



# CITY OF BUELLTON

## CITY COUNCIL AGENDA

**Regular Meeting of December 13, 2012 at 6:00 p.m.  
City Council Chambers, 140 West Highway 246  
Buellton, California**

Materials related to an item on this agenda, as well as materials submitted to the City Council after distribution of the agenda packet, are available for public inspection in the Office of the City Clerk, located at 107 West Highway 246, during normal business hours.

### **CALL TO ORDER**

Mayor Holly Sierra

### **PLEDGE OF ALLEGIANCE**

Vice Mayor Dave King

### **ROLL CALL**

Council Members Ed Andrisek, John Connolly, Judith Dale, Vice Mayor Dave King, and Mayor Holly Sierra

### **REORDERING OF AGENDA**

### **PUBLIC COMMENTS**

Speaker Slip to be completed and turned in to the City Clerk prior to commencement of meeting. Limited to matters not otherwise appearing on the agenda. Limited to three (3) minutes per speaker. No action will be taken at this meeting.

### **CONSENT CALENDAR**

**(ACTION)**

The following items are scheduled for consideration as a group. Any Council Member, the City Attorney, or the City Manager may request that an item be withdrawn from the Consent Agenda to allow for full discussion.

- 1. Minutes of November 8, 2012 Regular City Council Meeting**
- 2. List of Claims to be Approved and Ratified for Payment to Date for Fiscal Year 2012-13**
- 3. Year 2013 Proposed Calendar of City Council Meetings**

- 4. **Resolution No. 12-25 – “A Resolution of the City Council of the City of Buellton, California, Declaring and Certifying the Result of the General Municipal Election Held on November 6, 2012 and Such Other Matters as Provided by Law”**  
❖ *(Staff Contact: City Clerk Reid)*
- 5. **Growth Mitigation Annual Compliance Report**  
❖ *(Staff Contact: Finance Director Muñoz)*
- 6. **Approval of Revised Memorandum of Understanding (MOU) for the Breeze Extension Inter-Regional Transit Service**  
❖ *(Staff Contact: Public Works Director Hess)*
- 7. **Consideration of First Amendment to City Manager Employment Agreement**  
❖ *(Staff Contact: City Attorney Hanson)*

**PRESENTATIONS**

- 8. **Recognition of Deputy Win Smith’s Service to the City of Buellton**

**PUBLIC HEARINGS**

**COUNCIL MEMBER COMMENTS**

**COUNCIL ITEMS**

**(POSSIBLE ACTION)**

- 9. **Presentation to Outgoing Council Member Dave King**
- 10. **Oath of Office for Newly Elected Council Members**
  - A. **Leo Elovitz**
  - B. **Holly Sierra**
- 11. **Council Reorganization**
  - A. **Election of Mayor**
  - B. **Election of Vice Mayor**
  - C. **Presentation to Outgoing Mayor**
- 12. **Consideration of Appointments to the Planning Commission**
  - ❖ *(Staff Contact: City Manager Kunkel)*
  - A. **Interviews of Applicants**
  - B. **Consideration of Appointments**
- 13. **Consideration of Appointments to the Parks and Recreation Commission**
  - ❖ *(Staff Contact: City Manager Kunkel)*
  - A. **Interviews of Applicants**
  - B. **Consideration of Appointments**

- 14. Appointments to Boards, Commissions, and Committees**
- A. Central Coast Water Authority (CCWA)**
  - B. Library Advisory Committee**
  - C. Santa Barbara County Association of Governments (SBCAG)**
  - D. Air Pollution Control District (APCD)**
  - E. California Joint Powers Insurance Authority (CJPIA)**
  - F. League of California Cities (LOCC) – Voting Delegate**
  - G. Buellton Chamber of Commerce Board of Directors (Ex Officio Member)**
  - H. Multi-Jurisdictional Solid Waste Task Group**
  - I. Economic Development Task Force**
  - J. City/School District Joint Use Committee**
  - K. Public Visioning Steering Committee**
  - L. Central Coast Collaborative on Homelessness**

#### **WRITTEN COMMUNICATIONS**

Written communications are included in the agenda packets. Any Council Member, the City Manager or City Attorney may request that a written communication be read into the record.

#### **COMMITTEE REPORTS**

This Agenda listing is the opportunity for Council Members to give verbal Committee Reports on any meetings recently held for which the Council Members are the City representatives thereto.

#### **BUSINESS ITEMS**

**(POSSIBLE ACTION)**

- 15. Ordinance No. 12-02 - “An Ordinance of the City Council of the City of Buellton, California, Approving a Specific Plan Amendment (12-SP-01) for the Village Specific Plan, Located on Assessor’s Parcel Number 137-090-045 and Making Findings in Support Thereof” (Second Reading)**  
 ❖ (Staff Contact: Planning Director Bierdzinski)
- 16. Ordinance No. 12-03 - “An Ordinance of the City Council of the City of Buellton, California, Adding a Nuisance Noise Section to Chapter 8.04 of the Municipal Code” (Second Reading)**  
 ❖ (Staff Contact: Planning Director Bierdzinski)

#### **CITY MANAGER’S REPORT**

#### **CLOSED SESSION ITEMS**

**(POSSIBLE ACTION)**

- 17. The City Council will conduct a Closed Session pursuant to California Government Code Section 54957 concerning the following:**  
**PUBLIC EMPLOYEE PERFORMANCE EVALUATION/CONTRACT REVIEW**  
 Title: City Manager

#### **ADJOURNMENT**

The next meeting of the City Council will be held on Thursday, January 10, 2013 at 6:00 p.m.

# CITY OF BUELLTON

**CITY COUNCIL MEETING MINUTES**  
**Regular Meeting of November 8, 2012**  
**City Council Chambers, 140 West Highway 246**  
**Buellton, California**

## **CALL TO ORDER**

Mayor Holly Sierra called the meeting to order at 6:00 p.m.

## **PLEDGE OF ALLEGIANCE**

Council Member Judith Dale led the Pledge of Allegiance

## **ROLL CALL**

**Present:** Council Members John Connolly, Judith Dale, Vice Mayor Dave King, and Mayor Holly Sierra

**Absent:** Council Member Ed Andrisek

**Staff:** City Attorney Ralph Hanson, Planning Director Marc Bierdzinski, Finance Director Annette Muñoz, and City Clerk Linda Reid

## **REORDERING OF AGENDA**

None

## **PUBLIC COMMENTS**

Ron Anderson, President of the Buellton Chamber of Commerce read a letter into the record regarding Measure D2012, Transient Occupancy Tax (TOT) rate increase and the letter was made part of the record.

Kathy Vreeland, Executive Director of the Buellton Chamber and Visitor's Bureau, described the Buellton Winter Fest event scheduled for December 2 from 9:00 a.m. to 8:00 p.m.

## **CONSENT CALENDAR**

- 1. Minutes of October 25, 2012 Regular City Council Meeting**
- 2. List of Claims to be Approved/Ratified for Payment to Date for Fiscal Year 2012-13**

- 3. **Acceptance of the 2011/2012 Road Maintenance Project**
- 4. **Acceptance of the LED Flashing School Crossing Signs Safety Project**

**MOTION:**

Motion by Council Member Dale, seconded by Council Member Connolly, approving Items 1 through 4 of the consent calendar as listed.

**VOTE:**

Motion passed by a roll call vote of 4-0.

**PRESENTATIONS**

None

**PUBLIC HEARINGS**

- 5. **Ordinance No. 12-02 - “An Ordinance of the City Council of the City of Buellton, California, Approving a Specific Plan Amendment (12-SP-01) for the Village Specific Plan, Located on Assessor’s Parcel Number 137-090-045 and Making Findings in Support Thereof” (Introduction and First Reading)**

**RECOMMENDATION:**

That the City Council consider the introduction and first reading of Ordinance No. 12-02.

**STAFF REPORT:**

Planning Director Bierdzinski presented the staff report.

**DOCUMENTS:**

Staff Report with attachments (Ordinance No. 12-02 with Exhibit A, Village Specific Plan, and Planning Commission Resolution No. 12-04)

**SPEAKERS/DISCUSSION:**

Mayor Sierra opened the Public Hearing at 6:10 p.m.

John Franklin, representing the Village Specific Project, spoke about the project amendment.

The City Council discussed the following issue:

- Senior housing location

There being no further public comment, Mayor Sierra closed the Public Hearing at 6:13 p.m.

**MOTION:**

Motion by Council Member Dale, seconded by Vice Mayor King, approving the introduction and first reading of Ordinance No. 12-02 – “An Ordinance of the City Council of the City of Buellton, California, Approving a Specific Plan Amendment (12-SP-01) for the Village Specific Plan, Located on Assessor’s Parcel Number 137-090-045 and Making Findings in Support Thereof” by title only and waive further reading.

**VOTE:**

Motion passed by a roll call vote of 4-0.

**6. Ordinance No. 12-03 - “An Ordinance of the City Council of the City of Buellton, California, Adding a Nuisance Noise Section to Chapter 8.04 of the Municipal Code” (Introduction and First Reading)**

**RECOMMENDATION:**

That the City Council consider the introduction and first reading of Ordinance No. 12-03.

**STAFF REPORT:**

Planning Director Bierdzinski presented the staff report.

**DOCUMENTS:**

Staff Report with attachment (Ordinance No. 12-03)

**DISCUSSION:**

Mayor Sierra opened the Public Hearing at 6:16 p.m.

The City Council discussed the following issues:

- The administrative citation process
- Sound levels

Mayor Sierra closed the Public Hearing at 6:18 p.m.

**MOTION:**

Motion by Council Member Connolly, seconded by Vice Mayor King, approving the introduction and first reading of Ordinance No. 12-03 – “An Ordinance of the City Council of the City of Buellton, California, Adding a Nuisance Noise Section to Chapter 8.04 of the Municipal Code” by title only and waive further reading.

**VOTE:**

Motion passed by a roll call vote of 4-0.

**COUNCIL MEMBER COMMENTS**

Mayor Sierra announced that Nova Sensors held their ribbon cutting tonight and stated that it is wonderful to have their business in Buellton.

Mayor Sierra announced that the Buellton Senior Center is serving a Thanksgiving dinner at the Senior Thrift Center on Wednesday, November 21.

## **COUNCIL ITEMS**

None

## **WRITTEN COMMUNICATIONS**

None

## **COMMITTEE REPORTS**

Council Member Dale announced that there is a Buellton Endowment Fund through the Lompoc Library District and anyone interested in the Endowment Fund can contact Buellton Librarian Liz Chapman.

## **BUSINESS ITEMS**

7. **Discussion Regarding Possible Funding for a Presentation by Peter Kageyama, “*For the Love of Cities*”**

### **RECOMMENDATION:**

That the City Council decide if they would like Mr. Kageyama to make a presentation and authorize staff accordingly.

### **DISCUSSION:**

The City Council discussed the following issues:

- How to bring City members together
- Negotiating the amount to be paid for Mr. Kageyama’s services
- Asking the City of Lompoc’s staff whether they would be interested in partnering on cost to have Mr. Kageyama

Mayor Sierra provided a handout for the record from Mr. Kageyama regarding his offer to “tour” the Central Coast Cities and provide workshops.

### **DIRECTION:**

The City Council agreed by consensus to have Mayor Sierra contact City of Lompoc staff to see if they are interested in splitting Mr. Kageyama’s fees.

**8. Recordation of the Village Tract Map 31052****RECOMMENDATION:**

That the City Council accept the easements and offers of road dedication as stated in the City Clerk's statement on the Map, accept the grant of easements for curb/gutter/sidewalk and water, authorize the recordation of Tract Map 31052 upon receipt of all fees and bonds, and authorize execution of the Subdivision Improvements Agreement.

**STAFF REPORT:**

Planning Director Bierdzinski presented the staff report on behalf of Public Works Director Hess.

**DOCUMENTS:**

Staff report with attachments (Tract Map 31052, Grant of Easements (Water and Curb/Gutter/Sidewalk), and Subdivision Improvement Agreements)

**SPEAKERS/DISCUSSION:**

John Franklin, representing the Village Specific Project, discussed the Tract Map and the construction schedule.

The City Council discussed the following issues:

- Adjusting the construction timeframe of the public improvements

**MOTION:**

Motion by Council Member Dale, seconded by Council Member Connolly directing staff to accept the easements and offers of road dedication as stated in the City Clerk's statement on the Map, accept the grant of easements for curb/gutter/sidewalk and water, authorize the recordation of Tract Map 31052 upon receipt of all fees and bonds, and authorize execution of the Subdivision Improvements Agreement.

**VOTE:**

Motion passed by a roll call vote of 4-0.

**CITY MANAGER'S REPORT**

None

**CLOSED SESSION ITEMS****9. The City Council will conduct a Closed Session pursuant to California Government Code Section 54957 concerning the following:****PUBLIC EMPLOYEE PERFORMANCE EVALUATION – CONTRACT REVIEW**

Title: City Manager

The City Council met in closed session to discuss the City Manager's performance evaluation and continued the closed session to the meeting of December 13, 2012. There was no reportable action taken.

**ADJOURNMENT**

Mayor Sierra adjourned the regular meeting at 7:29 p.m. The next regular meeting of the City Council is scheduled for Thursday, December 13, 2012 at 6:00 p.m.

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Holly Sierra  
Mayor

ATTEST:

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Linda Reid  
City Clerk

BACK-UP/SUPPORT DATA IS AVAILABLE FOR COUNCIL REVIEW IN CITY HALL

The following is a list of claims to be ratified and approved for payment by the City Council at the **December 13, 2012** Council Meeting.

Listed below is a brief summary of the attached claims:

EXHIBIT A		<u>\$ 2,245,265.45</u>
EXHIBIT B		<u>\$ 83,248.14</u>
PAYROLL	11/15/12	\$ 42,484.87
Council Pay	11/21/12	\$ 2,311.33
PAYROLL	11/30/12	<u>\$ 41,983.96</u>
<b>TOTAL AMOUNT OF CLAIMS:</b>		<u><u>\$ 2,415,293.75</u></u>

	<u>FY 2011-12</u>	<u>FY 2012-13</u>
The total amount of claims and demands paid by the City for the Fiscal Year through December 5, 2012	\$ 3,885,949.62	\$ 5,473,465.91

**AUTHORIZATION IS HEREBY GIVEN TO THE CITY TREASURER TO PAY ALL CLAIMS AS REVENUES BECOME AVAILABLE.**

Check-Run	Seq#	Date	Vendor Name	Checking #	Obls	Discount	Net amount	Status
27171-	538	1 11/02/2012	698 CALIFORNIA STATE DISBURSEMENT		1	.00	706.50	Logged
27172-	539	1 11/06/2012	7 ACE AWNING, INC.		1	.00	1,000.00	Logged
27173-	540	1 11/08/2012	0 SCREENMOBILE 32 NORTH		1	.00	107.75	Logged
27174-	540	2 11/08/2012	0 WOMEN'S ECONOMIC VENTURES		1	.00	390.00	Logged
27175-	540	3 11/08/2012	5 ABALONE COAST ANALYTICAL, INC.		1	.00	2,972.95	Logged
27176-	540	4 11/08/2012	28 ARAMARK UNIFORM SERVICES		1	.00	353.56	Logged
27177-	540	5 11/08/2012	32 ARROWHEAD		3	.00	75.95	Logged
27178-	540	6 11/08/2012	58 BUELLFLAT ROCK CO.		1	.00	82.97	Logged
27179-	540	7 11/08/2012	59 MOTOR PRODUCTS INC. dba		1	.00	20.46	Logged
27180-	540	8 11/08/2012	83 CSD ENGINEERING		1	.00	632.50	Logged
27181-	540	9 11/08/2012	88 CCI CENTRAL, INC.		1	.00	346.87	Logged
27182-	540	10 11/08/2012	90 CalPERS LONG-TERM CARE PROGRAM		1	.00	84.25	Logged
27183-	540	11 11/08/2012	105 CITY OF BUELLTON		1	.00	1,226.70	Logged
27184-	540	12 11/08/2012	119 CRAIG ADAMS		1	.00	50.00	Logged
27185-	540	13 11/08/2012	122 COMCAST CABLE		1	.00	160.57	Logged
27186-	540	14 11/08/2012	142 DANIEL FITZGERALD dba		1	.00	960.00	Logged
27187-	540	15 11/08/2012	144 INTERCALL, INC.		1	.00	12.38	Logged
27188-	540	16 11/08/2012	172 ECHO COMMUNICATIONS		1	.00	57.00	Logged
27189-	540	17 11/08/2012	187 FARM SUPPLY COMPANY		1	.00	215.37	Logged
27190-	540	18 11/08/2012	189 FISHER PUMP & WELL SERVICE, IN		1	.00	95.00	Logged
27191-	540	19 11/08/2012	201 G E CAPITAL		1	.00	160.55	Logged
27192-	540	20 11/08/2012	208 GOVT FINANCE OFFICERS ASSOC		1	.00	160.00	Logged
27193-	540	21 11/08/2012	227 HINDERLITER, DE LLAMAS & ASSOC		1	.00	967.85	Logged
27194-	540	22 11/08/2012	255 JOE MEEHAN		1	.00	125.00	Logged
27195-	540	23 11/08/2012	263 JOHN SANCHEZ		1	.00	129.24	Logged
27196-	540	24 11/08/2012	285 SANTA MARIA TIMES dba		4	.00	454.54	Logged
27197-	540	25 11/08/2012	342 NIELSEN BUILDING MATERIALS, INC		1	.00	21.31	Logged
27198-	540	26 11/08/2012	352 P G & E		1	.00	14,174.22	Logged
27199-	540	27 11/08/2012	379 POSTMASTER		1	.00	595.00	Logged
27200-	540	28 11/08/2012	379 POSTMASTER		1	.00	260.00	Logged
27201-	540	29 11/08/2012	387 PURCHASE ADVANTAGE CARD		1	.00	107.39	Logged
27202-	540	30 11/08/2012	390 QUINN COMPANY		1	.00	89.47	Logged
27203-	540	31 11/08/2012	398 RECINOS RICARDO dba		1	.00	38.79	Logged
27204-	540	32 11/08/2012	438 SANTA YNEZ VALLEY HARDWARE		1	.00	64.51	Logged
27205-	540	33 11/08/2012	439 SANTA YNEZ VALLEY NEWS		1	.00	21.00	Logged
27206-	540	34 11/08/2012	465 SP MAINTENANCE SERVICES, INC.		1	.00	2,821.00	Logged
27207-	540	35 11/08/2012	469 STAPLES CONTRACT & COMMERCIAL,		6	.00	1,014.80	Logged
27208-	540	36 11/08/2012	473 SPRINT SPECTRUM, L.P. dba		1	.00	33.79	Logged
27209-	540	37 11/08/2012	481 SWRCB		4	.00	19,189.00	Logged
27210-	540	38 11/08/2012	486 STEVE HARPER dba		2	.00	368.00	Logged
27211-	540	39 11/08/2012	501 ANNETTE C. GUTIERREZ dba		1	.00	21.54	Logged
27212-	540	40 11/08/2012	507 THE GAS COMPANY		2	.00	186.61	Logged
27213-	540	41 11/08/2012	521 TODD PIPE & SUPPLY		1	.00	383.09	Logged
27214-	540	42 11/08/2012	535 UNDERGROUND SERVICE ALERT		1	.00	12.00	Logged
27215-	540	43 11/08/2012	543 USA BLUEBOOK		1	.00	389.61	Logged
27216-	540	44 11/08/2012	545 KROS ANDRADE dba		1	.00	147.50	Logged
27217-	540	45 11/08/2012	555 VERIZON CALIFORNIA		1	.00	2,221.34	Logged
27218-	540	46 11/08/2012	570 WAYNE KREPS, JR. dba		1	.00	30.23	Logged
27219-	540	47 11/08/2012	668 ONE STOP AUTO PARTS		1	.00	150.68	Logged
27220-	540	48 11/08/2012	679 COURIER SYSTEMS		1	.00	207.20	Logged
27221-	540	49 11/08/2012	700 MAILFINANCE, INC.		1	.00	1,160.47	Logged
27222-	540	50 11/08/2012	718 AUTOSYS, INC.		1	.00	465.50	Logged
27223-	540	51 11/08/2012	746 LANDS END, INC		1	.00	70.19	Logged

Check-Run	Seq#	Date	Vendor Name	Checking # Obls	Discount	Net amount	Status	
27224-	540	52	11/08/2012	767 ROCKWOOD GENERAL CONTRACTORS,	1	.00	143,052.63	Logged
27225-	540	53	11/08/2012	768 WRIGHT EXPRESS FINANCIAL SVC C	1	.00	3,333.20	Logged
27226-	541	1	11/15/2012	446 SB CO AUDITOR'S OFFICE	1	.00	1,723,167.58	Logged
27227-	541	2	11/15/2012	698 CALIFORNIA STATE DISBURSEMENT	1	.00	706.50	Logged
27228-	542	1	11/20/2012	0 SE TECHNOLOGIES	1	.00	22.63	Logged
27229-	542	2	11/20/2012	0 ROSE SALAS	1	.00	65.00	Logged
27230-	542	3	11/20/2012	0 ZACA LAKE FOUNDATION, INC.	1	.00	200.00	Logged
27231-	542	4	11/20/2012	27 AQUA BEN CORPORATION	1	.00	1,241.28	Logged
27232-	542	5	11/20/2012	34 ASSOC OF CA WATER AGENCIES	1	.00	4,800.00	Logged
27233-	542	6	11/20/2012	65 BURKE, WILLIAMS & SORENSEN, LL	5	.00	12,407.51	Logged
27234-	542	7	11/20/2012	78 CALIF. ENVIRONMENTAL CONTROLS,	1	.00	396.40	Logged
27235-	542	8	11/20/2012	83 CSD ENGINEERING	2	.00	604.50	Logged
27236-	542	9	11/20/2012	90 CaIPERS LONG-TERM CARE PROGRAM	1	.00	84.25	Logged
27237-	542	10	11/20/2012	101 CITY OF SOLVANG	1	.00	17,976.00	Logged
27238-	542	11	11/20/2012	107 CITY OF LOMPOC	1	.00	1,666.66	Logged
27239-	542	12	11/20/2012	119 CRAIG ADAMS	1	.00	50.00	Logged
27240-	542	13	11/20/2012	121 COC/BBA/VISITORS INFORMATION	1	.00	25,945.75	Logged
27241-	542	14	11/20/2012	131 SB CO TREASURER/TAX COLLECTOR	1	.00	10.74	Logged
27242-	542	15	11/20/2012	193 FIRST NATIONAL BANK OF OMAHA	8	.00	6,311.81	Logged
27243-	542	16	11/20/2012	199 FOSTER D. REIF	1	.00	50.00	Logged
27244-	542	17	11/20/2012	223 HDL COREN & CONE	1	.00	1,750.00	Logged
27245-	542	18	11/20/2012	237 IRON MOUNTAIN	1	.00	40.88	Logged
27246-	542	19	11/20/2012	242 JASON L. FUSSEL	1	.00	50.00	Logged
27247-	542	20	11/20/2012	248 JCI JONES CHEMICALS, INC.	2	.00	3,178.27	Logged
27248-	542	21	11/20/2012	280 LEE CENTRAL COAST NEWSPAPERS	1	.00	611.00	Logged
27249-	542	22	11/20/2012	285 SANTA MARIA TIMES dba	2	.00	148.31	Logged
27250-	542	23	11/20/2012	303 ART MERCADO	1	.00	50.00	Logged
27251-	542	24	11/20/2012	350 OLIVERA'S REPAIR, INC	2	.00	405.16	Logged
27252-	542	25	11/20/2012	352 P G & E	1	.00	29,286.13	Logged
27253-	542	26	11/20/2012	380 PRAXAIR DISTRIBUTION, INC.	1	.00	57.65	Logged
27254-	542	27	11/20/2012	382 PROCARE JANITORIAL SUPPLY, INC	1	.00	86.11	Logged
27255-	542	28	11/20/2012	390 QUINN COMPANY	2	.00	1,482.93	Logged
27256-	542	29	11/20/2012	448 SB CO FIRE DEPARTMENT	1	.00	48,203.00	Logged
27257-	542	30	11/20/2012	450 SB CO SHERIFF'S DEPARTMENT	3	.00	139,581.81	Logged
27258-	542	31	11/20/2012	469 STAPLES CONTRACT & COMMERCIAL,	2	.00	290.67	Logged
27259-	542	32	11/20/2012	493 SWRCB	1	.00	218.75	Logged
27260-	542	33	11/20/2012	554 VENCO WESTERN, INC.	1	.00	159.87	Logged
27261-	542	34	11/20/2012	556 VERIZON WIRELESS	1	.00	254.13	Logged
27262-	542	35	11/20/2012	582 VINTAGE WALK, LLC OWNERS ASSOC	1	.00	104.00	Logged
27263-	542	36	11/20/2012	589 GERALD T. WITCHER	1	.00	50.00	Logged
27264-	542	37	11/20/2012	598 ENGEL & GRAY, INC.	1	.00	5,335.01	Logged
27265-	542	38	11/20/2012	629 ED ANDRISEK	1	.00	337.56	Logged
27266-	542	39	11/20/2012	655 COAST NETWORKX, INC.	1	.00	190.00	Logged
27267-	542	40	11/20/2012	677 WALLACE GROUP	1	.00	1,225.71	Logged
27268-	542	41	11/20/2012	706 SATCOM GLOBAL, INC.	1	.00	42.44	Logged
27269-	542	42	11/20/2012	713 COASTAL COPY, LP	1	.00	483.80	Logged
27270-	542	43	11/20/2012	744 GE CAPITAL INFO TECH SOLUTIONS	1	.00	498.89	Logged
27271-	542	44	11/20/2012	774 PACIFIC COAST CARPET CLEANING	1	.00	535.00	Logged
27272-	542	45	11/20/2012	11142 CHRISTOPHE MILLNER	1	.00	552.30	Logged
27273-	542	46	11/20/2012	11170 DONELLE MARTIN	1	.00	400.00	Logged
27274-	542	47	11/20/2012	11244 HERMILA SANCHEZ	1	.00	294.00	Logged
27275-	542	48	11/20/2012	11292 JOSHUA A. GRANT	1	.00	91.00	Logged
27276-	542	49	11/20/2012	11300 KAREN PALMER	1	.00	42.00	Logged

Run date: 12/05/2012 @ 11:07  
Bus date: 12/05/2012

City of Buellton  
Check Summary Report

Check-Run	Seq#	Date	Vendor Name	Checking	# Obls	Discount	Net amount	Status
27277-	542	50 11/20/2012	11321 LAURA COGAN		1	.00	45.00	Logged
27278-	542	51 11/20/2012	11342 MARIAH KORTE		1	.00	56.00	Logged
27279-	542	52 11/20/2012	11525 VICTORIA L. BENNETT		1	.00	70.00	Logged
27280-	543	1 12/04/2012	698 CALIFORNIA STATE DISBURSEMENT		1	.00	706.50	Logged
27281-	543	2 12/04/2012	775 LEO ELOVITZ		1	.00	466.93	Logged
27282-	543	3 12/04/2012	776 ZACA CREEK GOLF COURSE		1	.00	10,000.00	Logged
						.00		
** Total check discount **						.00		
** Total check amount **						2,245,265.45		
						.00		

Payments via Electronic Fund Transfer (EFT):

FSA-Staff	10/31/12	712.33
Bank Svc Chg	10/31/12	125.00
Health Premium	11/2/12	13,687.22
Deferred Compensation Plan	11/2/12	11,556.69
Nov Life Ins Prem-Staff	11/2/12	484.65
Payroll Taxes	11/2/12	11,255.23
Aflac Sup Ins	11/5/12	559.12
Retirement Contribution	11/8/12	20,531.76
Deposit ticket order	11/9/12	109.85
FSA-Staff	11/16/12	712.33
Payroll Taxes	11/16/12	11,450.47
Payroll Taxes	11/20/12	120.72
FSA-Council	11/21/12	100.00
FSA-Staff	11/30/12	712.33
Payroll Taxes	12/5/12	11,130.44
<b>Total</b>		<b>\$ 83,248.14</b>

**FISCAL YEAR 2012-13 REVENUE AND EXPENDITURE RECAP**

**As of September 30, 2012  
25.0%  
of the year elapsed**

<u>GENERAL FUND</u>	<u>Budgeted</u>	<u>Year to Date</u>	<u>% of Budget YTD</u>
Total Revenues	\$4,296,365.00	\$560,767.39	13%
Total Expenditures	\$5,017,791.00	\$1,135,092.47	23%

<u>SPECIAL FUNDS</u>	<u>Budgeted</u>	<u>Year to Date</u>	<u>% of Budget YTD</u>
Total Revenues	\$501,419.00	\$61,930.27	12%
Total Expenditures	\$1,164,304.00	\$282,770.61	24%

<u>WATER/SEWER</u>	<u>Budgeted</u>	<u>Year to Date</u>	<u>% of Budget YTD</u>
Total Revenues	\$2,051,250.00	\$592,605.33	29%
Total Expenditures	\$2,698,458.00	\$581,570.01	22%

The Revenue Status Report and Expenditure Status Report are available for your review.

**The Cash Balances as of December 5, 2012 are as follows:**

	Balance as of:	<u>FY 2011-12</u>	<u>FY 2012-13</u>
<b>Checking</b>			
Rabobank	10/31/12	303,186.63	223,056.59
<b>Total Checking</b>		<u>303,186.63</u>	<u>223,056.59</u>
<b>Savings/Investments</b>			
LAIF-savings	10/31/12	13,317,361.98	12,114,648.42
Rabobank-money mkt	10/31/12	202,318.87	203,202.20
Morgan Stanley-bonds	10/31/12	125,000.00	377,688.13
Great Pacific-treasuries	10/31/12	499,193.93	503,055.00
First Empire-bonds	10/31/12	3,235,248.26	3,247,596.79
<b>Total Savings/Investments</b>		<u>17,379,123.04</u>	<u>16,446,190.54</u>
% of cash invested		22.97%	25.99%
<b>Total Cash</b>		<u><u>17,682,309.67</u></u>	<u><u>16,669,247.13</u></u>

Note: General Fund includes Storm Water, Parks and Rec and Landscape Maintenance



# City of Buellton

January 1, 2013

## PUBLIC NOTICE OF 2013 SCHEDULE OF CITY COUNCIL MEETINGS

Regular City Council Meetings are held on the second and fourth Thursdays of each month at 6:00 p.m. in the Council Chambers located at 140 West Highway 246.

January 10	July 11
January 24	July 25
February 14	August 8
February 28	August 22
March 14	September 12
March 28	September 26
April 11	October 10
April 25	October 24
May 9	November 14
May 23	November 26 (Tuesday)*
June 13	December 12
June 27	December 26 (Cancelled)*

Dates listed with \* indicate a Special Meeting date or cancellation of a meeting to accommodate holidays, conferences, or other regular meeting dates where a majority of Council/Agency Members may be unable to attend.

  
Linda Reid  
City Clerk

**CITY OF BUELLTON**  
City Council Agenda Staff Report

City Manager Review: JHK  
Council Agenda Item No.: 4

To: The Honorable Mayor and City Council

From: Linda Reid, City Clerk

Meeting Date: December 13, 2012

Subject: Resolution No. 12-25 – “A Resolution of the City Council of the City of Buellton, California, Declaring and Certifying the Result of the General Municipal Election Held on November 6, 2012 and Such Other Matters as Provided by Law”

---

**BACKGROUND**

A General Municipal Election was held and conducted in the City of Buellton on Tuesday, November 6, 2012 as required by law. A notice of election was given in time, form and manner as provided by law, the voting precincts were properly established, election officers were appointed and in all respects the election was held and conducted, the votes were cast, received and canvassed, and the returns made and declared in time, form, and manner as required by the Elections Code of the State of California for the holding of elections in General Law Cities.

Resolution No. 12-25 declares that the whole number of votes cast in the precincts for City Council except absent voter ballots was 1,268 and that the whole number of absent voter ballots cast in the City was 2,084 making a total of 3,352 votes cast in the City. The names of the persons receiving the highest number of votes at the election for Members of the City Council are Leo Elovitz and Holly Sierra.

Measure C2012, “City Council Term Limits”, was approved. Measure D2012, “Transient Occupancy Tax Rate Increase”, was also approved. Regarding Measure C2012: the whole number of votes cast in the precincts except absent voter ballots was 781, the whole number of absent voter ballots cast in the City was 1,289, making a total of 2,070 votes cast in the City; 1,600 voting yes and 470 voting no. Regarding Measure D2012: the whole number of votes cast in the precincts except absent voter ballots was 791, the whole number of absent voter ballots cast in the City was 1,301, making a total of 2,092 votes cast in the City; 1,159 voting yes and 933 voting no.

**FISCAL IMPACT**

This item in itself will not cause any fiscal impact to the City.

**RECOMMENDATION**

That the City Council consider the adoption of Resolution No. 12-25 – “A Resolution of the City Council of the City of Buellton, California, Declaring and Certifying the Result of the General Municipal Election Held on November 6, 2012 and Such Other Matters as Provided by Law”

**ATTACHMENT**

Resolution No. 12-25

**RESOLUTION NO. 12-25**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BUELLTON, CALIFORNIA, DECLARING AND CERTIFYING THE RESULT OF THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 6, 2012 AND SUCH OTHER MATTERS AS PROVIDED BY LAW**

**WHEREAS**, a General Municipal Election was held and conducted in the City of Buellton, California, on Tuesday, November 6, 2012 as required by law; and

**WHEREAS**, notice of the election was given in time, form and manner as provided by law; that voting precincts were properly established, that election officers were appointed and that in all respects the election was held and conducted and the votes were cast, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in general law cities; and

**WHEREAS**, pursuant to Resolution No. 12-15 adopted June 14, 2012, the County Elections Division canvassed the returns of the election and has certified the results to this City Council, which are attached and made a part hereof as **Exhibit "A"**.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Buellton, California does resolve, declare, determine and order as follows:

**SECTION 1.** That the whole number of votes cast in the precincts for City Council except absent voter ballots was 1,268. That the whole number of absent voter ballots cast in the City was 2,084 making a total of 3,352 votes cast in the City.

**SECTION 2.** Based upon the total number of votes for the two leading candidates, as shown in "Exhibit A", the City Council does declare and determine that **Holly Sierra** was elected as a Member of the City Council for the full term of four years and that **Leo Elovitz** was elected as a Member of the City Council for the full term of four years.

**SECTION 3.** That the names of the persons voted for at the election for Members of the City Council, together with the total number of votes given in the City to each person above named for respective offices for which the persons were candidates were as listed in "Exhibit A" attached.

**SECTION 4.** Measure C2012, "City Council Term Limits" was approved. The whole number of votes cast in the precincts except absent voter ballots was 781, the whole number of absent voter ballots cast in the City was 1,289, making a total of 2,070 votes cast in the City; 1,600 voting yes and 470 voting no.

**SECTION 5.** Measure D2012, “Transient Occupancy Tax Rate Increase” was approved. The whole number of votes cast in the precincts except absent voter ballots was 791, the whole number of absent voter ballots cast in the City was 1,301, making a total of 2,092 votes cast in the City; 1,159 voting yes and 933 voting no.

**SECTION 6.** The City Clerk shall enter on the records of the City Council of the City, a statement of the result of the election, showing; (1) the whole number of votes cast in the City; (2) the names of the persons voted for; (3) for what office each person was voted for; (4) the number of votes given each precinct to each person; and (5) the total number of votes given to each person.

**SECTION 7.** That the City Clerk shall immediately make and deliver to each of the persons so elected a Certificate of Election signed by the City Clerk and authenticated; that the City Clerk shall also have administered to each person the Oath of Office prescribed in the Constitution of the State of California and shall have them subscribe to it and file it in the office of the City Clerk. Each and all of the persons so elected shall then be inducted into the respective office to which they have been elected.

**SECTION 8.** That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

**PASSED, APPROVED and ADOPTED** this 13<sup>th</sup> day of December, 2012.

\_\_\_\_\_  
Holly Sierra  
Mayor

ATTEST:

\_\_\_\_\_  
Linda Reid  
City Clerk

**REGISTRAR OF VOTERS**

4440-A Calle Real  
Santa Barbara, CA 93110

Mailing Address:

PO Box 61510  
Santa Barbara, CA 93160-1510



Lompoc Branch Office  
401 E. Cypress Ave, Room 102  
Lompoc, CA 93436

Santa Maria Branch Office  
511 E. Lakeside Parkway, Suite 134  
Santa Maria, CA 93455

**JOSEPH E. HOLLAND  
COUNTY CLERK, RECORDER AND ASSESSOR**

**CERTIFICATION OF ELECTION  
RESULTS OF THE OFFICIAL CANVASS**

STATE OF CALIFORNIA                    )  
  ) SS.  
COUNTY OF SANTA BARBARA        )

*I, Joseph E. Holland, County Clerk, Recorder and Assessor & Registrar of Voters for Santa Barbara County, do hereby certify:*

*That the foregoing is a full, true and correct statement of the results of the official canvass of the returns of the November 6, 2012 Presidential General Election as directed by sections 15372 and 15400 of the California Elections Code.*

*IN WITNESS WHEREOF, I hereunto set my  
hand and affix the official seal at Santa Barbara,  
California this 4<sup>th</sup> day of December, 2012.*

**JOSEPH E. HOLLAND, County Clerk, Recorder & Assessor,  
Registrar of Voters**



By *Renee Bischof*  
**Renee Bischof, Chief Deputy Registrar of Voters**

Attachment A

Santa Barbara County  
 Presidential General Election  
 November 6, 2012  
 Certified Results

Date: 12/04/12  
 Time: 15:17:12  
 Page: 5 of 14

Registered Voters 203994 - Cards Cast 164977 80.87%

Num. Report Precinct 257 - Num. Reporting 257 100.00%

COUNTY BOARD OF SUPERVISORS 4TH DISTRICT				
	Polling	VBM	Total	
Number of Precincts	50	0	50	
Precincts Reporting	50	0	50	100.0 %
Vote For	1	1	1	
Total Votes	10604	17320	27924	
PETER ADAM	5603	8795	14398	51.56%
JONI GRAY	4961	8466	13427	48.08%

CITY OF BUELLTON CITY COUNCIL MEMBER				
	Polling	VBM	Total	
Number of Precincts	2	0	2	
Precincts Reporting	2	0	2	100.0 %
Vote For	2	2	2	
Total Votes	1268	2084	3352	
HOLLY SIERRA	518	880	1398	41.71%
LEO ELOVITZ	381	643	1024	30.55%
DAVE KING	366	557	923	27.54%

CITY OF CARPINTERIA CITY COUNCIL MEMBER				
	Polling	VBM	Total	
Number of Precincts	7	0	7	
Precincts Reporting	7	0	7	100.0 %
Vote For	2	2	2	
Total Votes	3398	5493	8891	
WADE NOMURA	1025	1567	2592	29.15%
FRED SHAW	834	1411	2245	25.25%
GREGORY GANDRUD	738	1192	1930	21.71%
KATHLEEN REDDINGTON	537	891	1428	16.06%
TOM PERRY	263	425	688	7.74%

CITY OF GOLETA CITY COUNCIL MEMBER				
	Polling	VBM	Total	
Number of Precincts	17	0	17	
Precincts Reporting	17	0	17	100.0 %
Vote For	2	2	2	
Total Votes	5518	9050	14568	
EDWARD EASTON	2617	4521	7138	49.00%
JIM FARR	2796	4278	7074	48.56%

CITY OF GUADALUPE MAYOR				
	Polling	VBM	Total	
Number of Precincts	2	0	2	
Precincts Reporting	2	0	2	100.0 %
Vote For	1	1	1	
Total Votes	510	649	1159	
FRANCES A. ROMERO	459	590	1049	90.51%

Santa Barbara County  
 Presidential General Election  
 November 6, 2012  
 Certified Results

Date: 12/04/12  
 Time: 15:17:13  
 Page: 12 of 14

Registered Voters 203994 - Cards Cast 164977 80.87% Num. Report Precinct 257 - Num. Reporting 257 100.00%

MEASURE A-2012 SPECIAL PARCEL TAX				
	Polling	VBM	Total	
Number of Precincts	119	0	119	
Precincts Reporting	119	0	119	100.0 %
Vote For	1	1	1	
Total Votes	33539	45651	79190	
YES	24720	30600	55320	69.86%
NO	8819	15051	23870	30.14%

MEASURE B-2012 SPECIAL PARCEL TAX				
	Polling	VBM	Total	
Number of Precincts	48	0	48	
Precincts Reporting	48	0	48	100.0 %
Vote For	1	1	1	
Total Votes	13318	20947	34265	
YES	9817	14447	24264	70.81%
NO	3501	6500	10001	29.19%

MEASURE L-2012 ISSUANCE OF BONDS				
	Polling	VBM	Total	
Number of Precincts	31	0	31	
Precincts Reporting	31	0	31	100.0 %
Vote For	1	1	1	
Total Votes	3530	6727	10257	
NO	1789	3598	5387	52.52%
YES	1741	3129	4870	47.48%

MEASURE K-2012 ISSUANCE OF BONDS				
	Polling	VBM	Total	
Number of Precincts	11	0	11	
Precincts Reporting	11	0	11	100.0 %
Vote For	1	1	1	
Total Votes	1109	2009	3118	
NO	565	1124	1689	54.17%
YES	544	885	1429	45.83%

MEASURE C-2012 TERM LIMITS FOR CITY COUNCIL				
	Polling	VBM	Total	
Number of Precincts	2	0	2	
Precincts Reporting	2	0	2	100.0 %
Vote For	1	1	1	
Total Votes	781	1289	2070	
YES	599	1001	1600	77.29%
NO	182	288	470	22.71%

MEASURE D-2012 TRANSIENT OCCUPANCY TAX INCREASE				
	Polling	VBM	Total	
Number of Precincts	2	0	2	
Precincts Reporting	2	0	2	100.0 %
Vote For	1	1	1	
Total Votes	791	1301	2092	
YES	363	796	1159	55.40%
NO	428	505	933	44.60%

**CITY OF BUELLTON**  
City Council Agenda Staff Report

City Manager Review: JHK  
Council Agenda Item No.: 5

To: The Honorable Mayor and City Council

From: Annette Muñoz, Finance Director

Meeting Date: December 13, 2012

Subject: Growth Mitigation Annual Compliance Report

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**BACKGROUND**

As required by Government Code Section 66000 et seq., staff is reporting the accounting, compliance and reconciliation of Growth Mitigation fees for 2010-11. All changes to the Mitigation Fee Program are handled separately from the report and are subject to public hearing requirements. Staff is not requesting that City Council adopt new development fees.

Government Code Section 66000 et seq. established the criteria by which municipal governments may charge developments for the future cost of providing services to new residents. The philosophy is that all residents of a community deserve the same level of service. As residents are added to a community, the increased cost incurred by the municipal government to provide the same level of service to the community should be borne by the development.

The purpose of the City's growth mitigation fee program is to finance the design, construction, and acquisition of facilities and equipment to maintain the City's level of service.

Once collected, growth mitigation fees are segregated and placed in special funds that earn interest and are held for the facilities and equipment for which the fees are collected.

Pursuant to Government Code 66006(b) (1) local agencies shall, within 180 days after the last day of each fiscal year make available to the public the following information for the fiscal year:

- A) A brief description of the type of fee in the account fund;
- B) The amount of the fee (in effect on June 30, 2012);
- C) The beginning and ending balance of the account or fund;
- D) The amount of the collected fee and interest earned;

- E) An identification of each public improvement on which the fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that were funded with fees;
- F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in Paragraph (2) of Subdivision (a) Section 66001, and the public improvement remains incomplete;
- G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid and the rate of interest that the account or fund will receive on the loan; and
- H) The amount of refunds made pursuant to Subdivision (e) Section 66001 and any allocation pursuant to Subdivision (f) of Section 66001.

To comply with Government Code Section 66006, staff has prepared and incorporated herein, reports disclosing the above outlined information. State legislation requires that the City:

- A) Identify an approximate date for starting construction on a public improvement within 180 days of determining that sufficient funds have been collected to complete the financing of the improvement; and
- B) Annually update its capital improvement plan pertaining to improvements financed by developer fees.

### **FISCAL IMPACT**

None

### **RECOMMENDATION**

That the City Council receive, review, and file this Growth Mitigation Annual Compliance report.

### **ATTACHMENT**

Attachment 1 - Mitigation Fee Analysis

ANNUAL  
COMPLIANCE REPORT FOR TRAFFIC GROWTH MITIGATION FEES  
FISCAL YEAR ENDING JUNE 30, 2012

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**A) A brief description of the type of fee in the account or fund.**

**Traffic Improvement fee-** To provide for transportation improvements to accommodate traffic generated by future development within the City and its sphere of influence annexation areas.

**B) The amount of the fee.**

Single family	\$466.00 per unit
Multiple family	278.00
Senior/affordable	105.00
Commercial/Industrial	See note

**Note:** Commercial and Industrial traffic fees shall be based on land use categories

**C) The beginning and ending balance of the account or fund**

**D) The amount of the fees collected and the interest earned.**

	Beginning July 1, 2011	(\$162,969.17)
Plus		
	Fees Collected	5,200.00
	Interest	49.42
	Reimbursements	
Less		
	Project Costs	-
	Refunds	
Ending	June 30, 2012	(\$157,719.75)

**E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement including the total percentage of the cost of the public improvement that was funded with the fees.**

None

- F) An identification of the approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.**

Significant funds have not been collected.

- G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan the date on which the loan will be repaid and the rate of interest that the account or fund will receive on the loan.**

No interfund transfer or loans utilizing these funds were made during the fiscal year.

- H) The amount of refunds made pursuant to subdivision (e) Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.**

No refunds were made during the fiscal year.

**ANNUAL  
COMPLIANCE REPORT FOR WASTEWATER GROWTH MITIGATION FEES  
FISCAL YEAR ENDING JUNE 30, 2012**

**A) A brief description of the type of fee in the account or fund.**

**Wastewater-** To provide funding for the construction of wastewater treatment plant improvements and expansions, wastewater interceptors and other closely related projects.

**B) The amount of the fee.**

<b>Single family</b>	<b>\$ 2,640 basic connection</b>
<b>Multiple family</b>	<b>\$ 2,420 per unit</b>
<b>Commercial/Industrial</b>	<b>See note</b>

**Note: Commercial and Industrial fees are based on square footage and flow rates**

**C) The beginning and ending balance of the account or fund**

**D) The amount of the fees collected and the interest earned.**

Beginning July 1, 2011		(\$699,077.83)
Plus		
	Fees Collected	.00
	Interest	.00
	Transfers	
Less	Project Costs	125,915.17
	Refunds	
Ending	June 30, 2012	<u>(\$824,993.00)</u>

**E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement including the total percentage of the cost of the public improvement that was funded with the fees.**

Dewatering Project	\$79,486.96
Belt Press Scaffolding	20,975.61
Blower Replacement	7,030.10
Headworks Improvement Design	<u>18,422.50</u>
	\$125,915.17

- F) An identification of the approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.**

Not applicable.

- G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan the date on which the loan will be repaid and the rate of interest that the account or fund will receive on the loan.**

No interfund transfer or loans utilizing these funds were made during the fiscal year.

- H) The amount of refunds made pursuant to subdivision (e) Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.**

No refunds were made during the fiscal year.

**ANNUAL  
COMPLIANCE REPORT FOR WATER GROWTH MITIGATION FEES  
FISCAL YEAR ENDING JUNE 30, 2012**

**A) A brief description of the type of fee in the account or fund.**

**Water-** To provide funding for the construction of facilities to ensure a continuing supply of potable water or purchase of State water entitlements.

**B) The amount of the fee.**

<b>Single family</b>	<b>\$ 3,640 per unit</b>
<b>Multiple family</b>	“
<b>Senior/affordable</b>	“
<b>Commercial/Industrial</b>	<b>See note</b>

**Note: Commercial and Industrial fees are based on anticipated acre foot of water use.**

**C) The beginning and ending balance of the account or fund**

**D) The amount of the fees collected and the interest earned.**

Beginning July 1, 2011		(\$17,571.98)
Plus		
	Fees Collected	5,200.00
	Interest	20.00
	Transfers	
Less		
	Project Costs	200,584.24
	Refunds	
Ending	June 30, 2012	(\$212,936.13)

**E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement including the total percentage of the cost of the public improvement that was funded with the fees.**

Alley Waterline Upgrade	\$166,606.24
Replace Filter Media Well #9	<u>33,978.00</u>
	\$200,584.24

- F) An identification of the approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.**

Not applicable.

- G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan the date on which the loan will be repaid and the rate of interest that the account or fund will receive on the loan.**

No interfund transfer or loans utilizing these funds were made during the fiscal year.

- H) The amount of refunds made pursuant to subdivision (e) Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.**

No refunds were made during the fiscal year.

**CITY OF BUELLTON**  
City Council Agenda Staff Report

City Manager Review: JHK  
Council Agenda Item No.: 6

To: The Honorable Mayor and City Council

From: Rose Hess, Public Works Director/City Engineer

Meeting Date: December 13, 2012

Subject: Approval of Revised Memorandum of Understanding (MOU) for the Breeze Extension Inter-Regional Transit Service

---

**BACKGROUND**

On May 24, 2012, the Council approved a Memorandum of Understanding (MOU) for the Breeze Extension Inter-Regional Transit Service. The proposed “Breeze Extension” will fill the need for transit service in the missing link between Santa Maria and the Santa Ynez Valley. The other existing inter-regional services are: the “Breeze” between Santa Maria and Lompoc and the “Wine Country Express” between Lompoc and the Santa Ynez Valley.

Transit service would occur Monday through Friday, with three round-trips through the day (morning, mid-day, afternoon) and generally operate between Santa Maria, Buellton (stop located in the Buellton Town Center), Solvang, and Los Alamos.

The service will interlink connections between Santa Maria Area Transit (SMAT), Santa Ynez Valley Transit (SYVT), and the Wine Country Express (WCE). Fares (one-way) are anticipated to be \$2/adult, \$1/seniors and persons with disabilities. Service is anticipated to start January 14, 2013 and continue until June 30, 2014.

The revised MOU confirm Santa Maria as the operator and addresses the service proposal, lead agency, available funding, cost contributions, formation of a policy committee and working group, and performance measures.

**FISCAL IMPACT**

The estimated annual operation cost to provide this service is \$200,000. The City of Santa Maria has been able to secure FTA 5311f (Jobs Access Reverse Commute Fund administered by the State of California to provide funds for services linking urban to rural areas) for Year One in the amount of \$100,000. This reduces the local contributions to approximately \$100,000. It is proposed that the cost of the transit service be shared equally by the four partners. The Year One cost to the City of Buellton is estimated at \$25,000. There are no anticipated capital costs at this time.

Although future grant funding is not guaranteed, the City of Santa Maria will be applying for FTA 5311f funds for Year Two, as well as seeking additional grant funding to offset the cost of operation. Without additional funds to offset operational costs, the Year Two cost to the City of Buellton is estimated at \$50,000.

Currently the City utilizes its entire TDA funds for its share of the Santa Ynez Valley Transit. For Year One, the proposed resource for Buellton's local share is the General Fund. For Year Two and beyond, the City may utilize a portion of its local Measure A funds, itemized through the annual Program of Projects (POPs).

**RECOMMENDATION**

That the City Council approve and authorize the Mayor to execute a Memorandum of Understanding between the Cities of Buellton, Solvang, Santa Maria and the County of Santa Barbara, implementing a two-year pilot project to provide regular, fixed route, public transit service between Santa Maria and the Santa Ynez Valley.

**ATTACHMENT**

Attachment 1 – Breeze Pilot Memorandum of Understanding

## MEMORANDUM OF UNDERSTANDING

### BETWEEN THE CITIES OF SANTA MARIA, BUELLTON, SOLVANG, THE COUNTY OF SANTA BARBARA AND THE SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS

#### Regarding Implementation of a Breeze Pilot Project to Provide Regular, Fixed-Route, Public Transit Service between Santa Maria, Los Alamos, Buellton, and Solvang

This Memorandum of Understanding (MOU) is entered into between the Cities of Santa Maria, Buellton, and Solvang, and the County of Santa Barbara, **collectively referred to herein as “FUNDING PARTNERS”**, and the Santa Barbara County Association of Governments, hereinafter referred to as “SBCAG,” all collectively referred to herein as **“PARTIES” or “the PARTIES”** for the purpose of defining agency roles, responsibilities, and commitments in conjunction with the implementation of a pilot project to provide regular, fixed-route public transportation service on the Highway 101/246 corridor between Santa Maria, Los Alamos, Buellton, and Solvang.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the PARTIES agree as follows:

#### 1. Project Description

The Breeze Pilot Project will provide regularly-scheduled, fixed-route, intercity bus service between Santa Maria, Los Alamos, Buellton, and Solvang. The pilot project will be open to the public, for all trip purposes, and will be fully accessible to persons with disabilities. The City of Santa Maria, in coordination with the cities of Buellton, Solvang, and County of Santa Barbara, will implement the pilot service commencing on December 4, 2012, or later date when all PARTIES have signed the MOU, and remaining in effect until and including June 30, 2014, contingent on the availability of funding.

#### 2. Lead Agency

The City of Santa Maria shall be the sole administrator of the project and shall be responsible for service contracting with a qualified bus operator (“CONTRACTOR”) and compliance with all federal and state requirements.

#### 3. Service Proposal

This MOU contains the budget, funding obligations, and performance requirements for the Breeze Pilot Project. Annual performance measures for the term of the Breeze Pilot Project will provide thresholds to gauge the Pilot Project’s performance. If the service is failing to meet one or more performance measures, reasonable efforts will be made to modify the service to improve performance. The service may also be discontinued by termination of the MOU after reasonable efforts have been made.

#### **4. Procurement of Insurance Coverage and Indemnification**

**THE PARTIES** agree to procure and maintain liability insurance in an amount sufficient to protect against claims that may be filed against **THE PARTIES** for the services they provide, or **THE PARTIES** may elect to self-insure against such claims as provided by their respective government policies.

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the parties pursuant to Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead **THE PARTIES** agree that pursuant to Government Code Section 895.4, each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of other parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other parties under this Agreement.

#### **5. Contractor Insurance**

City of Santa Maria shall require the Contractor of the Breeze Pilot Project to comply with the indemnity and insurance requirements specified in Attachment A and provide all parties with copies of the Certificates of Insurance, including the endorsement(s) naming the parties as additional insured.

#### **6. Nondiscrimination**

City of Santa Maria shall require Contractor to comply with the nondiscrimination requirements of funding agencies, including the following nondiscrimination language insofar as consistent with those requirements: :

During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee, applicant for employment or service customer because legally protected characteristics or conduct including sex, race, color, ancestry, religious creed, national origin, physical disability, medical condition, age, or marital status. Contractor shall insure that the evaluation and treatment of their employees, applicants for employment and service customers are free from such discrimination

## **7. Service Plan**

The Breeze Pilot Project will operate five days a week, Monday through Friday. To the extent practicable, the services will provide for efficient interlinking connections between Santa Maria Area Transit, Santa Ynez Valley Transit, the Wine Country Express, and other transit services.

The Breeze Pilot Project will provide three (3) round-trips per weekday in the morning, mid-day and afternoon. The service will operate generally between the transit center in Santa Maria, Buellton Town Center (Highway 246 and McMurray Road), and Solvang Park in Solvang, with stops at intermediate locations subject to change as demand warrants, and including a stop in the community of Los Alamos at Ferini Park.

## **8. Funding**

The FUNDING PARTNERS will share equally in the net costs associated with the Breeze Pilot Project, after deducting all passenger and other operating revenue and Federal Transit Administration grants.

The primary source of funding for the Breeze Pilot Project will be Federal Transit Administration 5311f Intercity Transit funds. The cities of Santa Maria, Buellton, and Solvang and the County of Santa Barbara will also provide Transportation Development Act funds or Local Measure A funds as matching funds, or other local funding if it becomes available. Federal Transit Administration 5311f funding has been secured for the first year of project and will be pursued to fund the second year and subsequent years with the assistance of SBCAG. If additional Federal Transit Administration 5311f funds are not secured after the first year, the parties will work cooperatively to identify other matching fund sources or, if other funding sources are not available, may choose to terminate the Breeze Pilot Project.

City of Santa Maria will, on a monthly basis, invoice the other FUNDING PARTNERS for actual net operating costs, after deducting all passenger and other operating revenue and Federal Transit Administration grants. The invoice should clearly detail monthly expenditures and revenues applied to the program in determining the "net program" costs. It should also demonstrate the allocation of net costs to each participating agency. Each local agency shall indicate, with each payment, the source(s) of funding used to make the payment. Payment shall be due thirty (30) days after the date of the invoice. The cities of Buellton, Solvang and the County of Santa Barbara have the option of including funding for the Breeze Pilot Project in their annual Transportation Development Act claims so that SBCAG may make a direct payment of Transportation Development Act funds for the Pilot Project to the City of Santa Maria.

FUNDING PARTNERS agree to annually commit estimated amount of Transportation Development Act contribution for the operation of the Breeze Pilot Service when SBCAG publishes the Annual Transportation Development Act Apportionment. The Working Group in Section 12 can make recommendations to adjust to the Transportation Development Act contribution from each FUNDING PARTNER for the approval of the Policy Committee. This allocation is subject to final budget approval by the city councils and Board of Supervisors.

## **9. Securing Funding**

With assistance from SBCAG, the FUNDING PARTNERS will work cooperatively to pursue other federal or state grant opportunities where appropriate for the Breeze Pilot Project, such as from the Job Access & Reverse Commute (FTA 5316) grant program, in order to augment or reduce the Federal Transit Administration, Transportation Development Act and local funds needed for continuation of the service.

The City of Santa Maria will be responsible for submitting grant applications. SBCAG staff will assist the City of Santa Maria with preparation of grant applications.

If a local match is required to receive grant funding, the FUNDING PARTNERS will share equally in the matching funds needed to meet the required local match, and will execute the necessary paperwork to facilitate receipt of grants.

## **10. Reporting**

City of Santa Maria shall submit or have Contractor prepare and submit report(s) to the parties that demonstrate compliance with this agreement.

## **11. Records, Audit and Review**

City of Santa Maria shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent transit operator, and where necessary shall require CONTRACTOR to keep such records, and shall maintain or require the maintenance of such records for at least five (5) years following the termination of this Agreement. Such records shall include documents necessary to show compliance with Paragraph 12 "Performance Measures." All accounting records shall be kept in accordance with generally accepted accounting principles. Any party shall have the right to audit and review all such documents and records at any time during City of Santa Maria's or CONTRACTOR's regular business hours upon reasonable notice.

## **12. Policy Committee and Working Group**

The Policy Committee for the Breeze Pilot Project shall be established, consisting of the following individuals or such successors as may be appointed by the local agency representatives:

- Santa Barbara County Supervisor (appointed by Board of Supervisors)
- Buellton City Council representative on the SBCAG board
- Santa Maria City Council representative on the SBCAG board
- Solvang City Council representative on the SBCAG board

The SBCAG Executive Director or designee will be an ex-officio representative on the Policy Committee. The Policy Committee shall meet a minimum of once a year to review and approve interagency agreements, budgets, and service plans, including fare structures, for the following year.

A Working Group will be established consisting of staff representatives of the following agencies:

- City of Santa Maria
- County of Santa Barbara
- City of Buellton
- City of Solvang
- SBCAG (Ex-officio)

The Working Group will assist in the development and evaluation of detailed service plans, routes, schedules, budget, performance measures, and other service details. The Working Group shall be appraised on the selection of the service contractor by the City of Santa Maria.

Pursuant to the Brown Act, SBCAG staff will serve as staff to the Policy Committee and will prepare and make meeting agendas and materials available to the public.

SBCAG staff will also serve as staff to the working group.

## **13. Performance Measures**

The Working Group, as established in Section 12, shall develop performance measures and evaluate the effectiveness of the service based on the following performance measures:

- farebox recovery ratio (goal of 20%)
- operating cost per passenger
- operating cost per vehicle service hour
- passengers per vehicle service hour
- passengers per vehicle service mile
- passengers per trip

- net operating cost per FUNDING PARTNER (goal of \$48,350 or less over term of MOU)

As required by the Federal Transit Administration, the City of Santa Maria, as the administrator of the service will collect and report financial (operating expenses) and non-financial (ridership) data to the National Transit Database. The City of Santa Maria will track data for the Breeze Pilot Project separately, as least for the duration of the pilot period.

The Working group for the Breeze Pilot Project will evaluate performance reports prepared by Santa Maria based on performance indicators for the service after 6, 12 and 20 months.

At month 20, the performance indicators will be evaluated by the Working Group and the committee will make a recommendation to the Policy Committee as to whether or not the service should continue.

#### **14. Bus Equipment**

The Pilot Project service will utilize Americans with Disabilities Act (ADA) compliant transit buses suitable for freeway operations.

If the City of Santa Maria utilizes an existing bus from another agency, possession of the vehicle title shall be transferred to the City of Santa Maria.

If the City of Santa Maria purchases a new bus, it shall be registered to the City of Santa Maria, for the specific use of the service. Should the bus be sold as a result of termination of the MOU, all proceeds from the sale shall be equally split among the then current FUNDING PARTNERS of the respective service.

#### **15. Service Contracting**

The City of Santa Maria will prepare any Request for Proposals (RFP) needed for the provision of operating services by a contractor for the Breeze Pilot Project. The RFP shall meet all applicable federal requirements. The Working Group will review and provide input on the scope of work. Alternatively, with the approval of the Working Group, the City may amend an existing transit service contract to provide the Breeze Pilot Project service. The City of Santa Maria will also be responsible for the sale of advertising on the Breeze Pilot Project.

#### **16. Fares**

One-way fares for the service will be set at \$2.00 for adults and \$1.00 for seniors and persons with disabilities, similar to the existing Breeze service. Monthly passes will be \$75 for adults and \$37.50 for seniors and persons with disabilities. All local transit agencies will work together to insure that transfers are free from the intercommunity service to local systems. Fare changes shall be subject to approval by the Policy Committee. The City of Santa Maria, in coordination with FUNDING

PARTNERS will hold the required hearing prior to implementing any fare changes to the service.

The respective Policy Committees for the Breeze Service and Breeze Pilot Project shall determine the inter-service transfer fare per recommendation from the respective Breeze Service and Breeze Pilot Project Working Groups.

## **17. Marketing**

Marketing activities, promotional materials, printed schedules, etc. will be developed by the City of Santa Maria and other parties to the MOU. All parties to this MOU will work cooperatively to develop marketing strategies that maximize ridership and effectiveness of the services. The service will be aggressively promoted by all parties to this MOU. All parties to this MOU will post the service schedule and other information on their websites. SBCAG's existing guaranteed-ride-home program will be available to users of the service through the Traffic Solutions program.

## **18. Long-Term Continuation of Service**

The Working Group shall evaluate the Breeze Pilot Project annually. The Working Group shall make a recommendation to the Policy Committee as to whether or not the service should continue after the pilot project period. The Policy Committee shall recommend whether to continue or discontinue the service. If the Policy Committee decides to continue the service, the Working Group shall develop a plan for the long-term operation of the service for approval by the Policy Committee.

## **19. Amendment**

This MOU may be amended or extended only by the written consent of all parties.

## **20. Termination**

Any party to this MOU may terminate its participation under this Agreement by giving 90 days written notification to the other parties.

## **21. Integration**

This Agreement represents the entire and integrated Agreement between the parties and supersedes any and all other negotiations, representations, and/or agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

## **22. California Law to Apply.**

This Agreement shall be construed under and in accordance with the laws of the State of California. All obligations created under this Agreement are performable in California.

### **23. Jurisdiction**

Jurisdiction and venue of all lawsuits over the terms of this agreement shall be in the superior court of Santa Barbara County, State of California.

### **24. Warranty of Authority**

Each person signing this agreement on behalf of a party warrants that he or she has authority to do so.

### **25. Waivers**

The waiver by any party to this Agreement of any term, covenant, or condition of this Agreement or of any provision, ordinance, or law, shall not be deemed to be a continuing waiver of such term, covenant, condition, or law, or of any subsequent breach or violation of the same, or of any other term, covenant, and ordinance of law. Failure to enforce with respect to a default shall not be construed as a waiver.

### **26. Severability**

The provisions of this agreement are severable. If any part of this agreement is held invalid by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect unless amended or modified by mutual written consent of the parties.

### **27. Points of Contact**

All notices referenced in this Agreement shall be in writing and shall be given by first class mail addressed as follows, or at such other address or to such person that the parties may from time to time designate in writing:

**City of Santa Maria**  
Transit Services Manager  
110 South Pine Street, Suite 101  
Santa Maria, CA 93458

**City of Buellton**  
Public Works Director  
107 West Highway 246  
Buellton, CA 93427

**City of Solvang**  
Public Works Director  
411 Second Street  
Solvang, CA 93463

**County of Santa Barbara**  
Alternative Transportation Manager  
123 East Anapamu Avenue, 2<sup>nd</sup> Floor  
Santa Barbara, CA 93101

**SBCAG**  
Executive Director  
260 N. San Antonio Road, Suite B  
Santa Barbara, CA 93012

**28. Counterpart Signatures**

**The parties agree that this Agreement may be signed in counterpart.**

**CITY OF BUELLTON**

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Holly Sierra  
Mayor

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Date

Approved as to Form:

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Ralph Hanson  
City Attorney

**CITY OF SANTA MARIA**

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Larry Lavagnino  
Mayor

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Date

Approved as to Form:

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Wendy Stockton  
Senior Assistance City Attorney/Utilities Counsel

**CITY OF SOLVANG**

\_\_\_\_\_  
Jim Richardson  
Mayor

\_\_\_\_\_  
Date

Approved as to Form:

\_\_\_\_\_  
Roy Hanley  
City Attorney

**COUNTY OF SANTA BARBARA**

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Doreen Farr, Chair  
Supervisor

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Date

Approved as to Form:

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Michael R. Ledbetter  
Senior Deputy, Counsel for County

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Robert W. Geis  
Auditor-Controller

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Ray Aromatorio  
Risk Manager

**SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS**

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Joni Gray, Chair  
Supervisor

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Date

Approved as to Form:

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William M. Dillon  
Senior Deputy, Counsel for SBCAG

## **Attachment A**

CONTRACTOR shall comply with the following requirements. CONTRACTOR shall not subcontract any services provided under this Agreement without the written consent of the City of Santa Maria and full compliance by any subcontractor with the requirements of this Agreement.

1. Indemnification –CONTRACTOR (TRANSPORTATION COMPANY) agrees to indemnify, defend (with counsel reasonably approved by County Counsel) and hold harmless **THE PARTIES** and their authorized officers, employees, agents and volunteers from and against any and all claims, actions, losses, damages, and/or liability arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses (including but not limited to attorneys’ fees) incurred by **THE PARTIES** on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. CONTRACTOR shall notify **THE PARTIES** immediately in the event of any accident or injury arising out of or in connection with this Agreement. This Indemnification provision shall survive any expiration or termination of this Agreement.

2. Insurance. Insurance Specifications –CONTRACTOR agrees to provide insurance set forth in accordance with the requirements herein. If CONTRACTOR uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, CONTRACTOR agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract services.

Without in any way affecting the indemnity herein provided and in addition thereto, CONTRACTOR shall secure and maintain throughout the Agreement term the following types of insurance with limits as shown:

A Workers’ Compensation/Employers Liability – A program of Workers’ Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer’s Liability with one million dollar (\$1,000,000) limits covering all persons including volunteers providing services on behalf of CONTRACTOR and all risks to such persons under this Agreement.

If CONTRACTOR has no employees, it may certify or warrant to **THE PARTIES** that it does not currently have any employees or individuals who are defined as “employees” under the Labor Code and the requirement for Workers’ Compensation coverage will be waived by the County’s Risk Manager.

B. Commercial/General Liability Insurance –CONTRACTOR shall carry General Liability Insurance covering all operations performed by or on behalf of CONTRACTOR providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000) per occurrence and a two million dollar (\$2,000,000) general aggregate limit.

C. Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than three million dollars (\$3,000,000) for bodily injury and property damage, per occurrence.

D. Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability. An Additional Insured Endorsement shall be provided on the Umbrella policy as it relates to the primary policies requiring an Additional Insured Endorsement.

3. Additional Insured – All policies, except for the Workers’ Compensation, Errors and Omissions and Professional Liability policies, shall contain endorsements naming and their officers, employees, agents and volunteers as additional insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for **THE PARTIES** to vicarious liability but shall allow coverage for **THE PARTIES** to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

4. Waiver of Subrogation Rights –CONTRACTOR shall require the carriers of required coverage to waive all rights of subrogation against **THE PARTIES**, their officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit CONTRACTOR and CONTRACTOR’s employees or agents from waiving the right of subrogation prior to a loss or claim. SUBCONTRACTOR hereby waives all rights of subrogation against **THE PARTIES**.

5. Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by **THE PARTIES**.

6. Severability of Interests –CONTRACTOR agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between CONTRACTOR and **THE PARTIES** or between any FUNDING PARTNER and any other insured or additional insured under the policy.

7. Proof of Coverage –CONTRACTOR shall furnish Certificates of Insurance to the CITY OF SANTA MARIA Department administering the Agreement evidencing the insurance coverage, including Additional Insured Endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and CONTRACTOR shall maintain such insurance from the time CONTRACTOR commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this Agreement, CONTRACTOR shall furnish a copy of the Declaration page for all applicable policies and will provide complete copies of the policies and endorsements immediately upon request.

8. Acceptability of Insurance Carrier – Unless otherwise approved by **THE PARTIES**, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best’s Insurance Guide rating of “A- VII”.

9. Deductibles and Self-Insured Retention – Any and all deductibles in excess of \$10,000 shall be declared to the **THE PARTIES**. A Self-Insured Retention is not acceptable.

**CITY OF BUELLTON**  
City Council Agenda Staff Report

City Manager Review: JHK  
Council Agenda Item No.: 7

To: The Honorable Mayor and City Council

From: Ralph D. Hanson, City Attorney

Meeting Date: December 13, 2012

Subject: Consideration of First Amendment to City Manager Employment Agreement

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**BACKGROUND**

On November 12, 2009, the City Council approved that City Manager Employment Agreement for the services of John Kunkel as City Manager for the City of Buellton. That Agreement will expire on December 15, 2012.

Attached for Council consideration is a First Amendment to City Manager Employment Agreement. This Agreement will extend the services of the City Manager to December 15, 2016. Aside from allowing vacations equivalent to top step for senior staff members, the amended Agreement is identical to the original – including the rate of compensation.

**FISCAL IMPACT**

None. Compensation for services to remain the same.

**RECOMMENDATION**

That the City Council approve the First Amendment to City Manager Employment Agreement.

**ATTACHMENT**

Attachment 1 - First Amendment to City Manager Employment Agreement

## FIRST AMENDMENT TO CITY MANAGER EMPLOYMENT AGREEMENT

This First Amendment to City Manager Employment Agreement (“Amended Agreement”) is entered into as of December 13, 2012, between the City of Buellton (“City”) and John Kunkel (“Employee”). In consideration of the mutual promises and agreements set forth below, City and Employee agree as follows:

### **A. Recitals.**

1. On November 12, 2009, City and Employee entered into that City Manager Employment Agreement (the “Agreement”) for the services of Employee as City Manager of City.

2. City and Employee now mutually agree that it is in best interests of City to extend the Agreement as provided in this Amended Agreement.

### **B. Agreement.**

1. **EMPLOYMENT.** City agrees to employ Employee to render services as City Manager of City on the terms and conditions set forth in this Amended Agreement and Employee accepts such employment on the terms and conditions set forth in this Amended Agreement.

2. **TERM.** The term of Employee’s employment shall be four (4) years, commencing on December 15, 2009, and ending on the earliest of:

A. December 15, 2016; or

B. The date of termination of Employee’s employment in accordance with Paragraph 4 below.

3. **POSITION AND DUTIES.** Employee shall serve as City Manager of City. Employee shall have those powers and duties set forth in City’s Municipal Code Section 2.08.060. The City Council of the City (“City Council”) shall have the power to determine such other specific duties and responsibilities which Employee must perform under this Amended Agreement and the means and manner by which Employee must perform those duties and responsibilities. Employee agrees to devote all of his business time, skill, attention, and best efforts to the discharge of the duties and responsibilities assigned to him by the City Council during the term of his employment.

4. **AT-WILL EMPLOYMENT STATUS, EXCLUSION FROM PERSONNEL SERVICE SYSTEM, AND TERMINATION.** Employee’s employment is at-will. Employee shall serve at the will of the City Council. Thus, employee’s employment is at the mutual consent of Employee and City and either Employee or City may terminate the employment at-will. City may terminate Employee

at any time, with or without cause, for any reason whatsoever that does not violate a public policy of the State of California. Termination shall be by a majority vote of the City Council. Employee may terminate his employment at any time, with or without cause, for any reason whatsoever. Employee is excluded from City's Personnel Service System and holds no property right in his employment.

Employee agrees that no representative of City has made or can make any promises, statements, or representations which state or imply that Employee is hired or retained under any terms other than at-will employment that is excluded from City's Personnel Service System, as set forth above. Employee agrees that no agreement can impliedly arise that Employee is employed under any terms other than at-will employment that is excluded from City's Personnel Service System, as set forth above.

Employee's status is at-will and is exempt from City's Personnel Service System may only be changed, revoked, amended, or superseded by a written document, signed by Employee and the Mayor following approval by the City Council.

**5. COMPENSATION AND BENEFITS.** Employee shall receive the following compensation and benefits:

**A. Salary.** Employee shall receive an annual salary of one hundred forty thousand (\$140,000.00), payable at the normal times as all employees of City. Such salary shall be effective as of December 15, 2012. Employee shall receive the same amount of cost of living adjustments as may be received by other City employees as and when authorized by the City Council.

1. **Waiver of Deferred Compensation.** Employee agrees to waive participation that Employee would otherwise have been entitled under the City Deferred Compensation Program.

**B. Benefits.** Except as may be provided in this Amended Agreement, Employee shall receive such benefits as are provided to City employees under the City Personnel Rules.

1. **Vacation.** Employee shall be entitled to twenty (20) days vacation per year of employment with the City which shall accrue in the same manner as all City Employees. The maximum number of vacation days that may be accumulated by Employee is forty (40) days. Once Employee reaches the maximum accumulation, he shall cease vacation accrual until his total number of vacation hours falls below the maximum allowable.

2. **Management Leave.** On the commencement date of this Amended Agreement, Employee shall be credited with eight (8) days accrued Management Leave for the first full year of employment with the City. Thereafter, Employee shall be credited eight (8) days of Management Leave annually. Management Leave cannot be carried forward from year to year.

Employee shall not be compensated for Management Leave at the time of termination of employment.

C. **Automobile.** Employee shall be provided the use of a City-owned vehicle for City business. Said vehicle shall be maintained, serviced, repaired and fueled at City expense. Employee agrees to live within twenty (20) minutes driving time of City Hall.

6. **PERFORMANCE REVIEW.** A performance review, without consideration of salary or benefit revision, shall occur, no later than the end of December of each year beginning in December of 2010. The City Council will use the annual performance review to determine the extent, if any, that Employee's base salary and/or benefits of Employee should be increased. An initial performance review shall occur no later than six (6) months following the commencement date of this Amended Agreement.

The annual evaluation shall be in accordance with specific criteria developed by the City Council after consultation with Employee. Such criteria may be added to or deleted as the City Council may from time to time determine after consultation with Employee.

7. **RENEWAL OF AGREEMENT.** City is under no obligation to renew this Amended Agreement upon completion of the Amended Agreement's term, and City may decide to do so solely at its discretion. The City may extend this Amended Agreement at any time prior to the expiration of this Amended Agreement.

8. **NOTICE OF TERMINATION.** City need not provide Employee with any prior notice of its decision to terminate this Amended Agreement. Due to the important nature of the City Manager's duties to City, if Employee terminates this Amended Agreement, Employee should provide the City Council with at least thirty (30) days written notice prior to the date he ceases to perform his duties and responsibilities under this Amended Agreement.

9. **SEVERANCE PAYMENT.** This Severance Payment provision in no way changes or modifies Employee's status as an at-will employee who is exempt from City's Personnel Service System, as set forth in Paragraph 4 above.

If City terminates this Amended Agreement, for any reason other than Employee's misconduct, as defined below, City shall pay Employee a severance payment of an amount equal to the monthly salary of Employee multiplied by the number of months left on the unexpired term of the Amended Agreement, with applicable payroll taxes withheld. However, if the unexpired term of the Amended Agreement is greater than six (6) months, the severance payment shall be an amount equal to three (3) months of salary, with applicable payroll taxes withheld.

If City terminates this Amended Agreement at any time due to Employee's misconduct, as defined below, City shall not pay Employee any severance payment. Misconduct means Employee's dishonesty, fraud, self-dealing, or willful misconduct as that term is defined for purposes of unemployment insurance, committed in the performance of Employee's duties and responsibilities under this Amended Agreement, or Employee's violation, at any time, of any law which can be punished as a felony. The determination of whether Employee was terminated due to misconduct is in City's reasonable discretion.

Upon the termination of this Amended Agreement, Employee is not entitled to any other compensation or payment, except as provided in this Paragraph 9.

**10. REIMBURSEMENT.** City shall reimburse Employee according to standard City practices for all actual and necessary expenses he incurs in the performance of his official duties as City Manager, including those incurred when traveling on business pertaining to City.

**11. BOND.** Employee shall furnish a corporate surety bond in the amount of One Hundred Thousand Dollars (\$100,000.00) from a surety approved by the City Council for the faithful performance of the duties imposed upon Employee as City Manager. The premium for such bond shall be a proper charge against the City.

**12. NONASSIGNMENT.** Employee's duties and obligations under this Amended Agreement are personal and are not assignable.

**13. ARBITRATION.** Any and all controversies or claims arising out of or relating to Employee's employment with City or the termination of Employee's employment with City shall be settled by binding arbitration in accordance with the Rules of the American Arbitration Association and judgment on the award rendered by the Arbitrator may be entered in any court having jurisdiction thereof.

**14. ENTIRE AGREEMENT.** This Amended Agreement contains the entire agreement and understanding between the parties and contains all of the terms and conditions of the parties' agreement. This Amended Agreement is the complete and final expression of the parties' agreement and supersedes all prior or contemporaneous oral or written negotiations, discussions, representations, or agreements, if any. Employee acknowledges that he has not relied on any promises, statements, representations, or warranties except as set forth expressly in this document.

**15. AMENDMENT.** This Amended Agreement, and any and all terms and conditions contained herein, may only be changed, revoked, amended, or superseded by a written document signed by both Employee and the Mayor following approval of the City Council.

**16. GOVERNING LAW.** This Amended Agreement will be governed by and construed in accordance with the laws of the State of California.

17. **NO WAIVER.** No party's failure to enforce any provision or provisions of this Amended Agreement will be construed in any way as a waiver of any such provision or provisions, or prevent that party thereafter from enforcing each and every other provision of this Amended Agreement.

18. **PARTIAL INVALIDITY.** The invalidity or unenforceability of any provision or portion of this Amended Agreement will not affect the validity or enforceability of the other provisions or portions of this Amended Agreement.

19. **INTERPRETATION.** No interpretation or construction of any provision or provisions of this Amended Agreement will be influenced by the identity of the party drafting the Amended Agreement.

20. **HEADINGS.** Paragraph headings used in this Amended Agreement are for convenience only and shall not be considered part of the terms of the Amended Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Amended Agreement.

(Signatures on following page)

**CITY OF BUELLTON**

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Holly Sierra  
Mayor

**Attest:**

---

Linda Reid  
City Clerk

**Approved as to Form:**

---

Ralph D. Hanson  
City Attorney

**EMPLOYEE**

---

John Kunkel

**CITY OF BUELLTON**  
City Council Agenda Staff Report

City Manager Review: JHK  
Council Agenda Item No.:     12

To: The Honorable Mayor and City Council

From: John Kunkel, City Manager

Meeting Date: December 13, 2012

Subject: Consideration of Appointments to the Planning Commission

---

**BACKGROUND**

The terms of office of Planning Commissioners Foster Reif and Gerald Witcher expire this month. Commissioner Reif has indicated a desire to be considered for reappointment for another four (4) year term. Commissioner Witcher has chosen not to reapply. It would be appropriate for the City Council to conduct interviews of the candidates at the Council meeting of December 13 and consider appointments to the Commission. The appointment terms would expire in December 2016.

Attachment 1 defines Buellton Municipal Code Section 2.36, Planning Commission.

The City has advertised through the Santa Ynez Valley News and has posted in public places in the community a notice soliciting letters of interest pertaining to the positions on the Planning Commission. Applications were received from Foster Reif and Lisa Figueroa, which are attached as Attachment 2. Please note that Foster Reif will be out of town during the December 13 meeting but would like to be reappointed to the Planning Commission for another four years.

**FISCAL IMPACT**

The appointments to the Planning Commission should not have any fiscal impact on the City.

**RECOMMENDATION**

That the City Council conduct interviews of applicants and make appointments to the Planning Commission with the terms of office expiring December 2016.

**ATTACHMENTS**

Attachment 1 - Buellton Municipal Code Chapter 2.36: "Planning Commission"  
Attachment 2 - Application forms

**ATTACHMENT 1**

## Buellton Municipal Code

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[Title 2 ADMINISTRATION AND PERSONNEL](#)

**Chapter 2.36 PLANNING COMMISSION**

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**2.36.010 Created.**

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There is created a planning commission for the city. It shall consist of five members, appointed in the manner and for the terms prescribed in Section 2.28.010 of this code, provided, however, that whenever an appointment is made to fill a vacancy or removal on the commission after the commencement of a commissioner's term, the term of the commissioner appointed to fill such vacancy or removal shall be for the balance of the unexpired term of the commissioner leaving or removed from the commission. (Ord. 97-01 § 2 (A), 1997; Ord. 92-20 § 2 (part), 1992)

**2.36.020 City planning commission—General jurisdiction and functions.**

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A. The planning commission for the city, as created and described in Section 2.36.010 of this code shall perform all functions and take all actions designated in the development code of the county of Santa Barbara, which has been adopted by the city, for the planning commission and for the planning commission subcommittee. In addition, with the exception of decisions on lot line adjustments and certificates of compliance, all discretionary decisions designated in the development code to be made by the planning officer or other officers or offices shall be made by the planning commission of the city. Further, the planning commission shall review and the city council shall act upon all requests for planned residential developments, subject to all other applicable provisions of the city's ordinances.

B. The provisions of this section relating to the city planning commission shall become effective on August 27, 1992. (Ord. 92-20 § 2 (part), 1992; prior code § 2.18.015)

**2.36.030 Compensation of planning commissioners.**

---

The members of the planning commission shall each receive compensation payable out of the general fund of the city, provided adequate funds have been budgeted therefore in the sum of one hundred dollars (\$100.00) per month. The compensation prescribed in this chapter shall be exclusive of any amounts payable to each member of the commission as a reimbursement for the actual and necessary expenses authorized by the city council and incurred in the performance of official duties for the city. (Ord. 93-14, 1993; prior code § 2.18.016)

**2.36.040 Chair—Committees—Staff.**

---

Designation of chairpersons for the commission shall be governed by Section 2.28.050 of this code. The commission shall be authorized to appoint and fix the membership of such number of standing and temporary committees as it may find expedient for the performance of its duties. The city manager may appoint an executive secretary and other staff and provide such compensation for their services as may be authorized by the city council and by the annual city budget of expenditures. (Prior code § 2.18.020)

**2.36.050 Meetings—Rules of procedure.**

---

The commission shall hold at least one regular meeting each month at such time, date and place designated by the commission. Special meetings may be called by the chair or a majority of the commission, provided

notice has been given to all members at least twenty-four (24) hours prior to the meeting. A majority of commissioners shall constitute a quorum. (Prior code § 2.18.030)

### **2.36.060 Functions, powers and duties.**

---

The functions, powers and duties of the planning commission shall be all those functions, powers and duties of a planning commission and board of zoning adjustment as provided in Chapters 3 and 4 of Title 7 commencing with Section 65100 of the Government Code of the state (the planning and zoning law), as the same may be hereafter amended. The planning commission shall perform such other duties and functions as may be designated by the city council. (Prior code § 2.18.040)

### **2.36.070 Rules—Records and meetings.**

---

The planning commission shall adopt rules for the transaction of business, shall keep a public record of its resolutions, transactions, findings and determinations, and shall hold at least one regular meeting each month. Minutes of the planning commission meetings shall be filed with the city clerk. (Prior code § 2.18.050)



APPLICATION FOR APPOINTMENT TO PLANNING COMMISSION

Name: Foster Reif

Address: 129 SHARON PL

Phone Number(s): 805 741 5301

Email Address: FOREIF@GMAIL.COM

Employer: Design Knowledge Co.

Occupation: SPACE ANALYST

How long have you been a resident of the City of Buellton? 6 years

Have you worked for the City of Buellton or are you related to any City Employee or City Official? If so, please explain: NO

Are you a registered voter in the City of Buellton? YES

Please provide education, work experience, and training background:

MBA, BA and 9 years of Military Experience

Please list community and/or volunteer activities and personal interests:

Current member of planning commission. Served on multiple committees and have solid track record of attendance and volunteering for further PC efforts.

[Signature]  
Signature of Applicant

10-23-12  
Date

For more information regarding the Planning Commission, please reference Buellton Municipal Code Chapter 2.36. Planning Commission Meetings are held on the first and third Thursdays of each month beginning at 6:00 p.m. in the City Council Chambers. City of Buellton employees are not eligible for appointment.

The most important planning issues facing Buellton are the lack of updated and codified ordinances/documents which properly reflect the interests of the Buellton citizens and businesses. While progress is being made at various working groups, including the steering committee and other focus areas, for example the sign ordinance committee of which I am a member, there still remains a number of items that need updating and refinement as Buellton comes out of its visioning and other processes. Without a clear, concise, and codified documents/ordinances that reflect current priorities and desires, all planning will face a hurdle of having to base plans on antiquated documents which could result in a reversal of all the work much the city has put forward in enhancing it

Greater facilitation amongst community and business interest is needed to gain input and a framework for expedited completion of these documents. The Ave of Flags, zoning update, and others could use the sign ordinance committee as a good example of how community, businesses and appointed representatives can work together to hammer out contentious issues and bring to the PC and the CC a consolidated and vetted outline for further refinement and approval. This method is working well and could be a mirrored for other similar updates/efforts.

I am a believer in significant possibilities for future growth and economic development, albeit in a concise and controlled manner. All of the efforts put forth amongst numerous entities over the last year to define Buellton's future should absolutely be taken into account and further refined so to promote growth within the city. Given the location, potential business development, and what is currently in various of stages of development, Buellton future growth and economic development potential is great.

I am very familiar with the city's planning documents over my last four years of service on the planning commission. I have served on several committees including the steering committee, sign ordinance committee, economic development committee, branding committee, and others. I have assisted in the development and drafting of multiple documents. I have made it a goal of mine to update these documents and ensure they are crafted to a high-standard to guarantee their implementation.

My background with over 9 years of military service, I have a refined eye for details and documents, and compromise. I have proven worthy at multiple PC meetings, noting discrepancies and areas for improvement. I have also made compromise a major goal of every meeting I have attended, including the most contentious meetings to date. Finding middle ground for all of the interested parties while still maintaining legal authority and providing enhanced benefits for the city is in the interest of everyone. I think with four more years, I can bring a more seasoned and experienced approach and hope the City Council will appoint me for another term.

Respectively,

Foster Reif



APPLICATION FOR APPOINTMENT TO PLANNING COMMISSION

Name: Lisa M. Figueroa  
Address: current: 60 Valley Station Cir. as of 12/1/12 373 Freear Drive  
Buellton, CA 93427 Buellton, CA 93427

Phone Number(s): (617) 270-0317

Email Address: mrslisafigueroa@gmail.com

Employer: City of Lompoc

Occupation: Librarian at Buellton Library

How long have you been a resident of the City of Buellton? 4 1/2 years

Have you worked for the City of Buellton or are you related to any City Employee or City Official? If so, please explain: No

Are you a registered voter in the City of Buellton? Yes

Please provide education, work experience, and training background:

Sociology, B.A., UCSB 1990

Buellton Library 2009-2012 (current)

Part time work in family cabinetry business 1983-1990

Please list community and/or volunteer activities and personal interests:

Involved in Buellton Visioning process and Avenue of Flags Subcommittee, Charter Committee, Volunteer for local events.

Lisa Figueroa  
Signature of Applicant

11/14/2012  
Date

For more information regarding the Planning Commission, please reference Buellton Municipal Code Chapter 2.36. Planning Commission Meetings are held on the first and third Thursdays of each month beginning at 6:00 p.m. in the City Council Chambers. City of Buellton employees are not eligible for appointment.

## APPLICATION FOR APPOINTMENT TO PLANNING COMMISSION: ESSAYS

1. I believe the most important planning issues facing the City of Buellton are attracting new economic ventures and protecting the small town feel. Too many businesses are vacant, and too many residents cannot earn enough to save their homes.
2. To resolve these issues, I would recommend attracting new businesses, with an eye to sensible growth. Careful consideration of new projects, within the framework of the existing General Plan, needs to be the first priority. Otherwise, Buellton will either become larger than the current residents desire, or have even more vacant homes and businesses with which to contend.
3. My position on future growth and economic development in the City of Buellton is that we ought to be preparing today for the economy to improve. We have so much to offer small businesses or mid-sized industry, but companies and investors need to know that we are here. More business would provide more jobs and more taxable income, and the City of Buellton does have room for well-planned growth. Not just any business would thrive or be beneficial to the city, so projects cannot be approved haphazardly. I would work to look at the obvious as well as less apparent impacts of a project before I voted to approve it.
4. I am familiar with the City's Planning documents. I have downloaded them and read through many of them, with the objective of getting an overview of the procedures and ordinances I will be coming in contact with regularly. I would certainly review, examine, and reread the relevant information relating to a specific question presented to the commission before making any decision. I respect the policies that are in place, as they reflect the goals and ideas that make Buellton special. I also understand that with progress and changes of time, some things may need to be re-evaluated in response to new information.
5. I believe my unique blend of experience and education would benefit me as a Planning Commissioner. I was raised in a family of cabinet makers, so I am as familiar with plans and blueprints as I am with profit and loss statements, as I often helped with both. I understand the concerns of small businesses, as well as the importance of a job well done. As my experience has provided me with a basis for the facts and figures side of this position, my education balances out the human side. I attended UCSB as a Regent's Scholar, and received my B.A. in Sociology. My degree gives me insight into the dynamics of groups of people. The City of Buellton is not a static structure, but a part of society. Planning decisions affect not only views and traffic flow, but personal interactions as well. Pedestrian walkways, well-designed parks, and business centers all offer opportunities to foster feelings of connectedness and unity among Buellton residents.

I appreciate your consideration,  
*Lisa Figueroa*

**CITY OF BUELLTON**  
City Council Agenda Staff Report

City Manager Review: JHK  
Council Agenda Item No.: 13

To: The Honorable Mayor and City Council

From: John Kunkel, City Manager

Meeting Date: December 13, 2012

Subject: Consideration of Appointments to the Parks and Recreation Commission

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**BACKGROUND**

The terms of office of Parks and Recreation Commissioners Larry Bishop and David Bishop expire this month. Commissioner Larry Bishop has indicated a desire to be considered for reappointment for another four (4) year term. Commissioner David Bishop has indicated he does not want to be reappointed. It would be appropriate for the City Council to conduct interviews of the candidates at the Council meeting of December 13 and consider appointments to the Commission. The appointment terms would expire in December 2016.

Attachment 1 defines Buellton Municipal Code Section 2.32, Parks & Recreation Commission.

Staff has advertised through the Santa Ynez Valley News and has posted in public places in the community a notice soliciting letters of interest pertaining to the two positions on the Parks and Recreation Commission. In addition to the request of Larry Bishop to be considered for reappointment, the City received an application from Marcilo Sarquilla. The two applications submitted are attached as Attachment 2.

**FISCAL IMPACT**

The appointments to the Parks and Recreation Commission should not have any fiscal impact on the City.

**RECOMMENDATION**

That the City Council conduct interviews of applicants and make appointments to the Parks and Recreation Commission with the terms of office expiring December 2016.

**ATTACHMENTS**

Attachment 1 - Buellton Municipal Code Chapter 2.32: "Parks and Recreation Commission"

Attachment 2 - Application forms

# ATTACHMENT 1

## Buellton Municipal Code

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### **Chapter 2.32 PARKS AND RECREATION COMMISSION**

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#### **2.32.010 Park and recreation commission—Created.**

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Pursuant to Section 2.28.010 of this code, there is created an advisory commission to the city council which shall be known as the Buellton parks and recreation commission. (Ord. 04-01 § 1, 2004: prior code § 13.01.001)

#### **2.32.020 Commission composition and membership.**

---

The parks and recreation commission shall consist of five members. The city council shall appoint, by majority vote of the city council, each parks and recreation commissioner who shall be a qualified elector of the city. No officers or employees of the city or persons under an employment contract subject to the jurisdiction of the city council shall be members of such commission. (Ord. 05-04 § 2, 2005: Ord. 04-01 § 2, 2004: prior code § 13.01.002)

#### **2.32.030 Oath of office.**

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All members of the parks and recreation commission shall be required to take an oath of office, as approved by the city council, prior to commencing their term of office. (Prior code § 13.01.003)

#### **2.32.040 Term of office.**

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The term of each parks and recreation commissioner shall be four years, commencing in December of even-numbered years, with staggered terms as provided in Section 2.28.060. (Ord. 05-04 § 3, 2005: Ord. 04-01 § 3, 2004: prior code § 13.01.004)

#### **2.32.050 Staff assistance.**

---

The city manager shall ensure that adequate staff will be allocated to provide necessary technical and clerical assistance to the commission. (Prior code § 13.01.005)

#### **2.32.060 Time and place of meetings—Rules of procedure.**

---

The parks and recreation commission shall establish a regular date, time, and place of commission meetings, which shall be open to the public. The meetings shall occur no less frequently than once a month. Special meetings may be called by the chair or a majority of the commission, provided public notice has been given at least twenty-four (24) hours prior to the meeting. A majority of commissioners shall constitute a quorum. (Ord. 04-01 § 4, 2004: prior code § 13.01.006)

#### **2.32.070 Duties.**

---

The parks and recreation commission shall advise the city council on all matters subject to the jurisdiction of the council pertaining to the acquisition, development, and maintenance of public parks and recreational facilities. The commission shall also review and advise the council regarding the financing of and budgeting for such functions, including but not limited to, the financing and budgeting for parks and recreation services in the

city. The commission shall also advise the parks and recreation director from time to time. (Prior code § 13.01.007)

### **2.32.080 Public hearings—Procedure.**

---

Whenever the commission determines, by a two-thirds majority of those members present, that its deliberations with respect to a particular matter or matters would be substantially aided by the presentation of testimony from the citizens of the city, or of a certain area of the city, the commission may direct a public hearing be held concerning such matter or matters. Notice of such a hearing shall be provided by publication in a newspaper of general circulation published in the city, and/or by posting the same in at least three public places, not later than seven days prior to the date of the hearing. Such hearings shall be conducted in accordance with the rules established for the conduct of hearings before the city council unless the council, by resolution, shall otherwise provide. (Prior code § 13.01.008)



APPLICATION FOR APPOINTMENT TO PARKS & RECREATION COMMISSION

Name: Larry Bishop

Address: 511 Sycamore Dr., Buellton

Phone Number(s): 688-3936

Email Address: # 11bishop1@verizon.net

Employer: Retired - Santa Barbara County

Occupation: Hazardous Material Specialist.

How long have you been a resident of the City of Buellton? 16 years

Have you worked for the City of Buellton or are you related to any City Employee or City Official? If so, please explain: Wife, Kalyani is City account Clerk

Are you a registered voter in the City of Buellton? yes

Please provide education, work experience, community activities, and personal interests:  
B.A. Biology, Cal state Chico; MS Environmental/occupational health  
Ca/ State Northridge; LA city wastewater Mgt. LA county Environmental  
Health, S.B. County Haz Mat. Mgt.; Buellton - Parks + Rec. Commission, Visioning Process

Please indicate your interest in serving on the Parks & Recreation Commission. (Attach additional sheets if necessary):  
I've served 2 terms on the Commission. I want to see the Commission  
Advocate for improved Parks and Recreation facilities + programs.  
The Commission should further the Parks + Rec Visioning goals.

[Signature]  
Signature of Applicant

11-7-12  
Date

For more information regarding the Parks & Recreation Commission,  
please reference Buellton Municipal Code Chapter 2.32.  
Parks & Recreation Commission Meetings are held on the fourth Monday of the month  
beginning at 6:00 p.m. in the City Council Chambers  
City of Buellton employees are not eligible for appointment



**APPLICATION FOR APPOINTMENT TO PARKS & RECREATION COMMISSION**

Name: Marcielo Sarguilla

Address: 380 OAK TREE WAY

Phone Number(s): (805) 705-0729

Email Address: msargui@yahoo.com

Employer: City of Lompoc

Occupation: Information Systems - Systems Analyst

How long have you been a resident of the City of Buellton? 18-20 yrs

Have you worked for the City of Buellton or are you related to any City Employee or City Official? If so, please explain: NO

Are you a registered voter in the City of Buellton? yes

Please provide education, work experience, community activities, and personal interests:  
High School Diploma (Chula Vista High School), some college  
Board President @ Retired Employees of Santa Barbara County,  
10 years Buellton Unified School District Board Member

Please indicate your interest in serving on the Parks & Recreation Commission. (Attach additional sheets if necessary):  
to continue my <sup>service and</sup> support of our  
Community

[Signature]  
Signature of Applicant

10-30-12  
Date

For more information regarding the Parks & Recreation Commission,  
please reference Buellton Municipal Code Chapter 2.32.  
Parks & Recreation Commission Meetings are held on the fourth Monday of the month  
beginning at 6:00 p.m. in the City Council Chambers  
City of Buellton employees are not eligible for appointment

**CITY OF BUELLTON**  
City Council Agenda Staff Report

City Manager Review: JHK  
Council Agenda Item No.: 14

To: The Honorable Mayor and City Council

From: Linda Reid, City Clerk

Meeting Date: December 13, 2012

Subject: Appointments to Boards, Commissions, and Committees

---

**BACKGROUND**

Following the reorganization of the City Council, it is appropriate for the Council to consider appointments to various boards, commissions, and committees. To assist in the consideration and possible action as to the appointments, staff has listed below the respective agency or body, has provided brief comments as to the purpose of said agency or body, and has provided additional comments as to an appointment. Copies of agency by-laws, membership rosters, and other information pertaining to the respective agency, board, body, committee, commission, or organization are not included with this staff report but are available for review. Attached, however, is a meeting schedule for the various boards, commissions, and committees on which Council Members may serve. (Note: As this staff report was written prior to the selection of a Mayor and a Vice Mayor, *all* members of the City Council will be referred to as “Council Member”).

**A. Central Coast Water Authority (CCWA)**

The Central Coast Water Authority was formed under the provisions of the State of California as a public entity to plan, develop, finance, design, construct, and manage certain extensions of the California Aqueduct of the State Water Project. The business of the Authority is conducted by a Board of Directors consisting of one Director appointed by each Member Agency. Each Director and an alternate Director shall be appointed or selected by the governing body of the respective Member Agency and may, but need not be, a member of the governing body of the Member Agency. The Board meets monthly on the fourth Thursday at 9:00 a.m. in Buellton.

Council Member Andrisek served as the City’s representative on the CCWA Board of Directors and Council Member Sierra served as the alternate representative. It would be appropriate for the Council to appoint two representatives for the up-coming year, with one appointee being an alternate representative.

**B. Library Advisory Committee**

This Committee meets quarterly on the third Wednesday at 10:00 a.m. at a varied location to formulate and oversee policy regarding the operation of a countywide library system. The Advisory Committee is composed of one representative from each of the incorporated cities in the County, one member from each Supervisorial District, and one County Supervisor. NOTE: This is not the Library Board of Trustees for Zone 2.

Council Member Dale served as the City's representative on the Committee and Council Member King served as the alternate representative. It would be appropriate for the Council to appoint a City representative and an alternate representative to the Library Advisory Committee.

**C. Santa Barbara County Association of Governments (SBCAG)**

The Council of Governments, which serves Santa Barbara County, is responsible for review of OMB Circular A-95 federal grant applications, transportation planning and programming, annual allocation of Transportation Development Act funds, coordination of regional planning activities, distribution of U.S. Census data, and other duties as per a Joint Powers Agreement. The Board meets on the third Thursday of each month in Santa Barbara or Santa Maria. Membership includes the five County Supervisors and one representative from each of the incorporated cities in the County.

Council Member Sierra held this seat as the City's representative to the Santa Barbara County Association of Governments (SBCAG) and Council Member King is the alternate. It would be appropriate for the Council to appoint a City representative and an alternate to the Association of Governments Board.

**D. Air Pollution Control District (APCD)**

Assembly Bill 75, known as the Hauser Bill, required the addition of elected Mayors and/or City Council Members to the Air Pollution Control District Board of Directors. Senate Bill 113 was recently adopted that allows for alternates to serve on the Board. The responsibilities of the Board include setting policy for local clean air programs through the adoption and implementation of clean air plans, adopting locally developed rules and regulations to improve air quality, lobbying for effective laws relating to air pollution control, seeking innovative measures to provide air quality benefits, and other related duties.

Usually the City representative to the Santa Barbara County Association of Governments Board also serves as the City representative on the APCD Board of Directors, but this is not a legal requirement. Council Member Sierra held this seat as the City's APCD representative and Council Member King serves as the alternate representative. As SBCAG and APCD meet on the same date and location, it would be appropriate for the Council to appoint the City's SBCAG Board member to also serve on the APCD Board.

**E. California Joint Powers Insurance Authority (CJPIA)**

The California Joint Powers Insurance Authority is an agency created to provide programs to protect its members, their officers and employees, and property against unavoidable losses through purchase of insurance, self-insurance, and pooling of losses. The Authority is governed by a Board of Directors and an Executive Committee. The Board meets on an annual basis each July and also in special session on an as needed basis. Council Member Andrisek served as the City's representative at the annual Board meeting this past July. Council Member Sierra served as the CJPIA alternate.

Each member has a representative on the CJPIA Board of Directors. In the past, the City representative has been the Mayor or in his/her absence, the Vice Mayor. It would be appropriate for the Council to appoint a representative and an alternate to the CJPIA Board of Directors.

**F. League of California Cities (LOCC) – Voting Delegate**

Each year prior to the Annual Conference, the League formally requests the appointment of a City representative and an alternate to the League business meeting. It has been standard procedure for the Mayor to be the City's representative, if attending the conference, and for the Vice Mayor to be the City's alternate representative. It is recommended that the Council continue to follow this standard procedure.

**G. Buellton Chamber of Commerce Board of Directors (Ex-Officio Member)**

Currently a member of the City Council serves as an Ex-Officio Member on the Buellton Chamber of Commerce Board of Directors, which meets monthly on the first Thursday at 2:00 p.m. in Buellton. The Council representative does not have voting power. Having a member on the Board allows the City to provide input as to Chamber programs and activities and to receive input from the Chamber Board as to City projects and programs.

Council Member Dale is currently the City's representative to the Chamber of Commerce Board of Directors (Ex-Officio Member). It would be appropriate to appoint a Council Member to serve as the Council representative to the Chamber Board of Directors as an Ex-Officio Member. The Chamber Director has requested that the appointment to this position be for the duration of two (2) consecutive years.

**H. Multi-Jurisdictional Solid Waste Task Group**

The Multi-Jurisdictional Solid Waste Task Group is composed of elected officials representing the incorporated cities within the County, the County itself, and special districts. The purpose of the Task Group is to review recommendations from various sub-groups as to short and long-term disposal methods and alternatives, and to make decisions regarding the planning, implementation, and oversight of solid waste issues. The Task Group meets quarterly on the fourth Monday of the month at various locations in the County.

The City has two seats on the Task Group, held by Council Member Andrisek and Council Member King. It would be appropriate for the Council to appoint two representatives to the Multi-Jurisdictional Solid Waste Task Group.

**I. Economic Development Task Force**

The Economic Development Task Force was formed in accordance with the Business Retention and Expansion Program of the Economic Development Element of the City's General Plan. The Task Force is comprised of five members, those being the City Manager, the Planning Director, an appointed City Council Member and alternate (currently Council Member Dale and Council Member King, respectively), and two appointed members of the Buellton Business Association/Chamber of Commerce and Buellton Visitor's Bureau Board of Directors. The Task Force meets monthly on the third Wednesday.

It would be appropriate for the Council to appoint a Council Member and alternate to the Economic Development Task Force.

**J. City/School District Joint Use Committee**

The City/School District Joint Use Committee was created in June of 2001 through a Joint Facility Use Agreement to provide for joint cooperation regarding the utilization, construction of improvements, and maintenance of certain school district property and certain City property. The Committee meets on an as needed basis.

Currently, Council Member Connolly serves as the City elected representative. It would be appropriate for the Council to appoint a City elected representative to serve on the Committee. The Council may wish to consider an alternate elected representative, although it is not required under the terms of the Agreement.

**K. Public Visioning Steering Committee**

Currently, Council Members King and Dale serve as the City's representatives on the Public Visioning Steering Committee. Various other community stakeholders sit on this committee as well. It would be appropriate for the City Council to appoint up to two Council Members to sit on this Committee.

**L. Central Coast Collaborative on Homelessness**

This is a new Policy Committee that will meet quarterly or more often if needed. It will include elected representatives from the County Board of Supervisors and the County's eight cities. There will be a rotating representative between the Cities of Buellton, Carpinteria, Guadalupe, and Solvang. Currently, it is undetermined how the rotation will be established but it would be appropriate for the City Council to appoint a representative to sit on this Committee as needed.

**FISCAL IMPACT**

Funds are included in the City's fiscal year budget for travel and meeting expenses for City representatives to boards, commissions, and committees.

**RECOMMENDATION**

That the City Council consider appointments to various boards, commissions, and committees for calendar year 2013.

**ATTACHMENT**

Boards, Commissions, and Committees Meeting Schedule - 2013

**2013 MEETING SCHEDULE**  
**Boards, Commissions, and Committees**

<b>Board, Commission or Committee</b>	<b>Date</b>	<b>Time</b>	<b>Location</b>
A. Central Coast Water Authority	4 <sup>th</sup> Thursday – Monthly	9:00 a.m.	Buellton
B. Library Advisory Committee (Not Library Board of Trustees)	3 <sup>rd</sup> Wednesday - Quarterly	10:00 a.m.	Location Rotates
C. Santa Barbara County Association of Governments	3 <sup>rd</sup> Thursday - Monthly	8:30 a.m.	105 East Anapamu Santa Barbara
D. Air Pollution Control District	As Scheduled	1:00 p.m.	105 East Anapamu Santa Barbara
E. California Joint Powers Insurance Authority	Annual meeting in July	7:00 p.m.	La Palma
F. League of California Cities - Voting Delegate	LOCC Annual Conference - September		Sacramento September 18-20 2013
G. Buellton Chamber of Commerce Board of Directors	1 <sup>st</sup> Thursday - Monthly	2:00 p.m.	Buellton
H. Multi-Jurisdictional Solid Waste Task Group	4 <sup>th</sup> Monday - Quarterly	9:00 a.m.	Varies
I. Economic Development Task Force	Meets as needed		Buellton
J. City/School District Joint Use Committee	Meets as needed		Buellton
K. Public Visioning Steering Committee	Meets as needed		Buellton
L. Central Coast Collaborative on Homelessness	Meets Quarterly		TBD

**CITY OF BUELLTON**  
City Council Agenda Staff Report

City Manager Review: JHK  
Council Agenda Item No.: 15

To: The Honorable Mayor and City Council

From: Marc Bierdzinski, Planning Director

Meeting Date: December 13, 2012

Subject: Ordinance No. 12-02 – “An Ordinance of the City Council of the City of Buellton, California, Approving a Specific Plan Amendment (12-SP-01) for the Village Specific Plan, Located on Assessor’s Parcel Number 137-090-045 and making Findings in Support Thereof” (Second Reading)

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**BACKGROUND**

At the meeting of November 8, 2012, the City Council introduced and held the first reading of Ordinance No. 12-02, an ordinance amending the Village Specific Plan.

**RECOMMENDATION**

That the City Council consider the approval and adoption of Ordinance No. 12-02 – “An Ordinance of the City Council of the City of Buellton, California, Approving a Specific Plan Amendment (12-SP-01) for the Village Specific Plan, Located on Assessor’s Parcel Number 137-090-045 and making Findings in Support Thereof” (Second Reading).

**ATTACHMENT**

Ordinance No. 12-02, with Exhibit A

## ORDINANCE NO. 12-02

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BUELLTON, CALIFORNIA, APPROVING A SPECIFIC PLAN AMENDMENT (12-SP-01) FOR THE VILLAGE SPECIFIC PLAN LOCATED ON ASSESSOR'S PARCEL NO. 137-090-045 AND MAKING FINDINGS IN SUPPORT THEREOF

**THE CITY COUNCIL OF THE CITY OF BUELLTON DOES ORDAIN AS FOLLOWS:**

**SECTION 1:** The Village Specific Plan was approved on September 27, 2007, by City Council Ordinance No. 07-07.

**SECTION 2:** John Franklin (hereinafter referred to as the "Applicant"), has filed an application requesting approval of an amendment to the adopted Specific Plan requesting changes to the phasing requirements of the commercial portions of the project along with allowing senior housing to move forward independent of the commercial aspects of the project.

**SECTION 3:** All proceedings having been duly taken as required by law, and upon review of the information provided in the staff report, consideration of the testimony given at the public hearing, as well as other pertinent information, the City Council finds the following:

- A. Record.** Prior to rendering a decision on any aspect of the Project, the City Council considered the following:
1. All public testimony, both written and oral, received in conjunction with the public hearing conducted by the Planning Commission on October 4, 2012 ("Planning Commission Public Hearing").
  2. All oral, written and visual materials presented by City staff in conjunction with the Planning Commission Public Hearing.
  3. All public testimony, both written and oral, received in conjunction with the public hearing conducted by the City Council on November 8, 2012 ("City Council Public Hearing").
  4. All oral, written and visual materials presented by City staff in conjunction with the City Council Public Hearings.
  5. The following informational documents which, by this reference, are incorporated herein.
    - a. The written report submitted by the Planning Department dated November 8, 2012.
    - b. The Village Specific Plan dated September 27, 2007.

- B. Public Review.** On the basis of evidence hereinafter listed, all administrative procedures and public participation requirements prescribed in the Buellton Zoning Ordinance have been lawfully satisfied:
1. A notice concerning this matter was published in a newspaper of general circulation on September 20, 2012, a minimum of ten (10) days in advance of the Planning Commission Public Hearing.
  2. The Planning Commission Public Notice was mailed to the Applicant, affected public agencies, persons owning property within 300 feet of the Project site and others known to be interested in the matter on September 20, 2012, a minimum of ten (10) days in advance of the Planning Commission Public Hearing.
  3. The Public Notice and Agenda for the Planning Commission Public Hearing were posted in three conspicuous public places a minimum of 10 days before the Planning Commission Public Hearing.
  4. A notice of public hearing was published in a newspaper of general circulation on October 25, 2012 (the “Public Notice”), a minimum of ten (10) days in advance of the City Council Public Hearing.
  5. The Public Notice was mailed to the Applicant, affected public agencies, persons owning property within 300 feet of the Project site and others known to be interested in the matter on October 25, 2012, a minimum of ten (10) days in advance of the City Council Public Hearing.
  6. The Public Notice and Agenda for the Public Hearing were posted in three conspicuous public places a minimum of 10 days before the City Council Public Hearing.
- C. Environmental Clearance.** The proposed amendment is adequately addressed in the prior environmental document (Addendum EIR) prepared for the Village Specific Plan. No further environmental review is required.
- D. Consistency Declarations.** Based on (i) the evidence presented in the Staff Report (incorporated herein by reference), (ii) consultations with affected City Departments, and (iii) testimony and comments received in connection with the Planning Commission and City Council Public Hearings, the City Council does hereby declare as follows:
1. **Specific Plan Adoption.**
    - a. **Findings:**
      - i. The form and substance of the Specific Plan Amendment, as well as the process used in its preparation and adoption, are consistent with the requirements set forth in the Buellton Municipal Code (Section 19.08.140).

- ii. The Specific Plan Amendment is in conformance with all applicable policies and implementation programs set forth in the 2025 Buellton General Plan.
- iii. The Specific Plan Amendment will not be detrimental to the health, safety, comfort, convenience, property values and general welfare of the community based on the development standards set forth in the Village Specific Plan and with the incorporation of the mitigation measures from the AEIR (both not being changed by the Specific Plan Amendment).
- iv. The Specific Plan Amendment will not adversely affect such necessary community services, including traffic circulation, sewage disposal, fire protection, police protection and water supply based on the development standards set forth in the Village Specific Plan and with the incorporation of the mitigation measures from the AEIR (both not being changed by the Specific Plan Amendment).

**SECTION 4:** Based upon the forgoing findings, facts and conclusions, including, but not limited to, the review of the information provided in the Staff Report, consideration of the testimony given at the City Council Public Hearing, as well as other pertinent information, the City Council hereby adopts amendments to the Village Specific Plan as noted in Exhibit A to the Ordinance.

**PASSED, APPROVED AND ADOPTED** this 13<sup>th</sup> day of December, 2012.

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Mayor

ATTEST:

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Linda Reid  
City Clerk

The Village Specific Plan  
Amendment No. 1  
Adopted \_\_\_\_\_  
Ordinance No. \_\_\_\_\_

The Village Specific Plan was adopted by the Buellton City Council on September 27, 2007, Ordinance No. 07-07.

As a result of current difficult economic and development conditions, to reduce the initial financing burden for hotel and commercial development, and to provide additional flexibility and development incentive for the planning and construction phasing of the Village Specific Plan area for commercial (retail/office), hotel, and senior housing uses, the Phasing section of the Village Specific Plan (Section V.B.-Phasing) is deleted and replaced with the following Section V.B.-Phasing.

**V. Processing and Phasing**

**B. Phasing**

The Specific Plan area is planned to be developed using the following phasing parameters:

Phase 1 – Construction of off-site improvements, loop road and associated backbone infrastructure:

The off-site improvements, loop road, and associated backbone infrastructure for the hotel and commercial areas of the Specific Plan may be developed independent of each other or may be developed concurrently. If the hotel area (Lot 1) is developed independently and prior to the commercial area (Lot 3), the improvements to McMurray Road, Highway 246 and Valley Vineyard Circle shall be as generally shown on Exhibit 1 (Lot 1 – Hotel Phase Public Improvements). If the commercial area (Lot 3) is developed independently and prior to the hotel area (Lot 1), the improvements to McMurray Road, Highway 246 and Valley Vineyard Circle shall be as generally shown on Exhibit 2 (Lot 3 – Commercial Phase Public Improvements). If the hotel and commercial areas are developed concurrently, the improvements to McMurray Road, Highway 246 and Valley Vineyard Circle shall be as generally shown on the combined Exhibits 1 and 2.

Exhibits 1 and 2 depict the general limits and nature of the Phase 1 improvements required. No hotel or commercial area Phase 1 improvements shall be constructed until the required improvement plans have been prepared and approved by the City Engineer/Public Works Director in accordance with City requirements. Rough grading shall be phased in conjunction with the off-site improvements, and shall include only those area(s) necessary to convey historic stormwater run-off that is interrupted by the phased improvements to an approved point of discharge.

Phase 2 – Development of the hotel or commercial areas and central park:

The Final Development Plan for the hotel or commercial area and the central park shall be submitted within five months after the approval of the associated hotel or commercial area Phase 1 improvement plans. A complete building permit application for either the hotel or commercial area and central park shall be submitted within six months of City approval of the Final Development Plan. Construction of either the hotel or commercial area and central park shall begin within two months of building permit

issuance. For either the hotel or commercial areas, the Phase 2 development may be processed concurrently with Phase 1.

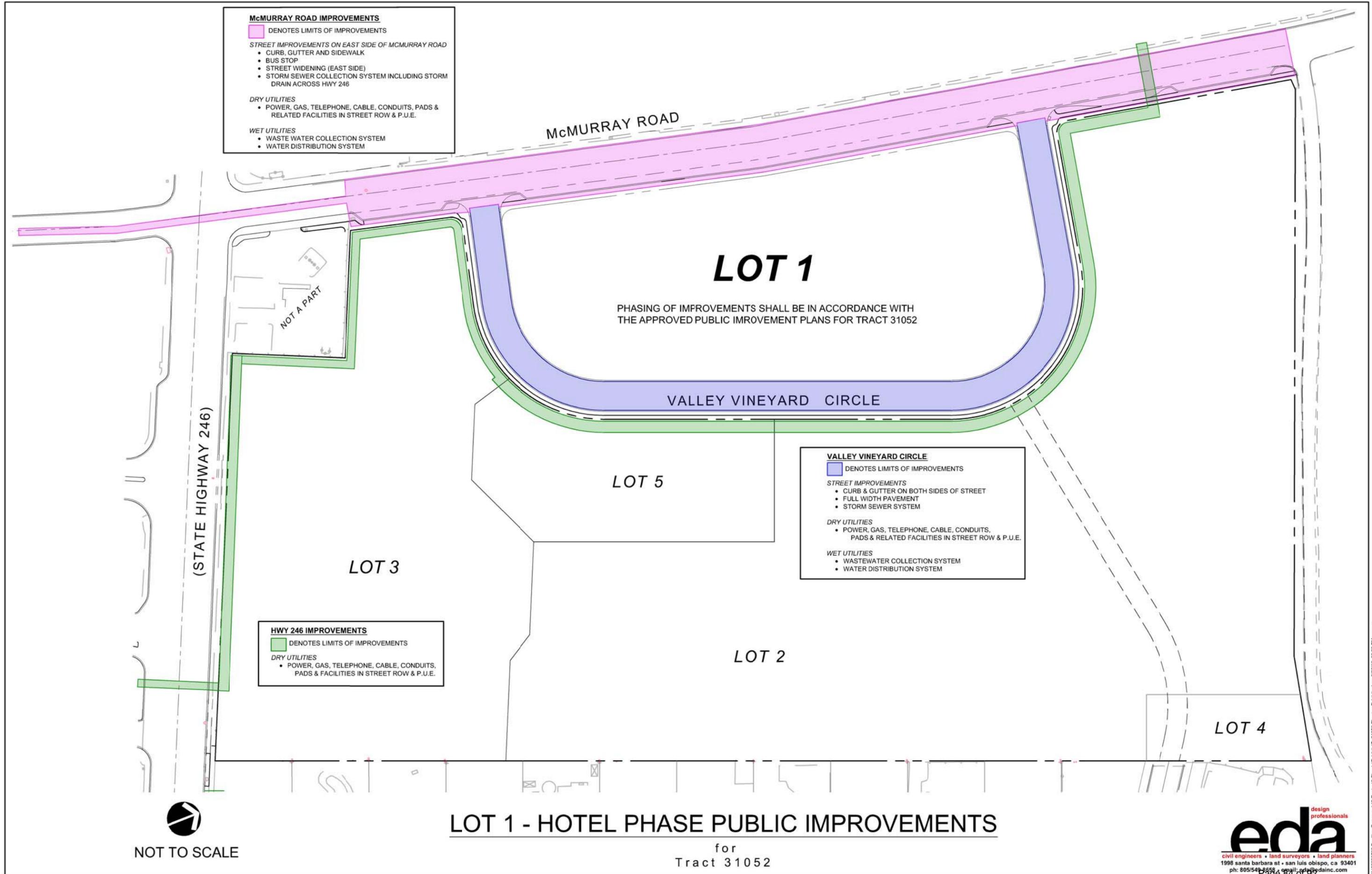
Phase 3 – Development of the residential and pocket park areas:

Final Development Plans cannot be approved for a residential project until a Final Development Plan has been approved for either the hotel or commercial area. Building permits for a residential project cannot be issued until building permits obtained and foundations poured for either the hotel or commercial area.

Senior Residential Housing Exception: Development plans for senior residential housing projects may be approved concurrent with or after Phase 1. Building permits for senior residential housing projects may be issued any time after the Phase 1 improvements shown on Exhibit 1 (Lot 1 – Hotel Phase Public Improvements) are completed sufficient for the independent development of the senior residential housing project. If the development of the central park has not begun as part of Phase 2 then it shall be designed and completed as part of the senior residential housing project.

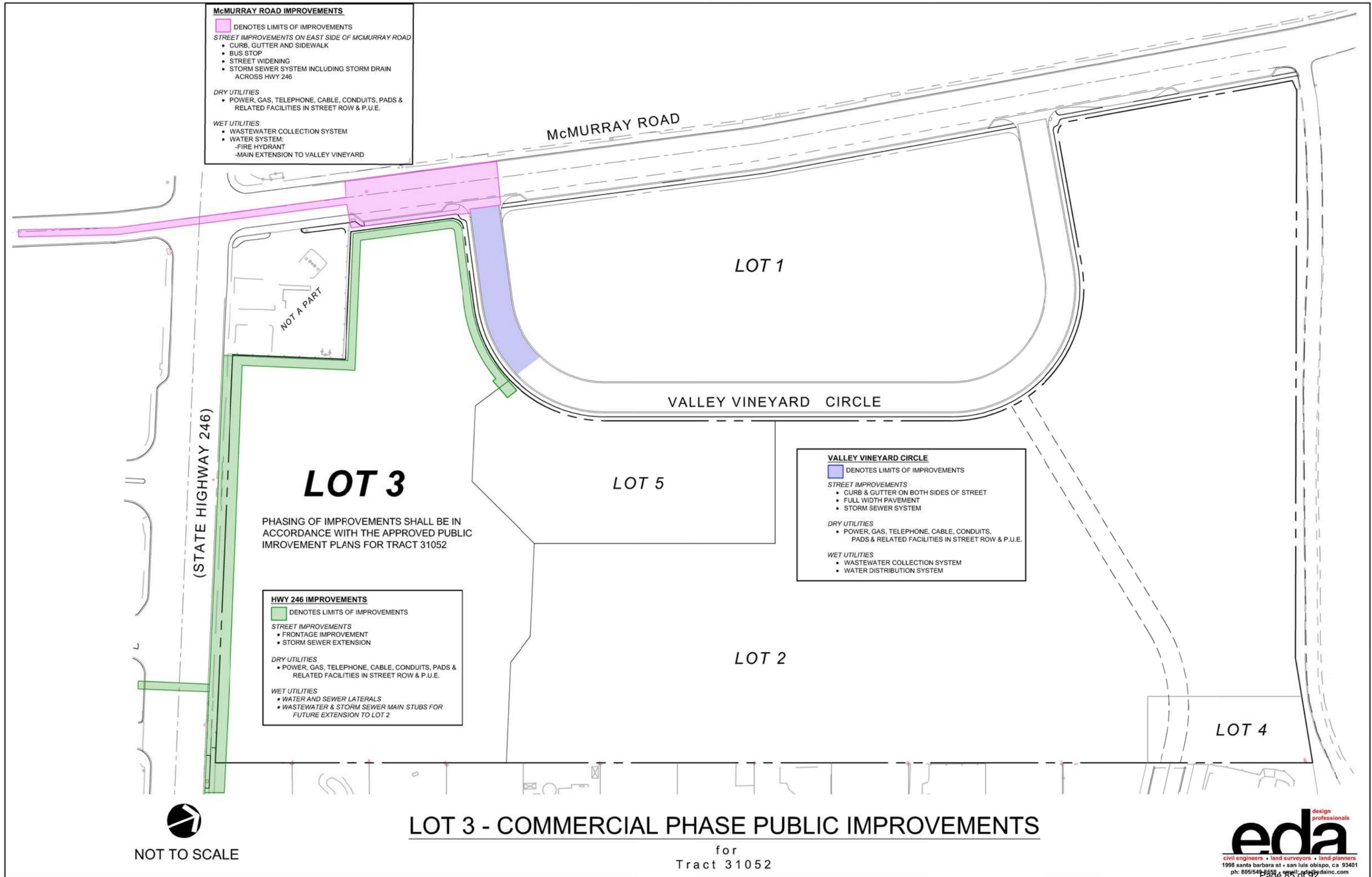
Pocket park plans shall be developed and approved concurrently with the first residential project development plans adjacent to the pocket park. Construction of the pocket park shall be complete prior to the first residential certificate of occupancy adjacent to the pocket park.

# EXHIBIT 1



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# EXHIBIT 2



NOT TO SCALE

## LOT 3 - COMMERCIAL PHASE PUBLIC IMPROVEMENTS

for  
Tract 31052

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**CITY OF BUELLTON**  
City Council Agenda Staff Report

City Manager Review: JHK  
Council Agenda Item No.: 16

To: The Honorable Mayor and City Council

From: Marc Bierdzinski, Planning Director

Meeting Date: December 13, 2012

Subject: Ordinance No. 12-03 – “An Ordinance of the City Council of the City of Buellton, California, Adding a Nuisance Noise Section to Chapter 8.04 of the Municipal Code” (Second Reading)

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**BACKGROUND**

At the meeting of November 8, 2012, the City Council introduced and held the first reading of Ordinance No. 12-03, an ordinance adding a nuisance noise section to the Municipal Code.

**RECOMMENDATION**

That the City Council consider the adoption of Ordinance No. 12-03 – “An Ordinance of the City Council of the City of Buellton, California, Adding a Nuisance Noise Section to Chapter 8.04 of the Municipal Code” (Second Reading).

**ATTACHMENT**

Ordinance No. 12-03

## ORDINANCE NO. 12-03

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BUELLTON, CALIFORNIA, ADDING A NUISANCE NOISE SECTION TO CHAPTER 8.04 OF THE MUNICIPAL CODE

**SECTION 1:** The nuisance ordinance section of the Buellton Municipal Code (Section 8.04) currently lacks a section regarding nuisance noise impacts that are standard in most other jurisdictions.

**SECTION 2:** All proceedings having been duly taken as required by law, and upon review of the information provided in the staff report, consideration of the testimony given at the public hearing, as well as other pertinent information, the City Council finds the following:

- A. Record.** Prior to rendering a decision on any aspect of the proposed zoning ordinance amendments, the City Council considered the following:
1. All public testimony, both written and oral, received in conjunction with that certain public hearing conducted by the City Council on November 8, 2012 (“Public Hearing”).
  2. All oral, written and visual materials presented by City staff in conjunction with the Public Hearing.
  3. The following informational documents which, by this reference, are incorporated herein.
    - a. That certain written report submitted to the City Council dated November 8, 2012 (the “Staff Report”).
- B. Public Review.** On the basis of evidence hereinafter listed, all administrative procedures and public participation requirements prescribed in the Buellton Zoning Ordinance have been lawfully satisfied:
1. A notice was published in a legal section of a newspaper of general circulation on October 25, 2012 (the “Public Notice”), a minimum of ten (10) days in advance of the Public Hearing conducted on November 8, 2012.
  2. The Public Notice was posted in three public locations on October 25, 2012, a minimum of 10 days in advance of the Public Hearing.
- C. Environmental Clearance.** This project is exempt from the California Environmental Quality Act because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

**SECTION 3. ADOPTION:**

THE CITY COUNCIL OF THE CITY OF BUELLTON DOES HEREBY ORDAIN AS FOLLOWS:

**Section 8.04.030 Public Nuisances Designated**

G. Noise Regulations. In order to secure and promote the public health, comfort, safety, and welfare, and to protect the rights of its citizens to privacy and freedom from nuisance, it is the purpose of this section to prohibit unnecessary, excessive, and annoying noises at levels which are detrimental to the health and welfare of the community. Emitting or causing the emission of such noises is a violation of this chapter.

1. Definitions. Whenever the following words and phrases are used in this section, they shall have the meaning ascribed to them in this section.

a. A-Weighted Sound Level. The sound level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

b. Ambient Noise Level. The composite noise from all sources near and far. In this context, the ambient noise level constitutes a normal or existing level of environmental noise as a given location and time.

c. Average Sound Level. A sound level typical of the sound levels at a certain place during a given period of time, averaged by the general rule of combination for sound levels, said general rule being set forth in the American National Standard Specifications for Sound Level Meters (see S1.4-1983 or the latest revision thereof). Average sound level is also called equivalent continuous sound level (Leq).

d. Construction Equipment. Any tools, machinery, or equipment used in conjunction with construction operations, including all types of "special construction" equipment as defined in the pertinent sections of the California Vehicle Code when used in the construction process on any construction site, regardless of whether such construction site be located on-highway or off-highway.

e. Decibel (dB). A unit of measure of sound (noise) level.

f. Disturbing, Excessive, or Offensive Noise. (1) Any sound or noise which constitutes a nuisance involving discomfort or annoyance to persons of normal sensitivity residing in the area.

(2) Any sound or noise conflicting with the criteria or levels set forth in this section.

g. Emergency Work. Work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from imminent exposure to danger of damage, or work by public or private utilities when restoring utility service.

h. Motor Vehicles. Any and all self-propelled vehicles as defined in the California Vehicle Code, specifically including, but not limited to, "mini-bikes" and "go-carts."

i. Noise Level. The same as "sound level." The terms may be used interchangeably herein.

j. Person. A person, firm, association, co-partnership, joint venture, corporation, or any entity, public or private.

k. Sound Level. In decibels, the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network as specified in American national Standards Institute specifications for Sound Level Meters (see ANSI S1.4-1983, or the latest version thereof). If the frequency weighting employed is not indicated, the A-weighting is implied.

l. **Sound Level Meter.** An instrument, including a microphone, an amplifier, a readout, and frequency weighting networks for the measurement of sound levels, which meets or exceeds the requirements pertinent for Type S2A meters in the American National Standards Institute specifications for Sound Level Meters (see S1.4-1983 or the latest revision thereof).

m. **Supplementary Definitions of Technical Terms.** Definitions of technical terms not defined herein shall be obtained from American national Standard Acoustical Terminology (see S1.1-1960; R-1976).

2. **Sound Level Measurement.**

a. Any sound or noise level measurement made pursuant to the provisions of this section shall be measured with a sound level meter using the A-weighting and meter response pursuant to applicable manufacturer’s instructions.

b. The sound level meter shall be appropriately calibrated and adjusted as necessary by means of an acoustical calibrator or the coupler-type to assure meter accuracy within the tolerances set forth by the American National Standards Institute (see ANSI S1.4-1983 or the latest revision thereof).

c. For outdoor measurements, the microphone shall be not less than 4 feet above the ground, at least 4 feet distant from walls or other large reflecting surfaces and shall be protected from the effects of wind noises by the use of appropriate wind screens and the location selected shall be at any point on the affected property. In cases where the microphone must be located within ten feet of walls or similar large reflecting surfaces, the actual measured distances and orientation of the sources, microphone and reflecting surfaces shall be noted and recorded. In no case shall a noise measurement be taken within 5 feet of the noise source.

d. For indoor measurements, the microphone shall be at least 3 feet distant from any wall, ceiling or partition, and the average measurement of at least 3 microphone positions throughout the room shall be determined.

3. **Sound Level Limits.**

a. Unless otherwise specified, it shall be unlawful for any person(s) to cause noise by any means to the extent that the one-hour average sound level exceeds the applicable limit given in the following table at any location in the City of Buellton beyond the property line of the premises on which the noise is produced, as measured pursuant to the provisions of this section. The noise subject to these limits is that part of the total noise at the specified location that is due solely to the action of said person(s).

**Table of Applicable Limits**

<b>Property Receiving Noise</b>	<b>Time of Day</b>	<b>1-Hour Average Sound Level (dB)</b>
Zones – RS, RM, MHP, PRD, OS, REC, PQP	7 a.m. to 10 p.m.	65
	10 p.m. to 7 a.m.	45
Zones – CR, CS, M	7 a.m. to 10 p.m.	75
	10 p.m. to 7 a.m.	45

b. The noise limits is subsection (3a) above shall be adjusted as follows to account for the effects of time and duration on the impact of noise levels:

i. Noise that is produced for no more than a cumulative period of 15 minutes in any hour may exceed the noise limit by 3 decibels.

ii. Noise that is produced for no more than a cumulative period of 10 minutes in any hour may exceed the noise limit by 4 decibels.

iii. Noise that is produced for no more than a cumulative period of 5 minutes in any hour may exceed the noise limit by 5 decibels.

c. For purposes of this section, the peak decibel reading for a noise with fluctuating noise level (such as live or recorded music) shall be considered as the noise level for the entire cumulative period of noise. Likewise, the time between repetitive intermittent noises (such as banging, pounding, or hammering) shall be included in the cumulative of the noise.

d. If the measured ambient level exceeds the applicable limit noted above, the allowable one-hour average sound level shall be the ambient noise level.

e. Fixed-location public utility distribution or transmission facilities located on or adjacent to a property line shall be subject to the noise level limits of this section, measured at or beyond 6 feet from the boundary of the easement upon which the equipment is located.

4. Construction Noise. Any person who operates powered construction or landscape equipment and/or who erects, constructs, demolishes, excavates for, alters, or repairs any building or structure within the City of Buellton in such a manner as to cause noise to be received beyond the boundaries of the property on which construction work is occurring shall comply with the following:

a. No construction work shall be performed on Sundays or federally designated holidays.

b. No construction work shall be performed on Saturdays without the written approval of the City of Buellton. In no cases shall work occur before 9:00 a.m. or after 5:00 p.m.

c. No construction work shall be performed before 7:00 a.m. or after 6:00 p.m. on Monday through Friday.

d. Construction activity shall not cause an hourly average sound level of greater than 75 decibels on property zoned or used for open space, recreation, or residential purposes.

e. Exception. Interior construction work that does not generate noise outside of the structure is not subject to the noise restrictions of this subsection.

f. Exception. A person may perform construction work on the person's own property on a Sunday or holiday between the hours of 10:00 a.m. and 5:00 p.m., provided such construction activity is not carried on for profit or livelihood.

5. Repair of Motor Vehicles. It shall be unlawful for any person within the City of Buellton to repair, rebuild, or test any motor vehicle in such a manner as to cause disturbing, excessive, or offensive noise as defined in this section.

6. Public Nuisance Noise.

a. It shall be unlawful for any person to make, continue, or cause to be made or continued, within the limits of the City of Buellton, any disturbing, excessive, or offensive noise which causes the discomfort or annoyance to any reasonable persons or normal sensitivity residing in the area.

b. In the absence of objective measurement by use of a sound level meter, the characteristics and conditions which shall be considered in determining whether a violation of the provisions of this subsection exists shall include any or all of the following:

- i. The level of the noise;
- ii. Whether the nature of the noise is usual or unusual;
- iii. Whether the origin of the noise is natural or unnatural;
- iv. The level of the ambient noise;
- v. The proximity of the noise to sleeping facilities;
- vi. The nature and zoning of the area from which the noise emanates and the area where it is received;
- vii. The time of day or night the noise occurs;
- viii. The duration of the noise; or
- ix. Whether the noise is recurrent, intermittent, or constant.

c. Identified Excessive Noises. The following activities, among others, are declared to cause disturbing, excessive, or offensive noises in violation of this subsection, but said enumeration shall not be deemed exclusive, namely:

i. Radios, Televisions, Stereos, Surround Sound Systems, Amplifiers, Musical Instruments, and Similar Devices. The use, operation, or permitting to be played, used, or operated, any sound production or reproduction device, radio receiving set, musical instrument, drums, loud speakers, amplifiers, surround sound systems or other machine of device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet, and comfort of any reasonable person of normal sensitivity in any residential or public area is prohibited. This provision shall not apply to any participant in a duly licensed parade, or any person who has been otherwise duly authorized by the City of Buellton to engage in such conduct.

(1) Prima Facie Violations. The operation of any such device between the hours of 10:00 p.m. and 8:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, or vehicle in which it is located, shall be prima facie evidence of a violation of this subsection.

ii. Animals.

(1) The keeping or maintenance, or the permitting to be kept or maintained upon any premises owned, occupied, or controlled by any person of any animal or animals which by frequent or long continued noise, shall cause annoyance or discomfort to reasonable persons of normal sensitivity in the vicinity.

(2) The written affirmation by two persons having separate residences that the violation of this subsection disturbs the peace and quiet of said persons shall be prima facie evidence of a violation of this subsection.

## 7. Exemptions

a. Emergency Work. The provisions of this section shall not apply to any emergency work as defined herein.

b. Government Preempted Activities. The provisions of this section shall not apply to any activity to the extent regulation thereof has been preempted by Federal, State, or Local law.

c. Motor Vehicles. Sound produced by motor vehicles as regulated by sound-limiting provisions of the State Vehicle Code when such vehicle is located or operated on any public street, right-of-way, or highway.

d. Aircraft. Aircraft operated in conformity with federal law

- e. Utilities. Activities necessary to continue to provide utility service to the general public, whether this service is installing additional facilities, restoring worn or damaged facilities, and/or maintaining existing service.
- f. Household Activities. The reasonable operation of normal household gardening or hobby shop equipment or home maintenance/repair work during the hours of 7:00 a.m. until 10:00 p.m., Monday through Friday, and 8:00 a.m. until 9:00 p.m. on Saturdays, Sundays, and Holidays.

**Section 19.02.220 Commercial/industrial zone general development standards**

E.3 Noise. Noise standards are contained in Section 08.04.030.G of the Municipal Code.

**SECTION 4:** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance irrespective of the fact that any one or more sections, subsections, subdivision, sentences, clauses, phrases or portions thereof be declared invalid or unconstitutional.

**SECTION 5:** The City Clerk: (i) shall certify as to the passage of this Ordinance and shall cause the same to be published as required by law; (ii) is hereby authorized and directed to make typographical, grammatical and similar corrections in the final text of the Ordinance so long as such corrections do not constitute substantive changes in context; and (iii) cause the Buellton Municipal Code to be reprinted by deleting language contained within Section 3 of this Ordinance that is stricken and adding language that is underlined.

**PASSED, APPROVED, AND ADOPTED** this 13<sup>th</sup> day of December 2012.

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Mayor

**ATTEST:**

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Linda Reid  
City Clerk