



**REGULAR CITY COUNCIL MEETING
MEETING AGENDA
WEDNESDAY, MAY 11, 2016**

Regular Meeting - 6:30 PM

**City Hall – Beryl P. Robinson, Jr. Conference Room
317 Broad Street, Nevada City, CA 95959**

MISSION STATEMENT

The City of Nevada City is dedicated to preserving and enhancing its small town character and historical architecture while providing quality public services for our current and future residents, businesses and visitors.

Jennifer Ray, Mayor

**Robert Bergman, Council Member
Terri Andersen, Council Member**

**Evans Phelps, Vice Mayor
Duane Strawser, Council Member**

The City Council welcomes you to its meetings which are scheduled at 6:30 PM on the 2nd and 4th Wednesdays of each month. Your interest is encouraged and appreciated. This meeting is recorded on DVD and is televised on local public television Channel 17. Other special accommodations may be requested to the City Clerk 72 hours in advance of the meeting. Please turn off all cell phones or similar devices. Action may be taken on any agenda item. Agenda notices are available at City Hall. Materials related to an item on this Agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Hall at 317 Broad Street, Nevada City, CA during normal business hours.

ANY MEMBER OF THE PUBLIC DESIRING TO ADDRESS THE COUNCIL ON ANY ITEM ON THIS AGENDA: After receiving recognition from the Mayor, give your name and address, and then your comments or questions. Please direct your remarks to the Councilmembers. In order that all interested parties have an opportunity to speak, please limit your comments to the specific item under discussion. All citizens will be afforded an opportunity to speak, consistent with their Constitutional rights. Time limits shall be at the Mayor's discretion. **IF YOU CHALLENGE** the Council's decision on any matter in court, you will be limited to raising only those issues you or someone else raised at the meeting or Public Hearing described on this agenda, or in written correspondence delivered to the City Council at, or prior to, the meeting or Public Hearing.

REGULAR MEETING – 6:30 PM - Call to Order

Roll Call: Andersen, Bergman, Strawser, Vice Mayor Phelps, & Mayor Ray

PLEDGE OF ALLEGIANCE

PROCLAMATION: Proclaiming May as Preservation Month

PRESENTATION: Presentation by Kiwanis Club for Pioneer Park Bike Rack

BUSINESS FROM THE FLOOR

1. PUBLIC COMMENT

Under Government Code Section 54954.3, members of the public are entitled to address the City Council concerning any item within the Nevada City Council's subject matter jurisdiction. Comments on items NOT ON THE AGENDA are welcome at this time. Normally, public comments are limited to no more than three minutes each. **Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda.**

2. COUNCIL MEMBERS REQUESTED ITEMS AND COMMITTEE REPORTS:

3. CONSENT ITEMS:

All matters listed under the Consent Calendar are to be considered routine by the City Council and will be enacted by one motion in the form listed. There will be no separate discussion of these items unless, before the City Council votes on the motion to adopt, members of the Council, City staff or the public request specific items to be removed from the Consent Calendar for separate discussion and action.

- A. Subject:** County of Nevada AB1600 Recreation Mitigation Funding Grant Agreement
Recommendation: Authorize the Mayor to sign the Park & Recreation Mitigation Fees FY 2015/2016 Grant Agreement (City of Nevada City Pioneer Park Picnic Area Improvements)
- B. Subject:** Recognition Sign for Bike Rack at Pioneer Park
Recommendation: Approve language on the sign as presented in staff report.
- C. Subject:** Request for In-Kind Sponsorship of Nevada City Film Festival Summer "Movies Under the Pines, Outdoor Film Series"
Recommendation: Approve request to provide in-kind sponsorship of Nevada City Film Festival's summer "Movies Under the Pines Outdoor Film Series" in the form of allowing use of Pioneer Park Band Shell and adjacent field at no charge on June 4, July 9 and August 27, 2016.
- D. Subject:** Conflict of Interest Code Policy Update
Recommendation: Pass Resolution 2016-XX updating the Conflict of Interest Code policy.

4. APPROVAL OF ACTION MINUTES:

- A. City Council Meeting – April 27, 2016

5. DEPARTMENT REQUESTED ACTION ITEMS AND UPDATE REPORTS:

6. PUBLIC HEARINGS:

7. OLD BUSINESS:

8. NEW BUSINESS:

A. Subject: Consideration of Modifying Chapter 5.32 Licensure of Tobacco Retailers and Regulations Related to Vaping Lounge Uses

Recommendation: Provide direction to staff regarding 1) whether to amend Chapter 5.32, Licensure of Tobacco Retailers, to update the “definitions” section in a manner that would capture e-cigarettes and vaping products, 2) whether to consider a cap on the number of tobacco retail licenses permitted in the City, and 3) whether to have the Planning Commission consider prohibition of vaping lounge uses within zoning designations throughout the City.

B. Subject: Sewer Utility Billing Calculation Correction

Recommendation: Receive, file and authorize collection of under charged accounts over a two-year period.

9. CORRESPONDENCE:

10. ANNOUNCEMENTS:

11. CITY MANAGER’S REPORT:

A. Subject: City Council Transition

12. ADJOURNMENT

Certification of Posting of Agenda

I, Corey Shaver, Administrative Supervisor for the City of Nevada City, declare that the foregoing agenda for the May 11, 2016 Regular Meeting of the Nevada City City Council was posted May 6, 2016 at the office of the City of Nevada City (City Hall). The agenda is also posted on the City's website www.nevadacityca.gov.

Signed this May 6, 2016 at Nevada City, California

_____, Corey Shaver, Administrative Supervisor

**CITY OF NEVADA CITY
City Council
Long Range Calendar**

May 18, 2016	Special Council Meeting – Budget Workshop (9:00AM)
May 25, 2016	Regular Council Meeting
June 7, 2016	Municipal Election
June 8, 2016	Regular Council Meeting
June 22, 2016	Regular Council Meeting

NOTE: This list is for planning purposes; items may shift depending on timing and capacity of a meeting.

NOTICE: *As presiding officer, the Mayor has the authority to preserve order at all City Council meetings, to remove or cause the removal of any person from any such meeting for disorderly conduct, or for making personal, impertinent, or slanderous remarks, using profanity, or becoming boisterous, threatening or personally abusive while addressing said Council and to enforce the rules of the Council.*

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

May 11, 2016

TITLE: County of Nevada AB1600 Recreation Mitigation Funding Grant Agreement

RECOMMENDATION: Authorize the Mayor to sign the Park & Recreation Mitigation Fees FY 2015/2016 Grant Agreement (City of Nevada City Pioneer Park Picnic Area Improvements)

CONTACT: Dawn Zydonis, Parks & Recreation Supervisor

BACKGROUND / DISCUSSION: In November 2015, the City Council directed City staff to complete two applications for the County of Nevada AB1600 Recreation Mitigation Funding Grant Program. The first application was to make improvements to the picnic area that is across the creek from the tennis courts. The improvements include adding shade structures, improving the walkway and footprint of the area, adding counters near the barbeque and adding a bench. The second application was to purchase a moveable fence to be used for Little League games and other activities at the park to enhance safety for players & spectators.

The application for the moveable fence was not approved by the County. The project does not meet the eligibility criteria for the funding. Projects cannot be temporary in nature, should provide a new or highly improved recreational activity or facility or should significantly increase recreational opportunities.

The application for the improved picnic area has been recommended for funding. The project will be fully funded as requested in the application. City staff recommend that the Council approve the attached Grant Agreement and authorize the Mayor to sign this Agreement. The project is anticipated to commence in the fall as the City has other projects in progress that need to be completed in the interim.

ENVIRONMENTAL CONSIDERATIONS: CEQA and NEPA documents will be completed for the path project through the DWR Pioneer Park Project grant funding. There are no other environmental impacts for the Picnic Area project.

FISCAL IMPACT: All materials and supplies for the picnic area project will be covered by the AB1600 funds and a \$500 donation from the Gold Country Lions Club. Staff time to install the shade structures and benches will be covered by the City's General Fund.

ATTACHMENTS:

- ✓ Park & Recreation Mitigation Fees FY 2015/2016 Grant Agreement

**PARK AND RECREATION MITIGATION FEES
FY 2015/16 GRANT AGREEMENT
(City of Nevada City Pioneer Park Picnic Area Improvements)**

THIS GRANT AGREEMENT is made and entered into as of the ____ day of _____, 2016 by and between the COUNTY OF NEVADA, a political subdivision of the State of California (“COUNTY”), and the CITY OF NEVADA CITY, a municipal corporation (“ORGANIZATION”), and is effective as of the 12th day of April, 2016 (“Effective Date”).

WHEREAS, COUNTY collects park and recreation mitigation fees from new development within the unincorporated area of COUNTY to provide new and enhanced park and recreation facilities within the incorporated and unincorporated areas of COUNTY in order to mitigate the impacts of the development (“Mitigation Fees”); and

WHEREAS, COUNTY periodically awards grants from the Mitigation Fees to facilitate the construction and development of facilities consistent with the purposes of said fees; and,

WHEREAS, ORGANIZATION is proposing to improve and develop a picnic area at Pioneer Park, a public facility located in, owned and operated by the City of Nevada City (“Project”); and,

WHEREAS, ORGANIZATION has applied for a grant from Mitigation Fees collected within the Grass Valley/Nevada City Benefit Zone to contribute toward completion of the proposed Project; and,

WHEREAS, COUNTY has determined that this is an appropriate use of Mitigation Fees because the purpose of the proposed Project is to enhance and expand recreational uses and activities at Pioneer Park, and because the Project will be open to and used by the public, including residents of the County; and

WHEREAS, COUNTY has determined that ORGANIZATION is qualified, willing and able to provide the resources necessary to ensure timely and successful completion of the proposed Project.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements set forth below, the parties hereto agree as follows:

1. ORGANIZATION shall perform all services and provide all staffing, equipment and materials, funding and other resources necessary to design, permit, make purchases for, construct and/or install the Project as set forth in Exhibit “A” attached hereto and incorporated herein by reference. ORGANIZATION has represented that the total estimated costs for the proposed Project are approximately TWENTY TWO THOUSAND, EIGHT HUNDRED DOLLARS

AND NO CENTS (\$22,800.00). ORGANIZATION shall pay for all costs and expenses necessary to complete the Project, subject to reimbursement from Mitigation Fees as provided in this Agreement.

2. ORGANIZATION shall obtain all approvals for and shall execute the Project so that within eighteen (18) months after the Effective Date of this Agreement, the Project shall be completed to the satisfaction of, and accepted by, the COUNTY and the ORGANIZATION, and shall be ready and available for public use; provided, however, that said timeframe may be extended by mutual written agreement of the parties. Any funds not utilized by ORGANIZATION within this timeframe shall be retained by COUNTY and may be reallocated to other qualifying projects.
3. COUNTY shall allocate up to TWENTY ONE THOUSAND, SEVEN HUNDRED EIGHTY DOLLARS AND NO CENTS (\$21,780.00) from Mitigation Fees to be used for the proposed Project ("Grant Funding"). The Grant Funding includes a ten percent (10% or \$1,980) administration fee to be paid to COUNTY Planning Department upon issuance of the first payment to ORGANIZATION and up to Nineteen Thousand Eight Hundred Dollars (\$19,800) to be provided to ORGANIZATION for the purchases, construction and/or installation of the Project in accordance with the terms and conditions of this Agreement ("Construction Fund"). The Construction Fund shall be used to purchase materials for the new walkway, shade structures, barbeque tables, accessible bench and the surface area of the picnic area and the construction and installation of the walkway and picnic area surface as shown in Exhibit "B" attached hereto and incorporated herein by reference. COUNTY shall retain 10% (\$1,980) of the Construction Fund ("Retention"), which Retention shall be paid as provided in Paragraph 5.c., below.
4. The sole source of funding by COUNTY for this disbursement is Fund No. 1626 70101 325 1000/532200. No other County funding source may be held liable for any obligations set forth in this Agreement.
5. COUNTY shall issue reimbursements to ORGANIZATION from the Construction Fund, as follows:
 - a. ORGANIZATION shall submit to COUNTY written requests for reimbursement pursuant to this Agreement. Each request shall specifically identify the item(s) for which reimbursement is sought and the amount of reimbursement requested for each such item, and shall certify that the ORGANIZATION has complied with all terms and conditions of this Agreement. ORGANIZATION shall be reimbursed only for eligible expenses as identified in Exhibit "A" and in the estimated amounts set forth in Exhibit "A". However, the Planning Director, in his/her discretion, may reallocate estimated amounts between eligible expenses once actual project costs are known provided that the expenses qualify under the same expenditure category and that the total

award amount remains the same. Each reimbursement request shall be accompanied by receipts, invoices, proof of payment and other such written documentation as COUNTY may deem necessary to substantiate and support ORGANIZATION's claim for reimbursement.

- b. COUNTY shall issue reimbursements to ORGANIZATION within thirty (30) days after all of the following events have occurred: (i) the portion of the Project for which reimbursement is sought has been completed to the satisfaction of COUNTY and (ii) COUNTY has received a written request for payment and copies of all written documentation required pursuant to Paragraph 5.a above.
- c. ORGANIZATION shall submit to COUNTY a final written request for up to, but not to exceed the amount of the Retention and any amounts remaining in the Construction Fund, within thirty (30) days after: (i) the COUNTY has determined the Project has been satisfactorily completed and the Project has passed a final COUNTY inspection, (ii) ORGANIZATION has accepted the Project as complete, and (iii) the facilities are available for use by the public ("Completion Date"). The final reimbursement request shall comply with all requirements and conditions set forth under Paragraph 5.a., above.
- d. COUNTY may withhold all or any portion of a reimbursement payment if it determines, in its sole discretion, that: (i) the reimbursement request includes ineligible activities, services or items, (ii) the reimbursement request is untimely or inaccurate, (iii) the ORGANIZATION has failed to provide receipts or other appropriate documentation to support the reimbursement request, (iv) the ORGANIZATION has not complied with applicable federal, state or local laws, ordinances or regulations in connection with its activities under this Agreement, (v) the ORGANIZATION has failed to obtain or maintain a necessary license or permit in connection with its activities under this Agreement, or (vi) the ORGANIZATION has otherwise failed to comply with a material term or condition of this Agreement.
- e. If ORGANIZATION fails to satisfactorily execute or complete the Project in accordance with the terms and conditions of this Agreement, then COUNTY may, in its discretion, require ORGANIZATION to repay all or any portion of the grant funds provided under this Agreement. Any funds paid to, but not expended by, ORGANIZATION for the purposes stated or in accordance with the terms and conditions of this Agreement shall be refunded to COUNTY. ORGANIZATION shall repay all such sums within thirty (30) days after ORGANIZATION receives a repayment request from COUNTY.
- f. Any portion of the Construction Fund which COUNTY does not pay to ORGANIZATION and any grant funds returned to COUNTY shall be

retained by COUNTY as Mitigation Fees and may be reallocated to other qualifying projects.

6. The Project, and all facilities and equipment to be funded pursuant to this Agreement shall remain property of the ORGANIZATION and shall be made available for public use as set forth herein for a minimum of ten (10) years after the Completion Date. If the Project or any portion thereof is closed, materially damaged, destroyed or otherwise made unavailable for general public use prior to the expiration of this ten (10) year period, the ten (10) year period shall be extended by the amount of time the Project or portion thereof is not available for public use; provided, however, that closures for brief periods to perform routine maintenance and repairs shall not extend this ten (10) year period. ORGANIZATION shall notify COUNTY in the event of any such closures, whether temporary or permanent. In the event that the Project or any portion thereof is permanently closed to the public before the expiration of the ten (10) year period and any extension thereof, ORGANIZATION shall refund a pro-rata share of COUNTY's contribution under this Agreement based upon the percentage of the ten (10) year period that the Project will not be available for public use.
7. COUNTY is a funding source only, and has no right, title, obligation or interest in the Project, nor any control over the design, permitting, purchases, construction and/or installation, operation or maintenance of the Project. ORGANIZATION shall be solely responsible for the proper execution of and on-going operation and maintenance of the Project, and for full compliance with all legal requirements including, but not limited to, safety codes, accessibility laws, development regulations and permitting requirements, CEQA/NEPA, and legal requirements relating to public contracting and construction, public bidding, and prevailing wages.
8. ORGANIZATION shall pay all costs and expenses associated with maintenance and operation of the Project, and shall keep the Project and all portions thereof in a good, safe and useable condition.
9. ORGANIZATION shall hold COUNTY, its agents, employees, officers and volunteers harmless from and save, defend and indemnify them against any and all claims, losses, liabilities, and damages from every cause, including but not limited to injury to person or property or wrongful death, with the indemnity to include reasonable attorneys' fees, and all costs and expenses, arising directly or indirectly out of any act or omission of ORGANIZATION, or its agents, officers, employees, or volunteers relating to or during the performance of its obligations under this Agreement. ORGANIZATION's obligation to defend, indemnify, and hold COUNTY harmless under the provisions of this Paragraph 9 shall survive the termination of this Agreement and is not limited to or restricted by any requirement that ORGANIZATION procure and maintain a policy of insurance.

10. ORGANIZATION has, or shall acquire, and shall maintain adequate liability insurance, or similar coverage, in forms acceptable to COUNTY's Risk Manager to handle any claims or losses which might occur with respect to said facilities. At a minimum, ORGANIZATION shall maintain (a) broad form coverage for liability for death or bodily injury to a person or persons, and for property damage, combined single limit coverage, in the amount of \$1,000,000, (b) commercial automobile liability coverage for protection for death or bodily injury to a person or persons, property damage, and uninsured and underinsured coverage, combined single limit coverage, in the amount of \$1,000,000 for each vehicle used including non-owned and hired automobiles, and (c) worker's compensation coverage as required by State law. ORGANIZATION shall promptly provide proof of insurance as evidenced by a certificate of insurance with properly executed endorsements attached naming the County of Nevada, its officers, employees and agents as additional insureds.
11. Throughout the term of this Agreement, ORGANIZATION shall possess or secure all licenses, permits, qualifications and approvals legally required to design, make purchases for, construct and/or install the Project and shall comply with all applicable federal, state, and local laws, ordinances and regulations. Prior to commencement of construction, ORGANIZATION shall obtain any and all land use and building entitlements necessary to complete the Project, including without limitation all zoning, development and site plan approvals, rights of entry, and appropriate building, environmental health or other permits. Upon COUNTY's request, ORGANIZATION shall provide COUNTY with copies of all final permits, documents or other approvals required to design, make purchases for, construct and/or install the Project.
12. Upon request, COUNTY or its authorized representative shall have access to and the right to examine all records, books, papers or documents of ORGANIZATION related to the Project and use of COUNTY funds provided under this Agreement. ORGANIZATION shall retain such records, books, papers and documents for a period of not less than three (3) years from the Completion Date.
13. The Parties to this Agreement hereby certify that they are acting as independent contractors and not as agents, employees, or joint ventures with each other. Neither Party nor its officers, employees or volunteers are employees of the other.
14. The terms and conditions of this Agreement, including any exhibits hereto, may not be amended except in writing, signed by both parties. Any amendment or addendum to this Agreement shall expressly refer to this Agreement.
15. The waiver of any provision of this Agreement shall be in writing, signed by the party granting the waiver, and such waiver shall not operate or be construed as a waiver of any other provision of the Agreement.

16. ORGANIZATION warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with performance of its obligations under this Agreement, or with the expenditure of Mitigation Fees as provided in this Agreement. ORGANIZATION further warrants that it will not employ or contract with any person or entity having such interest and that it will adopt appropriate safeguards to prohibit members, officers, employees, agents, contractors or volunteers from (a) having any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project or (b) using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other ties.

17. Any notices that either Party desires to or is required to give to the other Party or to any other person shall be in writing and either served personally or sent by prepaid first class mail. Such notices shall be addressed to the other Party at the address set forth below. Either Party may change its address by notifying the other Party of the change of address. Notice shall be deemed received within seventy-two hours from the date of mailing, if mailed as provided in this Paragraph.

To City:
Parks and Recreation Supervisor
317 Broad Street
Nevada City, CA 95959

To County:
Planning Director
950 Maidu Avenue, Suite 170
Nevada City, CA 95959

18. The language of all parts of this Agreement shall, in all cases, be construed as a whole, according to its fair meaning, and not strictly for or against either Party. This Agreement is to be deemed to have been prepared jointly by the parties hereto and shall not be interpreted or construed against either party as the drafter.

19. This Agreement contains the entire agreement and understanding between the Parties concerning the subject matter hereof and supersedes all prior discussions, agreements, proposed agreements, or conditions, whether written or oral.

20. Should all or any portion of any provision of this Agreement be held unenforceable or invalid for any reason, but the remainder of the Agreement can be enforced without failure of material consideration to any Party, then the remaining portions or provisions shall be unaffected.

21. This Agreement may not be assigned by either party. This Agreement is made and entered into for the sole protection and benefit of COUNTY and

ORGANIZATION and their respective successors. No other person or entity shall have any right of action based upon any provision of this Agreement.

22. This Agreement shall be governed by the laws of the State of California and venue shall be in the appropriate Superior Court in Nevada County, California.

23. Each person executing this Agreement on behalf of a Party represents and warrants to the other Party that he or she has authority to bind and commit each such Party to this Agreement.

IN WITNESS WHEREOF, the parties hereunto have executed this Agreement on the dates hereinafter set forth.

Dated: _____

COUNTY OF NEVADA

ATTEST:

By: _____
Chair, Board of Supervisors

By: _____
Julie Patterson-Hunter, Clerk

Dated: _____

CITY OF NEVADA CITY

ATTEST:

By: _____
Mayor, City of Nevada City

By: _____
Niel Locke, Clerk

APPROVED AS TO FORM:

By: _____
County Counsel

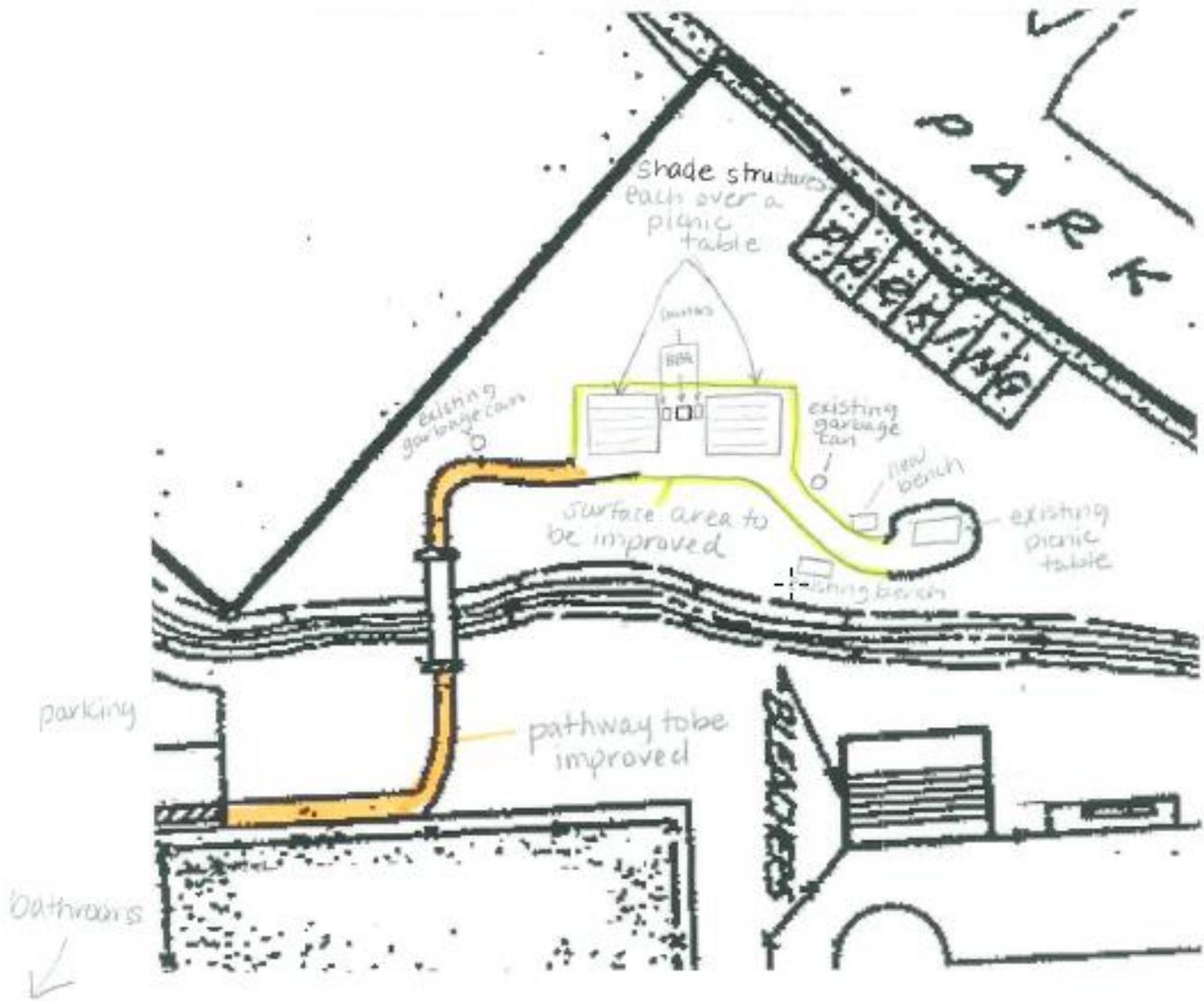
Hal DeGraw, City Attorney

Exhibit "A"

Pioneer Park Picnic Area Improvements Cost Estimate

Project	Amount
Materials and construction of walkway	\$9,000*
Materials for shade structure	\$2,700*
Installation of shade structure	\$2,000
Materials for barbeques tables	\$500*
Installation of barbeques tables	\$500
Accessible bench	\$500*
Installation of bench	\$500
Materials and construction to improve and expand the surface area of the picnic area	\$7,100*
TOTAL PROJECT COSTS	\$22,800
*AMT. REQUESTED FROM COUNTY AB1600	\$19,800

Exhibit "B"



REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

May 11, 2016

TITLE: Recognition Sign for Bike Rack at Pioneer Park

RECOMMENDATION: Approve language on the sign as presented in staff report.

CONTACT: Dawn Zydonis, Parks & Recreation Supervisor

BACKGROUND / DISCUSSION: The Gold Country Kiwanis Club did a “Ball Drop” during the Soap Box Derby in 2015. The funds that they raised from that event are being donated to the City to place a bike rack at Pioneer Park, outside the entrance to swimming pool and near the playground.

The placement of a bike rack at this location has been approved by the City Council through Appendix E of the Pioneer Park Master Plan (attached). The Kiwanis Club would like to place a sign on the fence near the bike rack to recognize the Kiwanis Club and Black Bart Iron Works for their donations. The proposed language for the sign is:

This bike rack is donated to the children of our city by
Gold Country Kiwanis
Black Bart Ornamental Iron Works
and the City of Nevada City

The sign will meet all requirements as listed in the *Policy for Placement of Items in City Parks & Open Space* (attached).

ENVIRONMENTAL CONSIDERATIONS: None

FISCAL IMPACT: None

ATTACHMENTS:

- ✓ Appendix E of the Pioneer Park Master Plan
- ✓ Policy for Placement of Items in City Parks & Open Space

Appendix E: Pioneer Park Project List

Pioneer Park - Project List

Adopted: December 2015

Items with an asterisk (*) have further explanation attached.

	PROJECT	NOTES	EST. COST
1	Bike Racks - near playground/pool	in progress w/ donations from the Kiwanis Club	
2	Renovation of Seaman's Lodge - roof*	Measure L funding designated	\$75,000
3	Renovation of Seaman's Lodge - bathrooms	Measure L funding designated	
4	Renovation of Seaman's Lodge - windows		
5	Renovation of Seaman's Lodge - upgraded fire system on stove hood		
6	Renovation of Seaman's Lodge - upgrade kitchen (possibly to commercial standards)		
7	Renovation of Seaman's Lodge - fireplace		
8	Renovation of Seaman's Lodge - baffling or some other material to assist with absorbing sound waves		
9	Seaman's Lodge - paint outside and repair shutters		
10	Walk/bike path around perimeter of park *	see attached explanation	
11	Expansion of swimming pool area - move back fence *	see attached explanation	\$42,000
12	Expansion of park *	see attached explanation	
13	Slide or other feature for the swimming pool		
14	Upgrade field for better drainage	in progress - on Measure L funding list	\$25,000
15	Carriage House (move Carriages to Railroad Museum, create usable space in current building)		\$80,000
16	Renovation of bathrooms at tennis courts & picnic area	in process w/ Measure L and CDBG funding	\$50,000
17	Cottage - new roof (before completion of this project review the benefits of having the cottage in the park...is it beneficial to invest in the building?)		

Pioneer Park - Project List
Adopted: December 2015

	PROJECT	NOTES	EST. COST
18	remove decorative fountain		
19	Updated map of Pioneer Park - based on Record of Survey		\$1,500
20	internet access at Seaman's Lodge/park		
21	lights at tennis courts	Measure L funding designated	
22	More parking (map 1974 - picnic right, Silva, Park Ave)		
23	Remove non-functioning sink in Picnic-Right; replace with a permanent structure similar to Picnic-Left	in process	
24	Swimming Pool shell rehabilitation	in process	\$210,000
25	Upgrades to picnic area designed for people who have disabilities - improved pathway, new BBQ with counter, shade structure	have \$500 from Gold Country Lions Club	
26	Picnic-right: remove old stone BBQ pits; put in a small playground; possibly exercise equipment		
27	Picnic area at bottom of stairs by playground: Make it function better; possible shade structure; and clean up hillside		
28	Upper Picnic Area: "counter" by BBQ		
29	Develop area behind Seaman's Lodge		
30	Stairs/improve walkway behind mower shed		
31	Portable fencing for lower ball field		

The following are explanations of the noted items on the Pioneer Park Project List.

#2: Seaman's Lodge Roof

It is recommended that the fire system on the stove hood be completed at the same time as the roof. If this is completed at a later time, there is a small risk of causing new issues with the roof. Also, if any changes are being made to the fireplace, this would be the appropriate time to make those changes as well for the same reason.

#10: Walk/bike path around perimeter of park

51% of the respondents on the Pioneer Park Survey say that they come through the park on their walks.

41% of respondents would like to see a bike/walk path added to the park.

#11: Expansion of swimming pool area - move back fence

By moving the fence on the south side of the swimming pool up towards Memorial Grove, seating spaces for patrons could be added and the immediate deck space by the swimming pool could be kept clear for safety.

#12: Expansion of park

- a. There is a private residence in the center of the park. The current homeowners have been good neighbors of the park, but it is not ideal to have this private property in the middle of a public park. The City has had the purchase of the house on their priority list for many years. If able to purchase this property, the City plans to add a recreational amenity in this location. However, currently the .26 acres is zoned R1 and would need to undergo the planning review process to allow public use.
- b. The property located on the corner of Nimrod and Silva Avenue would complete the corner of the park and would be an ideal location for additional parking.
- c. As properties are developed along Little Deer Creek, the City should request that spaces along the creek be deeded to the City as open space or an easement should be provided, so that the City can expand the non-designated trail that currently runs along the creek.

Nevada City Parks and Recreation Completed Projects

Completed Projects

PROJECT	Completion Date
Tennis Courts - resurfacing	spring 2009
Solar Panels at Swimming Pool	spring 2009
New signs (rules) at Pioneer Park	spring 2009
Volleyball Court converted to a picnic area	spring 2010
Chairlift for Swimming Pool	spring 2012
Bocce Ball	fall 2011
Playground Upgrades - ADA compliant surfacing	summer 2014
New slide on playground	2015
New stall doors in bathrooms at swimming pool	2015

City of Nevada City
Parks & Recreation Department
Policy for Placement of Items in City Parks and Open Space
Adopted September 25, 2013
Updated December 2015

This policy was created to insure that the parks and open space areas owned by the City of Nevada City are preserved in such a way that they remain well maintained, open and usable for our current and future residents and visitors.

While memorials and new amenities may enrich a park experience for park users, public open space is also a very precious commodity, and new memorials, amenities and facilities should be carefully reviewed to balance these two public benefits to protect the greater good. Any new structures should represent community values, and be mindful of future generations.

Maintenance concerns should be a primary consideration, with adequate provision made for continued future maintenance. Durable materials should be used to stand up over time. The City also wants to insure that no one park or space reaches a saturation point. Therefore, within this policy, placement of memorials has been limited to specific locations.

Improvements made in public spaces become the property of the public.

The policies and processes provided herein should be followed prior to any new structure, play equipment, benches, facility, etc. being placed in a Nevada City park or open space owned and operated by the City.

Any person or organization requesting to place, fund or construct a new amenity in a City park or open space property should be directed to the Parks & Recreation Supervisor. It is assumed in the following policy and procedures that all projects are fully funded by an individual, organization or has been included in the City's budget.

Memorials:

Memorials are smaller or common items that are requested for placement in City Parks to honor a family member or friend. Examples: bench, plaque, tree, etc. Any items not fitting this description shall follow the procedures for "New or Re-constructed Facility".

Any individual or family requesting to place a memorial should complete a Memorial Placement Request Form (Appendix A). A list of options for placement of memorials has been provided in Appendix B. To take advantage of one of these memorial placements, the individual making the request will need to cover all costs for materials, installation and maintenance. Bench and plaque styles will be chosen by the City. The fee for this will be adopted by the City Council in the form of a Fee Schedule for Memorials.

If the individual would like to request a memorial that is not included on the pre-approved list, their project request will need to be presented to the City Council for approval. In addition, any requests for a tree will need to be approved by the Public Works Superintendent to insure that the type of tree will grow in this area, match the current landscaping and be located near watering lines to avoid extra maintenance needs or costs.

Placement of benches along Hirschman and the Environs Trail is managed by the Bear Yuba Land Trust (BYLT) within the guidelines provided by the Memorandum of Understanding (MOU) between BYLT and the City (Appendix C). There are a limited number of bench locations along the trails. A diagram of the potential bench locations can be found in Appendix C along with the agreement.

Memorial plaques shall be no larger than 12" x 12" with lettering no larger than 1". Wording for all plaques must be approved by City Council.

Memorials Placed Prior to the 2015 Updated Adoption of this Policy

Placement of new items will have a fee associated with them to cover long term maintenance of the item. Items that were placed prior to the adoption of this updated policy will be maintained in the following manner:

If a bench, tree or plaque is in a state of disrepair, has been destroyed by Mother Nature or vandalism, or goes missing the following steps will be taken:

1. The person or group who donated that item will be contacted to see if they would like to fund the replacement of the item. If they would, staff will re-install the replaced item.
2. If the person or group does not want to replace the item: trees and plaques will not be replaced. Bench locations will be added to our list of available bench locations to be memorialized by another person or group.

Playground Equipment:

There is only one playground owned and operated by the City of Nevada City. It is located in Pioneer Park. Most of the playground equipment has been funded by the Nevada City Lions Club. When equipment for the playground needs to be replaced or additional equipment is desired—the following steps will be taken:

1. The Parks & Recreation Supervisor will first approve the desired equipment to insure that based on installation regulations, the equipment can be placed within the boundaries of the existing playground to meet safety and ADA requirements.
2. The Public Works Superintendent will then approve the use of Public Works employees for the installation of the equipment or recommend that the equipment be installed by a professional.
3. New equipment can then be installed.

New or Re-constructed Facility:

New or re-constructed facilities include monuments, historical artifacts, Eagle Scout projects, recreational amenities, etc.

The following steps will be taken for any proposed projects on City properties.

1. A Project Proposal Submission Form (Appendix D) shall be completed.
2. The project will be presented to the Parks & Recreation Supervisor.
3. The Parks & Recreation Supervisor will then request written comments from other appropriate staff members on the project.
4. Staff comments should be addressed and then the project will be presented to the City Council for direction.

Recognition Signs:

Recognition signs have historically been placed next to Eagle Scout projects and new facilities. Any signs or plaques placed next to a facility or structure that has been donated shall fit within the following parameters:

- Signs/plaques shall be no larger than 20" x 20"
- Lettering shall be no larger than 1"
- All signs/plaques will be approved by the City Council

Wording and Language:

The wording/language that is proposed for any recognition sign, Eagle Scout project, memorial, etc. shall be approved by the City Council.

City of Nevada City Memorial Placement Request

This form is intended to collect all necessary information from an individual, family or organization who would like to place an item on City owned property as a memorial. All memorials, materials needed and labor must be funded by the person, family or organization making the request. The information on page one may be viewed by the public if presented at a public meeting. The information on page two will only be viewed by City staff.

Contact Name: _____

Item that you would like to have placed on City property (ie: bench, tree): _____

Location where you would like the item placed: _____

Person being honored by memorial: _____

Significance of this location: _____

Amount of funding you have available for this project: _____

I am requesting to place a plaque with my memorial

Wording that will go on the plaque: _____

Contact Information

Contact Name: _____

Phone #: _____ Alternate Phone #: _____

Mailing Address: _____

City, ST Zip code _____

Email Address: _____

<p>For Office Use</p> <ul style="list-style-type: none"><input type="checkbox"/> Memorial Placement Request Form completed<input type="checkbox"/> Memorial meets Appendix B approvals<input type="checkbox"/> Tree – approved by Public Works Superintendent<input type="checkbox"/> Plaque wording provided
--

MEMORIAL PLACEMENT OPTIONS

UPDATED: October 2015

Calanan Park

There are no suggested locations for memorials within the boundaries of Calanan Park. The park does not have open space for any benches and has plenty of seating at this time. If changes are considered for the park, this could be re-visited.

Environs/Tribute Trail

As noted within this document, the Environs Trail has bench locations available. The Bear Yuba Land Trust will work with individuals interested in these locations. Memorial benches will only be placed as noted in Appendix C.

No memorial locations are recommended for the section of trail from Champion Mine Rd. to the NID ditch.

Hirschman Pond Property/Trail

As noted within this document, Hirschman's Pond has bench locations available. The Bear Yuba Land Trust will work with individuals interested in these locations. Memorial benches will only be placed as noted in Appendix C.

Miners Trail

No memorials recommended.

Nevada Mine/Stiles Mill

Due to the Brownfield's Clean-up grant that is in process at this time, no memorials are suggested for this property.

Old Airport

Due to the un-developed nature of this property, no memorials are recommended at this location.

Penzance Park

No memorials recommended.

Pioneer Park

A map of Pioneer Park is attached with recommended bench locations. These benches can be memorials or donations from an individual or organization.

Robinson Plaza

No memorials recommended.

Sugarloaf Mountain

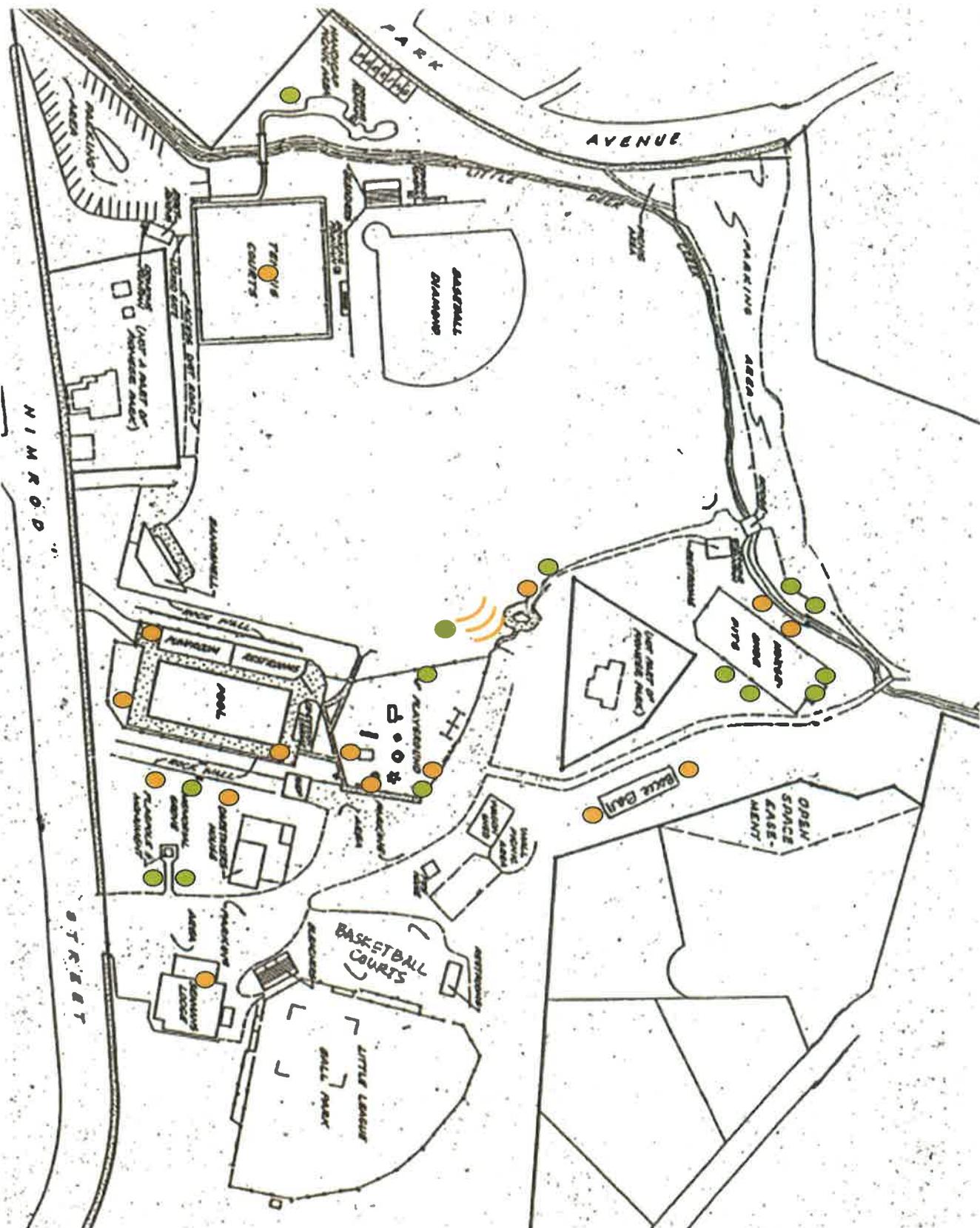
Three bench locations have been approved for this location and have already been approved for installation.

Existing Benches (some dots may represent 2 benches)

Existing Benches (amphitheater)

Proposed Benches (all dots represent 1 bench)

Pioneer Park Bench Locations



MEMORANDUM OF UNDERSTANDING
CITY OF NEVADA CITY, CALIFORNIA
AND
NEVADA COUNTY LAND TRUST
FOR
TRAIL CONSTRUCTION AND MAINTENANCE

Introduction

This Memorandum of Understanding (MOU) describes the relationship between the City of Nevada City, a public entity, hereinafter referred to as "City", and the Bear Yuba Land Trust, a private, non-profit group, hereinafter referred to as "BYLT", in their joint efforts to provide non-motorized public trails within the sphere of influence of the City.

WITNESSETH

WHEREAS, the BYLT has been operating since 1991 and is a member supported group promoting voluntary conservation of Nevada County's natural, historical, and agricultural resources through protection and enhancement of trails, parks, and open spaces to provide a lasting community heritage; and

WHEREAS, the goals of BYLT are accomplished by acquiring land, conservation easements, and development rights by donation, purchase and other means through voluntary, private action; and

WHEREAS, BYLT was the lead agency responsible for the construction of several trails in western Nevada County; and

WHEREAS, the City recognizes that one of the essential elements of enhancing the quality of life in the City is the construction of parks, recreation programs and facilities, open space and trails; and

WHEREAS, the City has or will obtain public land where trails are proposed and/or planned; and

WHEREAS, the City supports trail development that links park facilities, neighborhoods, schools and other community facilities; and

WHEREAS, it is mutually beneficial for the City and BYLT to collaborate in the development, operation, and maintenance of non-motorized trails,

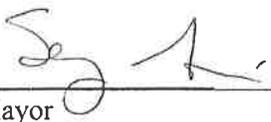
NOW, THEREFORE, in consideration of the above recitals, the parties agree as follows:

1. To establish the procedure and responsibility for accomplishing the location, design, construction, operation and maintenance of trails on land owned by the City of Nevada City.
2. In concept BYLT agrees to:
 - A. Provide assistance to the designated City representative to plan trail alignments on City property.
 - B. Prepare project descriptions suitable for CEQA review.

- C. Secure easements from private landowners for trail segments to be built over private land that provides connections to City property.
 - D. Secure grants and private funding to purchase service of contractors to construct the trail(s).
 - E. Organize and supervise volunteers to assist in the construction of trails.
 - F. Manage a trail adoption program for trails as agreed to by the City.
3. In concept the City agrees to:
- A. Insure that each project complies with CEQA, the City's General Plan, Parks and Recreation Master Plans and any other applicable laws, regulations, and permitting requirements.
 - B. Provide BYLT with written approval and assist with obtaining encroachment permits for trails constructed on city property.
 - C. Provide assistance in the construction of the trail using the City's equipment, personnel, and funds to the extent they are available and agreed upon through the budget process.
 - D. Reimburse BYLT for services provided in accordance with terms of contract or purchase agreements executed by both parties.
4. Both Parties agree to:
- A. Only proceed with a project when a letter of agreement has been received and signed by both parties describing the details of a specific project.
 - B. Carry out all of their responsibilities under this agreement in a timely fashion, and to the extent possible, will do nothing to jeopardize the cooperation and goodwill of any willing donors, grantors, volunteers or other members of the public.
 - C. Consult with the other party before preparing any information about the trail project for public distribution.
 - D. Provide a designated representative to carry out the terms of this MOU. The designated representative for the City shall be Dawn Zydonis, Nevada City Parks & Recreation Supervisor; and the designated representative for BYLT shall be Bill Haire, Trails Coordinator.
 - E. Termination of this agreement may be initiated by either party and will be effective upon delivery of written notice the other party by the signer of this agreement.
 - F. Two originals signed this 14th day of August, 2013 in Nevada City, CA.

CITY OF NEVADA CITY

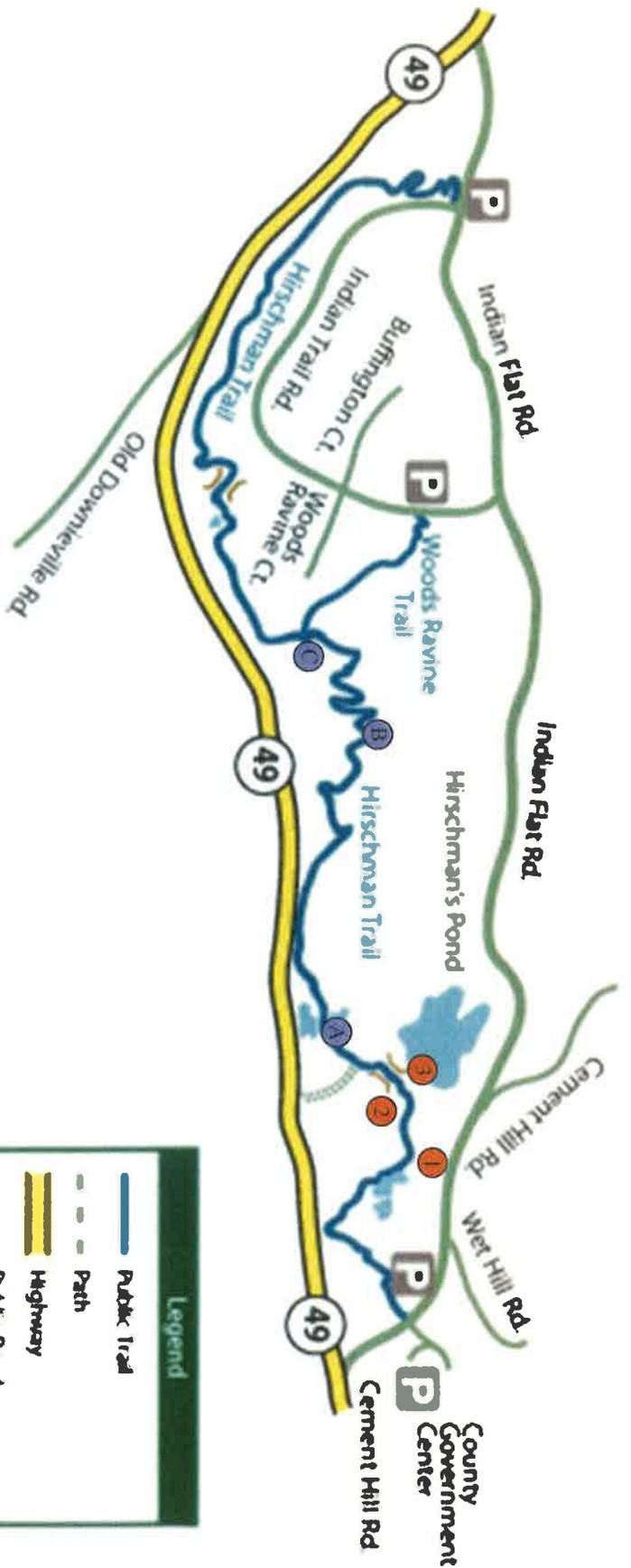
BEAR YUBA LAND TRUST



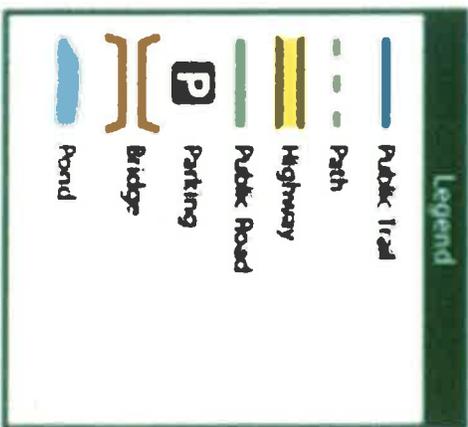
 Mayor
 Sally Harris



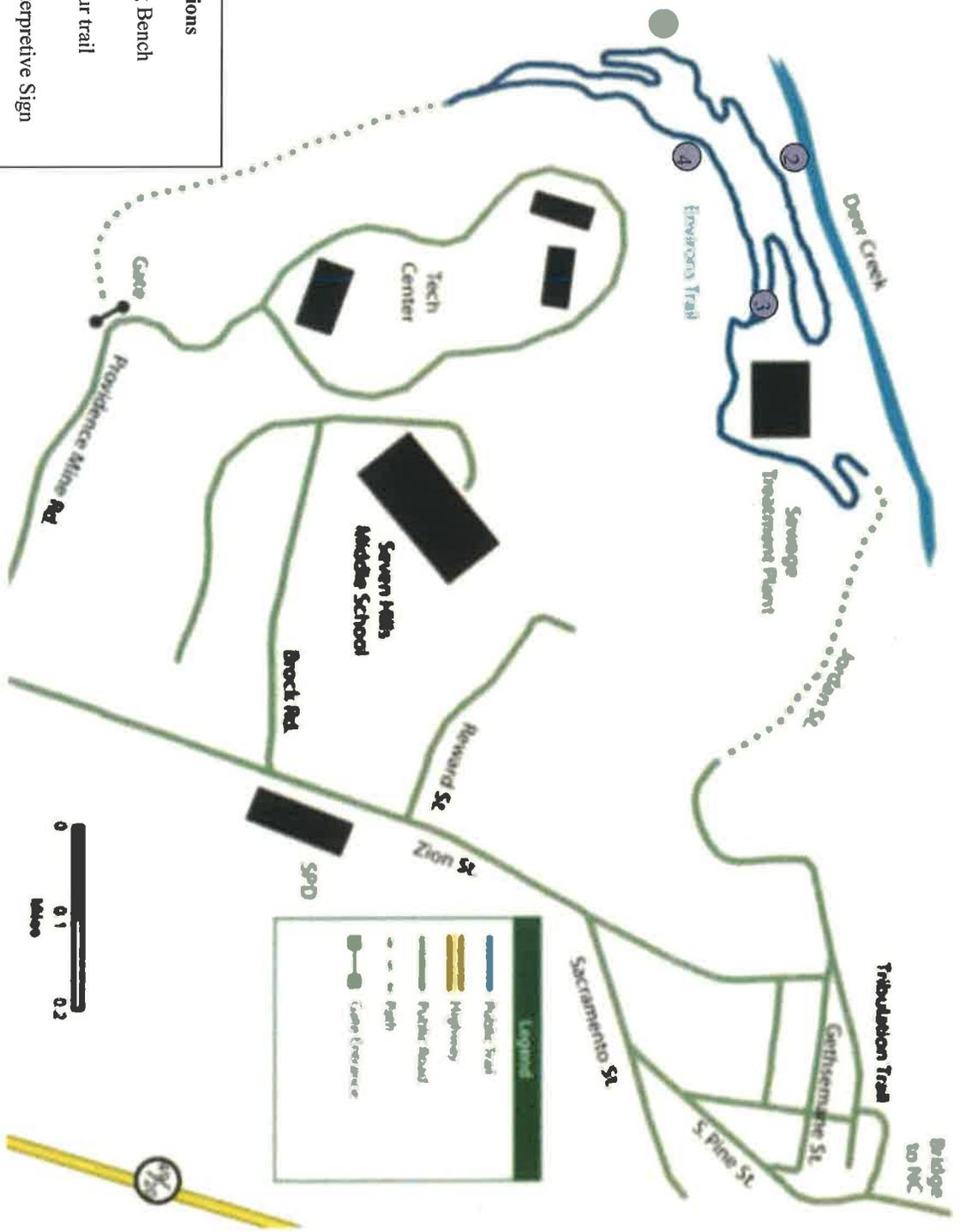
 President
 Joe Byrne



- Current Bench Locations**
- 1 Memorial Bench
 - 2 Memorial Bench
 - 3 Next to the Pond
- Available Bench Locations**
- After hiking out of Woods Ravine
 - Near the first bridge past the pond
 - At the Woods Ravine Trail



- Bench Locations**
- Existing Bench
 - Near spur trail
 - Near Interpretive Sign
 - Near Interpretive Sign





City of Nevada City
Proposed Project Submission

The purpose of this form is to communicate with the City about a project that is being proposed on City property, needs City administration or requests City partnership. The City Manager will review and provide direction about how to proceed with the project proposal. A list of City processes and timelines is included at the bottom of this form. This form is to be submitted to the City Manager (City Hall, 317 Broad St, Nevada City, CA 95959). Allow at least 2 weeks for the City Manager to respond.

Applicant/Organization Information

Applicant/Organization: _____

Contact person: _____

Phone #: _____ email: _____

List any other parties/organizations involved in the project: _____

Project Information

Project Title: _____

Briefly describe the project (A more detailed description of the project may be required at a later date.):

Describe how the project needs City involvement (ie: on City property, need the City to be the fiscal lead, etc). _____

Describe how the project will benefit the City, its residents and/or the community? _____

List efforts undertaken to gather public opinion and community support: _____

Type of Support Needed from the City:

1. Letter of Support YES NO
2. # of staff hours per month _____
 Dates/duration of project that this staff time is needed: _____
3. Other: _____
4. Other: _____

Funding Sources:

- a. Total cost of the project: _____
- b. Amount provided by organization: _____
- c. Amount requested from City: _____

(OVER)

- d. Amount provided by Grant funds: _____
 What grant is the organization planning to apply for? _____

 Attach a copy of the Grant Application Packet or a website address to the information: _____

- e. What maintenance is required once the project is complete? _____

 Is there future funding available for maintenance of the project? Explain: _____

City Process:

Once your form is submitted to the City Manager, the following steps may occur.

- a. A staff member may be assigned as the Project Manager.
- b. The information distributed to City Staff for comments. This process can take 2-3 weeks for staff to return comments and/or conditions. In addition, if it is determined that the project requires environmental review, that process can take up to 3 months.
- c. Presentation to City Council for direction/approval of the project. The City Council only meets the 2nd and 4th Wednesday of each month. Agenda items must be prepared and turned in to City Hall in advance. Placement on any council agenda is determined by the City Manager.
- d. The City may require deposits or fees be paid for staff time in reviewing and implementing projects or grants.
- e. Projects may need to be presented to the Recreation Committee or Planning Commission. These bodies meet once each month.
- f. Some projects may require a signed Agreement or Memorandum of Understanding (MOU) between the City and the Organization.
- g. A monthly written status report from the organization may be required during the planning and implementation process.

FOR CITY HALL USE		
Is the project a priority for the City?	YES	NO
Explain: _____ _____		
Is the project on the City's... <ul style="list-style-type: none"> <input type="radio"/> Capital Improvement Project List (CIP) <input type="radio"/> General Plan <input type="radio"/> A Master Plan (Pioneer Park, Hirschman's, etc): _____ <input type="radio"/> Strategic Plan <input type="radio"/> Other: _____ 		
Does the project match the City's Mission/Vision?	YES	NO
Explain: _____ _____		
Would the project interfere with another project that is on the CIP?	YES	NO
Explain: _____ _____		
Staff member assigned as Project Manager: _____		

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

May 11, 2016

TITLE: Request for In-Kind Sponsorship of Nevada City Film Festival Summer “Movies Under the Pines, Outdoor Film Series”

RECOMMENDATION: Approve request to provide in-kind sponsorship of Nevada City Film Festival’s summer “Movies Under the Pines, Outdoor Film Series” in the form of allowing use of Pioneer Park Band Shell and adjacent field at no charge on June 4, July 9 and August 27, 2016.

CONTACT: Mark Prestwich, City Manager

BACKGROUND / DISCUSSION: For the past two summers, the City Council has authorized in-kind sponsorship of the Nevada City Film Festival’s summer movie series nights in Pioneer Park. More than 200 people attended last year’s event. The summer’s events are intended to compliment the Film Festival’s mission of providing art, entertainment, and culture, while also developing the community’s interest in and appreciation for film and video production.

This year, the Film Festival has reserved Pioneer Park on June 4, July 9 and August 27 for their summer movie series and requests similar in-kind sponsorship. The Film Festival anticipates attendance of 200 to 300 people per event for the summer night films.

The cost of renting the Pioneer Park Band Shell per event is \$200 and there is an additional fee of \$150 for events with anticipated attendance of 200-399 on the adjacent field. Therefore, the City’s park usage fees equate roughly to the Nevada City Film Festival’s \$1,500 sponsorship category which the Film Festival has indicated they will honor.

Last year, it was estimated the Film Festival had a local economic impact of approximately \$420,000. The Film Festival itself invested approximately \$20,000 to deliver the programming, which attracted 2,100 attendees last year. Staff recommends City Council approval of in-kind sponsorship of the Film Festival’s “Movies Under the Pines, Outdoor Film Series” in the form of allowing use of the Pioneer Park Band Shell and adjacent field at no charge for each of the three dates.

It’s important to note that the Film Festival will still be required to provide a completed contract (attached), provide proof of insurance naming the City as additional insured, provide a copy of the alcohol permit for their events, and pay the \$100 cleaning deposit. Film organizers must also follow all use guidelines for the Band Shell rental.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: Not applicable.

ATTACHMENTS:

- ✓ Facility Rental Contract – Nevada City Film Festival
- ✓ Nevada City Film Festival Economic Impact
- ✓ Nevada City Film Festival Sponsorship Information
- ✓ Movies Under the Pines flyer
- ✓ Press release

**Nevada City Parks & Recreation
Facility Rental Contract - 2016**



Contact Information

Renter (Organization or Name): Nevada City Film Festival

We are a non-profit organization. Non-profit number: 20-5266274

Mailing Address 110 Union St #5 City Nevada City Zip 95959

Contact Person: Jesse Locks

Daytime Phone (916) 548-7116 Alternate Phone _____

Email address: jesse@nevadacityfilmfestival.com

Make cleaning deposit refund check out to:

Name: Magic Lantern Corp

Mailing Address same as above City _____ Zip _____

Event Information

Facility Requested: Seaman's Lodge Bandshell Field Other: _____

Veteran's Building (upstairs) Veteran's Building (downstairs) Veteran's Building (kitchen)

Picnic Area - Left Picnic Area - Right Picnic Area - Upper

Date(s) Requested: June 4, July 9, August 27

Complete the information below for each day's activities. If you are using more than one facility, be sure to clarify what is happening at each facility. For ongoing or repeated events, any changes or additions to the information below must be made in writing.

Date	Set up Start Time	Event Start Time	Event End Time	Clean-up End Time
<u>June 4</u>	<u>5 pm</u>	<u>8 pm</u>	<u>10 pm</u>	<u>10:30 pm</u>
<u>July 9</u>	<u>5 pm</u>	<u>8 pm</u>	<u>10 pm</u>	<u>10:30 pm</u>
<u>Aug 27</u>	<u>5 pm</u>	<u>8 pm</u>	<u>10 pm</u>	<u>10:30 pm</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Insurance Requirement

I understand that I am required to provide Proof of insurance. A current and valid certificate of General Liability Insurance, in the amount of \$1,000,000 and an endorsement (CG2026 or equivalent) naming the City of Nevada City as additional insured will be provided by me at least 30 days prior to my rental date.

If your Insurance will be provided by someone other than the Organization/Person listed above please provide the name of the Organization or Person who will be providing insurance.

Insurance will be provided by: ~~XXXXXX~~

Event details

Event Description: Outdoor Films

- 1. #of people attending event: 300
- 2. Will Alcohol Be Served? Yes No Will Alcohol Be Sold? Yes No Is your event open to the public? Yes No

If alcohol is **served** at your event, a City Alcohol Permit will be given to the renter at no additional fee. If alcohol is **sold** at your event, an Alcohol Permit from California Alcohol Beverage Control (ABC) is required. (916-419-1319)

- 3. Will you have a bounce house at your event? NO If yes, what company are you hiring? _____

The City must have proof of insurance on file from the bounce house company.

- 4. Will you have amplified music? NO If yes, what hours do you plan to have music? _____

What type of music? _____ You may be required to gather signatures from neighbors.

- 5. Will you be charging admission to your event? YES Cost: \$7/\$5 What are the profits used for? We are hoping we can make it free this year, but just in case.

- 6. Will there be vendors at your event? NO If yes, what type? _____

- 7. Will you have security guards at your event? NO If yes, please provide contact information for security. _____

Other: _____

Waiver for Use

I, the undersigned, have received and read the Use Guidelines for use of the facility. I agree that the Renter will abide by and enforce all of the rules and regulations contained therein and understand that any failure to comply with those rules and regulations or any other provisions of the Rental Contract may result in termination and cancellation of this Rental Contract and any further use of the facility by Renter. I understand that failure to comply with terms of the Contract and/or the rules and regulations as stated in the Use Guidelines may result in termination and cancellation of the Rental Contract. I also understand that in the case of a local disaster the Veteran's Building may become unavailable with little or no notice, as it serves as a location for Emergency Operations. "Renter" further agrees to indemnify and hold harmless the City of Nevada City, it's Officers, Agents and Employees against any and all claims, demands, damages, costs, expenses of whatever nature including litigation costs and attorney fees arising out of, or resulting from the "Renter's" use of the facilities of the City of Nevada City.

Print Name: JESSE LOCKS Signature: Jesse Locks Date: 3/24/10

Quick Guide to the Impact of The Nevada City Film Festival on the Local Economy

Lodging

The Nevada City Film Festival hosts a number of visiting filmmakers, comedians, artists, and judges each year. NCFE rents over 30 rooms for 2 nights, at the National, Deer Creek Inn, Broad Street Inn, and the Outside Inn, ranging in price per night from \$100-\$140. (Economic Impact \$6,000-\$8,400)

Food

The Nevada City Film Festival provides food for visiting filmmakers and comedians, which is from a variety of local businesses, including Pete's Pizza, Way Yum Sushi, Miner Moe's, Summer Thyme's, BriarPatch Co-op, and Marshall's Pasties. We have also hosted Filmmaker Talks at The Curly Wolf, Java Johns, Broad Street Bistro, and Café Mekka.

Popcorn and sodas sold by NCFE are from SPD and Natural Selection. We serve Ol' Republic beer and BYOB wine. (Economic Impact \$1800-\$2400)

Venues

NCFE rents the Miners Foundry , Nevada Theatre and the Haven for a total of \$6000 for the weekend. Our insurance is purchased locally.

Collateral

All t-shirts, programs, fliers, posters, and banners are printed locally. (Economic Impact \$4500-\$6000)

Advertising

NCFE spends over \$20,000 a year to advertise in The Union, Moonshine Ink (Tahoe/Truckee), Nevada City Advocate, NC Gold, Submerge Magazine (Davis, Sacramento), Foothill Entertainer (Auburn, Rocklin, Roseville, Colfax), KVMR, KNCO, CPR (Reno to Quincy to Davis), KZFR (Chico), Sacramento News and Review (Sacramento), and Facebook (Northern California, SF, and LA). That's a lot of mentions of Nevada City!

NCFE SPENDS (not including contractor fees and local advertising between \$16,300 - \$20,800 in the community each year)

ATTENDEE SPENDING

In 2015, NCFE sold 2100 tickets. 70% of the audience traveled 30+ miles to attend the festival, with the majority of people coming from the Sacramento Valley region, Bay Area and Los Angeles. 76% of our demographic are under the age of 50 and 60% are between the ages of 25-45.

The average attendee spends \$50/day (\$4 latte + \$8 sandwich + \$20 dinner + drinks/gas/souvenirs) or \$200 spent over the course of a 4-day event.

For a grand total of \$105,000 spent by 2100 people daily or upwards of \$420,000 over the festival weekend.

Sponsorship Proposal for the 16th Annual Nevada City Film Festival September 8-11, 2016

“One of the Top 50 Film Festivals Worth the Entry Fee”
– Moviemaker Magazine

Celebrate Independent Filmmaking

Every summer, the Nevada City Film Festival makes art into a party, bringing award-winning shorts and feature films from around the world to the historic venues of Nevada City, CA. A four-day celebration of art, music, and independent filmmaking, NCFE includes screenings, workshops, and special performances. The 15th Annual Nevada City Film Festival in historic downtown Nevada City, September 8-11, 2016.

In 2008, NCFE formed the Magic Lantern Corporation, a non-profit 501(C)3 organization, to better serve Nevada County by providing art, entertainment, education, and culture through the medium of film and video. The Magic Lantern oversees production of the Nevada City Film Festival. In 2011, the Magic Lantern Film Society was established to encourage membership, local partnerships, and a yearlong program of film.



We are committed to:

- Presenting creative, diverse, independent films from around the world that would otherwise have little or no other outlet in our region.
- Curating and presenting film programs and producing film festivals and other related events.

- Encouraging and supporting local filmmakers and their work.
- Collaborating with other non-profit and like-minded organizations and agencies to promote creative storytelling through film and video.



Connect

- 4,900 year round attendance at Nevada City Film Festival & Magic Lantern events this includes Winter Comedy Fest, Movies Under the Pines in Pioneer Park and the Nevada County Fairgrounds
- 2,100 Nevada City Film Festival Attendance
- 76% of our demographic are under the age of 50 and 60% are between the ages of 25-45, making the Nevada City Film Festival the ONLY major event in Nevada County geared towards a Millennial demographic
- 70% of the audience traveled 30+ miles to attend the festival, with the majority of people coming from the Sacramento Valley region, Bay Area and Los Angeles
- 85% of audience is college-educated

Experience

Located in Nevada City, California, an area known for its sophisticated arts and culture, festival-goers will find an exceptional destination festival where they can meet other enthusiastic film lovers and be inspired by talented and exciting new cinema.

- 70-100 short and feature length films are screened over four days
- 30-50 attending filmmakers from around the world (Korea, Puerto Rico, New York, Los Angeles)
- Downtown historic venues are transformed into state of the art movie theaters

- Sold-out Live Comedy Shows that feature notable comedians from Comedy Central, Chelsea Lately, Funny or Die, Curb Your Enthusiasm, The Office, NBC's Go On, and more.

Influence

- Reach the largest 20-40 something year old audience (and engaged and elusive consumer) in Nevada County.
- Connect with a large and loyal audience of involved, influential and innovative tastemakers in the arts and film industries.
- Build a relationship with potential consumers and the Nevada County community in a respected, dynamic and authentic environment.
- Drive online and in-store traffic, product sampling and word of mouth.
- Engage potential and current customers and let them help spread the word about your product and services.
- Amplify your PR, marketing efforts and positive brand associations.
- Support the largest event in Nevada County's targeted towards a 25-40 year old demographic.

Promote

- 2,100 Nevada City Film Festival Attendance
- 2,100 tickets printed
- 5,000 schedules and programs distributed
- 2,500 e-blast impressions
- 4,500 trailer impressions
- 20,000 website hits



Past Highlights

- NCFE named “The Sundance of the Sierras” by Sacramento News & Review
- Sundance Short Film Award-winner “The Pioneer” took home NCFE “Best Drama”.
- NCFE Alumni director Sean Pecknold hailed as one of the most creative commercial directors by AdWeek after his commercial for “GoldieBox” goes viral.
- NCFE Alumni editor Curtis Grout screened his second film at Sundance Film Festival 2014.
- NCFE Alumni director Patrick Kack-Brice won “Best of the Fest” and went on to win awards and screen at film festivals across the globe including the prestigious Rotterdam and London International Documentary Festival. He premiered his first feature length film at SXSW 2014, which was picked up for a 3-film distribution deal through the Weinstein Corporation.
- NCFE Alumni director Jason Sussberg premiered his first feature length at SXSW 2014.
- NCFE Alumni director Annie Silverstein’s film SKUNK won best short at Cannes 2014.
- NCFE Alumni directors Michelle Glick Wolter and Philipp Wolter were nominated for an Academy Award.
- NCFE Alumni musician and composer Nate Walcott of Bright Eyes, scored The Fault in Our Stars.
- Filmmaker spotlights with animator Galen Pehrson, director and editor Greg Finton (THE WORLD ACCORDING TO DICK CHENEY, DAZED & CONFUSED), director Mike Mills (THE BEGINNERS, THUMBSUCKER), music supervisor Brian Reitzell (LOST IN TRANSLATION), director Jonathan Krisel (PORTLANDIA) and comedians Tim Heidecker and Eric Wareheim of the cult television show Tim and Eric Awesome Show, Great Job!
- NCFE created an outdoor movie theatre for closing night 2013.
- NCFE creates digital projections down Broad Street during weekend of the festival.

Sponsorship Levels

Each year the Nevada City Film Festival is made possible through the generous contributions of our sponsors. Sponsorships help underwrite local filmmaker submissions, theatre and venue rental; offset film rental costs from foreign sources; and bring guest filmmakers to our screenings and forums. Sponsorships provide wonderful festival benefits for employees or clients with film and party pass, while also marketing your organization as a supporter of the arts and linking your business with Nevada City's fastest growing event.

PLATINUM SPONSORSHIP

Your sponsorship helps to bring 10 visiting filmmakers to Nevada County; offsets submissions fees for local filmmakers; rent state of the art projection, lighting and sound.

- Official Presenter of the 16th Annual Nevada City Film Festival
- Logo on printed tickets
- Official Host of a Opening Night, an After Party, Program or Spotlight Director
- Sponsor of the NCFE Media Lounge
- Your Banner in Theatre/Stage During Event
- Sampling at NCFE
- Logo on Festival Trailer
- Branding in all NCFE Press Materials
- Logo on all NCFE Print Ads and Posters
- Logo and link on NevadaCityFilmFestival.com
- Online banner to run for a full year on NevadaCityFilmFestival.com
- Facebook/Twitter Messaging
- Featured in NCFE and The Magic Theatre newsletter blasts for a full year
- 15 VIP Badges (value \$1500) VIP includes a special area where food and drinks are available and reserved seating.
- Radio giveaways, compliments of you
- Online giveaways, compliments of you
- Filmmaker and Event Gift Bags
- Public Recognition on Opening Night

Total Value \$5,000

GOLD SPONSORSHIP

Your sponsorship helps to bring 5 visiting filmmakers to Nevada County; discount tickets for students and seniors; offsets film rental fees of \$250-\$500 for 5-10 feature length films.

- An Official Sponsor of NCFE
- Official Host of an After Party, Program or Spotlight Director
- Sponsor of the NCFE Media Lounge
- Your Banner in Theatre/Stage During Event
- Sampling at NCFE
- Logo on Festival Trailer
- Branding in all NCFE Press Materials
- Logo on all NCFE Print Ads and Posters

- Logo and link on NevadaCityFilmFestival.com
- Facebook/Twitter Messaging
- Featured in NCFE and The Magic Theatre newsletter blasts
- 7 VIP Badges (value \$700) VIP includes a special area where food and drinks are available and reserved seating.
- Filmmaker and Event Gift Bags
- Public Recognition on Opening Night

Total Value \$2,500

SILVER SPONSORSHIP

Your sponsorship helps to bring 3 filmmakers to Nevada County; offsets film rental fees of \$250-\$500 for 3-6 feature length films; discount tickets for students and seniors.

- Your Banner in Theatre/Stage During Event
- Sampling at NCFE
- Logo and link on NevadaCityFilmFestival.com
- Logo on all NCFE Print Ads and Posters
- Logo on pre-screened DVD intro to all film programs
- Facebook/Twitter Messaging
- Featured in NCFE and The Magic Theatre newsletter blasts
- 5 VIP Badges (value \$500) VIP includes a special area where food and drinks are available and reserved seating.
- Filmmaker and Event Gift Bags
- Public Recognition on Opening Night

Total Value \$1,500

FRIEND OF THE FESTIVAL

- Logo and link on NevadaCityFilmFestival.com
- Facebook/Twitter Messaging
- Featured in NCFE and The Magic Theatre newsletter blasts
- 3 VIP Badges (value \$300) VIP includes a special area where food and drinks are available and reserved seating.
- Logo in Program Guide
- Public Recognition on Opening Night

Total Value \$500

Magic Lantern Film Society Member

- Gold Membership to the Magic Lantern Film Society (value \$250) includes reduced admission to all films at the Magic Theatre (excludes special screenings), FREE popcorn (any size) each time you attend the Magic Theatre, FREE admission for you and a guest on the first Wednesday of every month, Limited Edition Letter Press Poster for the annual Nevada City Film Festival, Nevada City Film Festival T-Shirt, Added to our list of Gold Members

- at the Magic Theatre and listed in the annual Nevada City Film Festival program, and Invitation to special events and screenings.
- Listed in NCCFF program guide as a Magic Lantern Film Society Member.
 - 1VIP Pass (value \$100) includes a special area where food and drinks are available and reserved seating.

Total Value \$250

In-Kind Sponsorships

In-kind sponsorships allow people to help in whatever way they are most able, by sharing the strengths, skills and resources that they do have.

All sponsorships deserve special attention and should be customized in every instance to maximize a mutually beneficial endeavor. These are just some discussion points. Please feel free to make adjustments.

Thank you for your time and consideration,

Jesse Locks
Festival Director
Nevada City Film Festival
(916) 548-7716
jesse@nevadacityfilmfestival.com



Movies

Under the Pines

AT NEVADA COUNTY
FAIRGROUNDS, GATE 1, GV

MAY 20
THE WIZARD OF OZ

JUNE 10
FINDING NEMO

JULY 08
**BACK TO THE
FUTURE**

AT PIONEER PARK,
NEVADA CITY

JUNE 04
**MOONRISE
KINGDOM**

JULY 09
**EDWARD
SCISSORHANDS**

AUG 27
THE GOONIES

GATES 7:30pm, MOVIE sunset (8-8:30pm)
TICKETS \$7/adult, \$5/child

Get tickets in person at the gate or online at
WWW.NEVADACITYFILMFESTIVAL.COM

Bring a blanket or low-back chair, picnics and non-alcoholic beverages ok, outside alcoholic beverages prohibited, onsite concessions and bar available

FOR IMMEDIATE RELEASE

CONTACT: Jesse Locks, jesse@nevadacityfilmfestival.com, (916) 548-7716

April 29, 2016

The Nevada City Film Festival (NCFE), City of Nevada City and the Nevada County Fairgrounds presents Movies Under the Pines, an outdoor cinema experience for the entire family,

Building on the success and excitement of the previous two summer's screenings of family friendly films at both Pioneer Park in Nevada City and the Nevada County Fairgrounds in Grass Valley, NCFE has selected six films that both kids and parents will enjoy.

"Movies Under the Pines is one of those endearing and sweet community events that warm your heart. We wanted this year's films to reflect that feeling," says Jesse Locks, Festival Director. "It is so popular, we have people travel from all over to experience this movie magic in a beautiful outdoor setting,"

This year's line up includes the cinematic masterpiece *The Wizard of Oz*, May 20th at the Fairgrounds; Wes Anderson's endearing coming of age story *Moonrise Kingdom*, June 4 at Pioneer Park; the Pixar masterpiece *Finding Nemo*, June 10 at the Fairgrounds; the rousing time-travel adventure *Back to the Future* on July 8 at the Fairgrounds; Tim Burton's comic, romantic and haunting film fantasy *Edward Scissorhands* July 9 at Pioneer Park; and finally concluding with everyone's favorite *The Goonies*, August 27 at Pioneer Park.

The film festival brings in state of the art projection and sound to create an outdoor movie theatre on the grass at each venue. Before each screening NCFE curates a special pre-show that includes screening local filmmakers works, movie trivia with fun festival prizes, and other events specific to each screening. Last year the Nevada County Fencing Club showed attendees how to fence prior to *The Princess Bride* and in honor of *UP* the festival decorated the park festively with multi-colored balloons.

Beer, wine, popcorn, soft drinks, and ice cream available for purchase. Outside food and non-alcoholic drinks allowed. Outside alcoholic beverages prohibited. Blankets and low back chairs are suggested.

Gates open at 7:30pm for picnicking, films begin at Sunset, which depending on the time of year can be between 8 and 8:30pm. Tickets \$7/General Admission, \$5/Children 12 & Under. Tickets can be purchased online at www.nevadacityfilmfestival.com and will also be available at the gate of each location.

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

May 11, 2016

TITLE: Conflict of Interest Code Policy Update

RECOMMENDATION: Pass Resolution 2016-XX updating the Conflict of Interest Code policy.

CONTACT: Catrina Olson, Assistant City Manager

BACKGROUND / DISCUSSION:

The State of California Fair Political Practices Commission (FPPC) requires the local jurisdictions adopt a conflict of interest code requiring individuals holding designated positions to file Statements of Economic Interest forms, and designating the Filing Officer for the local jurisdiction. The FPPC requires a review of this conflict of interest code every even year in order to incorporate any new regulations, requirements, or designated positions.

For the City, the FPPC Statements of Economic interests are public records and maintained by the City and, in the case of 87200 filers, by the State. These documents provide the public with information about where filers derive their income or other benefits, have economic interest, and potentially have conflicts based on these interests. The purpose of these FPPC laws and regulations is to provide transparency in interest of those whom are making decisions with the public's funds.

The City has included position titles that staff is recommending be included as designated positions to file conflict of interest statements. The required filers and designated employees are included in appendix "A" of the attached resolution.

FISCAL IMPACT:

None

ATTACHMENTS:

- ✓ Resolution 2016-XX – A Resolution of the City of Nevada City Adopting an Updated Conflict of Interest Code.

RESOLUTION NO. 2016-XX

**A RESOLUTION OF THE CITY OF NEVADA CITY
ADOPTING AN UPDATED CONFLICT OF INTEREST CODE
FOR THE CITY OF NEVADA CITY**

WHEREAS, The Political Reform Act, Government Code Sections 81000, et seq., requires every state or local government agency to adopt and promulgate a Conflict of Interest Code (Government Code Sections 87300, et seq.); and

WHEREAS, the Fair Political Practices Commission has adopted Title 2 California Code of Regulations Section 18730 that contains the terms of standard model Conflict of Interest Code, the Code can be incorporated by reference and may be amended by the Fair Political Practices Commission after public notice and hearing to conform to amendments in the Political Reform Act; and

WHEREAS, the terms of 2 California Code of Regulations Section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, are hereby incorporated by reference along with the attached Appendices, in which members and employees are designated and disclosure categories set forth, constitute the Conflict of Interest Code for the City of Nevada City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF NEVADA CITY THAT:

1. Resolution 2007-32, adopted November 14, 2007 is hereby rescinded.
2. The terms of Title 2 California Code of Regulations, Section 18730 and any and all amendments to it adopted by the Fair Political Practices Commission are hereby incorporated by reference, as well as the attached Appendices A & B in which officials and employee are designated and disclosures categories are set forth and constitute the Conflict of Interest Code of the City of Nevada City.
3. Designated employees shall file Statement of Economic Interest with the City Clerk, to whom the City Council hereby designates the authority to carry out the duties of the Filing Officer.
4. Statements of Economic Interest shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the City of Nevada City.
5. The Resolution is hereby adopted and becomes effective and in full force immediately upon adoption.

PASSED AND ADOPTED at a regularly scheduled meeting of the City Council of the City of Nevada City on the 11th day of May, 2016 by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:**

Jennifer Ray, Mayor

ATTEST:

Niel Locke, City Clerk

**CITY OF NEVADA CITY
CONFLICT OF INTEREST CODE**

APPENDIX “A”

“Public Official at any level of state or local government” means a member, officer, employee, or consultant of a state or local government agency. The term “public official” also includes individuals who perform the same or substantially the same duties as an individual holding an office or a position listed in Government Code Section 87200, including “other public officials who manage public investments as that term is defined in 2 Cal. Code of Regs. Section 18720.

- 1) “Member” shall include, but not be limited to, salaried or unsalaried members of boards or commissions with decision making authority. A board or commission possesses decision-making authority whenever:
 - a. It may make a final governmental decision;
 - b. It may compel a governmental decision, or it may prevent a governmental decision either by reason of an exclusive power to initiate the decision or by reason of a veto which may not be overridden; or
 - c. It makes substantive recommendations, which are, and over an extended period of time have been, regular approved without significant amendment or modification by another public official or government agency.

- 2) A “designated employee” is an officer, employee, member or consultant of an agency whose position is designated in the code because the position entails the making or participation in the making of governmental decisions which may foreseeable material effects on any financial interest. (*Government Code Section 82019*)
 - a. *Making* a governmental decision means the person:
 - i. Votes on a matter;
 - ii. Appoints a person;
 - iii. Obligates or commits his or her agency to any course of action; or
 - iv. Enters into any contraction agreement on behalf of his or her agency.

 - b. *Participating in the making* of a decision, means the person:
 - i. Negotiates, without significant substantive review, with governmental entity or private person regarding the decision; or
 - ii. Advises or makes recommendations to the decision-maker conducting research or an investigation, preparing or presenting a report, analysis or opinion which requires the exercise of judgment on the part of the employee and the employee is attempting to influence the decision.

The term “designated employee” does not include:

- Public officials specified in Government Code Section 87200
Planning Commissioners
Councilmembers
Mayors
City Managers
City Attorneys

City Treasurers
Other City, County and Local Agency Public Officials who manage public investments

- Solely clerical, ministerial or manual positions
- Unsalariated members of boards or commissions, which are solely advisory

3) "Consultant" means an individual whom, pursuant to contract with a state or local government agency:

- a. Makes a governmental decision whether to:
 - i. Approve a rate, rule, or regulation;
 - ii. Adopt or enforce a law;
 - iii. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order or similar authorization or entitlement;
 - iv. Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract, which requires agency approval
 - v. Grants agency approval to contract which requires agency approval and in which the agency is a party or to the specifications for such contract;
 - vi. Grant agency approval to plan, design, report, study, or similar item;
 - vii. Adopt, or grant agency approval of polices, standards, or guidelines for the agency or for any subdivision thereof; or
- b. Serves in a staff capacity with the agency and in that capacity perform the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code.
- c. The City Manager or his/her designee may determine in writing that a particular consultant is hired to perform a range of duties that are limited in scope and this is not require to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager or is his/her designee's determination is a public record and shall be retained for public record and shall be retained for public inspection in the same manner and location as the Conflict of Interest Code.

The following is a listing of those persons who are required to submit Statements of Economic Interests pursuant to the Political Reform Act of 1974:

Required to file Form 700

Mayor
City Council
Planning Commissioners
City Manager
City Attorney
City Treasurer (only forward Finance Director's Statement if your city **does not** have a treasurer)

Designated City Employees

City Clerk
City Engineer
City Planner
Chief of Police
Fire Chief
Assistant City Manager/Finance & Admin.
Consultant

**CITY OF NEVADA CITY
CONFLICT OF INTEREST CODE**

APPENDIX “B”

APPENDIX OF DISCLOSURE CATEGORIES

Limited categories of disclosure related to the conduct of your position:

- Investments – Stocks, Bonds etc. (less than 10%)
- Investments, Income, and Assets – Business/Trusts (greater than 10%)
- Interests in Real Property
- Income and Business Positions
- Income – Loans
- Income – Gifts
- Income – Gifts, Travel Payments

**CITY OF NEVADA CITY
DRAFT ACTION MINUTES
REGULAR CITY COUNCIL MEETING OF APRIL 27, 2016**

NOTE: This meeting is available to view on the City's website www.nevadacityca.gov – Go to Quick Links and Click on Agendas & Minutes and find the Archived Videos in the middle of the screen. Select the meeting date and Click on Video to watch the meeting. For website assistance, please contact Corey Shaver, Deputy City Clerk at (530) 265-2496, ext 133.

- City Council Meetings are available on DVD. To order, contact City Hall - cost is \$15.00 per DVD.
- Closed Session Meetings are not recorded.

CLOSED SESSION – 6:15 PM

Pursuant to Government Code Section 54956.95, the City Attorney is requesting a Closed Session related to consideration of a Liability Claim (Claim by Claimant Sheila Baker against the City of Nevada City).

Action: City Council authorized settlement of claim.

REGULAR MEETING – 6:30 PM - Call to Order

Roll Call: Present: Andersen, Bergman, Strawser, Vice Mayor Phelps, & Mayor Ray

PLEDGE OF ALLEGIANCE

PROCLAMATION:

PRESENTATION:

1. BUSINESS FROM THE FLOOR-PUBLIC COMMENT (Per Government Code Section 54954.3)

Please refer to the meeting video on the City's website at www.nevadacityca.gov.

2. COUNCIL MEMBERS REQUESTED ITEMS AND COMMITTEE REPORTS:

Please refer to the meeting video on the City's website at www.nevadacityca.gov for additional comments.

3. CONSENT ITEMS:

A. Subject: Fire Activity Report – March 2016

Recommendation: Receive and file.

B. Subject: First Friday Artwalk Street Closure Request

Recommendation: Review and authorize First Friday Artwalk street closure request per application.

Action: Motion by Strawser, seconded by Bergman approve Consent Calendar as presented.
(Approved 5 - 0)

4. APPROVAL OF ACTION MINUTES:

A. City Council Meeting – City Council Meeting – March 30, 2016

Action: Motion by Strawser, seconded by Andersen to approve the April 13, 2016 Minutes.
(Approved 5 - 0)

5. DEPARTMENT REQUESTED ACTION ITEMS AND UPDATE REPORTS:

A. **Subject:** Demonstration of New City of Nevada City Website
Recommendation: Receive and file.

Action: Received and filed.

6. PUBLIC HEARINGS:

7. OLD BUSINESS:

8. NEW BUSINESS:

9. CORRESPONDENCE:

10. ANNOUNCEMENTS:

Please refer to the meeting video on the City's website at www.nevadacityca.gov.

11. CITY MANAGER'S REPORT:

12. ADJOURNMENT – 6:57 p.m.

ATTEST:

Jennifer Ray, Mayor

Niel Locke, City Clerk

REPORT TO CITY COUNCIL

City of Nevada City

317 Broad Street
Nevada City, CA 95959

www.nevadacityca.gov

May 11, 2016

TITLE: Consideration of Modifying Chapter 5.32 Licensure of Tobacco Retailers and Regulations Related to Vaping Lounge Uses

RECOMMENDATION: Provide direction to staff regarding 1) whether to amend Chapter 5.32, Licensure of Tobacco Retailers, to update the “definitions” section in a manner that would capture e-cigarettes and vaping products, 2) whether to consider a cap on the number of tobacco retail licenses permitted in the City, and 3) whether to have the Planning Commission consider prohibition of vaping lounge uses within zoning designations throughout the City.

CONTACT: Amy Wolfson, City Planner

BACKGROUND / DISCUSSION: At the April 13, 2016 City Council Meeting, County Health Coordinator Shannon Glaz presented information regarding alarming trends associated with vaping products. Among these trends was a correlation between vape use and youth smoking habits. In that presentation, Glaz appealed to the City to make some changes to its existing Ordinance regulating the Licensure of Tobacco Retailers. Specifically, Glaz suggests the following updates:

- Definition of Tobacco
 - Include all types of products containing tobacco leaf
- Add requirements:
 - Electronic smoking devices
 - Minimum pack size for cigars to five or more
- Tobacco Retail License Fee
 - Increase fee to conduct a minimum of one compliance check yearly by the Police Department.

In addition to the above suggested amendments to the code, staff is seeking feedback on whether or not the Council is interested in placing a cap on the number of tobacco retailers allowed to operate within City limits. Currently, the City has four active tobacco retail licenses. Capping at the current license number would provide some control in the event a vaping business proposed to open in the near-term. In the interest of long-term control, staff is seeking direction on whether or not the Planning Commission should explore options for amendments to the Zoning Ordinance to preclude vaping business from operating in some or all commercial zoning designations in the City.

ENVIRONMENTAL CONSIDERATIONS: Not applicable at this time.

FINANCIAL CONSIDERATIONS: None at this time.

ATTACHMENTS:

- Exhibit A – Chapter 5.32 of the City Municipal Code, Licensure of Tobacco Retailers
- Memo from Police Chief Tim Foley

Chapter 5.32 - LICENSURE OF TOBACCO RETAILERS

Sections:

5.32.010 - Definitions.

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

"Arm's length transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two (2) informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter is not an arm's length transaction.

"Department" means the Nevada City police department.

"Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

"Proprietor" means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten (10) percent or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have or share ultimate control over the day-to-day operations of a business.

"Self-service display" means the open display of tobacco products or tobacco paraphernalia in a manner that is accessible to the general public without the assistance of the retailer or employee of the retailer. A vending machine is a form of self-service display.

"Significant tobacco retailer" means any tobacco retailer whose principal or core business is selling tobacco products, tobacco paraphernalia, or both, as evidenced by any of the following: twenty (20) percent or more of floor area and display area is devoted to the sale or exchange of tobacco products, tobacco paraphernalia, or both; sixty-seven (67) percent or more of gross sales receipts are derived from the sale or exchange of tobacco products, tobacco paraphernalia, or both; or fifty (50) percent or more of completed sales transactions include a tobacco product or tobacco paraphernalia.

"Smoking" means possessing a lighted tobacco product, lighted tobacco paraphernalia, or any other lighted weed or plant (including a lighted pipe, cigar, hookah pipe, or cigarette of any kind), the lighting of a tobacco product, tobacco paraphernalia, or any other weed or plant (including a pipe, cigar, hookah pipe, or cigarette of any kind).

"Tobacco paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.

"Tobacco product" means: (1) any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco; and (2) any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco product dependence.

"Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia, or who distributes free or low-cost samples of tobacco products or tobacco paraphernalia. "Tobacco retailing" means the doing of any of

these things. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

"Vending machine" means a machine, appliance, or other mechanical device operated by currency, token, debit card, credit card, or any other form of payment that is designed or used for vending purposes, including, but not limited to, machines or devices that use remote control locking mechanisms.

(Ord. 2006-03 § 2 (part), 2006)

5.32.020 - Tobacco retailer license required.

- A. It is unlawful for any person to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer's license pursuant to this chapter for each location at which that activity is to occur. Tobacco retailing without a valid tobacco retailer's license is a public nuisance.
- B. A tobacco retailer or proprietor without a valid tobacco retailer license, including, for example, a person whose license has been revoked:
 - 1. Shall keep all tobacco products and tobacco paraphernalia out of public view. The public display of tobacco products or tobacco paraphernalia in violation of this provision shall constitute tobacco retailing without a license under Section 5.32.120;
 - 2. Shall not display any advertisement relating to tobacco products or tobacco paraphernalia that promotes the sale or distribution of such products from the tobacco retailer's location or that could lead a reasonable consumer to believe that such products can be obtained at that location.
- C. Nothing in this chapter shall be construed to grant any person obtaining and maintaining a tobacco retailer's license any status or right other than the right to act as a tobacco retailer at the location in the city identified on the face of the permit. For example, nothing in this chapter shall be construed to render inapplicable, supersede, or apply in lieu of, any other provision of applicable law, including but not limited to, any provision of this code, including without limitation the zoning ordinance, building codes, and business license tax ordinance, or any condition or limitation on smoking in an enclosed place of employment pursuant to California Labor Code Section 6404.5. For example, obtaining a tobacco retailer license does not make the retailer a "retail or wholesale tobacco shop" for the purposes of California Labor Code Section 6404.5.

(Ord. 2006-03 § 2 (part), 2006)

5.32.030 - Limits on tobacco retailer licenses.

- A. No license may issue to authorize tobacco retailing at other than a fixed location. For example, tobacco retailing by persons on foot or from vehicles is prohibited.
- B. No license may issue to authorize tobacco retailing by a significant tobacco retailer, provided however that a significant tobacco retailer operating legally on the date that the ordinance enacting this chapter was first introduced and that would otherwise be entitled to receive a license may receive a license and may continue to operate so long as:
 - 1. The license is renewed continually without lapse;
 - 2. The significant tobacco retailer is not closed for business for more than sixty (60) consecutive days;
 - 3. The significant tobacco retailer does not substantially change the business premises or business operation; and
 - 4. The significant tobacco retailer maintains the right to operate under the terms of other applicable laws, including without limitation the zoning ordinance, building codes, and business license tax ordinance.
- C. No license may issue to authorize tobacco retailing at any location that is licensed under state law to serve alcoholic beverages for consumption on the premises (e.g., an "on sale" license issued by the

California Department of Alcoholic Beverage Control) and no license may issue to authorize tobacco retailing at any location offering food for sale for consumption by guests on the premises. For example, tobacco retailing in bars and restaurants is prohibited.

(Ord. 2006-03 § 2 (part), 2006)

5.32.040 - Application procedure.

Application for a tobacco retailer's license shall be submitted in the name of each proprietor proposing to conduct retail tobacco sales and shall be signed by each proprietor or an authorized agent thereof. It is the responsibility of each proprietor to be informed regarding all laws applicable to tobacco retailing, including those laws affecting the issuance of a tobacco retailer's license. No proprietor may rely on the issuance of a license as a determination by the city that the proprietor has complied with all laws applicable to tobacco retailing. A license issued contrary to this chapter, contrary to any other law, or on the basis of false or misleading information supplied by a proprietor shall be revoked pursuant to Section 5.32.110(D) of this chapter. Nothing in this chapter shall be construed to vest in any person obtaining and maintaining a tobacco retailer's license any status or right to act as a tobacco retailer in contravention of any provision of law. All applications shall be submitted on a form supplied by the department and shall contain the following information:

- A. The name, address, and telephone number of each proprietor of the business that is seeking a license;
- B. The business name, address, and telephone number of the single fixed location for which a license is sought;
- C. A single name and mailing address authorized by each proprietor to receive all communications and notices (the "authorized address") required by, authorized by, or convenient to the enforcement of this chapter. If an authorized address is not supplied, each proprietor shall be understood to consent to the provision of notice at the business address specified in subsection B above;
- D. Proof that the location for which a tobacco retailer's license is sought has been issued a valid state tobacco retailer's license by the California Board of Equalization;
- E. Whether or not any proprietor has admitted violating, or has been found to have violated, this chapter or whose proprietorship has admitted violating, or has been found to have violated, this chapter, and, if so, the dates and locations of all such violations within the previous six (6) years;
- F. Such other information as the department deems necessary for the administration or enforcement of this chapter;
- G. All information required to be submitted in order to apply for a tobacco retailer's license shall be updated with the department whenever the information changes. A tobacco retailer shall provide the department with any updates within ten (10) business days of a change;
- H. The information specified in subsections B and C shall be available to the public for all currently licensed tobacco retailers. Upon request, the department shall provide a compilation of this information to any person within a reasonable time and subject to a fee approximating the actual cost of compiling and presenting the information.

(Ord. 2006-03 § 2 (part), 2006)

5.32.050 - Issuance of license.

Upon the receipt of an application for a tobacco retailer's license and the license fee required by this chapter, the department shall issue a license unless substantial evidence demonstrates that one (1) or more of the following bases for denial exist:

- A. The information presented in the application is incomplete, inaccurate, or false. Intentionally supplying inaccurate or false information shall be a violation of this chapter.

- B. The application seeks authorization for tobacco retailing at a location for which this chapter prohibits issuance of tobacco retailer licenses. However, this subsection shall not constitute a basis for denial of a license if the applicant provides the city of Nevada City with documentation demonstrating by clear and convincing evidence that the applicant has acquired or is acquiring the location or business in an arm's length transaction.
- C. The application seeks authorization for tobacco retailing for a proprietor to whom this chapter prohibits a license to be issued.
- D. The application seeks authorization for tobacco retailing that is prohibited pursuant to this chapter (e.g., mobile vending), that is unlawful pursuant to this code, including without limitation the zoning ordinance, building codes, and business license tax ordinance, or that is unlawful pursuant to any other law.

(Ord. 2006-03 § 2 (part), 2006)

5.32.060 - License renewal and expiration.

- A. **Renewal of License.** A tobacco retailer license is invalid unless the appropriate fee has been paid in full, and the term of the license has not expired. The term of a tobacco retailer license is one (1) year. Each tobacco retailer shall apply for the renewal of his or her tobacco retailer's license and submit the license fee no later than thirty (30) days prior to expiration of the term.
- B. **Expiration of License.** A tobacco retailer's license that is not timely renewed shall expire at the end of its term. To reinstate a license that has expired, or to renew a license not timely renewed pursuant to subsection A, the proprietor must:
 - 1. Submit the license fee plus a reinstatement fee of ten (10) percent of the license fee;
 - 2. Submit a signed affidavit affirming that the proprietor:
 - a. Has not sold and will not sell any tobacco product or tobacco paraphernalia after the license expiration date and before the license is renewed, or
 - b. Has waited the appropriate ineligibility period established for tobacco retailing without a license, as set forth in Section 5.32.120(A) of this chapter, before seeking renewal of the license.

(Ord. 2006-03 § 2 (part), 2006)

5.32.070 - Licenses nontransferable.

- A. A tobacco retailer's license may not be transferred from one (1) person to another or from one (1) location to another. Whenever a tobacco retailing location has a change in proprietors, a new tobacco retailer's license is required.
- B. Notwithstanding any other provision of this chapter, prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply to a location unless:
 - 1. The location has been fully transferred to a new proprietor or fully transferred to entirely new proprietors; and
 - 2. The new proprietor(s) provide the city with clear and convincing evidence that the new proprietor(s) have acquired or is acquiring the location in an arm's length transaction.

(Ord. 2006-03 § 2 (part), 2006)

5.32.080 - Fees for license.

The fee to issue or to renew a tobacco retailer's license shall be established by resolution of the city of Nevada City council. The fee shall be calculated so as to recover the total cost of both license administration and license enforcement, including, for example, issuing the license, administering the

license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this chapter. All fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law.

(Ord. 2006-03 § 2 (part), 2006)

5.32.090 - Other requirements and prohibitions.

- A. Lawful Business Operation. In the course of tobacco retailing or in the operation of the business or maintenance of the location for which a license issued, it shall be a violation of this chapter for a licensee, or any of the licensee's agents or employees, to violate any local, state, or federal law applicable to tobacco products, tobacco paraphernalia, or tobacco retailing.
- B. Display of License. Each tobacco retailer license shall be prominently displayed in a publicly visible location at the licensed location.
- C. Positive Identification Required. No person engaged in tobacco retailing shall sell or transfer a tobacco product or tobacco paraphernalia to another person who appears to be under the age of twenty-seven (27) years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess the tobacco product or tobacco paraphernalia.
- D. Minimum Age for Persons Selling Tobacco. No person who is younger than the minimum age established by state law for the purchase or possession of tobacco products shall engage in tobacco retailing.
- E. Self-service Displays Prohibited. No tobacco retailer shall display tobacco products or tobacco paraphernalia by means of a self-service display or engage in tobacco retailing by means of a self-service display.

(Ord. 2006-03 § 2 (part), 2006)

5.32.100 - Compliance monitoring.

- A. Compliance with this chapter shall be monitored by enforcement agency. Any peace officer may enforce the penal provisions of this chapter.
- B. The city of Nevada City police department shall check the compliance of each tobacco retailer at least one (1) time per each twelve (12) month period. Nothing in this section shall create a right of action in any licensee or other person against the city of Nevada City or its agents.
- C. Compliance checks shall determine, at a minimum, if the tobacco retailer is conducting business in a manner that complies with tobacco laws regulating youth access to tobacco. When appropriate, the compliance checks shall determine compliance with other laws applicable to tobacco retailing.
- D. The city of Nevada City shall not enforce any law establishing a minimum age for tobacco purchases or possession against a person who otherwise might be in violation of such law because of the person's age (hereinafter "youth decoy") if the potential violation occurs when:
 - 1. The youth decoy is participating in a compliance check supervised by a peace officer or a code enforcement official of the city of Nevada City; or
 - 2. The youth decoy is participating in a compliance check funded in part, either directly or indirectly through subcontracting, by the city of Nevada City or the California Department of Health Services.

(Ord. 2006-03 § 2 (part), 2006)

5.32.110 - Revocation of license.

- A. Revocation of License for Violation. In addition to any other penalty authorized by law, a tobacco retailer's license shall be revoked if the department finds or any court of competent jurisdiction determines, after the licensee is afforded notice and an opportunity to be heard, that the licensee, or any of the licensee's agents or employees, has violated any of the requirements, conditions, or prohibitions of this chapter or, in a different legal proceeding, has pleaded guilty, "no contest" or its equivalent, or admitted to a violation of any law designated in Section 5.32.090(A) above.
- B. New License After Revocation.
 - 1. After revocation for a first violation of this chapter at a location within any sixty (60) month period, no new license may issue for the location until ten (10) days have passed from the date of revocation.
 - 2. After revocation for a second violation of this chapter at a location within any sixty (60) month period, no new license may issue for the location until thirty (30) days have passed from the date of revocation.
 - 3. After revocation for a third violation of this chapter at a location within any sixty (60) month period, no new license may issue for the location until ninety (90) days have passed from the date of revocation.
 - 4. After revocation for four (4) or more violations of this chapter at a location within any sixty (60) month period, no new license may issue for the location until five (5) years have passed from the date of revocation.
- C. Appeal of Revocation. A decision of the department to revoke a license can be appealed to the city manager and must be filed with the city manager within ten (10) days of mailing of the department's decision. If such an appeal is made, it shall stay enforcement of the appealed action. An appeal to the city manager is not available for a revocation made pursuant to subsection D below.
- D. Revocation of License Issued in Error. A tobacco retailer's license shall be revoked if the department finds, after the licensee is afforded reasonable notice and an opportunity to be heard, that one (1) or more of the bases for denial of a license under Section 5.32.050 existed at the time application was made or at any time before the license was issued. The decision by the department shall be the final decision of the city of Nevada City. The revocation shall be without prejudice to the filing of a new license application.

(Ord. 2006-03 § 2 (part), 2006)

5.32.120 - Tobacco retailing without a license.

- A. In addition to any other penalty authorized by law, if the department finds or any court of competent jurisdiction determines, after notice and an opportunity to be heard, that any person has engaged in tobacco retailing at a location without a valid tobacco retailer's license, either directly or through the person's agents or employees, the person shall be ineligible to apply for or be issued a tobacco retailing license for that location as follows:
 - 1. After a first violation of this chapter at a location within any sixty (60) month period, no new license may be issued for the person at the location until thirty (30) days have passed from the date of the violation.
 - 2. After a second violation of this chapter at a location within any sixty (60) month period, no new license may be issued for the person at the location until ninety (90) days have passed from the date of the violation.
 - 3. After a third or subsequent violation of this chapter at a location within any sixty (60) month period, no new license may be issued for the person at the location until five (5) years have passed from the date of the violation.
- B. Tobacco products and tobacco paraphernalia offered for sale or exchange in violation of this chapter are subject to seizure by the department or any peace officer and shall be forfeited after the licensee

and any other owner of the tobacco products and tobacco paraphernalia seized is given reasonable notice and an opportunity to demonstrate that the tobacco products and tobacco paraphernalia were not offered for sale or exchange in violation of this chapter. The decision by the department may be appealed pursuant to the procedures set forth in Section 5.32.110(C). Forfeited tobacco products and tobacco paraphernalia shall be destroyed.

- C. Each day after the effective date of this chapter on which tobacco products or tobacco paraphernalia are offered for sale in violation of this chapter shall constitute a violation of this chapter separate and apart from any other violation of this chapter.

(Ord. 2006-03 § 2 (part), 2006)

5.32.130 - Settlement in lieu of hearing.

For a first or second alleged violation of this chapter within any sixty (60) month period, the city attorney may engage in settlement negotiations and may enter into a settlement agreement with a tobacco retailer alleged to have violated this chapter without approval from the city council. Notice of any settlement shall be provided to the department, and no hearing shall be held. Settlements shall not be confidential and shall contain the following minimum terms:

- A. After a first alleged violation of this chapter at a location within any sixty (60) month period:
 - 1. An agreement to stop acting as a tobacco retailer for at least one (1) day;
 - 2. A settlement payment to the city of at least one thousand dollars (\$1,000.00); and
 - 3. An admission that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.
- B. After a second alleged violation of this chapter at a location within any sixty (60) month period:
 - 1. An agreement to stop acting as a tobacco retailer for at least ten (10) days;
 - 2. A settlement payment to the city of at least five thousand dollars (\$5,000.00); and
 - 3. An admission that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.

(Ord. 2006-03 § 2 (part), 2006)

5.32.140 - Enforcement.

- A. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.
- B. Whenever evidence of a violation of this chapter is obtained in any part through the participation of a person under the age of eighteen (18) years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this chapter, and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.
- C. Violations of this chapter are subject to a civil action brought by the city attorney, punishable by:
 - 1. A fine not less than two hundred fifty dollars (\$250.00) and not exceeding one thousand dollars (\$1,000.00) for a first violation in any sixty (60) month period; or
 - 2. A fine not less than one thousand dollars (\$1,000.00) and not exceeding two thousand five hundred dollars (\$2,500.00) for a second violation in any sixty (60) month period; or
 - 3. A fine not less than two thousand five hundred dollars (\$2,500.00) and not exceeding five thousand dollars (\$5,000.00) for a third or subsequent violation in any sixty (60) month period.
- D. Violations of this chapter may, in the discretion of the city attorney, be prosecuted as infractions or misdemeanors.

- E. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.
- F. Violations of this chapter are declared to be public nuisances.
- G. In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied by a civil action brought by the city attorney, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

(Ord. 2006-03 § 2 (part), 2006)



NEVADA CITY POLICE DEPARTMENT

NEVADA CITY, CALIFORNIA



To: Mark Prestwich
City Manager

From: Timothy A. Foley
Chief of Police

Date: May 6, 2016

Subj: Limiting the Number of Tobacco Retail Licenses in Nevada City

Issue: Should the City of Nevada City limit the number of Tobacco Retail Licenses?

Discussion: There are currently 4 tobacco retail licenses issued in Nevada City. One is situated within the Historical District, a No Smoking area, and two others are an easy short walk away. The readily available nicotine and vaping products at these distribution points supply those who choose to violate the city's No Smoking ordinance. Violators can easily resupply and continue to violate the city ordinance. Additionally, one of the locations is situated in close proximity to several of the city's schools making accessible to our young people, both the product and advertising, easy and convenient.

Tobacco / vape sale locations and other businesses (Hookah lounges and Vape Shops) encourage or enable smoking / vaping, creates philosophical contradiction with city policy, produces compliance obstacles and builds ongoing enforcement issues.

Conclusion: Access to tobacco and vaping products in Nevada City is convenient and readily accessible. This negatively impacts compliance and enforcement efforts as violators have easy and convenient access to tobacco and vaping products, and may send a contradictory message to violators of the city's No Smoking philosophy and policy. Eliminating the easy accessibility to tobacco products would assist in our compliance and enforcement efforts and reinforce the city's No Smoking policy and philosophy.

Recommendation: The City Council of Nevada City should consider reducing or eliminating the number of tobacco retail licenses and prohibiting the establishment of Vape Shops/Lounges

Thank you for your consideration.

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

May 11, 2016

TITLE: Sewer Utility Billing Calculation Correction

RECOMMENDATION: Receive, file and authorize collection of under charged accounts over a two-year period.

CONTACT: Catrina Olson, Assistant City Manager; Mark Prestwich, City Manager

BACKGROUND: On January 28, 2015, the City Council adopted Ordinance 2015-02 implementing a combined fixed fee and flow charge methodology for its wastewater (sewer) rate structure. A flow charge component recognizes that those who produce less wastewater should pay less than those who produce more wastewater into the system.

The Ordinance provides that the flow portion of the bi-monthly bill be recalculated each year based on January and February metered water flows, which are typically the lowest flows for the year and closely approximate wastewater production. A minimum flow of 2,000 gallons per month (gpm) for all accounts was incorporated into the proposed rate schedule to address the zero flows some accounts may have during winter months yet have greater flows the remainder of the year. The methodology structure was implemented in July 2015.

DISCUSSION: During a mid-year fiscal analysis of the sewer fund, staff identified a miscalculation in the utility billing program and has determined that two programming changes were needed to correct the utility bills to accurately reflect the approved fixed fee and flow charge calculation:

- 1) Customers have been charged bi-monthly for the \$44.61 monthly fixed rate portion of their sewer bill and should be charged monthly.
- 2) The programming did not account for the 2,000 gpm minimum flow figure resulting in an added \$6.78 per month.

Staff has implemented corrections to the utility billing system for the March/April 2016 billing cycle that reflect the adjustments noted above.

As a result of the program miscalculation, customers have been under charged by \$31 per billing cycle (two-month period) which equates to \$124 per customer since July 2015. The cumulative loss to the sewer fund year-to-date is approximately \$180,000. Currently, the sewer fund has a positive fund balance of \$2.2 million.

Staff is recommending the City collect the \$124 per customer that was under-charged over a two-year period, resulting in a \$5 per month (\$10 per billing period) charge that would expire when the loss is fully recouped.

It's important to note that the City is nearing completion of a system condition assessment that will identify deficiencies in the water and sewer infrastructure requiring additional investment and use of fund balance assets. Preliminary estimates suggest high priority wastewater projects necessary within the next five years will total between \$5 million and \$10 million.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FINANCIAL CONSIDERATIONS: Noted in report above.

ATTACHMENT: None