



**REGULAR CITY COUNCIL MEETING
MEETING AGENDA
WEDNESDAY, JULY 6, 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:

PRESENTATION:

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: An Ordinance of the City of Nevada City Amending Subsection G of Section 17.72.060 of Chapter 17.72 of the Nevada City Municipal Code Pertaining to Fees for Administrative Home Occupations (Second Reading)

Recommendation: Waive reading, read title only, and adopt Ordinance 2016-XX Amending Subsection G of Section 17.72.060 of Chapter 17.72 of the Nevada City Municipal Code Pertaining to Fees for Administrative Home Occupations.

B. Subject: An Ordinance of the City of Nevada City amending Chapter 5.32 to Title 5 of the Nevada City Municipal Code Relating to Licensure of Tobacco Retailers (Second Reading)

Recommendation: Waive reading, read by title only, and adopt Ordinance 2016-XX amending Chapter 5.32 to Title 5 of the Nevada City Municipal Code Relating to Licensure of Tobacco Retailers.

C. Subject: Resolution Declaring Results of June 7, 2016 Municipal Election

Recommendation: Pass Resolution 2016-XX declaring results of municipal election held June 7, 2016.

4. APPROVAL OF ACTION MINUTES:

A. City Council Meeting – June 22, 2016

5. OUTGOING COUNCIL MEMBER & MAYOR REMARKS

6. SWEARING IN OF COUNCIL MEMBERS – Valerie Moberg, David Parker and Reinette Senum

7. REORGANIZATION OF CITY COUNCIL

A. Subject: Selection of Mayor and Vice Mayor to Service for Fiscal Year 2016-2017

Recommendation: Conduct the selection process for Mayor and Mayor Pro Tem (Vice Mayor) in accordance with the Mayoral Succession adopted as amended pursuant to Resolution 2012-27.

8. DEPARTMENT REQUESTED ACTION ITEMS AND UPDATE REPORTS:

9. PUBLIC HEARINGS:

10. OLD BUSINESS:

- A. Subject:** Informational Update on 2016 Wild and Scenic Film Festival
Recommendation: Receive and file.

11. NEW BUSINESS:

12. CORRESPONDENCE:

13. ANNOUNCEMENTS:

14. CITY MANAGER’S REPORT:

15. ADJOURNMENT

Certification of Posting of Agenda

I, Corey Shaver, Administrative Supervisor for the City of Nevada City, declare that the foregoing agenda for the July 6, 2016 Regular Meeting of the Nevada City City Council was posted July 1, 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 July 1, 2016 at Nevada City, California

_____, Corey Shaver, Administrative Supervisor

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

July 27, 2016	Regular Council Meeting
August 10, 2016	Regular Council Meeting
August 15, 2016	Special City Council Meeting – Governance Meeting
August 24, 2016	Regular Council Meeting
August 25, 2016	Special City Council and Planning Commission - Goal Setting Meeting
September 14, 2016	Regular Council Meeting
September 28, 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

July 6, 2016

TITLE: An Ordinance of the City of Nevada City Amending Subsection G of Section 17.72.060 of Chapter 17.72 of the Nevada City Municipal Code Pertaining to Fees for Administrative Home Occupations

RECOMMENDATION: Waive reading, read title only, and adopt Ordinance 2016-XX Amending Subsection G of Section 17.72.060 of Chapter 17.72 of the Nevada City Municipal Code Pertaining to Fees for Administrative Home Occupations.

CONTACT: Mark Prestwich, City Manager

BACKGROUND: Voters at the June 7, 2016, primary election approved Measure X which simplified and changed rates for business licenses in Chapter 5 (Business Taxes, Licenses and Regulations), reducing multiple annual business fees to only two main fees -- \$100.00 per year for businesses with less than ten employees and \$150.00 per year for businesses with 10 or more employees. Under the current Code provisions, this would have the indirect effect of doubling the one-time fee for issuing an administrative home occupation permit because the zoning regulations in a different Chapter 17 (§17.72.060.G) set that fee at "...twice the prevailing business license rate." Therefore, staff is recommending a reduction of the Home Occupation Permit issuance fee.

DISCUSSION: Currently, the fee for a new administrative home occupation would be \$150.000 -- \$50.00 for the business license and \$100.00 for the one time issuance charge. Unless the proposed amendment is made, that fee would double to \$300 -- \$100.00 for the business license and double that or \$200.00 for the one time issuance charge. The proposed amendment reducing the permit issuance fee to half of the business license rate would restore the fee for a new administrative home occupation to \$150.00 -- \$100.00 for the business license and \$50.00 for the one time issuance charge.

FINANCIAL CONSIDERATIONS: No negative fiscal impact to the City's General Fund will be incurred because the first year fees will remain the same. Staff has advised that the lowered issuance fee will adequately cover staff time incurred.

ENVIRONMENTAL CONSIDERATIONS: None

ATTACHMENT:

- ✓ Proposed Ordinance

ORDINANCE NO. 2016-XX

**AN ORDINANCE OF THE CITY OF NEVADA CITY
AMENDING SUBSECTION G OF SECTION 17.72.060 OF CHAPTER 17.72
OF THE NEVADA CITY MUNICIPAL CODE PERTAINING TO
FEES FOR ADMINISTRATIVE HOME OCCUPATIONS**

WHEREAS, the City Council unanimously passed and adopted Ordinance No. 2015-11 repealing and re-enacting Chapter 5.04 of the Nevada City Municipal Code changing rates charged for business licenses and those new rates will become effective because that change was approved by more than two-thirds of the voters as Measure X on the June 7, 2016 primary election ballot; and

WHEREAS, the rate change in Measure X increasing the annual business license fee for administrative home occupations from \$50.00 from \$100.00 would have the indirect effect of changing the one-time fee for issuance of an administrative home occupation permit from \$100.00 to \$200.00 because Section 17.72.060.G sets that charge at "...twice the prevailing business license rate..."; and

WHEREAS, it is desirable to not to increase the current combined fees for issuance of new administrative home occupation permit and business license from a combined total of \$150.00:

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Nevada City as follows:

SECTION I:

Subsection G of Section 17.72.060 of Chapter 17.72 of the Nevada County Municipal Code is hereby amended to read as follows:

"G. A fee shall be required for the initial review and issuance of an administrative home occupation permit equal to half the prevailing business license rate."

SECTION II:

In all other respects Section 17.72.060 shall remain unchanged and in full force and effect.

SECTION III:

This Ordinance shall become effective 30 days after its final adoption and a copy of this ordinance shall be published in The Union, a newspaper of general circulation, within fifteen (15) days of the date of its passage.

PASSED AND ADOPTED this ___ day of _____, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Jennifer Ray, Mayor

ATTEST:

Niel Locke, City Clerk

REPORT TO CITY COUNCIL

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

July 6, 2016

TITLE: An Ordinance of the City of Nevada City amending Chapter 5.32 to Title 5 of the Nevada City Municipal Code Relating to Licensure of Tobacco Retailers (Second Reading)

RECOMMENDATION: Waive reading, read by title only, and adopt Ordinance 2016-XX amending Chapter 5.32 to Title 5 of the Nevada City Municipal Code Relating to Licensure of Tobacco Retailers.

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 Chapter 5.32 of the Municipal Code regulating the Licensure of Tobacco Retailers. Recommendations included expanding the definition of tobacco to all types of projects containing tobacco leaf, including electronic smoking devices, and to require a minimum pack size of 5 for cigars.

On May 11, the City Council discussed Ms. Glaz's recommendations and provided direction to City Staff to prepare an ordinance to update the "definitions" section of Chapter 5.32 (Licensure of Tobacco Retailers) to include electronic smoking devices and vaping products, and to require a minimum pack size of 5 for cigars. Further, the City Council desired the ordinance to cap the number of tobacco retail licenses permitted in the City at four and reduce the authorized licenses upon cease of use. The proposed ordinance incorporates these recommendations and Staff is recommending approval.

On June 8, the City Council discussed a proposed Ordinance including several recommended modifications provided by the American Petroleum and Convenience Store Association. Thereafter, the City Council provided direction to staff to incorporate modifications allowing retention of tobacco retail licenses during periods of temporary closure for renovations or repairs, transfer of retail licenses during a sale of a business, and deletion of a provision requiring employees selling tobacco products to be at least 21, as it could prohibit the employment of anyone under age 21. The first reading of the ordinance was held on June 22.

FISCAL IMPACT: Not applicable.

ENVIRONMENTAL IMPACT: Recommend finding ordinance is exempt from environmental review under CEQA pursuant to §§15378(b)(5) and 15060(c)(2).

ATTACHMENT:

- ✓ Proposed Ordinance

ORDINANCE NO. 2016 ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY, STATE OF CALIFORNIA, AMENDING TITLE 5, SECTION 32 RELATING TO LICENSURE OF TOBACCO RETAILERS

WHEREAS, the City Council passed Ordinance 2006-03 Section 2 in 2006 regarding the licensure of tobacco retailers. At that time, e-cigarettes and vaping was in its infancy. Since the passage of Ordinance 2006-03, the popularity of e-cigarettes and vaping has grown in recent years and continues to grow across the nation. The City Council seeks to update this section of the municipal code to account for e-cigarettes and vaping;

WHEREAS, there is currently minimal federal and state regulation or control of the use and content of electronic cigarettes and vaping products;

WHEREAS, electronic cigarettes are designed to resemble traditional cigarettes, and the use of electronic cigarettes in locations where the use of other types of cigarettes are prohibited may cause confusion and uncertainty and make the enforcement of bans on smoking more difficult;

WHEREAS, on April 13, 2016, the City Council of the City of Nevada City received a presentation from the Nevada County Health Coordinator regarding alarming trends associated with vaping products, including a correlation between vape use and youth smoking habits; and

WHEREAS, several suggestions were made by the Nevada County Health Coordinator to make changes to Chapter 5.32 of the Municipal Code regulating the Licensure of Tobacco Retailers, and

WHEREAS, on May 11, 2016 the City Council of the City of Nevada City considered the staff report, recommendations by staff, and public testimony regarding amendments to Chapter 5, Section 32 of the Nevada City Municipal Code, and voted to direct staff to prepare amendments to this portion of the Municipal Code related to the definitions section, the "cease of use" clause for current tobacco retail licensees, and for the Planning Commission to consider a prohibition of vaping lounges within zoning designations;

WHEREAS, staff has prepared the below draft ordinance addressing the definitions section and "cease of use" language of Chapter 5, Section 32 of the Nevada City Municipal Code, and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Nevada City as follows:

SECTION 1.

Chapter 5, Section 32 of the Nevada City Municipal Code is hereby amended as follows, noting that all provisions within Section 5.32 not described below remain in effect:

A. Section 5.32.010 - Definitions, is hereby amended to include the following new definitions within an alphabetized series of definitions (all other definitions are to remain the same):

[...]

“Electronic Smoking Device” means an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of vapors including nicotine or other substances. "Electronic smoking device" includes any such device, whether it is manufactured, distributed, marketed, or sold as an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, electronic vape, vaporizer or any other product name or description. "Electronic smoking device" does not include any product specifically approved by the United States Food and Drug Administration for the use in the mitigation, treatment, or prevention of disease.

[...]

“Self-service display” means to open display or storage of tobacco products, paraphernalia or electronic smoking devices in a manner that is physically accessible in any way to the direct general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer.

[...]

“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, including electronic smoking devices), 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, including electronic smoking devices).

"Tobacco paraphernalia" means cigarette papers or wrappers, pipes, electronic smoking devices, 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 any substance containing tobacco leaf, including but not limited to cigarettes, electronic smoking devices, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco (such as flavored tobacco); and any product or formulation of product 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 cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco 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, which includes electronic smoking devices, 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.

“[...]

B. Section 5.32.030 – Limits on tobacco retailer licenses, is hereby amended as follows:

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. Prior to the adoption of this ordinance, there were four Tobacco Retail Licenses issued within the City of Nevada City. No additional Tobacco Retail Licenses shall be issued henceforth, except to a significant tobacco retailer operating legally on the date the ordinance enacting an amendment to this chapter in 2016 was first introduced and that would otherwise be entitled to receive a license and renewals thereof similar to existing Tobacco Retail Licenses. The existing Tobacco Retail Licenses may only continue in the City so long as:
 - 1. The license is renewed continually without lapse;
 - 2. The tobacco retailer is not closed for business for more than sixty (60) consecutive days for reasons other than making substantial renovations or repairs to the business premises necessitated due to fire, earthquake, act of God, the elements or other casualty beyond the control of the tobacco retailer;
 - 3. The tobacco retailer does not substantially change the business premises or business operation; and
 - 4. The 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.
 - 5. Failure to adhere to these requirements will result in the loss of the Tobacco Retail License, provided that the purchaser of an entire business of a tobacco retailer with an existing Tobacco Retail License may secure a transfer of that Tobacco Retail License for a continuation of that business if part of the sale so long as all other provisions of this chapter are met. As noted above, the lost

Tobacco Retail License shall not be replaced by the current holder of the license or anyone else.

- D. 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.

C. Section 5.32.090 – Other requirements and prohibitions, is hereby amended as follows:

- 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.** Repealed.
- 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.
- F. **Minimum Pack Size for Cigars.** A package of cigars shall contain at least five (5) cigars or more. This section does not apply to the sale or offer for sale of a single cigar for which the retail price exceeds \$5.00.

SECTION II. ENVIRONMENTAL DETERMINATION. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to Section 15061 (b) (3) (general rule) of the CEQA Guidelines, in that the City Council hereby finds that it can be seen with certainty that there is no possibility that the passage of this ordinance amending the Municipal Code will have a significant effect on the environment.

SECTION III. INCONSISTENCIES. Any provision of the Nevada City Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

SECTION IV. SEVERABILITY. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance

which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

SECTION V. This ordinance shall be in full force and effect thirty (30) days from and after its passage and adoption. The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published in the Union, a newspaper of general circulation printed and published in the City of Nevada City, State of California, which said newspaper is hereby designated for that purpose.

PASSED AND ADOPTED at a regularly scheduled meeting of the City Council of Nevada City held this __ day of June, 2016 by the following vote:

AYES:

NOES:

ABSTAIN:

Jennifer Ray, Mayor

ATTEST:

Niel Locke, City Clerk

REPORT TO CITY COUNCIL

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

July 6, 2016

TITLE: Resolution Declaring Results of June 7, 2016 Municipal Election

RECOMMENDATION: Pass Resolution 2016-XX declaring results of municipal election held June 7, 2016.

CONTACT: Mark Prestwich, City Manager

BACKGROUND / DISCUSSION: Pursuant to California Election Code, the City Council by resolution must declare the results of the Municipal Election held June 7, 2016. The declaration must show:

- The whole number of votes cast in the City
- The names of persons voted for
- The measures voted upon
- What office each person was voted for
- The number of votes for each person and for and against each measure.

The Municipal Election included the following candidates and measures:

City Council Candidates

- Valerie Moberg
- David Parker
- Reinette Senum

City Clerk Candidate

- Niel Locke

City Ballot Measures

- Measure X
- Measure Y

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: Not applicable.

ATTACHMENTS:

- ✓ Draft Resolution

RESOLUTION 2016-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY
RECITING THE FACT OF ELECTION AND ENTERING THE
STATEMENT OF JUNE 7, 2016 MUNICIPAL ELECTION RESULTS**

RECITALS:

1. A General municipal election was duly held in the City of Nevada City, State of California on June 7, 2016 for the purpose of electing three full-term (four-year) members of the City Council and one full-term (four Year) City Clerk and two ballot measures (X and Y); and
2. The returns of said election have been duly canvassed; and
3. The Elections Code of the State of California, pursuant to Sections 10264, 15372, and 15374 requires the City Council to pass a Resolution reciting the fact of the election and the matters enumerated in Section 10264.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL of the City of Nevada City, pursuant to Sections 10264, 15372, and 15374 of the California Elections Code as per the Election Results as Exhibit A, attached hereto.

BE IT FURTHER RESOLVED that the following persons have been duly elected and are hereby declared elected to the following office:

TO THE OFFICE OF CITY COUNCIL MEMBER (FOUR-YEAR TERM)

Valerie Moberg
Reinette Senum
David Parker

TO THE OFFICE OF CITY CLERK (FOUR-YEAR TERM)

Niel Locke

MEASURES VOTED UPON

Measure X
Measure Y

BE IT FURTHER RESOLVED that pursuant to Section 15374 of the Elections Code, Exhibit A is attached and hereby made a part of this resolution.

PASSED AND ADOPTED at a regularly scheduled meeting of the City Council of Nevada City held on the 6th day of July, 2016 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Jennifer Ray, Mayor

ATTEST:

Niel Locke, City Clerk

CITY OF NEVADA CITY
DRAFT ACTION MINUTES
REGULAR CITY COUNCIL MEETING OF JUNE 22, 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.

REGULAR MEETING – 6:30 PM - Call to Order

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

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:** Nevada City's Special Tax (1986) for the 2016/17 Fiscal Year and Future Fiscal Years
Recommendation: Pass Resolution No. 2016-26 requesting the Nevada County Auditor-Controller and Tax Collector to collect Nevada City's Special Tax (1986) for the 2016/17 Fiscal Year and future fiscal years.
- B. Subject:** Nevada City's Special Tax (Measure K) for the 2016/17 Fiscal Year and Future Fiscal Years
Recommendation: Pass Resolution No. 2016-27 requesting the Nevada County Auditor-Controller and Tax Collector to collect Nevada City's Special Tax (Measure K) for the 2016/17 Fiscal Year and future fiscal years.
- C. Subject:** Local Transportation Fund (LTF) Claim for Transit and Paratransit Operations
Recommendation: Pass Resolution No. 2016-28 requesting the Nevada County Transportation Commission (NCTC) allocate \$87,090 of the City's FY 2016/17 estimated apportionment of LTF in support of transit and paratransit services.
- D. Subject:** Rate Adjustment for Solid Waste and Recycling Services from Waste Management in Conformance with Terms and Conditions Contained in the Franchise Agreement
Recommendation: Pass Resolution 2016-29, approving the rate adjustment for solid waste and recycling services provided by Waste Management.
- E. Subject:** Determination of Public Convenience and Necessity for the Inn Town Campground at 9 Kidder Court
Recommendation: Pass Resolution 2016-30 authorizing the Police Chief to Make a Determination of Public Convenience and Necessity for the Inn Town Campground at 9 Kidder Court.
- F. Subject:** Resolution Noticing Municipal Election Related to Transactions and Use Tax for Special Purposes and Requesting Consolidation with November 8, 2016 Statewide General Election
Recommendation: Pass Resolution 2016-31 submitting a transactions and use tax for special purposes

ballot measure to voters and requesting consolidation with November 8, 2016 Statewide General Election.

- G. Subject:** Fire Activity Report – May 2016
Recommendation: Receive and file.

- H. Subject:** Placement of Embankment / Fill Material at 157 Airport Road
Recommendation: Pass a Motion authorizing the Mayor to sign a contract for grading, brush removal and placement of embankment material at 157 Airport Road.

Items D & E were pulled from the Consent Calendar.

Action: Motion by Andersen, seconded by Phelps to approve Consent Item D as presented.
(Approved 4 – 0; Strawser absent)

Action: Motion by Bergman, seconded by Andersen to approve Consent Items E as presented.
(Approved 3 – 0; Phelps abstaining, Strawser absent)

Action: Motion by Phelps, seconded by Andersen to approve Consent Items A, B, C, F, G and H as presented.
(Approved 4 – 0; Strawser absent)

4. APPROVAL OF ACTION MINUTES:

- A. City Council Meeting – City Council Meeting – June 8, 2016

Action: Motion by Bergman, seconded by Andersen to approve the June 8, 2016 Minutes as amended.
(Approved 4 – 0; Strawser absent)

5. DEPARTMENT REQUESTED ACTION ITEMS AND UPDATE REPORTS:

- A. **Subject:** Proposed Bench and Sign for Gathering Garden on Environs Property
Recommendation: Approve sign design and bench placement for sign and bench to be placed at the Gathering Garden located on the Environs Property.

[Council Member Strawser now present]

Action: Motion by Andersen, seconded by Strawser to approve sign design and bench placement for sign and bench to be placed at Gathering Garden located on the Environs Property.
(Approved 5 – 0)

6. PUBLIC HEARINGS:

- A. **Subject:** Collection of Delinquent Sewer and/or Water Accounts on the Nevada County Tax Roll
Recommendation: After holding a public hearing, pass Resolution 2016-32 requesting that the County of Nevada levy and collect delinquent water and sewer service charges on the tax roll.

Action: Motion by Phelps, seconded by Strawser to pass Resolution 2016-32 requesting that the County of Nevada levy and collect delinquent water and sewer service charges on the tax roll.
(Approved 5 – 0)

7. OLD BUSINESS:

- A. **Subject:** An Ordinance of the City of Nevada City amending Chapter 5.32 to Title 5 of the Nevada City Municipal Code Relating to Licensure of Tobacco Retailers (First Reading)
Recommendation: Waive reading of Ordinance, read title only and introduce for first reading.

Action: Motion by Andersen, seconded by Strawser to replace the words “provided that” with “except to” in Section 5.32.030(c), waive reading of Ordinance, read title only and introduce for first reading.
(Approved 5-0)

- B. **Subject:** Appeal of Planning Commission Decision to Deny the Architectural Review Application of Charlotte Dewar to Construct a Front Entry Façade on the Accessory Building located at 254 Boulder Street and Progress Report of Sub-Committee Meeting on Design Suggestions

Recommendation: After considering an update on the appellant’s ability to prepare necessary design documents, Council shall make a determination whether or not to set a date certain for the applicant to come back before Council with modifications to the design of her front entry façade of her accessory building.

Action: Direction provided to calendar Appeal of Planning Commission decision to deny the Architectural Review Application of Charlotte Dewar to construct a front entry façade on the accessory building located at 254 Boulder Street to the City Council meeting of July 27, 2016.

8. NEW BUSINESS:

A. Subject: An Ordinance of the City of Nevada City Amending Subsection G of Section 17.72.060 of Chapter 17.72 of the Nevada City Municipal Code Pertaining to Fees for Administrative Home Occupations (First Reading)

Recommendation: Waive reading of Ordinance, read title only and introduce for first reading.

Action: Motion by Phelps, seconded by Strawser to waive reading of Ordinance, read title only and introduce for first reading.

(Approved 5-0)

9. CORRESPONDENCE:

10. ANNOUNCEMENTS:

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

11. CITY MANAGER’S REPORT:

City Manager Prestwich encouraged the residents to complete their community survey and return it to City Hall. The survey is available on the City’s website (www.nevadacityca.gov) or at City Hall (317 Broad Street). Prestwich also reported the City website now includes a link to “live meetings” on the left column to watch City Council and Planning Commission meetings live. He also indicated the Chamber of Commerce was planning a ribbon cutting for the updated 7-Hills Business District sign on June 28 at 5:00 p.m.

12. ADJOURNMENT – 7:10 p.m.

Jennifer Ray, Mayor

ATTEST:

Niel Locke, City Clerk

REPORT TO CITY COUNCIL

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

July 6, 2016

TITLE: Selection of Mayor and Vice Mayor to Service for Fiscal Year 2016-2017

RECOMMENDATION: Conduct the selection process for Mayor and Mayor Pro Tem (Vice Mayor) in accordance with the Mayoral Succession adopted as amended pursuant to Resolution 2012-27.

CONTACT: Mark Prestwich, City Manager

BACKGROUND/DISCUSSION: The Mayoral Succession Policy for Nevada City was clarified and modified by Resolution 2012-27 (copy attached) providing for selection for the positions of Mayor and Mayor Pro Tem (Vice Mayor) on a rotating basis.

Pursuant to the adopted Policy, current Vice Mayor Evans Phelps automatically succeeds Mayor Jennifer Ray as Mayor unless she declines. The Policy further provides that the next senior member who has served for at least 11 months and not previously served as Mayor be appointed Vice Mayor. Council Member Duane Strawser is the only Council Member with uninterrupted service meeting that criteria and automatically succeeds to that position unless he declines.

Should a member of the Council who is to assume either position not be present, the Council can postpone the action or make the designations contingent upon that member's acceptance of the position.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: Not applicable

ATTACHMENT:

- ✓ Resolution 2012-27

RESOLUTION 2012-27

**RESOLUTION CONSOLIDATING THE POLICY AND
ALL AMENDMENTS TO THE MAYORAL SUCCESSION POLICY FOR THE
CITY COUNCIL OF NEVADA CITY**

WHEREAS, Resolution 2007-34 establishing the policy for mayoral succession in Nevada City, was amended at the meeting of March 28, 2007 without updating the written record and was again revised at the regular Council meeting on June 23, 2010, to provide in Paragraph 6 "No member shall serve as mayor during their first two years on the City Council" (increasing the time period from one to two years and was again revised on June 27, 2012 to clarify the required term for a Mayor Pro Tem to have served for 23 months, and

WHEREAS, The City Council desires to further clarify the policy to address the appropriate tenure requirement for the Mayor Pro Tem to establish an appropriate succession of the Mayor Pro Tem to the position of Mayor after serving one year as Mayor Pro Tem, and

WHEREAS, It is most appropriate and effective to have a comprehensive policy statement adopted by the City Council for future reference.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Nevada City does hereby rescind Resolution 2007-34, Resolution 2012-23 and all other modifications to the Mayor Succession Policy in order to consolidate the original policy with all subsequent modifications into the policy stated in Attachment 'A'; and

BE IT FURTHER RESOLVED, the City Council hereby adds an additional amendment to the policy to ensure that the appointment of Council Members to Mayor Pro Tem and their subsequent succession to Mayor ensures that the maximum opportunity for serving as Mayor is afforded to all Council Members with as much experience in office as can be acquired before serving in those leadership positions. To this purpose, the policy will include the requirement that in order for a Councilmember to be appointed to the position of Mayor Pro Tem, they must have a minimum of eleven (11) months in office as a Nevada City Councilmember

PASSED AND ADOPTED by the City Council of the City of Nevada City held on 11th day of July, 2012, by the following vote:

AYES: MCKAY, BERGMAN, HARRIS, SENUM

NOES: NONE

ABSENT: STRAWSER

ABSTAIN: NONE

ATTEST:


Niel Locke, City Clerk


David McKay, Mayor

Attachment 'A' for Resolution 2012-XX

Mayoral Succession Policy in Nevada City

It has been hereby resolved by the City Council of the City of Nevada, California, that the positions of Mayor and Mayor Pro Tem of Nevada City shall rotate based upon the following policy:

- 1) The Mayor shall be the senior member who has served on the City Council for a minimum of twenty three (23) months and not previously served in that capacity. The term of office shall be one year, without succession, beginning at the first regularly scheduled City Council meeting each July or the first meeting following certification of a City Council election.
- 2) The Mayor Pro Tem shall be the next senior member who has served a minimum of eleven (11) months and not previously served as Mayor. The term of office shall run concurrent with that of the mayor as described above.
- 3) When two or more members have equal seniority and have not yet served as Mayor or Mayor Pro Tem, the order of succession shall be determined by the number of votes each member received at the time of their election.
- 4) The Mayor Pro Tem shall automatically succeed the Mayor each year, excepting that the Mayor Pro Tem may decline such succession. If the Mayor Pro Tem declines the position of Mayor, such office shall be extended to the next senior member in order, or by majority vote of the Council if all other members have served at least one year as Mayor.
- 5) Once all seated members have served as Mayor, succession shall be based on a majority vote of the Council, recognizing that the term of office for each position shall be one year.