separate so they can see what their share of the deficit is. Mr. Przybyla stated that in total they are looking at \$1.97 million in the 1020 Fund excluding Code Enforcement. Mr. Przybyla stated they budgeted for CDBG to balance; no deficit, no surplus. Code Enforcement is projecting a \$630,000 deficit in expenses in excess of revenues. The Insurance Fund this year, they are anticipating a hit related to retrospective adjustments which causes \$412,000 deficit in the projected budget for 17/18 at this point. Mr. Przybyla stated that in total they are looking at a \$3,012,821 deficit and the chart included in the staff report shows the breakdown of that with the percentages by department.

Mr. Przybyla stated that the points to consider this evening and as they prepare for the final budget or the budget workshop presentation are that they have a long way to go to balance this General Fund budget between now and their workshop and staff will be working feverishly to come together, to work as a team to see where they can cut cost, increase revenues, whatever they can to improve this projection.

Mr. Przybyla stated revenue trends are flattening and they had some bump ups in FY 16/17 mostly due to timing because certain revenues came in after it was too late to recognize them in 15/16 so it's making this year's budgets come down from, in actual, what they received in 16/17 but a lot of that's at fault basically just due to timing and he should keep it at that.

Mr. Przybyla stated Facility Maintenance costs are increasing. That's one of the things that's increasing these costs. Fleet replacement funding has been returned. Mr. Przybyla stated they may recall that last year they didn't contribute for the replacement of their General Fund vehicles. They decided they could push that out by one year so they did but they're returning that funding this year so they can have vehicles to replace their General Fund fleet vehicles as they expire.

Mr. Przybyla stated the ERP and fire truck costs are one time but roughly \$800,000 and will hit in FY 16/17. Mr. Przybyla stated if they are projecting there could be a \$1.4 million deficit, that's not an operational deficit. He stated that if they take out those capital expenditures which are not on-going expenditures such as personnel and regular maintenance and operations cost, they could have a \$600,000 deficit which is not nearly as bad as the \$1.4 million deficit.

Mr. Przybyla stated they need to find ways to increase revenues and maintain operational costs.

Mr. Przybyla stated looking forward things they need to consider are what the future increases to CalPERS and healthcare costs will be. They know they are going to be higher. The MOU [Memorandum of Understanding] does call for a 3% COLA [Cost of Living Adjustment] in next fiscal year after that he believes that is the end of that round of that MOU. Mr. Przybyla stated self-insurance adjustments could cost the General Fund nearly \$1 million over the next three years. He believes that is \$425,000 they are looking at in 17/18 so the \$1 million would be three subsequent years after that. Mr. Przybyla stated that in speculation he asked if they are going to have more revenue coming from a casino. He stated that's going to be down the road a ways but hopefully a travel center.

Mr. Przybyla stated that to be frank they are concerned at this point but staff will work diligently to reduce the FY 17/18 projected deficit before the budget workshop.

Mr. Przybyla stated that concluded his presentation on the General Fund preliminary budget and he would answer any questions or take any comments.

Mayor Medellin asked how much longer they had to pay off the balance of the John Wells Center.

Mr. Przybyla stated he wanted to say that would be paid off this year. He stated he knows they are reaching the end of that if they haven't reached it already.

Mr. Tooley stated they are getting close and if he recalls correctly the source of funding for the payment there are impact fees so they've had sufficient impact fees set aside for that purpose so that discussion does not affect their General Fund per se.

Mayor Medellin stated they are just full of good news. Mayor Medellin asked if there were any other questions regarding the General Fund discussion.

Mr. Przybyla stated the good news was they were going to try real hard to come back with a better General Fund budget by the time of the workshop.

Mayor Medellin thanked him.

E-3 Council's Selection of a Date for the 2017/2018 Budget Workshop (Report by Tim Przybyla)

Tim Przybyla, Director of Financial Services stated they are looking for a date selection for the Budget workshop. He stated they have the suggested dates and times of Monday, June 12th from 4:00 p.m. to 8:00 p.m. or Friday, June 22nd from 4:00 p.m. to 8:00 p.m. or another date and time of the Council's choice.

Sonia Alvarez, City Clerk asked Mayor Medellin if she could make a quick comment.

Mayor Medellin replied affirmatively.

Ms. Alvarez addressed Mr. Przybyla and stated that the second date in the report he says Friday, June 16th and the PowerPoint says June 22nd.

Mr. Przybyla stated he would fix that.

Mayor Pro Tem Foley Gallegos suggested June 12th. She will not be available on the 16th as she will be moving her daughter back from Cal Poly [California Polytechnic State University] that day.

Mayor Medellin stated he says Monday because he doesn't want them to ruin his weekend.

Mayor Medellin asked if anyone else was going to be available on Monday, June 12th.

Council Member Rigby stated he won't be there. He doesn't think he will be there. He stated he knows they don't want to go on the 16th and neither does he because he won't be there on that day either.

Mayor Medellin asked that since Council Member Rigby was not going to be there either day would it be fair to say the 12th.

Council Member Rodriguez asked if he meant the 13th.

Mr. Przybyla stated they went through all of the dates that were available and when the City Council Members told them they were not available because of graduations and certain things. He stated he worked closely with the City Clerk and basically those two dates were all that they could find. He stated of course staff was willing to entertain any other date but he believed those are really the two dates with the most potential.

Mayor Medellin commented Tuesday the 13th.

Ms. Alvarez through the Mayor addressed Council Member Rigby and stated that he'd mentioned he was going to be out the week that includes June 7th and she asked if he was referring to the same time period.

Council Member Rigby replied affirmatively. He stated he would be on a Red Eye on the 12th.

Ms. Alvarez reiterated he would still be out on the 12th and thanked him for the clarification.

Council Member Rigby stated he would be back on the 13th.

Mayor Medellin asked if Council Member Rigby was coming back on the 12th and Council Member Rigby replied affirmatively. Mayor Medellin asked the City Attorney if that is what he said that Planning Commission was on the 13th.

Council Member Oliver commented about doing it earlier in the day.

Mayor Pro Tem Foley Gallegos suggested the 19th, the following Monday.

Mr. Tooley suggested doing it at an alternate site meeting place.

Mayor Medellin asked if alternate meeting place or alternate time.

Mr. Tooley stated that the City Clerk is giving him a “no” look so he will shut off his mic.

Ms. Alvarez apologized and stated that her concern is that the recording system is available here and she wants to make sure they get it on record but it is up to the Council.

Council Member Rigby asked Mr. Boyle if they could postpone Planning Commission.

Mayor Pro Tem Foley Gallegos asked Mr. Przybyla if the following Monday, the 19th was not available.

Mr. Boyle stated that the Planning Commission would be on the 13th.

Mr. Przybyla asked Ms. Alvarez if she could recall what was happening on the 19th.

Mayor Medellin suggested Monday the 19th.

Ms. Alvarez stated that she believed the conversation was that the plan was to come back to consider adopting the budget at the second meeting in June so she didn't think that would preclude them from actually scheduling a date during that time and then it just rolls over to a July meeting.

Mayor Medellin stated that she was right, they are really pushing it.

Mr. Przybyla stated they could certainly approve it in the first meeting in July if they so direct.

Mr. Tooley stated they really don't want to extend the.... He stated this is going to be a less pleasant experience but on the other hand there is nothing that limits their ability if they had to push the actual adoption into July they can do that. Mr. Tooley stated if it gets a little bit long they do a Continuing Budget resolution. Mr. Tooley stated he would very much prefer to have all the Council present for the discussion.

Mayor Medellin asked if they were still looking at that week of the 12th through the 16th is there another date that week. He asked about Thursday the 15th.

Ms. Alvarez stated she believes that is the evening of the Business Extravaganza at the Fairgrounds and that was one reason they thought Council might be attending that.

Mayor Medellin stated that's their regular meeting day or RDA meeting.

Council Member Rodriguez stated Mayor Pro Tem Gallegos proposed the 19th and Mr. Tooley had mentioned that would go too deep into the month or would that not be.... Council Member Rodriguez asked if the point is to try to get all their members there.

Mr. Tooley stated he thinks it's important that the Council be present as a group for that discussion. He stated the adoption of the budget has a number of required elements and steps before they actually adopt. He stated they have to go through the Appropriations resolution, the Limitation resolution and all that stuff he chooses not to recall. He stated his point is if they push the actual adoption a little bit into July, he doesn't want to go too far, it's not the end of the world.

Mr. Przybyla stated that the idea of the June 19th date would probably work. He stated they could just push back the Final Budget approval to the first meeting of July if June 19th is a good date for all the Council Members.

Mr. Tooley stated that's assuming they can get through it in one night.

Mr. Przybyla stated then they're back on the 20th.

Mayor Medellin stated he's looking at the four hour window that they have so they wouldn't coincide it with an existing meeting, it would be lengthy. Mayor Medellin asked if they were saying the 19th.

Council Member Rigby asked if they were already pushing it back to July why would they take a Friday night. He asked why they wouldn't take another night.

Mayor Medellin stated it is Monday, June 19th.

Council Member Rigby stated he was still in May.

Mayor Medellin stated Monday the 19th.

Mr. Przybyla stated that would work well for staff if that was convenient for the Council.

Two Council Members said four o'clock.

Mayor Medellin stated they would expect a confirmation e-vite, email or something tomorrow or the next day.

Ms. Alvarez stated she would send an email.

Council Member Rigby apologized for having to

Mayor Pro Tem Foley Gallegos stated she wanted to know if Council Member Holley has a

Mayor Medellin stated that when they miss a meeting that's what they get. That's the rule.

Mayor Medellin stated it looked like they had the 19th and thanked Mr. Przybyla.

F. COUNCIL REPORTS

Council Member Robinson stated that on the 22nd he had dinner with Antonio Villaraigosa who is running for Governor of California and they discussed the needs of the Central Valley. Council Member Robinson stated he mentioned housing, water, the poor and homeless. Council Member Robinson stated that Mr. Villaraigosa stated he was about getting things done and that the valley was special to him.

Council Member Robinson stated he attended the Madera Republican Women's dinner and the DA [District Attorney] from Tulare spoke concerning child trafficking and prostitution and how they are bringing young girls from 14 years of age to different cities and they exchange them to other child molesters.

Mayor Pro Tem Foley Gallegos stated she had the pleasure of attending two open businesses in Madera and a ribbon cutting. She stated they have Madera Cross Fit that just opened their business behind Madera Unified School District and Brandon Baker on Howard Road opened a photography business. Mayor Pro Tem Foley Gallegos stated that two local residents that were born and raised in Madera opened up businesses. It was really exciting.

Council Member Rigby stated he made some connections with the Consulate of Mexico and so he had a chance to visit their Fresno offices and they are going to be joining forces with them on a couple of projects just kind of influenced by Mayor Medellin and his work with ICE [Immigration and Customs Enforcement] as well as the Police Department and just kind of working on an event that they'll be able to bring back to Council soon for some talk and hopefully approval; an event that would take place in December. Council Member Rigby stated it was great to be able to meet the Consulate and be able to work with them over there.

Council Member Rigby stated he'd like to talk about something that he'd mentioned before a long time ago. He stated he thinks he got a really good answer then but he'd love to be able to maybe look into getting City of Madera email addresses for Council Members. Council Member Rigby stated he knows it was Brown Act and he knows it was a really good answer. He just doesn't remember why he's still telling people from the Mexican Consulate to email him at...

Council Member Oliver stated at his Hotmail.

Council Member Rigby replied affirmatively.

Mr. Tooley stated there were two issues and fundamentally they are in a position now if they are willing to allocate the funds, because this would be a Capital Fund project, they can set it up and make that happen. Mr. Tooley stated there will be a cost issue that goes with it.

Council Member Rigby stated excellent.

Council Member Rodriguez stated he doesn't have anything to report but he does share the same issue that Council Member Rigby brought before the staff in regards to a City email.

Council Member Oliver congratulated Mr. Tooley and staff for completing another successful Vision Leadership Academy. He stated he knows that a very diverse and dynamic group participated during this past session and there's a lot of great feedback and excitement that was shared online via Facebook from some of those attendees. Council Member Oliver stated he just wanted to give kudos to staff for carrying out another successful academy and he thinks, although he was unable to make it to the last session, it would be great to invite those folks back to a Council meeting and recognize them and may be a great opportunity to hear some of their experiences first hand.

Mayor Medellin stated it really was. He stated they had a lot of great dialogue, great input and as they mentioned in the very first meeting they get just a small glimpse of what they do and the dialogue and input on Monday was really incredible. Mayor Medellin gave kudos to Mr. Tooley and staff for stepping up. Mayor Medellin stated he doesn't know if Mr. Tooley let them know but, one of the comments was they felt that all the directors were kind of competing against each other and he said absolutely any chance they can take to one-up their colleagues, they are going to do it but it is also their pride in Madera. Mayor Medellin thanked all of them for their help and input.

Mayor Medellin stated that in recognizing all the great things that happen in Madera, just a kind of warning if they will, on the 17th they will have the Madera Robotics Team there and they are going to bring their robot to maybe do a demonstration. He stated he is looking forward to that and recognizing the great things that they do. Mayor Medellin stated there are quite a few kids and some parents that will be there so they might have to make a little room or an obstacle course or something but he is looking forward to that and recognizing them.

Mayor Medellin thanked his colleagues for all the graffiti program attendance and the Neighborhood Watch attendance. He stated it's just been fantastic. He thanked them all for their time in that.

Mayor Medellin stated that tomorrow is the Mayor's Prayer Breakfast and if they hurry maybe he can go write a speech or something.

G. CLOSED SESSION

G-1 Closed Session Announcement – City Attorney

Brent Richardson, City Attorney announced that Council will adjourn to closed session in two items the first being Item G-2 Conference with Real Property Negotiators pursuant to Government Code §54956.8 for one parcel. The information is as set forth on the agenda. The second item, Item G-3, is Conference with Labor

Negotiators pursuant to Government Code §54957.6 and the parties and representatives are as set forth on the agenda.

Council adjourned to closed session at 8:37 p.m. ABSENT: Council Member Holley.

G-2 Conference with Real Property Negotiators - Pursuant to Government Code Section 54956.8

Property: 1 Parcel

City of Madera APN: 009-331-018
Agency Negotiators: David Tooley, David Merchen
Negotiating Parties: King Husein, Tim Mitchell, Julia Peña
Under Negotiations: Price and Terms

G-3 CONFERENCE WITH LABOR NEGOTIATORS - Pursuant to California Government Code Section 54957.6

Agency Designated Representatives: David Tooley and Wendy Silva

Employee Organizations: General Bargaining Unit
Mid Management Group
Madera Police Officers' Association
Law Enforcement Mid Management Group
Management Employees

G-4 Closed Session Report – City Attorney

Council returned from closed session at 9:26 p.m. with all members present. ABSENT: Council Member Holley.

Mr. Richardson announced that Council met in closed session in two items. He stated the first, Item G-2, was Conference with Real Property Negotiators pursuant to Government Code §54956.8. Mr. Richardson stated no reportable action was taken.

Mr. Richardson stated the second, Item G-3, was Conference with Labor Negotiators pursuant to Government Code §54957.6. Mr. Richardson stated no reportable action was taken in that matter either.

ADJOURNMENT

The meeting was adjourned by Mayor Medellin at 9:26 p.m.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN

Approval of the minutes is not addressed in the vision or action plans; the requested action is also not in conflict with any of the actions or goals contained in that plan.


SONIA ALVAREZ, City Clerk


ANDREW J. MEDELLIN, Mayor


Prepared by: ZELDA LEÓN, Deputy City Clerk

